

**ZONING CODE**

TOWN OF WASHINGTON

DUTCHESS COUNTY, NEW YORK

YEAR 2008

As amended through December 31, 2007

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TOWN OF WASHINGTON

**ZONING CODE**

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A LOCAL LAW ESTABLISHING A COMPREHENSIVE ZONING PLAN FOR THE TOWN OF WASHINGTON, NEW YORK, AND FOR SAID PURPOSES DIVIDING THE TOWN INTO APPROPRIATE ZONING DISTRICTS.

ARTICLE I - PURPOSES

Section 100. INTENT

Subject Local Law is adopted pursuant to the authority and power granted by Municipal Home Rule Law, Article 2, Section 10 *et seq.*, of the Consolidated Laws of New York State with intent to promote the public health, welfare, safety, convenience, order, prosperity, and morals of the community in the following respects:

Section 101.

To guide the future growth and development of the Town in accordance with the Town of Washington Comprehensive Master Plan by establishing population densities that will reflect a beneficial influence considering the most appropriate use of land relative to population trends, existing land use, environmental considerations, topographical features, soil types, economic activity, building development, and recognizing such conditions and trends both within the Town and in surrounding areas.

Section 102.

To secure safety from fire, flood, panic, and other dangers; provide adequate light and air; prevent overcrowding of the land; and avoid undue concentration of population.

Section 103.

To conserve the value of land and buildings in accordance with the character of the district and its suitability for particular uses; protect the economic stability of the entire Town; and provide for orderly and beneficial growth commensurate with the availability and capacity of public facilities and services, and the ability of land and natural resources to accommodate such growth.

Section 104.

To establish the most beneficial relationship between land use, buildings, and the circulation of traffic throughout the Town with particular regard to the lessening of congestion, the safe and

efficient movement of vehicles and pedestrians, the provision of adequate parking facilities, and convenient access appropriate to the prospective use.

Section 105.

To guide public policy so as to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements; and guide private enterprise in building development, investment, and other economic activity relating to land use and buildings.

Section 106.

To safeguard natural, agricultural, historic and scenic resources; prevent the contamination of public and private drinking wells and aquifers, lakes and ponds, and freshwater wetlands and watercourses; and preserve the integrity, stability, and beauty of the community.

Section 107.

To assure privacy for residences and freedom from nuisances and harmful, unsightly uses; and protect the community against unsightly, obtrusive, and noisome land uses and operations.

Section 108.

To facilitate, as far as environmental conditions may permit, the accommodation of solar energy systems and equipment, and access to sunlight necessary therefor.

Section 110. MASTER PLAN

The regulations contained herein have been made in accordance with the Comprehensive Plan and the current Master Plan for the Town of Washington, with reasonable consideration as to the character of land and the extent of development in each district as well as the suitability of each district for particular uses.

Section 111. <sup>1</sup>GREENWAY CONNECTIONS.

The Town of Washington has adopted *Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities*, as amended from time to time, as a statement of land use policies, principles and guides to supplement other established land use policies in the Town. In its discretionary actions under this Zoning Code, the reviewing agency should take into consideration said statement of policies, principles and guides, as appropriate.

## ARTICLE II - ESTABLISHMENT OF DISTRICTS

Section 200. <sup>2</sup>USE DISTRICTS

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<sup>1</sup> Section 111 added; Local Law #1 of the year 2007 on March 15, 2007.

<sup>2</sup> Section 200 amended; Local Law #2 of the year 1991 on 10/10/91.

The Town of Washington is hereby divided into the following use districts:

RR-10 and RS-10:	Rural Residential	RH-1:	High Density Residential
RL-5 and RS-5:	Low Density Residential	HM:	Hamlet Mixed-Use
RM-2:	Medium Density Residential	LC:	Land Conservation

Section 201. FLOATING DISTRICTS

In addition to the use districts listed in Section 200 above, the following floating districts are hereby created, to be mapped by the Town Board at such future time as it deems appropriate, pursuant to Sections 316 through 319 of this Local Law. When mapped by the Town Board, these districts replace and supersede any previous use classification, but they do not supersede overlay districts as described in Section 202 below.

EP:	Environmental Preservation	I:	Industrial/Office
MH:	Mobile Home	H:	Hamlet

Section 202. OVERLAY DISTRICTS

In addition to the above districts, the following overlay districts are hereby created, to take effect upon Town Board adoption of overlay maps for each district, pursuant to Sections 314 and 315 of this Local Law. Any overlay maps adopted or modified under this Local Law shall be adopted or modified by zoning amendment pursuant to the procedures specified in Article V. In addition to the requirements therein, the adoption or modification of an overlay district map shall require a referral to and written report from the Conservation Advisory Commission simultaneously with the required referral to the Planning Board. The overlay districts impose requirements that supplement those in the underlying use and floating districts listed above and do not supersede the provisions of these districts, except insofar as the overlay districts may impose more restrictive requirements. The overlay districts include:

APO:	Agricultural Protection	AQ:	Aquifer Protection
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Section 210. <sup>3</sup>ZONING MAP SERIES

The districts listed in Sections 200-202 are bounded as shown on the map series entitled “Zoning Map Series, Town of Washington, Dutchess County, New York” dated December 27, 1989, which, with all explanatory matter thereon, is made a part of this Local Law. Said Zoning Map Series must include, at a minimum, the districts described in Section 200 of this Local Law, and shall include any mapped floating zones (EP, MH, H, or I) or overlay zones (AQ or APO), as well as the Wetlands and Watercourses Map described in Section 328(3) of this Local Law. Until such time as the Wetlands and Watercourses Map has been adopted by the Town Board,

<sup>3</sup> Section 210 amended; Local Law #3 of the year 1990 on 10/11/90.

the pre-existing Land Conservation (LC) zone shall be used to protect wetlands. Upon adoption of this new map, the LC zone shall be deemed superseded.

#### Section 220. VISUAL RESOURCES MAPPING SERIES

The Visual Resources Mapping Series (entitled “Town of Washington: Visual Assessment Study, May 24, 1988”) is designed to serve as a set of guidelines for the Planning Board, Zoning Board of Appeals, and applicants to follow during the review of subdivisions, site plans, variances, and special permit applications. Although compliance with these maps is not mandatory, applicants are strongly encouraged to follow these guidelines in order to satisfy the requirements and standards of this Local Law. The Town Board hereby adopts these maps as official guidelines to be used in conjunction with this Local Law.

#### Section 230. INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts, the rules specified below shall apply. In cases where these rules do not identify the true location of a district boundary line, the Zoning Board of Appeals shall render a determination with respect thereto.

1. Along Centerlines. Where district boundaries are indicated as following roads, highways, driveways, watercourses, or power lines, the centerlines of such rights-of-way shall be construed to be the boundaries of the zoning district.
2. Parallel to Centerlines. Where district boundaries are indicated as being parallel to roads, highways, driveways, watercourses, or power lines, a line parallel to the centerline of such rights-of-way and at a distance therefrom as specified in the Zoning Maps shall be construed to be the boundaries of the zoning district. If no distance is given, such dimension shall be determined by use of the scale shown on the Zoning Maps.
3. Along Lot Lines. Where district boundaries are indicated as following lot lines, such lot lines shall be construed to be the boundaries of the zoning district.
4. Land Conservation Districts. Areas zoned as Land Conservation Districts represent swamps, wetlands, or floodplains which are not suited for building purposes. The boundaries shown on the Zoning Maps represent the approximate edge of the wet area unless noted otherwise, as determined from 1:20,000 United States Geological Survey Maps covering the Town of Washington and dated 1960.

#### Section 240. LOTS IN MORE THAN ONE DISTRICT

Where a district boundary line divides a lot or land in single ownership as existing at the time of the enactment of this Local Law, the use authorized on, and the district requirements applying to

the less restricted portion of the property, shall be construed as extending into the remaining portion of the property beyond the district boundary lines for a distance not exceeding thirty-five (35) feet.

### ARTICLE III - DISTRICT REGULATIONS

#### Section 300. APPLICATION

In interpreting and applying this Local Law, the requirements contained herein are declared to be the minimum. Further, this Local Law shall not be deemed to affect, in any manner whatsoever, any easements, covenants, or other agreements between parties, provided, however, that where this Local Law imposes a greater restriction upon the use of buildings or land, or upon the erection, construction, establishment, moving, alteration, or enlargement of buildings than are imposed by other ordinances, local laws, rules, regulations, licenses, certificates, or other authorizations, or by easements, covenants, or agreements, the provisions of this Local Law shall prevail.

#### Section 310. <sup>4</sup>SCHEDULES

To facilitate public understanding and for convenience in administration, there is hereby declared to be a part of this Local Law a Schedule of <sup>5</sup>District Use Regulations (Appendix A), a Schedule of Area and Bulk Regulations (Appendix B), and an Off-Street Parking and Loading Schedule (Appendix C), which list: the uses permitted in each district, the minimum lot areas, minimum yard widths, building height limitations, off-street parking needs, and other basic requirements which, in some cases, are supplemented by other regulations in this Local Law.

1. Schedule of <sup>4</sup>District Use Regulations. In any district established by this Local Law, no premises shall be used, and no building shall be erected, constructed, enlarged, altered, arranged, or designed to be used in whole or in part except for a use as set forth in the accompanying Schedules of Residential and Non-Residential Use Regulations. Only those uses specifically listed shall be permitted.
2. Schedule of Area and Bulk Regulations. In any district established by this Local Law, no premises shall be used, and no principal or accessory building or structure shall be erected, constructed, enlarged, altered, or arranged on a lot except in accordance with the requirements set forth in the accompanying Schedule of Area and Bulk Regulations. No yard or other open space provided around any building for the purpose of complying with the provisions of this Schedule shall be considered as providing a yard or open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.

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<sup>4</sup> Section 310 amended; Local Law # 1 of the year 2000 on 08/10/00.

<sup>5</sup> Stated in Zoning Law as Schedule of Use Regulations. Should be Schedule of District Use Regulations.

3. Off-Street Parking and Loading Schedule. In any district established by this Local Law, off-street parking facilities shall be provided in accordance with the requirements set forth in the accompanying Off-Street Parking and Loading Schedule (Appendix C), except where additional parking may be required as a condition for the issuance of a special permit or site plan approval. If the Planning Board finds that compliance with these requirements will create negative impacts upon the physical environment or visual character of the area, and if the Board also finds that all of the parking required in Appendix C will not be necessary for the anticipated use of the site, the Planning Board may reduce the amount of parking required to be constructed, provided that sufficient usable land is set aside to satisfy the parking requirements in the future should the need for such additional parking arise. The Planning Board shall, as a condition of any approval granted, retain the right to require the owner of the property to construct such additional parking whenever it finds that such parking is needed. If a proposed use is not listed in Appendix C, the Planning Board shall use its discretion to determine the amount of parking to be required.

#### Section 313. <sup>6</sup>HAMLET MIXED-USE DISTRICT REGULATIONS

1. Purpose. The Town of Washington values the historic architectural character of its largest settlement, the hamlet of Mabbettsville, and wishes to encourage continued residential and commercial growth in this area while maintaining the historic architectural fabric that exists. It is the goal of the Town of Washington that development of the Mabbettsville hamlet should occur in a manner that follows the principles of traditional village planning, exemplified by the pattern of development found in the Village of Millbrook. To that end, the Hamlet Mixed-Use (HM) District is intended to be an area of mixed residential and non-residential uses in which historic and residential character predominates, pedestrian activity is encouraged, and suburban “strip” shopping center development is discouraged.
2. Limitation on Non-Residential Development.
  - a. In order to preserve the mixed-use character of the District, the Planning Board shall limit the proportion of new non-residential development to fifty percent (50%) of the total square footage of floor space of all new residential building construction within the HM District over any two-year period.
  - b. The Planning Board shall deny any application for a Special Permit allowing a non-residential use that would result in exceeding this fifty percent (50%) threshold for the two (2) years immediately preceding the date of submission of such an application. In the

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<sup>6</sup> Section 313 amended; Local Law # 3 of the year 1990 on 10/11/90.

event that two (2) or more of such applications are before the Planning Board and not all of such applications can be approved without violating this limitation, the Planning Board shall give preference to that use or those uses that best achieve the purposes of the HM District as set forth in this Section 313.

- c. “New Residential building construction” shall include interior living space contained in new residences, additions to or enlargements of existing residences, and conversions of nonresidential structures to residential use. It shall not include nonresidential accessory structures, decks, or garage space.
  - <sup>7</sup>d. “New non-residential development” shall include interior floor space of new non-residential principal and accessory structures and new non-residential uses in structures converted from residential use after the date of this Local Law. It shall not include nonresidential accessory structures used in connection with residential uses, interior or exterior areas used for home occupations, changes in non-residential use of structures already used for non-residential purposes, or exterior or interior areas used for loading, vehicular circulation, or employee, customer, or visitor parking. Specifically excluded from this definition are the expansion of conforming and legally non-conforming non-residential uses in existence as of the date of this Local Law, so long as such expansion is within the confines of a legal building lot created prior to the date this Local Law is adopted. The expansion of such excluded non-residential uses, including without limitation changes in the size or configuration of any structure within the confines of a legal building lot created prior to the date of this Local Law and the expansion of the use onto other land, shall be subject to special permit and/or site plan review by the Planning Board as provided in the Zoning Law.
  - e. The number of square feet of new residential and non-residential construction shall be established by using information shown on approved Building Permits over the aforesaid two-year period.
3. Consistency Requirement. Before approving any use that is subject to Special Permit or Site Plan review, the Planning Board must make a written finding that the proposed use, layout, and design will enhance the historic architectural fabric of Mabbettsville, and that it is consistent with the purposes and limitations stated in Subsections (1) and (2) above.
4. Uses. Allowable uses in the HM District are listed in Appendix A. Auxiliary apartments may be included in non-residential buildings if they follow traditional village mixed usage patterns.

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<sup>7</sup> Section 313, paragraph 2 subsection d. amended; Local Law #4 of the year 1999 on 12/2/99.

5. **Supplementary Use Regulations.** In addition to all other restrictions and provisions of this Local Law, the following shall apply in the HM District:
  - a. There shall be no outdoor storage of more than one heavy construction vehicle (exceeding 20,000 pounds gross vehicle weight), nor outdoor overnight storage of more than two (2) motor vehicles or pieces of construction equipment, per non-residential use.
  - b. No dry cleaning, septic tank pumping services, or other businesses that may create a risk of release of toxic or unsanitary materials shall be permitted.
  - c. Repair, restoration, and other potentially noisy or unsightly service operations shall be conducted indoors.
  
6. **Standards.** In addition to any other applicable standards required by this Local Law, the following provisions shall also apply to all non-residential uses in the Hamlet Mixed-Use District.
  - a. **Off-street Parking.**
    - (1) All off-street parking shall be located behind the front building line. For purposes of this Subsection, “front building line” shall also include, on a corner lot, any side building line that fronts on a street.
    - (2) The Planning Board may allow a single row of parking spaces in front of a front building line, if it finds that such parking will enhance the traditional character of the hamlet and is otherwise consistent with the purposes of this Section.
    - (3) The Planning Board may reduce the number of off-street parking spaces required if the applicant can make permanent arrangements for space-sharing with other residential or non-residential uses, or can otherwise show that the parking standards in Appendix C are excessive for the particular use proposed.
  - b. To the extent practical, new buildings shall front on new interior roads, and not on U.S. Route 44 or Dutchess County Routes 98 or 99. Such roads shall be built with sidewalks at least four feet wide, and shall permit on-street parallel or diagonal parking.
  - c. The maximum footprint of any structure (ground area covered by the building, foundation, and roof) shall be 5,000 square feet. Non-residential uses may include more than one building on a lot. There shall be a minimum of thirty feet separation between principal (non-accessory) buildings.
  
7. **Architectural Review.** Before approving any site plan, or subdivision of land resulting in the construction of new roads, the Planning Board shall consult an architect with expertise in historic village planning and design. Said architect shall evaluate the architectural compatibility of the proposed development with the purposes of this Section and with the historic architectural character of the hamlet. “Historic architectural character”



may be established by the architectural consultant and the Planning Board by identifying exemplary existing structures and groups of structures in Mabbettsville and the surrounding area and/or by adopting design guidelines to supplement this Local Law. The scope of architectural review shall include the layout, proportions, massing, and relationship of streets, sidewalks, open spaces, parking areas, landscaping, and buildings, as well as building materials and building design. Reasonable costs of such architectural review shall be borne by the applicant.

## Section 314. AQUIFER PROTECTION OVERLAY DISTRICT REGULATIONS

1. Purpose. The AQ Aquifer Protection Overlay District Regulations (hereinafter the “AQ District”) are intended to preserve and maintain the quality and quantity of groundwater found in the Town of Washington sand and gravel, limestone, and limestone overlaid with sand and gravel aquifers, and thereby protect this water supply source for the Town. The AQ District provides a means of reviewing, on a case by case basis, actions or uses proposed within the Town’s aquifer areas in order to prohibit or control those uses and activities which may be incompatible with the goal of long-term groundwater protection.
2. Aquifer Protection Overlay District Description.
  - <sup>8</sup>a. The AQ District consists of those areas containing deposits of water-bearing sand and gravel, limestone, or limestone overlaid with sand and gravel as shown on the map entitled “Aquifer Overlay District (AQ)” dated December 27, 1989. The Town Board finds that the protection of these aquifer areas from degradation and pollution is in the Town’s interest because of present or projected future use of such aquifers as public or private water supplies. The Town Board hereby adopts said map as part of this Local Law. Said Map identifies the approximate locations of sand and gravel, limestone, and limestone overlaid with sand and gravel aquifers within the Town of Washington. Said map may be modified by the Town Board by zoning amendment so as to correct or clarify the extent of the Town’s aquifers; to incorporate additional aquifers; to eliminate from the jurisdiction of this Local Law particular aquifers deemed to be insignificant for purposes of this Local Law; or to incorporate or replace with supplementary maps that correct, clarify, or affirm in detail the area of jurisdiction of this Local Law.
  - b. Any landowner whose land lies within the mapped Aquifer Overlay District may present evidence based upon on-site investigation by qualified experts to show that such land does not contain aquifer conditions of water-bearing sand and gravel, limestone, or limestone overlaid with sand and gravel. The Town Board may, by resolution, exempt such land from the regulations

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<sup>8</sup> Section 314, paragraph 2 subsection a. amended; Local Law #3 of the year 1990 on 10/11/90.

of the AQ District if it finds, based upon such evidence, that said aquifer conditions do not exist. In reviewing any proposal for a subdivision, special permit, site plan, or variance, the Planning Board or Zoning Board of Appeals may also exempt land lying within the mapped AQ District from the provisions of this Section if it finds, based upon expert evidence gathered from on-site investigation, that said aquifer conditions do not exist.

3. Effects of District. The AQ District shall be a supplemental overlay district mapped in conjunction with underlying use or floating districts. In the AQ District the requirements of this Section shall be applied together with all the limitations and requirements applicable in the underlying district.
4. Applicability.
  - a. An applicant for any proposed action requiring a subdivision approval, special use permit, site plan approval, rezoning, or variance, under this Local Law or the land subdivision regulations shall be subject to the provisions of this Section. Any application for a building permit or certificate of occupancy for an activity listed in Subsection 8 of this Local Law shall also be subject to this Section. Compliance shall be required as a condition of approval of any such action within the AQ District. The applicant shall show, on any required submissions, the location of any portion of the subject property which lies within the AQ District as identified on the Aquifer Overlay District Map.
  - b. Existing development, uses, or activities located within the AQ District are not subject to the requirements of this Local Law and are considered permitted nonconforming uses or activities. Any change in a permitted nonconforming use or activity will be subject to the requirements of the AQ District Regulations. Notwithstanding the foregoing, if any permitted nonconforming uses are found to pose a potential or imminent health hazard, they shall be deemed violations of this Local Law.
5. Review of Actions. Any Board approving a proposed action pursuant to Subsection (4)(a) above shall be responsible for assuring compliance with the provisions of this Section. In addition to the maps, plans, and information required for such authorizations, or for review under the New York State Environmental Quality Review Act, the reviewing board or Zoning Administrator may require additional information, analysis, or documentation as may be necessary and appropriate to show compliance with the standards imposed by this Section, and to fully and properly consider the particular action proposed.
6. Decision. Every decision on each AQ District proposed action shall include written findings of fact, specifying the reason or reasons for such

decision, and shall contain a statement which shall set forth the decision to grant approval, to grant approval subject to expressly stated conditions or safeguards, or to deny approval. Every resolution shall expressly set forth any limitations, conditions, or safeguards imposed to satisfy the requirements of this Section. Violation of such conditions or safeguards shall be a violation of this Local Law.

7. Standards. No proposed action within the AQ District shall be approved unless the reviewing board or official finds that, based upon available information, analysis, and evidence, the proposed action will not:
  - a. Alter the subsurface flow of groundwater to private water supply wells and existing and potential public water supply wells.
  - b. Degrade the quality of groundwater through the introduction of sewage wastes, stormwater runoff, liquid chemicals, petroleum products, dissolved metals, or other toxic substances.
  - c. Increase the long-term risk of groundwater contamination through the siting, establishment, or expansion of uses which store, transport, or utilize significant quantities of material which is potentially harmful to groundwater quality.
  - d. Increase the long-term risk of groundwater contamination through the introduction of relatively small quantities of hazardous or toxic substances which, over a period of time, may accumulate in groundwater.
  - e. Increase the risk of groundwater contamination through the removal of soil, sand, stone, or gravel which provides a protective mantle for groundwater or which is part of the geologic deposits making up the Town's aquifers.
  - f. Reduce to less than five (5) feet the separation between the surface of the ground and the seasonal high water table.
  
8. Use Restrictions. The following use restrictions and requirements shall apply to all land within the AQ District:
  - a. Disposal Wells. The installation or use of disposal wells is prohibited.
  - b. Recharge Basins. The installation or use of stormwater runoff recharge basins is prohibited.
  - c. Snow Disposal. The stockpiling or dumping of snow removed from streets, driveways, private roads, and public or private parking lots is prohibited.
  - d. Animal Wastes. Farm animal wastes shall not be concentrated in one area except where provisions has been made to prevent seepage into groundwater. Suitable storage facilities are required when it is not possible to spread or dispense of wastes on a daily basis.
  - e. Industrial Sludge and Toxic Chemicals. No toxic chemicals identified by the United States Environmental Protection Agency

or the New York Department of Environmental Conservation shall be stored except under permit from those agencies.

- f. Wastewater Lagoons and Pits. Use of wastewater lagoons and pits for temporary storage of wastewater is prohibited. All storage facilities shall be water tight, located above ground, and under permit by the New York Department of Environmental Conservation.
- g. Disposal. Disposal of toxic chemicals, industrial sludge, or radioactive materials is prohibited.
- h. Fertilizer Storage. All bulk storage of fertilizers for agricultural or commercial use must be within a completely enclosed building or structure which will prevent any seepage or runoff.
- i. Pesticide and Herbicide Use. No pesticides or herbicides shall be stored or applied unless expressly authorized following review under the procedures and standards of this Section. All such use, storage, or application shall be under permit as provided by the New York State Environmental Conservation Law.
- j. Storage Tanks and Pipelines. The installation, construction, placement, or replacement of new or existing underground storage tanks, pipelines, or containers for petroleum products or any other toxic chemical is prohibited. All above ground storage tanks, pipelines, and transfer areas, shall to the maximum extent feasible, be designed to minimize the risk of groundwater contamination by incorporating backup containment structures, impervious surfaces, catchment areas, and other features. The Town reserves the right to prohibit installation or expansion of above ground storage tanks and pipelines where consistent with the purpose and standards of this Section. Further, the owner of any storage tank, pipeline, container, or transfer area is responsible for promptly reporting to the Zoning Administrator and the New York State Department of Environmental Conservation any spills or leaks and for the cost of cleanup, containment, and damages.
- k. Salt and Coal Stockpiles. The storage of salts or coal is prohibited except in a completely enclosed building or structure which will prevent any seepage or runoff containing such materials.
- l. Water Wells. All water supply wells shall be constructed in accordance with the requirements of the Dutchess County Department of Health.
- m. Abandoned Wells. All abandoned wells shall be sealed in accordance with the requirements of the Dutchess County Department of Health.
- <sup>9</sup>n. [Deleted]

- 9. Applicability of Village of Millbrook Water Supply Watershed Regulations. Notwithstanding any provisions of this Local Law, any

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<sup>9</sup> Section 314, paragraph 8 subsection (n) is deleted in its entirety; Local Law #2 of the year 1991 on 10/10/91.

actions undertaken within the watershed of the public water supply of the Village of Millbrook shall comply not only with the standards and use restrictions provided herein, but also with any standards, rules, or regulations promulgated by the New York State Commissioner of Health under Section 1100 of the Public Health Law. In case of any conflict in such standards, the more restrictive standard shall apply.

## Section 315. AGRICULTURAL PROTECTION OVERLAY DISTRICT REGULATIONS

1. Purpose. The Agricultural Protection Overlay District (hereinafter the “APO District”) is intended to:
  - a. Preserve agricultural land for food and fiber production;
  - b. Protect agriculturally productive farms;
  - c. Maintain a viable agricultural base to support agricultural processing and service industries;
  - d. Prevent conflicts between incompatible land uses;
  - e. Reduce costs of providing public services to scattered non-farm uses;
  - f. Pace and shape the growth of the Town;
  - g. Protect agricultural land from encroachment by non-agricultural uses, structures, or activities; and
  - h. Maintain the rural, natural, and scenic qualities of the Town.
  
2. Agricultural Protection Overlay District Description.
  - a. The APO District boundary is herein established as an overlay district covering land zoned in districts RR-10, RS-10, RL-5, RS5, and RM-2, and mapped according to the following criteria:
    - (1) Parcels of land of at least ten (10) acres on which at least fifty percent (50%) of the surficial soils are classified as prime farmland soils or farmland soils of statewide importance, as established by criteria of the Soil Conservation Service, United States Department of Agriculture (hereinafter “agricultural soils”).
    - (2) Parcels of land included in an Agricultural District established pursuant to the New York Agriculture and Markets Law, Article 25AA.
  - <sup>10</sup>b. The Town Board hereby adopts the maps entitled “Agricultural Protection Overlay District Map,” Parts I and II, dated December 27, 1989, as part of this Local Law. Said maps shall be the basis for the administration of the regulations contained in this Section 315.
  - c. Any landowner whose land has been mapped on the Agricultural Protection Overlay District Maps may be exempted from the provisions of this Section if the Town Board, Planning Board, or Zoning Board of Appeals, in reviewing an application for

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<sup>10</sup> Section 315, paragraph 2 subsection (b) amended; Local Law #3 of the year 1990 on 10/11/90.

rezoning, subdivision approval, special permit, site plan approval, or variance, finds that:

- (1) Land shown as part of an Agricultural District on Part I of the Agricultural Protection Overlay District Maps is not included within Certified Agricultural District #21 established by the Dutchess County Legislature pursuant to Article 25AA of the New York State Agriculture and Markets Law on the effective date of this Local Law; or
  - (2) Land shown as containing agricultural soils (as defined herein) on Part II of the Agricultural Protection Overlay District Maps does not in fact meet Soil Conservation Service criteria for such soil designations based upon evidence presented by a qualified soils expert who has conducted an on-site investigation.
- d. Any landowner whose land has not been mapped on the Agricultural Protection Overlay District Maps may request to be covered by the provisions of this Section, and the Town Board, Planning Board, or Zoning Board of Appeals may apply the provisions of this Section if it finds that such land satisfies the criteria for APO designation in Subsection 2(a) above.
  - e. In the case of parcels of land of at least ten (10) acres on which at least fifty percent (50%) of the soils are agricultural soils as defined herein, the reviewing Board shall make the initial determination as to whether a particular parcel contains fifty percent (50%) agricultural soils, and is therefore covered by the provisions of this Section. Acreage determinations may be rebutted by evidence presented by a licensed surveyor or engineer.
3. Uses Permitted in the APO District. In addition to the uses permitted in the underlying use district, including any and all types of agricultural production, other uses permitted as of right in the APO District include:
    - a. Forest, wildlife, and game management;
    - b. Equestrian trails;
    - c. Nature trails and walks;
    - d. Greenhouses;
    - e. Composting of manure and vegetative wastes;
    - f. One roadside stand per farm, selling agricultural products, and containing not more than five hundred (500) square feet, in which at least fifty percent (50%) of the products sold are produced on the premises or adjoining premises.
  4. Uses allowed in the APO District by Special Permit. In addition to the uses allowed by special permit in the underlying district, the following uses may be permitted by special permit in the APO District:
    - a. Employee housing for farm workers and accessory residences for members of the immediate family of the farm owner or operator. Such additional residential structures must be constructed in a manner that does not detract from the scenic views described in the

Visual Resources Mapping Series and that avoids, to the extent practical, building upon the best agricultural soils on the property.

- b. Agriculture-related service or commercial uses including but not limited to: the sale of farm products in facilities greater than five hundred (500) square feet; the sale and service of farm machinery; the storage and sale of seed, feed, fertilizer, manure, and other agricultural products; the centralized bulk collection, storage, and distribution of agricultural products; veterinary services; and processing of agricultural products.

5. Special Permit Approval Standards.

- a. The Planning Board, prior to granting special permit approval for development in the APO District pursuant to Section 470 *et seq.* of this Local Law, shall consider the following relevant factors in addition to the standards set out in Section 473 of this Local Law:
  - (1) The statement of purpose of this Local Law and the APO District Regulations;
  - (2) The potential for conflict with agricultural use;
  - (3) The need of the proposed use for a location in an agricultural area;
  - (4) The availability of alternative locations;
  - (5) Compatibility with existing or permitted uses on adjacent lands;
  - (6) The agricultural productivity of the lands or soils involved;
  - (7) The need to minimize the amount of agricultural soils converted to non-agricultural use;
  - (8) The need for public services created by the proposed use;
  - (9) The availability of adequate soils for subsurface sewage disposal or public services, and the ability of the Town to provide them without an unreasonable burden;
  - (10) The effect of the proposed use on water, air, or soil resources and on rare or irreplaceable natural resources;
  - (11) The location of the use so as to minimize the interruption of scenic views from public roads; and
  - (12) The feasibility of designing the structure or the lot to take maximum advantage of solar heating and cooling opportunities.
- b. Conditions Which May Be Attached to Special Permit Approval. Upon consideration of the information supplied to the Planning Board and a review of the standards contained in Subsection (a) above, the following conditions may be attached to the granting of a special permit;
  - (1) Increased setbacks and yards;
  - (2) Specifications for water supply, liquid waste, and solid waste disposal facilities;
  - (3) Additional landscaping and vegetative screens or buffers;
  - (4) Time of operation;

- (5) Air pollution controls;
- (6) Location of the use; and
- (7) Similar requirements found necessary to fulfill the purpose of this Local Law. Violation of these conditions shall constitute a violation of this Local Law as provided in Section 490, Violations.

6. Procedures for Residential Development in the APO District.

- a. An applicant for residential subdivision proposed on a parcel or set of contiguous parcels that fall within the APO District description is encouraged to utilize the provisions of Section 63, Conservation Density Subdivisions, of the Town of Washington Land Subdivision Regulations.
- b. Any subdivision of a parcel lying within the APO district into three or more lots shall be subject to the procedures of Section 61.2, "Planning Board's Option to Require a Cluster Plan," of the Town of Washington Land Subdivision Regulations. In designing a cluster plan, the applicant shall comply with the standards set forth in Subsection 7 below. For purposes of determining the coverage of this Subsection (b), "parcel" shall relate back to tax parcels in existence as of January 1, 1988. All subdivisions since that date shall be treated cumulatively in establishing the number of lots that trigger the requirements of this Subsection (b).

7. Standards for Residential Development in the APO District.

- a. Residential structures in the APO District shall be located according to the following criteria (some of which may conflict with each other on a particular site, in which case the Planning Board shall use its discretion to resolve such conflicts):
  - (1) In the least fertile agricultural soils and in a manner which maximize the usable area remaining for agricultural use;
  - (2) In locations least likely to block or interrupt scenic views, as seen from public roadways according to the guidelines of the Visual Resources Mapping Series;
  - (3) Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland to reduce encroachment upon agricultural soils, provide shade in summer and shelter in winter, and to enable new residential development to be visually absorbed by natural landscape features;
  - (4) On the most suitable soils for subsurface sewage disposal (in unsewered areas only);
  - (5) In such a manner that the boundaries between house lots and active farmland are well buffered by vegetation, topography, roads, or other barriers to minimize potential conflict between residential and agricultural uses; and



- (6) In locations where the greatest number of units could be designed to take maximum advantage of solar heating opportunities.
- b. Buffer zones at least seventy-five (75) feet in width may be required between residential and agricultural uses in the APO District, containing either thickly planted fast-growing native shrubs and trees, or naturally existing vegetation, in order to create an effective barrier separating residential yards from fields and pastures. These buffer requirements may be modified by the Planning Board, if appropriate, in order to create or maintain scenic views.
- c. These standards shall be implemented by the Planning Board as provided in the Town of Washington Subdivision Regulations, Section 30.1 and Article VI.

## Section 316. ENVIRONMENTAL PRESERVATION DISTRICT REGULATIONS

1. Purpose. An Environmental Preservation District (hereinafter an “EP District”) is defined as a geographic area of the Town of Washington exhibiting special and distinctive environmental characteristics which are of significant value to the public. These characteristics may include natural phenomena such as unique geologic strata, water bodies or watercourses, soil formations, slopes, vegetation, scenic views, viewsheds, sensitive watersheds, and trail or wildlife migration corridors, as well as historic or cultural resources of value to the Town. Maintaining the Town’s quality of life depends in large part upon the protection of these areas. To preserve these valued resources it is necessary first to identify the areas with special qualities, and then to provide a means by which these areas shall be subject to development controls, over and above the controls provided by existing zoning district and overlay zone provisions.
2. Creation. The Town Board may, from time to time, create EP Districts, as set forth below. The establishment of EP Districts shall be in accordance with the zoning amendment procedures set forth in Article V of this Local Law, and EP District boundaries shall be based upon the natural characteristics of the resource lands identified. The Conservation Advisory Commission may recommend creation of EP Districts to the Town Board.
  - a. The Conservation Advisory Commission shall prepare and submit to the Town board a Development Guidelines Report (DGR) for each EP District proposed to be established. The DGR shall contain a boundary map for the district and the justifications for establishment of said district. The DGR shall describe the distinctive natural or cultural characteristics which are to be

protected and the types of development which would be most likely to threaten the protected resource values. The DGR shall recommend mitigation measures including modified uses and zoning densities, if appropriate, to protect these areas from the negative impacts of development.

- b. The Town Board shall follow the zoning amendment procedures contained in Article V to adopt an EP District. It may simultaneously designate such an area a Critical Environmental Area (CEA) under the State Environmental Quality Review Act (SEQRA).
3. Categories. EP Districts shall be classified by categories, according to the provisions and qualifications as described herein, and each district shall be shown on the Zoning Map of the Town of Washington. EP Districts may fall into one or more of the following categories:
    - a. Areas that offer a benefit or pose a threat to human health;
    - b. Areas that contain an important natural setting;
    - c. Areas with social, cultural, historic, archaeological, recreational, or educational value;
    - d. Areas with inherent ecological, geological, or hydrological value or sensitivity.
  4. Development Permit Classification in EP Districts.
    - a. No building permit or other land use permit not exempt by Subsection 4(b) below shall be issued for property within an EP District without site plan approval pursuant to the procedures specified in Subsection 5 below.
    - b. The following area exempt from the procedures of Subsection 5 below:
      - (1) Any permit for plumbing, heating, air conditioning, fire alarms and extinguishing equipment, and all other mechanical and electrical equipment not involving a change of use or occupancy;
      - (2) Any permit necessary for bringing an existing building into compliance with New York State building code;
      - (3) Any permit necessary for compliance with a lawful order of the Zoning Administrator;
      - (4) Any permit necessary for the immediate public health or safety;
      - (5) Any permit for interior alterations and repairs;
      - (6) Any permit for the construction of public utilities in the public right-of-way;
      - (7) Any permit for fences under six (6) feet in height;
      - (8) Any permit for construction of accessory structures with a floor area of two hundred (200) square feet or less;

- (9) Any permit for additions to buildings and structures not resulting in an increase in floor area of more than fifty percent (50%);
  - (10) Any permit for a sign under six (6) feet in height;
  - (11) Any permit for a driveway under fifty (50) feet in length;
  - (12) Any permit for exterior alterations and repairs of dwelling structures not resulting in a change in use or occupancy or increase in floor area of more than fifty percent (50%); and
  - (13) Such other exemptions as may be allowed in any regulations creating a specific EP District.
- c. Applications for development permission in EP Districts not exempt in Section 4(b) above shall be made to the Planning Board as Site Plan applications pursuant to Section 480, Site Plan Approval, of this Local Law. The following Applications shall be Type I Actions (requiring a Long Environmental Assessment Form and Visual EAF Addendum) pursuant to the New York State of Environmental Quality Review Act:
- (1) All applications for new principal buildings or structures as defined in Article VI;
  - (2) All applications for excavation and/or fill;
  - (3) All applications for additions to buildings and structures resulting in an increase in floor areas of more than fifty percent (50%);
  - (4) All applications for construction of accessory structures and buildings with a floor area of more than one thousand (1,000) square feet;
  - (5) All applications for exterior alterations and repairs of structures which result in a change of use or occupancy or an increase in floor area of over fifty percent (50%); and
  - (6) All applications for driveways over three hundred (300) feet in length.
- d. The Town Board may revise the classifications set forth in Subsection 4(c) above for any specific EP District upon a finding that conditions peculiar to such district require such revised classifications. Any such revised classifications adopted by the Town Board for any EP District shall be set forth in the regulations establishing such district.
5. Special Application Requirements and Review Procedure.
- a. Site Plan and Environmental Review. In addition to the requirements of Section 480, Site Plan Review and Approval, of this Local Law, and in fulfillment of these requirements of the State Environmental Quality Review Act (SEQRA), the applicant shall provide information on the following matters:
    - (1) Compatibility of the proposed improvement, construction, or development with the official Development Guidelines Report for the EP District;

- (2) Compatibility of the proposed improvement, construction, or development with the siting principles of the Visual Resources Mapping Series; and
  - (3) Such other information as may reasonably be required in order to assist in the EP review process.
6. Underlying and Alternative Zoning Regulations.
- a. Upon establishment of an EP District pursuant to Subsection 2 above, the lot area and density requirements shall increase to the lot area and density requirements of the RR-10 zone unless otherwise specified by the Town Board in the zoning amendment creating the EP District.
  - b. Unless otherwise specified by the Town Board when the EP District is created, regulations for land use, coverage, floor area, yard requirements, parking, building height, fences, and landscaping in an EP District shall be determined by the zone in which the land was located prior to its designation as an EP District. When a property within an EP District is proposed for subdivision, the Planning Board shall consider alternative development proposals, including the option to require cluster development, and shall make a finding that any plan approved is consistent with the intent and purpose of this Section and with the DGR in order to protect the resources contained in designated EP Districts.

### Section 317. INDUSTRIAL/OFFICE FLOATING DISTRICT REGULATIONS

Industrial/Office Development Districts (hereinafter “I Districts”), may be established within an area designated as RR-10, RS-10, RL-5, RS-5, and RM-2, by zoning amendment as specified below. Land zoned RH-1, EP, LC, HM and land subject to the APO and AQ district Overlay requirements shall not be eligible for designation as an I District. Provision is made for a floating district for industrial and office development because the Town Board finds such enterprises appropriate in diversifying the Town’s economy and tax base, provided that they do not detract from its rural character. The granting of authority to establish an industrial/office development shall be subject to the conditions set forth below, the requirements of Section 480, Site Plan Review and Approval, of this Local Law, and such other reasonable conditions as the Town Board in its discretion deems appropriate.

- 1. Application for the establishment of an I District shall be made to the Town Board pursuant to the zoning amendment provisions of Article V of this Local Law. The application shall state the specific uses for which the property would be used, and shall include a schematic site plan showing the approximate size, height, and location of proposed structures, parking areas, roads, open space, and other facilities. The Town Board may, in its discretion, reject an application for an I District at any time prior to final adoption of a zoning amendment.

