

Administrative Legislation

WASHINGTON CODE

Chapter 1

GENERAL PROVISIONS

[HISTORY: Adopted by the Town Board of the Town of Washington as indicated in article histories. Amendments noted where applicable.]

GENERAL PROVISIONS

ARTICLE I
Adoption of Code

[A local law adopting the Code of the Town of Washington and making certain substantive changes to existing local laws of the Town is presently proposed before the Town Board. Upon final adoption, it will be included here as Article I of this chapter.]

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ASSESSOR

Chapter 8

ASSESSOR

[HISTORY: Adopted by the Town Board of the Town of Washington 12-14-2006 by L.L. No. 2-2006 . Amendments noted where applicable.]

§ 8-1. Repealer.

Local Law No. 1 of 2006, establishing the appointed office of Sole Assessor in the Town of Washington, is hereby repealed due to a substantive error within its text that may render the law void ab initio.

§ 8-2. Purpose; statutory authority.

It is the purpose of this chapter to abolish the three elected offices of assessor in the Town of Washington (also known as "board of assessors" or "board of elected assessors") and to establish the office of Sole Assessor for the Town of Washington, which shall be an appointed position pursuant to New York Real Property Tax Law § 328.

§ 8-3. Abolishment of elected offices of assessor.

The three elected offices of assessor in the Town of Washington shall be abolished as of midnight on December 31, 2006.

§ 8-4. Appointment of Sole Assessor. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

The Town Board of the Town of Washington shall appoint an individual to the office of Sole Assessor who is able to demonstrate satisfaction of the minimum qualification standards for appointed assessors as established by the State Commissioner of Taxation and Finance. The first term of the office of Sole Assessor shall commence on January 1, 2007, and will continue until September 30, 2007. The aforesaid expiration date is in accordance with Real Property Tax Law § 310, Subdivision 2.

§ 8-5. Subsequent terms of office.

In accordance with Real Property Tax Law § 310, Subdivision 2, subsequent terms of office of the Sole Assessor shall be for a period of six years, commencing on the first day of October.

§ 8-6. When effective.

This chapter shall be effective immediately upon its filing with the Secretary of State, State of New York, pursuant to § 27 of the Municipal Home Rule Law.

Chapter 17**CONSERVATION ADVISORY COMMISSION**

[HISTORY: Adopted by the Town Board of the Town of Washington 7-28-1988 by L.L. No. 6-1988 . Amendments noted where applicable.]

§ 17-1. Legislative intent.

- A. The preservation and improvement of the quality of the natural and man-made environment within the Town of Washington, in the face of population growth, urbanization, and technologic change with their accompanying demands on natural resources, are found to be of increasing and vital importance to the health, welfare, and economic well-being of present and future inhabitants and require forthright action by the governing body of the Town of Washington. It is recognized that the ecological integrity of the natural environment on which man is dependent for survival and the natural and functional beauty of our surrounds which condition the quality of our life experience cannot be protected without the full cooperation and participation of the people of the Town of Washington, working in partnership with local and state officials and with various public and private institutions, agencies, and organizations. Establishment of a Conservation Advisory Commission appears to be an advisable step in fostering unified action on environmental problems.
- B. The Town of Washington has previously, by resolution, called for the creation of a Conservation Advisory Commission but without guidelines, powers and limitations. This chapter is intended to reconstitute said Commission and define its function, powers, duties and limitations. To the extent this chapter is inconsistent with the terms of any legislation governing the previous Commission or the Commission as reconstituted by this chapter, the terms of this chapter will control.

§ 17-2. Establishment of Commission.

The Town Board of the Town of Washington hereby creates a Commission which shall be known as the "Town of Washington Conservation Advisory Commission," hereinafter called the "Commission."

§ 17-3. Membership.

- A. The Commission shall consist of not less than three nor more than nine members, all of whom shall be appointed by the Town Board of the Town of Washington, who shall serve at the pleasure of that Board and may be removed for cause by the Town Board at any time after a public hearing, if requested. In this respect this chapter is intended to supersede § 239-x of the General Municipal Law. Persons residing within the Town of Washington who are interested in the improvement and preservation of environmental quality shall be eligible for appointment as members of the Commission. Vacancies on the Commission shall be filled in the same manner as the original appointment except that a vacancy occurring other than by the expiration of term of office shall be filled only for the remainder of the unexpired term.
- B. Term of appointment:
 - (1) In compliance with State of New York General Municipal Law, Article 12-F, the term of appointment shall be two years subject to the provisions of Subsection A, above.
 - (2) In order to provide continuity and also encourage new people to participate, the initial appointments shall be staggered as follows: three members appointed to serve the full two-year term, and two members appointed to a one-year term. Thereafter, reappointments may be made

each year.

§ 17-4. Officers; meetings; committees.

The Town Board of the Town of Washington shall designate a member of the Commission to act as Chairman thereof and may remove and replace the Chairman with or without cause at any time. At the first meeting of the Commission, its members shall elect from among themselves a recording Secretary. The Commission shall adopt rules and procedures for its meetings. It shall keep accurate records of its meetings and activities and shall file an annual report as provided in § 17-6 of this chapter.

§ 17-5. Powers and duties of Commission.

The powers and duties of the Commission shall be to:

- A. Conduct and maintain an inventory of the natural resources within the Town of Washington.
- B. Advise the Town Board of the Town of Washington on matters affecting the preservation, development, and use of the natural and man-made features and conditions of the Town insofar as quality, ecological integrity, vistas and other environmental factors are concerned. In the case of man's activities and developments, advise on any major threat posed to environmental quality so as to enhance the long range value of the environment to the people of the Town of Washington.
- C. Develop and, after receiving approval by resolution of the Town Board of the Town of Washington, conduct a program of public information in the community which shall be designed to foster increased understanding of the nature of environmental problems and issues and support for their solutions.
- D. Maintain an up-to-date index of all open spaces as defined in § 239-y of the General Municipal Law, in public or private ownership within the municipality, including but not limited to natural landmarks, glacial and other geomorphic or physiographic features; streams and their floodplains; swamps, marshlands, and other wetlands; unique biotic communities; or scenic and other open areas of natural or ecological value. Such index shall include the ownership, present and proposed uses of such open areas, so as to provide a base of information for recommendations by the Commission for their preservation and/or use.
- E. Seek to coordinate, assist, and unify the efforts of private groups, institutions, and individuals within the Town of Washington in accord with the purposes of this chapter.
- F. Maintain liaison and communications with public and private agencies and organizations whose programs and activities have an impact on the quality of the environment or who can be of assistance to the Commission.
- G. Working in cooperation with the Town Planning Board, recommend plans and programs relating to environmental improvement for inclusion in the Master Plan of the Town of Washington. Similarly, recommend to the Town Board of the Town of Washington appropriate and desirable changes in existing local laws and ordinances relating to environmental and land use controls or recommend new local laws and ordinances.
- H. Prepare, print, and distribute books, maps, charts, and pamphlets in accord with the purposes of this chapter.
- I. Obtain and maintain in orderly fashion maps, reports, books and other publications to support the necessary researches of the Commission into local environmental conditions.

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- J. When authorized by resolution to the Town Board of the Town of Washington, the Commission may accept, by gift, grant, devise, bequest, or otherwise, property both real and personal in the name of the Town of Washington. This may be necessary to conserve and otherwise properly utilize open spaces and other land and water resources within the boundaries of the Town of Washington. Such real property may be accepted in fee for land and waste rights, or as any lesser interest, development right, easement, including conservation easement, covenant, or other contractual right, including conveyance with limitations or reversions.
- K. Carry out such other duties as may be assigned to it from time to time by the Town Board of the Town of Washington.

§ 17-6. Reports.

The Commission shall keep accurate records of its meetings and actions, shall promptly deliver to the Town Board of the Town of Washington after each meeting copies of its minutes and shall submit an annual report to the Town Board of the Town of Washington, not later than the 31st day of December of each year, concerning the activities and work of the Commission. From time to time the Commission shall submit such reports and recommendations as may be necessary to fulfill the purpose of this chapter or as may be requested by the Town Board.

§ 17-7. Compensation; reimbursement for expenses.

The members of the Commission, including ex-officio members, if any, shall receive no compensation for their services as members thereof, but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties within the appropriations made available therefor. If the Commission expects to be reimbursed for expenses, it will submit its budget to the Town Board for approval prior to receiving any such expenses.

§ 17-8. Construal of provisions.

This chapter shall be deemed an exercise of the powers of the Town of Washington to preserve and improve the quality of the natural and man-made environment on behalf of the present and future inhabitants thereof. This chapter is not intended and shall not be deemed to impair the powers of any other public corporation.

§ 17-9. When effective.

This chapter shall take effect immediately upon its filing with the Secretary of State, State of New York, pursuant to § 27 of the Municipal Home Rule Law of the State of New York.

Chapter 24**DEFENSE AND INDEMNIFICATION**

[HISTORY: Adopted by the Town Board of the Town of Washington 6-12-1980 by L.L. No. 2-1980 . Amendments noted where applicable.]

§ 24-1. Definitions.

As used in this chapter, unless the context otherwise requires:

EMPLOYEES — Any person holding a position by election, appointment or employment in the service of the Town, but shall not include a volunteer, any person not compensated for his services or an independent contractor. The term "employee" shall include a former employee, his estate or judicially appointed personal representative.

TOWN — The Town of Washington.

§ 24-2. Defense to be provided by Town; exception.

- A. Upon compliance by the employee with the provisions of § 24-3 of this chapter, the Town shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting or in good faith purporting to act within the scope of his public employment or duties. Such defense shall not be provided where such civil action or proceeding is brought by or on behalf of the Town.
- B. Subject to the conditions set forth in this chapter, the employee shall be represented by the Town Attorney or an attorney employed or retained by the Town for the defense of the employee. The Town Board shall employ or retain an attorney for the defense of the employee whenever 1) the Town does not have a Town Attorney, 2) the Town Board determines, based upon its investigation and review of the facts and circumstances of the case, that representation by the Town Attorney would be inappropriate or 3) a court of competent jurisdiction determines that a conflict of interest exists and that the employee cannot be represented by the Town Attorney. Reasonable attorneys' fees and litigation expenses shall be paid by the Town to such attorney employed or retained, from time to time, during the pendency of the civil action or proceeding subject to certification by the Town Supervisor that the employee is entitled to representation under the terms and conditions of this chapter. Payment of such fees and expenses shall be made in the same manner as payment of other claims and expenses of the Town. Any dispute with respect to representation of multiple employees by the Town Attorney or by an attorney employed or retained for such purposes or with respect to the amount of the fees or expenses shall be resolved by the court.
- C. Where the employee delivers process and a request for a defense to the Town Attorney or the Town Supervisor as required by § 24-3 of this chapter, the Town Attorney or the Supervisor, as the case may be, shall take the necessary steps including the retention of an attorney under the terms and conditions provided in Subsection B of this section on behalf of the employee to avoid entry of a default judgment, pending resolution of any question relating to the obligation of the Town to provide a defense.

§ 24-3. Employee to cooperate with Town in their defense.

- A. The duties to defend provided in this chapter shall be contingent upon:

- (1) Delivery to the Town Attorney or, if none, to the Town Supervisor of the original or a copy of any summons, complaint, process, notice, demand or pleading within 10 days after he is served with such document; and **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- (2) The full cooperation of the employee in the defense of such action or proceeding and defense of any action or proceeding against the Town based upon the same act or omission and in the prosecution of any appeal.

B. Such delivery shall be deemed a request by the employee that the Town provide for his defense pursuant to this chapter, unless the employee shall state in writing that a defense is not requested.

§ 24-4. Certain employees to benefit.

The benefits of this chapter will inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party nor shall any provision of this chapter be construed to affect, alter or repeal any provisions of the Workers' Compensation Law.

§ 24-5. Benefits extended to certain other employees.

The benefits of this chapter shall be extended to an employee of a negotiating unit for which an agreement has been negotiated pursuant to Civil Service Law, Article 14, only if such agreement expressly so provides.

§ 24-6. Construal of provisions.

The provisions of this chapter shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

§ 24-7. Immunity.

As otherwise specifically provided in this chapter, the provisions of this chapter shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the Town or any right to defense provided for any governmental officer or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

§ 24-8. Applicability.

The provisions of this chapter shall apply to all actions and proceedings specified herein which have been commenced, instituted or brought on or after the effective date of this chapter.