2. Within six months after the Town Board has adopted a zoning amendment creating an I District, the applicant shall apply to the Planning Board for Site Plan approval pursuant to Section 480 of this Local Law. The Planning Board shall grant Site Plan approval if it finds that the site plan satisfies the standards and criteria in this Section and in Section 480 of this Local Law and that the site plan is substantially similar to the schematic site plan approved by the Town Board. If more than six months passes between Town Board approval and submission of a site plan application, the I designation shall lapse, and the property shall revert to its prior zoning classification, unless the I District designation is extended by the Town Board.
3. The applicant may, at its sole risk, seek site plan approval from the Planning Board prior to receiving Town Board approval of a zoning amendment. However, the Planning Board shall not be obligated to consider such a site plan application and may not give it final approval until the Town Board has approved the zoning amendment.
4. In considering an application for designation of an I District, the Town Board shall be guided by the following criteria:
  - a. The use must be designed, located, and operated so as to protect the public health, safety, and welfare of the community.
  - b. The use must not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
  - c. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the use, must assure that the use will be in harmony with the appropriate and orderly development of the neighborhood in which the use is to be located.
  - d. The use must not cause undue traffic congestion or create a traffic hazard.
  - e. The use must have road frontage and safe and adequate access directly onto U.S. Route 44 or New York State Routes 44A, 82 or 343, and must be appropriately located with respect to water supply, fire protection, waste disposal and other necessary services and/or facilities.
  - f. The use must be suitable for the site, must not impose a threat of pollution of the natural resources of the Town, must not pose a threat to valuable ecological or wildlife resources, and must be designed in accordance with the standards specified in Subsection 7 below.
5. The granting of permission for the establishment of an industrial or office use in the I District by the Town Board shall be limited to the specific proposal presented for approval within the area designated and according to the plans and specifications submitted. If, after the passage of one (1)

year from the date of site plan approval construction has not started, the zoning amendment shall be automatically revoked and the land returned to the classification which it held prior to any district change undertaken pursuant to the provisions above.

6. Allowable Uses. The following uses, operations, or activities are allowed in an I District established by the Town Board subject to the requirements of Section 480, Site Plan Review and Approval, of this Local Law:
  - a. Light Industrial/Manufacturing;
  - b. Food processing;
  - c. Offices;
  - d. Wholesaling;
  - e. Farm Machinery, Sales, and Rental;
  - f. Veterinary Hospital;
  - g. Research Facilities;
  - h. Warehousing;
  - i. Multi-family housing, up to a maximum of twenty-five percent (25%) of the developed floor space;
  - j. Such other uses as the Town Board may deem appropriate.
  
7. I District Design Guidelines.
  - a. I District shall meet the following requirements:
    - (1) Area and bulk requirements:
      - (a) Minimum Lot Size: Ten (10) acres.
      - (b) Minimum Lot Width: Four hundred (400) feet.
      - (c) Minimum building setbacks from adjoining property lines:
        - i. Front: One hundred (100) feet
        - ii. Side: Fifty (50) feet.
        - iii. Rear: Fifty (50) feet.
      - (d) Maximum Building Height: Thirty-five (35) feet.
      - (e) Maximum Building Coverage: Thirty percent (30%).
    - (2) At least forty percent (40%) of the land on a tract zoned I shall be set aside as perpetual open space pursuant to the provisions of Section 64 of the Town of Washington Land Subdivision Regulations.
    - (3) In addition to the area and bulk requirements set forth above, no industrial use, building, or operation within an I District, including but not limited to accessory uses such as parking and loading areas, shall be permitted within one hundred (100) feet of any abutting APO District or any abutting residential district.
    - (4) The minimum setback areas set out in Subsection 7(1)(c) shall include buffering as indicated in Subsection (a) below. This required buffer area shall be landscaped with trees and shrubs sufficient in size and quantity to

effectively screen the industrial/office use from any public road and from any existing or future use abutting an I District. Existing trees within the required buffer area shall be preserved to the maximum extent possible. A landscape plan shall be submitted pursuant to Section 483, Subsection 12, of this Local Law and shall satisfy the following buffer requirements.

- (a) Perimeter Landscape Area Requirements for Industrial Uses:
  - i. Front Yard: Sixty (60) feet. The front yard landscaped area shall contain at least one (1) shade tree, at least three (3) inches in caliper for each fifty (50) feet or part thereof of road frontage.
  - ii. Side/Rear Yard: Ten (10) feet. The side and rear yards shall provide at least one (1) shade tree of at least three (3) inches in caliper for each fifty (50) feet or part thereof of side and rear property lines.
- (b) When an industrial site abuts a natural amenity such as a wetland or watercourse, floodplain, or hillside, the landscape plan should protect the natural integrity of such amenity.
- (c) Since industrial sites adjacent to major transportation corridors within the Town may be highly visible, landscaping should protect scenic views from these rights-of-way. Landscaped buffers between different uses should also emphasize a similar degree of sensitivity.
- (d) Any required detention and retention ponds should be integrated into the total design of the landscape plan. Generally, slopes should not exceed 3:1 and all ponds must be properly drained. Standing water is discouraged other than in-water features which provide recirculation.
- (e) Any parcel in the I District which contains parking facilities for more than forty (40) cars shall provide landscaped areas within the parking lot equal to at least twenty percent (20%) of the gross parking lot area. This landscape area requirement shall be provided by landscaped end islands and landscaped center islands within the parking area. Landscaped end islands shall be a minimum of fifteen (15) feet in width and landscaped center islands shall be a minimum of eighteen (18) feet in width. One deciduous shade tree of at least three (3) inches in caliper shall be planted within landscaped areas for

each ten (10) parking spaces if there are more than forty (40) spaces. No parking area or driveways shall be closer than ten (10) feet from any portion of a building other than its garage entrance or loading area apron. This ten (10) foot area shall not be counted as part of the twenty percent (20%) parking lot landscaping requirement above.

- (f) Industrial Building Foundations. Foundation landscaping is required where buildings are visible from streets or abutting agricultural or residential land uses. Service and loading areas visible from agricultural or residential land uses or streets must also be screened. Fences, walls, landscaping, or a combination thereof may be used to screen these areas.
- (5) Noise shall measure no more than fifty (50) decibels at the edge of the property and no vibration shall be measurable at the property line. All machinery shall be mounted on isolation blocks or pads to absorb or minimize vibration. Air compressors and similar machines shall have intake mufflers when needed.
- (6) All operations, uses, or activities producing excessive humidity in the form of steam or moist air, or high intensity light, heat, or glare, shall be carried out in an enclosure or be shielded to prevent their impact or visibility past the property lines.
- (7) All storage areas, parking lots, walks, and exterior walls of buildings shall be lighted to a minimum level of one (1) footcandle. Such lights shall be directed so as to eliminate glare from affecting abutting properties.
- (8) All construction shall be Class 'A' fireproof construction in accord with the latest provisions of the "National Fire Codes." Inspections by a duly appointed inspector shall be permitted to check conformity.
- (9) All storage of materials, supplies, and products for industrial uses shall be in accord with the applicable provisions of the latest edition of the "National Fire Codes." Such storage shall not be located in any front or side yard area nor in any required yard. All outside storage areas shall be neatly maintained, fenced, lighted, and screened from any existing road or any adjoining residential, commercial, or agricultural use.
- (10) The architectural style and layout of the proposed district shall, to the extent practical, replicate the historical patterns commonly associated with the hamlets and villages of Dutchess County and New England.



## Section 318. MOBILE HOME DISTRICT REGULATIONS

Notwithstanding any other provision of this Local Law, single and individual mobile homes outside of mobile home parks are prohibited in all zoning districts of the Town, except as they may be permitted as emergency or temporary housing and for field offices or storage pursuant to Section 334 below. Mobile home parks may be established upon rezoning a designated area as a Mobile Home (MH) District and after approval of the Planning Board as specified below. Provision for mobile home parks is included herein to allow the establishment of moderate income housing areas where it is found appropriate for the Town of Washington and where such mobile home parks can be absorbed into the landscape without detracting from its rural and scenic character. The granting of authority to establish a mobile home park shall be subject to the conditions set forth below, the requirements of Section 480, site Plan review and approval, of this Local Law, the requirements of the Town of Washington Mobile Home Local Law, and such other reasonable conditions as the Town Board in its discretion deems appropriate.

1. Application for the establishment of an MH District shall be made to the Town Board pursuant to the zoning amendment provisions of Article V of this Local Law. The application shall include a schematic site plan showing the layout of the development, including the location of proposed structures, parking areas, roads, water and sewage facilities, open space, and other facilities. The Town Board may, in its discretion, reject an application for an MH District at any time prior to final adoption of a zoning amendment.
2. Within six (6) months after the Town Board has adopted a zoning amendment creating an MH District, the applicant shall apply to the Planning Board for Site Plan approval pursuant to Section 480 of this Local Law. The Planning Board shall grant Site Plan approval if it finds that the site plan satisfies the standards and criteria in this Section and in Section 480 of this Local Law and that the site plan is substantially similar to the schematic site plan approved by the Town Board. If more than six (6) months pass between Town Board approval and submission of a site plan application, the MH zoning designation shall lapse, and the property shall revert to its prior zoning classification, unless the MH District designation is extended by the Town Board.
3. The applicant may, at its sole risk, seek site plan approval from the Planning Board prior to receiving Town Board approval of a zoning amendment. However, the Planning Board shall not be obligated to consider such a site plan application and shall not give it final approval until the Town Board has approved the zoning amendment.
4. In considering an application for designation of a mobile home district, the Town Board shall be guided by the following criteria:
  - a. The park must be designed, located, and operated so as not to impair the public health, safety, welfare, natural resources, and rural character of the community.

- b. The park must not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
  - c. The location and size of the park, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, must assure that it will be in harmony with the appropriate and orderly development of the neighborhood in which it is located.
  - d. The park must not cause undue traffic congestion or create a traffic hazard.
  - e. The park must be appropriately located with respect to transportation facilities, water supply, fire protection, waste disposal, and other necessary services and/or facilities.
  - f. The site must be suitable for the park and permit a development that will not impose a threat of pollution or destruction of the natural resources of the Town, that satisfies all applicable provision of this Local Law, and that is designed in accordance with the standards specified below.
5. The granting of permission for the establishment of a mobile home park by the Town Board shall be limited to the specific proposal presented for approval within the area designated and according to the plans and specifications submitted. If, after the passage of one (1) year from the date of site plan approval, construction has not started, such approval is automatically revoked and the land returned to the classification which it held prior to any action consummated pursuant to the provisions above.
6. In reviewing a mobile home park plan, the Planning Board shall be guided by the standards specified by Section 485 of this Local Law, as well as by the following:
- a. Mobile home parks shall have a minimum of twenty (20) acres of land area, and shall contain no more than four (4) mobile home units for each one (1) acre of land.
  - b. No mobile home site shall be less than ten thousand (10,000) square feet in area and have less than eighty (80) feet of frontage along an interior roadway
  - c. Mobile homes shall be located so as to provide minimum clearances between adjacent units as specified below:
    - (1) A minimum distance of twenty (20) feet shall be provided between the facing ends of two (2) mobile units; and
    - (2) A minimum distance of fifty (50) feet shall be provided between facing sides of two (2) mobile home units or the facing side of one unit and the end of another. In computing these clearances, lean-tos, auxiliary rooms, and similar accessories connected to the mobile home (but not including temporary porches and canopies which are open on two (2) or more sides) shall be considered as part of the mobile home.

- d. No mobile home unit shall be placed within one hundred-fifty (150) feet of any Town, County, or State roadway, nor within seventy-five (75) feet of any adjoining property.
- e. The park shall be designed as a self-contained unit with interior access roads at least eighteen (18) feet wide for one-way facilities, at least twenty-eight (28) feet wide for two-way movements, and paved with an all-weather, dust-free surfacing material approved by the Town Highway Superintendent.
- f. Adequate recreational facilities shall be provided and up to ten percent (10%) of the total mobile home park land area shall be set aside and developed for recreational purposes.
- g. There shall be at least two (2) off-street parking spaces for each mobile home, located within the mobile home site or within fifty (50) feet thereof.
- h. Each mobile home park shall have a landscaped area at least twenty (20) feet wide along exterior lot lines and street frontages, suitably planted and maintained to provide visual screening from adjacent properties.
- i. Open storage shall not be permitted; storage shall be provided within the mobile home unit or in enclosed accessory structures.
- j. Every mobile home park shall be properly served with central sewage, water, and drainage facilities installed and maintained at the developer's expense. Such financing shall be appropriately guaranteed by bond, escrow account, or such similar arrangement approved by the Town Board.
- k. Each mobile home park shall have a sufficient number of conveniently located dumpsters.
- l. All mobile home units must be furnished with two (2) exterior doors for fire safety.
- m. The mobile homes shall be finished with a natural wood exterior or otherwise be constructed to blend in with the landscape and maintain the rural character of the area.

## Section 319. HAMLET DISTRICT REGULATIONS

1. Purpose and Location. The Town of Washington recognizes the unique historic and architectural character of its unincorporated hamlet areas, and wishes to preserve them through the establishment of a Hamlet District, designated as "H" on the Zoning Map. The purpose of this Zoning District is to permit the growth and development of such hamlet areas in a manner that is compatible with their existing historic, architectural and cultural fabric, and that follows the pattern of development found in historic hamlets in Dutchess County, New York State, and New England. The Hamlet District is established as a floating zone which may be mapped by zoning amendment, pursuant to Article V of this Local Law. Such mapping may occur only in locations where the Town Board finds that historic hamlets worthy of preservation exist.

2. Schedule of Use Regulations

<b>Residential District</b>	<b>Principal Uses Permitted by Right</b>	<b>Accessory Uses Permitted by Right</b>	<b>Special Uses Which May Be Allowed by Special Permit and Subject to Site Plan Approval</b>	<b>Applicable Overlay or Floating Districts</b>
H	Dwelling, Single-Family Dwelling, Two-Family	Uses customarily incidental to any principal use permitted by right Garages, private *Home Occupation (Sec. 321. <sup>11</sup> 3.a) Off-Street Parking *Signs Swimming pools	Antique Shop *Bed and Breakfast Food Store General Store *Home Occupation (Sec 321. <sup>12</sup> 4) Professional Offices	APO Overlay AQ Overlay EP Floating

\* See Supplementary Use Regulations

3. Schedule of Area and Bulk Regulations.

MINIMUM LOT SIZE	AREA (ACRES) WIDTH (FEET)	.25** 75
MINIMUM/MAXIMUM SETBACK	(FEET) FRONT EACH SIDE REAR	20/50 15/50 25/none
MAXIMUM BUILDING HEIGHT	(STORIES) (FEET)	2.5 35
MAXIMUM COVERAGE	(PERCENT)	75
MINIMUM ROAD FRONTAGE	(FEET)	50

\*\* *or such greater area as may be required to comply with regulations of the Dutchess County Department of Health*

4. Home Occupations and Non-residential Uses. In order to maintain the small-scale, non-commercial character of the Hamlet District, nonresidential uses in the Hamlet District may occupy a maximum of two thousand (2,000) square feet of floor space per lot. Notwithstanding the

<sup>11</sup> Stated in Zoning Law as Section 321.4.a. Should be Section 321.3.a.

<sup>12</sup> Stated in Zoning Law as Section 321.5. Should be Section 321.4.

provisions of Section 321(a)(2), home occupations within the Hamlet District may occupy a maximum of two thousand (2,000) square feet, regardless of the size of the residential structure in which they are located, provided that such home occupations are otherwise in compliance with Section 321.

5. Architectural Review.

- a. Any new construction, or the proposed demolition, expansion, or exterior alteration of an existing structure shall require site plan review by the Planning Board. Such site plan review shall include review of the architectural compatibility of the proposed new structure, demolition, expansion, or alteration with the historic architectural character of the hamlet, including the layout, placement, and proportions of buildings, and their relationships to each other, streets, open space, and landscaping.
- b. In the case of new structures or alterations that would not otherwise require site plan review under the Schedule of Use Regulations, such site plan review shall be limited to the architectural compatibility of such construction, alteration, or expansion with the existing architectural character of the structure to be altered and with the architectural fabric of the hamlet.

## Section 320. SUPPLEMENTARY USE REGULATIONS

The provisions set forth by the Schedules of Use Regulations shall be subject to such exceptions, additions, or modifications as provided herein by the following Supplementary Use Regulations.

## Section 321. HOME OCCUPATIONS

1. Purpose and Intent. The conduct of business in residential units may be permitted under the provisions of this Section. It is the intent of this Section to:
  - a. Ensure the compatibility of home occupations with other uses permitted in the residential districts;
  - b. Maintain and preserve the rural character of residential neighborhoods and areas;
  - c. Assure that public facilities and services designed for residential areas are not misused for inappropriate commercial purposes; and
  - d. Provide peace, quiet, and domestic tranquility within all residential neighborhoods or areas, and guarantee to all residents freedom from excessive noise and traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential areas.

<sup>13</sup>2. Criteria and Standards

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<sup>13</sup> Section 321, paragraph 2 subsection a. amended; Local Law #1 of the year 2005 on 04/14/05.

- a. In all residential and overlay districts, home occupations in compliance with the following criteria and standards and listed as allowed home occupations pursuant to Subsection 4 below are permitted upon issuance of a permit by the Zoning Administrator.
- (1) A home occupation shall be incidental and secondary to the use of a dwelling unit for residential purposes. It shall be conducted in a manner which does not give the outward appearance of a business, does not infringe on the right of neighboring residents to enjoy the peaceful occupancy of their dwelling units, and does not alter the character of the residential or overlay district. A home occupation may be conducted within the dwelling unit or within an accessory structure, which shall meet the requirements of Section 355, Accessory Structures, below.
  - (2) No more than thirty percent (30%) of the floor area of the dwelling unit, with the exception of foster family care which may use fifty percent (50%), may be used in connection with a home occupation. Floor area of a dwelling unit is the habitable area.
  - (3) The home occupation is to be conducted only by members of the family residing in or maintaining the dwelling unit plus no more than two (2) non-resident assistants or employees.
  - (4) There shall be no external alteration of the appearance of the property, the dwelling or accessory structure in which the home occupation is conducted which would reflect the existence of said home occupation.
  - (5) Any signs used in conjunction with a home occupation shall meet the requirements of Section 334, Signs, of this Local Law.
  - (6) A home occupation, including studios or rooms for instruction, shall provide all necessary parking associated with the home occupation off-street, not to exceed four (4) spaces.
  - (7) A home occupation shall not generate traffic, noise, vibration, odor, smoke, glare or electrical interference greater than that normally created by other permitted uses in the same zoning district.
  - (8) Delivery and pick-up of materials or commodities to and from the premises by a commercial vehicle shall not exceed two (2) trips per week, and the deliveries shall not restrict traffic circulation. A commercial vehicle for the purpose of this provision is any motor vehicle having a gross vehicle weight of more than fourteen thousand (14,000) pounds.
  - (9) There shall be no exterior storage of materials, equipment, vehicles, or other supplies to be used in conjunction with a home occupation.

- (10) A home occupation shall produce no offensive noise, vibration, smoke, electrical interference, dust, odors, or heat. A home occupation as provided by this Local Law shall be completely contained within the principal or accessory structure. No noise, vibration, smoke, electric interference, dust, odors, or heat shall be detectable beyond the walls of the building where the home occupation is located. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted materials shall be used or stored on the site. Processes which are hazardous to public health, safety, morals, or welfare are prohibited.
- (11) The total number of home occupations conducted within a dwelling unit is not limited, except that the cumulative impact of all home occupations conducted within the dwelling unit or on the premises thereof shall not be greater than the impact of one (1) home occupation.
- (12) As constructed and improved at the time of the commencement of the home occupation, the entry and exit to and from the property shall be in such condition and location that the Town Highway Superintendent would issue a driveway permit for such entry and exit.

<sup>143.</sup> List of Home Occupations.

- a. The following home occupations are permitted by right upon issuance of a permit by the Zoning Administrator, provided that they are carried on in a manner which complies with the standards in Subsection 2 above:
  - (1) Architectural, engineering, interior design, and financial planning services;
  - (2) Art restoration;
  - (3) Art studio;
  - (4) Babysitting;
  - (5) Data processing;
  - (6) Dental technician with laboratory;
  - (7) Dentist;
  - (8) Drafting and graphic services;
  - (9) Dressmaking, sewing, tailoring, contract sewing;
  - (10) Flower arranging;
  - (11) Gardening, landscape maintenance;
  - (12) Home crafts including ceramics with kiln up to six (6) cubic feet, jewelry making, basketry;
  - (13) House cleaning service;
  - (14) Locksmith;
  - (15) Physician;

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<sup>14</sup> Section 321, paragraph 3 subsection a. amended; Local Law #1 of the year 2005 on 04/14/05.

- (16) Real estate sales or broker;
  - (17) Sales or manufacturer representative (office only);
  - (18) Swimming pool cleaning;
  - (19) Telephone answering, switchboard, and call forwarding;
  - (20) Tutoring;
  - (21) Typing and word processing;
  - (22) Watch repair; and
  - (23) Writing, computer programming.
- b. The following home occupations are prohibited:
- (1) Ambulance service;
  - (2) Appliance repair;
  - (3) Automobile sale, repair, and retailing, sale of supplies, parts and upholstery, washing service (including businesses working at customer homes);
  - (4) Helium balloon assembly, distribution, or sale;
  - (5) Laundromats and dry cleaning;
  - (6) Limousine or pedicab services exceeding one (1) vehicle;
  - (7) Mortician, hearse service;
  - (8) Restaurants and taverns;
  - (9) Tow truck services; and
  - (10) Tractor-trailer operations or parking.

<sup>154.</sup> Home Occupation by Special Permit. Any home occupation meeting the standards and criteria of Subsection 2 above but not listed as a permitted or prohibited home occupation under Subsection 3 above may be allowed by special permit issued by the Planning Board. In issuing such special permit, the Planning Board must find that the proposed home occupation meets the criteria and standards in Subsection 2 above, as well as generally applicable special permit standards in Section 473 of this Local Law.

<sup>165.</sup> Permit Application Procedure.

- a. Application for a permit for a home occupation permitted by right shall be made to the Zoning Administrator, who shall issue a permit upon finding that the proposed home occupation will satisfy the criteria and standards in Subsection 2 above.
- b. Application for a special permit for a home occupation that is neither permitted by right nor prohibited shall be made in accordance with Section 470, Special Permits, of this Local Law.

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<sup>15</sup> Section 321, paragraph 4 amended; Local Law #1 of the year 1991 on 03/14/91.

<sup>16</sup> Section 321, paragraph 5 amended; Local Law #1 of the year 1991 on 03/14/91.



- <sup>17</sup>6. De Minimus Use: No permit is required for a home occupation use which meets all of the criteria of section 321(2)(a) and all of the following additional standards:
- a. No physical change to the exterior of a principal or accessory structure is required to accommodate the home occupation; and
  - b. The use is conducted on the site solely by persons utilizing the home as their primary residence; and
  - c. There is no sign or other exterior advertisement of the existence of the home occupation use; and
  - d. No more than one home occupation is conducted on the premises; and
  - e. There is no exterior storage of materials, equipment, vehicles or other supplies used in conjunction with the home occupation.

### Section 322. PIG FARMS

Pig farms shall require a minimum of land area of one hundred fifty (150) acres, and pens or feeding areas shall not be located within one thousand (1,000) feet of any property line.

### Section 323. <sup>18</sup>PRIVATE STABLES

No building in which animals are housed in a private stable shall be located within one hundred (100) feet of any property line, and no manure, shall be stored within two hundred fifty (250) feet of any neighboring residence, property line, watercourse, or wetland. Further:

1. Horses shall be solely for the use of residents and their guests.
2. All grain shall be stored in rodent-proof containers.

### Section 324. <sup>19</sup>RIDING ACADEMIES/PUBLIC STABLES

Buildings to be used for riding academy or public stable purposes shall be set back a minimum distance of one hundred twenty-five (125) feet from the street line and two hundred fifty (250) feet from the side and rear of property lines. Further:

1. No manure or substance that produces objectionable odor or dust shall be stored within two hundred fifty (250) feet of any property line.
2. No manure shall be stored within two hundred fifty (250) feet of any neighboring residence or the shoreline of any lake, pond, stream or wetland.

### Section 325. CAGE-TYPE POULTRY FARMS

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<sup>17</sup> Section 321, paragraph 6 added; Local Law # 1 of the year 2000 on 08/10/00.

<sup>18</sup> Section 323 amended; Local Law #1 of the year 2003 on 01/02/03.

<sup>19</sup> Section 324 amended; Local Law #1 of the year 2003 on 01/02/03.

Buildings housing cage-type poultry operations and containing five thousand (5,000) birds or less shall not be erected within five hundred (500) feet of any property line nor within one thousand (1,000) feet of the boundary line of the zoning district in which the use is permitted nor within one hundred (100) feet of any lake, pond, watercourse, or wetland. Further:

1. For each one thousand (1,000) birds more than five thousand (5,000), an additional setback of fifty (50) feet shall be provided from any property line.
2. Cage-type poultry houses shall be equipped with odor suppressors of the hydraulic pit type, or equivalent, with sufficient capacity to permit a lapse of not more than four months between cleanings.
3. Cage-type poultry house odor suppression devices shall not be cleaned during the months of June, July, August, or September.

#### Section 326. EDUCATIONAL INSTITUTIONS

Educational institutions shall have a minimum of four hundred (400) feet of frontage on a public road. Further:

1. No sports arena or other place of assembly having a capacity of more than one thousand (1,000) persons shall have entrances or exists on streets other than those designated as primary or secondary in the Town of Washington Master Plan.
2. Where feasible, entrances and exits should be on primary streets, and not on streets intended for predominately residential use.

#### Section 326A.<sup>20</sup> CHARITABLE FOUNDATIONS AND TRUSTS

1. Preamble and Purpose. The Master Plan of the Town of Washington provides for the promotion of locally oriented business (those not dependent on trade attracted through traffic) and further provides that new growth should contribute to the local economy and rural environment, be compatible with the local character of its surroundings, be subject to strict performance standards and be subject to rigorous public review and enforcement. The Town of Washington (the "Town") has historically deferred to the Village of Millbrook with regard to the location of commercial enterprises because, among other things, the Village is the hub of the community of which the Town is part and its economic vitality contributes to the quality of life in the Town. Consequently, commercial uses which generate traffic that may generate business for other commercial uses are directed to the Village. The Village has, however,

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<sup>20</sup> Section 326A., new section added; Local Law #1 of the year 1998 on 06/11/98.

only so much space for business occupancy and will, from time to time, be unable to accommodate certain business uses which may be compatible with the Town's planning goals and character. The Town has a Hamlet Mixed-Use District in which it wants to encourage certain commercial uses consistent with the mixed commercial/residential character of the district and has several pre-existing commercial uses and home occupations in its one-acre zone which have proved compatible with that neighborhood.

A number of charitable foundations or trusts have expressed interest in locating purely administrative offices in the Town. These would be locally oriented since they are not dependent on a trade attracted through traffic. Rather, their function is to administer their assets, evaluate and make determinations relating to requests for funding from other charitable organizations.

The Town Planning Board has advised the Town Board that if administrative offices for charitable foundations or trusts are not open to the general public, limited in size to no more than twelve (12) employees, are limited to properties which have a boundary on a state or county highway of at least the minimum frontage distance required for building lots in the district in which said use exists, are subject to special use permit and site plan approval with an emphasis on screening and restricting any parking on the street and are limited to the Hamlet MixedUse District and the RH-1 Residential District, they will be consistent with and further the goals as expressed in the Town of Washington Master Plan.

Based upon its experience, the Planning Board advised the Town Board that the Limitation on Non-residential Development in the Hamlet MixedUse District needs to be waived to have any real prospect for administrative offices for charitable foundations in the Hamlet Mixed-Use District.

2. Administrative offices for charitable foundations or trusts shall be a permitted use in the HM District and the RH-1 Residential District, subject to the issuance of a special use permit and site plan approval as provided in Appendix A, Schedule of District Use Regulations, as amended, of this Zoning Law. In addition to conditions imposed by the Planning Board for the issuance of said special permit and site plan approval, such offices shall meet the following conditions:
  - <sup>21</sup>a. Such offices shall be limited in size to no more than twelve (12) employees. The number of permitted employees will be directly related to the amount of parking space which is available on the

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<sup>21</sup> Paragraphs a, b, c and d are shown in the Local Law in Parenthesis.

- proposed site which can be adequately screened from view by neighboring owners. Parking on the street should not be permitted.
- b. In the Hamlet Mixed-Use District, such offices may only be permitted on lots which have a boundary on a state or county highway of at least the minimum frontage distance required for building lots in the subject district.
  - c. In the RH-1 Residential District such offices may only be permitted on lots of not less than three (3) acres and which are no further than two hundred (200) feet from a State highway.
  - d. In the RH-1 Residential district, only one (1) unilluminated identifying sign, no greater than two (2) square feet in size, shall be permitted on the building itself.
3. Administrative offices for charitable foundations or trusts located in the Hamlet Mixed-Use District need not satisfy the Limitation on NonResidential Development as specified in Section 313 of the Zoning Law, as amended.

#### Section 327. PRIVATE CAMPS

No private camp shall be placed less than two hundred fifty (250) feet from any property line except where the property line is the shore of a lake. No sewage disposal facility shall be closer than one hundred (100) feet from any lake, pond, watercourse, or wetland. No building, whether principal, accessory, or temporary, or sewage facility shall be within one hundred (100) feet of the shoreline of any watercourse or within 100 feet of a wetland, or, if subject to flooding, within 10 feet beyond its flood line. No building or sewage facility shall be within one hundred (100) feet of any watercourse or wetland which flows into a reservoir used for public water supply purposes.

#### Section 327A. <sup>22</sup>PRIVATE CEMETERIES OR BURIAL PLOTS

Section 328. WETLANDS AND WATERCOURSES **Deleted in its entirety.**  
**Replaced by Section 396 – See that section.**

#### Section 329. STRIPPING OF TOPSOIL

No person, firm, or corporation shall strip, excavate, or otherwise remove topsoil for sale, or for use other than on the premises from which such topsoil is removed. Stripping of topsoil may be allowed by special permit granted by the Planning Board in connection with the construction or alteration of a building and excavation or grading incidental thereto, provided that such topsoil is located on the same premises, and that a certified erosion and sedimentation control plan is approved pursuant to Section 335 of this Local Law.

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<sup>22</sup> Section 327A deleted in its entirety; Local Law #3 of the year 2007 on 10/11/07.  
Section 328 deleted in entirety, replaced by Section 396 (inserted here) 5/12/11

Section 330. <sup>23</sup>CONVERSION OF BARNs AND ACCESSORY BUILDINGS

1. Purpose and Intent. This Section authorizes, upon issuance of a special permit, the conversion of barns or other accessory buildings in districts where residential uses are permitted. The purpose and intent of permitting conversion of barns or other accessory buildings is to:
  - a. Encourage the development of rental units in the Town to meet the needs of smaller households, and to provide housing for families or individuals with low to moderate income;
  - b. Provide homeowners, especially those of low and moderate income, with rental income, companionship, security, and services, and the means to enable them to stay more comfortably in homes and neighborhoods they might otherwise have to leave;
  - c. Provide affordable housing units through the efficient use of the Town's existing barns and other accessory buildings to help assure housing for employees of local businesses and farms, while ensuring healthy and safe living environments; and to
  - d. Protect neighborhood stability, property values, and the rural character of the Town by ensuring that the conversion of barns and other accessory buildings does not increase overall density above that permitted in the Zoning District.
  
2. Conditions and Requirements. In order to be granted a special permit to convert a barn or other accessory building for housing purposes, the following criteria and requirements must be met:
  - a. The building proposed for conversion must have been in existence on January 1, 1989.
  - b. The minimum size of a residential unit within a converted barn or accessory structure must be eight hundred (800) square feet.
  - c. Barns or other accessory buildings converted to housing must meet the requirements of Section 360, Supplementary Off-street Parking Regulations, of this Local Law.
  - d. The barn or accessory structure converted to residential use must be on the same lot as a principal dwelling.
  - e. The barn or accessory structure converted to residential use shall not be subdivided onto a separate lot unless the lot and the barn or accessory structure satisfies the bulk and area requirement of Appendix B of this Local Law, or the cluster subdivision requirements of Section 341 of this Local Law, and of the Land Subdivision Regulations. No area variances to permit such subdivisions shall be granted if the structure was constructed or converted to residential use after December 27, 1989. Such construction or conversion shall constitute a self-created hardship or practical difficulty.

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<sup>23</sup> Section 330 amended; Local Law # 1 of the year 2000 on 08/10/00.

- f. Only one barn or accessory structure may be converted by-right to residential use on a single lot. The Planning Board may issue a special permit for the conversion of up to three barns or accessory structures on a single lot where the Board finds that such additional conversion(s) will not adversely affect the value of adjoining and nearby property. In issuing special permits for such additional conversions the Board shall make specific findings regarding the proposed conversion(s) in accordance with the Standards of section 473 of the Zoning Law.
  - g. The water supply and sewage disposal systems serving any converted barn or accessory structure as permitted herein may be shared with the principal dwelling on the same lot where such sharing is allowed by the Health Department. All individual and shared water supply and sewage disposal facilities shall be approved, constructed and maintained in accordance with Health Department requirements.
3. Permit Application Procedure. Application for a special permit to convert barns or other accessory buildings must be made in accordance with Section 470, Special Permits, and Section 480, Site Plan Review and Approval, of this Local Law and include the following additional information:
- a. Floor plans (at 1/4" = 1 foot scale) showing existing and proposed uses, with dimensions specified;
  - b. Facade drawings if exterior alterations are proposed (at 1/4" = 1 foot scale); and
  - c. Proof of notification of abutting property owners.

Section 330-B. <sup>24</sup>ACCESSORY RESIDENTIAL HOUSING

The Town hereby finds that the creation of accessory attached or detached housing is consistent with maintenance of the rural character of the Town where such housing meets the following criteria:

- 1. Accessory Residential Housing is allowed by special permit issued by the Planning Board in accordance with the requirements for special permits as set forth in section 470 of this Zoning Law. In addition, such application for a special permit shall be accompanied by floor plans (at 1/4" = 1 foot scale) for the structure, with dimensions specified, and facade drawings of the exterior (at 1/4" = 1 foot scale).
- 2. Accessory Residential Housing shall be provided on the same lot as the principal dwelling and may be later subdivided or separated onto its own lot only where the subdivision of such housing meets the strict

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<sup>24</sup> Section 330-B added; Local Law # 1 of the year 2000 on 08/10/00.

requirements of area and bulk requirements of the Zoning District affecting the property.

3. Accessory Residential Housing is permitted only on lots where the owner resides.
4. The water supply and sewage disposal systems serving any Accessory Residential Housing as permitted herein may be shared with the principal dwelling on the same lot where such sharing is allowed by the Health Department.
5. Only one Accessory Residential Housing unit per lot is permitted. Such a unit shall maintain the minimum acreage density for a single-family residence in the Zoning District in which the lot is located. For example, the minimum acreage density for an Accessory Residential Housing unit and a principal structure in the 10 acre zones shall be 20 acres. The minimum acreage density for an Accessory Residential Housing unit and principal structure in the 5 acre zones shall be 10 acres. If an Accessory Residential Unit is built on a lot containing a barn or accessory structure previously converted to residential use under section 330 of this Zoning Law, the minimum acreage density for all of the residential units on the property shall not be less than the minimum acreage density for three (3) single family residences in the applicable zoning district.
6. Accessory Residential Housing is allowed in the "R" residential districts only. For lots located in the 1 and 2 acre zones, the minimum acreage density shall be the same as those of the 5 acre zones. This section shall not bar the Town Zoning Board of Appeals from considering an application for relief from these area requirements.

### Section 331. SIGNS

1. Purpose. The general purposes of this provision are to set forth standards to control the location, size, number, and lighting of signs located in all districts in order to avoid conditions of clutter and unsightliness. The specific purposes of this sign provision are to:
  - a. Preserve the public health and safety by controlling a sign's size, location, and character so it will not confuse, distract, mislead, or obstruct the vision necessary for traffic safety; and
  - b. Preserve the general welfare by controlling the aesthetics and attractiveness of signs in order to:
    - (1) Protect the residential, business, industrial, and historic character of each district;
    - (2) Mitigate any negative impacts on adjoining properties; and
    - (3) Assist in achieving a more desirable environment in order to maintain property values and to encourage economic growth.

2. Criteria and Standards. Signs may be erected and maintained on the premises only when in compliance with the following criteria and standards:
  - a. Non-illuminated, non-advertising signs as specified below are permitted on premises in all districts:
    - (1) Nameplates and identification signs not to exceed two (2) square feet in area;
    - (2) Sale or rental signs not to exceed six (6) square feet in area;
    - (3) Institutional signs not to exceed twenty (20) square feet in area; and
    - (4) Temporary development signs during construction, repairs, or alterations not to exceed two (2) in number with each not to exceed six (6) square feet in area.
  - b. Illuminated, non-advertising signs shall be permitted on premises in non-residential districts provided such signs shall employ only lights emitting a light of constant intensity. Further:
    - (1) No sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights;
    - (2) An illuminated sign or lighting device shall not be placed or directed so as to permit the beams and illumination to be directed or beamed upon the public street, highway, sidewalk, or adjacent premises so as to cause glare or reflection that may constitute a nuisance or a traffic hazard;
    - (3) No more than two (2) signs shall be permitted for each business on the premises;
    - (4) Attached signs shall not cover more than ten percent (10%) of the front surface of a building; and
    - (5) Detached signs shall not exceed twenty (20) square feet in area and lettering shall not occupy more than seventy percent (70%) of the face of a detached sign.
  - c. Neon-type lighted signs and signs with moving parts shall not be permitted.
  - d. No signs shall be placed on the roof of any building, and any sign erected or maintained in the window of a building, visible from any public or private street or highway, shall not occupy more than thirty percent (30%) of the area of said window.
  - e. No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners, or other similar moving, fluttering, or revolving devices. Said devices, as well as strings of lights, shall not be used for the purpose of advertising or attracting attention when not part of a sign.
  - f. No signs shall use “day glow” type paints. Garish colors and combinations of colors shall not be used.



- g. Any sign existing on or after the effective date of this Local Law which no longer advertises an existing business conducted or products sold on the premises shall be removed by the owner of the premises upon which sign is located, after written notice is provided for removal and within thirty (30) days of the date of such notice.
  - h. In the event a sign is erected prior to the effective date of this Local Law, which sign does not conform with the provisions and standards of this Local Law, the sign or structure will be permitted to stand for a period of three (3) years, at which time the sign must be replaced to meet the provisions of this Local Law or removed, except if the sign has historical significance to the Town and is so designated.
  - i. Only one flush-mounted or free-standing, non-illuminated sign, not over two (2) square feet in area, is permitted per dwelling unit where a home occupation is conducted. The legend on the sign shall show only the name of the occupant and type of home occupation.
3. Criteria for Increased Sign Area. To encourage design excellence, the maximum sign areas for certain business, industrial, marquee, and directory signs may be increased by the percentages herein. A separate increase is granted for compliance with each of the criteria and the total is cumulative, but each percentage increase is based on the original sign area limitation.
- a. Ground signs may be increased as follows:
    - (1) Twenty percent (20%) when the sign is constructed of solid wood and uses only the colors approved by the Zoning Administrator;
    - (2) Ten percent (10%) when a directory sign utilizes uniform coloring and lettering for all establishments listed in the directory, except the one (1) major facility;
    - (3) Twenty percent (20%) when the sign is installed in a landscaped planter having an area four (4) times the area of the resultant sign and the entire design is approved by the Zoning Administrator;
    - (4) Ten percent (10%) if the sign is not designed or used with illumination; and
    - (5) Five percent (5%) if the sign face is made from unbreakable material.
  - b. Facial signs may be increased as follows, but only if the projection of the sign does not exceed twelve (12) inches:
    - (1) Ten percent (10%) when all the lettering and background is uniform in style and color for signs in a shopping center or for any three (3) consecutive separate establishments;
    - (2) Ten percent (10%) if the sign is not designed or used with illumination;

- (3) Ten percent (10%) if the facial sign is the only sign identifying the establishment or its principal product;
  - (4) Ten percent (10%) if the sign is designed to contain only the identification of the establishment without advertisement of any products sold on the premises; and
  - (5) Five percent (5%) if the sign face is made from unbreakable material.
- 4. Maximum Sign Area. Notwithstanding any provision of this Section to the contrary, no sign shall be greater than one hundred (100) square feet in area.
  - 5. Billboards shall be prohibited.

Section 332. <sup>25</sup>QUARRYING AND SOIL MINING LOCATION.

- 1. Purpose.
  - a. The Town of Washington requires clay, sand, silt, gravel, and rock for construction purposes. Facilities to contribute to the supply of these materials within the Town are necessary to support construction activity in a cost-effective manner. Providing a reasonable supply of competitively priced extractive materials is a goal of the Town.
  - b. Residents of the Town of Washington are substantially <sup>26</sup>dependent on groundwater supplies for domestic use. The protection of this critical resource is a goal of the Town which must not be compromised by any extractive use operations.
  - c. While the Town of Washington wishes to contribute to the continued supply of soil mining materials, it believes that it must protect the health and welfare of its residents by confining soil mining to certain specific zones where soil mining will be a specially permitted use along with the several other uses permitted in those zones. The Town has concluded that the best way to achieve its goals is to permit soil mining at certain locations currently in operation with some room for expansion.
  - d. The health of the residential, agricultural, and business community in the Town of Washington is an essential goal of the Town. This goal requires that adverse effects to the environment, such as excessive noise and dust, degradation of water resources, and other hazards to the public be mitigated or avoided entirely. These standards are designed to work in conjunction with E.C.L. Section 23-2701 *et seq.* of the Consolidated Laws of New York.
  - e. The Town recognizes that processing is an integral part of the soil mining process. However, the Town is also mindful that

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<sup>25</sup> Section 332 amended; Local Law #2 of the year 1991 on 10/10/91.

<sup>26</sup> Stated in Local Law as “depended”. Should be “dependent”.

processing is one of the more invasive of the activities that is part of the soil mining activity in terms of noise and other environmental hazards. If the processing of all soil mining products is permitted in the designated zones, that will give soil mines a potential for a life well beyond the exhaustion of materials available from the site where the processing machinery is located. It is the Town's intention not to permit this to occur by providing that the permitted uses in the zones where soil mining is permitted does not include the processing of materials not mined at the subject site. It is believed that this approach will address the Town's desire and need for soil mining material at reasonable costs while at the same time protecting the health and welfare of its residents by limiting the life of permitted soil mining activities to a period consistent with the continued availability of material to be mined at the site. The Town considers the processing of material taken from other sites to be an industrial activity and not included within the uses permitted in the zones where soil mining is a permitted use.

- f. While State law has denied to the Town the power to regulate the reclamation of land used for soil mining, it is the purpose and intention of the Town to make full use of special permit powers granted to it by State law. To protect the health and welfare of its residents and to achieve the goals of the Town as stated above, it is the intention of the Town that the special permit powers described herein be utilized to the full extent permitted by law.

- 2. Exemptions. The following, to the extent specified herein, are exempt from the permitted zone requirements of this Section of the Local Law:
  - a. Excavation in conjunction with utility installation, which is to be backfilled;
  - b. Excavation in conjunction with road construction within the limits of the right-of-way or slope rights of any Town, County, or State highway, or for the sole purpose of building roads and slopes incidental thereto which lie within the area of a subdivision approved by the Planning Board;
  - c. Excavation which by its nature lasts for a matter of hours or days, e.g. graves, septic tanks, swimming pools, etc., and does not involve removal of material from the property;
  - d. Agricultural drainage work incidental to agricultural operations, including farm ponds, if no material is removed from the property;
  - e. Excavation for structures, parking areas, and rights-of-way;
  - f. Regrading of property for aesthetic purposes that does not affect existing drainage, if no material is removed from the property;
  - g. Dredging operations under the jurisdiction of the United States Army Corps of Engineers, and other governmental entities;
  - h. Excavation in conjunction with the drainage maintenance or improvements under County or State jurisdiction;

- i. the improvement of a single lot or parcel of land in connection with construction of a dwelling, multi-family dwelling, building, or any other structure or structures for which a building permit has been issued; and
  - j. The excavation, in any calendar year, of not more than one hundred (100) cubic yards of material from each forty thousand (40,000) square feet of lot area, provided that no more than six hundred (600) cubic yards of material may be removed from any parcel in any calendar year.
  
- 3. Location.
  - a. Quarrying or soil mining may be permitted pursuant to E.C.L. Section 23-2711 of the Consolidated Laws of New York, in the RS-5 and RS-10 zoning districts only subject to the issuance of a Special Use Permit by the Town Planning Board.
  
- 4. Special Use Permits.
  - a. No soil mining activity shall be conducted within the Town without the issuance of a Special Use Permit.
  - b. The authority to grant Special Use Permits to soil mining applicants is granted to the Town Planning Board.
  - c. In addition to the Special Use Permit filing fees, the applicant shall pay the costs of all independent technical assistance which the Planning Board may deem advisable in reviewing and acting upon the application for the Special use Permit including, without limitation, engineering, legal, and land planning and environmental assistance. The Planning Board may require a deposit from the applicant to apply against these anticipated costs and may require additions to that deposit from time to time as a condition of the issuance of the Special Use Permit.
  - d. The application shall take such from as specified by the Planning Board from time to time. An application for a Special Use Permit shall not be complete unless it is accompanied by the requisite filing fee, a complete copy of the application to the New York State Department of Environmental Conservation for a mining permit, including all maps, reports and documentation incidental thereto and the mining permit which has been issued by the Department in relation to the subject operation. An application for a special use permit shall not be acted upon by the Planning Board unless the location of the proposed activities lies entirely within the boundaries of a zone where soil mining is a permitted use or a variance has been obtained from the Town zoning Board of Appeals for any land not within said zones.
  - e. The Planning Board shall hold a public hearing on any application prior to its issuance. Such hearing shall be held not later than ninety (90) days after receipt of a completed application by the applicant including all filing fees. The applicant shall cause such

hearing to be advertised in a newspaper of general circulation in the area at least ten (10) days prior to such hearing date and shall give actual notice by certified mail, return receipt requested, to all adjoining landowners. Proof of compliance with <sup>27</sup>these notice requirements shall be filed by the applicant with the Planning Board prior to the public hearing. The Planning Board shall issue its Special Use Permit within sixty-five (65) days after the completion of the public hearing, including all adjournments. The Special Use Permit shall be subject to the following conditions which shall be established by the Planning Board and shall be set forth in the Special Use Permit.

- <sup>28</sup>(1) Any limitations or prohibitions on the use of Town roads for the purpose of ingress and egress to and from the mining site to and from public thoroughfares.
  - (2) Any limitations or prohibitions on the routing of mineral transport vehicles on Town roads.
  - (3) All of the limitations, requirements and conditions as specified in the applicant's mining permit issued by the New York State Department of Environmental Conservation concerning setback from property boundaries and public thoroughfare rights-of-way, natural or man made barriers to restrict access, if required, dust control and hours of operation.
  - (4) The ability of the Town to enforce all of the reclamation requirements contained in the applicant's mined land reclamation permits issued by the New York State Department of Environmental Conservation.
- f. It is the intention of this local law to obtain and this local law does, therefore, include all power and authority granted by New York State law to the Town to enforce all conditions of an applicant's mining permit, any special use permits hereunder and the conditions of the applicant's mined land reclamation permit.

### Section 333. DRIVEWAYS

No person, firm, or corporation shall cut, construct, or locate any driveway entrance or exit onto a public road of the Town of Washington without having first received permission so to do from the Town Superintendent of Highways in the case of Town roads, the Dutchess County Department of Public Works in the case of County roads, and the New York State Department of Transportation in the case of State highways.

### Section 334. EMERGENCY HOUSING, TEMPORARY HOUSING, FIELD OFFICES,

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<sup>27</sup> Stated Local Law as thess. Should be these.

<sup>28</sup> (1), (2), (3) and (4) listed in Local Law as 1., 2., 3. and 4.

## AND STORAGE

1. Emergency Housing. The erection of emergency housing may be allowed by special permit where the Zoning Board of Appeals finds that unusual or unforeseen circumstances necessitate the establishment of such emergency housing to accommodate the needs of individuals or a family which has lost their home because of fire or natural disaster, to provide additional living space for aged and/or medically indigent persons who need to be housed in proximity to relatives that can provide necessary care, or to furnish on-site accommodations for persons who must be housed close to an aged and/or medically indigent member of the family requiring their care. Issuance of a special permit for such housing shall be subject to the provisions of Section 470, Special Permits, of this Local Law and the following conditions:
  - a. Applicant must show that an emergency exists and that no other suitable housing is available.
  - b. Occupancy of such housing shall be limited to the applicant or applicants and their immediate family members, that is, the mother, father, sister, brother, son, daughter, mother-in-law, father-in-law, aunt, uncle, or first cousin of the applicant.
  - c. Special permits for emergency housing shall be temporary and shall expire at the end of the calendar year following the date of issuance. The applicant may apply for renewal annually.
  - d. A mobile home, to be eligible for emergency housing use, must have two exterior doors.
  - e. Emergency housing shall not be placed within the front and side yards required by this Local Law.
  - f. Any such housing shall be removed within three (3) months of the date when the conditions upon which the permit was issued cease to exist, or upon order of the Zoning Board of Appeals.
  
2. Temporary Housing, Field Offices, or Storage During Construction.
  - a. Single and individual mobile homes may be allowed outside mobile home parks by special permit if the Zoning Board of Appeals finds that they are situated on a construction site in a residential district where a building permit has been obtained and the mobile homes are to be used or intended to be used for residential or living purposes, a field office, or storage purposes.
  - b. Issuance of a special permit for such temporary housing, field office, or storage use shall be subject to the provisions of Section 470, Special Permits, of this Local Law and the following additional conditions:
    - (1) Applicant must demonstrate that the premises on which the mobile home shall be sited is a bona fide and active construction site as evidenced by a valid and current building permit.

- (2) A special permit shall be required for each individual mobile home on each lot.
  - (3) Only one (1) mobile home is allowed on any one (1) building lot.
  - (4) Special permits for temporary housing, field office or storage use shall be valid for a period of one (1) year from date of issuance or the cessation of construction activity, or obtaining a certificate of occupancy, whichever is earlier.
  - (5) If construction activity on such premises continues for a period exceeding one (1) year, such permit may be renewed for a maximum of two (2) consecutive one (1) year periods following the first year, provided any such renewal shall automatically cease upon cessation of construction activity. If the special permit is not renewed for an additional one (1) year period, the mobile home shall promptly be removed by the owner from the premises.
  - <sup>29</sup>(6) The location of the mobile home shall be determined by the Zoning Board of Appeals. The Zoning Board of Appeals shall consider the recommendations, if any, of the Building Inspector and the Zoning Administrator and the locations of the premises, adjacent properties and structures, nature of construction activities, surrounding development (both existing and proposed), and the purpose for which such mobile home is to be used or occupied.
  - (7) If the mobile home shall serve as a temporary residence or field office, it shall be properly served with adequate sewage, water, and drainage facilities.
- d. Changes or Additions. No person shall make structural changes or erect additions to a mobile home allowed by a special permit pursuant to this Section for the purpose of converting it into a permanent dwelling, nor shall any mobile home be dismantled.
  - e. Compliance. Any special permit for temporary housing shall be voided upon the failure of the permittee to conform to this Local Law, any conditions of the permit, or the Dutchess County Health Code. A voided permit shall not be reinstated.
  - <sup>30</sup>f. Except as provided herein and unless specifically permitted in a specific district, trailers are not permitted in any district, whether they be for a home related use, storage, office, classroom or any other purpose.

### Section 335. EROSION AND SEDIMENTATION CONTROL

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<sup>29</sup> Section 334, paragraph 2 subsection b.(6) amended; Local Law #1 of the year 2005 on 04/14/05.

<sup>30</sup> Section 334, section 2 added new subparagraph f.; Local Law #1 of the year 1994 on 06/09/94. Stated in Local Law as (f).

1. Activities Requiring a Certified Erosion and Sediment Control Plan. A separate soil erosion and sediment control plan shall be submitted to the Planning Board with any application for a special permit, site plan approval, or subdivision when the disturbed area of such development is cumulatively more than one-half (½) acre, or within any application to strip topsoil, regardless of the acreage.
  
2. Exemptions. A single-family dwelling that is not a part of a new subdivision of land, or any activity directly related to agricultural production shall be exempt from these soil erosion and sediment control regulations.
  
3. Erosion and Sediment Control Plan. To be eligible for certification, a soil erosion and sediment control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from stormwater runoff on the proposed site based on the best available technology. Such principles, methods, and practices necessary for certification are found in the Dutchess County Soil and Water Conservation District's *Soil Erosion and Sediment Control Guidebook*. Alternative principles, methods, and procedures may be used with prior approval of the Planning Board. Said erosion and sediment control plan shall contain, but not be limited to the following:
  - a. A narrative describing:
    - (1) The proposed development;
    - (2) The schedule for grading and construction activities, including:
      - (a) Start and completion dates;
      - (b) Sequence of grading and construction activities;
      - (c) Sequence for installation and/or application of soil erosion and sediment control measures; and
      - (d) Sequence for final stabilization of the project site.
    - (3) The design criteria for proposed soil erosion and sediment control measures and stormwater management facilities;
    - (4) The construction details for proposed soil erosion and sediment control measures and stormwater management facilities;
    - (5) The installation and/or application procedures for proposed soil erosion and sediment control measures and stormwater management facilities; and
    - (6) The operation and maintenance of proposed soil erosion and sediment control measures and stormwater management facilities.
  - b. A site plan map prepared in accordance with the requirements of Section 480, Site Plan Review and Approval, of this Local Law which shall include the following additional requirements:



- (1) The proposed following alterations including cleared, excavated, filled, or graded areas and proposed structures, utilities, roads, and, if applicable, new property lines;
  - (2) The location of and design details for all proposed soil erosion and sediment control measures and stormwater management facilities;
  - (3) The sequence of grading and construction activities;
  - (4) The sequence for installation and/or application of soil erosion and sediment control measures; and
  - (5) The sequence for final stabilization of the development site.
4. Minimum Acceptable Standards.
- a. Plans for soil erosion and sediment control shall be developed in accordance with these regulations using the principles as outlined in Chapters 2, 3, 4, and 5 of the *Soil Erosion and Sediment Control Guidebook*. Soil erosion and sediment control plans shall result in a development that minimizes erosion and sedimentation during construction, is stabilized and protected from erosion when completed, and does not cause off-site erosion and/or sedimentation.
  - b. The minimum standards for individual measures are those in the *Soil Erosion and Sediment Control Guidebook*. The Planning Board may grant exceptions when requested by the applicant if technically sound reasons are presented.
5. Issuance or Denial of Certification.
- a. The Planning Board shall either certify that the soil erosion and control plan, as filed, complies with the requirements and objectives of this regulation, or deny certification when the development proposal does not comply with these regulations.
  - b. Prior to certification, any plan submitted to the Planning Board may be reviewed by the Dutchess County Soil and Water Conservation District which may make recommendations concerning such plan, provided such review shall be completed within thirty (30) days after the receipt of such plan.
  - c. The Planning Board may forward a copy of the soil erosion and sediment control plan and related site plans to the Conservation Advisory Commission or other board or consultant for review and comment.
6. Conditions relating to Soil Erosion and Sediment Control.
- a. The estimated costs of measures required to control soil erosion and sedimentation, as specified in the certified plan, may be covered in a performance bond or other assurance acceptable to the Planning Board.
  - b. Site development shall not begin unless the soil erosion and sediment control plan is certified and those control measures and

facilities in the plan scheduled prior to site development are installed and functional.

- c. Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified plan.
- d. All erosion and sediment control measures and facilities shall be maintained in a condition which ensures compliance with the certified plan.

- 7. Inspections. Inspections shall be made by the Zoning Administrator during development to ensure compliance with these regulations and ensure that control measures and facilities are properly performed, installed, and maintained. The Planning Board may require the applicant to verify through progress reports that soil erosion and sediment control measures and facilities have been performed or installed according to the certified plan and are being operated and maintained properly.

#### Section 336. <sup>31</sup>JUNKYARDS AND YARD CLEARANCE

Junkyards shall be prohibited in all districts. No display, storage, or collection of junk shall be permitted outside of a building. No more than one junk car or unregistered historical automobile shall be permitted in any district, and such vehicle shall be stored as follows:

- 1. In a garage, barn or fully enclosed carport; or
- 2. In the rear yard of the property if fully screened from the visibility of adjoining properties or public roads. The determination of whether the junk car or unregistered historical automobile is fully screened is in the sole discretion of the Zoning Administrator.

#### Section 336A. <sup>32</sup>SALE OF PERSONAL AUTOMOBILE

During each calendar year, a property owner shall be allowed to place one (1) unregistered vehicle which must be owned by him/her in his/her yard, for the sole purpose of selling such vehicle. The vehicle must have a "For Sale" sign placed on the car, and such sign shall be no larger than 120 square inches.

#### Section 337. <sup>33</sup>AUTO RESTORATION

All outdoor auto restoration operations, storage, and facilities must be in a location that is not visible from adjoining properties or public roads.

#### Section 338. <sup>34</sup>PARKING OF COMMERCIAL VEHICLES

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<sup>31</sup> Section 336 amended; Local Law #1 of the year 2005 on 04/14/05.

<sup>32</sup> Section 336A added; Local Law #1 of the year 2005 on 04/14/05.

<sup>33</sup> Section 337 amended; Local Law #3 of the year 1990 on 10/11/90.

<sup>34</sup> Section 338 amended; Local Law #1 of the year 2005 on 04/14/05.

1. Pickup trucks, vans and other similar vehicles that require commercial registration, but are not used for commercial purposes and do not exceed 5500 pounds in curb weight, may be parked on a regular basis in a residential district, subject to the same restrictions as are imposed on the parking of family passenger vehicles. Curb weight shall mean the weight of the vehicle without any load.
2. Commercial vehicles that are used in connection with one's livelihood, but not in connection with any illegal business use of a residence, and do not exceed 8000 pounds in curb weight, shall be permitted to park in a residence district on a regular basis subject to the following restrictions:
  - a. There shall be no parking within the right-of-way of any roadway.
  - b. Such vehicles must be used on a regular basis in relation to the occupant's employment responsibilities.
  - c. The occupant shall produce, upon request of the Zoning Administrator, an affidavit stating the occupant's place of employment and attesting to the requirement of driving the vehicle to and from this same place of employment. This affidavit shall be signed by the occupant's employer.
  - d. Vehicle engines shall not be left idling for a warm-up period, during the hours between 10:00 p.m. and 7:00 a.m.
  - e. Parking shall be permitted in the following areas of the premises:
    - (1) In the driveway or on a pavement or an improved area similar to the driveway surface contiguous to it.
    - (2) In the side or rear yards.
  - f. All parking must be set back from side and rear yard property lines at whatever distance is required for accessory buildings in the residential district in which the premises is located.
  - g. All parking areas and access drives thereto must have a pavement or an improved surface similar to the driveway surface.
  - h. Parking areas shall be screened as necessary from property and properties adjacent to it. This determination shall be made by the Zoning Administrator.
  - i. The following classes of vehicles shall be prohibited from parking on a regular basis in any residential district, except that they may be temporarily parked in connection with any lawful exercise of their use:
    - (1) Earth-moving vehicles and any trailers that are normally required to transport such vehicles.
    - (2) Cargo trailers or flatbed trailers, where the cargo box or flatbed portion of the trailer is greater than ten (10) feet in length.
    - (3) Dump trucks greater than five (5) yards in capacity.

3. Farm and agriculturally related commercial vehicles located on agricultural residential parcels and owned by the property owner are exempt from this Local Law.
4. Non residential uses in the HM District (as specified in Section 319(2)(a) of this Local Law are exempt from this Local Law, provided commercial vehicles are parked in conformity with a site plan approved by the Planning Board.

Section 339. <sup>35</sup>SHOOTING PRESERVES

Shooting Preserves shall provide adequate area to safely control and maintain any projectile discharged within the boundaries of the property. Such facilities shall meet the standards of the American Trap Association, National Skeet Shooting Association, National Rifle Association, or other appropriate sport shooting organization.

Section 340. <sup>36</sup>OPEN SPACE SUBDIVISIONS

1. Policy and Authority
  - a. Statement of Policy: The Town of Washington hereby establishes a policy of encouraging the use of open space subdivisions to preserve open space, agricultural land, aquifers, and other environmental resources identified in the Town of Washington Master Plan, and to harmonize new development with the traditional open, wooded, agricultural and hamlet landscapes of the Town. Any person or entity subdividing or developing land in the Town shall follow the principles and procedures contained in Sections 340 through 341 of this Local Law and in applicable sections of the Town of Washington Land Subdivision Regulations. These principles allow the Planning Board to modify applicable provisions of Appendix B (Schedule of Area and Bulk Regulations) in order to preserve open space and encourage more sensitive and efficient development patterns than would be possible by strict adherence to the Appendix B specifications. The procedures contained in Section 61.2 of the Land Subdivision Regulations also authorize the Planning Board to require a cluster plan.
  - b. Grant of Authority: The Town Board of the Town of Washington hereby grants to the Planning Board of the Town of Washington the authority to modify applicable provisions of the Zoning Law as they apply to a specific plat, including the authority to require an applicant to modify a plat in a manner consistent therewith. To the extent that any provisions of Sections 340 through 341 of this Local Law are inconsistent with the Town Law, Section 278 of the

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<sup>35</sup> Section 339 amended; Local Law #3 of the year 1990 on 10/11/90.

<sup>36</sup> Section 340 amended; Local Law #1 of the year 2000 on 08/10/00.

Consolidated Laws of New York, the Town Board of the Town of Washington hereby declares its intent to supersede those Sections of the Town Law, pursuant to its home rule powers under Municipal Home Rule Law, Article 2, Section 10 et seq.

2. Purposes: This Section encourages flexibility in the design and development of land in order to promote its most appropriate use and to preserve as permanent open space, agricultural land, important natural features, wildlife habitat, water resources, ecological systems, and scenic areas for the benefit of present and future residents. A cluster subdivision plan may involve grouping development on one or more portions of a parcel, modifying road design and frontage requirements in return for very low density and permanent open space preservation measures, or a combination of these approaches. Cluster subdivisions shall achieve the following specific purposes:
  - a. Long-term protection of natural and specific resources identified in the Master Plan, Subdivision Regulations and Zoning Law;
  - b. Compatibility with surrounding land uses and the overall character of the area;
  - c. Provision of adequate setbacks and visual buffers from adjoining properties;
  - d. Contribution to Town-wide open space planning by creating a system of permanently preserved open spaces providing linkages between existing open space areas;
  - e. Preservation of land suitable for active agriculture, particularly where the open space subdivision borders active agricultural land or land suitable for agriculture, and preservation of contiguous tracts of agricultural soils of prime or statewide importance;
  - f. Protection of ground and surface water, regulated wetlands, steep slopes, floodplains or unique areas of natural, scenic or historic significance;
  - g. Mitigation of significant environmental impacts identified through application of the State Environmental Quality Review Act requirements;
  - h. Reduction of the number of new roads or driveways obtaining access from existing public roads and reduction of the amount of new road that may be required to be dedicated to the Town;
  - i. Protection of Critical Environmental Areas designated by the Town Board;
  - j. Preserve large tracts of contiguous open space within subdivisions of 100 acres or larger.
  
3. Preservation of Open Space in Cluster Subdivisions: A cluster subdivision accomplishes the purposes in Section 340(2) *et seq.* above by reducing the lot size and bulk requirements contained in the Zoning Law, and by clustering homes in those areas where development will have the least impact on identified environmental resources. The resulting open space

resources shall then be permanently preserved through the use of conservation easements. The cluster principle can be applied not only to large subdivisions but also to subdivisions of four or fewer lots ("miniclusters"), enabling the subdivided lots to be smaller than zoning would normally require, provided that compensating buildable land is placed under open space conservation easement to maintain the overall density at or below the level permitted by the Zoning Law.

4. Applicability: This Section shall be applicable only to land parcels zoned for residential uses, including areas subject to EP designation and areas included in the APO and AQ Overlay Districts. In order to increase design flexibility, two (2) or more contiguous parcels of land separated by a Town, County, State or private road, may be grouped together as one open space subdivision, if the Planning Board finds that such grouping will benefit the Town and will help to fulfill the purposes listed in Section 340(2).

Section 341. <sup>37</sup>CLUSTER SUBDIVISION REQUIREMENTS

1. Application Procedures: All residential cluster developments shall be subject to Section 480 *et seq.* "Site Plan Review and Approval" and the Planning Board's Subdivision Regulations. It is in the best interest of the applicant and the Planning Board to determine the applicable development pattern at the earliest possible time.
  - a. Concept Plan: The applicant shall submit the land inventory information required under Section 42(p) of the Subdivision Regulations at the conceptual plan stage to assist the Board in making such a judgment. The Planning Board may also hold a public hearing on the conceptual plan and may refer the conceptual plan application to the Conservation Advisory Committee. The decision to require or to permit a cluster subdivision is at the sole discretion of the Planning Board.
  - b. Required Plans: An application for cluster development shall include all plans and materials required for a conventional subdivision. The maximum number of residential lots that may be permitted and approved within a cluster development shall not exceed the maximum number of lots capable of being developed within a conventional subdivision layout of the same property. Lots shown on the conventional conceptual layout shall be fully consistent with the lot, area and bulk requirements for the zoning district in which the land is located, and all applicable requirements of the Town Subdivision Regulations.
  - c. Planning Board Findings: In order to approve a cluster subdivision, the Planning Board must find that the cluster

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<sup>37</sup> Section 341 amended; Local Law #1 of the year 2000 on 08/10/00.

subdivision will benefit the Town and will fulfill the applicable purposes stated in Section 340(2) of this Local Law.

2. Cluster Development Standards

- a. Determination of Development Density and Minimum Acreage: The number and location of residential units permitted as part of a cluster subdivision development shall be as determined as follows:
- (1) **Regulatory Compliance:** The Planning Board shall review the conventional subdivision plan required in Subsection 1 above and shall determine the number of building lots or dwelling units that could be practically created pursuant to said plan. In making such determination the Planning Board shall consider the requirements of the Land Subdivision Regulations, the Town Zoning Law, the requirements of the New York State Department of Transportation, the Dutchess County Departments of Health and Public Works, and the Town of Washington Highway Superintendent, as well as the limitations of soils, topography, wetlands and other environmental features, but not including the limitations imposed by the APO Overlay District.
  - (2) **Maximum Density:** The maximum developed density of a cluster Subdivision shall not exceed one (1) single family unit per lot. The Planning Board may allow two-family dwelling units so long as the overall density for the development does not exceed the total density calculation if each proposed lot were developed for single-family residential use. Any regulations contained in this Local Law restricting the number of single family dwelling units permitted in a conventional subdivision shall also restrict the number of dwelling units permitted in a cluster development, including any limitations imposed by Section 313 "Wetlands and Watercourses" herein.
  - (3) **Prohibited Construction:** In approving the design of a cluster development the Planning Board shall require that no construction or development (i.e. roads, structures, utilities, etc.) shall occur in or on regulated wetlands (including associated buffer/setback areas), stream corridors (including associated buffer/setback areas), flood plains, Critical Environmental Areas, or on slopes of greater than 15 percent. The allowable density of a cluster development may be reduced where the Planning Board finds such a reduction is necessary to avoid disturbance of these sensitive areas and assure compliance with the cluster development standards stated herein.
  - (4) **APO District Layout:** In the APO District, the building lots on a parcel shall be laid out and the residences shall be

sited in a manner consistent with the standards established in Section 315(7) of this Local Law.

- (5) Existing Structures: A proposed cluster plat may be denied where the Planning Board finds that the location of proposed boundary lines, relative to the existing structures and proposed new lots and adjoining property, or the location of proposed means of ingress and egress for the existing structures relative to proposed new lots and adjoining property, do not meet the intent of section 340(2) of this section.
  - (6) Minimum Acreage Per Lot: The minimum land area for each residential lot created as part of a cluster subdivision is one (1) acre where the lots are served by individual water supply and/or sewage disposal systems, and one-half (½) acre where the lots are served by both central water supply and sewage disposal systems.
- b. Location of Open Space: The Planning Board is authorized to require the reconfiguration of a cluster subdivision to ensure that the open space(s) to be protected under the plan consist of large contiguous land tracts unbroken by intervening lots, structures, roads or driveways.
- c. Private Roads: Notwithstanding the requirements of Section 344 "Private Roads" of this Local Law, the Planning Board is hereby authorized to allow the use of private roads to access lots within a cluster subdivision development and to modify, as required, the otherwise required road frontage for such cluster lots along the private road. Where the Planning Board permits use of a private road to access the cluster subdivision the following provisions shall apply:
- (1) The private road shall have only one access onto a public highway. The Planning Board may require this access to be configured as a divided road with a landscape median strip with two separate lanes providing travel in one direction or in such other configuration as the Board may deem necessary to adequately service the subdivision and protect the public health, safety and convenience.
  - (2) Flag lots and "rear lots" as defined in the Town Zoning Law and Town Subdivision Regulations are prohibited on private roads. The Planning Board shall require that all lots of a proposed subdivision must access the private road.
  - (3) An application for a private road subdivision shall be referred to the Town Highway Superintendent who, after consultation with the Town Engineer, shall make a recommendation to the Planning Board supporting, denying or conditioning the use of a private road. A negative recommendation would require a super majority vote and supporting statement of the Planning Board to allow the use



- of the private road. The application shall also be referred to the local fire company for review and comment.
- (4) The deed to each lot of a subdivision accessed via a private road shall contain an unconditional waiver of any right to offer or seek dedication of the private road to the Town, and shall contain a covenant against further subdivision of any lot in the subdivision. Additionally, the deeds shall contain a covenant against any other use of the private road corridor by lease, assignment, sale or license by any landowner.
  - (5) The boundary of each lot within a subdivision served by a private road shall extend to the center line of the private road with a right of way for ingress and egress across the private road granted to each lot within the subdivision.
  - (6) The length of a private road shall generally not exceed 3,500 feet.
  - (7) Street names shall be subject to the approval of the Town and the County (i.e., 911 emergency service). The location of bus stops and mail boxes shall be shown and approved by the Town Highway Superintendent, the Town Engineer and/or the appropriate State or County highway authority.
  - (8) Private roads shall be constructed in accordance with the plans approved by the Town Highway Superintendent and the Town Engineer. In reviewing the proposed plans for construction of a private road the Highway Superintendent and the Town Engineer shall be guided by the private road construction criteria of the Town, and shall be satisfied that the proposed private road will be adequate to assure safe, continuous access for residents and emergency vehicles.
  - (9) The Planning Board may require the applicant to post a bond, in an amount to be set by the Highway Superintendent and the Town Engineer, sufficient to assure the construction and maintenance of the private road . Upon completion, the applicant's professional engineer shall certify to the Planning Board, the Highway Superintendent and the Town Engineer that the private road (or part thereof) was constructed in accordance with the approved plans. Additionally, the applicant's professional land surveyor shall provide the Planning Board, the Highway Superintendent, the Town Engineer and the Building Inspector with a certified "as-built" survey of the private road. No certificate of occupancy may be issued for any structure on any lot served by the private road until the Planning Board, the Highway Superintendent and the Town Engineer have received the applicant's engineer construction certification and certified copies of the "asbuilt" survey of the private road.

- (10) The maintenance and repair of the private road shall be subject to a private road maintenance agreement binding all property owners equally which agreement shall be approved by the Town Attorney.
  - d. Common Driveways: Common driveway access to individual lots from a public highway created as part of the cluster subdivision may be provided to the extent considered practical by the Planning Board. A common driveway may not be used to access more than three (3) lots within the cluster subdivision.
  - e. Pedestrian Access: The Planning Board may require that the cluster subdivision layout include sidewalks and trails for pedestrian circulation. Such pedestrian access ways shall be designed and installed to meet the needs of residents.
  - f. Architectural Review: The architectural design and appearance of principal and accessory structures to be constructed as part of a cluster subdivision shall be in accordance with the Architectural Review Standards of the Town. Until such time as the Town Board shall act to create an Architectural Review Board, the Planning Board shall act as the Architectural Review Board to administer the Town Architectural Review Standards. This paragraph shall have no force and effect until the Town Board has adopted Architectural Review Standards for the Town. Nothing herein shall be construed to limit or constrain the ability of the Planning Board to review the architectural style and type of proposed structures in a cluster development when conducted as part of the Planning Board's environmental review of the action under SEQRA.
  - g. Water Supply and Sewage Disposal: Water supply and sewage disposal facilities serving the cluster subdivision shall be designed by a licensed professional engineer in accordance with Town and/or County health department standards. The Planning Board may require well and soil test data during review of the application for cluster subdivision approval.
  - h. Utilities: All telephone, natural gas, electric and similar utilities serving the cluster subdivision shall be located underground.
- <sup>38</sup>3. Open Space Preservation Requirements: All lands identified as having one or more of the features or characteristics identified in section 340(2) herein not included in a cluster development plat as building lots or roads shall be set aside as permanent open space. The creation, preservation and management of open space to be protected as part of a cluster subdivision development shall be as follows:
- a. Prohibited Use: No portion of the minimum common open space as defined in paragraph b. below shall be used for roads, building

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<sup>38</sup> Listed in Local Law as Paragraph 4. Should be Paragraph 3.

lots, utility structures, driveways, or any principal or accessory structure.

- b. **Minimum Open Space:** Common open space totaling not less than seventy (70) percent of the total cluster development land in the RR-10, RS-10, RR-5, and RS-5 districts, and not less than fifty (50) percent of the total cluster development land in the HM, RM1 and RM-2 districts shall be protected, in perpetuity, from development as provided herein. An applicant for cluster subdivision approval shall present for Planning Board approval, a plan for maintenance of the common landscape, recreation areas and roads created as part of the cluster subdivision development. The plan shall provide for minimal use of sand and salts on roads, herbicides, pesticides and rodenticides and shall be prepared in accordance with accepted standards for integrated pest management plans.
- c. **Location of Preserved Open Space:** Open space set aside in a cluster subdivision shall be permanently preserved as required by this Section. Land set aside as permanent open space shall be included as a portion of one or more large parcels on which dwellings are permitted, provided that a conservation easement is placed on such land pursuant to this local law and provided that the Planning Board approves such configuration of the open space. Additionally, each lot created as part of the cluster subdivision shall, at a minimum, be granted individual rights to enforce the covenants and restrictions of the conservation easement protecting and preserving the open space.
- d. **Preservation for Agricultural Use:** On parcels subject to APO District regulations, open space shall be preserved for active agricultural uses only. Active agricultural uses are hereby defined as principal uses involving the on-going business of growing of crops for cash sale, the raising of animals for cash sale, and the raising of animals for production of derivative products (i.e. dairy farming) for cash sale. Secondary open space uses include but are not limited to forestry, recreation, and conservation of water, plants, or wildlife, consistent with the purposes specified in Section 315(l) of this Local Law. Land preserved for agricultural purposes but not in active production shall be periodically mowed as specified by the Planning Board. On all parcels not subject to APO District regulations, open space uses shall be appropriate to the site, including but not limited to passive and active recreation (including trail use), and forestry.
- e. **Plat Notations:** Open space created by the use of open space subdivisions must be clearly labeled on the Final Plat as to its use, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land. The Plat shall clearly show that the open space land is permanently reserved for open space purposes, and shall contain a notation indicating the

- liber and page of any conservation easements or deed restrictions required to be filed to implement such reservations or restrictions.
- f. Permanent Protection of Open Space: Open Space shall be protected by a perpetual conservation easement restricting development of the open space land and allowing use only for active agriculture (as defined in paragraph "d" above), forestry, active or passive recreation or protection of natural resources, pursuant to Section 247 of the General Municipal Law and/or Section 49-0301 through 49-0311 of the Environmental Conservation Law, shall be granted to the Town, with the approval of the Town Board, or to a qualified not-for-profit conservation organization acceptable to the Planning Board. Such conservation easement shall be reviewed and approved by the Planning Board and be required as a condition of plat approval hereunder.
  - g. Primary Enforcement: The Planning Board may require that such conservation easement be enforceable by the Town of Washington if the Town is not the holder of the conservation easement.
  - h. Secondary Enforcement: In addition to enforcement of the conservation easement by a qualified not for profit organization it is in the Town's interest to allow private enforcement of the restrictions contained in such a conservation easement because residents of the Town living closest to the land protected by the Conservation easement have the greatest interest in enforcing it. The Town has determined that supplementing the conservation easement with a legal instrument providing for private enforcement of the restrictions in the conservation easement will help to ensure long-term compliance with such restrictions. Therefore, in addition to requiring a conservation easement in all cases as a condition of approval of any cluster subdivision, the Planning Board may also require the applicant to file in the Dutchess County Clerk's Office a separate declaration of restrictions or other legal instrument running with the land in perpetuity, conferring a private right of enforcement of the substantive restrictions of the conservation easement. Such declaration or other instrument shall contain the same restrictions as the conservation easement, and shall designate as parties who may enforce such declaration or instrument all owners of lots within the cluster subdivision including properties separated from the proposed subdivision by a public or private road or right-ofway.
  - i. Prohibited Uses: The conservation easement shall prohibit residential, industrial, or commercial use of such open space land (except in connection with active agricultural and forestry use), and shall not be amendable to permit such use. Where the open space is in single private ownership, and not in common ownership, subject to Planning Board approval the conservation

easement may allow structures to be constructed on portions of the parcel that include protected open space land.

- j. Recording: The conservation easement shall be recorded in the Dutchess County Clerk's office prior to or simultaneously with the filing of the Open Space Subdivision final plat in the Dutchess County Clerk's Office.
- k. Ownership: The open space land of any cluster subdivision shall be included as a portion of one or more large parcels of the subdivision on which dwellings are permitted. In order to prevent the encroachment of any part of the residential development of such a lot into the preserved open space, the final cluster subdivision plat map shall depict, by metes and bounds, the location of a building envelope within which all development on the lot shall occur. The size of such a building envelope shall not exceed the minimum lot acreage and density requirements for any individual lot within the cluster subdivision as specified elsewhere in this local law.
- l. Maintenance: Ongoing maintenance standards shall be established, enforceable by the Town against an owner of open space land as a condition of subdivision approval, to assure that the open space land does not detract from the character of the neighborhood. Such maintenance standards may include the obligation to mow open fields to maintain their scenic character
- m. Town Enforcement of Maintenance Standards: If the Town Board finds that the open space set aside is being maintained in such a manner as to constitute a public nuisance, it may, upon thirty (30) days written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed pro-rata against the owner or, in the case of an HOA, the owners of properties within the development, and shall, if unpaid, become a tax lien on said properties.

Section 342. <sup>39</sup>CONSERVATION DENSITY SUBDIVISIONS

Section 343. <sup>40</sup>PERMANENT OPEN SPACE

Section 344. <sup>33</sup>SCENIC ROADS

Objectives. The objectives of the Scenic Road Local Law are for the common good and to:

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<sup>39</sup> Section 342 deleted in its entirety; Local Law #1 of the year 2000 on 08/10/00.

<sup>40</sup> Section 343 deleted in its entirety; Local Law #1 of the year 2000 on 08/10/00.

<sup>33</sup> Section 344, new section added; Local Law # + Paragraph listed as a. in Local Law. + Paragraph listed as b. Local Law.

<sup>41</sup>Preserve and protect the present quality and character of certain and specific roads of the Town of Washington (the “Town”),

<sup>42</sup>To recognize the contribution the Town’s road system has made and will make to the rural character, uniqueness and quality of life in the Town,

<sup>+</sup>To recognize that the Town’s road system is an integral part of the diverse environments of the Town and what affects the roads also affects the ecology contiguous to the roads,

<sup>+</sup>To recognize that there are specific unique features which contribute to the beauty and enjoyment of the Town’s road system,

<sup>+</sup>To recognize the important role of the Town of Washington Highway Department (the “Town Highway Department”) in preserving this critical Town asset and to further strengthen that role by providing an avenue of access and communication for the Town of Washington Highway Superintendent (the “Town Highway Department”) with the Town of Washington Town Board (the “Town Board”), the Town of Washington Planning Board ( the “Planning Board”) and the Town of Washington Conservation Advisory Commission (“CAC”). The value of this access lies in the following: unlike the technical, safety and operational aspects of Town road management; matters pertaining to environmental and aesthetic aspects [and the long term effect on these] are oftentimes judgmental. This Local Law recognizes and respects the fact that the Highway Superintendent, whose powers and authority are governed by New York State Law, will want, use and appreciate the support, direction and counseling pertaining to any particular action regarding the aforementioned characteristics needing to be preserved or impacted.

<sup>43</sup>To recognize that Town roads should continue to provide safe, confident use to residents and transients and at the same time continue to offer the wealth of aesthetic features already in place and there to be enjoyed.

<sup>44</sup>To recognize these many fragile components that are connected with the Town roads and are presently taken for granted. This Local Law recognizes that fragility. Once eliminated or adversely altered, these resources may be irreplaceable.

<sup>45</sup>This Local Law recognizes it is the intent of the Town of Washington that all activities on or along Town roads conform to relevant law.

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<sup>41</sup> Paragraph listed as c. in Local Law.

<sup>42</sup> Paragraph listed as d. in Local Law.

<sup>+</sup> Paragraph listed as e. in Local Law.

<sup>43</sup> Paragraph listed as f. in Local Law.

<sup>44</sup> Paragraph listed as g. in Local Law.

<sup>45</sup> Paragraph listed as h. in Local Law.