§ 24-9. Statutory provisions. [Added 10-11-1990 by L.L. No. 4-1990 ; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

The Town Board hereby adopts § 18 of the Public Officers Law and confers the benefits thereof upon all Town employees.

§ 24-10. When effective.

This chapter shall take effect upon filing in the office of the Secretary of State pursuant to § 27 of the Municipal Home Rule Law.

Chapter 31**EMERGENCY PREPAREDNESS**

[HISTORY: Adopted by the Town Board of the Town of Washington 6-14-2012 by L.L. No. 2-2012 . Amendments noted where applicable.]

§ 31-1. Purposes and definitions.

- A. The declared purposes of this chapter are to provide for:
- (1) The preparation and execution of plans for the protection of persons and property within the Town of Washington (the "Town") and the Village of Millbrook (the "Village") in the event of a declared emergency;
 - (2) The continuity of government services; and
 - (3) The coordination of the emergency functions of the Town and the Village with all other public agencies, corporations, organizations, affected private persons and properties.
- B. As used in this chapter, an emergency shall exist when proclaimed by the Town Supervisor. It shall include, but is not limited to, the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this Town and Village caused by fire, flood, storm, epidemic, extensive power outages or earthquake, including conditions resulting from war or imminent threat of war or any actual or threatened enemy attack or sabotage whether within or external.

§ 31-2. Joint Disaster Preparedness Council of the Town of Washington and the Village of Millbrook.

- A. The Joint Town of Washington and Village of Millbrook Disaster Preparedness Council is hereby created and shall consist of the following members of each jurisdiction:
- (1) The Town Supervisor of the Town of Washington, who shall be Chairman;
 - (2) Deputy Town Supervisor as a Vice Chairman, who shall act as Chairman in the absence of the Town Supervisor;
 - (3) Such additional Town representatives as may be appointed by the Town Supervisor in his/her sole discretion to serve on the Council, up to a maximum of three additional Town representatives;
 - (4) The Town Clerk;
 - (5) The Mayor of the Village of Millbrook;
 - (6) The Deputy Mayor of the Village; and
 - (7) Such additional Village representatives as may be appointed by the Village Mayor in his/her sole discretion to serve on the Council, up to a maximum of three additional Village representatives, hereinafter collectively referred to as "Joint Town/Village Disaster Council."
- B. The Joint Town/Village Disaster Council shall meet as requested by the Town Supervisor.

§ 31-3. Power and duties.

- A. The Joint Town/Village Disaster Council is hereby granted the following duties and powers:
- (1) To develop a plan for addressing any declared emergency and to prepare and recommend for consideration and adoption by the Town Board and the Village Board of Trustees a combined emergency plan with such local laws, resolutions, rules, and regulations as may be necessary to implement the emergency plan. The plan shall provide for the mobilization of the required and available resources of the community, both public and private;
 - (2) To develop and recommend for consideration and adoption any new or existing mutual aid plans and agreements and the necessary acts to implement the plans.
- B. By enacting this chapter, the Town and Village each hereby agree to follow the rules and regulations established by the State of New York disaster preparedness commission under the provisions of Article 2-B of the New York State Executive Law.

§ 31-4. Emergency Services Organization. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

All officers and employees of the Town and Village, together with those individuals who have enrolled as volunteers to aid during an emergency, and all groups, organizations, and persons who may, by agreement or by operation of law, including persons impressed into service under the provisions of § 31-5B herein, be charged with duties incident to the protection of life and property in the Town and Village during any emergency, shall collectively constitute the "Joint Emergency Services Organization of the Town of Washington and the Village of Millbrook" (referred to as the "Joint Town/Village Emergency Services Organization"). The structure, organization, duties, and functions of the Joint Town/Village Emergency Services Organization shall be incorporated in an emergency plan recommended by the Joint Village/Town Disaster Council and approved by both the Town of Washington Town Board and the Village of Millbrook Board of Trustees.

§ 31-5. Powers and duties of the Chairman of the Joint Emergency Services Organization.

The Town Supervisor is designated as the Chairman of the Joint Town/Village Emergency Services Organization.

- A. As Chairman, the Supervisor is hereby empowered:
- (1) To proclaim the existence or threatened existence of a local state of emergency, as set forth under § 24 of the New York State Executive Law, and to terminate the local emergency;
 - (2) To request the appropriate sequence of authority to proclaim a state of emergency when, in the opinion of the Supervisor, the locally available resources are inadequate to cope with the emergency;
 - (3) To coordinate the efforts of the Joint Town/Village Emergency Services Organization for the accomplishment of the purposes of this chapter;
 - (4) To direct cooperation between and coordination of services and officers in charge of the Joint Town/Village Emergency Services Organization and resolve questions of authority and responsibility that may arise between them;
 - (5) To be responsible for civil authority for this Town in all dealings with the public and private

agencies on matters pertaining to emergencies as defined herein;

- (6) To accept and approve, on behalf of and without cost to the Town, and in cooperation with the federal government and the State of New York, licenses or privileges granted for the use of private property for the sole purpose of temporarily sheltering persons and animals as a result of the declared emergency.
- B. In the event of the proclamation of a local state of emergency as herein provided, the proclamation of a state of emergency by the Governor, County Executive or the Director of the State Disaster Preparedness Commission, or the existence of a state of war emergency, the Town Supervisor is hereby empowered, and it shall be his/her duty:
- (1) To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by the declared emergency;
 - (2) To obtain vital supplies, equipment, and any other properties found lacking and necessary for the protection of life and property and to bind the Town for the fair market value thereof. "Fair market value" is defined as the price, expressed in terms of cash equivalents, at which property would change hands between a hypothetical willing and able buyer and a hypothetical willing and able seller, acting at arms length in an open and unrestricted market, when neither is under compulsion to buy or sell and when both have reasonable knowledge of the relevant facts. If fair market value cannot be agreed upon within 30 days between the resident ("seller") and the Town ("buyer"), fair market value will be established by averaging formal and enforceable bids obtained by the buyer and the seller from independent vendors. A minimum of one and a maximum of two formal and enforceable bids will be submitted by the buyer and the seller and the two, three or four bids will be averaged to determine fair market value. These bids must be submitted within 60 days following the end of the above referenced thirty-day time period. Additionally, at least one bid from both the buyer and seller will be supplied from a vendor doing business in the Village of Millbrook or the Town of Washington, if such exists.
 - (3) To require emergency services of any Town officer or employee and, in the event of the proclamation of a state of emergency in this Town or the existence of a state of war emergency, to command the aid of as many citizens of the community as the Town Supervisor deems necessary in the execution of his duties. Such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster service workers;
 - (4) To requisition necessary personnel or material of any Town department or agency;
 - (5) To enter into agreements with public and private agencies for the performance of any special services and duties as may be necessary in the judgment of the Town Supervisor to carry out the provisions of this chapter;
 - (6) To execute all of his ordinary powers as Town Supervisor, all of the special powers conferred on him by this chapter and all powers conferred on him by any other lawful authority;
 - (7) To delegate any and all authority on matters related to the protection of life and property as affected by the declared emergency.
- C. Any powers granted to the Supervisor, as Chairman, within this § 31-5 are in addition to any authority under § 24 of the New York State Executive Law.
- D. Nothing herein shall be deemed as a restraint upon the Mayor of the Village of Millbrook in exercising any authority granted to the Mayor under § 24 of the New York State Executive Law.

§ 31-6. Powers and duties of Deputy Town Supervisor. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

There is hereby created the position of Vice Chairman of Joint Town/Village Emergency Services Organization. The Deputy Town Supervisor shall be the Vice Chairman of the Joint Town/Village Emergency Services Organization. The Vice Chairman, in the absence of or at the direction of the Chairman, shall act on his behalf on matters within the purview of this chapter.

§ 31-7. Powers and duties of Director.

- A. There is hereby created the office of Director of the Joint Town/Village Emergency Services Organization. The Director of Emergency services shall be appointed by the Town Supervisor and the Village Mayor.
- B. The Director shall be subordinate only to the Town Supervisor and Village Mayor and he/she shall work in close cooperation with the Joint Town/Village Disaster Council and with the heads of the several departments of the municipal government and the officers in charge of the emergency services and under the general supervision of the Town Supervisor and Village Mayor. The Director shall maintain the necessary contacts with the State Disaster Preparedness Commission and the several local disaster councils within the county and state. The Director shall not be considered an employee of either the Town of Washington or the Village of Millbrook. The position of Director may be filled by one individual or multiple individuals, or the duties of the Director may be fulfilled by the Joint Town/Village Disaster Council or the Joint Town/Village Emergency Services Organization.

§ 31-8. Organizational provisions.

The emergency functions of the Town/Village Emergency Services Organization shall be set forth in the Joint Emergency Operations Plan of the Town of Washington and the Village of Millbrook. Department heads responsible for planning, coordination, and integration of personnel from other Town and Village departments and agencies into their services for emergency operations shall be designated in the plan. These designated department heads shall formulate functional emergency plans, which, when approved by the Joint Town/Village Disaster Council, shall become an annex to the emergency operations plan. These department heads shall also develop such mutual aid plans and agreements as may be approved by the Town of Washington Town Board and Village of Millbrook Board of Trustees. Departments with area-wide functions and responsibilities may become parties to joint venture emergency action agreements or compacts with the recommended approval of the Joint Town/Village Disaster Council.

§ 31-9. Purchaser of supplies.

The purchaser of supplies on behalf of the Town/Village emergency services organization shall be the Town Clerk of the Town of Washington. The Town Clerk will assume the responsibility of the custodian of special equipment and other property obtained from any source for use of the emergency services organization during and after the declared emergency. He/she is hereby authorized to act as the agent of the Town to receive from any agency the loan or use of any equipment or property on conditions that may be prescribed by that agency. He/she shall keep an account of the property entrusted to his control according to the terms of its acceptance and, where there are no terms provided by the agency, then upon the terms as the Chairman may prescribe. He/she shall keep records of the receipt and distribution of property and make available when needed. He/she may issue or distribute the property only to the persons entitled thereto under the rules of the emergency services.

§ 31-10. Compensation; immunity; loyalty oath.

All persons, other than officers and employees of the Town or Village, volunteering services pursuant to the provisions of this chapter and the emergency plan shall serve without compensation from the Town. While engaged in the services, they shall have the same immunities as officers and employees of the Town performing similar duties. All volunteers, other than noncitizen volunteers, shall be required to take a loyalty oath in a form to be prescribed and approved by the Joint Town/Village Disaster Council, the loyalty oath to be administered to the noncitizen volunteer only on his consent. Current data maintained to provide information for deployment of volunteer workers shall include status of loyalty oath for each worker.

§ 31-11. Expenditures.

Any expenditures made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the Town.

§ 31-12. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

It shall be a misdemeanor, punishable by a fine not to exceed \$1,000, or by imprisonment not to exceed one year, or both, for any person during an emergency to:

- A. Willfully obstruct, hinder, or delay any member of the emergency services in the enforcement of any lawful rule or regulation issued pursuant to this chapter or in the performance of any duty imposed on him by virtue of this chapter.
- B. Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter, if the act is of such a nature as to give, or be likely to give, assistance to the enemy or to imperil the lives or property of inhabitants of this Town, or to prevent, hinder, or delay the defense or protection thereof. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- C. Wear, carry, or display, without authority, any means of identification specified by the emergency agency of the state.

§ 31-13. Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications, and to this end the provisions of this chapter are declared to be severable.

Chapter 33**ETHICS, CODE OF**

[HISTORY: Adopted by the Town Board of the Town of Washington 10-13-2022 by L.L. No. 2-2022 . Amendments noted where applicable.]

§ 33-1. Purpose.

Officers and employees of the Town of Washington hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Town Board recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. This chapter establishes those standards by amending and restating the Code of Ethics previously adopted by the Town of Washington on June 14, 2012.

§ 33-2. Definitions.

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

BOARD — The governing board of the Town of Washington and any Town of Washington administrative board (e.g., Planning Board, Zoning Board of Appeals, Board of Assessment Review, Board of Ethics, Conservation Advisory Commission, Comprehensive Plan Review Committee), commission, or other agency or body comprised of two or more municipal officers or employees.

CODE or CODE OF ETHICS — This chapter.

CONFIDENTIAL INFORMATION — Defined in § 33-17.

EXERCISE OF DISCRETION — Any action or decision that requires the use of judgment. For example, awarding professional service contracts or voting to approve or deny applications for zoning variances require the exercise of discretion. As another example, the issuance of a hunting or fishing license does not require the exercise of discretion.