1. Authority

- a. Pursuant to the authority granted by Municipal Home Rule Law, Article Two, Section 10 of the Consolidated Laws of New York and consistent with the goals of the 1987 Master Plan as amended December 27, 1989, the Town of Washington hereby provides for the balancing of traditional matters of common convenience and public safety with designation of the Town roads as Scenic Roads. Further, in order to maintain the irreplaceable character and aesthetic and historic features and the scenic nature of the roads so designated, the Town of Washington is authorized to regulate, in accordance with this Local Law, the future alterations or improvements of roads so designated, including, but not limited to, widening of the right-of-way or of the traveled portions of the road, paving, changes of grade, straightening, removal of stone walls and removal of mature trees.

2. Role of Town Board

- a. The Town Board of the Town of Washington shall have the authority to designate a Town road as a Scenic Road. Nothing herein shall be construed as limiting the final action or authority now possessed by the Highway Superintendent.

3. Criteria for Designation

- a. No portion of a road shall be designated as a Scenic Road within a HM (hamlet mixed use) district. Prior to designating a road as a Scenic Road, the Town Board must find that at least ONE of the following criteria is met:
  - (1) The road is bordered by mature trees or stone walls;
  - (2) The traveled portion of the road is no more than twenty (20) feet in width;
  - (3) The road offers views of near and distant landscape; and
  - (4) The road is compatible with the natural environment and is integrated well with the surrounding terrain.

4. Designation Procedure

- a. The Town Board, after following the designation procedure set forth herein, may consider a road for Scenic Road designation. Not less than three (3) property owners may petition the Town Board for designation of a road as a Scenic Road if they each own property which abuts that Scenic Road. The petition shall state by name which road is requested to be designated as a Scenic Road and describe the characteristics of the road which qualify it for Scenic Road status, as well as any other characteristics which enhance the scenic character of the road.

- b. An original and one copy of the petition shall be filed with the Town of Washington Town Clerk (the “Town Clerk”), who shall retain the copy and forward the original to the Town Board.
- c. In order to designate a road as a Scenic Road, the Town Board shall first refer any proposal or petition to the Planning Board, the Highway Superintendent, and the CAC for review and comment within 90 calendar days. The Town Board shall then hold a public hearing regarding the designation of such road as a Scenic Road. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the Town of Washington at least 5 calendar days prior to the date of such hearing and by sending notice by mail to the owners of lots fronting the road to be designated as a Scenic Road. The Town Board shall act upon the proposed designation within 45 calendar days after such hearing.

5. Recission and Appeal

- a. The designation of a road as a Scenic Road may be rescinded by the Town Board, using the above procedures as outlined in 4.c.
- b. Any person aggrieved by a designation or refusal to designate a road as a Scenic Road pursuant to this section or by any alteration or improvement of such road may seek appropriate legal remedy.

6. Alterations and Improvements

- a. Pursuant to Section 274 of the Town Law of the State of New York, the Town Board shall grant to the Planning Board of the Town of Washington the power to approve or disapprove of the alteration or improvement of any Town road designated as a Scenic Road pursuant to this local law.
- b. Alterations and improvements of designated Scenic Roads shall be carried out so as to preserve to the highest degree possible the aesthetic, historic and/or scenic characteristics of the road.
- c. Routine road maintenance, emergency repairs and the issuance of driveway permits undertaken by the Highway Superintendent shall not require public hearing or Planning Board approval. Such maintenance shall include trimming of the tree branches that encroach on the traveled portion of the road below the height needed to allow school buses and emergency vehicles to pass; trimming or removal of brush and removal of boulders or other obstacles that encroach on the traveled portion of the road; necessary trimming for utility lines; trimming of brush to enhance and protect scenic views, stone walls, mature trees and other characteristics of the Scenic Road; correction of drainage problems; and re-treatment and repair of existing roadway surfaces. Such maintenance shall not include widening of the right-of-way or the traveled portion of the road; paving of dirt or gravel roads, or portions of roads; changes of grade; straightening; removal of stone walls or removal of mature trees.



- d. In the case of a natural disaster in which, in the judgment of the Highway Superintendent, a road or a portion thereof becomes impassable or unsafe for public travel and access must be provided, emergency repairs and reconstruction by the Highway Superintendent may be made as needed to restore the road to its pre-emergency condition without public hearing or Planning Board approval.
- e. Any proposal by a public entity or official for alteration or improvement not involving routine road maintenance, emergency repairs or the issuance of a driveway permit, shall be submitted to the Planning Board. The Planning Board shall submit such proposal to the CAC and Highway Superintendent for review and comments and shall hold a public hearing in the manner set out in Section 4, above.
  - (1) Applications for alternation or improvement not involving routine road maintenance, emergency repairs or the issuance of driveway permits, shall be submitted to the Planning Board with a suitable map showing the location of each proposed improvement or alteration, and when deemed necessary by the Planning Board, a short report discussing the reasons for the proposed alteration and available alternatives, if any.
  - (2) In reviewing applications for alteration or improvement not involving routine road maintenance, emergency repairs or the issuance of driveway permits, the Planning Board shall consider the following:
    - <sup>46</sup>(i) Any alternatives to the proposed alteration or improvement and evidence that the applicant has chosen the alternative least damaging to the Scenic Road.
    - (ii) That the applicant has considered the following, where appropriate;
      - <sup>47</sup>(a) The impact of the alteration or improvement on stone walls within the right of way of the Scenic Road;
      - (b) The impact of the alteration or improvement upon the speed of vehicular traffic along the Scenic Road;
      - (c) The preservation of non-hazardous curves in the Scenic Road;
      - (d) The preservation of non-hazardous hills and valleys by avoidance of unnecessary cuts and fills;

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<sup>46</sup> Stated in Local Law as (a) and (b). Should be (i) and (ii).

<sup>47</sup> Stated in Local Law as (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii). Should be as shown.

- (e) The placement of wide by-passes and turnouts to avoid unnecessary widening of the Scenic Road;
  - (f) Preservation of views of near and distant landscapes through appropriate landscaping techniques within the right of way only;
  - (g) Minimize impact on roadside vegetation, including but not limited to trees, shrubs and wild flowers; and
  - (h) Avoidance of signage, sand, gravel, refuse and salt piles to the extent practicable.
- f. The official Scenic Road will be recorded on the New York State's inventory of the Town of Washington Highways.

Definition of Town Road. As used herein, the term "town road" shall mean all roads within the Town of Washington which are maintained by the Town and shall include the strip of three (3) rods wide measured one and one-half (1 ½) rods to each side of the center line of the road.

<sup>48</sup>Section 344A. <sup>49</sup>PRIVATE ROADS

1. General Provisions.

- <sup>50</sup>a. The creation of new private roads shall be at the discretion of the Town Planning Board which must make specific findings that a proper case exists for the creation of a private road.
- b. A private road may be used to access only single and two-family dwellings. A private road may not be used to access any other type of property.
- c. A private road may service no more than ten (10) lots.
- d. The total amount of land that may be served by a private road must not be less than eight hundred percent (800%) of the minimum lot size in the district (i.e. 40 acres in a 5 acre district, 80 acres in a 10 acre district).
- e. "Flag lots" and "rear lots" as defined in this Local Law are prohibited on a private road.
- f. Common driveways are prohibited on a private road.
- g. The length of a private road shall not exceed 2,500 feet in a five acre district nor 3,500 feet in a ten acre district..
- h. A private road shall have only one access on a public highway. The Planning Board may require this access to be configured as a divided road with a landscape median strip with two separate lanes providing travel in one direction.

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<sup>48</sup> Stated in Local Law as Section 344. Should be 344A.

<sup>49</sup> Section 344, new section added; Local Law #1 of the year 1999 on 01/14/99.

<sup>50</sup> Stated in Local Law as CAPS. Should be lower case.

- i. Any lot to be served by a private road shall have not less than the minimum road frontage required for a public road in the same district.
- j. The boundary of each lot served by a private road shall extend to the center line of the private road with the right of way for ingress and egress across the private road granted to each lot served by such road.
- k. The segmentation of a subdivision plan into phases in order to avoid the costs of constructing a Town Road is prohibited. If such illegal segmentation occurs, the Town Planning Board has the power to impose such conditions on a subsequent subdivision of land by the owner or successor in title as it may deem appropriate.
- l. The deed to each lot of a subdivision containing a private road shall contain an unconditional waiver of any right to offer or seek dedication of the private road to the Town and shall contain a covenant against further subdivision of each lot. In addition, the deed shall contain a covenant against any other use of the private road by lease, assignment, sale, or license by the lot owner.
- m. The name to be given to a private road shall be subject to the approval of the Town and County.
- n. Location of bus stops and mail boxes on a private road shall be approved by the Town Highway Superintendent, the Town Engineer, and/or the appropriate State or County Highway authority.
- o. All lot owners served by a private road shall enter into a maintenance and repair agreement with all other lot owners served by such private road. Such agreement shall be approved by the Town Attorney.
- p. The width of a private road shall be referred to as a “corridor” rather than a “right-of-way” to avoid confusion with the classic use of the term as applied to public roads. Specifically, a “private road corridor” shall mean the full potential width of the road right-ofway as approved by the Town Highway Superintendent, the Town Planning Board, and the Town Engineer including the vehicle travel way, shoulders, drainage facilities, utilities and utility easements, guide rails, snow storage areas, and provision of sight lines for driveway ingress/egress and safe stopping distances which may be required for the safe use of the corridor. The length and width limits of the “private road corridor” shall be delineated on a subdivision plat map by metes and bounds.

2. Application to Create a Private Road.

- a. Every entity or individual that wishes to create a private road must file an application with the Town Planning Board. Copies of the application shall be located in the office of the Town Planning Board.

- b. The Town Highway Superintendent, after consultation with the Town Engineer and the local fire company, shall make a recommendation to the Planning Board supporting, denying, or conditioning the use of a proposed private road. The recommendation of the Town Highway Superintendent shall be submitted to the Town Planning Board, which shall make a statement of findings in regard to the creation of the proposed private road. If the Town Planning Board decides to approve the creation of the private road, the Town Planning Board shall make specific findings that the private road as designed will adequately protect the public safety, will be part of a subdivision in keeping with the neighborhood, and will be protective of down-stream drainage, aquifer recharge, and neighboring wells and septic systems.
  - c. Notwithstanding the preceding paragraph, if the Town Planning Board receives a negative recommendation regarding the creation of the proposed private road from the Town Highway Superintendent, a majority plus at least one vote and supporting statements of the Town Planning Board shall be required to allow the creation of the private road.
3. Construction of a Private Road.
- a. A private road shall be constructed in accordance with the plans approved by the Town Highway Superintendent and the Town Engineer. In reviewing the proposed plan for the creation of a private road, the Town Highway Superintendent shall be guided by the private road construction criteria of the Town and shall be satisfied that the proposed private road will be adequate to insure safe, continuous access for residents and emergency vehicles.
  - b. The Town Planning Board may require the applicant to post a bond, in an amount to be determined by the Town Highway Superintendent and the Town Engineer, sufficient to insure the construction and maintenance of the private road.
  - c. Upon completion of construction of the private road, the applicant's professional engineer shall certify to the Town Planning Board, the Town Highway Superintendent, and the Town Engineer that the private road (or part thereof) was constructed in accordance with the approved plans.
  - d. Upon completion of construction of the private road, the applicant's professional land surveyor shall provide the Town Planning Board, the Town Highway Superintendent, the Town Engineer, and the Town Building Inspector with a certified "asbuilt" survey of the private road.
  - e. No certificate of occupancy may be issued for any structure on any lot served by a private road until the Town Planning Board, the Town Highway Superintendent, and the Town Engineer have received the above-mentioned certifications.

Section 345. <sup>51</sup>TELECOMMUNICATION FACILITIES

I. LEGISLATIVE PURPOSES

It is the purpose of this law to accommodate the communications needs of residents and businesses consistent with the applicable Federal and State regulations, while protecting the health, safety and general welfare of the residents of the Town of Washington by:

- <sup>++</sup>1. Facilitating the provisions of wireless telecommunication and other communication services to the residents and businesses of the Town, while simultaneously preserving the character, appearance and aesthetic resources of the Town:
2. Minimizing the adverse visual effects of telecommunications towers and facilities through development of locational and approval criteria;
3. Protecting the scenic, historic, environmental, natural and man-made resources of the Town;
4. Preserving the property value of the community;
5. Minimizing the undue proliferation and height of communications towers throughout the community;
6. Avoiding potential harm to adjacent persons and properties from tower failure, noise, falling objects and attractive nuisances through set-back and height limitations; and
7. Encouraging the shared use of existing and approved towers in order to reduce the number of towers needed to serve the community where reasonably possible, so as to minimize and mitigate the adverse visual impacts of towers and their facilities.

These regulations are intended to be consistent with the Telecommunications Act of 1996 in that:

- <sup>52</sup>1. They do not prohibit, or have the effect of prohibiting, the provision of personal wireless services;
2. They are not intended to be used to unreasonably discriminate among providers of functionally equivalent services; and

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<sup>51</sup> Section 345, new section added; Local Law #2 of the year 1998 on 08/20/98. <sup>++</sup>

Stated in Local Law as (a), (b), (c), (d), (e), (f) and (g). Should be as shown.

<sup>52</sup> Shown in Local Law as (a), (b) and (c). Should be as shown.

3. They do not regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the FCC's regulations concerning such emissions.

## II. APPLICATION OF REGULATIONS.

Telecommunication facilities regulated and covered under these regulations shall include the following:

1. **Personal Wireless Radio Telecommunication Facilities** using an automated high capacity system with two (2) or more multi-channel fixed base stations arranged as part of an integrated "cellular" system providing radio telecommunication from the fixed (immobile) base stations to mobile stations. Such Personal Wireless Radio Telecommunication Facilities employ low power transmitting and receiving and automatic hand-off between base stations of communications in progress to enable channels to be reused at short distances for the purposes of voice, data or paging transmissions. Cellular systems may also employ digital techniques such as voice encoding and decoding, data compression, error correction and time or code division multiple access in order to increase system capacities. Personal Wireless Radio Telecommunication Facilities ("PWRT Facilities") shall include cellular services, personal communication services (PCS), Specialized Mobile Radio Services, and Paging Services.

## III. DEFINITIONS

1. **Cellular Communication System** - shall mean a radio telecommunication service provided using a cellular system.
2. **Personal Communication System** - shall mean radio telecommunication services that encompass mobile and ancillary fixed communications operating at 1.8 to 2.1 GHz that provide services to individuals and businesses and can be integrated with a variety of competing networks.
3. **Specialized Mobile Radio Services** - shall mean a radio communication system in which licensees provide land mobile communication services in the 800 MHz and 900 MHz bands on a commercial basis to entities eligible to be licensed under 47 CFR 90, Federal Government Entities and individuals.
4. **Paging Service** - shall mean a numeric, text and voice messaging service.
5. **Co-location** - shall mean the location of one or more PWRT Facilities at a common site.

6. As-Of-Right Facilities - shall mean those PWRT Facilities as described herein which may be installed and operated subject only to the securing of a building permit for construction and a certificate of occupancy for operation from the Town Building Inspector upon furnishing the information and plans specified by the Building Inspector and this Local Law
7. Monopole Tower - shall mean a freestanding tower consisting of a single pole.
8. Lattice Tower - shall mean a freestanding tower supported by a series of interconnected struts or stanchions.
9. Antenna - shall mean a device that converts radio frequency electrical energy to radiated electromagnetic energy and vice versa.
10. Base Station - shall mean a stationary transmitter that provides radio telecommunication services to mobile and fixed receivers including antennas.
11. Stealth Technique - shall mean a method or methods that would hide or conceal an antenna, supporting electrical or mechanical equipment, or any other support structure that is identical to or closely compatible with the color or appearance of the support structure so as to make the antenna and related equipment as visually unobtrusive as possible.
12. Exempt Facilities - shall mean transmitting and receiving telecommunication facilities which are exempt from regulation under this section, and shall include: (1) amateur radio and satellite facilities so long as such facilities are operated by a licensed amateur operator; (2) civil emergency facilities; and (3) home satellite facilities where installed on residential premises solely for the use of the residents of that premises and not offered for re-sale to off-premises locations.

#### IV. AS-OF-RIGHT FACILITIES.

A. In order to encourage the appropriate location and co-location of telecommunication systems in the Town of Washington, the following PWRT Facilities shall be permitted As-Of-Right:

1. On monopole or lattice towers in existence prior to the date of this Local Law anywhere in the Town so long as no change or alteration to the height or appearance of the existing structure is required.
2. On existing structures located anywhere in the Town so long as no part of the PWRT Facility exceeds the height of the existing structure and so long

as no change or alteration of the height to appearance of the existing structure is required.

B. Standards - An as-of-right PWRT Facility shall meet the following additional standards and requirements:

1. Towers shall maintain a galvanized steel finish or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness.
2. Towers shall not be artificially lighted.
3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of a neutral color identical to or closely compatible with the color of the supporting structure.
4. Except for towers constructed and in use prior to the effective date of this Local Law, towers which are no longer in service as part of a PWRT Facility network shall be removed within ninety (90) days of the cessation of the use of the tower.
5. If an As-of-Right PWRT Facility has no existing access road, the necessary access road shall meet or exceed the standards set for specially permitted facilities in Paragraph V.A.6. of this local law.
6. The applicant shall post a security deposit or bond in an amount satisfactory to the Planning Board and in a form acceptable to the Town Attorney, to assure:
  - (a) The adequate construction of any access road to the PWRT Facility.
  - (b) The removal of those portions of the PWRT Facility and any base station and ancillary support structures which were not in place prior to the effective date of this Local Law.

C. Data - An application for approval of an As-Of-Right PWRT Facility shall contain the following:

1. An application for construction of a PWRT Facility shall contain all the information ordinarily required by the Building Inspector for the issuance of the building permit. In addition, the application shall contain a map of the proposed PWRT Facility prepared in accordance with the requirements of section 483 of this Zoning Law.
2. An application for construction of a PWRT Facility shall include a report certifying that the electro-magnetic emissions from the PWRT Facility will be within the threshold limits established by the Federal



Communications Commission, and certifying that the proposed facility will not cause interference with existing communication devices.

3. Upon installation of the PWRT Facility the applicant shall submit to the Building Inspector an as-built survey of the PWRT Facility, including a certification as to the finished height above ground level of the structure, certified to the Town of Washington by a Land Surveyor or Professional Engineer, licensed to practice in the State of New York.
4. Documentation of intent from the owner of the existing PWRT Facility to allow co-location and shared use.
5. An engineer's report certifying that the proposed shared use of an existing structure or tower will not diminish the structural integrity and safety of the existing structure or tower.
6. A completed short EAF and a completed visual EAF addendum.
7. A copy of its Federal Communications Commission (FCC) license.

#### V. SPECIFICALLY PERMITTED FACILITIES

A. All PWRT Facilities which do not meet the standards for As-of-Right Locations shall be subject to Special Permit and Site Plan Approval by the Planning Board pursuant to sections 470 and 480 of this Zoning Law, shall satisfy the standards for As-Of-Right Facilities as applicable and as set forth above and, in addition, the following standards shall apply.

1. In addition to any other authority conferred under the Town Zoning Law, the Planning Board is authorized to attach the following conditions on the granting of a special permit/site plan approval for a PWRT Facility:
  - a. Increased setback, sideline and rear line requirements.
  - b. Utilization of "stealth" techniques to minimize the visual impact of the Facility.
  - c. Measures to secure the facility from intruders, including fences and chained entryways.
  - d. Security deposit or bonding in an amount acceptable to the Planning Board and in a form acceptable to the Town Attorney, to assure:
    - (i) The adequate construction of any access road to the Facility.
    - (ii) The proper maintenance and continued vitality of the plantings and landscaping done to properly screen the tower compound from adjacent properties.
    - (iii) The removal of the tower and ancillary facilities upon abandonment or de-commissioning by the applicant. (iv) Reclamation of the tower site.

- e. Co-location is required for telecommunication facilities unless: (i) There are no other usable existing structures in the area for telecommunication facility services.
  - (ii) Co-location cannot achieve the minimum reasonable technical needs of the proposed telecommunication facility.
  - (iii) Structural or other engineering limitations, absent reasonable refurbishment, are demonstrated by clear and convincing evidence to be prohibitive.
  - (iv) The telecommunication facility, after thorough and good faith efforts disclosed to the Town, is unable to secure permission from tower or structure owner to co-locate.
- f. The clustering of towers and structures on a common site should be considered if co-location cannot be facilitated.
- g. Visual appearance.
  - (i) Unless such a structure cannot achieve the applicant's purposes as disclosed in its application and supporting data, the Planning Board shall have the authority to require the applicant to furnish an alternative proposal using a tree-like structure or some other alternative structure at the proposed site rather than a conventional tower in order to better achieve the least negative impact on the visual environment.
  - (ii) The height of any new tower shall be the minimum required to establish and maintain adequate service, but in no event shall the height of any new tower exceed three (3) times the maximum building height for the zoning district in which the tower is to be located, as shown in Appendix B of the Town Zoning Law.
  - (iii) All equipment shelters and accessory structures shall be architecturally uniform and no taller than twelve (12) feet.
  - (iv) All equipment shelters used shall only be used for housing of equipment related to the particular facility on the particular site.
  - (v) Materials and colors for a proposed utility structure(s) shall be of an appearance which is compatible with any surrounding structures and/or vegetation to the maximum extent practicable and as approved by the Planning Board.

- 2. All towers and monopoles shall be setback from all property lines, structures habitable by people on the same parcel as the tower or monopole or above ground power lines a distance equal to 15% of the height of the tower or the minimum set back requirement for the zoning district in which the tower or monopole is located, whichever is greater. Towers may be located on lots of less than the minimum acreage for the district so long as the PWRT Facility is unmanned and can meet the setback, sideline and rearline requirements set forth above.

3. No tower or monopole shall be located:
  - <sup>53</sup>a. Closer than 300' on a horizontal plane, to any structure, existing at the time of application, which is, or is able to be, occupied or habitable on the property of any school (both public and private).
  - b. Closer than 300' on a horizontal plane, to an existing dwelling unit on a parcel other than the parcel on which the subject tower or PWRT Facility is located, or any day-care center, hospital, nursing home, church, synagogue or other place of worship.
  - c. Subject to the provisions of (a) and (b) above, the Planning Board shall determine appropriate distance set backs from any school, power line, dwelling unit or other structures, whether on or off the parcel, on which a tower or monopole shall be based. Visibility of the tower or monopole from such structures and consideration for the safety of the users or occupants of such structures in the event of the structural failure of the tower or monopole shall also be considered.
4. Tower Facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent properties. The standard buffer shall consist of a landscaped strip at least six (6) feet wide outside the perimeter of the compound. The plantings shall consist of alternately spaced evergreens having a height of not less than six (6) feet above the height of the ground elevation at the time of installation. The Planning Board may waive these landscaping requirements where the Board determines that the amount and type of existing on-site vegetation is adequate to fully screen the Facility.
5. Existing mature trees and natural land forms on the site shall be preserved to the maximum extent possible.
6. The Planning Board shall review and approve the plans for construction of any access road or driveway for the Facility and may require the preparation and implementation of an erosion and sedimentation control plan as the Board may deem appropriate after referral of the site plan to the Town Highway Superintendent and the Board's consulting Professional Engineer for recommendation. A road and parking plan shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made, provided said use is consistent with safety and aesthetic considerations. Road construction shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and soil erosion potential. Except to the extent that the Planning Board shall determine to apply its own road criteria as the same may exist from time to time, the applicant shall adhere to the standards for

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<sup>53</sup> Shown in Local Law as (a), (b) and (c). Should be as shown.

unpaved forest roads set forth in New York State Department of Environmental Conservation Unpaved Forest Road Handbook - ECH - 8409.11, as the same may be amended or revised from time to time.

B. Data - In addition to the information required by Section 483 of this Zoning Law, an application for approval under this section shall contain the following additional information:

- <sup>54</sup>1. A photo simulation of the proposed facility as seen from the north, south, east and west from the Facility. The photo simulation shall be keyed to a location map. Photographs for the photo simulation shall be taken during periods when deciduous leaf cover is minimal (i.e. during the late autumn, winter, and early spring months), and shall only be taken when there is no precipitation, fog, or more than fifty percent cloud cover, in order to present a worst-case scenario for visual impact assessment purposes. Prior to performing the visual test the applicant shall meet with the Planning Board to obtain the Board's consent as to the date and time on which the visual test will be conducted and photographs for the photo simulation will be taken. The applicant shall also inform the Board as to the manner in which the visual test will be conducted (i.e. a crane test or balloon test). The Board may require the visual test to be performed on more than one day when the Board determines that additional time for the visual test is required in order to provide neighboring and nearby land owners and residents adequate time to observe the test. Not less than ten (10) days prior to the authorized date of the visual test the applicant shall notify in writing, by certified, first class mail, return receipt, all owners of land within 500 feet of the boundary of the parcel of land which the applicant proposes to locate the PWRT Facility. The notice shall include the date, time and manner in which the visual test will be conducted and shall state the reason for the test.
2. An application for construction of a PWRT Facility shall include a report certifying that the electromagnetic emissions from the PWRT Facility will be within the threshold limits established by the Federal Communications Commission, and certifying that the proposed Facility will not cause interference with existing communication services.
3. A certification by a licensed professional engineer as to wind loading and the ability of the supporting structure to accommodate the Facility and any additional users.
4. A statement by the applicant as to all other alternative sites, including other alternative sites not owned or operated by the applicant in any area, considered and the reasons for their rejection.

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<sup>54</sup> Section 345, Subsection V.B.1. amended; Local Law #1 of the year 2003 on 01/02/03.

5. A statement by the applicant that locating the facility in an As-Of-Right Location is not practical or feasible and the reasons supporting that determination.
6. A graphic depicting the location of all of the applicant's existing wireless communication facilities located in or otherwise serving the Town of Washington.
7. A graphic depicting the geographic area to be served by the proposed Facility.
8. A copy of the applicant's FCC operating license.
9. Upon installation of the PWRT Facility the applicant shall submit to the Building Inspector an "as-built" survey of the Facility, including a certification as to the finished height above ground level of the structure, certified to the Town of Washington by a Land Surveyor or Professional Engineer, licensed to practice in the State of New York.
10. Documentation from an expert qualified in the field of telecommunications and radio frequency engineering showing that the tower and/or facility is needed to provide adequate coverage to an area of the Town that currently has inadequate coverage; including a sealed, graphical depiction of the inadequate coverage area.

C. For applications involving tower construction or modification to accommodate a PWRT Facility:

1. The applicant shall provide written documentation of any existing and planned facility sites in (i) the Town of Washington and (ii) within a seven mile radius of the proposed site, in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. For each such facility site, it shall demonstrate with written documentation that the facility site is not already providing, or does not have the potential to provide adequate coverage and/or adequate capacity to the Town of Washington. The documentation shall include, for each facility site listed, the exact location (in longitude and latitude, to degrees, minutes and seconds), ground elevation, height of antennas on tower or structure, output frequency, number of channels, power input and maximum power output per channel. Potential adjustments to these existing facility sites, including changes in antenna type, orientation, gain or power output shall be specified. Radial plots from each of these facility sites, as they exist, and with adjustments as above, shall be provided as part of the application.
2. The applicant shall demonstrate with written documentation that it has examined all facility sites towers or structures located (i) in the Town of Washington and (ii) within a seven mile radius of the proposed site in

which applicant has no legal or equitable interest to determine whether those existing facility sites can be used to provide adequate coverage and/or adequate capacity to the Town of Washington. The documentation shall include, for each facility site examined, the exact location (in longitude and latitude, to degrees, minutes and seconds), ground elevation, height of tower or structure, type of antennas proposed, proposed antenna gain, height of proposed antennas on tower or structure, proposed output frequency, proposed number of channels, proposed power input and proposed maximum power output per channel. Radial plots from each of these facility sites, as proposed, shall be provided as part of the application. This report shall demonstrate good faith efforts to secure shared use from the owner of each then existing tower or structure on which a PWRT Facility is then located as well as documentation of the physical, technical and/or financial reasons why shared use is not practical in each case. Written requests and responses for shared use shall be provided.

3. Applicant shall demonstrate with written documentation that it has analyzed the feasibility of repeaters or non-tower mounted PWRT Facilities in conjunction with all sites listed in compliance with C.(1) and C.(2) to provide adequate coverage and/or adequate capacity to the Town of Washington. Radial Plots indicating such consideration shall be provided as part of the application.
4. The applicant shall also submit a three (3) year buildout plan for the proposed and other sites within the Town and within adjacent Towns and Villages, clearly demonstrating the Applicant's plan for other structures, proposed application and building dates, and justification for additional structures. Additionally, the three (3) year buildout plan must take into consideration known and potential changes in technology.
5. An applicant for a new tower must demonstrate the structure's ability to handle additional co-locators and must identify the maximum number of co-locators which could be supported on the structure
6. Documentation of intent from the owner and/or lessee of the Facility to allow co-location and shared use.

## VI. ANNUAL CERTIFICATIONS

After the issuance of a special permit, the owner/operator of the Facility shall annually (on January 1<sup>st</sup> of each year) provide certification to the Town of Washington by an independent licensed engineer (acceptable to the Planning Board) that the facility is operating in compliance with FCC emissions standards and in compliance with the existing special permit and site plan.

## VII. RETENTION OF EXPERTS AND ENGINEERS

<sup>55</sup>Should the Town Board, the Planning Board, the Zoning Board of Appeals, the Building Inspector or the Zoning Administrator determine it necessary to retain the services of people with the requisite technical expertise to assist them in the making of the determinations required by this local law, or to perform any testing called for hereunder, they may retain such assistance and charge the cost thereof to the applicant. A deposit for the purpose of paying these expenses may be required of the applicant at the time of application for the special permit or building permit, as the case may be. If a deposit is not taken at the time of application and said costs are incurred thereafter, the applicant shall be charged for them and must pay said charges as a condition of retaining its special permit or As-Of-Right use.

## VIII. VILLAGE OF MILLBROOK PROXIMITY

In reviewing cell tower applications the Town of Washington Planning Board will consider the impact on the Village of Millbrook and their cell tower regulations in case of proximity to the Village border.

## IX. SEVERABILITY

The invalidity of any section, subsection, paragraph, sentence, clause or provision of this Local Law shall not affect the validity of any other part of this Local Law which can be given effect without such invalid part or parts.

## Section 346. <sup>38</sup>AIRFIELDS AND AIRCRAFT

### DEFINITIONS

<sup>56</sup>Aircraft. A device used for the transportation of one (1) ore more persons or goods through the air, including airplanes, dirigibles, helicopters and gliders, but excluding parachutes and balloons.

<sup>57</sup>Airfield. An area for the landing and takeoff of aircraft, including, without limitation, an airport, airstrip, heliport, helipad or helistop.

<sup>58</sup>1. Airfields are not a permitted use in any zoning district in the Town.

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<sup>55</sup> Section 345, subsection VII, first sentence amended; Local Law #1 of the year 2005 on 04/14/05. <sup>38</sup> Section 346 amended by adding a new section; Local Law #4 of the year 1999 on 12/02/99.

<sup>56</sup> Stated in Local Law as Paragraph 1.

<sup>57</sup> Stated in Local Law as Paragraph 2.

<sup>58</sup> Stated in Local Law as Paragraphs (a) and (b).

2. With the exception of the landing and taking off of aircraft for police, medical or natural disaster reasons, the landing or taking off of any aircraft is not permitted in any of the zoning districts in the Town.

Section 347. <sup>39</sup>GARAGE AND YARD SALES AND TEMPORARY PERMITS

1. Garage or yard sales are not permitted unless they meet the following standards:
  - a. Sales last no longer than three (3) consecutive days.
  - b. Sales are held no more than twice yearly.
  - c. Sales are conducted on the owner's property. Multiple family sales are permitted if they are held on the property of one of the participants.
  - d. No goods purchased for resale may be offered for sale.
  - e. No consignment goods may be offered for sale.
  - f. Directional signs may be placed on the street right-of-way.
  - g. All directional and advertising signs shall be free-standing and removed after completion of the sale.
  - h. All directional and advertising signs placed on private property shall have the owner's permission.
  - i. No directional or advertising signs may be larger than two (2) square feet.
2. Nothing in these regulations shall prevent a church, school or other tax exempt charitable organization from holding a fair, auction, carnival, circus, horse show or similar event, for a period not exceeding five (5) days, upon its premises, the income of which is for the sole benefit of said applicant, provided said organization receives a temporary permit for said event from the Town Zoning Administrator subject to such conditions as may be specified by the Town Zoning Administrator. Said temporary permit shall be issued only for the event and for the dates specified in the permit.

Section 348. <sup>40</sup>BED-AND-BREAKFASTS

A. Definitional Limitations

1. A bed and breakfast may have no more than five (5) bedrooms for guests and may accommodate no more than ten (10) transient lodgers.
2. The bed and breakfast may offer meals to its lodgers only.
3. Bed and breakfast establishments may not be used commercially for conference centers, weddings, concerts, a public restaurant, auctions, retreats or other for hire events.



B. Additional Conditions for Special Permit

1. Residence. The applicant must be the owner and must reside in the residence which is to be the bed and breakfast facility unless an accessory

<sup>39</sup> Section 347, new section added; Local Law #1 of the year 2003 on 01/02/03.

<sup>40</sup> Section 348, new section added; Local Law #1 of the year 2003 on 01/02/03.

structure is to be converted to a bed and breakfast, in which case the owner must live in the principal residence on the same parcel as the accessory structure. If the principal residence and an accessory structure are to have bed and breakfast rooms, the total bedrooms allowed is still limited to five (5) and the total transient lodgers is still limited to ten (10).

2. For all bed and breakfast applications, the Planning Board must make a statement of findings as required by Section 473 of this Zoning Code.
3. The structure which is to be covered by the special permit shall be specified in the application, together with a statement of the amenities to be available to guests, including bedrooms, bathrooms, common rooms, parking areas and other areas to be used by guests. Before issuing a special permit, all areas defined for use in the Bed and Breakfast may be inspected by the Planning Board.
4. The applicant shall comply with all applicable health codes, building codes and other applicable laws. Applicant must provide documentation that applications for all applicable permits (for example, Dutchess County Department of Health) have been filed with the appropriate agencies. Prior to the issuance of a certificate of occupancy, the applicant must show that all applicable permits have been received.
5. The permit shall specify the number of bedrooms covered by the permit, which number shall not exceed five (5).
6. If the property on which a Bed and Breakfast exists is sold or otherwise transferred to a new owner, the special permit for the Bed and Breakfast shall expire unless (a) within one hundred twenty (120) days after the transfer of title the new owner makes an application for a renewal of the special permit and (b) receives a renewal of the special permit subject to such conditions deemed necessary by the Planning Board.
7. Application must include a floor plan of the structure to be used for the Bed and Breakfast at 1/4"=1" scale. The plans must clearly delineate all areas of the structure and their function.
8. All signage shall be included in the special permit application process. A sketch showing all wording, dimensions and design shall be submitted.

9. No parking lots or parking areas shall be located closer than twenty (20) feet to any residential property line.
10. The dwelling shall comply with all applicable bulk regulations and other applicable provisions of this Zoning Code.

#### Section 350. SUPPLEMENTARY AREA AND BULK REGULATIONS

The provisions of this Local Law set forth in the schedules of regulations shall be subject to such exceptions, additions, or modifications as provided herein by the following Supplementary Area and Bulk Regulations.

#### Section 351. PRINCIPAL STRUCTURE

Except for farm operations, multi-family developments, community facilities, and public utilities, only one (1) principal structure shall be permitted on one (1) lot.

#### Section 352. MINIMUM AREA AND LOT DIMENSIONS

The area or dimension of any lot, yard, parking area, or other space shall not be reduced to less than the minimum required by this Local Law, except as provided by Sections 353 and 392; and, if already less than the minimum required by this Local Law, said area or dimension may be continued but shall not be further reduced.

#### Section 353. REAR LOT ROAD FRONTAGE

Notwithstanding the provisions of Section 310 and Appendix B, rear lots with a minimum of twenty-five (25) feet of road frontage may be created pursuant to Section 32.6 of the Land Subdivision Regulations.

#### Section 354. EXCEPTIONS TO HEIGHT LIMITATIONS

No building or structure shall have a greater number of stories or greater height than is permitted in the district in which such building or structure is located, except as noted below.

1. Chimneys, silos, cooling towers, elevators, bulkheads, fire towers, gas tanks, grain elevators, steeples, water towers, wind power generators, ornamental towers or spires, communications, radio, or television towers, or necessary mechanical appurtenances may be erected by special permit, provided no tower other than a silo, a church spire, or a tower of a public building shall exceed the height limitations by more than forty percent (40%).
2. No tower shall be used as a place of habitation or for tenant purposes.

3. No sign, nameplate, display, or advertising device of any kind shall be inscribed upon or attached to any chimney, tower, tank, silo, or other structure which extends above the height limitations.

### Section 355. <sup>59</sup>ACCESSORY STRUCTURES

When an accessory structure is attached to the principal building, all the yard requirements of this Local Law as set forth in Appendix B of this Zoning Code applicable to the principal building shall be met. If an accessory structure of not more than six hundred (600) square feet is not attached to the principal structure on a non-conforming lot of one (1) acre or less or on a one (1) acre conforming lot, it may be located at a distance which is not less than fifty percent (50%) of the distance required by Appendix B of this Zoning Code from the side and rear lines of the property, provided it is not located any closer to the road(s) bordering the property than the principal structure. In addition and subject to the foregoing, accessory structures are permitted as set forth in Appendix A of this Zoning Code subject to the following requirements.

1. Accessory structures shall not exceed the greater of thirty-five (35) feet or two (2) stories in height, and shall not occupy more than ten percent (10%) of a required rear yard.
2. No accessory structure shall be located closer to the street than the front yard setback required for a principal structure in the district in which such accessory structure is located.
3. For corner lots the setback from the side street shall be the same for accessory structures as for principal buildings.
4. Accessory structures may be used for residential purposes in any zoning district provided such accessory structures meet the requirements of section 330 or 330-B of this Zoning Code as applicable.

### Section 356. PROJECTING ARCHITECTURAL FEATURES

Every part of a required yard must be open to the sky unobstructed except for trees and accessory structures in a rear or side yard, and except for the ordinary projection of open porches, balconies, steps, sills, belt courses, cornices, and other ornamental features; provided, however, that such features shall not project more than three (3) feet into any required yard.

### Section 357. IRREGULAR SIDE YARDS

Where the side wall of a building is not parallel with the lot line or is broken or otherwise irregular, the side yard may be varied. In such a case, the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such side yard shall not be narrower at any one point than one-half the otherwise required minimum width.

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<sup>59</sup> Section 355 amended; Local Law # 1 of the year 2003 on 01/02/03.

## Section 358. CORNER LOTS AND THROUGH LOTS

1. Any corner lot delineated by subdivision after the adoption of this Local Law shall provide a side street setback line which shall not be less than the minimum front yard required on any adjoining lot fronting on the side street.
2. At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.

## Section 359. VISIBILITY AT INTERSECTIONS

At all street intersections, no obstruction to vision (other than an existing structure, post, column, or tree) exceeding thirty (30) inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between the points along such street lot lines thirty (30) feet distant from their points of intersection.

## Section 361. <sup>60</sup>SWIMMING POOLS

1. A swimming pool constructed in ground or above ground, including accessory equipment, shall be considered an accessory structure and shall be set back from lot lines at least the minimum distance required for an accessory structure in that district.
2. A swimming pool must be completely surrounded by a fence or wall enclosure. Such fence or wall enclosure shall comply with the requirements of the New York State Uniform Fire Prevention and Building Code. A wall or fence or other enclosure wholly enclosing a dwelling house and the swimming pool shall constitute compliance with this requirement.
3. If a pool will be visible from a neighbor's residence or from a public road, it and its associated equipment shall be adequately screened to the satisfaction of the Zoning Administrator.
4. This section does not apply to portable pools that do not exceed one hundred (100) square feet.

## Section 362. <sup>61</sup>TRAILERS

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<sup>60</sup> Section 361 added; Local Law #1 of the year 2005 on 04/14/05.

<sup>61</sup> Section 362 added; Local Law #1 of the year 2005 on 04/14/05.

No trailer or motor vehicle shall be used for the purpose of a storage shed in a residential district, except as provided by Section 334(2) of this Zoning Code.