INTEREST — A direct or indirect financial or material benefit, but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the municipality or an area of the municipality or a lawful class of such residents or taxpayers. A municipal officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse, domestic partner or a member of his or her household is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization's outstanding stock.

MUNICIPAL OFFICER OR EMPLOYEE — A paid or unpaid officer or employee of the Town of Washington, including, but not limited to, the members of any elected or appointed municipal board.

MUNICIPALITY — The Town of Washington. The word "municipal" refers to the municipality.

RELATIVE — A spouse, domestic partner, parent, stepparent, sibling, stepsibling, sibling's spouse, child, stepchild, uncle, aunt, nephew, niece, first cousin, or household member of a municipal officer or employee, and individuals having any of these relationships to the spouse of the officer or employee.

TOWN — Town of Washington.

TOWN BOARD — The Town Board of the Town of Washington.

§ 33-3. Applicability.

This chapter applies to all municipal officers and employees and shall supersede any prior municipal code of ethics. The provisions of this chapter shall apply in addition to all applicable state and local laws relating to conflicts of interest and ethics, including, but not limited to, Article 18 of the General Municipal Law, and all rules, regulations, policies, and procedures of the Town of Washington.

§ 33-4. Use of Town position for personal or private gain prohibited.

No municipal officer or employee shall use his or her municipal position or official powers and duties to secure a financial or material benefit for himself or herself, a relative, a customer or client, or any private organization in which he or she is deemed to have an interest.

§ 33-5. Disclosure of interest required in any matter requiring the exercise of discretion.

- A. Whenever a matter requiring the exercise of discretion comes before a municipal officer or employee, either individually or as a member of a board, and disposition of the matter could result in a direct or indirect financial or material benefit to himself or herself, a relative, a customer or client, or any private organization in which he or she is deemed to have an interest, the municipal officer or employee shall disclose in writing the nature of the interest and recuse himself or herself as required by § 33-6.
- B. The disclosure and recusal shall be made when the matter requiring disclosure and recusal first comes before the municipal officer or employee or when the municipal officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.
- C. Disclosures made pursuant to this § 33-5 shall be made in writing on the form set forth as Schedule A hereto¹ and shall be promptly filed with the Board of Ethics. In the case of a person serving in an elective office, the disclosures shall also be filed with the governing board of the municipality. In all other cases, the disclosure shall be filed with the person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the municipal officer, employee, or board having the power to appoint to the person's position.

§ 33-6. Recusal.

- A. In addition to the disclosure requirements set forth in § 33-5, no municipal officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and/or voting on it, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, a customer or client, or any private organization in which he or she is deemed to have an interest. In the case of any such recusal by a member of the Town Board or other municipal board, such recusal shall be made publicly at a meeting of the municipal board and be included in the minutes of the meeting, but the specific reason for the recusal need not be disclosed at such meeting.
- B. In the event that this § 33-6 prohibits a municipal officer or employee from exercising or performing a power or duty:
 - (1) If the power or duty is vested in a municipal officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the Board; or

1. Editor's Note: Schedule A is on file in the Town offices.

- (2) If the power or duty that is vested in a municipal officer individually, then the power or duty shall be exercised or performed by his or her deputy or, if the officer does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function; or
- (3) If the power or duty is vested in a municipal employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.

§ 33-7. Exemptions from prohibition, disclosure and recusal.

This chapter's prohibition on use of a municipal position (§ 33-4), disclosure requirements (§ 33-5), and requirements relating to recusal (§ 33-6), shall not apply with respect to the adoption of the municipality's annual budget or any matter that does not require the exercise of discretion.

§ 33-8. Investments in conflict with official duties.

- A. No municipal officer or employee may acquire or retain the following investments:
 - (1) Investments that can be reasonably expected to require more than sporadic recusal under § 33-6 of this chapter; or
 - (2) Investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties.
- B. This section does not prohibit a municipal officer or employee from acquiring or retaining any other investments, specifically including but not limited to the following assets:
 - (1) Real property located within the municipality and exclusively used as his or her personal residence;
 - (2) Less than 5% of the stock of a publicly traded corporation; or
 - (3) Bonds or notes issued by the municipality and acquired more than one year after the date on which the bonds or notes were originally issued.

§ 33-9. Appearance of impropriety.

All municipal officers and employees should refrain from conduct that creates an appearance of impropriety, which means giving the reasonable impression that he or she will exercise or perform his or her official duties on the basis of family, private business, or social relationships, or any consideration other than the welfare of the Town of Washington.

§ 33-10. Private employment or services in conflict with official duties.

No municipal officer or employee, during his or her tenure as a municipal officer or employee, may engage in any private employment or other enterprise, including the rendition of any business, commercial, professional, or other types of services, when the employment or services:

- A. Can be reasonably expected to require more than sporadic recusal pursuant to § 33-6 of this chapter;
- B. Can be reasonably expected to require disclosure or use of confidential information (as defined in this chapter) gained by reason of serving as a municipal officer or employee;

- C. Violates § 805-a, Subdivision 1c or d, of the General Municipal Law; or
- D. Requires representation of a person or organization other than the municipality in connection with litigation, negotiations, or any other matter to which the municipality is a party.

§ 33-11. Future employment or services.

- A. No municipal officer or employee may ask for, pursue, or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the municipal officer or employee, either individually or as a member of a board, while the matter is pending or within the six months following final disposition of the matter.
- B. No municipal officer or employee, for the two-year period after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department, or comparable organizational unit for which he or she has served.
- C. No municipal officer or employee, at any time after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a municipal officer or employee.

§ 33-12. Personal representations and claims permitted.

This chapter shall not be construed as prohibiting a municipal officer or employee from:

- A. Representing himself or herself, or his or her spouse or minor children, before the municipality; or
- B. Asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children.

§ 33-13. Use of municipal resources.

- A. Municipal resources shall be used for lawful municipal purposes. Municipal resources include, but are not limited to, municipal personnel and the municipality's money, real estate, facilities, vehicles, equipment, materials, supplies or other property.
- B. No municipal officer or employee may use or permit the use of municipal resources for personal or private purposes, but this subsection shall not be construed as prohibiting:
 - (1) Any use of municipal resources authorized by law or written municipal policy;
 - (2) The use of municipal resources for personal or private purposes when provided to a municipal officer or employee as part of his or her compensation; or
 - (3) The occasional and incidental use during the business day of municipal telephones and computers for necessary personal matters such as family care and changes in work schedule.
- C. No municipal officer or employee shall cause the municipality to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

§ 33-14. Interests in contracts and related disclosures.

- A. No municipal officer or employee may have an interest in a contract with the Town of Washington that is prohibited by § 801 of the General Municipal Law.
- B. Every municipal officer and employee shall disclose interests in contracts with the Town of Washington at the time and in the manner required by § 803 of the General Municipal Law.
- C. Violations of this § 33-14 and related provisions of the General Municipal Law may result in nullification of the applicable contract and misdemeanor penalties, as provided by §§ 804 and 805 of the General Municipal Law.

§ 33-15. Nepotism.

Except as otherwise required by law:

- A. No municipal officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline, or discharge a relative for any position at, for or within the municipality or a municipal board.
- B. No municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties.

§ 33-16. Political solicitations.

- A. No municipal officer or employee shall directly or indirectly compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.
- B. No municipal officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any municipal officer or employee, or an applicant for a position as a municipal officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

§ 33-17. Confidential information.

No municipal officer or employee who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers and duties. For purposes of this chapter, "confidential information" means any nonpublic information acquired in the course of exercising or performing official duties that is not required by law to be disclosed to the public.

§ 33-18. Gifts.

- A. No municipal officer or employee shall solicit, accept or receive a gift in violation of § 805-a, Subdivision 1, of the General Municipal Law as interpreted in this section. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. No municipal officer or employee may directly or indirectly solicit any gift.
- C. No municipal officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of \$75 or more when:
 - (1) The gift reasonably appears to be intended to influence the officer or employee in the exercise

- or performance of his or her official powers or duties;
- (2) The gift could reasonably be expected to influence the officer or employee in the exercise or performance of his or her official powers or duties; or
 - (3) The gift is intended as a reward for any official action on the part of the officer or employee.
- D. For purposes of this section, a "gift" includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form. The value of a gift is the gift's fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceed \$75 must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.
- E. Gifts intended to influence or reward.
- (1) A gift to a municipal officer or employee is presumed to be intended to influence the exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks municipal action involving the exercise of discretion by or with the participation of the officer or employee.
 - (2) A gift to a municipal officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained municipal action involving the exercise of discretion by or with the participation of the officer or employee during the preceding 12 months.
- F. This section does not prohibit any other gift, including:
- (1) Gifts made to the municipality;
 - (2) Gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a municipal officer or employee, is the primary motivating factor for the gift;
 - (3) Gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;
 - (4) Unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;
 - (5) Awards and plaques having a value of \$75 or less which are publicly presented in recognition of service as a municipal officer or employee or other service to the community; or
 - (6) Meals and refreshments provided when a municipal officer or employee is a speaker or participant at a job-related professional or educational conference or program and the meals and refreshments are made available to all participants.

§ 33-19. Cooperation and avoiding obstruction.

All municipal officers and employees have a duty to uphold the standards set forth in this chapter. Obstruction of, or failure to reasonably cooperate with, any inquiry or investigation by the Board of Ethics shall be a violation of this chapter.

§ 33-20. Penalties for offenses.

- A. Any municipal officer or employee who engages in any action that violates any provision of this chapter may be warned, reprimanded, suspended or removed from office or employment, or be subject to any other sanction authorized by law or collective bargaining agreement, by the Town Board or other appointing authority or person or body authorized by law to impose such sanctions. A warning, reprimand, suspension, removal, or other authorized sanction may be imposed in addition to any other penalty contained in this chapter or in any other provision of law. In its discretion, the Board of Ethics may make recommendations regarding the matter to the Town Board or other authority or person or body authorized by law to impose disciplinary action or refer the matter to the appropriate prosecutor.
- B. Any municipal officer or employee who violates any provision of this chapter may be subject to a civil fine of up to \$500 for each violation. Such civil fine may be imposed by the Town Board after a finding of a violation by the Town Board and shall be payable to the Town of Washington.
- C. Any resident, officer, or employee of the Town of Washington or the Town Board may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for injunctive relief to enjoin a municipal officer or employee of the Town of Washington from violating this chapter or to compel an officer or employee of the Town of Washington to comply with the provisions of this chapter. In lieu of, or in addition to, injunctive relief, the action or special proceeding, as appropriate, may seek a declaratory judgment.

§ 33-21. Board of Ethics.

- A. There is hereby established a Board of Ethics for the municipality. The Board of Ethics shall consist of five members, a majority of whom shall not be officers or employees of the municipality, but at least one of whom must be a municipal officer or employee. All members must be residents of the Town. The members of such Board of Ethics shall be appointed by the Town Board for three-year terms and receive no salary or compensation for their services as members of the Board of Ethics. Consecutive service on the Board of Ethics shall not exceed three full terms.
- B. No member of the Board of Ethics shall hold office in a political party or act as a lobbyist.
- C. When a vacancy occurs in the membership of the Board of Ethics, the vacancy shall, within 60 days, be filled for the unexpired portion of the term in the same manner as the original appointment. Any person appointed to fill a vacancy on the Board of Ethics shall meet the qualifications set forth in this section.
- D. A member of the Board of Ethics may be removed from office in the same manner in which he or she was appointed, after written notice and opportunity for reply. Grounds for removal shall be failure to meet the qualifications set forth in this section, substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, or violation of this chapter.
- E. The Board of Ethics shall elect a Chair from among its members. A majority of the Board of Ethics shall be required for such Board to take any action. The Chair or a majority of the Board of Ethics may call a meeting of such Board.
- F. The Town Attorney shall serve as counsel to the Board of Ethics, except in any matter where the Board of Ethics or such attorney determines that he or she is unable to serve due to a conflict of interest or lack of subject matter expertise. In such event, the Board of Ethics may retain separate counsel of its choosing at Town expense.

§ 33-22. Board of Ethics jurisdiction, powers and duties.

- A. The Board of Ethics may act only with respect to officers and employees of the Town of Washington. The termination of a municipal officer or employee's term of office or employment with the Town of Washington shall not affect the jurisdiction of the Board of Ethics with respect to the requirements imposed on him or her by this chapter while in office.
- B. The Board of Ethics shall possess, exercise, and enjoy all the rights, powers, and privileges necessary and proper to the administration of this chapter, including but not limited to the following powers and duties:
- (1) To prescribe and promulgate rules and regulations governing its own internal organization and procedures, including the conduct of investigations and hearings, in a manner consistent with this chapter;
 - (2) To review and maintain disclosure statements filed with the Board of Ethics pursuant to §§ 33-5 and 33-14;
 - (3) Make recommendations to the Town Board as provided in § 33-20;
 - (4) To review and dispose of complaints and to conduct related investigations and hearings pursuant to § 33-23; and
 - (5) To provide training and education to Town of Washington officers and employees on Article 18 of the General Municipal Law and this chapter, and to make information concerning Article 18 of the General Municipal Law and this chapter available to the public and to persons interested in doing business with the Town of Washington.
- C. The Board of Ethics shall render advisory opinions to the officers and employees of the Town of Washington with respect to Article 18 of the General Municipal Law and this chapter. Such advisory opinions must be rendered pursuant to the written request of any such officer or employee under such rules and regulations as the Board of Ethics may prescribe.
- D. In addition, the Board of Ethics may make recommendations to the Town Board with respect to the drafting and adoption of a Code of Ethics, or amendments thereto. It is anticipated that the entire Code of Ethics shall be reviewed by the Board of Ethics for potential revisions at least once every five years. The Board of Ethics may also make other recommendations to the Town Board in support of the goals of this chapter.

§ 33-23. Complaints; investigations; hearings.

- A. The Board of Ethics may accept from the general public, any of its own members, or any municipal officer or employee a complaint of an actual or potential conflict of interest or an actual or potential Code of Ethics violation involving any municipal officer or employee. Complaints must be made in writing. Complaints should remain confidential with the Board of Ethics to the extent permitted by law, but such complaints may nonetheless be disclosed if there has been a finding of a violation of this chapter. In addition, complaints may be disclosed to the Town Board and others who the Board of Ethics determines, in its discretion, have a need to know the disclosed information.
- B. Upon receipt of a complaint by any person alleging a violation of this chapter, or upon determining on its own initiative that a violation of this chapter is occurring or may have occurred, the Board of Ethics shall have the power and duty to conduct any investigation necessary to carry out the provisions of this chapter. In conducting any such investigation, the Board of Ethics may administer

oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records which it may deem relevant and material.

- C. Nothing in this section shall be construed to permit the Board of Ethics to conduct an investigation of itself or of any of its members. If the Board of Ethics receives a written complaint alleging that such Board or any of its members has violated any provision of this chapter, or any other law, the Board of Ethics shall promptly transmit to the Town Board a copy of such complaint.

§ 33-24. Public records.

- A. The only records of the Board of Ethics which shall be available for public inspection are those whose disclosure is required by Article 6 of the Public Officers Law of the State of New York or by some other state or federal law or regulation.
- B. No meeting or proceeding of the Board of Ethics concerning misconduct, nonfeasance, or neglect in office by a Town of Washington officer or employee shall be open to the public, except upon the request of the officer or employee or as required by the provisions of Article 7 of the Public Officers Law or by some other state or federal law or regulation.

§ 33-25. Posting and distribution; annual certification.

- A. The Town Supervisor must promptly cause a copy of this chapter, a copy of any amendment to this chapter, and a copy of New York State General Municipal Law, §§ 800 through 809, to be posted publicly and conspicuously in each building under the municipality's control. This chapter must be posted within 10 days following the date on which this chapter takes effect. An amendment to this chapter must be posted within 10 days following the date on which the amendment takes effect.
- B. The Town Supervisor must promptly cause a copy of this chapter, including any amendments to this chapter, to be distributed to every person who is or becomes an officer and employee of the Town of Washington.
- C. Every municipal officer or employee who receives a copy of this chapter or an amendment to this chapter must, in writing, acknowledge such receipt and truthfully certify that, to the best of his or her knowledge, he or she is in compliance with this chapter. In addition, once each calendar year, every municipal officer or employee shall truthfully certify in writing that, to the best of his or her knowledge, he or she is in compliance with this chapter. Such acknowledgments and certifications must be filed with the Town Clerk who must maintain such records as public records.
- D. The failure to post this chapter or an amendment to this chapter does not affect either the applicability or enforceability of this chapter or the amendment. The failure of a municipal officer or employee to receive a copy of this chapter or an amendment to this chapter, or to acknowledge receipt thereof in writing, does not affect either the applicability or enforceability of this chapter or amendment to this chapter.

§ 33-26. When effective.

This chapter takes effect on the date of adoption by the Town Board.

MEETINGS

Chapter 41

MEETINGS

[HISTORY: Adopted by the Town Board of the Town of Washington as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Videoconferencing

[Adopted 5-11-2023 by L.L. No. 2-2023]

§ 41-1. Legislative intent.

It is the intent of this article to give the Town's public bodies, as that term is defined in the Public Officers Law § 102, the authority to participate in meetings via videoconference in a manner consistent with the Town's videoconferencing policy and the authority granted in Public Officers Law § 103-a.

§ 41-2. Authority.

This article is adopted pursuant to Public Officers Law § 103-a, which expressly authorizes a Town Board to adopt a local law giving public bodies of the Town the authority to participate in meetings via videoconference from locations not accessible to the public so long as a quorum of the public body participates from locations where the public may be physically present and other conditions are met.

§ 41-3. Videoconferencing for public meetings.

The Town Board of the Town of Washington hereby authorizes all members of the Town's public bodies to participate in meetings using videoconferencing technology in a manner consistent with Public Officers Law § 103-a and the Town's videoconferencing policy adopted by the Town Board.

§ 41-4. Severability.

If any clause, sentence, paragraph, subdivision, or part of this article, or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted or adjudicated by any court of competent jurisdiction to be invalid or unconstitutional, such order of judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this article, or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

§ 41-5. When effective.

This article shall take effect immediately upon filing with the New York Secretary of State.

WASHINGTON CODE

Chapter 48

TERMS OF OFFICE

[HISTORY: Adopted by the Town Board of the Town of Washington as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Town Supervisor
[Adopted 9-12-2013 by L.L. No. 1-2013]

§ 48-1. Term of office of the Town Supervisor.

The term of office of the Town Supervisor of the Town of Washington shall be four years, commencing with and continuing after the term to begin on January 1, 2014, and, thus, this article shall cover the outcome of the biennial election of November 5, 2013.

§ 48-2. Mandatory referendum.

This article shall be subject to mandatory referendum pursuant to § 23 of this state's Municipal Home Rule Law.

§ 48-3. When effective.

This article shall take effect immediately upon filing with this state's Secretary of State, which filing shall await, and shall be conditioned upon, the outcome of the aforesaid mandatory referendum.

§ 48-4. Statutory authorization.

The provisions of this article, to the extent that they vary the provisions of §§ 20, 24 and/or 24-a of this state's Town Law, are expressly authorized within § 10, Subdivision 1(ii)a(1), and § 23 of this state's Municipal Home Rule Law.

General Legislation

Town of Washington, NY

§ 48-4

ANIMALS

Chapter 65

ANIMALS

[HISTORY: Adopted by the Town Board of the Town of Washington as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Licensing and Control of Dogs**[Adopted 12-9-2010 by L.L. No. 3-2010]****§ 65-1. Purpose.**

The purpose of this article is to provide for the licensing and identification of dogs, the control and protection of the dog population and the protection of persons, property, domestic animals and deer from dog attack and damage.

§ 65-2. Definitions.

- A. All terms not specifically defined herein shall have the meaning assigned to such terms within § 108 of the Agriculture and Markets Law of the State of New York, specifically, the following terms shall have the meaning given to them within that statutory section: "adoption"; "dog"; "domestic animal"; "euthanize"; "guide dog"; "harbor"; "identification tag"; "identified dog"; "owner"; "owner of record"; "person"; "police work dog"; "war dog"; "hearing dog"; "service dog"; and "person with a disability." **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. As used in this article, the following terms shall have the meanings indicated:
- CLERK — Town Clerk.
- RUN-AT-LARGE — To be an unleashed dog off of the premises of the owner.
- TOWN — Town of Washington

§ 65-3. License required.

- A. Pursuant to Article 7 of the Agriculture and Markets Law, no person shall own or harbor a dog within the Town of Washington unless such dog is licensed. Such license shall be renewed annually at fees determined by the Town Board of the Town of Washington. There shall be no fee for any license issued for any guide dog, hearing dog, service dog, war dog or police work dog, and copies of any license for such dogs shall be conspicuously labeled as such by the person issuing the license.
- B. In accordance with Article 7 of the Agriculture and Markets Law, the following are exempted from the licensing requirement:
- (1) Dogs under the age of four months, which are not at large, shall not require a license;
 - (2) Dogs residing in a pound or shelter maintained by or under contract or agreement with the state or any county, city, town or village, duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated dog protective association.
- C. Grace period. Any dog harbored within the Town of Washington which is owned by a resident of New York City or licensed by the City of New York, or which is owned by a nonresident of New York State and licensed by a jurisdiction outside the State of New York, shall be exempt from the licensing and identification provisions of this article for a period of 30 days.
- D. The application shall state the sex, actual or approximate age, breed, color and municipal identification number of the dog, and other identification marks, if any, and the name, address, telephone number, county and town, city or village of residence of the owner.
- E. The application shall be accompanied by the license fee and a certificate of rabies vaccination or a

statement certified by a licensed veterinarian stating that, because of old age or other reason, the dog's life would be endangered by the vaccine. In the case of a spayed or neutered dog, every application shall also be accompanied by a certificate signed by a licensed veterinarian or an affidavit signed by the owner showing that the dog has been spayed or neutered, provided that such certificate or affidavit shall not be required if the same is already on file with the Town Clerk. In lieu of the spay or neuter certificate, an owner may present a statement certified by a licensed veterinarian stating that he has examined the dog and found that, because of old age or other reason, the life of the dog would be endangered by spaying or neutering. In such case, the license fee for the dog shall be the same as for spayed or neutered dogs.

- F. Dogs will be licensed for a one-year license period. The expiration date will be the last day of the month of issuance, one year from the date of issuance.
- G. No license shall be issued by a pound, shelter, or any other entity on behalf of the Town of Washington.
- H. The Town of Washington will not issue purebred licenses. All dogs will be licensed individually in accordance with this article.
- I. Dog licenses issued by another agency, municipality or shelter will not be recognized by the Town of Washington. The Town of Washington does not credit unexpired terms of licenses issued by another municipality, nor does it refund licensing fees for any reason, including, but not limited to, dogs and dog owners that relocate to a municipality other than the Town of Washington, dogs that are no longer alive, dogs that are relinquished or transferred to another owner and dogs that are missing, gone or lost.
- J. Upon validation by the Clerk, the application shall become a license for the dog described therein. Once an application has been validated, no refund therefore shall be made.
- K. The Clerk shall provide a copy of the license to the owner and retain a copy in the Town Clerk's office.
- L. No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog.

§ 65-4. Change of ownership.

- A. In the event of a change of ownership of any dog which has been licensed pursuant to this article, or in the change of address of the owner of record of any such dog, the owner of record shall, within 10 days of such change, notify the Town Clerk of such change.
- B. If any dog which has been licensed pursuant to this article is lost or stolen, the owner of record shall, within 10 days of the discovery of such loss or theft, notify the Town Clerk of such loss or theft. The owner of record of any such dog shall not be liable for any violation of this article committed after such notification.
- C. In the case of a dog's death, the owner of record shall so notify the Town Clerk either prior to the renewal of licensure or upon the time of such renewal.

§ 65-5. Fees.

- A. Dog licensing fees shall be determined by the Town Board of the Town of Washington and may be amended at any time by said Town Board. All revenue derived from such fees is the sole property of

the Town of Washington and shall be used for the purposes permitted by Article 7 of the Agriculture and Markets Law.