#### Section 363. <sup>62</sup>FENCES, WALLS AND BERMS

1. The bulk requirements of this Local Law as set forth in Appendix B of this Zoning Code shall not be deemed to prohibit any necessary retaining wall nor to prohibit any fence, wall or berm, provided that in any residential district such fence or wall shall not exceed six and one-half feet in height from the existing grade in any yard and such berm shall not exceed four feet in height from the existing grade in any yard, except where approved by the Zoning Administrator.
2. Fences, walls and berms shall meet the requirements of Section 359 Visibility at Intersections, where applicable.
3. Farm and agriculturally related fences and walls located on agricultural parcels are exempt from this Section.
4. This Section shall not apply to fences, walls or berms placed onto portions of the property which are not visible from adjoining properties or public roads. The determination of whether a fence, wall or berm is visible from adjoining properties or public roads is in the sole discretion of the Zoning Administrator.

#### Section 364. <sup>63</sup>TENNIS COURTS

A tennis court shall be considered an accessory structure and shall be set back from lot lines at least the minimum distance required for an accessory structure in that district.

#### Section 370. SUPPLEMENTARY OFF-STREET PARKING REGULATIONS

In all districts for every business, institutional, recreational, residential, or other use, there shall be provided, at the time any new building or structure is erected, off-street parking facilities in accordance with the requirements set forth in Section 310(3), the Off-Street Parking and Loading Schedule (Appendix C), and the following supplementary regulations.

#### Section 371. SIZE AND ACCESS

Each off-street parking space shall have an area of not less than one hundred eighty (180) square feet exclusive of access drives or aisles, and shall be of usable shape and condition.

#### Section 372. MINIMUM NUMBER OF SPACES REQUIRED

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<sup>62</sup> Section 363 added; Local Law #1 of the year 2005 on 04/14/05.

<sup>63</sup> Section 364 added; Local Law #1 of the year 2005 on 04/14/05.

The minimum number of off-street parking spaces required shall be as set forth in the Off-Street Parking and Loading Schedule; however, except for single-family dwellings, no parking area shall be established for less than three (3) vehicles.

#### Section 373. SURFACE TREATMENT

All parking areas, passageways, interior roads, and driveways (except when provided in connection with single-family residences) shall be surfaced with a suitable dustless, durable, allweather surface appropriate for the use of the land, with adequate drainage.

#### Section 380. SUPPLEMENTARY OFF-STREET LOADING REQUIREMENTS

In any district and in connection with every building, building group, or part thereof thereafter erected and having a gross floor area of four thousand (4,000) square feet or more which is to be occupied by manufacturing, commercial, or similar uses requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained, on the same lot with such building, off-street loading berths or unloading berths as specified below.

#### Section 381. NUMBER OF SPACES

One (1) loading space shall be provided for each eight thousand (8,000) square feet or fraction thereof of floor area unless required otherwise by the Planning Board.

#### Section 382. DIMENSIONS

The loading berth required in each instance shall not be less than twelve (12) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height, and may occupy all or any part of any required yard.

#### Section 390. <sup>64</sup>NONCONFORMING USES, BUILDINGS, AND LOTS

It is the intent of this Local Law that nonconformities should not be expanded except as indicated herein, that they should be brought into conformity as quickly as the fair interests of the parties permit, and that the existence of any present nonconformity anywhere in the Town shall not in itself be considered grounds for issuance of a variance for any other use, lot, building, or other structure. Nothing in this Local Law shall be deemed to prohibit ordinary repair and maintenance of any nonconforming building or other structure or reconstruction thereof necessitated by fire or other casualty, or replacement of existing materials, or work ordered by the Building Inspector to protect the public health or safety, provided such work does not increase the nonconformity.

#### Section 391. NONCONFORMING USES, BUILDINGS, AND STRUCTURES

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<sup>64</sup> Section 390, last sentence amended; Local Law #1 of the year 2005 on 04/14/05.

A nonconforming use of land, buildings, and other structures may be continued in accordance with the following provisions and limitations:

1. Except as permitted by Subparagraph 7 below, no building or other structure or part thereof devoted to a nonconforming use shall be enlarged, extended, constructed, reconstructed, or structurally altered, if the result would be an increase in nonconformity.
- <sup>65</sup>2. Except as provided herein, no nonconforming use of a lot or lots shall be moved, in whole or in part, to another part of a lot or outside the lot. Further, no nonconforming use of a lot shall be enlarged or increased nor shall it be extended to occupy a greater area of land than occupied by such use at the time of the adoption of this Local Law. No nonconforming use of a building or other structure shall be moved or extended to any part of the building or other structure not manifestly arranged and designed for such use at the time the use became nonconforming, and no building or other structure containing a nonconforming use shall be moved, unless the result of any such move is to eliminate or reduce the nonconformity.
3. No nonconforming use of land, buildings, or other structures shall be changed to any use which is substantially different in nature or purpose from the existing nonconforming use, except to a use which is permitted in the district in which the land, building, or other structure is located, unless the Zoning Board of Appeals finds that the new use will have no greater injurious impact upon the surrounding area than the existing use.
4. No nonconforming use of land, buildings, or other structures which is changed to conform or to more nearly conform to this Local Law shall thereafter be changed to be less conforming.
5. No nonconforming use of land, buildings, or other structures which shall have been discontinued shall thereafter be resumed. In determining whether a nonconforming use has been discontinued, any one of the following items shall constitute *prima facie* evidence of discontinuance:
  - a. Any positive act indicating intent to discontinue;
  - b. Any conscious failure to take all necessary steps to resume the nonconforming use with reasonable dispatch in the circumstances;
  - c. Cessation of the nonconforming use of a lot and/or structure for twelve (12) consecutive months, or for a total of eighteen (18) months during any three (3) year period;
  - d. Substitution of a conforming use.
6. All nonconformities shall conform in all other respects to the requirements of the zoning districts in which they are located.

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<sup>65</sup> Section 391, paragraph 2 amended; Local Law #1 of the year 2005 on 04/14/05.

- <sup>66</sup>7. Nonconforming structures or structures containing nonconforming uses may be enlarged, extended, reconstructed, or altered by a maximum of twenty-five percent (25%) of the aggregate gross floor area of the structure sought to be enlarged as it existed on May 13, 1971, or up to the maximum lot coverage allowed in the zoning district in which the nonconforming structure is located, as provided in Appendix B, whichever is less. Such extension or enlargement of a nonconforming building or other structure must be by special permit from the Zoning Board of Appeals pursuant to Section 470, Special Permits, of this Local Law and subject to Site Plan approval from the Planning Board.
8. Signs of a size or type not permitted in the zoning district in which they are situated, or which are improperly located or illuminated, or nonconforming in any other way, shall be considered nonconforming structures under this Section, and shall be brought into conformity with this Local Law pursuant to Section 331(2)(h) of this Local Law.
9. Notwithstanding any provision to the contrary herein, no junkyard shall be permitted to continue for more than six (6) months after the effective date of this Local Law, nor shall any use, structure, or activity regulated by Sections 336 through 339 of this Local Law enjoy protection as a prior nonconforming use. Quarrying or soil mining conducted in a manner that is exempt from the permitting requirements of the New York State Department of Environmental Conservation or the location restrictions under Section 332(2) of this Local Law shall not be considered a nonconforming use giving rise to any right to mine above applicable permit thresholds in locations where quarrying or soil mining is not a permitted use.

#### Section 392. NONCONFORMING LOTS

A nonconforming lot, as defined in Section 610, Definitions, of this Local Law, may be built upon for any purpose permitted in the zoning district in which it is located, without a variance, despite its failure to comply with the area, shape, or frontage requirements of this Local Law *provided:*

1. The nonconformity results solely from the adoption of this Local Law (including any preceding zoning law or subsequent amendments); *and*
2. The nonconformity has not been increased by any act or event subsequent to the effective date of this Local Law; *and*
3. The lot contains at least twenty thousand (20,000) square feet of area.

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<sup>66</sup> Section 391, paragraph 7 amended; Local Law #1 of the year 2005 on 04/14/05.



- <sup>67</sup>4. A nonconforming lot satisfying Subsections 1 through 3 above shall be designated an “eligible nonconforming lot.” A lot shall remain an eligible nonconforming lot until the occurrence of any of the following events:
- a. Reduction in the lot’s size, or any other increase in the degree of its nonconformity for any reason, other than the adoption of a more stringent zoning law;
  - b. Acquisition after December 27, 1989 by the owner of adjoining land which, when added to the original nonconforming lot, forms one or more lots complying with the area, shape, and frontage requirements of this Local Law. In such case no portion of the lot(s) so formed shall thereafter qualify as an eligible nonconforming lot under this Section, unless and until again made nonconforming by the adoption of a more stringent zoning law; and
  - c. Acquisition after December 27, 1989 by the owner of the lot of adjoining land which, when added to the original nonconforming lot, reduces its nonconformity, but does not form a lot complying with the area, shape, and frontage requirements of this Local Law. In such case, a new eligible nonconforming lot shall be formed which reflects the addition of the adjoining lot.
- <sup>68</sup>5. Nothing herein is intended or shall be construed to affect any requirement of this Local Law with respect to matters other than the area, shape and frontage of nonconforming lots. An eligible nonconforming lot shall be required to comply with all other requirements of this Local Law, including those set forth in the Schedule of District Use Regulations (Appendix A), the minimum setback, maximum building height, and maximum lot coverage Regulations set forth in the Schedule of Area and Bulk Regulations (Appendix B), and with all other requirements of the Town, County, and State regarding the construction of buildings and supporting systems. If not specifically listed, eligible nonconforming lots shall comply with the requirements applicable to one (1) acre lots. The Zoning Board of Appeals shall have the authority to modify the lot setback requirements insofar as deemed appropriate and justifiable in the public interest.

### Section 393. RESTORATION

Any building or structure damaged by fire or other natural causes may be rebuilt to its former size and continue in its former use despite the fact that its structure or use was nonconforming under this Local Law, provided such repairs or reconstruction shall be completed within two (2) years of the date on which the damage occurred.

### Section 394. COMPLETION OF BUILDINGS UNDER CONSTRUCTION

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<sup>67</sup> Section 392, paragraph 4 amended; Local Law #3 of the year 1990 on 10/11/90.

<sup>68</sup> Section 392, paragraph 5 amended; Local Law #1 of the year 2005 on 04/14/05.

Any building, extension, or alteration for which a permit has been duly granted, the actual construction of which has been started before the effective date of this Local Law, or of a pertinent amendment thereto, may be completed in accordance with plans on file with the Zoning Administrator, provided that such actual construction proceeds in an expeditious manner and the building is completed within one (1) year of the adoption of this Local Law.

## Section 396. WETLANDS & WATERCOURSE

### SECTION 396. WETLANDS AND WATERCOURSES LAW OF THE TOWN OF WASHINGTON

#### Section I. Language and Purpose

It is the purpose of the "Wetlands and Watercourses Law of the Town of Washington" to protect the health, safety and welfare of the citizens of the Town of Washington by preventing despoliation and destruction of wetlands, water bodies and watercourses, and controlled areas, collectively referred to herein as "regulated areas," recognizing their varying ecological, water quality, supply and recreational values. The Town of Washington hereby regulates activities that may cause significant adverse effects or environmental impacts to the function served by regulated areas or the benefits derived therefrom.

It is further the purpose of this Law to enact regulations which will preserve, protect and conserve wetlands, potable water sources and watercourses and the benefits derived therefrom, prevent the despoliation and destruction of wetlands, water sources, and watercourses, and regulate use and development of such areas consistent with the general welfare and beneficial economic, social and agricultural development of the Town of Washington through the requirement of permits therefore, providing for the protection and control of wetlands, water bodies, potable water sources, and watercourses.

#### Section II. Findings

The Town of Washington has reviewed, finds and affirms the following:

- A) The objectives of the Town of Washington Master Plan include protecting the community's many resources for the future by enhancing the rural quality of the community and protecting environmentally sensitive areas and natural resources, waterways, flood plains and wetlands by establishing guidelines and regulating development within regulated areas.
- B) The Town of Washington 1987 Master Plan encourages the Town to consider techniques for protecting the physical attributes of the community.
- C) The guidance of the Federal Water Pollution Control Act (Clean Water Act) and publication titled the National Wetlands Mitigation Action Plan (12/26/02; 11/16/04) which affirms a federal commitment to the goal of no net loss of the Nation's wetlands.
- D) The findings of the pertinent literature published by the NYSDEC and articulated in 6 NYCRR 664.3 that, in their undisturbed and natural condition, the regulated areas sought to be protected herein serve beneficial functions, which may include but not be limited to:
  - 1) The protection of water resource quantity and quality by preserving sources of surface water, recharging groundwater and aquifers, serving as chemical and biological oxidation basins, serving as nutrient traps for nitrogen and phosphorus, filtering pollutants, and/or functioning as settling basins for naturally occurring sedimentation.

Section 395 Removed after Moratorium Expired

- 2) Protection of aquifers and water bodies that are, or can, or may be used in the future for water supply purposes.
  - 3) The protection of stream channel and stream bank stability thereby controlling and reducing erosion, flooding and related property damage.
  - 4) The control of flood water and storm water runoff by the regulation and storage of natural flows.
  - 5) The provision of important nesting, feeding, migratory and wintering habitat for diverse wildlife species, including many wetland dependent species listed as "special concern", "threatened", "endangered", and "rare" by New York State; or other government entities, including the U.S. Fish and Wildlife Service.
  - 6) The provision of breeding and spawning grounds, nursery habitat and food for various species of fish and other wildlife.
  - 7) The support of distinctive and less common vegetative associations specifically adapted for survival in low oxygen environments.
  - 8) The provision of areas of unusually high land productivity which support significant wildlife diversity and help to maintain ecological integrity.
  - 9) The provision of areas throughout the Town of Washington for recreational uses.
  - 10) The provision of outdoor laboratories and living classrooms for environmental studies.
  - 11) The provision of open space and visual relief from residential and commercial development.
- E) The findings of the NYSDEC titled Freshwater Wetlands Program: Freshwater Wetlands Status and Trends which recognizes that considerable statewide acreage of these important natural resources sought to be protected herein has been lost or impaired by the cumulative effects of acts inconsistent with the natural uses of such areas, and contrary to public health, safety and welfare.
- F) The findings of the Environmental Law Institute publication entitled Conservation Thresholds for Land-Use Planners (2003) which determined that the adjacent "buffer" areas (i.e. controlled areas) associated with lakes, ponds, streams and wetlands "provide benefits that are significant for maintaining the functional integrity and quality of such resources, and for furnishing protection against adverse impacts from activities in adjacent areas." Due to the diversity in quality and functional roles of different wetlands and watercourses, the Town of Washington has determined that variable wetlands and watercourse controlled area widths (as defined below) are appropriate to protect the functional integrity and quality of these resources.
- G) The Town of Washington Town Board has determined, based upon a review of the aforementioned literature and from observations made in the Town itself, that further unregulated land development activities can lead to significant adverse effects or environmental impact to the functions served by regulated wetland areas or the benefits derived therefrom, thus posing a threat to the health, safety and general welfare of the people of the Town of Washington and the surrounding region.

### **Section III. Intent**

- A) It is the intent of the Town of Washington to insure that activities in and adjacent to wetlands, watercourses and water bodies do not adversely affect the natural environment, or cause significant environmental degradation or unduly impact the public health, safety and general welfare.
- B) It is the intent of this Section 396 to incorporate the consideration of wetland, watercourse, and water body protections, including their controlled areas, into the Town of Washington's land

use and development approval procedures, so as to provide a reasonable balance between the rights of the individual property owners to the reasonable use of their property and the rights of present and future generations in consideration of riparian law. Whenever possible, the review of an application under this section shall be in conjunction with the property owner's application for building permit, site plan and/or subdivision approval.

- C) It is the intent of this Law to conserve and protect the regulated areas described herein pursuant to the general enforcement power vested in and granted to the Town of Washington to protect the general health, safety and welfare of the residents of the Town and their property by: the New York State Constitution; the Municipal Home Rule Law; the Statute of Local Governments and the Town Law; as specifically provided in Environmental Conservation Law ECL-24-0509 which recognizes the right of local governments to establish their own procedures for the protection of regulated areas lying within their jurisdictions separate from the provisions of the Freshwater Wetlands Act found in ECL 24-0501 and the DEC regulations promulgated in Part 665 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR Part 665) provided that such provisions are at least as protective of the regulated areas as 6 NYCRR Parts 663-664 and regulations promulgated pursuant to Freshwater Wetlands Act permits ECL 24-0701, etc.
- D) It is the intent of this Law to locally provide greater protection to wetlands than that provided by federal wetland regulations promulgated by the U.S. Army Corp. of Engineers (USACE) in cooperation with the federal Environmental Protection Agency (EPA) and Fish and Wildlife Service, specifically with regard to establishing a minimum regulated setback area from the delineated wetland boundary where careful review and approval of the proposal by the Town of Washington Planning Board must be completed prior to the commencement of activities as described below in Section VIII, Regulated Activities.
- E) It is the intent of this Law to exercise concurrent jurisdiction of those wetlands, watercourses, water bodies, and controlled areas (i.e. "regulated areas") within the Town of Washington which are within the jurisdiction of the NYSDEC and/or the USACE.
- F) It is the intent of this Law to further the Town's stated goals and objectives through a mandatory permit review process to reduce the potential for significant adverse environmental impacts to important natural resources.
- G) It is the intent of this Law to conserve and protect the regulated areas described herein and be consistent with this objective, to advance responsible land use and management, development, natural resource extraction, and other activities conducted in the Town of Washington in order to avoid the loss or impairment of the natural functions and values of regulated areas as described herein.
- H) It is the intent of this Law to administer the provisions of this law to ensure administrative efficiency with the Town's land use development regulatory processes.

#### **Section IV. Definitions.**

**Agriculture:** The employment of land, including for the primary purpose of obtaining a profit in money, for raising, harvesting, and selling crops, or feeding, including but not limited to, grazing, breeding, managing, selling or producing livestock, poultry, fur-bearing animals or honeybees, or by dairying and the sale of dairy products, by any other horticulture, floriculture or viticulture, aquaculture, hydroponics, silviculture, animal husbandry, or by a combination thereof. It also includes the employment of land, including for the primary purpose of obtaining a profit, for stabling or training equines, including but not limited to providing riding lessons, training clinics and schooling shows, including other on-farm niche marketing promotions.

**Applicant:** Any individual or individuals, firm, partnership, association, corporation, company, organization, or other legal entity of any kind, including municipal corporations, governmental

agencies or subdivisions thereof, who has a request for a permit to conduct a regulated activity or who has an application pending before the Planning Board.

**Application Fee:** A sum paid by an applicant to accompany an application and collected by the town Planning Board in accordance with a fee schedule as shall be established from time to time by resolution of the Town Board and made available by the office of the Town Clerk and the Building Inspector.

**Aquaculture:** Cultivating and harvesting products, including fish and vegetation, that are produced naturally in freshwater wetlands, and installing cribs, racks and other in-water structures for cultivating these products, but does not include filling, dredging, peat mining or construction of any buildings or any water-regulating structures, such as dams.

**Bank:** The land area immediately adjacent to, and which slopes toward the bed of the watercourse and which is necessary to maintain the integrity of a watercourse.

**Berming:** The process of building up stream banks higher than the surrounding floodplain elevations to contain water in the channel.

**Boundary of Wetland:** The outer limit of a regulated area characterized by wetland soils, wetland hydrology, and wetland vegetation as defined under Wetland/Freshwater Wetland.

**Buffer:** See "Controlled Area".

**Catchment Area:** Lands that drain into a common water body, watercourse or wetland.

**Channelization:** The process of straightening, widening and excavating gravel from a watercourse.

**Clear-Cutting:** For the purposes of this ordinance, the complete cutting and removing of an entire stand of trees greater than or equal to 4" diameter at breast height (dbh), over a contiguous area that is at least 1/4 of an acre in size (10,890 square feet).

**Conservation Advisory Commission (CAC):** A commission comprised of local citizens appointed by the Town Board to exercise a review function and provide a focal point in the community on all matters affecting the protection, preservation and enhancement of the environment.

**Controlled Area:** An area surrounding a wetland or watercourse, also known as a buffer or regulated setback, that is also subject to the regulations of this code, determined as follows, all measurements to be taken on the horizontal plane:

1. For all wetlands, the "controlled area" shall be:
  - a. For a wetland that is one (1) acre or greater in size the land area within one hundred feet (100') of the boundary of the wetland.
  - b. For a wetland that is less than one (1) acre and greater than ¼ acre in size the land area within fifty (50") feet of the boundary of the wetland.
2. For a perennial watercourse or waterbody the "controlled area" shall be the land area within one hundred (100) feet from the top of the bank of the watercourse or waterbody. The top of bank shall be the mean high water mark of the water course or water body. For an intermittent watercourse, the "controlled area" shall be the land area within fifty (50) feet from the top of the bank of the identified channel.

**Dams and Water Control Measures and Devices:** Barriers used to obstruct the flow of water to raise, lower or maintain the water level in wetlands.

**Date of Receipt of Complete Application:** A complete application shall be deemed received by the Planning Board on the date of the first regular meeting of the Planning Board following the filing of the complete application and supporting plans with the Planning Board.

**Deposit:** For purposes of this Section, "deposit" shall mean to fill, place, eject or dump any material, deliberately.

DCSWCD: Dutchess County Soil and Water Conservation District

Discharge: The emission of any water, substance or material into a wetland, watercourse, or controlled area.

Drain: To deplete or empty of water by drawing off.

Dredge: To excavate, move or remove sediment, soil, mud, sand, shells, gravel, or other aggregate either by hand or machine.

Excavate: To dig out, move, or remove any material either by hand or machine.

Forestry: Any activity which may alter the physical characteristics of any forested land, including but not limited to any activity involving or associated with the cutting of trees. The following activities shall not be considered to be "Forestry":

1. The routine maintenance of roads, easements and rights-of-way and the clearing of farm fence lines; and
2. The clearing of approved subdivision roads, site plans and public utility easements.
3. The use of pesticides, herbicides and fertilizers to induce vegetative growth.

GIS: Maps and data presented by Geographic Information System technology.

Grading: To adjust the degree or inclination of the contours of the land, including leveling, smoothing, and other modifications of the land surface by any means including filling and excavation

Intermittent Watercourse: A regulated area that comprises stream, creek, or brook, through which surface water travels on a seasonal basis. For the purpose of this Law, intermittent watercourses are those where water stands or flows for a total of three (3) months or more in a consecutive 12 month period, as determined in the sole discretion of the Wetland Administrator. Note: Waterways specifically designed and constructed to serve a storm water conveyance or treatment function, such as grassy swales, roadside drainage ditches, and other structures engineered to concentrate and convey storm water from development and only retain water for short duration after a rain storm or spring snow melt are not considered intermittent watercourses.

Logging: See "Forestry."

Material: Liquid, solid or gaseous substances, including but not limited to soil, silt, gravel, rock, sand, clay, peat, mud, debris and refuse; any organic or inorganic compound, chemical agent or matter, including sewage, sewage sludge or effluent; and agricultural, industrial or municipal solid waste.

NYCRR: New York Code of Rules and Regulation

NYSDEC: The New York State Department of Environmental Conservation

Permit or Wetland Permit: That form of town approval required for the conduct of a regulated activity within any wetland, watercourse or controlled area.

Permittee; The person(s) or legal entity in whose name the wetland permit is issued.

Perennial watercourse: A regulated area that comprises river, stream, creek or brook through which surface water travels on a continual basis, i.e., at least nine (9) months out of the year.

Planning Board: The duly appointed Planning Board of the Town of Washington

Pollution: The presence in the environment of human- or animal-induced conditions or contaminants in quantities or characteristics which are or may be injurious to human, plant or animal life or property.

Project: Any action resulting in a physical change to existing conditions on a site, including but not limited to any regulated activity as defined under this code.

Regulated Activities: Activities and uses regulated under this Section 396 that may cause identifiable significant adverse effect(s) or environmental impact(s) as defined herein to the functions(s) served by

the regulated areas(s) or the benefits(s) derived therefrom, and therefore require review by and approval from the Town of Washington Planning Board.

**Regulated Areas:** Those areas enumerated in this Law pursuant to the title, purpose, finding and intent of this Section 396 (i.e. wetlands, watercourses, waterbodies and controlled areas).

**Remove:** To dig, dredge, suck, bulldoze, drag line, blast or otherwise excavate or re-grade, or the act thereof.

**Routine Maintenance and Landscaping:** The mowing, weeding, cultivating, planting, and trimming of vegetation or removal of dead or diseased trees in natural or improved landscaped areas, except for the use of pesticides, herbicides, and fertilizers.

**Regulated Setback:** See "Controlled Area".

**Significant Adverse Effect or Environmental Impact:** An activity that may substantially alter or impair the natural function(s) or benefit(s) of a regulated area.

**State Environmental Quality Review Act (SEQRA):** The law pursuant to Article 8 of the New York State Environmental Conservation Law providing for environmental quality review of actions which may have a significant effect on the environment.

**Sound Agricultural Practices:** Farm operations that are reviewed on a case by case basis by the Commissioner of Agriculture and Markets to determine if the agricultural practice conforms with Section 308 of the Agriculture and Markets Law (AML) which provides for this review. The guidelines for this review state that (1) the practice should be legal; (2) the practice shall not cause bodily harm or property damage off the farm; (3) the practice should achieve results intended in a reasonable and supportive way; (4) the practice should be necessary.

**Structure:** Anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on the ground. The term includes but is not limited to tennis courts and swimming pools.

**Timber Harvesting:** See "Forestry."

**Town Board:** The duly elected Town Board of the Town of Washington

**Town Clerk:** The duly elected Town Clerk of the Town of Washington

**Water body:** Any natural or artificial pond, lake, reservoir or other area which usually or intermittently contains water and which has a discernible shoreline.

**Watercourse:** Any natural or artificial, permanent or intermittent, public or private water body or water segment, such as ponds, lakes, reservoirs, rivers, streams, brooks, waterways or natural drainage swales, that is contained within, flows through or borders on the Town of Washington. Waterways specifically designed and constructed to serve a storm water conveyance or treatment function, such as grassy swales, roadside drainage ditches, and other structures engineered to concentrate and convey storm water from development and only retain water for short duration after a rain storm or spring snow melt are not considered watercourses.

**Wetlands Administrator:** A professional individual who is an expert in wetlands and who is hired/appointed by the Town of Washington Town Board to work with the Zoning Administrator, the Planning Board and the Zoning Board of Appeals of the Town to assist their agents in investigating, advising and determining the appropriate actions which should take place with regards to wetlands applications brought before them.

**Wetlands:** As defined by the Corps of Engineers and the EPA, those areas that are inundated or saturated by surface or groundwater at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. It is recognized that the interaction of hydrology, vegetation and soils results in the development of characteristics unique to wetlands, and that in the majority of cases wetland areas will have all three of these characteristics. For the purposes of this Section 396, this includes all geographic areas greater than one-fourth (1/4) acre identified on the Wetlands & Watercourses Maps 5, 5A and 5B

or as otherwise delineated by the Town Wetland Administrator or a knowledgeable expert hired by the Town or Applicant. Wetlands in the Town of Washington are generally characterized by any or all of the following:

- a) Marshes, swamps, bogs, vernal pools, or other areas of water retention fed by springs or natural drainage systems.
- b) Soil types that are poorly drained or very poorly drained, alluvial or flood plain soils or potential hydric soils as defined by the Soil Survey of the United States Department of Agriculture, Soil Conservation Service and the Dutchess County Soil and Water Conservation District, including but not limited to the following:
  - a) Hydric Soils: Canandaigua, Carlisle, Fluvaquents, Halsey, Hydraquents, Livingston, Medisaprists, Palms, Sun, Wayland
  - b) Hydric inclusions within the following mapped soil types: Kingsbury and Rhinebeck, Linlithgo, Massena A, Massena B, Punsit, Udorthents, Fredon, Raynham Silt Loam
- c) Lands and submerged lands commonly called marshes, swamps, vernal pools, sloughs, bogs, flats supporting aquatic or semiaquatic vegetation of the following vegetative types:
  - (i) Wetland trees, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other trees; including, among others red maple (*Acer rubrum*), willows (*Salix sp.*), black spruce (*Picea mariana*), swamp white oak (*Quercus bicolor*), red ash - green ash (*Fraxinas pennsylvanica*), American elm (*Ulmus americana*), and larch (*Larix laricina*).
  - (ii) Wetland shrubs, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over shrubs; including, among others, alder (*Alnus spp.*), button bush (*Cephalanthus occidentalis*), bog rosemary (*Andromeda polifolia*), leatherwood (*Dirca palustris*), silky dogwood (*Cornus amonum*) and redosier dogwood (*C. sericea*), large cranberry (*Vaccinium macrocarpon*) and highbush blueberry (*V. corymbosum*), winterberry (*Ilex verticillata*), red chokeberry (*Aronia arbutifolia*), summersweet (*Clethra alnifolia*), swamp azalea (*Rhododendron viscosum*), bush cinquefoil (*Potentilla fruticosa*), poison sumac (*Rhus vernix*), American cranberrybush (*Viburnum trilobum*), and wild-raisin (*V. cassinoides*), and leatherleaf (*Chamaedaphne calyculata*).
  - (iii) Emergent vegetation, including, among others, cattails (*Typha spp.*), pickerweed (*Pontederia cordata*), bulrushes (*Sciripus spp.*), arrow-arum (*Peltandra virginica*), arrowheads (*Sagittaria spp.*), reed (*Phragmites australis*), wild rice (*Zizania aquatica*), bur reeds (*Sparganium spp.*), purple loosestrife (*Lythrum salicaria*), swamp loosestrife (*Decodon verticillatus*), water plantain (*Alisma spp.*), horsetails (*Equisetum spp.*), sedges (*Carex spp.*), rushes (*Juncus spp.*), marsh marigold (*Caltha palustris*), sweetflag (*Acorus calamus*), regal fern (*Osmunda regalis*) and ostrich fern (*Matteuccia struthiopteris*) and swamp buttercup (*Ranunculus septentrionalis*).
  - (iv) Rooted, floating-leaved vegetation; including, among others, water lily (*Nymphaea odorata*), water- shield (*Brasenia schreberi*), hornwort (*Ceratophyllum spp.*), and water smartweed (*Polygonum amphibium*).
  - (v) Free-floating vegetation; including, among others, duckweed (*Lemna spp.*), and water-meal (*Wolffia spp.*).
  - (vi) Wet meadow vegetation, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other



open land vegetation; including, among others, sedges (*Carex* spp.), rushes (*Juncus* spp.), cattails (*Typha* spp.), rice cut-grass (*Leersia oryzoides*), reed canary grass (*Phalaris arundinacea*), swamp loosestrife (*Decodon verticillatus*), purple loosestrife (*Lythrum salicaria*), spike-rush (*Eleocharis* spp.), Joe-Pye weeds (*Eupatorium* spp.), N.Y. ironweed (*Vernonia noveboracensis*), cardinal flower (*Lobelia cardinalis*), gentians (*Gentiana* spp.), marsh fern (*Thelypteris palustris*), false hellebore (*Veratrum viride*), skunk cabbage (*Symplocarpus foetidus*), Jack-in-the-pulpit (*Arisaema* spp.), Turk's-cap lily (*Lilium superbum*), and rough-leaved goldenrod (*Solidago patula*).

- (vii) Bog mat vegetation; including, among others, sphagnum moss (*Sphagnum* spp.), pitcher plant (*Sarracenia purpurea*), large cranberry (*Vaccinium macrocarpon*) and sundew (*Drosera rotundifolia*).
- (viii) Submergent vegetation with most or all of their leaves and stems below the water surface; including among others, pondweed (*Potamogeton* spp.), bladderwort (*Utricularia* spp.), coontail (*Ceratophyllum demersum*), watermilfoil (*Myriophyllum* spp.), wild celery (*Vallisneria americana*) and waterweed (*Elodea* spp.)

## **Section V. Wetlands and Watercourses Map(s)**

- A) Concurrent with the adoption of this Section 396, the Town of Washington Town Board hereby adopts a map entitled "Zoning Map Series Map #5: Streams, Wetlands, Hydric Soils and Floodplains" (Wetlands Protection Map), drawn at a scale of one-inch equals one thousand feet (1" = 1,000') or larger which identifies the approximate locations of regulated wetlands and watercourses within the Town. It is not assumed that all regulated wetlands, watercourses and waterbodies within the Town of Washington are shown on this map, which is to be used as a guide for applicants and administrators. The actual location(s) of a water course boundary and the controlled area around the water course, and/or a water body and the controlled area around the water body, and/or a wetland boundary and the controlled area around a wetland, are subject to field delineation, in accordance with the definitions and methodologies set forth in this Section 396 followed by verification by the Town or its representative. The Planning Board, in consultation with the Conservation Advisory Commission (CAC), and with the advice of such qualified wetlands specialists, biologists, hydrologists, soil scientists, ecologists, botanists, and other experts as deemed necessary by the Planning Board, shall make the final determination regarding the location of all water course boundaries, wetland boundaries, and their associated controlled areas pursuant to this Section 396. The cost of such expert assistance, if required, shall be paid for by the applicant for a permit under this Section 396 in accordance with the provisions of Town of Washington Zoning Law Section 402(2).
- B. The Applicant may, at his discretion, request either of two particular services from the Town or its consultants at a rate to be determined by the Town Board:
  - a. Wetland Determination. For a fee, as set forth on the prevailing fee schedule adopted by resolution of the Town Board, and as such schedule is modified from time to time by resolution of the Town Board, the Applicant may request that the Wetland Administrator visit a site, typically prior to filing an application to the Planning Board, to determine if a site contains wetlands that are regulated by the Town of Washington. Such a request may be made following a determination from the Zoning Administrator that, based on the filed Town Wetland Map, a property is likely to have regulated wetlands. This request may also be appropriate if a property owner has reason to believe that a site may contain regulated wetlands that are not shown on the Map. This Determination will not result in immediate delineation of the wetland by the Wetland Administrator, but the visit and subsequent written report may likely provide valuable guidance to the applicant in the preparation of Planning Board applications.

- b. Wetland Delineation. The applicant may choose to have site wetlands delineated by the Town Wetland Administrator, rather than hiring a private consultant. The applicant will be provided with a written fee proposal for this service by the Town Wetland Administrator, and the applicant may choose to accept the proposed fee or hire a private consultant to complete the delineation.

C Said Map(s) may be modified by the Town Board so as to correct or clarify the locations of wetlands or watercourses, to incorporate additional wetlands or watercourses, to eliminate from the jurisdiction of this Section 396 particular wetlands or watercourses that do not meet the criteria established in this Section 396, or to incorporate supplementary maps that correct, clarify, or affirm in detail the area of jurisdiction of this Section 396.

## **Section VI. Activities Allowed Without Permit (i.e. Exempt Activities)**

The following activities are exempt from the permitting requirement as set forth under this Section 396, provided they shall not cause significant adverse effect or environmental impact to the regulated areas.

- A) The depositing or removal of the natural products of the wetlands by recreational fishing, shell fishing, hunting, or trapping where otherwise legally permitted and regulated;
- B) Agriculture, as defined herein, on lands that are either (a) located within an established agricultural district adopted by Dutchess County and certified by the State of New York and qualified under Dutchess County and NYS law for an agricultural exemption by the Assessor of the Town of Washington, or (b) land located outside of an established agricultural district but which is currently receiving an agricultural exemption from the Assessor of the Town of Washington; **except** for the following activities which shall require application to the Planning Board under this Section if proposed to take place within wetlands and their associated buffer areas:
  - (1) Clear-cutting, as defined herein.
  - (2) The construction of roads that requires moving of earth or other aggregate or alters wetlands or watercourses in any way.
  - (3) Any filling of a wetland, even by deposit of soil for agricultural purposes.
  - (4) Mining as defined in 6 NYCRR § 663.2.
  - (5) The erecting of structures not required to enhance or maintain the agricultural productivity of the land.
  - (6) Draining all or part of a wetland

It is expected that exempt agricultural activities will follow sound agricultural practices as defined in this Section 396, and not result in significant adverse impacts to wetlands, watercourses and controlled areas.

- C) Timber harvesting, logging and/or forestry management pursuant to an approved management plan under NYSDEC regulations and any applicable law(s) of the Town of Washington, and administered by a cooperating consulting forester or a DEC forester, but excluding clear cutting as elsewhere defined. Notification of such activities and filing of the forest management plan with the Zoning Administrator is required prior to the commencement of such activities. Absent said approved plan, timber harvesting as defined in this Section 396 is prohibited within wetlands and controlled areas without review and approval by the Planning Board under this Section 396.
- D) Public health activities under orders and regulations of the New York State Department of Health, provided that copies of all such public health orders and regulations affecting wetlands have been filed with the Planning Board and the Zoning Administrator and that the Planning Board may request modification of such orders if it deems it necessary to implement this Section 396;

- E) Activities of the Village of Millbrook related to the operation, maintenance and expansion of the Village's public water supply system, provided that the Village notify the Town Board, Planning Board and the Zoning Administrator 15 days in advance of such activities if said activities involve otherwise regulated activities (per subsection VIII of this Section 396);
- F) Any actual and ongoing emergency activity that is immediately necessary for protection and preservation of life or property, or preservation of natural resource values. Such emergency activities include, but are not limited to: search and rescue operations; preventive or remedial activities related to contamination of streams or other bodies of water; withdrawal of water for firefighting purposes; emergency response to floods, hurricanes and other storms, fires, and other public health emergencies. Within 30 days of the end of such an emergency involving any activity which otherwise would be treated as a regulated activity under this law, the person chiefly responsible for undertaking such emergency activity shall send a written statement to the Planning Board setting forth the pertinent facts regarding such emergency, including an explanation of life, property, or resource values such activity was designed to protect or preserve. The Planning Board has the right to request additional information and, further, to require reasonable mitigation or remediation if reasonable after the cessation of the emergency;
- G) Ordinary maintenance and repair of existing structures or improved areas, including but not limited to bridges, roads, driveways, highways, railroad beds, bulkheads, docks, piers, or pilings, which do not involve expansion or increasing the size of such structures or improved areas, the use of pressure treated wood or more than routine restoration, reconstruction, rehabilitation, or modification. In cases of extensive activities that may fall under this category, it is recommended that the property owner first consult with the Zoning Administrator or Wetland Administrator before conducting such activities; and
- H) Trimming, pruning, and bracing of trees, decorative landscaping including the addition of trees and plants, and incidental removal of trees and brush, provided that those additions are not of an invasive or non-native species (see Appendix, "A" attached hereto and made part hereof).

**Section VII. Pre-Existing Lawful Activities**

- A) Pre-existing lawful activities shall mean land uses and structures legally established prior to the effective date of this Section 396. In order to have been legally established a land use activity or structure shall have been: 1) established and documented prior to the effective date of this Section 396: or 2) shall have been lawfully established in compliance with Article 24 of the New York State Environmental Conservation Law.
- B) The provisions of this Section 396 shall not apply to pre-existing lawful activities including uses and structures established prior to the effective date of this Section 396. In no event shall any pre-existing lawful activity be expanded, changed, enlarged, or altered except in accordance with the provisions of this Section 396. Should the permit, license, or approval under which any pre-existing lawful use or activity was established cease or expire, or if any pre-existing use or activity shall cease, then the activity may not be re-established and the use of such structure shall not resume except pursuant to a permit issued under the terms of this Section 396.
- C) With respect to all other uses and structures established prior to the effective date of this Section 396 said uses and structures may continue as pre-existing lawful activities and structures provided:
  - 1) A valid preliminary subdivision plat, or site plan, or special permit has been duly approved by the Planning Board and is valid and in effect as of the date of this Section 396; or

- 2) A valid building permit and/or certificate of occupancy has been lawfully issued by the Building Inspector and is valid and in effect as of the date of this Section 396; or
- 3) A use variance, or area variance, or special permit has been duly approved by the Zoning Board of Appeals (ZBA) and is valid and in effect as of the date of this Section 396.

### **Section VIII. Regulated Activities**

Activities and uses regulated under this Section 396 are those that may cause identifiable significant adverse effect(s) or environmental impact(s) as defined herein to the functions(s) served by the regulated areas(s) or the benefits(s) derived therefrom located in the Town of Washington. It shall be unlawful for any person without a written permit issued by the Planning Board to conduct any regulated activity within a regulated area as defined in this Section 396 except as herein provided. In determining whether to issue a permit, the Planning Board shall use its discretion to make a decision that is rational and supported by the evidence.