- B. In addition to the fees set by the Town Board of the Town of Washington, an additional \$1 shall be assessed to a license for an altered dog and an additional \$3 shall be assessed to a license for an unaltered dog. This additional charge is assessed for the purposes of carrying out animal population control efforts. As the Town of Washington does not have its own animal control program, these surcharge dollars will be remitted by the Town Clerk to the state animal population control fund, as required by Agriculture and Markets Law § 117-a, Subdivision 7.
- C. When the Town Board of the Town of Washington determines the need for a dog enumeration or dog census, a fee of \$25 will be assessed to all dogs found unlicensed or renewed at the time the enumeration is conducted. Such fees shall be the sole property of the Town of Washington and shall be used to pay the expenses incurred by the Town in conducting the enumeration. In the event that the additional fees collected exceed the expenses incurred by the Town in conducting an enumeration in any year, such excess fees may be used by the municipality for enforcing this article and for animal population control programs. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- D. In addition to the license fee of this article, each applicant for a dog license shall pay a surcharge of \$3, which shall be retained by the Town of Washington and used to defray the cost of providing a replacement identification tag.
- E. Pursuant to Agriculture and Markets Law § 107, Subdivision 4, the licensing process and fees set forth in this article do not apply to any dog confined to the premises of any person, firm or corporation engaged in the business of breeding or raising dogs for profit and licensed as a Class A dealer under the Federal Laboratory Animal Welfare Act.²

§ 65-6. Identification tag required.

- A. All dogs required to be licensed must wear an identification tag, bearing the municipal identification number, attached to a collar at all times. No dog shall be permitted to be without a collar and an identification tag. All untagged dogs shall be subject to seizure and confinement by the Dog Control Officer. The collars of all dogs four months and over shall also have a tag evidencing rabies vaccination.
- B. No tag carrying an identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.
- C. A dog participating in a dog show shall be exempt from the identification requirements of both Agriculture and Markets Law § 111 and this article during such participation.

§ 65-7. Female dogs in heat.

Any female dog in heat shall be confined within a protected enclosure on the premises of the owner or person harboring the dog.

§ 65-8. Adequate shelter.

All premises occupied or used by dogs shall be kept in a clean and sanitary condition. Failure to provide

2. Editor's Note: See 7 U.S.C. § 2131 et seq.

adequate food, water or shelter shall be a violation of this article and shall constitute grounds for seizure of the animal hereunder. These principles shall apply both to individual owners and to any other persons harboring dogs for training, retail sale or boarding.

§ 65-9. Unlawful acts; owner responsibility.

- A. It shall be unlawful for any owner of any dog to permit or allow the animal to:
- (1) Run at large without control by an adequate leash when the dog is off the property of the owner. If at large or off its leash, such dog shall be subject to seizure and confinement.
 - (2) Engage in a recurring practice of howling, barking, crying or whining so as to unreasonably disturb the comfort or quiet enjoyment of any person other than the dog's owner. A minimum period of 1/2 hour (30 minutes) of excessive noise shall be deemed necessary to constitute a violation of this section. The person owning or possessing a dog committing an act prohibited herein, with or without the knowledge, consent or fault of such person, shall be guilty of a violation of this section.
 - (3) Uproot, dig or otherwise damage any lawns, gardens, vegetables, flowers or garden beds on property not belonging to the owner of the dog.
 - (4) Chase, bite, jump upon or at or otherwise harass any person in such a manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury.
 - (5) Engage in a recurring practice of chase, run along side of or bark at vehicles or bicyclists while on a public street or highway or upon public or private property other than property of the owner or other person in control of said dog.
 - (6) Cause damage or destruction to private or public property or to create a nuisance by defecating, urinating or digging on public or private property, other than property of the owner or other person in control of the dog.
 - (7) Kill or injure any domestic animal.
- B. Establishment of the fact or facts that the owner of a dog has allowed or permitted such dog to commit any of the acts prohibited by Subsection A of this section shall be presumptive evidence against the owner or harborer of such dog that he has failed to properly confine, leash or control his dog.
- C. Dogs are permitted in Town parks, when under control of leash, in designated areas only. Owners shall be responsible for immediate cleanup of any excrement deposited by their animals.
- D. When off the property of the owner, owners shall be responsible for immediate cleanup of any excrement deposited by their animals.

§ 65-10. Enforcement by Dog Control Officer.

This article shall be enforced by the Town's Dog Control Officer. Those persons shall have the authority to issue appearance tickets or other process set forth within Article 7 of the Agriculture and Markets Law.

§ 65-11. Seizure of dogs; redemption; disposition of unclaimed dogs.

- A. Seizure; fines; redemption.

- (1) Any dog which is not carrying an identification tag and which is not on the owner's premises, any dog which is not licensed, whether on or off the owner's premises, and any dog in violation of any other provision of this article or which poses an immediate threat to the public safety shall be subject to seizure, redemption, impoundment fees and adoption procedures as set forth in Article 7, § 117 of the Agriculture and Markets Law.
 - (2) Pursuant to § 117 of the Agriculture and Markets Law, fines and impoundment fees are set by Town Board resolution in their adoption of the Town's Fee Schedule.³ An owner may redeem their dog within the applicable redemption period specified in § 65-11A(3), below, upon payment all fines and impoundment fees and by producing proof that the dog has been licensed.
 - (3) Pursuant to § 117, of the Agriculture and Markets Law, redemption periods are set as follows:
 - (a) Where an owner has been personally notified: seven days from the date of such notice.
 - (b) Where an owner has been sent notice by certified mail, return receipt requested: nine days from the date of such mailing.
 - (c) Where the dog is unidentified: five days, excluding the day the dog is seized or impounded.
- B. No person shall hinder, resist or oppose the Dog Control Officer or any other person authorized to administer and enforce the provisions of this article in the performance of the person's duties pursuant to this article.
- C. No action shall be maintained against the Town of Washington, any duly designated Dog Control Officer or any other agent or officer of the Town to recover the possession or value of any dog for damages for injury or compensation for the destruction of any dog seized or destroyed pursuant to the provisions of this article.
- D. It shall be the duty of the Dog Control Officer or officers to feed and care for, at the expense of the Town, any animal seized hereunder until disposal thereof be made as provided herein.
- E. All monies collected as fines or penalties as a result of any prosecution for violations of the provisions of this article, and all bail forfeitures by persons charged with such violations, shall be the sole property of the Town of Washington and shall be used only for controlling dogs and enforcing this article.
- F. Fines and impoundment fees may be paid off in installments at the discretion of the Town Board and upon the execution of a promissory note by the owner of the dog.
- G. An owner shall forfeit title to any dog unredeemed at the expiration of the appropriate redemption period and the dog shall then be made available for adoption or euthanized, provided that no dog shall be delivered for adoption unless it has been licensed pursuant to the provisions of this article prior to its release from custody.
- H. No liability in damages or otherwise shall be incurred on account of the seizure, euthanization or adoption of any dog pursuant to the provisions of this article.

§ 65-12. Violations.

3. Editor's Note: The current Fee Schedule is on file in the Town offices.

- A. It shall be a violation for:
- (1) Any owner to fail to license any dog;
 - (2) Any owner to fail to have any dog identified as required by this article;
 - (3) Any person to knowingly affix to any dog any false or improper identification tag, special identification tag for identifying guide, service or hearing dogs, or purebred license tag;
 - (4) Any owner or custodian of any dog to fail to confine, restrain or present such dog for any lawful purpose pursuant to this article;
 - (5) Any person to furnish any false or misleading information on any form required to be filed with the Town of Washington pursuant to the provisions of this article or rules and regulations promulgated pursuant thereto;
 - (6) The owner or custodian of any dog to fail to exercise due diligence in handling his or her dog if the handling results in harm to another dog that is a guide, hearing or service dog; and
 - (7) Any owner of a dog to fail to notify the Town of Washington of any change of ownership or address as required by this article.
- B. The Town of Washington may elect either to prosecute such actions described in this section as a violation under the Penal Law or to commence an action to recover a civil penalty.

§ 65-13. Dangerous dogs.

Agriculture and Markets Law § 123 sets forth the applicable procedural and substantive requirements applicable within the Town of Washington when a dog is alleged to be dangerous.

§ 65-14. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

Except as otherwise provided in § 118 of the Agriculture and Markets Law, upon conviction, a violation of this article shall be deemed an offense and shall be punishable by a fine not exceeding \$50 for the first offense, \$100 for the second offense within the preceding five years, and \$250 for each additional offense within the preceding five years or by imprisonment for a period not exceeding 15 days, or by both such fine and imprisonment.

§ 65-15. Severability.

Each provision of this article shall be deemed independent of all other provisions herein and if any provision shall be deemed or declared invalid all other provisions hereof shall remain valid and enforceable.

§ 65-16. Filing; effective date.

This article shall be filed immediately with the Secretary of State as provided by law and shall be effective as of January 1, 2011.

CANNABIS

Chapter 72

CANNABIS

[HISTORY: Adopted by the Town Board of the Town of Washington as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

**Retail Establishment and On-Site Consumption Opt Out
[Adopted 12-9-2021 by L.L. No. 1-2022]****§ 72-1. Legislative intent.**

It is the intent of this article to opt out of allowing cannabis retail dispensaries and on-site cannabis consumption sites in the Town of Washington that would otherwise be allowed under Cannabis Law, Article 4.

§ 72-2. Statutory authority.

This article is adopted pursuant to Cannabis Law § 131, which expressly authorizes the Town Board to adopt a local law requesting the Cannabis Control Board to prohibit the establishment of cannabis retail dispensary licenses and/or on-site consumption licenses within the jurisdiction of the Town, and is subject to a permissive referendum, the procedure of which is governed by Municipal Home Rule Law § 24.

§ 72-3. Local opt-out.

The Town Board of the Town of Washington hereby opts out of allowing cannabis retail dispensaries and on-site cannabis consumption sites from being established and operated within the Town's jurisdiction.

§ 72-4. Severability.

If any clause, sentence, paragraph, subdivision, or part of this article, or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this article, or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

§ 72-5. Referendum on petition.

This article is subject to a referendum on petition in accordance with Cannabis Law § 131 and the procedure outlined in Municipal Home Rule Law § 24.

§ 72-6. When effective.

This article shall take effect immediately upon filing with the Secretary of State.

WASHINGTON CODE

Chapter 74

CONSTRUCTION CODES, UNIFORM

**[HISTORY: Adopted by the Town Board of the Town of Washington 11-8-2007 by L.L. No. 5-2007
. Amendments noted where applicable.]**

ARTICLE I
Purpose and Definitions

§ 74-1. Purpose.

This chapter provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the "Uniform Code") and the State Energy Conservation Construction Code (the "Energy Code") in the Town of Washington. This chapter is adopted pursuant to § 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this Chapter 74, Construction Codes, Uniform, of the Town of Washington Code (the "Town Building Code"), all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this chapter.

§ 74-2. Definitions.

For the purposes of this chapter of the Town of Washington the following words shall have the meanings contained herein:

BUILDING INSPECTOR — The Building Inspector appointed pursuant to § 74-3B of this chapter.

BUILDING PERMIT — A permit issued pursuant to Article III of this chapter. The term "building permit" shall also include a building permit which is renewed, amended or extended pursuant to any provision of this chapter.

CERTIFICATE OF OCCUPANCY — A certificate issued pursuant to Article VI of this chapter.

CODE ENFORCEMENT PERSONNEL — The Building Inspector and all inspectors.

COMPLIANCE ORDER — An order issued by the Building Inspector pursuant to § 74-53 of this chapter.

ENERGY CODE — The New York State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

INSPECTOR — An inspector appointed pursuant to § 74-3D of this chapter.

OPERATING PERMIT — A permit issued pursuant to Article VIII of this chapter. The term "operating permit" shall also include an operating permit that is renewed, amended or extended pursuant to any provision of this chapter.

PERMIT HOLDER — The person to whom a building permit has been issued.

PERSON — An individual, corporation, limited-liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

STOP-WORK ORDER — An order issued pursuant to Article V of this chapter.

TEMPORARY CERTIFICATE — A certificate issued pursuant to § 74-27 of this chapter.

TOWN BUILDING CODE — This chapter of the Town of Washington Code, as currently in effect and as hereafter amended from time to time.

UNIFORM CODE — The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

ZONING CODE — Chapter 165, Zoning, of the Town of Washington Code.

ARTICLE II
Code Enforcement Personnel

§ 74-3. Building Inspector.