Regulated activities are those set forth in this subsection which occur or are proposed to occur within the boundary of a wetland, the boundary of a water course, or within the controlled area of a wetland or water course independent of whether the wetland or the water course or the controlled area is separated by one or more parcels or municipal boundaries. Regulated activities under this subsection shall be as follows:

- A) Any form of draining, dredging, excavation, removal of soil, mud, sand, shells, gravel, or other material or aggregate from or within any regulated area;
- B) Any form of placing, dumping, filling, or depositing of any soil, stones, sand, gravel, mud, rubbish, or fill of any kind deliberately into or on a regulated area(s);
- C) Erecting any structures, including but not limited to buildings, whether principal, accessory, or temporary, construction of any road, driveway, or motor vehicle parking facility, paving, the driving of pilings, swimming pool drainage systems, constructing wells, or installing any pipes, service lines, cable conduit or other conduit, or placing of any other obstructions whether or not they affect the ebb and flow of water in or on a regulated area
  - 1) The Zoning Administrator shall have the limited discretion to exempt the erection of certain structures under 100 square feet, but only upon a showing that a potential structure will not result in a negative impact to the beneficial functioning of a wetland, watercourse or water body. In making this determination, the Zoning Administrator may consult with the Wetlands Administrator.
- D) Placing any other obstructions within any regulated area, whether or not the same affects the ebb and flow of water.
- E) Altering and/or modifying the natural drainage patterns and/or the contours of a regulated area by changing, moving or disturbing any vegetation, soil or other natural material;
- F) Introducing any influents of high thermal content that may cause deleterious ecological effects into or on a regulated area;
- G) Stripping any area of vegetation, including clear cutting;
- H) Using or storing chemicals, dyes, fertilizers, including manure, compost, topsoil, or other organic materials, fuels, herbicides, pesticides, de-icing materials, or similar materials within or on any regulated area. This provision shall not apply in cases of emergency or in cases where the public safety may be in jeopardy;
- I) Installation of a septic tank, septic tank discharge pipe, storm water discharge outlet, roof gutter, grey water discharge pipe, or any part of any storm water management structure, or any sewer outfall within a regulated area;

- J) The discharge of treated or untreated sewage effluent, storm water discharge, or any other waste into a regulated area;
- K) The depositing or removal of the natural products of the wetlands by commercial fishing or aquaculture.

**Section IX. Permit Requirements and Procedures.**

- A) Any person proposing to conduct or cause to be conducted a regulated activity within a regulated area shall obtain the approval of the Planning Board prior to the commencement of the regulated activity. Applications for permits for regulated activities shall be filed with the Zoning Administrator. In addition:
  - 1) It shall be the responsibility of the Zoning Administrator, upon receipt of an application for approval of a regulated activity under this Section 396, to immediately refer the application to the Town's wetland consultant for assistance in making an initial determination as to whether the proposed regulated activity is subject to the requirements of this Section 396; it being the intent that the Zoning Administrator, after consultation with the Town's wetland consultant, shall at the earliest possible time determine whether a proposed activity is a regulated activity as set forth herein.
  - 2) It shall be the responsibility of the Building Inspector upon receipt of an application for a building permit to consult with the Zoning Administrator as to whether one or more of the activities proposed under a building permit application is a regulated activity as set forth in this Section 396.
- B) Application procedure; pre-application consultation. It is recommended that the applicant, prior to filing an application for a permit under the provisions of this Section 396, consult with the Zoning Administrator as to the compliance requirements related to wetlands, watercourses and water bodies as well as application procedures for the Town of Washington Planning Board.
- C) Application for a wetlands/watercourse/water body permit. The applicant shall file with the Zoning Administrator an application, in such form, in such number, and with such information as the Planning Board shall prescribe. At a minimum, the following information shall be required:
  - 1. The name, address, and telephone number of the applicant.
  - 2. Names and addresses of abutting property owners.
  - 3. A description of the proposed project as it relates to this Section 396.
  - 4. A written explanation of why the proposed activity cannot be located at another site, i.e., out of the wetland, watercourse, water body or controlled areas (i.e., Alternatives Analysis).
  - 5. A map showing all wetlands, watercourses, water bodies and controlled areas within 200 feet of the location of the proposed regulated activity, based on areas depicted on the Town Wetlands Protection Map or on a visual inspection. This map is not required to be a formal wetland delineation, but must illustrate the location of the wetlands using a scale. [The Planning Board reserves the right to require land data information for distances of greater than 200 feet based on the Board's assessment of field conditions – See subsection (C)(11), below].
  - 6. A map at a scale no greater than one inch equals 50 feet (1" = 50') and containing contour intervals of five (5) feet or less in the regulated area showing the area of wetland or watercourse directly or indirectly affected, with the location of the proposed activity thereon. The maps required by subsection (C)(5), above, and this subsection may be combined into one map.

7. A description of the vegetative cover of the area, including dominant species.
8. A description of the soil types on the site, consistent with the descriptions provided in the Dutchess County Soil Survey prepared by the Natural Resources Conservation Service (NRCS).
9. A Short Form Environmental Assessment Form (EAF) under SEQRA. The Planning Board reserves the right to require the applicant to prepare a Long Form EAF after the initial review of an application.
10. An application fee in an amount set by the Town Board, and an application review fee (escrow) in an amount set by the Planning Board.
11. Additional information. After an initial review of the information required by subsections (C)(1) – (10), above, the Planning Board may require additional information in order to make a determination on the application. When exercising its discretion to request additional information, the Planning Board shall make a brief finding detailing the reasons why the additional information is requested.

Additional information may include, but shall not be limited to, a schedule and sequence of proposed activities and the type of equipment to be used, the study of flood, erosion and other hazards at the site, and any other information deemed necessary to evaluate the proposed use in terms of the standards of this Section 396. In addition, the Planning Board may require the following additional information:

- a. The boundaries of all regulated areas within the applicant's subject property as identified and delineated in accordance with standards set forth in "The Freshwater Wetlands Delineation" prepared by the NYSDEC Division of Fish & Wildlife and the "Technical Report Y-87-1 Corps of Engineers Wetlands Delineation Manual" no more than eighteen months prior to the date of filing of the application on a topographic survey of the property and containing notation documenting the field delineation. Wetlands, waterbodies and watercourses as shown must be delineated in the field by the Wetland Administrator or another qualified individual knowledgeable about wetlands and water resources. The Planning Board, with advice from the Wetland Administrator and the CAC, will make the final decision regarding the accuracy of the delineation as depicted on the plans. The Planning Board may also at its discretion determine during review that only those areas of wetland within 200 feet of the proposed disturbance need be delineated, waiving the requirement that the entire property be delineated for smaller projects.
- b. The description of the vegetative cover of the regulated area shall include the dominant species and their wetland classified status as referred to in The National List of Plant Species That Occur in Wetlands, New York or Northeast (Region 1) published by the U.S. Fish and Wildlife Service or the most recent edition.
- c. Ground water table elevations indicating depth to ground water, direction of flow and hydrologic connections with surface water features.
- d. Location of the construction area and area proposed to be disturbed, and its relation to property lines, roads, buildings, regulated areas within a minimum of two-hundred (200) feet or such other distance as determined by the Planning Board.
- e. A wetland functional analysis consistent with the methods described in "A Rapid Procedure for Assessing Wetland Functional Capacity" by Dennis W. Magee, 1998.
- f. Applications affecting the water retention capacity, water flow, or other drainage characteristics of any wetland, watercourse or water body may require a statement

of the impact of the project on upstream and downstream areas giving appropriate consideration to flood and drought levels and the amount of rainfall.

- g. Where creation of a lake or pond is proposed, details of the construction of any dams, embankments, outlets or other water control devices and an analysis of the wetland hydrologic system including seasonal water fluctuation, inflow/outflow calculations and subsurface soil, geology and groundwater conditions.
  - h. Locations and specifications for any proposal to drain, fill, grade, dredge and clear vegetation, including areas and quantities proposed for depositing or removal, the procedures to be used and dominant species of vegetation to be removed.
  - i. Locations and details of any existing and proposed storm water drainage facilities, including any point discharges, artificial inlets, or other conveyances which would discharge into regulated areas, and measures proposed to control erosion both during and after the proposed work including a schedule for installation and maintenance for such measures.
  - j. An analysis of hydrologic systems located within and connected to the regulated areas and a narrative to explain how the regulated areas will be affected by the proposed action including water retention capacity, water flow and drainage characteristics. Applications for projects which may affect the water retention capacity, water flow, or other drainage characteristics of any pond, lake, reservoir, natural drainage system, or wetland may require inclusion of a statement and numerical calculations of the impact of the project on upstream and downstream areas, giving appropriate consideration of other than normal levels of watercourses and amounts of rainfall, specifically the 100-year storm event.
  - k. The preparation and submission of a mitigation plan that includes creation, restoration and/or enhancement of wetlands in order to offset the loss of wetland function that is anticipated as a result of the proposed action. For wetland creation, the minimum acceptable ratio of creation to disturbance will be 1.5:1. Plans will be at a level of detail sufficient to demonstrate that the mitigation plan will be acceptable for long term mitigation of potential wetland impacts, and may include an analysis of pre and post construction hydrology, planting plan, conservation easements and/or deed restrictions, maintenance and monitoring agreement and other methods to ensure the long term success of the proposal.
12. Upon receipt of an application that the Zoning Administrator determines is complete as to form he/she shall refer said application to the Planning Board for review.
13. When officially received. An application submitted under this section 396 shall be deemed received at the next regular meeting of the Planning Board at which the application is to be considered. An application shall be placed on the Planning Board agenda only after payment of the application fee and application review fees and receipt by the Board of the specified number of copies of the application including maps and any supporting documentation.
14. Planning Board review. Applications for wetland permit approval must be received by the Planning Board not less than two (2) weeks prior to the date of the regularly scheduled Planning Board meeting. Following receipt and initial review of an application, the Planning Board will refer the application for comments to the CAC. At its discretion, the Board may also request review by the Wetland Administrator. Initial comments and recommendations for additional information must be received by the Board within 30 days of such referrals.
15. Following receipt of initial comments and recommendations for additional information (if provided), the Planning Board will notify the applicant of any additional information which

may be required to deem the application complete for content. Following receipt of this additional information as applicable, the Board will determine the application to be complete for content and commence formal review.

16. Public review; public hearing. Within sixty-two (62) days of receipt of a complete application, the Planning Board shall hold a public hearing. Notice of the public hearing shall be published in the official newspapers at least ten (10) days prior to the date set for public hearing, and shall, at least ten (10) days before such hearing, mail notice thereof to the owners of property within 200 feet of the property that is the subject of the application. The notice shall state the date, time, place and subject of the public hearing at which the application will be reviewed. Such notice shall not be required for adjourned dates. The address on file in the records of the Receiver of Taxes of the Town of Washington shall be deemed conclusive as to ownership and the notice shall be deemed complete when deposited in a properly addressed postpaid envelope in the United States mail. The Planning Board may also provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of the application, including the prominent placement of one (1) or more signs on the premises that is the subject of the application notifying interested persons that an application for a site plan approval is under consideration by the Board.
17. Referral to Neighboring Municipalities. For a wetland application under this Section 396 involving property located within five hundred (500) feet of an adjacent municipality notice of any public hearing shall be given by mail or electronic transmission to the clerk of the adjacent municipality not less than ten (10) days prior to the date of said hearing.
18. Agricultural data statement. For activities on agricultural lands other than those listed in subsection VI (B) of this Section 396, an application for wetland permit approval must also contain an agricultural data statement if any portion of the project is located on property within an agricultural district containing a farm operation, or other property with boundaries within five hundred (500) feet of a farm operation located in an agricultural district. The agricultural data statement shall contain the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district which contains farm property; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.
19. Time of Decision. Within sixty-two (62) days of close of the public hearing and the completion of environmental review under SEQRA, the Planning Board shall approve, approve with modifications, or disapprove the wetland permit application. A copy of the Planning Board's decision shall be filed in the Office of the Town Clerk within five (5) days of the date of such decision, and a copy shall be mailed to the applicant. In acting to approve, with or without modifications, a wetland permit application, the Planning Board may attach such conditions and safeguards as it deems necessary to assure that the purpose and intent of these regulations are complied with. Within sixty (60) days of the date of approval or approval with modifications, the applicant shall present to the Planning Board a corrected final wetland plan in reproducible form, including any modifications required by the Planning Board as a condition of approval. Upon verification by the Planning Board that the wetland plan complies with the requirements of the approval, the plan shall be endorsed by the Planning Board Chairperson and filed with the Planning Board and the Zoning Administrator. The permittee shall not commence any site preparation, including but not limited to tree removal, removal of soil, grading, stockpiling of soil or other construction material, until the wetland plan has been endorsed by the Planning Board Chairperson.

## **Section X. Standards for Permit Decisions.**



- A. Standard for Approval: An applicant is entitled to a wetland permit under this Section if the proposed regulated activity will not result in a negative impact to the functioning of a wetland, watercourse, or water body that has been shown to have a beneficial environmental function.
- B. In granting a permit, the Planning Board may limit the same and impose reasonable conditions designed to carry out the purposes of this Section 396 and to meet the Standard for Approval. The Planning Board may require a performance bond with security acceptable to the Town in an amount and with conditions satisfactory to the Planning Board to secure compliance with the conditions and limitations set forth in the permit. Such security shall be in the form of a letter of credit, assignment of a bank account or cash deposit. If a performance bond is required by the Planning Board, the Town's planning, engineering and/or wetland consultant shall make a recommendation as to the amount of said performance bond.

Where the Planning Board finds that the mitigation requirements or conditions of a permit issued by a state or federal agency having concurrent jurisdiction over a regulated wetland or water course satisfy the requirements of this Section, the Board may issue a permit conditioned on the applicant complying with all of the conditions of such state or federal permit approval. However, such a determination shall not be construed as a refusal of jurisdiction by the Board, and the applicant's failure to comply with all conditions of such state or federal permit approval shall be deemed a violation of this Section.

- C. In reviewing an application for compliance with the aforementioned Standard for Approval, the Planning Board, in consultation with the Wetlands Administrator, CAC and the Zoning Administrator, shall be guided by the following:
  - a) Considerations: In determining whether to grant, grant with conditions or deny any permit application, the Planning Board shall consider whether the application may result in any of the following:
    - 1) Potential impacts or changes to the ecology of the wetland, and the potential for significant adverse impacts to the general environment;
    - 2) The potential impact of the project on potable water sources and watercourses;
    - 3) Flood hazards and the significant alteration of drainage patterns and hydrology
    - 4) The irreversible and irretrievable commitment of natural resources that would be involved in the proposed activity;
    - 5) The availability of practicable and feasible alternatives to the proposed action that would avoid or minimize potential adverse impacts to the wetlands', watercourses', or water bodies' natural capacity to support desirable biological life, prevent flooding, supply water, control sedimentation, prevent erosion, assimilate wastes, facilitate drainage and provide recreation and open space;
    - 6) The extent to which the exercise of property rights and the public benefit to be derived from such use may or may not outweigh or justify the possible degradation of the wetland, watercourse or water body;
    - 7) The proposed mitigation plans that are incorporated in the plan or action.
    - 8) Depositing fill, soil, vegetation or stone in a regulated area, or other modification of topographic contours.
    - 9) Disturbance or destruction of flora and fauna, endangered and threatened species and significant habitats in a regulated area.
    - 10) Influx of sediments or other materials causing increasing water turbidity and/or substrate aggradations in a regulated area.

- 11) Removal or disturbance of regulated area soils.
- 12) Destabilization of regulated area channel or bank.
- 13) Reductions and/or increases in regulated area hydrology.
- 14) Interference with the circulation of water within or through a regulated area
- 15) Damaging thermal changes and/or nutrient levels in the water supply within or through a regulated area.
- 16) Introduction of hazardous or toxic pollutants into a regulated area.
- 17) Alterations to flood flows, flood storage, storm water, upstream and downstream channel and bank stability, storm barriers and water quality of regulated areas.
- 18) Cumulative adverse effect of any proposed or reasonably anticipated future activities on regulated areas subject to the application.
- 19) A significant adverse impact on the general public health, safety and welfare
- 20) Any other fact which the Planning Board deems results in a negative impact to the functioning of regulated wetland, watercourse or water body.

D. No Permit Approval shall be considered for the proposed regulated activity by the Planning Board unless and until the applicant has demonstrated by a preponderance of the evidence, through the submission of data, analysis and other support, that:

- a. That there is no reasonable alternative to the proposed regulated activity, including a reduction in the density, intensity of use, or scope of the proposed use, or alternative site plan, which would avoid the significant adverse effect or environmental impact to the beneficial functioning of a regulated wetland, watercourse or water body which will result from the activity as proposed.
- b. That the significant adverse effect(s) or environmental impact(s) of the proposed regulated activity to the function served by the regulated area(s) or the benefits derived therefrom, has been minimized to the maximum extent feasible.
- c. Consistency with public health and safety as well as any existing Federal, State, County and local comprehensive land use plans and regulations.

**Section XI. General Wetland Permit Conditions.**

The approved permit form shall bear the following language, which form shall be signed by the permittee:

“BY THIS SIGNATURE THE PERMITTEE STATES THAT HE/SHE HAS READ THE GENERAL AND SPECIAL CONDITIONS OF THIS PERMIT, UNDERSTANDS THE REQUIREMENTS AND LIMITATIONS OF THIS PERMIT, AND AGREES TO COMPLY WITH THE CONDITIONS OF THIS PERMIT AND SECTION 396 OF THE TOWN OF CODE”.

The following General Conditions shall be conditions of all wetland permits issued pursuant to this Section 396.

- A) By acceptance of this permit the owner/applicant/permittee agrees that the permit is contingent upon strict compliance with this Section 396 of the Town of Washington Town Code and any special conditions of the Planning Board.

- B) The owner/applicant/permittee shall notify the Planning Board and the Zoning Administrator in writing not less than 72 hours in advance of the time work is commenced, and shall promptly notify the Planning Board and the Zoning Administrator in writing of the completion of work.
- C) The permitted work shall be subject to inspection by an authorized representative of the Town of Washington which may order work suspended if the public interest so requires.
- D) The Town of Washington reserves the right to suspend or revoke this permit at any time after due notice when: a) the scope of the project is exceeded or a violation of any condition of the permit or provision of the law pertinent regulations are found; b) the permit was obtained by misrepresentation or failure to disclose relevant facts; or c) newly discovered information or significant physical changes are discovered.
- E) The permittee is responsible for keeping the permit active by requesting renewal from the Planning Board, including any forms, fees or supplemental information that may be required by the Planning Board not less than thirty (30) days prior to the expiration of this Permit.
- F) This permit shall not be construed as conveying to the applicant any right to trespass upon private lands or interfere with the riparian rights of others in order to perform the permitted work or as authorizing the impairment of any right, title or interest in real or personal property held or vested in a person not party to this permit.
- G) The permittee is responsible for obtaining any other permits, approvals, easements and rights-of-way which may be required from any other governmental agency or private person, including the New York State DEC and the US Army Corps of Engineers, and the permittee shall be responsible for filing a copy of said permits with the Town of Washington Planning Board. The granting of this permit does not relieve the applicant of the responsibility of obtaining any other permission, consent or approval from any other federal, state, regional, or local government agency or department, which may be required.
- H) Any modification of this permit is subject to prior approval of by the Planning Board and confirmation of such modification shall be in the form of a written resolution.
- I) All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediment, fuels, solvents, lubricants, epoxy coating, paints, concrete, leachate or other environmentally deleterious materials associated with the project.
- J) All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or his agent as part of the permit application.
- K) All sediment and erosion control measures depicted on the approved plans shall be installed prior to commencement of the approved work and shall be continuously maintained during the term of the project. The sediment and erosion control measures shall be replaced as necessary or as directed by the Planning Board or its authorized representative.

**Section XII. Expiration of Permit.**

- A) All permits issued pursuant to this Section 396 shall expire upon completion of the activities specified and, unless otherwise indicated, shall be valid for a period of one year from the date of issue. No original permit granted pursuant to this Section 396 shall be valid for a period longer than three years from the date of issue. The approval authority may extend the time in which the activities specified in the permit must be completed if, in its opinion, such extension is warranted by the particular circumstances thereof for not to exceed two additional periods of 90 days each. A request for extension shall be made in writing to the approval authority at least 30 days prior to the expiration date of the original permit, or the first ninety-day extension.
- B) Should a permittee fail to complete the activities specified in the permit prior to the expiration of the second ninety-day extension, the original permit shall become null and void and a new

permit must be applied for. The request for a new permit shall follow the same form and procedure as the original application except that the Planning Board shall have the option to waive the public hearing if the original intent of the permit is not altered or extended in a significant way.

- C) Notice of change of ownership of the parcel covered by the permit must be filed with the Zoning Administrator no later than 30 days following the transfer of title or prior to the expiration date of the permit, whichever is earlier. Failure to comply with this notice procedure will invalidate the permit. The expiration date for the permit will remain the same, and the provisions for extension of the permit will still apply. The new property owner must sign the permit acknowledging all requirements, conditions and obligations required by the permit before work can commence or continue. This shall be a condition attached to all permits issued under this Section 396.

#### **Section XII. Enforcement.**

- A) This Section 396 shall be enforced by the Zoning Administrator or his or her designee.
- B) The Town Board, or, with Town Board approval, the Zoning Administrator or other proper official, is specifically empowered to seek injunctive relief restraining any violation, threatened violation or breach of any permit condition under the provisions of this Section 396, and/or to compel the restoration of the affected regulated area to its condition prior to the violation, or breach of any permit condition. If the Town is successful in obtaining preliminary and/or permanent injunctive relief, it shall be entitled to an award by the court of its reasonable attorney's fees.

#### **Section XIII. Penalties.**

Any person convicted of having violated or disobeyed any provision of this Section 396, or any condition attached by the approval authority in a permit granted pursuant to this chapter shall, for the first offense, be punishable by a fine of not less than \$1,000. For each subsequent offense, such person shall be punishable by a fine of not less than \$2,000 or more than \$15,000, and/or imprisonment of not more than 15 days. Each consecutive day of the violation shall be considered a separate offense.

#### **Section XIV. Effect of other laws and regulations.**

No permit granted pursuant to this chapter shall remove an applicant's obligation to also comply in all respects with the applicable provisions of any other federal, state or local laws or regulations, including but not limited to, the acquisition of any other permit or approval.

## **ARTICLE IV - ENFORCEMENT AND ADMINISTRATION**

### **Section 400. <sup>69</sup>GENERAL**

The provisions of said local law shall be enforced and administered through the cooperative effort of the Building Inspector, the Zoning Administrator, Town Board, Zoning Board of Appeals, and the Planning Board in the manner prescribed below for the submission of plans, issuance of permits, conduct of hearings, and prosecution of violations. In all matters pertaining to the protection of natural resources or historic sites, these authorities shall consult with the Conservation Advisory Commission and carefully weigh its recommendations.

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<sup>69</sup> Section 400 amended; Local Law #1 of the year 2005 on 04/14/05. <sup>53</sup>  
Section 401 amended; Local Law #6 of the year 2007 on 11/8/07.

Section 401. <sup>53</sup>NORMAL SEQUENCE OF STEPS

All persons desiring to undertake any new construction, structural alteration, or changes in the use of a building or lot shall notify the Building Inspector by filling out the appropriate application form and submitting the required fee pursuant to the provisions of the Fire Prevention and Building Code of the Town of Washington.

Section 402. <sup>70</sup>FEE SCHEDULE

1. All applications submitted pursuant to this Local Law shall be accompanied by the applicable fee that shall be used to cover review, administrative, and stenographic costs. The fees shall be set forth in the fee schedule established annually by resolution of the Town Board. The fee schedule shall be available at the Town Hall.
2. If the Town Board, Planning Board, or Zoning Board of Appeals finds it necessary to retain counsel, planning consultants, engineers or other experts to review a particular project, an escrow deposit may be required from which additional reasonable administrative and review costs may be charged back to the applicant. Administrative costs which may be charged back to the applicant shall also include necessary stenographic time charges, copying and mailing charges related to the specific project or issue under review. When a board establishes an escrow requirement, the applicant must maintain a positive escrow account balance as required by the Board. If an applicant fails to maintain the escrow account, or fails to pay charges for these costs, the board shall be entitled to defer further consideration of the subject application until the escrow is restored, or the costs paid, as the case may be.

Section 403. <sup>71</sup>COMPLIANCE WITH THE ZONING LAW FOR CERTAIN TOWN ACTIONS

1. Upon receipt of written order, pursuant to section 410(3) below, from the Zoning Administrator that a violation of this Local Law exists at a property, no Building Permit or Certificate of Occupancy shall be issued for any use for such property. Further, the Planning Board or the Zoning Board of Appeals, as the case may be, shall not review, hold public meetings or public hearings on, and shall take no action regarding an application for special use approval, site plan approval, subdivision approval, area variance approval, use variance approval, or interpretation

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<sup>70</sup> Section 402 amended; Local Law #1 of the year 2005 on 04/14/05.

<sup>71</sup> Section 403 amended; Local Law #1 of the year 2005 on 04/14/05. <sup>56</sup>

Section 410 amended; Local Law #1 of the year 2005 on 04/14/05.

in relation to the subject property until notified by the Zoning Administrator that such violation has ceased or been cured.

2. If no written order pursuant to Section 410(3) has been issued against a property, nothing in this Section shall be deemed to prevent the Zoning Board of Appeals or Planning Board from reviewing and acting upon an application from the property owner to cure an existing violation on that property.

Section 410. <sup>56</sup>POWERS AND DUTIES OF THE ZONING ADMINISTRATOR

1. Except as otherwise provided, it shall be the duty of the Zoning Administrator to enforce literally the provisions of this Local Law and of all the rules, regulations, conditions and requirements adopted or specified pursuant thereto, and to enforce strict compliance with all conditions attached to approvals issued by the Zoning Board of Appeals and the Planning Board.
2. The Zoning Administrator may, from time to time, promulgate such application forms, rules and regulations as deemed necessary for the proper administration and enforcement of this Local Law.
3. The Zoning Administrator is authorized to make all inspections which are necessary or proper for carrying out his or her duties and shall, if necessary, obtain a search warrant or court order to conduct such inspections. The Zoning Administrator is further authorized to issue a written order, to the owner of the property or the owner's agent, to cease and desist any conditions found to be in violation of this Local Law, and to cure such violation within a reasonable period of time. Such order shall be in writing and may be served upon a person to whom it is directed by delivering it personally to him or her or by sending a copy of the same by first-class mail to the address for the property on file in the tax assessment roll.
4. The Zoning Administrator shall keep a record of every identifiable complaint of a violation of any of the provisions of this Local Law, whether reported by private citizens or by any board, agency, officer or employee of the Town, and such record shall show the action taken on each such complaint. The Zoning Administrator shall make a report to the Town Board, in writing, at least once every three (3) months, listing all reported or continuing violations of this Local Law and the disposition or pending action of such violations.

Section 411. <sup>72</sup>POWERS AND DUTIES OF THE BUILDING INSPECTOR

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<sup>72</sup> Section 411, amended; Local Law #6 of the year 2007 on 11/8/07.

The powers and duties of the Building Inspector can be found in the Fire Prevention and Building Code of the Town of Washington.

## Section 420. ZONING BOARD OF APPEALS

This Local Law shall be administered by the Town of Washington Zoning Board of Appeals with the cooperation of the Zoning Administrator and the Planning Board. The Zoning Board of Appeals shall perform all the duties and powers prescribed by the Laws of New York State and by this Local Law as regards appeals to review decisions of the Zoning Administrators, to grant variances, and to resolve questions of interpretation. In administering this Local Law the Zoning Board of Appeals shall act in strict accordance with the procedures specified herein as well as the Laws of New York State.

- <sup>73</sup>1. Appeals for Review. The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, and determination made by the Building Inspector or the Zoning Administrator, as well as hear and decide all matters referred to it or upon which it is required to pass under the provisions of this Local Law in accordance with the procedure outlined by Section 460, Appeals, of this Local Law.
- <sup>74</sup>2. Appeals for Variance. The Zoning Board of Appeals shall have the power in passing upon appeals, to vary or modify the application of any of the regulations or provisions of this Local Law relating to the use, construction, or alteration of buildings or structures, or the use of land, so that the spirit of this Local Law shall be observed, public safety and welfare secured, and substantial justice done.

  - a. Use Variances.

    - (1) The Zoning Board of Appeals, upon appeal from the decision or determination of the Zoning Administrator, shall have the power to grant use variances authorizing a use of land which otherwise would not be allowed or would be prohibited by the terms of the Zoning Code of the Town of Washington.
    - (2) No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that the applicable regulations and restrictions imposed by the Zoning Code of the Town of Washington have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,

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<sup>73</sup> Section 420, paragraph 1 amended; Local Law #1 of the year 2005 on 04/14/05.

<sup>74</sup> Section 420, paragraph 2 amended; Local Law #6 of the year 2007 on 11/8/07.

- (a) that the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  - (b) 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;
  - (c) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - (d) that the alleged hardship has not been self-created.
- (3) The Zoning Board of Appeals, in the granting of 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.

b. Area Variances.

- (1) The Zoning Board of Appeals, upon appeal from the decision or determination of the Zoning Administrator, shall have the power to grant area variances authorizing the use of land in a manner which is not allowed by the dimensional or physical requirements of the Zoning Code of the Town of Washington.
- (2) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the area 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 Zoning Board of Appeals shall also consider each of the following factors:
  - (a) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  - (b) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue, other than an area variance;
  - (c) whether the requested area variance is substantial;
  - (d) whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district; and
  - (e) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not



necessarily preclude the granting of the area variance.

- (3) The Zoning Board of Appeals, 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.
  - c. Imposition of conditions. The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
3. Appeals for Interpretation. The Zoning Board of Appeals shall, upon appeal from a decision by an administrative official, decide any questions involving the interpretation of any provision of this Local Law, including determination of the exact location of any district boundary if there is uncertainty with respect thereto pursuant to the procedures outlined by Section 460, Appeals, of this Local Law.

#### Section 430. PLANNING BOARD

The Planning Board shall review applications for special permits, wetland permits, and site plan approval, and any other applications or appeals in accordance with applicable criteria of this Local Law and pursuant to procedures outlined herein.

#### Section 440. <sup>75</sup>BUILDING PERMITS

No building or structure shall be erected, added to, or structurally altered until a Building Permit therefor has been issued pursuant to the Fire Prevention and Building Code of the Town of Washington. Except upon a written order of the Zoning Board of Appeals, no such Building Permit shall be issued for any building where the erection, addition, alteration or use thereof would be in violation of any of the provisions of this Local Law.

#### Section 450. <sup>76</sup>CERTIFICATES OF OCCUPANCY

No building or structure shall be occupied or used, and no building hereafter erected, altered or extended shall be used or changed in use until a Certificate of Occupancy shall have been issued by the Building Inspector pursuant to the Fire Prevention and Building Code of the Town of Washington.

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<sup>75</sup> Section 440 amended; Local Law #6 of the year 2007 on 11/8/07.

<sup>76</sup> Section 450 amended; Local Law #6 of the year 2007 on 11/8/07.

## Section 460. APPEALS

An appeal from any ruling of any administrative officer administering any portion of this Local Law may be taken by any person aggrieved, or by an officer, board, or bureau of the Town affected thereby to the Zoning Board of Appeals. The following shall guide the Zoning Board of Appeals' conduct in handling appeals for review, variance, and interpretation.

- <sup>77</sup>1. Application. Appeals shall be taken by filing a written application with the Town Clerk on forms prescribed by the Zoning Board of Appeals. Such application shall refer to the specific provision of this Zoning Law for which the appeal is sought, the variance requested, or the interpretation claimed. The Town Clerk shall record receipt of the application and promptly transmit it to the Zoning Board of Appeals. If the applicant seeks to appeal the decision of the Building Inspector or the Zoning Administrator, that official shall promptly transmit all the papers constituting the record of the action appealed to the Zoning Board of Appeals.
2. Referral to County Planning Department. Request for variances affecting real property within five hundred (500) feet of the boundary of the Town of Washington, or the boundary of any existing or proposed County or State park or other recreational area, or the boundary of any existing or proposed County or State roadway, or the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, or the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated shall be referred to the Dutchess County Planning Department pursuant to General Municipal Law, Article 12-B, Sections 239-l and 239-m, as amended.
- <sup>78</sup>3. Hearing and Public Notice. The Zoning Board of Appeals shall fix a reasonable time for the hearing of appeals or other matters referred to it, and at least five (5) days prior to the date thereof the applicant shall give public notice thereof by causing the publication of a notice of such hearing in the official newspaper and by mailing a notice thereof to the parties involved and to the regional park commission having jurisdiction over any State park within five hundred (500) feet of the property affected. Written notice of the hearing shall be given at least ten (10) days prior thereto to the owners of land within five hundred (500) feet of the site. At the hearing any party may appear in person or by agent or by attorney. Upon the day for hearing any appeal, the Zoning Board of Appeals may adjourn the hearing for a reasonable period for the purpose of causing such further

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<sup>77</sup> Section 460, paragraph 1 amended; Local Law #1 of the year 2005 on 04/14/05.

<sup>78</sup> Section 460, paragraph 3 amended by adding new second sentence; Local Law #1 of the year 1994 on 06/09/94. <sup>64</sup> Section 460, paragraph 4 subsection c. amended; Local Law #1 of the year 2005 on 04/14/05. Stated in Local Law as (c).

notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal.

4. **Action.** In the exercise of its functions upon appeals, the Zoning Board of Appeals may, in conformity with the provisions of this Local Law, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination in accordance with the provisions hereof.
  - a. Any such action shall be decided within sixty (60) days after the final hearing.
  - b. Every decision of the Zoning Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Zoning Board of appeals in the particular case.
  - <sup>64</sup>c. A majority vote of a majority of the members of the Zoning Board of Appeals shall be necessary to deny, approve, uphold or reverse any order, requirement, decision, or determination either of the Zoning Administrator or the Building Inspector. A majority vote of the Zoning Board of Appeals is necessary in order to decide any matter upon which it is required to pass under the terms of this Local Law or to effect any variation of this Local Law.
  
5. **Filing.** Every rule, regulation, amendment, or repeal thereof and every order, requirement, decision, or determination of the Zoning Board of Appeals shall be filed immediately in the office of the Town Clerk, and shall be a public record.
  
6. **Re-hearing and Review of Prior Decisions.** Upon motion initiated by any member and adopted by the unanimous vote of the members present, but not less than a majority of all the members, the Zoning Board of Appeals shall review at a re-hearing held upon notice given as upon an original hearing, any order, decision, or determination of the Zoning Board of Appeals not previously reviewed. Upon such re-hearing, and provided it shall then appear that the rights vested prior thereto in persons acting in good faith in reliance upon the order, decision, or determination reviewed will not be prejudiced thereby, the Zoning Board of Appeals may, upon the concurring vote of all the members then present, reverse, modify, or annul its original order, decision, or determination.
  
7. **Court Review of Board Decisions.** 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 Town, may apply to the Supreme Court for review by a proceeding under Article Seventy-eight of the Civil Practice Law and Rules.
  
8. **Expiration of Appeal Decision.** Unless otherwise specified by the Zoning Board of Appeals, a decision on any appeal shall expire if the applicant fails to obtain any necessary building permit or comply with the

conditions of said authorized permit within six (6) months from the date of authorization thereof.

9. Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies for the Zoning Board of Appeals, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, it would, in his 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 the Supreme Court on application, on notice to the Zoning Administrator for due cause shown.

#### Section 470. <sup>79</sup>SPECIAL PERMITS

The Planning Board or the Zoning Board of Appeals, as specifically authorized by Section 334 and Section 391 of this Local Law, shall issue special permits where required by this Local Law for uses whose special characteristics necessitate consideration of each specific use as an individual case. These uses are identified in the Schedule of District Use Regulations (Appendix A). In addition, the following require special permits from the Planning Board:

1. Certain uses in the APO Overlay Zone (Section 315)
2. Certain Home Occupations (Section 321)
3. Stripping of Topsoil (Section 329)

#### Section 471. APPLICATION

Application for a special permit shall be made to the Zoning Administrator prior to consideration of a building permit or certificate of occupancy for any use requiring a special permit. Upon receipt of such application, the Zoning Administrator shall, within five (5) days of its receipt, forward the application to the Planning Board or the Zoning Board or Appeals, as specifically authorized by Sections 338 and 391 of this Local Law.

#### Section 472. REQUIRED SPECIAL PERMIT PLANS

An application for a special permit shall be accompanied by plans and other descriptive matter sufficient to clearly portray the intentions of the applicant. Such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, and any other pertinent information that may be necessary to determine whether or not the proposed special use meets the requirements of this Local Law. Where development in phases is proposed, such phasing shall be indicated. The special permit plan shall also meet the requirements for site plans as stated in Section 483 of this Local Law unless in the discretion of the Planning Board or Zoning Board of Appeals, as the case may be, selected site plan

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<sup>79</sup> Section 470 amended; Local Law #3 of the year 1990.

requirements shall not be required for certain types of special permit use applications. The Planning Board or Zoning Board of Appeals, as the case may be, may promulgate rules and regulations as to which specific requirements may be omitted for certain types of special permit uses.

#### Section 473. STANDARDS

Special permits shall be issued by the Planning Board or Zoning Board of Appeals, as the case may be, only when such Board is satisfied with conditions proposed regarding the general character, height, and use of structure or structures; the provision of surrounding open space and treatment of grounds; the general fitness of the structure or use for the proposed location; the provision for automobile parking or storage; street capacity and use; public health, comfort, and convenience; preservation of the general character of the neighborhood; and standards established by this Local Law. Further, in issuing a special permit the Planning Board or Zoning Board of Appeals must make written findings that:

1. The use is a permitted special use as set forth in the Schedule of <sup>80</sup>District Use Regulations (Appendix A).
2. The use is so designed, located, and proposed to be operated that the public health, safety, welfare, and convenience will be protected.
3. The use will not diminish groundwater or surface water quality.
4. The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.
5. The lot size and lot coverage are appropriate to the use.
6. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
7. The location, nature, and height of buildings, walls, and fences, and the nature and extent of the landscaping on the site, are such that the use will not hinder or discourage the appropriate development and use of adjacent land buildings.
8. Operations in connection with the special use will not be more objectionable to nearby properties by reason of noise, fumes, noxious vibration, glare, or flashing lights, than would be the operations of any permitted use.

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<sup>80</sup> Stated in Zoning Law as Schedule of Use Regulations. Should be Schedule of District Use Regulations.

9. The use will not cause undue traffic congestion or create a traffic hazard.
10. Parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.
11. The use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.
12. If there are phases planned, then the impact of all phases may be a factor in determining the appropriateness of the use.
13. The use conforms with all applicable regulations governing the district where it is located, including any overlay zones designed to protect special features of the property.
14. The site plan for the use satisfies the requirements of Section 485 of this Local Law, Standards for Review and Design.

#### Section 474. REFERRAL TO COUNTY PLANNING DEPARTMENT

Requests for special permits affecting real property within five hundred (500) feet of the boundary of the Town of Washington, or the boundary of any existing or proposed County or State park or other recreational area, or the boundary of any existing or proposed County or State roadway, or the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, or the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated, shall be referred to the Dutchess County Planning Department pursuant to General Municipal Law, Article 12-B, Sections 239-l and 239-m, as amended.

#### Section 475. <sup>6</sup>HEARING AND PUBLIC NOTICE

The Planning Board or Zoning Board of Appeals, as the case may be, shall fix a reasonable time for a public hearing on a special permit at least ten (10) days prior to the date thereof. The applicant shall give public notice thereof by causing publication of a notice of such hearing in the official newspaper, and by mailing a notice thereof to the parties involved and to the regional park commission having jurisdiction over any State park within five hundred (500) feet of the property affected. At least ten (10) days' advance notice shall be given to owners of land within five hundred (500) feet of the proposed site. At the hearing any party may appear in person or by agent or by attorney. Upon the day for hearing any appeal, the Planning Board or Zoning Board of Appeals may adjourn the hearing for a reasonable period for the purpose of causing such further notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal.

#### Section 476. ACTION

After public hearing the Planning Board or Zoning Board of Appeals, as the case may be, in conformity with this Local Law, may grant, grant with conditions or modifications, or deny issuance of a special permit by a concurring vote of a majority of the members of the presiding Board. Every such action shall be by resolution, each of which shall contain a full record of findings of the presiding board in the particular case.

#### Section 477. EXPIRATION

A special permit shall be deemed to authorize only the particular special use or uses permitted in any district, and shall expire if the special use or uses shall cease for more than twelve (12) months for any reason or if the applicant fails to obtain the necessary building permit or fails to comply with the conditions of said permit within six (6) months of the date of authorization thereof.

#### Section 478. EXISTING VIOLATIONS

No permit shall be issued for a special use for a property where there is an existing violation of this Local Law.

#### Section 480. <sup>67</sup>SITE PLAN REVIEW AND APPROVAL

<sup>66</sup> Section 475 amended by adding a new third sentence; Section incorrectly stated in Local Law as Section 474, should be 475; Local Law #1 of the year 1994 on 06/09/94.

<sup>65</sup> Section 480 amended; Local Law #1 of the year 1994 on 06/09/94.

A. The Planning Board shall review site plans for those uses which possess characteristics that necessitate site plan review in each case. This site plan review and approval process regulates the development of structures and sites in a manner which considers the following concerns and, where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:

1. The balancing of landowners' rights to use their land with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (such as noise, smoke, fumes, dust, odor, glare, stormwater runoff);
2. The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;
3. The adequacy of waste disposal methods and protection from pollution of surface or groundwater; and

4. The protection of historic and natural environmental features <sup>81</sup>on the site under review, and in adjacent areas.
- B. Before the issuance of any building permit or certificate of occupancy for a use requiring site plan approval as required by this zoning law, the detailed site plan for such use shall be approved by the Planning Board and no development shall be carried out, except in conformity with such site plan.

Section 481. <sup>82</sup>APPLICABILITY OF SITE PLAN REVIEW AND APPROVAL

- A. Site Plan Review and Approval shall be required for the following uses:
  1. Those uses shown in Appendix A as requiring special permits or site plan approval and those <sup>83</sup>uses for which other sections of this Zoning Law require special permits.

- <sup>84</sup>2. All uses requiring a variance, except that the Zoning Board of Appeals shall have discretion with regard to variance requests for one and two family residences, by specific finding, to (i) grant the variance without any further need for site plan approval, (ii) grant the variance with conditions without any further need for site plan approval or (iii) refer the application to the Planning Board to complete the Site Plan Review and Approval process.
3. Unless waived as provided by Section 481(B), all site plan changes.
4. All changes in use except for a change to a Single Family or Two Family Dwelling which will be occupied as such and Agricultural/Farm uses which will not sell to the public at the subject property.
5. Any uses in an <sup>85</sup>HM or I Floating District.
6. Certain uses in the EP Floating District as described in Section 316(4).

<sup>86</sup>B. In the case of a change of use or a variance which does not require additional construction or site modifications or in the case of minor changes requiring a Building Permit, the Planning Board may determine that the site plan application procedures outlined herein are not applicable. This determination shall be made by the Planning Board after receipt of a recommendation from the Building Inspector or the Zoning Administrator, as applicable.

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<sup>81</sup> Stated in Local Law as “and”. Should be “on”.

<sup>82</sup> Section 481 amended; Local Law #1 of the year 1994 on 06/09/94.

<sup>83</sup> Stated in Local Law as “used”. Should be “uses”.

<sup>84</sup> Section 481, paragraph A.2. amended; Local Law #1 of the year 2003 on 01/02/03.

<sup>85</sup> Stated in Local Law as “MH”. Should be “HM”.

<sup>86</sup> Section 481, paragraph B amended; Local Law #1 of the year 2005 on 04/14/05.



## Section 482. APPLICATION

Application for Site Plan Review and Approval shall be made to the Zoning Administrator. Site plan review and approval shall also be required for the resumption of any use listed in Section 481 which is discontinued for more than one (1) year, or for the expansion of any such existing use. An applicant for Site Plan Review and Approval under this Section shall file with the Zoning Administrator five (5) copies each of the site plan application and required plans. Upon receipt of such application, the Zoning Administrator shall, within five (5) days of its receipt, forward the application to the Planning Board.

## Section 483. REQUIRED PLANS

An application for Site Plan Review and Approval shall be accompanied by plans and descriptive matter sufficient to clearly portray the intentions of the applicant. For proposals that will have a minimal impact on surrounding properties, the Planning Board may, in its discretion, waive any of the requirements of this Section for specific applications. Site plan shall be prepared by a registered professional engineer, architect, or landscape architect, and shall include the following:

1. Name of the project, boundaries, date, north arrow, and scale of the plan.
2. Name and address of the owner of record, developer, and seal of the engineer, architect, or landscape architect.
3. Vicinity map drawn at the scale of two thousand (2,000) feet to the inch or larger that shows the relationship of the proposal to existing community facilities which affect or serve it, such as roads, shopping areas, schools, etc. The map shall also show all properties, subdivisions, streets, and easements within five hundred (500) feet of the property on which the use for which application is made is proposed to be situated. Such a sketch may be superimposed on the most recent United States Geological Survey map of the area.
4. Site plan drawn at a scale of forty feet to the inch (1" = 40') on standard 24" x 36" sheets, with continuation on 8 1/2" x 11" sheets as necessary for written information.
5. The location and use of all existing and proposed buildings and structures within the development, including all dimensions of height and floor area, all exterior entrances, and all anticipated future additions and alterations.
6. The location of all present and proposed public and private ways, offstreet parking areas, driveways, outdoor storage areas, sidewalks, ramps, curbs, fences, paths, landscaping, walls, and fences. Location, type, and screening details for all waste disposal containers shall also be shown.

7. The location, height, intensity, and bulb type (sodium, incandescent, etc.) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
8. The location, height, size, material, and design of all proposed signage.
9. The location of all present and proposed utility systems including:
  - a. Sewage or septic system;
  - b. Water supply system;
  - c. Telephone, cable, and electrical system; and
  - d. Storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.
10. Plan to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
11. Existing and proposed topography at five (5) foot contour intervals. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the 100-year floodplain, the area will be shown, and base flood elevations given. Indicate areas within the proposed site and within fifty (50) feet of the proposed site, where ground removal or filling is required, and give its approximate volume in cubic yards.
12. A landscape plan showing all existing natural land features that may influence the design of the proposed use such as rock outcrops, single trees eight (8) or more inches in diameter, forest cover and water sources, and all proposed changes to these features including size and type of plant material. Water sources include ponds, lakes, wetlands and watercourses, aquifers, floodplains, and drainage retention areas.
13. Zoning district boundaries within five hundred (500) feet of the site's perimeter shall be drawn and identified on the plan.
14. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within one hundred (100) feet of the site. The Planning Board may at its discretion require a detailed traffic study for large developments or for those in heavy traffic areas to include:
  - a. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
  - b. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
  - c. The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed

daily and peak hour traffic levels as well as road capacity levels shall also be given.

15. For new construction or alterations to any building, a table containing the following information must be included:
  - a. Area of building to be used for a particular use such as retail operation, office, storage, etc.;
  - b. Maximum number of employees;
  - c. Maximum seating capacity, where applicable; and
  - d. Number of parking spaces existing and required for the intended use.
16. Elevation plans at a scale of one-quarter inch equals one foot ( $\frac{1}{4}'' = 1'$ ) for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features and indicating the type and color of materials to be used.
17. For large or environmentally intrusive developments, the Planning Board may request soil logs, percolation test results, and storm runoff calculations.
18. Plans for disposal of construction and demolition waste, either on-site or at an approved disposal facility.

Section 484. <sup>87</sup>NOTICE AND MEETING WITH APPLICANT

Upon receipt of the application and after it has given at least ten (10) days' advance notice to owners of land within five hundred (500) feet of the proposed site, the Planning Board shall notify the applicant in writing of the place, date, and time of the meeting of the Planning Board at which the application is to be considered and request the applicant's presence to discuss the application.

Section 485. <sup>88</sup>STANDARDS FOR REVIEW AND DESIGN

Site Plan Design Criteria. The following criteria and standards are intended to provide a framework for site plan approvals within which the site designer is free to exercise creativity, inventiveness, and innovation while recognizing the historic scenic and visual qualities inherent in the Town of Washington. The following standards are in addition to any other site plan, special permit and subdivision requirements of this Zoning Code.

1. Relationship of proposal to the Town Master Plan and Official Map:
  - a. Due attention by the applicant shall be given to the goals, objectives and the stated land use policies for the Town in the specific area in which the development is proposed. The Planning

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<sup>87</sup> Section 484 amended (changed heading); Local Law #1 of the year 1994 on 06/09/94.

<sup>88</sup> Section 485 amended; Local Law #1 of the year 2003 on 01/02/03.

Board shall determine whether the site use, site design and site architecture proposed by an applicant comply with the land use and environmental protection policies and objectives of the Town of Washington.

- b. In the site plan and design, consideration shall be given to the use of traditional building forms and layouts which are evidence of the distinctive historic development of the area and, in particular, of any specially designated or recognized scenic and historic districts within the vicinity of the proposed development.

2. Relationship of Structures and Buildings to Site:

- a. The site shall be planned to accomplish a desirable transition with the streetscape to provide for adequate planting, safe pedestrian movement and safe ingress, egress and parking for vehicles.
- b. Site planning in which setbacks and yards are in excess of minimum area and bulk requirements is encouraged to provide a variation in relationship between buildings.
- c. Parking shall, wherever feasible, be located to the rear or sides of buildings so as not to interfere with the front landscape treatment.
- d. Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and the existing, or anticipated, adjoining buildings. The Planning Board shall determine the visual compatibility of a proposed use or site plan change including concerns for the proportion of the property's front façade, proportion and arrangement of windows and other openings within the façade (i.e. fenestration), roof shape and the rhythm or spacing of properties along the street or roadway, including consideration of setbacks and the treatment of yard areas.
- e. Newly installed and renovated utility services, and service revisions necessitated by exterior alterations shall be underground unless otherwise allowed by the Planning Board.
- f. A non-residential use on a single lot or parcel may include more than one building on that lot provided that collectively the total amount of building coverage on a single lot does not exceed the maximum building coverage for the district in which the building is located.

3. Relationship of Buildings and Site to Adjoining Areas:

- a. Site plans proposed for non-residential uses adjacent to a residential district shall be reviewed with regard to the impact of the development on that district.
- b. The Planning Board shall encourage the use of a combination of common materials, landscaping, buffers, screens and visual interruptions to create attractive transitions between buildings of different architectural styles.

- c. All buildings in the plan shall be integrated with each other and with adjacent buildings and shall have convenient access to and from adjacent uses.
  - d. Individual buildings shall be related to each other and to traditional structures in the surrounding area in architecture, design, masses, materials, placement and connections to harmonize visually and physically with traditional elements in the architectural fabric of the area.
4. Landscape, Buffering and Site Treatment:
- a. Where possible, natural or existing topographic patterns, which contribute to beauty and character of a development, shall be preserved.
  - b. Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting appearance and shall be of such width, as determined by the Planning Board, to easily accommodate pedestrian movement.
  - c. Landscape treatment shall be provided to enhance architectural features, strengthen vistas and visual corridors and provide shade.
  - d. Unity of design shall be achieved by repetition of certain plant varieties and other materials and by coordination with adjacent developments.
  - e. Plant material shall be selected for interest in its structure, texture and color and in consideration of its ultimate growth pattern. Plants that are indigenous to the area and others that will be harmonious to the design and exhibit a good appearance, shall be used.
  - f. In locations where plants will be susceptible to injury by pedestrian or motor traffic, appropriate curbs, tree guards, or other devices shall protect them.
  - g. Parking areas and traffic ways shall be enhanced with landscaped islands, containing trees and tree groupings.
  - h. Screening of service yards, commercial vehicles, commercial trailers, passenger vehicles, parking areas, refuse containers and other places that tend to be unsightly, shall be accomplished by use of walls, fencing, planting or combinations of these, with all such enclosures being compatible in material, texture and color with the principal building or buildings on the site.
  - i. Landscaping shall be designed and maintained so as not to create hazardous conditions.
  - j. Landscaping shall be maintained to preserve its original integrity and intended purpose during the entire life of the proposed use or project.
  - k. Landscaping shall be an integral part of the entire project area, and shall buffer the site from and/or integrate the site with surrounding areas, as appropriate.

- l. Primary landscape treatment shall consist of shrubs, ground cover, and shade trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to the growing conditions of the Town's environment.
- m. Whenever appropriate, existing trees shall be conserved and integrated into the landscape design plan.
- n. There shall be an adequate, safe, and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking, and loading space.
- o. Roads, pedestrian walks, and open space shall be designed as integral parts of an overall site design, be properly related to existing and proposed buildings, and be appropriately landscaped.
- p. Buildings and vehicular circulation areas shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
- q. Landscaped, paved, and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas, and adjacent buildings.
- r. Materials and design of paving, light fixtures, retaining walls, fences, curbs, benches, etc., shall be of good appearance, easily maintained, and indicative of their function.
- s. Pedestrian connection between parking areas and buildings shall be provided by special pedestrian walkways.

5. Lighting:

- a. Exterior lighting shall enhance the building design and the adjoining landscape. Lighting standards and building fixtures shall be of a design and size compatible with the building and adjacent areas, as determined by the Planning Board.
- b. The number of light standards and the intensity of lighting shall be appropriate to illuminate the location for safety without glare to adjoining properties, as determined by the Planning Board.
- c. Lighting standards shall be appropriate to the design of the structures and shall not exceed fifteen (15) feet in height.
- d. The light level at the lot line shall not exceed .02 footcandles, measured at ground level. To achieve this, luminaires shall be shielded to prevent light from shining beyond the lot lines onto neighboring properties or public ways. Where residential uses adjoin commercial uses, light standards shall be restricted to a maximum of fifteen (15) feet in height. In addition, all lighting (except for security purposes) shall be turned off between 11 p.m. and 6 a.m. Exceptions may be considered for those businesses which are operating during these hours.

6. Building Design

- a. Proposed building design shall recognize compatible building forms indigenous to the community and in particular of the historic character of the Town of Washington. Adaptive re-use of existing structures is encouraged.
- b. Materials proposed for new structures and rehabilitation/redesign of existing structures shall have good architectural character and shall be selected for harmony with traditional building materials.
- c. Building components such as windows, rooflines, doors, eaves, trim and parapets, shall have well designed proportions and relationships to one another and be compatible with the historic character of the Town of Washington.
- d. Mechanical equipment such as air conditioners, satellite dishes or other utility hardware located on roofs, the ground or buildings shall be screened from public view with materials harmonious with the building, specified as to color so as to blend with their surroundings, or located as not to be visible from any public way or lands.
- e. Treatment of the sides and rear of all buildings shall be comparable in amenity and appearance to the treatment given to street frontages of these same buildings.
- f. The design of buildings and the parking facilities shall take advantage of the topography of the project site where appropriate.
- g. All buildings shall be oriented to ensure adequate light and air exposures to the rooms within.
- h. All buildings shall be arranged to avoid undue exposure to concentrated loading or parking facilities wherever possible, and shall be oriented to preserve visual and auditory privacy between adjacent buildings.
- i. All buildings shall be accessible to emergency vehicles.
- j. Drainage of the site and surface waters flowing therefrom shall not adversely affect adjacent properties or public roadways.
- k. Access from and egress to public highways shall be approved by the appropriate Highway Department, including Town, County, State, and Federal, to the extent that said Highway Department or Departments have jurisdiction over such access.
- l. Wherever appropriate, the siting principles within the Visual Resource Mapping Series described in Section 220 of this Local Law shall be observed.
- m. Additional site plan requirements and standards for review set out in other sections of this Local Law shall be observed.
- n. Proper disposal of construction and demolition waste shall be provided, including any necessary permits or agreements for offsite disposal.

7. Parking and Loading:

- a. The Planning Board may allow parking spaces within a front building setback line, if it finds that such parking will not detract

from the aesthetic character of the district and is otherwise consistent with the purposes of this Section. The Planning Board may reduce the number of off-street parking spaces required if the applicant can make permanent arrangements for space-sharing with other residential or non-residential uses, or can otherwise show that the parking standards in Appendix C are excessive for the particular use proposed. Additionally, the Planning Board shall determine the dimensional requirements for access and internal driveways for the particular use proposed, and may require larger dimensions for site driveways and access roads than the minimum dimensions stated elsewhere in the Town Zoning Code. The Board shall, as much as practicable, locate driveways for nonresidential uses so that the centerline of such a driveway shall line up with the centerline of a street or driveway opposite the proposed use.

- b. Notwithstanding the requirements for off-street loading spaces as specified in Sections 380, 381 and 382 of this Zoning Code, the Planning Board may require additional space(s) for delivery vehicle loading, may require larger dimensions for each loading space (including additional setback from adjacent buildings and structures), and may require larger dimensions and means of access for vehicles to such loading spaces than may be stated elsewhere in the Town Zoning Code.
- c. All parking areas shall be set back a minimum of twenty (20) feet from all boundary lines.
- d. Parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and monotony of parked cars.
- e. Parking facilities shall be designed with regard for orderly management, topography, landscaping, and ease of access, and shall be developed as an integral part of an overall site design.
- f. Any above-grade loading facility shall be screened from public view to the extent necessary to eliminate unsightliness.
- g. Off-street parking and loading requirements required in this Zoning Code shall be satisfied.

8. Material Storage and Waste Container Storage:

- a. Materials, other than operable passenger, delivery and construction vehicles, shall be stored so as to not be visible from adjoining or nearby properties and public roads. Storage of materials shall be within wholly enclosed structures approved for such use, or shall be screened from view by fencing or landscaping, or combination of fencing and landscaping, as determined by the Planning Board. In no case shall the height of stored material exceed the height of such screening. No outdoor storage of material shall be permitted within 100 feet of a structure used for residential purposes.
- b. Adequate facilities for disposal of refuse shall be provided. All refuse disposal units, or locations for deposit, shall be screened



from view and designed so as to be fireproof and/or fire retardant, and to prevent access by rodents, dogs and vermin. All such enclosures shall remain closed at all times, and shall be designed to prevent blowing of paper and refuse.

#### Section 486. REFERRAL TO COUNTY PLANNING DEPARTMENT

Requests for site plan review and approval affecting real property within five hundred (500) feet of the boundary of the Town of Washington, or the boundary of any existing or proposed County or State park or other recreational area, or the boundary of any existing or proposed County or State roadway, or the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, or the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated shall be referred to the Dutchess County Planning Department pursuant to General Municipal Law, Article 12-B, Sections 239-l and 239-m, as amended.

#### Section 487. DISPOSITION OF APPLICATION BY PLANNING BOARD

Within sixty (60) days of the receipt of the application and after the applicant has had the opportunity of meeting with the Planning Board, the Planning Board shall approve, approve with modifications, or disapprove the site plan. The decision of the Planning Board shall be expressed in the report, a copy of which shall be mailed to the applicant at the address indicated on the application.

#### Section 490. VIOLATIONS

A violation of this Local Law Zoning Code is an offense punishable by a fine not exceeding One Thousand Dollars (\$1,000.00), or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine not less than One Thousand Dollars (\$1,000.00) nor more than One Thousand Five Hundred Dollars (\$1,500.00) or imprisonment for a period not to exceed six (6) months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine of not less than One Thousand Five Hundred Dollars (\$1,500.00) nor more than Five Thousand Dollars (\$5,000.00) or imprisonment for a period not to exceed six (6) months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Zoning Code shall be deemed misdemeanors, and for such purposes only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

- <sup>89</sup>1. Complaints of Violations. Whenever a suspected violation of this Local Law occurs, any person may file a written complaint in regard thereto with the Zoning Administrator. All such complaints must be in writing (unless the suspected violation threatens life, health, or safety, in which case the

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<sup>89</sup> Section 490, paragraph 1 amended; Local Law #1 of the year 2005 on 04/14/05. Amended August 12, 2021

Zoning Administrator is authorized to act on an oral complaint). The Zoning Administrator shall properly record such complaint and, if applicable, forward the complaint to the Building Inspector. The Zoning Administrator will immediately investigate and report thereon to the governing body.

2. Abatement of Violations. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Local Law, the Town Board or with its approval, the Zoning Administrator, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct, or abate such violation to prevent the occupancy of said building structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.
3. Taxpayer Action. Upon the failure of refusal or the proper local officer, board, or body of the Town to institute any such appropriate action or proceeding for a period of ten (10) days after written request by a resident taxpayer of the Town so to proceed, any three (3) taxpayers of the Town residing in the district wherein such violations exists, who are jointly or severally aggrieved by such violation may institute such appropriate action or proceeding in like manner as such local officer, board, or body of the Town is authorized to do.
4. Accountability. For any and every violation of the provisions of this Local Law or of any of the rules, conditions, requirements, and regulations adopted or specified pursuant thereto, the owner, general agent, or contractor of the building or premises where such violation has been committed or shall exist, and the lessee, ground lessee, tenant, or licensee of an entire building or entire premises where such violation shall have been committed or shall exist and the owner, general agent, or contractor, lessee, ground lessee, tenant, or licensee of any part of a building or premises in which part of such violation has been committed or shall exist, and the general agent, architect, builder, or contractor, or any other person who commits, takes part, or assists in such violation or who maintains any buildings or premises in which any such violations shall have been committed or which shall exist, shall be punishable according to the provisions of this Local Law.

## ARTICLE V - AMENDMENTS

### Section 500. AUTHORITY

The Town Board may, from time to time, on its own motion, or on petition, or on recommendation of the Planning Board amend, supplement, change, modify, or repeal the

regulations, restrictions, and boundary provisions of this Local Law after public notice and hearing, as required by the Laws of New York State.

#### Section 510. REVIEW BY PLANNING AGENCIES

As an aid in analyzing the implications of proposed amendments and to coordinate the effect of such actions on intergovernmental concerns, the Town Board shall refer proposed amendments to the Town and County planning agencies as required by this Local Law and/or the Laws of New York State.

1. Referral to Town Planning Board and Conservation Advisory Commission. Every proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Town of Washington Planning Board and Conservation Advisory Commission for report thereon prior to public hearing.
2. Referral to County Planning Department. Any proposed amendment affecting real property within five hundred (500) feet of the boundary of the Town of Washington or the boundary of any existing or proposed County or State park or other recreational area or the right-of-way of any existing or proposed County or State roadway, or the boundary of any existing or proposed right-of way for a stream or drainage channel owned by the County, and for which the County has established channel lines, or the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated, shall be referred to the Dutchess County Department of Planning before final action is taken pursuant to General Municipal Law, Article 12-B Sections 239-l and 239m, as amended.

#### Section 520. <sup>90</sup>PUBLIC HEARING AND NOTICE

No proposed amendment shall become effective until after a public hearing thereon at which parties in interest and citizens shall have an opportunity to be heard. The Town Board by resolution offered at a stated meeting shall fix the time and place for a public hearing on proposed amendments and shall cause public notice to be given as required by the Laws of New York State and specified below. If a proposed amendment is initiated by petition, the petitioner shall be responsible for publication of notice and notice to adjacent municipalities.

1. Publication of Notice in Newspaper. Notice of the time and place of the public hearing shall be published at least five (5) days in advance of such hearing in a newspaper with general circulation in the Town. This notice should specify the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents indicating the place or places where copies of the proposed amendment may be examined and the time and place of the hearing.

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<sup>90</sup> Section 520 amended; Local Law #1 of the year 1991 on 03/14/91.

2. Posting. Notice of the time and place of the public hearing shall be posted at least five (5) days in advance of such hearing on the bulletin board of the Town Clerk located at the Town Hall. This notice should specify the general nature of the proposed amendment, in such reasonable detail as will give adequate notice of its contents, indicating the place or places where copies of the proposed amendment may be examined and the time and place of the hearing.
3. Notice to Adjacent Municipalities. Written notice of any proposed amendment affecting property lying within five hundred (500) feet of an adjacent Town or the Village of Millbrook shall be given to the clerk of such municipality at least ten (10) days prior to the date of public hearing. Representatives of neighboring municipalities receiving notification of a proposed amendment shall have the right to appear and be heard at the public hearing thereon, but shall not have the right to review by a court.

### Section 530. ADOPTION

The Town Board may adopt amendments to this Town of Washington Local Law by a majority vote of its membership, except in the case of local protest or disapproval by the County Department of Planning as noted below.

1. Local Protest. The favorable vote of three-fourths (*e.g.* four) of the Town Board members shall be required for passage of any amendment which draws a written protest signed by twenty percent (20%) or more of the owners of land in any of the following areas:
  - a. The land area included in the proposed amendment.
  - b. The land area immediately adjacent to the area proposed to be changed and extending one hundred (100) feet therefrom.
  - c. The land area directly opposite the area proposed to be changed and extending one hundred (100) feet from the street frontage of such opposite land.
2. County Disapproval. A majority plus one (1) vote shall be required to pass any amendment which receives a recommendation of disapproval from the County Department of Planning because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.

### Section 540. <sup>91</sup>EFFECTIVE DATE

Unless the amendment provides for a different effective date, each amendment adopted by the Town Board shall take effect when filed with the Secretary of State of New York pursuant to Municipal Home Rule Law of the State of New York.

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<sup>91</sup> Section 540 amended; Local Law #1 of the year 1991 on 03/14/91.

## ARTICLE VI - DEFINITIONS

### Section 600. USE OF WORDS

Except where specifically defined herein, all words used in this Local Law shall carry their customary meanings. Words used in the present tense include the future; the plural includes the singular; the word “lot” includes the word “plot” or “parcel”, the word “building” includes the word “structure”; the word “shall” is intended to be mandatory; the word “may” is permissive; the word “person” includes a corporation as well as an individual; the word “occupied” or “used” shall be considered as though followed by the words “or intended, arranged, or designed to be used or occupied.”

### Section 610. DEFINITIONS

<sup>92</sup>ACCESSORY STRUCTURE – A structure detached from a principal building on the same lot and serving a purpose customarily incidental and subordinate to the principal building or use.

AGRICULTURAL SOILS: Surficial soils in the Town of Washington that are considered prime farmland soils or farmland soils of statewide importance pursuant to criteria established by the Soil Conservation Service of the United States Department of Agriculture.

AGRICULTURE: The utilization of land for the production, preservation, processing, and sale of agricultural commodities such as crops, plants, vines, trees, livestock, honey, Christmas trees, poultry, or dairy products.

<sup>9394</sup>AIRCRAFT: A device used for the transportation of one (1) or more persons or goods through the air, including airplanes, dirigibles, helicopters and gliders, but excluding parachutes and balloons.

\*AIRFIELD: An area for the landing and takeoff of aircraft, including, without limitation, an airport, airstrip, heliport, helipad or helistop.

ALTERATION: Any addition to a building, a change or rearrangement in the structural parts or exit facilities, any change in the use from one district classification to another, or removal of a building from one location to another.

ANIMAL HUSBANDRY: The keeping, grazing, feeding, and care of animals other than household pets or fewer than three (3) saddle horses or ponies, excluding fur farms, pig farms, or cage-type poultry houses.

♦ANTENNA: A device that converts radio frequency electrical energy to radiated electromagnetic energy and vice versa.

ANTIQUÉ AUTOMOBILE: An automobile eligible for registration as an antique automobile by the State of New York, whether or not it is operable.

AQUIFER: A geologic formation or groups of geologic formations or portions thereof, that contain saturated permeable material such as sand and gravel, limestone, or limestone overlaid with sand and gravel sufficient to yield significant and usable quantities of water to drinking wells and springs.

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<sup>92</sup> Definition added or amended; Local Law #1 of the year 2005 on 04/14/05.

<sup>93</sup> Definition added; Local Law #4 of the year 1999 on 12/2/99.

<sup>94</sup> Definition added; Local Law #2 of the year 1998 on 8/20/98.

AREA, LAND: The total area of land lying within the lot lines excluding external streets. ♦AS-OF-RIGHT FACILITIES: Those PWRT Facilities as described herein which may be installed and operated subject only to the securing of a building permit for construction and a certificate of occupancy for operation from the Town Building Inspector upon furnishing the information and plans specified by the Building Inspector and this Local Law

AUTO RESTORATION: The repair, dismantling, and reconditioning of antique automobiles, special interest automobiles, or farm machinery which is currently not operable, or not registered to operate on the public road system, as part of a *bona fide* hobby.

<sup>95</sup>AUXILLARY APARTMENT: A dwelling unit within a building containing a principal use that is non-residential. No more than thirty percent (30%) of the floor space in any nonresidential building may contain auxiliary apartments.

BASEMENT: A story partly underground, but having last least one-half (½) of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet or if used for business or dwelling purposes.

<sup>96</sup>BASE STATION: A stationary transmitter that provides radio telecommunication services to mobile and fixed receivers including antennas.

<sup>97</sup>BED AND BREAKFAST: A dwelling owned and occupied by a person or persons as his or their full time residence in which overnight accommodations not exceeding five bedrooms are provided or offered to transient (less than thirty (30) days) lodgers for compensation. The terms bed and breakfast are meant to include guesthouses, lodgings, accommodations and words or phrases of like import.

<sup>98</sup>BERM: A mound or bank of earth, used especially as a barrier for privacy or as a fence substitute or to provide insulation.

BILLBOARD: A sign or a structure which directs attention to an idea, product, business activity, service, or entertainment which is conducted, sold, or offered elsewhere than upon the lot on which such sign is situated.

♦BOARDING HOUSE: [Deleted]

BUILDABLE LAND: That portion of a lot exclusive of all wetlands and watercourses, slopes exceeding twenty percent (20%), and flood hazard areas as mapped on the Federal Emergency Management Agency's Flood Insurance Rate Map.

BUILDING: A structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or chattels. When separated by a party wall, each portion of such building shall be deemed a separate building.

BUILDING, ACCESSORY: A building, the use of which is customarily incidental to that of a principal building and which is located on the same lot as that occupied by the principal building.

BUILDING AREA: All land covered by structures, interior roads, parking areas, sidewalks, and loading areas.

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<sup>95</sup> Definition added; Local Law #3 of the year 1990 on 10/11/90.

<sup>96</sup> Definition added; Local Law #2 of the year 1998 on 8/20/98.

<sup>97</sup> Definition amended; Local Law #1 of the year 2003 on 1/02/03.

<sup>98</sup> Definition added or amended; Local Law #1 of the year 2005 on 04/14/05.

**BUILDING HEIGHT:** The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs. When a lot fronts on two (2) or more streets of different levels, the lower street or the average elevation of the lot with regard to the abutting streets may be taken as the base for measuring the height of the building.

**BUILDING LINE, FRONT:** The line of that face of the building nearest the street line. In the case of a corner lot, the building line nearest to a street line shall be considered the front building line.

**BUILDING, PRINCIPAL:** A building in which is conducted the main or principal use of the lot on which said building is situated. Each principal building along with its accessory buildings shall be deemed to be situated on a separate lot.

**BUILDING, TEMPORARY:** Any building intended for temporary occupancy or use in connection with the construction or operation of a permitted use.

**BULK:** A term used to describe a size, volume, area, and shape of buildings and structures and the physical relationship of their exterior walls or their location to lot lines, other buildings and structures, or other walls of the same building, and all open spaces required in connection with a building, other structure, or tract of land.

**CELLAR:** A story partly underground and having more than one-half ( $\frac{1}{2}$ ) of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

<sup>99</sup>**CELLULAR COMMUNICATION SYSTEM:** A radio telecommunication service provided using a cellular system.

**CEMETERY:** Land used or intended to be used for the burial of dead human beings and dedicated for such purpose, including columbariums, mausoleums, and mortuaries when operated as part of a cemetery and within its boundaries, but excluding crematoria.

**CERTIFICATION:** A signed, written approval by the Planning Board (its designated agent or Dutchess County Soil and Water Conservation District) that a soil erosion and sediment control plan complies with the applicable requirements of this Local Law.

♦**CO-LOCATION:** The location of one or more PWRT Facilities at a common site.

**COMMERCIAL VEHICLES:** Any vehicle having a gross weight of three-fourths ( $\frac{3}{4}$ ) ton or more and licensed as a commercial vehicle or used for commercial purposes.

<sup>100</sup><sup>101</sup>**COMMON DRIVE:** A driveway normally serving two (2) or three (3) lots which have the amount of road frontage required under the Zoning Law. A common drive may be owned in common or may be created by reciprocal easements.

**CONDOMINIUM:** A system of ownership of dwelling units, either attached or detached, within, within a multi-family dwelling development established pursuant to the Condominium Law of the State of New York, the apartments or dwelling units of which are individually owned, each owner receiving a deed enabling him or her to sell, mortgage, or exchange his or her apartment or dwelling unit independently of the other owners in the building or buildings.

<sup>Ω</sup>**CONSERVATION EASEMENT:** A perpetual restriction on the use of land, created in accordance with the provisions of Section 49, Title 3 of the Environmental Conservation Law or

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<sup>99</sup> Definition added; Local Law #2 of the year 1998 on 8/20/98.

<sup>100</sup> Definition added; Local Law #1 of the year 1991 on 3/14/91.

<sup>101</sup> Definition added; Local Law #3 of the year 1990 on 10/11/90.

Section 247 of the General Municipal Law, for the purposes of conservation of open space, agricultural land, and natural, cultural and scenic resources.

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

**\*\*CRAFT WORKSHOP:** A place where artists, artisans, craftsmen, and other skilled tradespeople produce custom-made art or craft products including but not limited to baskets, cabinet, ceramics, clothing, flower arrangements, jewelry, metalwork, musical instruments, painting, pottery, sculpture, toys, and weaving.

**DISTURBED AREA:** An area where ground cover is destroyed or removed leaving the land subject to acceleration erosion.

**DWELLING:** A detached building designed or used exclusively as living quarters for one (1) or more families excluding motels, hotels, or other transient residence facilities.

**DWELLING, MULTI-FAMILY:** A dwelling or group of dwellings containing separate living units for three (3) or more families, but which may have joint services or facilities or both.

**DWELLING, ONE-FAMILY:** A detached building designed for the use of a single household, including one (1) or more persons living as a family, and wherein not more than three (3) boarders are sheltered and/or fed for profit.

**DWELLING, TWO-FAMILY:** A detached building containing two (2) dwelling units.

<sup>102</sup>**DWELLING UNIT:** A building or portion thereof, providing complete housekeeping facilities (living, cooking, sanitary and sleeping facilities) for one (1) family.

**EDUCATIONAL BUILDING:** A structure or structures used for the purpose of providing academic or technical instruction to students, such as public or private schools that include any combination of grades from kindergarten through twelfth grade, as well as trade, business, or technical schools, colleges, universities, or not-for-profit research institutes.

**EDUCATIONAL INSTITUTION:** A private school, college, university, or research institute giving general academic instruction including adult education, or providing research facilities to scholars or scientists, with structures used for administration, classrooms, student housing, faculty housing, dining, laboratories, faculty and staff offices, libraries, field study purposes, social and athletic activities, as well as accessory needs.

**EROSION:** The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

<sup>103</sup><sup>104</sup>**EXEMPT FACILITIES:** Transmitting and receiving telecommunication facilities which are exempt from regulation under this section, and shall include: (1) amateur radio and satellite facilities so long as such facilities are operated by a licensed amateur operator; (2) civil emergency facilities; and (3) home satellite facilities where installed on residential premises solely for the use of the residents of that premises and not offered for re-sale to off-premises locations.

**FAMILY:** One person, or a group of two or more persons related by blood, marriage, legal adoption, or legal guardianship, or a group not more than six (6) persons who need not be so related, living and cooking together in the same dwelling unit as a single housekeeping unit. The persons constituting a family may include up to six (6) foster children when a married couple permanently reside in the same dwelling unit as foster parents, and gratuitous guests and

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<sup>102</sup> Definition added or amended; Local Law #1 of the year 2005 on 04/14/05.

<sup>103</sup> Definition added; Local Law #2 of the year 1998 on 8/20/98.

<sup>104</sup> Definition added or amended; Local Law #1 of the year 2005 on 04/14/05.



domestic servants. A roomer, boarder, lodger, or occupant of supervised group quarters, regardless of relationship or ownership, shall not be considered a member of a family.

**FARM:** Any parcel of land containing at least three (3) acres which is used for financial gain in the raising of agricultural products, livestock, poultry, and dairy products, including necessary farm structures within the prescribed limits and the storage of equipment used, but excluding raising of fur-bearing animals, riding academies, livery or boarding stables, dog kennels, pig farms, and cage-type poultry farms.

◊ **FENCE:** A structure made of metal, wood, stone, plastic or masonry to afford screening, privacy, or security for the property, or to prevent animals from entering or exiting the property.

**FLOOR AREA:** The sum of the horizontal areas of the several floors of a building, excluding cellar and attached garage floors not devoted to habitable uses, but including the area of roofed porches, roofed terraces and attic spaces (whether or not a floor has actually been laid) providing structural headroom of seven (7) feet, six (6) inches or more. All dimensions shall be measured between exterior faces of walls or centerlines of walls separating two (2) buildings.

**GARAGE, PRIVATE:** A garage not conducted as a business or used for the storage of more than one (1) commercial vehicle which shall be owned or used by a person residing on the premises.

**GASOLINE SERVICE STATION:** Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning or servicing such motor vehicles.

<sup>105</sup>**GOLF COURSE:** An area of land laid out for the game of golf with a series of nine (9) or eighteen (18) holes each including tee, fairway, putting green and one or more natural or artificial hazards as well as incidental buildings including a club house and storage buildings and driving range, but not including a public restaurant or public bar facility. This definition does not include a miniature golf course.

**GRADING:** Any excavation, grubbing, filling (including hydraulic fill), or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.

**HAULAGEWAY:** Any road within a permitted soil mining area which receives substantial use and which has been constructed or improved by the operator or permittee. Trails or paths between parts of a mine shall not be considered haulageways.

<sup>106</sup>**HISTORICAL AUTOMOBILE:** A vehicle that is more than 25 years old and qualifies for a historical registration from the New York State Department of Motor Vehicles.

**HOME OCCUPATION:** An occupation or business activity which results in a product or service for financial gain and is conducted in whole or in part in the dwelling unit or accessory building and is clearly an accessory or incidental use and subordinate to the residential use of the dwelling unit.

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

◊ **JUNK:** Any worn-out, cast-off, discarded, or neglected article or material of little or no value including, but not limited to, appliances, furniture, barrels, cartons, boxes, machinery, plastics, crates, rubber, rugs, clothing, rags, mattresses, blankets, tires, lumber, brick, stone and other building materials no longer intended for ordinary use; and any and all tangible personal property

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<sup>105</sup> Definition added; Local Law #1 of the year 1994 on 6/9/94.

<sup>106</sup> Definition added or amended; Local Law #1 of the year 2005 on 04/14/05.

no longer intended for ordinary and customary use. The term “junk” shall include the terms “rubbish”, “clutter”, “litter”, “debris” or other similar phrases which refer to ordinary household or commercial trash including, but not limited to, paper and paper products, cardboard, cans, glass, metals and cigarettes.

◊ JUNK CAR: Any vehicle not operable on the State, County, and local road or highway system, unless such vehicle is an historical automobile. A vehicle is operable when it currently meets all of the following standards: (1) it is registered with the New York State Department of Motor Vehicles; (2) it has motor vehicle liability insurance which satisfies the requirements of New York State law; (3) it has a valid inspection sticker; and (4) it has valid New York State license plates.

◊ JUNKYARD: The outdoor storage of any of the following, whether in connection with a business or not:

1. Two or more junk cars.
2. Two or more unregistered historical automobiles.
3. Two or more pieces of junk, as defined in Section 610 of this Local Law.
4. Any combination of the above that totals two or more items.

KENNEL: Any establishment including cages, dog runs, and structures wherein more than three (3) dogs which are over six (6) months old are harbored.

♦ LATTICE TOWER: A freestanding tower supported by a series of interconnected struts or stanchions.

LOT: A piece, parcel, or plot of land occupied or designed to be occupied by a principal building and its accessory building or buildings and including the yards and other open spaces required by this Local Law.

LOT, CORNER: A lot at the junction and abutting on two (2) or more intersecting streets or roads, when the interior angle on the intersection does not exceed one hundred and thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve at points beginning within the lot or at the points of intersection of the side lot lines with the street line intersect at an interior angle of less than one hundred and thirtyfive (135) degrees.

LOT DEPTH: The horizontal distance from the street line of the lot to its opposite rear line measured along the median between the two (2) side lot lines.

LOT, INTERIOR: A lot other than a corner lot.

LOT LINES: The lines that bound a lot as defined herein.

LOT OF RECORD: Any lot which has been established as such by plat, survey record, or deed prior to the date of this Local Law as shown on the records in the Office of the Dutchess County Clerk.

♦ Definition added; Local Law #2 of the year 1998 on 8/20/98.

◊ Definition added or amended; Local Law #1 of the year 2005 on 04/14/05.

\*\* Definition added; Local Law #3 of the year 1990 on 10/11/90.

♦ Definition added; Local Law #2 of the year 1998 on 8/20/98.

LOT, THROUGH: An interior lot having frontage in two (2) parallel or approximately parallel streets.

LOT WIDTH: The distance between the side lot lines measured along the front building line as determined by the front yard requirements prescribed by this Local Law.

<sup>107</sup>MANUFACTURED HOME: A factory-manufactured dwelling, built on a permanent steel-framed chassis and designed to be transported to a site in one or more sections, which is intended to be used as permanent living quarters by a single-family unit when connected to the required plumbing, heating and electrical utilities. For the purposes of this Local Law, the removal of transport wheels and/or the anchoring of the home to a permanent foundation shall not remove it from this definition.