- A. The Building Inspector shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this chapter. The Building Inspector shall have the following powers and duties:
- (1) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;
 - (2) Upon approval of such applications, to issue building permits, certificates of occupancy, temporary certificates and operating permits, and to include in building permits, certificates of occupancy, temporary certificates and operating permits such terms and conditions as the Building Inspector may determine to be appropriate;
 - (3) To conduct construction inspections, inspections to be made prior to the issuance of certificates of occupancy, temporary certificates and operating permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this chapter;
 - (4) To issue stop-work orders;
 - (5) To review and investigate complaints;
 - (6) To issue orders pursuant to § 74-54 of this chapter;
 - (7) To maintain records;
 - (8) To collect fees as set by the Town Board;
 - (9) To pursue administrative enforcement actions and proceedings;
 - (10) In consultation with this Town's Attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this chapter, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this chapter;
 - (11) The Building Inspector may, from time to time, promulgate such application forms, rules and regulations as deemed necessary by him or her for the proper administration and enforcement of this chapter; and
 - (12) To exercise all other powers and fulfill all other duties conferred upon the Building Inspector by this chapter and Chapter 165, Zoning.
- B. The Building Inspector shall be appointed by resolution of the Town Board. The Building Inspector shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Building Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- C. In the event that the Building Inspector is unable to serve as such for any reason, an individual shall be appointed by resolution of the Town Board to serve as acting Building Inspector. The acting

Building Inspector shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Building Inspector by this chapter.

- D. One or more inspectors may be appointed by resolution of the Town Board to act under the supervision and direction of the Building Inspector and to assist the Building Inspector in the exercise of the powers and fulfillment of the duties conferred upon the Building Inspector by this chapter. Each inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- E. The compensation for the Building Inspector and inspectors shall be fixed from time to time by the Town Board.

ARTICLE III
Building Permits

§ 74-4. Building permit required.

Except as otherwise provided in § 74-5, a building permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid-fuel-burning heating appliance, chimney or flue in any dwelling unit. No person shall commence any work for which a building permit is required without first having obtained a building permit from the Building Inspector.

§ 74-5. Exemptions.

A. No building permit shall be required for work in any of the following categories:

- (1) Construction or installation of one-story, detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for toolsheds and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);
- (2) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (3) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
- (4) Installation fences which are not part of an enclosure surrounding a swimming pool;
- (5) Construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;
- (6) Construction of temporary motion picture, television and theater stage sets and scenery;
- (7) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (8) Installation of partitions or movable cases less than five feet nine inches in height;
- (9) Painting, wallpapering, tiling, carpeting, or other similar finish work;
- (10) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- (11) Replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
- (12) Repairs, provided that such repairs do not involve:
 - (a) The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load bearing component;
 - (b) The removal or change of any required means of egress, or the rearrangement of parts of a

structure in a manner which affects egress;

- (c) The enlargement, alteration, replacement or relocation of any building system; or
 - (d) The removal from service of all or part of a fire protection system for any period of time.
- B. The exemption from the requirement to obtain a building permit for work in any category set forth in Subsection A of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code, the Energy Code, Chapter 165, Zoning, or this chapter.

§ 74-6. Applications for building permits.

Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Building Inspector. The application shall be signed by the owner of the property where the work is to be performed or by an authorized agent of the owner. The application shall include such information as the Building Inspector deems sufficient to permit a determination by the Building Inspector that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- A. A description of the proposed work;
- B. The Tax Map number and the street address of the premises where the work is to be performed;
- C. The occupancy classification of any affected building or structure;
- D. Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- E. At least three sets of construction documents (drawings and/or specifications), which:
 - (1) Define the scope of the proposed work;
 - (2) Are prepared by a New York State registered architect or licensed professional engineer, where so required by the Education Law;
 - (3) Indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - (4) Substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and
 - (5) Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

§ 74-7. Review by Zoning Administrator.

Upon receipt, the Building Inspector will then transmit the application to the Zoning Administrator, who will review the application and, if required, refer the application to the Planning Board or Zoning Board of Appeals for further action. If such referral is not required, the Zoning Administrator will transmit the application back to the Building Inspector and shall recommend issuance or denial of the building permit.

§ 74-8. Construction documents.

Construction documents will not be accepted as part of an application for a building permit unless they

satisfy the requirements set forth in § 74-6E of this chapter. Construction documents which are accepted as part of the application for a building permit shall be marked as accepted by the Building Inspector in writing or by stamp. One set of the accepted construction documents shall be retained by the Building Inspector, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the code enforcement personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued. The third set of documents shall be filed in the Town of Washington Assessor's office.

§ 74-9. Issuance of building permits.

- A. After transmittal back from the Zoning Administrator, the Building Inspector shall examine an application for a building permit to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Building Inspector shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code and in compliance with applicable laws and regulations of the Town of Washington.
- B. A building permit shall be issued by Building Inspector only when the following conditions have been satisfied:
- (1) All buildings will be located on buildable land as defined in Chapter 165, Zoning.
 - (2) The proposal set forth in the application conforms to the use, area, bulk, and applicable overlay district, environmental protection district, and wetland regulations of Chapter 165, Zoning, unless a variance has been granted by the Zoning Board of Appeals.
 - (3) All required reviews and actions have been complied with.
 - (4) All necessary approvals have been secured.
 - (5) Any public or private road or common driveway providing access to the proposed building has been suitably improved to the satisfaction of the Town Highway Superintendent or designated engineer to provide safe access as required by this chapter, Chapter 165, Zoning, and Chapter 137, Subdivision of Land.
 - (6) All water supply and sewage disposal facilities conform to the Dutchess County Department of Health Regulations, the New York Public Health Law, any applicable regulations of the New York State Department of Environmental Conservation, and the requirements of Chapter 165, Zoning.
 - (7) Where the building permit relates to a commercial, industrial, or office project, or a mobile home park, as such terms are defined in Chapter 165, Zoning, the building permit for any building or buildings, as the same shall be shown on the approved subdivision plat or site plan, shall be issued by the Building Inspector only when the following additional conditions have been satisfied:
 - (a) All roads, sidewalks, curbs, and gutters, as the same shall be shown on the approved subdivision plat or site plan, have been installed and, if the same are to be dedicated to the Town, offered to the Town for dedication and accepted by the Town.
 - (b) All drainage easements, storm sewers, catch basins, and other drainage facilities, as the

same shall be shown on the approved subdivision plat or site plan have been installed and, if the same are to be dedicated to the Town, offered to the Town for dedication and accepted by the Town.

- (c) All sanitary sewer lines, sewage disposal plants, water lines, water plants, wells, or other sources of water supply, as the same shall be shown on the approved subdivision plat or site plan, have been installed and, if the same are to be dedicated to the Town, offered to the Town for dedication and accepted by the Town.
 - (d) All public or private recreational facilities, as shown on the approved subdivision map or site plan, have been constructed, and certificates of occupancy, to the extent that the same are required for such facilities, have been issued.
 - (e) At the discretion of the Town Board, and as an alternative to the completion of the improvements set forth in Subsection B(7)(a) through (d) above, a performance bond may be furnished to the Town by the owner, said bond to be sufficient to cover the full costs of said improvements, as estimated by the Planning Board or other appropriate Town departments designated by the Planning Board. The Town Board may require that such performance bond shall be issued by the owner with security acceptable to the Town Board as to form, sufficiency, and manner of execution. Such performance bond shall run for a term to be fixed by the Town Board, but in no case for a longer term than three years; provided, however, that the term of such performance bond may be extended by the Town Board with the consent of the parties thereto. In the event that any required improvements have not been installed as provided in this Subsection B(7)(e) within the term of such performance bond, the Town Board may thereupon declare the said performance bond to be in default and collect the sum payable thereunder and, upon the receipt of the proceeds thereof, the Town shall install such improvements as are covered by such performance bond, but not exceeding in cost the amount of such proceeds.
 - (f) Anything contained in this § 74-9B to the contrary notwithstanding, the Building Inspector shall have the right to issue a building permit if the same shall be required by this chapter or Chapter 165, Zoning, for any of the construction referred to in Subsection B(7)(a) through (d) above.
- C. Upon receipt of written order from the Zoning Administrator, pursuant to § 165-104C of Chapter 165, Zoning, of the Code of the Town of Washington, that a violation of Chapter 165 exists at a property, no building permit shall be issued for any use for such property.

§ 74-10. Denial of a building permit.

If the Building Inspector is not satisfied that the applicant's proposed development will meet the requirements of this chapter or Chapter 165, Zoning, the Building Inspector shall refuse to issue a building permit. The applicant may appeal such a decision to the Zoning Board of Appeals.

§ 74-11. Building permits to be displayed.

Building permits shall be issued in duplicate and one copy shall be posted conspicuously on the premises affected and shall remain visible until the authorized work has been completed. No owner, contractor, workman, or other person shall perform any site work or building construction of any kind unless the required building permit is displayed.

§ 74-12. Work to be in accordance with construction documents.

All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Building Inspector of any change occurring during the course of the work. The building permit shall contain such a directive. If the Building Inspector determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.

§ 74-13. Time limits.

- A. A building permit shall expire six months from the date of issuance if the applicant fails to commence the work in accordance with the application as filed with the Building Inspector. For good cause shown, the Building Inspector may allow a maximum of two extensions for periods not exceeding three months each for the commencement of work.
- B. Building permits shall expire 12 months after the date of issuance. For good cause shown, the Building Inspector may allow a maximum of two extensions for periods not exceeding six months each for the completion of work. A building permit which has become invalid or which has expired pursuant to this section may be renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Building Inspector.

§ 74-14. Revocation or suspension of building permits.

If the Building Inspector determines that a building permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a building permit was issued violates the Uniform Code, the Energy Code, this chapter or Chapter 165, Zoning, or the work is being performed in an unsafe or dangerous manner, or that work is being done upon the premises in a way differing materially from that called for in the filed application, the Building Inspector shall revoke the building permit and issue a stop-work order pursuant to Article V of this chapter. Thereupon, it shall be the duty of the person holding the same to surrender the permit and all copies thereof to the Building Inspector. No owner, contractor, workman, or other person shall perform any building operation of any kind after the posting of said stop-work order and notification that a building permit has been revoked. The building permit shall not be reissued until such time as the permit holder demonstrates that:

- A. All work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code; and
- B. All work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

§ 74-15. Appeals.

If no other approvals are required and no notice has been provided pursuant to § 165-104C of Chapter 165, Zoning, and the Building Inspector refuses to issue a building permit, the applicant may appeal to the Zoning Board of Appeals.

ARTICLE IV
Construction Inspections

§ 74-16. Work to remain accessible and exposed.

Work shall remain accessible and exposed until inspected and accepted by the Building Inspector or by an inspector authorized by the Building Inspector. The permit holder shall notify the Building Inspector when any element of work described in § 74-17 is ready for inspection.

§ 74-17. Elements of work to be inspected.

The following elements of the construction process shall be inspected, where applicable:

- A. Worksite prior to the issuance of a building permit;
- B. Footing and foundation;
- C. Preparation for concrete slab;
- D. Framing;
- E. Building systems, including underground and rough-in;
- F. Fire-resistant construction;
- G. Fire-resistant penetrations;
- H. Solid-fuel-burning heating appliances, chimneys, flues or gas vents;
- I. Energy Code compliance; and
- J. A final inspection after all work authorized by the building permit has been completed.

§ 74-18. Inspection results.

After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

ARTICLE V
Stop-Work Orders

§ 74-19. Authority to issue.

The Building Inspector is authorized to issue stop-work orders pursuant to this section. The Building Inspector shall issue a stop-work order to halt:

- A. Any work that is determined by the Building Inspector to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
- B. Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Building Inspector, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
- C. Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.

§ 74-20. Content of stop-work orders.

Stop-work orders shall:

- A. Be in writing;
- B. Be dated and signed by the Building Inspector;
- C. State the reason or reasons for issuance; and
- D. If applicable, state the conditions which must be satisfied before work will be permitted to resume.

§ 74-21. Service of stop-work orders.

The Building Inspector shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by certified mail, return receipt requested. The Building Inspector shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by certified mail, return receipt requested; provided, however, that failure to serve any person mentioned in this section shall not affect the efficacy of the stop-work order.

§ 74-22. Effect of stop-work order.

Upon the issuance of a stop-work order, the owner of the affected property, the permit holder and any other person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the stop-work order.

§ 74-23. Remedy not exclusive.

The issuance of a stop-work order shall not be the exclusive remedy available to address any event

described in § 74-19 of this article, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under Article XII of this chapter or under any other applicable local law or state law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

ARTICLE VI
Certificates of Occupancy

§ 74-24. Certificates of occupancy required.

A certificate of occupancy shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued, shall be granted only by issuance of a certificates of occupancy.

§ 74-25. Issuance of certificates of occupancy.

A. Application.

- (1) All certificates of occupancy shall be applied for promptly after the completion of the erection of, addition to, or structural alteration of the building or structure for which a building permit has been issued. Said certificate shall be issued within 10 business days after the erection or alteration shall have been approved as complying with the provisions of this chapter and Chapter 165, Zoning.
- (2) If a certificates of occupancy is applied for more than two months after the completion of the erection of, addition to, or structural alteration of the building or structure for which a building permit has been issued, the applicant shall incur an additional fee, as indicated at the time of application for the certificates of occupancy on the Town of Washington Fee Schedule, on file with the Town Clerk.

B. Issuance. The Building Inspector shall issue a certificates of occupancy if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Building Inspector, or an inspector authorized by the Building Inspector, shall inspect the building, structure or work prior to the issuance of a certificates of occupancy. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Building Inspector, at the expense of the applicant for the certificates of occupancy, shall be provided to the Building Inspector prior to the issuance of the certificates of occupancy:

- (1) A written statement of structural observations and/or a final report of special inspections; and
- (2) Flood hazard certifications.

C. No certificates of occupancy shall be issued unless a driveway has been completed in accordance with any conditions of the Planning Board approval and the applicable provisions of Chapter 165, Zoning.

D. Upon receipt of written order, pursuant to § 165-104C of Chapter 165, Zoning, from the Zoning Administrator that a violation of Chapter 165 exists at a property, no certificates of occupancy shall be issued for any use for such property.

E. Record. The Building Inspector shall maintain a record of all applications and certificates of

occupancy and copies or summaries thereof shall be furnished upon request to any person having a proprietary, tenancy, contractual or security interest in the building affected.

§ 74-26. Contents of certificates of occupancy.

A certificates of occupancy shall contain the following information:

- A. The building permit number, if any;
- B. The date of issuance of the building permit, if any;
- C. The name, address and Tax Map number of the property;
- D. If the certificates of occupancy is not applicable to an entire structure, a description of that portion of the structure for which the certificates of occupancy is issued;
- E. The use and occupancy classification of the structure;
- F. The type of construction of the structure;
- G. The assembly occupant load of the structure, if any;
- H. If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- I. Any special conditions imposed in connection with the issuance of the building permit; and
- J. The signature of the Building Inspector issuing the certificates of occupancy and the date of issuance.

§ 74-27. Temporary certificate.

The Building Inspector shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Building Inspector issue a temporary certificate unless the Building Inspector determines 1) that the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely, 2) that any fire- and smoke-detecting or fire-protection equipment which has been installed is operational, and 3) that all required means of egress from the building or structure have been provided. The Building Inspector may include in a temporary certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed six months, which shall be determined by the Building Inspector and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

§ 74-28. Revocation or suspension of certificates.

If the Building Inspector determines that a certificates of occupancy or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Building Inspector within such period of time as shall be specified by the Building Inspector, the Building Inspector shall revoke or suspend such certificate.

ARTICLE VII
Unsafe Building and Structures

§ 74-29. Unsafe structures and equipment.

Unsafe structures and equipment in this Town shall be identified and addressed in accordance with the procedures contained in this Article VII of this chapter.

§ 74-30. Defects constituting unsafe buildings.

All buildings or structures which have any or all of the following defects shall be deemed "unsafe buildings":

- A. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- B. Those which, exclusive of the foundation, show 33% or more of damage or deterioration of the supporting member or members or 50% of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- D. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the Town.
- E. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease so as to work injury to the health, safety or general welfare of those living therein.
- F. Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
- G. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of escape.
- H. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- I. Those which, because of their condition, are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this Town.
- J. Any building or structure which remains vacant and unattended continuously for a period of five years.

§ 74-31. Standards for repair, vacation or demolition.

The following standards shall be followed in substance by the Building Inspector and the Town Board in ordering repair, vacation or demolition:

- A. If the unsafe building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.

- B. If the unsafe building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated.
- C. In any case where an unsafe building is 50% damaged or decayed or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished. In all cases where an unsafe building is a fire hazard existing or erected in violation of the terms of this chapter or any other local law or statute of the State of New York, it shall be demolished.

§ 74-32. Nuisances.

All unsafe buildings within the terms of § 74-30 of this chapter are hereby declared to be public nuisances and shall be repaired, vacated or demolished as hereinbefore and hereinafter provided.

§ 74-33. Duties of Building Inspector regarding unsafe buildings and equipment.

The Building Inspector shall:

- A. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may exist in violation of this chapter.
- B. Inspect any building, wall or structure reported (as hereinafter provided for) by fire protection and law enforcement authorities within the Town as probably existing in violation of the terms of this chapter.
- C. Notify, personally or in writing, the owner or some one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property, by certified mail, return receipt requested, addressed to the last known address, if any, of the owner or some one of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in the same, as shown by the records of the Town Assessor or in the office of the County Clerk, of any building found by him or her to be an unsafe building within the standards set forth in § 74-30 of this chapter.
- D. Set forth, in the notice provided for in § 74-34C of this chapter, a description of the building or structure deemed unsafe and a statement of the particulars which make the building or structure an unsafe building and an order requiring the same to be put in such condition as to comply with the terms of this chapter within such length of time, not exceeding 30 days, as is reasonable. The notice shall also inform the recipient, as appropriate, that:
 - (1) The owner must vacate or repair or demolish said building in accordance with the terms of the notice and this chapter.
 - (2) The occupant or lessee must vacate said building or may have it repaired in accordance with the notice and remain in possession.
 - (3) Any mortgagee, agent or other persons having an interest in said building may, at his or her own risk, repair, vacate or demolish said building or have such work or act done, provided that any person notified under this section to repair, vacate or demolish any building shall be given such reasonable time, not exceeding 30 days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.
- E. Report to the Town Board any noncompliance with the notice provided for in § 74-34C and D of this chapter.

- F. Appear at all hearings conducted by the Town Board and testify as to the condition of unsafe buildings.
- G. Place a notice on all unsafe buildings, reading as follows:

"This building has been found to be an unsafe building by the Building Inspector. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner or some one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property, by certified mail, return receipt requested, addressed to the last known address, if any, of the owner or some one of the owner's executors, legal representatives, agents, lessees or other person having vested or contingent interest in the same, as shown by the records of the Town Assessor or in the office of the County Clerk, of any building found by the Building Inspector to be an unsafe building within the standards set forth in § 74-30 of Chapter 74. Construction Codes, Uniform, of the Town of Washington Code. It is unlawful to remove this notice until compliance with such notice has been achieved."

- H. For the filing of a copy of such notice in the office of the County Clerk of the county within which such building or structure is located, which notice shall be filed by such Clerk in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules, and shall have the same effect as a notice of pendency as therein provided, except as otherwise hereinafter provided in this section. A notice so filed shall be effective for a period of one year from the date of filing; provided, however, that it may be vacated upon the order of a judge or justice of a court of record or upon the consent of the Town Attorney. The Clerk of the county where such notice is filed shall mark such notice and any record or docket thereof as cancelled of record upon the presentation and filing of such consent or of a certified copy of such order.

§ 74-34. Duties of Town Board regarding unsafe buildings and equipment.

The Town Board shall:

- A. Upon receipt of a report of the Building Inspector, as provided for in § 74-33E of this chapter, give written notice to the owner or some one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property, by certified mail, return receipt requested, addressed to the last known address, if any, of the owner or some one of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in the same, as shown by the records of the Town Assessor or in the office of the County Clerk, of any building found by the Building Inspector to be an unsafe building within the standards set forth in § 74-30 of this chapter, to appear before the Board on the date specified in the notice to show cause why the building or structure reported to be an unsafe building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Building Inspector's notice provided for herein in § 74-33D of this chapter.
- B. Hold a hearing and hear such testimony as the Building Inspector or the owner or some one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property as shown by the records of the Town Assessor or in the office of the County Clerk shall offer relative to the unsafe building.
- C. Make written findings of fact from the testimony offered pursuant to § 74-34B of this chapter as to whether the building in question is an unsafe building within the terms of § 74-30 of this chapter.
- D. Issue an order based upon findings of fact made pursuant to § 74-34C of this chapter commanding

the owner or some one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property as shown by the records of the Town Assessor or in the office of the County Clerk to repair, vacate or demolish any building found to be an unsafe building within the terms of this chapter, provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said unsafe building, or any person not the owner of said unsafe building but having an interest in said building may demolish said unsafe building at his or her own risk to prevent the acquiring of a lien against the land upon which said unsafe building stands by the Town as provided in § 74-34E of this chapter.

- E. If such person fails to comply with the order provided for in § 74-34D of this chapter, within 10 days, cause such building or structure to be repaired, vacated or demolished as the facts may warrant, under the standards hereinbefore provided for in § 74-31 of this chapter and, with the assistance of the Town Attorney, cause the costs of such repair, vacation or demolition to be charged against the land on which the building existed as a municipal lien or cause such costs to be added to the tax rolls as an assessment or to be levied as a special tax against the land upon which the building stands or did stand or to be recovered in a suit at law against the owner, provided that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, safety or general welfare of the people of this Town, the Building Inspector shall notify the Town Attorney to take legal action to force the owner to make all necessary repairs or demolish the building.
- F. Report to the Town Attorney the names of all persons not complying with the order provided for in § 74-34D of this chapter.

§ 74-35. Emergency cases.

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless an unsafe building, as defined herein, is immediately repaired, vacated or demolished, the Building Inspector shall report such facts to the Town Board, and the Town Board shall cause the immediate repair, vacation or demolition of such unsafe building. The costs of such emergency repair, vacation or demolition of such unsafe building shall be collected in the same manner as provided in § 74-34E of this chapter.

§ 74-36. Absentee owners.

In cases, except emergency cases, where the owner, occupant or lessee is absent from the Town, all notices or orders provided for herein shall be sent by certified mail, return receipt requested, to the party in interest, as described § 74-33C of this chapter, to the last known address of such party in interest, and a copy of such notice shall be posted in a conspicuous place on the unsafe building to which it relates. Such mailing and posting shall be deemed adequate service.

§ 74-37. Disclaimer of liability.

No officer, agent or employee of the Town of Washington shall render himself or herself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of official duties under this Article VII of this chapter. Any suit brought against any officer, agent or employee of the Town of Washington as a result of any act required or permitted in the discharge of official duties under this Article VII of this chapter shall be defended by the Town Attorney until the final determination of the proceeding therein.

§ 74-38. Reporting by fire department and law enforcement.

- A. The chief of any fire department providing firefighting services for a property within this Town or

any law enforcement official may make a report, in writing, to the Building Inspector of any building or structures which are, may be, or are suspected to be unsafe buildings within the terms of this section.

- B. The chief of any fire department providing firefighting services for a property within this Town shall promptly notify the Building Inspector of any fire or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent.

ARTICLE VIII
Operating Permits

§ 74-39. Operation permits required.

Any person who proposes to undertake any activity or to operate any type of building listed in this § 74-39 shall be required to obtain an operating permit prior to commencing such activity or operation.

- A. Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 5003.1.1(1), (2), (3) or (4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR 1225.1; **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. Hazardous processes and activities, including, but not limited to, commercial and industrial operations which produce combustible dust as a by-product, fruit and crop ripening, and waste handling;
- C. Use of pyrotechnic devices in assembly occupancies;
- D. Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
- E. Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board.

§ 74-40. Applications for operating permits.

An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Building Inspector. Such application shall include such information as the Building Inspector deems sufficient to permit a determination by the Building Inspector that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Building Inspector determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Building Inspector, at the expense of the applicant.

§ 74-41. Inspections.

The Building Inspector, or an inspector authorized by the Building Inspector, shall inspect the subject premises prior to the issuance of an operating permit.

§ 74-42. Multiple activities.

In any circumstance in which more than one activity listed in § 74-39 of this chapter is to be conducted at a location, the Building Inspector may require a separate operating permit for each such activity, or the Building Inspector may, in his or her discretion, issue a single operating permit to apply to all such activities.

§ 74-43. Duration of operating permits.

Operating permits shall remain in effect until reissued, renewed, revoked, or suspended.

§ 74-44. Revocation or suspension of operating permits.

If the Building Inspector determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.

ARTICLE IX

Fire Safety and Property Maintenance Inspections**§ 74-45. Inspections required.**

Fire safety and property maintenance inspections of buildings and structures shall be performed by the Building Inspector, or an inspector designated by the Building Inspector, at the following intervals:

- A. Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every 12 months.
- B. Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every 12 months.
- C. Fire safety and property maintenance inspections of all multiple dwellings not included in Subsection A or B of this section, and all nonresidential buildings, structures, uses and occupancies not included in Subsection A or B of this section, shall be performed at least once every 36 months.