\*\*MEDICAL OFFICES: [Deleted]

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

◇MOBILE HOME/RECREATIONAL VEHICLE: Any vehicle or similar portable structure with or without a foundation of wheels, jacks, skirting, wood or masonry block supports, designed or constructed to be towed, driven or otherwise transported to its resting site or parking place and which is further designed to permit occupancy for dwelling or sleeping purposes. The term "mobile home" shall include the terms "house trailer" and "trailer" or other similar phrase. The term "trailer" shall also mean a similar structure used for storage, office, classroom, shelter or any use other than as a dwelling or sleeping place. The term mobile home shall not include modular homes. This term shall include double-wide mobile homes.

MOBILE HOME PARK: Any area of land consisting of twenty (20) or more acres upon which one (1) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations, and excluding emergency housing as defined in Section 336.

◇MODULAR HOME: A factory-manufactured dwelling having no permanent support frame and designed to be transported to a site in one or more sections for erection, construction or installation as a permanent structure.

◆MONOPOLE TOWER: A freestanding tower consisting of a single pole.

MOTEL: A building or group of buildings containing six (6) or more individual living and sleeping accommodations consisting primarily of one (1) bedroom-and-bath units, each of which is provided with not less than one (1) off-street parking space, offered principally for rental and use by motor vehicle travelers.

NONCONFORMING BUILDING OR STRUCTURE: A building or structure which contains a permitted use, but does not meet the setback, side yard, rear yard, height, coverage, floor area, projection, or stories requirements of this Local Law for the district in which it is located.

NONCONFORMING LOT: A lot of record which does not comply with the area, shape, frontage, or locational provisions of this Local Law for the district in which it is located.

NONCONFORMING USE: Any use lawfully existing prior to and at the time of the adoption or amendment of this Local Law or any preceding zoning law or ordinance, which use is not

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<sup>107</sup> Definition added or amended; Local Law #1 of the year 2005 on 04/14/05.

◆ Definition added; Local Law #2 of the year 1998 on 8/20/98.

permitted by or does not conform with the permitted use provisions of this Local Law for the district in which it is located.

**NONCONFORMITY:** A nonconforming use, lot, building, or other structure which existed lawfully, whether by variance or otherwise, on the date this Local Law or any amendment hereto or any preceding zoning law or ordinance became effective and which fails to conform to one or more of the provisions of this Local Law or such amendment hereto. No nonconforming use, lot, building, or other structure shall be deemed to have existed on the effective date of this Local Law unless it can be proven that it was actually in being on such date, or that a building permit had been issued and actual construction lawfully begun prior to that date. Actual construction is hereby defined as the placing of construction materials in a permanent position in accordance with the plans for the building or other structure and with the intent to complete the construction in an expeditious manner.

**NURSERY SCHOOL:** A school designed to provide daytime care or instruction for two or more children from two to five years of age inclusive and operated on a regular basis.

**NURSING HOME:** Any establishment where persons are housed and furnished with meals and nursing care for hire.

**OPEN SPACE:** An area of land not developed with structures and used for recreation, agriculture, or forestry, or left in its natural state.

♦**PAGING SERVICE:** A numeric, text and voice messaging service.

**PARKING SPACE:** The net area needed for parking one (1) automobile, usually equal to two hundred (200) square feet with dimensions of ten feet by twenty feet (10' x 20'). An area of three hundred (300) square feet per car shall be used to compute the gross land area needed for meeting parking requirements.

♦**PERSONAL COMMUNICATION SYSTEM:** Radio telecommunication services that encompass mobile and ancillary fixed communications operating at 1.8 to 2.1 GHz that provide services to individuals and businesses and can be integrated with a variety of competing networks.

**POULTRY FARM - CAGE-TYPE:** A farm containing structures which house birds, one or more to a cage, in meshwork floored cages elevated above the main floor, and in which normal processes relating to live birds are accomplished without removing the birds from the cage.

**PRIVATE CAMP:** A detached one-family dwelling designed and suited for leisure use that is used on a seasonal basis for not more than six (6) months in each year.

Ω**PRIVATE ROAD:** A privately owned road held in common ownership by a homeowners' association and approved pursuant to Section 342(2).

\*\***PROFESSIONAL OFFICES:** Offices for outpatient health care services, including but not limited to chiropractors, dentists, psychologists, physical therapists, physicians, veterinarians (excluding kennel facilities), and other health care professionals, as well as offices for other

♦ Definition added; Local Law #2 of the year 1998 on 8/20/98.

Ω Definition added; Local Law #1 of the year 1991 on 3/14/91.

\*\* Definition added; Local Law #3 of the year 1990 on 10/11/90.

ΩΩ Definition added; Local Law #2 of the year 1991 on 10/10/91.

Ω Definition added; Local Law #1 of the year 1991 on 3/14/91.

◇ Definition added or amended; Local Law #1 of the year 2005 on 04/14/05.

professionals including but not limited to accountants, architects, attorneys, consultants, engineers, real estate brokers, stockbrokers, and surveyors.

**PROPERTY:** Any lot, piece, or parcel of land.

**PUBLIC UTILITY:** A utility service provided by a public agency, or a specially franchised local operation to supply electric, gas, water, cable television, or telephone service. Included are such utilities as electric unit substations, municipal pump stations and water towers, municipal garages, firehouses, and telephone substations.

**QUARRYING, SOIL MINING:** Use of a parcel of land or contiguous parcels of land, or portions thereof, for the purpose of extracting and selling stone, sand, and/or gravel, exclusive of the process of grading land preparatory to construction of a building for which a building permit has been issued. As defined herein, the processing of stone, sand, or gravel that is excavated offsite is not considered to be soil mining.

**REAR LOT:** A lot on which the buildable area is located generally to the rear of other lots having frontage on the same street as said lot, and having access to the street via a strip of land that does not have the minimum road frontage required in the zoning district.

**RECLAMATION PERMIT:** The permit, granted by the Town Board, required to be issued prior to the commencement of quarrying or soil mining operations, pursuant to Section 332(4)(b) of this Local Law.

**RESIDUAL LAND:** That portion of a parcel of land on which a subdivision occurs which remains as an unsubdivided parcel of substantially greater size than the lots that are subdivided.

**RETAIL BUSINESS:** An establishment engaged in selling or renting goods or merchandise to the general public in small quantities for personal or household consumption or business use and rendering services incidental to the sale of such goods. Any facility which sells automotive gasoline shall not be considered a retail business nor shall a restaurant or other eating and/or drinking establishment of any type be so considered.

**ROAD FRONTAGE:** the distance along a public way at the front lot line to the depth of the required front yard setback.

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

**SEDIMENT:** Solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.

**SERVICE BUSINESS:** A business or non-profit organization that provides services to the public, either on or off the premises, including but not limited to arts instruction or studio, building, electrical, plumbing, and landscape contracting, business and educational services, catering, health club, house cleaning services, lock smith, photocopying, repair and restoration services, tailoring, typing, and word processing.

**SHOOTING PRESERVE:** A shooting preserve, as defined in New York State Environmental Conservation Law, Section 11-1903, licensed by the New York State Department of Conservation, for shooting birds and clay targets.

\*\* Definition added; Local Law #3 of the year 1990 on 10/11/90.

♦ Definition added; Local Law #2 of the year 1998 on 8/20/98.

◊ Definition added or amended; Local Law #1 of the year 2005 on 04/14/05.

**SIGN:** Any material, structure, or device composed of lettered or pictorial matter which is placed for outdoor display of an advertisement, announcement, notice, directional matter, or name including sign frames, billboards, signboards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs, or ground signs.

**SIGN, ADVERTISING:** A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than on the premises on which the sign is located.

**SITE WORK:** Clearing and grubbing or excavating and grading in preparation for construction of buildings.

**SPECIAL INTEREST AUTOMOBILE:** An automobile recognized by *bona fide* collectors as historic because of design, engineering, or craftsmanship.

♦**SPECIALIZED MOBILE RADIO SERVICE:** A radio communication system in which licensees provide land mobile communication services in the 800 MHz and 900 MHz bands on a commercial basis to entities eligible to be licensed under 47 CFR 90, Federal Government Entities and individuals.

**SPECIAL USE:** A use which, because of its unique characteristics, requires individual consideration in each case by Town officials.

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

**STABLE, PUBLIC:** A building in which horses are kept for remuneration, hire, or sale.

♦**STEALTH TECHNIQUE:** A method or methods that would hide or conceal an antenna, supporting electrical or mechanical equipment, or any other support structure that is identical to or closely compatible with the color or appearance of the support structure so as to make the antenna and related equipment as visually unobtrusive as possible.

**STORAGE, OPEN:** Land used for the keeping of goods, wares, or supplies outside of any building or structure.

◇**STORAGE SHED –** A structure which is accessory to a residential building, and which is used for the storage of household items, equipment, machinery, and similar personal property customarily used or owned by homeowners in connection with use, operation and maintenance of residences.

**STORY:** The portion of a building included between the surface of any floor and the floor above it; if there is not a floor above it, then the space between the floor and the ceiling next above it.

**STREET:** Any public way greater than twenty (20) feet in width dedicated to and accepted by the Town, the County, or the State.

**STREET LINE:** The dividing line between the street, road, or highway and the lot, such as the existing or proposed right-of-way line.

**STRUCTURE:** Any building or thing constructed or erected on the ground or by attachment to something on the ground.

Ω**SUBDIVISION, CONVENTIONAL:** A subdivision that is not an open space subdivision as defined in Section 340(3).

Ω Definition added; Local Law #1 of the year 1991 on 3/14/91.

◇ Definition added or amended; Local Law #1 of the year 2005 on 04/14/05.

♦♦ Definition added; Local Law #2 of the year 1994 on 9/8/94.

\*\* Definition added; Local Law #3 of the year 1990 on 10/11/90.

**SWIMMING POOL:** Any body of water (excluding natural bodies of water fed by watercourses including rivers, streams, brooks, or springs) or receptacle for swimming or bathing, and constructed, installed, or maintained in or on the ground outside any building.

◊ **TENNIS COURT:** Any area on the ground, whether a natural or artificial surface, upon which a game using a net between opposing players, a ball and racquets is played, and includes any adjacent fencing, walls, screening or other material which may limit the movement of or confine the ball or serve to conceal the court.

**TOPSOIL:** The outer layer of the earth in which vegetable matter can take root and grow.

♦♦ **TOWN ROAD:** All roads within the Town of Washington which are maintained by the Town and shall include the strip of three (3) rods wide measured one and one-half (1 ½) rods to each side of the center line of the road.

◊ **TRAILER:** A transport vehicle designed to be hauled by a truck or tractor.

**USE:** The principal and specific purpose for which land or a building is designed, arranged, or intended, or for which it is or may be occupied or maintained. The term “permitted use” shall not be deemed to include any nonconforming use.

**USE, ACCESSORY:** A use which is customarily incidental to and subordinate to the principal use of a premise, building, or structure and located on the same premises as the principal use, building, or structure.

<sup>108</sup>**WILDLIFE PRESERVE:** An area left in its natural state to support wildlife populations, restricted to low-intensity passive recreational use, in which hunting, shooting, and trapping are prohibited.

**YARD:** An open space on the same lot with a building or structure.

**YARD, FRONT:** An open space extending across the full width of the lot between the front building line and the street line.

**YARD, REAR:** An open space extending across the full width of the lot between the rear lot line and the rear of the building nearest the rear lot line.

**YARD, SIDE:** An open space on the same lot with a principal building between the principal building and side line of the lot and extending from the front yard to the rear yard.

## ARTICLE VII - MISCELLANEOUS

### Section 700. INTERPRETATION

In their interpretation and application, the provisions of this Local Law shall be deemed minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this Local Law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

### Section 710. SEVERABILITY

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<sup>108</sup> Definition added; Local Law #3 of the year 1990 on 10/11/90.

If any provision of this Local Law or the application thereof to any person, property, or circumstances is held to be invalid, the remainder of this Local Law and the application of each provision to other persons, property, or circumstances shall not be affected thereby.

#### Section 720. CONFLICT WITH OTHER LAWS

This Local Law shall not repeal, abrogate, annul, or in any way impair or interfere with any existing provisions of law or of any rules or regulations previously adopted or issued relating to the use of buildings or premises, provided that where this Local Law imposes a greater restriction upon the use of buildings or premises or requires larger lots or yards than are imposed or required by such existing provisions or regulation, the provisions of this Local Law shall control.

#### Section 730. EFFECTIVE DATE

This Local Law shall take effect on January 1, 1990.



APPENDIX A

<sup>109</sup>SCHEDULE OF DISTRICT USE REGULATIONS

<u>Residential District</u>	<u>Principal Uses Permitted by Right</u>	<u>Accessory Uses Permitted by Right</u>	<u>Special Uses Which May Be Allowed by Special Permit and Subject to Site Plan Approval</u>	<u>Applicable Overlay or Floating Districts</u>
RH-1	Dwelling, Single-family	Uses customarily incidental to any principal use permitted by right Garages, private  *Home Occupation (Sec. <sup>110</sup> 321. 3.a)  Swimming Pools	*Barn Conversion Bed and Breakfast Dwelling Two-Family  *Home Occupation (Sec. <sup>111</sup> 321. 4)	APO Overlay AQ Overlay EP Floating
RM-2	**Agriculture/Farm **Animal Husbandry Dwelling, Single-Family	Uses customarily incidental to any principal use permitted by right Garages, private *Home Occupation (Sec. <sup>+</sup> 321. 3.a) Swimming Pools	*Barn conversion Bed and Breakfast Church Dwelling, Two-Family  *Educational Institutions Forestry Golf Course *Home Occupation (Sec. <sup>++</sup> 321. 4) Membership Club Nursing Home or Convalescent Home Off-Street Parking Parks, public and Private Playgrounds *Shooting Preserve	APO Overlay AQ Overlay MH Floating I Floating

<sup>109</sup> Schedule amended; Local Lawn #1 of the year 1994 on 6/9/94.

<sup>110</sup> Stated in Zoning Law as Section 321.4.a. Should be Section 321.3.a

<sup>111</sup> Stated in Zoning Law as Section 321.5. Should be Section 321.4.

\*Signs  
\*Stables, private  
Wildlife Preserve

\* See Supplementary Use Regulations.

\*\* These uses will not sell to the public at the subject property.

SCHEDULE OF DISTRICT USE REGULATIONS (continued)

<u>Residential District</u>	<u>Principal Uses Permitted by Right</u>	<u>Accessory Uses Permitted by Right</u>	<u>Special Uses Which May Be Allowed by Special Permit and Subject to Site Plan Approval</u>	<u>Applicable Overlay or Floating Districts</u>
RL-5 and RS-5	**Agriculture/Farm Uses customarily incidental to any principal use Dwelling, Single-Family Dwelling, Two-Family	permitted by right Composting manure and vegetative waste Garages, private *Home Occupation (Sec. +321. 3.a) Open storage of farm machinery or vehicle associated with agriculture Swimming Pools	Animal Hospital *Barn Conversion Bed and Breakfast *Camps, private Church *Educational Institution Forestry Golf Course *Home Occupation (Sec. ++321. 4) Kennel Membership Club Nursing Home or Convalescent Home Off-Street Parking Parks, public and private *Pig Farm Playgrounds Public Utilities *Riding Academy Shooting Preserve *Signs *Soil Mining (RS-5 only and subject only to Special Use Permit) *Stables, public and private Wildlife Preserve	APO Overlay AQ Overlay EP Floating MH Floating I Floating

\* See Supplementary Use Regulations.

\*\* These uses will not sell to the public at the subject property.

Stated in Zoning Law as Section 321.4.a. Should be Section 321.3.a.

Stated in Zoning Law as Section 321.5. Should be Section 321.4.

Note: Fur Farm and Poultry Farm, cage-type, were deleted from the list of Special Uses Which May be Allowed by Special Permit and Subject to Site Plan Approval in the RL-5 and RS-5 Districts pursuant to Local Law #1 of the year 2003 on 1/02/03.

Note: Cemetery was deleted from the list of Special Uses which May Be Allowed by Special Permit and Subject to Site Plan Approval in the RL-5 and RS-5 Districts pursuant to Local Law #3 of the year 2007 on 10/11/07.

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SCHEDULE OF DISTRICT USE REGULATIONS (continued)

<b>Residential District</b>	<b>Principal Uses Permitted by Right</b>	<b>Accessory Uses Permitted by Right</b>	<b>Special Uses Which May Be Allowed by Special Permit and Subject to Site Plan Approval</b>	<b>Applicable Overlay or Floating Districts</b>
RR-10 and RS-10	**Agriculture/Farm Dwelling, Single-Family Dwelling, Two-Family	Uses customarily incidental permitted by right Composting manure and vegetative waste Garages, private *Home Occupation (Sec. +321.3.a) *Home Occupation ((Sec. ++321.4) associated with agriculture Swimming Pools Convalescent Home  *Riding Academy  *Soil Mining (RS-10 only and subject to Special Use Permit) *Stables, public and private	Animal Hospital *Barn Conversion Bed and Breakfast *Camps, private Church *Educational Institution Forestry Golf Course  Membership Club Nursing Home or Off-Street Parking Parks, public and private *Pig Farm Playgrounds Public Utilities Shooting Preserve *Signs  Wildlife Preserve	APO Overlay AQ Overlay EP Floating MH Floating I Floating  machinery or

Stated in Zoning Law as Section 321.4.a. Should be Section 321.3.a.

Stated in Zoning Law as Section 321.5. Should be Section 321.4.

\* See Supplementary Use Regulations.

\*\* These uses will not sell to the public at the subject property. \*\*\*

See Section 313 for regulations affecting all uses.

Note: Fur Farm and Poultry Farm, cage-type, were deleted from the list of Special Uses Which May be Allowed by Special Permit and Subject to Site Plan Approval in the RR-10 and RS-10 Districts pursuant to Local Law #1 of the year 2003 on 1/02/03.

Note: Cemetery was deleted from the list of Special Uses which May Be Allowed by Special Permit and Subject to Site Plan Approval in the RR-10 and RS-10 Districts pursuant to Local Law #3 of the year 2007 on 10/11/07.

+

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SCHEDULE OF DISTRICT USE REGULATIONS (continued)

<u>Residential District</u>	<u>Principal Uses Permitted by Right</u>	<u>Accessory Uses Permitted by Right</u>	<u>Special Uses Which May Be Allowed by Special Permit and Subject to Site Plan Approval</u>	<u>Applicable Overlay or Floating Districts</u>
HM***	**Agriculture/Farm Dwelling, Single-Family Dwelling, Two-Family (S)	Uses customarily incidental to any principal use permitted by right Garages, private *Home Occupation (Sec. +321.3.a) Swimming Pools	Antique Shops (S) Auxiliary Apartments *Barn Conversion Bed and Breakfast Clubhouse Craft Workshop *Home Occupation (Section ++321.4) Hotel, Motel Off-Street Parking Professional Offices *Signs Storage and Repair of Equipment Restaurant Retail Business	APO Overlay AQ Overlay EP Floating

Stated in Zoning Law as Section 321.4.a. Should be Section 321.3.a.

Stated in Zoning Law as Section 321.5. Should be Section 321.4.

Service Business

LC	Agriculture	Uses customarily incidental to any principal use permitted by right	Dwelling, Single-Family Forest Nurseries Forestry Golf Course Parks, public and private Recreation Facilities Shooting Preserve Wildlife Preserve	APO Overlay AQ Overlay EP Floating
----	-------------	---	---	--

\* See Supplementary Use Regulations.

\*\* These uses will not sell to the public at the subject property.

\*\*\* See Section 313 for regulations affecting all uses.

(S) Indicates subject to site plan approval pursuant to Section 480.

+

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Stated in Zoning Law as Section 321.4.a. Should be Section 321.3.a.

Stated in Zoning Law as Section 321.5. Should be Section 321.4.

APPENDIX B

SCHEDULE OF AREA AND BULK REGULATIONS

DISTRICT	RR-10 & RS-10	RL-5 & RS-5	RM-2	RH-1	HM NON- RESIDENTIAL USES	HM RESIDENTIAL USES	LC
Minimum Lot Size							
- Area ( <i>Acres</i> )	10	5	2	1	.5	1	10
- Width ( <i>Feet</i> )	400	300	200	200	100	200	400
Minimum Setback ( <i>Feet</i> )							
- Front	100	100	75	50	80	50	100
- Each Side	100	75	50	30	15	30	100
- Rear	75	75	50	25	50	25	75
Maximum Building Height							
- ( <i>Stories</i> )	2.5	2.5	2.5	2.5	N/A	2.5	1
- ( <i>Feet</i> )	35	35	35	35	35	35	15
Maximum Coverage							
- ( <i>Percent</i> )	10	10	10	10	60	10	5
Minimum Road Frontage*							
- ( <i>Feet</i> )	400	300	200	200	100	100	400

*\* For rear lot frontages, see Section 353*

APPENDIX C

OFF-STREET PARKING AND LOADING SCHEDULE

USES OFF-STREET PARKING SPACES REQUIRED

---

Places of Public Assembly:	One for Each Four Seats Two for Each Dwelling Unit
Single-Family and Two-Family Dwellings:	
Multi-Family Dwellings and Mobile Home Parks:	Two for Each Dwelling Unit or Mobile Home
Retail Stores and Shops:	One for Each 100 Square Feet of Floor Area Plus One for Each Employee
Gasoline Service Stations:	Three for Each Employee Plus Space for All Vehicles Used Directly in the Conduct of Such Business
Motels, Hotels:	One for Each Rental Unit
Restaurants:	One for Each Five Seats
Home Occupations:	Three for Each Home Occupation
Nursing or Convalescent Home:	Two for Each Three Beds Plus One for Each Employee
Educational Institution:	One for Each Employee Plus One for Every Four Adult Student Seats
Industrial Establishment:	One for Each Employee
Nursery Schools:	Two for Each Classroom
Bed and Breakfast	One for Each Bedroom
Barn Conversion:	Two for Each Dwelling Unit
Professional Offices:	Three for Each 500 Square Feet of Floor Area



OFF-STREET PARKING AND LOADING SCHEDULE (continued)

<sup>112</sup>Reasonable and appropriate off-street parking requirements for structures and land uses which do not fall within the categories listed above shall be determined in each case by the Planning Board, which shall consider all factors entering into the parking needs of each such case as part of their site plan study and review.

Where two (2) or more different uses occur on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements for each individual use on the lot, except that the Planning Board may approve the joint use of parking space by two (2) or more establishments on the same or on contiguous lots, the total capacity of which space is less than the sum of the spaces required for each, provided that said Board finds that the capacity to be provided will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees among such establishments, and provided that such approval of such joint use shall be automatically terminated upon termination of the operation of any of such establishments.

Where common parking facilities are established, a written agreement among all landowners involved shall be subject to Planning Board review and Town Board approval.

---

<sup>112</sup> Paragraphs added; Local Law #1 of the year 1994 on 6/9/94.

APPENDIX D

ZONING MAP SERIES

LOWELL WASHINGTON

**Digital Zoning**

Prepared by Dutchess County  
Department of Planning & Development

26 November 2003

Scale: 1 inch = 4,000 feet



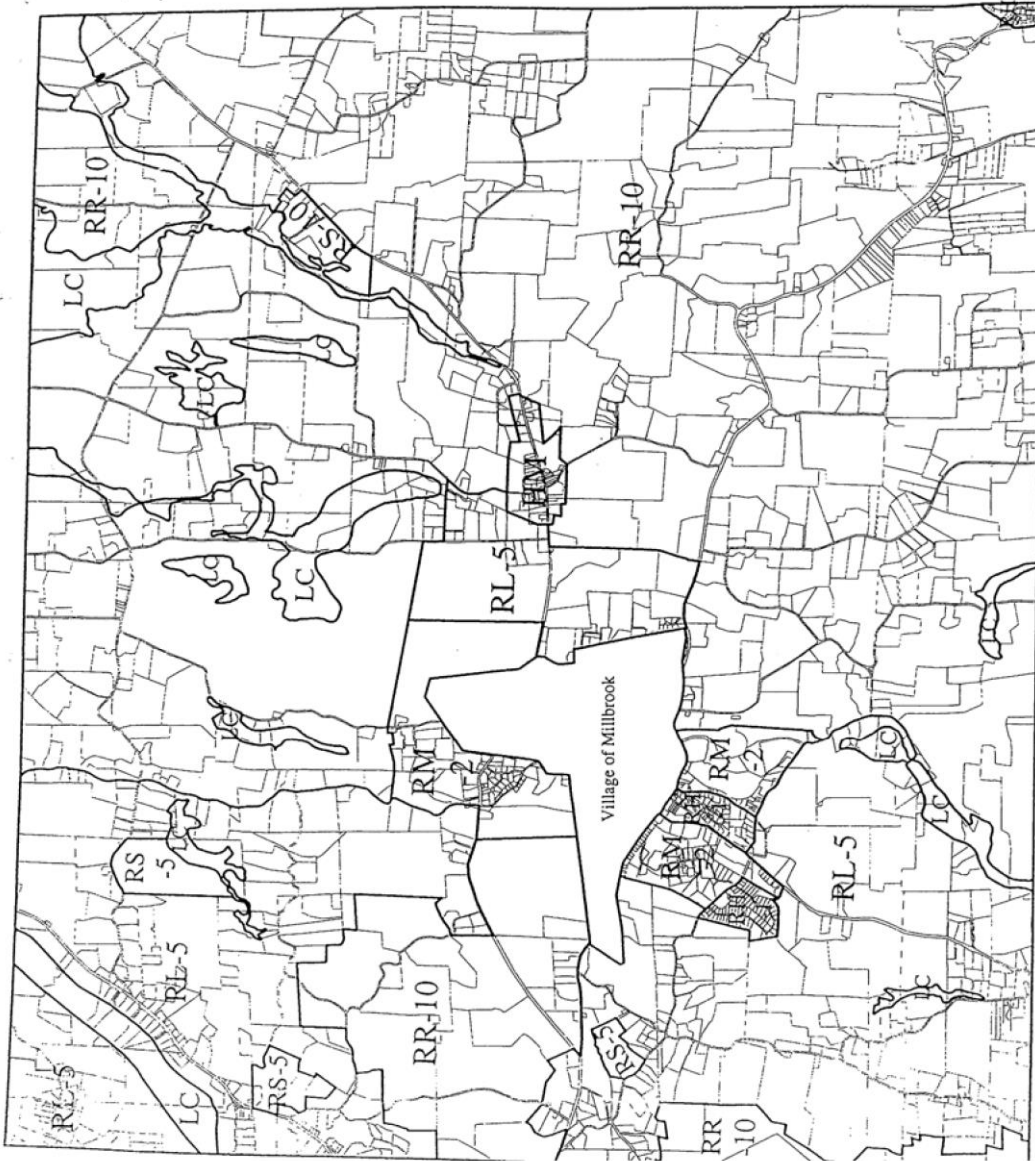
Appendix D

**Legend:**

Parcel Boundaries

Zoning Districts:

- RR-10, RS-10: Rural Residential
- RL-5, RS-5: Low Density Residential
- RM-2: Medium Density Residential
- RH-1: High Density Residential
- HM: Hamlet Mixed Use
- LC: Land Conservation



ZONING MAP SERIES (continued)

APPENDIX D

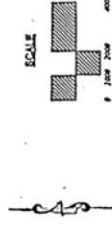
ZONING MAP SERIES

MAP #1:

USE DISTRICTS

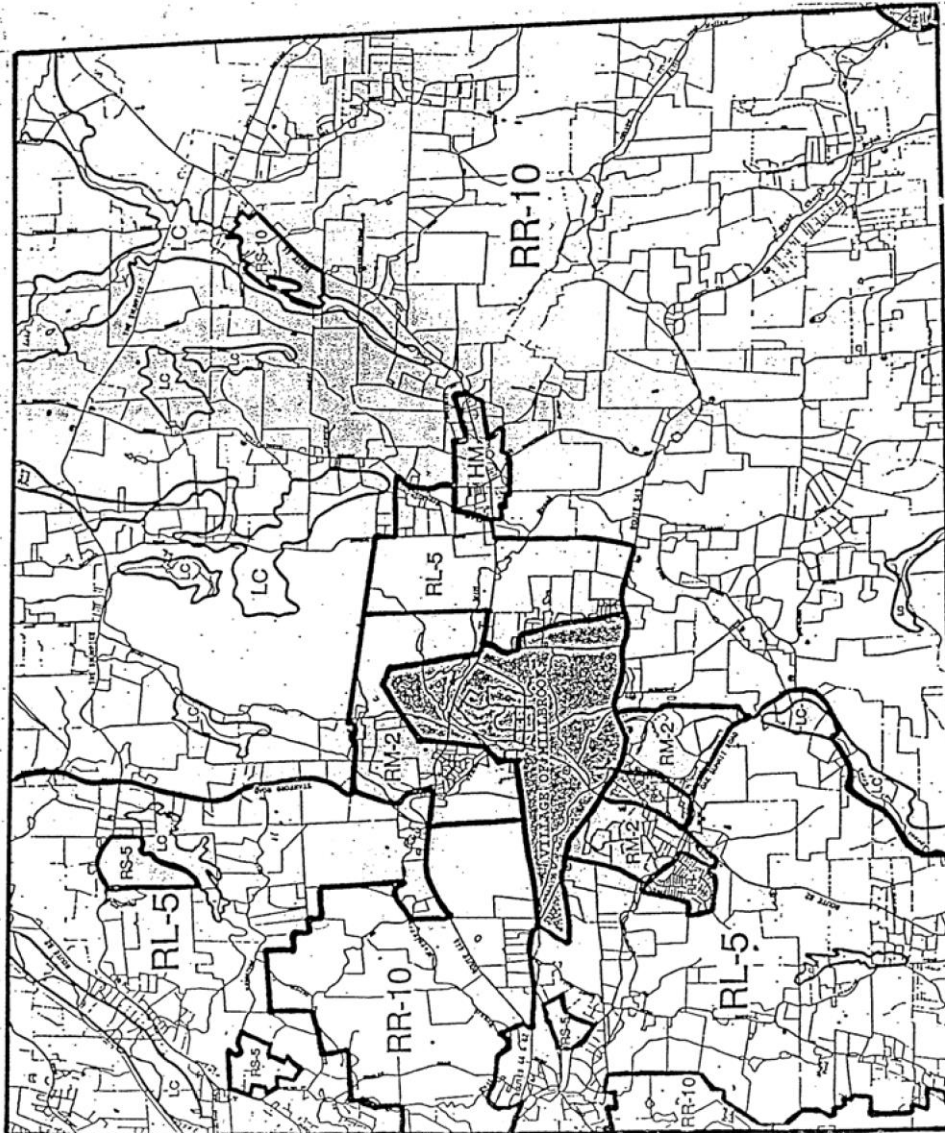
TOWN OF WASHINGTON  
DUTCHESS COUNTY, NEW YORK

- RR-10, RS-10: RURAL RESIDENTIAL
- RL-5, RS-5: LOW DENSITY RESIDENTIAL
- RM-2: MEDIUM DENSITY RESIDENTIAL
- RH-1: HIGH DENSITY RESIDENTIAL
- HM: HAMLET MIXED USE
- LC: LAND CONSERVATION



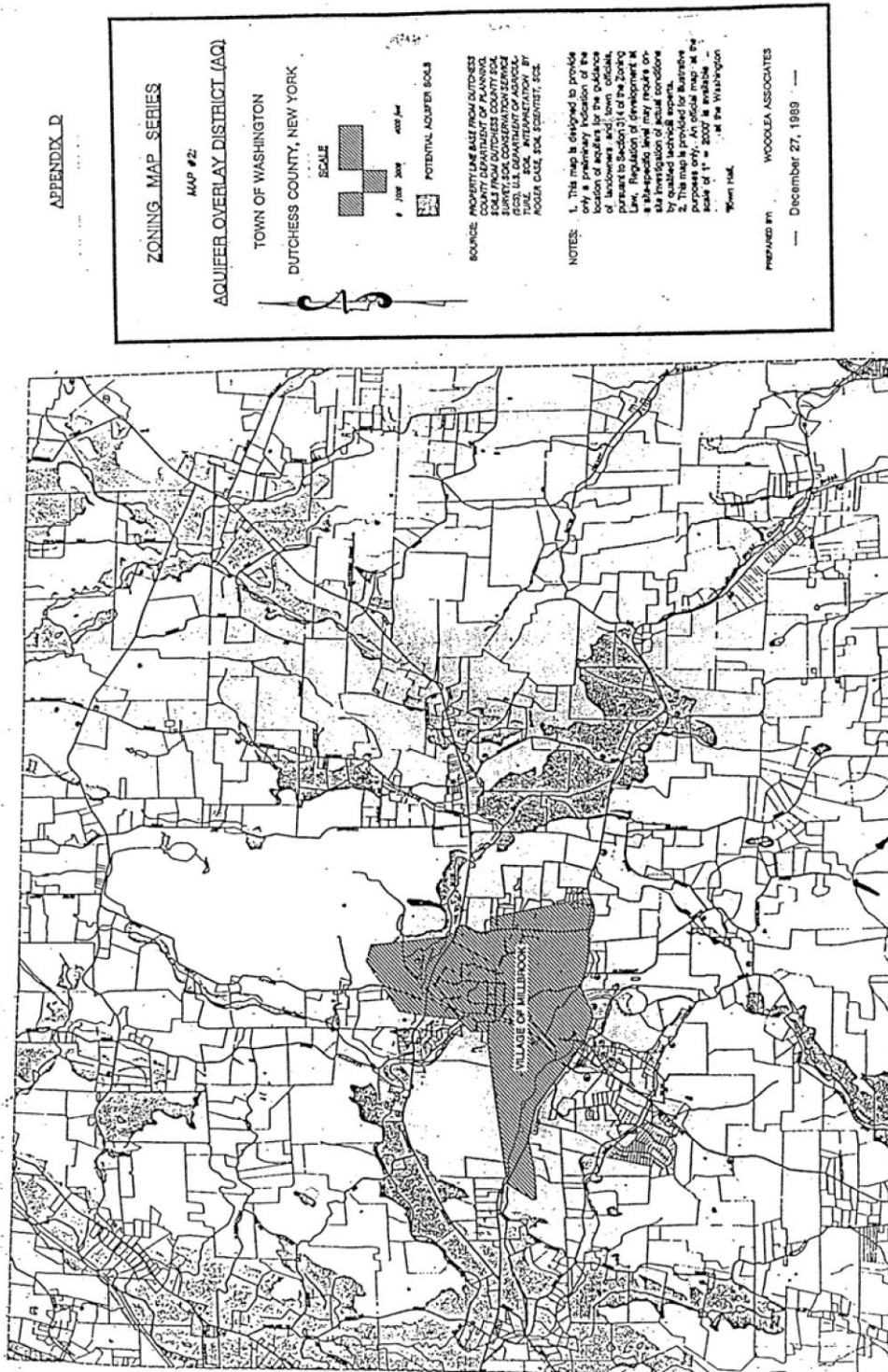
NOTE: This map is provided for illustrative purposes only. An official map at scale of 1" = 2000' is available for public inspection at the Washington Town Hall.

PREPARED BY: WOODLEA ASSOCIATES



ZONING MAP SERIES (continued)

APPENDIX D



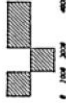
ZONING MAP SERIES (continued)

APPENDIX D

ZONING MAP SERIES  
MAP #2  
AGRICULTURAL PROTECTION  
OVERLAY DISTRICT (APO)  
PART I: AGRICULTURAL DISTRICT MAP

TOWN OF WASHINGTON  
DUTCHESS COUNTY, NEW YORK

SCALE

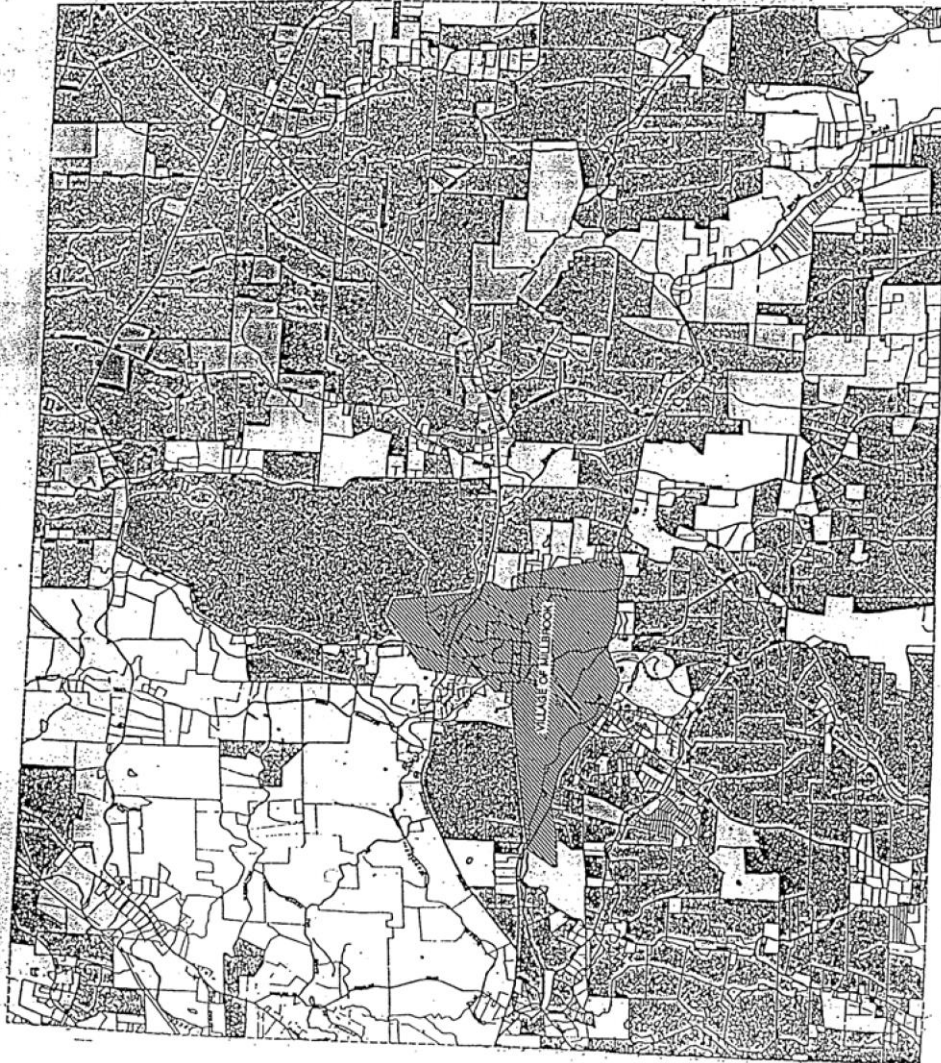


LAND WITHIN CERTIFIED AGRICULTURAL DISTRICT AS ESTABLISHED BY THE DUTCHESS COUNTY BOARD OF PLANNING AND ZONING IN ACCORDANCE WITH NEW YORK STATE AGRICULTURE AND MARKET LAW

SOURCE: PROPERTY LINE BASE FROM DUTCHESS COUNTY DEPARTMENT OF PLANNING AND ZONING. AGRICULTURAL DISTRICT BOUNDARIES FROM DUTCHESS COUNTY DEPARTMENT OF PLANNING.

NOTE: This map is provided for reference purposes only. It does not constitute a zoning map as defined in the Town Code of the Town of Washington.

PREPARED BY: WOODS & ASSOCIATES  
DATE: December 27, 1989



ZONING MAP SERIES (continued)

APPENDIX D

ZONING MAP SERIES  
 MAP #4:  
 AGRICULTURAL PROTECTIVE  
 OVERLAY DISTRICT (APO)  
 PART II: AGRICULTURAL SOIL

TOWN OF WASHINGTON  
 DUTCHESS COUNTY, NEW YORK



PRIME AGRICULTURAL SOILS  
 AGRICULTURAL SOILS OF  
 STATEWIDE IMPORTANCE

SOURCE: PROPERTY LINE BASE FROM DUTCH  
 COUNTY TAX MAPS AND AGRICULTURAL  
 SOILS AND SOIL CLASSIFI-  
 CATION FROM DUTCHESS COUNTY SOILS  
 SURVEY, SOIL CONSERVATION SER-  
 VICES, U.S. DEPARTMENT OF AGRIC-  
 ULTURE

NOTES:  
 1. The map is designed to pro-  
 vide a preliminary location of  
 agricultural soils. It is not a  
 substitute for a detailed soil  
 survey. It is intended to provide  
 guidance of landowners and a  
 guide to the Zoning Law. It is  
 subject to change. It is not  
 intended to be used as a basis for  
 new rules or to make investigations  
 of actual conditions by qualified tech-  
 nicians.

2. The map is provided for use in  
 accordance with the Zoning Law.  
 A scale of 1" = 2000' is available  
 at the Town Hall.

PREPARED BY: WOODOLEA ASSOCI-  
 INC.

December 27, 1989



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## **ZONING CODE**

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