§ 74-46. Inspections permitted.

In addition to the inspections required by § 74-45 of this chapter, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Building Inspector, or an inspector designated by the Building Inspector, at any time upon:

- A. The request of the owner of the property to be inspected or an authorized agent of such owner;
- B. Receipt by the Building Inspector of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
- C. Receipt by the Building Inspector of any other information, reasonably believed by the Building Inspector to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this section shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

§ 74-47. OFPC inspections.

Nothing in this section or in any other provision of this chapter shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator under Executive Law § 156-e and Education Law § 807-b. Notwithstanding any other provision of this section to the contrary:

- A. The Building Inspector shall not perform fire safety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every 12 months;
- B. The Building Inspector shall not perform fire safety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every 12 months;
- C. The Building Inspector shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in § 74-45A and B if OFPC performs fire safety and property

maintenance inspections of such multiple-dwelling at intervals not exceeding the interval specified in § 74-45C of this chapter; and

- D. The Building Inspector shall not perform fire safety and property maintenance inspections of a nonresidential building, structure, use or occupancy not included in § 74-45A and B if OFPC performs fire safety and property maintenance inspections of such nonresidential building, structure, use or occupancy at intervals not exceeding the interval specified in § 74-45C of this chapter.

ARTICLE X
Complaints

§ 74-48. Investigation of complaints.

The Building Inspector shall review and investigate complaints received in writing and signed by the complainant which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this chapter, or any other local law, ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Building Inspector may deem to be appropriate:

- A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 74-53 of this chapter;
- C. If appropriate, issuing a stop-work order;
- D. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

ARTICLE XI
Recordkeeping and Reporting

§ 74-49. Recordkeeping.

The Building Inspector shall keep permanent official records of all transactions and activities conducted by all code enforcement personnel, including records of:

- A. All applications received, reviewed and approved or denied;
- B. All plans, specifications and construction documents approved;
- C. All building permits, certificates of occupancy, temporary certificates, stop-work orders, and operating permits issued;
- D. All inspections and tests performed;
- E. All statements and reports issued;
- F. All complaints received;
- G. All investigations conducted;
- H. All other features and activities specified in or contemplated by §§ 74-4 through 74-48, inclusive, of this chapter; and
- I. All fees charged and collected.

§ 74-50. Public inspection.

All such records shall be public records open for public inspection during normal business hours.

§ 74-51. Records retention.

All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.

§ 74-52. Program review and reporting.

The Building Inspector shall be responsible for the following submissions:

- A. The Building Inspector shall make a report to the Town Board, in writing, at least once every three months, reporting the number and type of building permits and certificates of occupancy issued, and listing all reported or continuing violations of this chapter and Chapter 165, Zoning, and the disposition or pending action on such violations.
- B. The Building Inspector shall annually submit to the Town Board a written report and summary of all business conducted by the Building Inspector and the inspectors, including a report and summary of all transactions and activities described in § 74-49 of this chapter and a report and summary of all appeals or litigation pending or concluded.
- C. The Building Inspector shall annually submit to the Secretary of State, on behalf of this Town, on a form prescribed by the Secretary of State, a report of the activities of this Town relative to administration and enforcement of the Uniform Code.

- D. The Building Inspector shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Town is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Town in connection with administration and enforcement of the Uniform Code.

ARTICLE XII
Enforcement

§ 74-53. Compliance orders.

The Building Inspector is authorized to order, in writing, the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this chapter. Upon finding that any such condition or activity exists, the Building Inspector shall issue a compliance order. The compliance order shall:

- A. Be in writing;
- B. Be dated and signed by the Building Inspector;
- C. Specify the condition or activity that violates the Uniform Code, the Energy Code, or this chapter;
- D. Specify the provision or provisions of the Uniform Code, the Energy Code, or this chapter which is/ are violated by the specified condition or activity;
- E. Specify the period of time which the Building Inspector deems to be reasonably necessary for achieving compliance;
- F. Direct that compliance be achieved within the specified period of time; and
- G. State that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Building Inspector shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail, return receipt requested. The Building Inspector shall be permitted, but not required, to cause the compliance order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by certified mail, return receipt requested; provided, however, that failure to serve any person mentioned in this section shall not affect the efficacy of the compliance order.

§ 74-54. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

It shall be unlawful for any owner, person, firm or corporation to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building or structure or portion thereof in violation of this chapter or in violation of any rule promulgated by the Building Inspector in accordance with applicable laws, or to fail in any manner to comply with a notice, directive or order of the Building Inspector, or to construct, alter, use or occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy. Violations of this section shall be punishable by a maximum fine of \$1,000. Each day that a violation continues shall be deemed a separate offense.

§ 74-55. Appearance tickets.

The Building Inspector, and any inspectors as may be appointed by the Town Board, shall have the authority to issue appearance tickets under Article 150 of the Criminal Procedure Law of this state for purposes of enforcement of the Uniform Code, the Energy Code and this chapter.

§ 74-56. Civil penalties.

In addition to those penalties prescribed by state law, any person who violates any provision of the Uniform Code, the Energy Code or this chapter, or any term or condition of any building permit, certificate of occupancy, temporary certificate, stop-work order, operating permit or other notice or order issued by the Building Inspector pursuant to any provision of this chapter, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this section shall be recoverable in an action instituted in the name of this Town.

§ 74-57. Injunctive relief.

An action or proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this chapter, or any term or condition of any building permit, certificate of occupancy, temporary certificate, stop-work order, operating permit, compliance order, or other notice or order issued by the Building Inspector pursuant to any provision of this chapter. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this chapter, or any stop-work order, compliance order or other order obtained under the Uniform Code, the Energy Code or this chapter, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this section shall be commenced without the appropriate authorization from the Town Board. The Town may also recover, in such action, its reasonable and necessary attorneys' fees and court costs in prosecuting such claim.

§ 74-58. Remedies not exclusive.

No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in Article V of this chapter, in any other section of this chapter, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in Article V of this chapter, in any other section of this chapter, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in § 382, Subdivision 2, of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in § 382, Subdivision 2, of the Executive Law.

ARTICLE XIII

Fees

§ 74-59. Fees.

All applications submitted pursuant to this chapter shall be accompanied by the applicable fee that shall be used to cover review and administrative 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.

ARTICLE XIV
Intermunicipal Agreements

§ 74-60. Intermunicipal agreements.

The Town Board may, by resolution, authorize the Town Supervisor to enter into an agreement, in the name of this Town, with other governments to carry out the terms of this chapter, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, 19 NYCRR 1203, or any other applicable law.

Town of Washington, NY

§ 74-60

WASHINGTON CODE

FLOOD DAMAGE PREVENTION

Chapter 90

FLOOD DAMAGE PREVENTION

**[HISTORY: Adopted by the Town Board of the Town of Washington 4-12-2012 by L.L. No. 1-2012
. Amendments noted where applicable.]**

ARTICLE I
Statutory Authorization and Purpose

§ 90-1. Findings.

The Town Board of the Town of Washington finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Washington, and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

§ 90-2. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages;
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
- F. Qualify and maintain for participation in the National Flood Insurance Program.

§ 90-3. Objectives.

The objectives of this chapter are:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood-control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To provide that developers are notified that property is in an area of special flood hazard; and

- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II
Terminology.

§ 90-4. Definitions; word usage.

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.
- B. As used in this chapter, the following terms shall have the meanings indicated:

100-YEAR FLOOD — See "base flood."

APPEAL — A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO, AH, or VO Zone on a community Flood Insurance Rate Map (FIRM) with a 1% or greater annual change of flooding to an average annual depth of one foot to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the "base floodplain" or "100-year floodplain." For purposes of this chapter, the term "special flood hazard area" (SFHA) is synonymous in meaning with the phrase "area of special flood hazard."

BASE FLOOD — The flood having a 1% chance of being equaled or exceeded in any given year.

BASEMENT — That portion of a building having its floor subgrade (below ground level) on all sides.

BUILDING — See "structure"

CELLAR — See "basement"

CRAWL SPACE — An enclosed area beneath the lowest elevated floor, 18 inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING —

- (1) A nonbasement building:

- (a) Built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor or, in the case of a building in Zone V1-30; VE or V, to have the bottom of the lowest horizontal structure members of the elevated floor elevated above the ground level by means of pilings, columns (posts or piers), or shear walls parallel to the flow of the water; and

- (b) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.
- (2) In the case of Zones V1-V30, VE or V, "elevated building" also includes a building otherwise meeting the definitions of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

FEDERAL EMERGENCY MANAGEMENT AGENCY — The federal agency that administers the National Flood Insurance Program.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) — An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD ELEVATION STUDY — An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — See "flood elevation study."

FLOOD or FLOODING —

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) The overflow of inland or tidal waters;
 - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (2) "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1) above of this definition.

FLOODPLAIN or FLOOD-PRONE AREA — Any land area susceptible to being inundated by water from any source (see definition of "flooding").

FLOODPROOFING — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — See "regulatory floodway."

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE — Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

LOCAL ADMINISTRATOR — The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, code enforcement officer, or employee of an engineering department.

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MANUFACTURED HOME — A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle.

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL — For the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME — See "manufactured home."

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

PRINCIPALLY ABOVE GROUND — At least 51% of the actual cash value of the structure, excluding land value, is above ground.

RECREATIONAL VEHICLE — A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 90-14B of this chapter.

START OF CONSTRUCTION —

- (1) The date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.
- (2) Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE — A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's

continued designation as a historic structure.

VARIANCE — A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

VIOLATION — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

ARTICLE III
General Provisions

§ 90-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Washington, Dutchess County.

§ 90-6. Basis for establishing areas of special flood hazard.

A. The areas of special flood hazard for the Town of Washington, Community Number 361147, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map Panel Numbers 36027C0284E, 36027C0292E, 36027C0294E, 36027C0305E, 36027C0310E, 36027C0315E, 36027C0320E, 36027C0326E, 36027C0328E, 36027C0336E, 36027C0337E, 36027C0338E, 36027C0339E, 36027C0401E, 36027C0402E, 36027C0406E, 36027C0407E, 36027C0426E, 36027C0427E, whose effective date is May 2, 2012, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.
- (2) A scientific and engineering report entitled "Flood Insurance Study, Dutchess County, New York, All Jurisdictions," dated May 2, 2012.
- (3) Letter of Map Revision, Case Number 18-02-0573P, effective September 28, 2018, amending Panels 36027C0315E and 36027C0320E of the Flood Insurance Rate Map. **[Added 8-9-2018 by L.L. No. 2-2018]**

B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at: Town of Washington Town Hall, office of the Town Clerk, 10 Reservoir Road, Millbrook, New York 12545.

§ 90-7. Interpretation and conflict with other laws.

- A. This chapter includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or local laws, the most restrictive, or that imposing the higher standards, shall govern.

§ 90-8. Severability.

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.

§ 90-9. Penalties for offenses.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this chapter

and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Washington from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under Article VI will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 90-10. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Washington, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

ARTICLE IV
Administration

§ 90-11. Designation of local administrator.

The Building Inspector is hereby appointed to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

§ 90-12. Floodplain development permit.

- A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 90-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- B. Fees. All applications for a floodplain development permit shall be accompanied by an application 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.⁴ In addition, the applicant shall be responsible for reimbursing the Town of Washington for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit to cover these additional costs.

§ 90-13. Application for a permit.

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 90-16C.
- D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 90-18.

4. Editor's Note: The current Fee Schedule is on file in the Town offices.

- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 90-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- F. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- G. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreation vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

§ 90-14. Duties and responsibilities of local administrator.

Duties of the local administrator shall include, but not be limited to the following:

- A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:
 - (1) Review all applications for completeness, particularly with the requirements of § 90-13, Application for permit, and for compliance with the provisions and standards of this chapter.
 - (2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article V, Construction Standards, and, in particular, § 90-15A, Subdivision proposals.
 - (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.
 - (4) If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article V, Construction Standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.
 - (5) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.
- B. Use of other flood data.
 - (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM), but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM), nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and

floodway data available from a federal, state or other source, including data developed pursuant to § 90-13G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.

- (2) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard for the purposes of this chapter.

C. Alteration of watercourses.

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

D. Construction stage.

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

E. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

F. Stop-work orders.

- (1) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 90-9 of this chapter.
- (2) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 90-9 of this chapter.

G. Certificate of compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in § 90-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
 - (2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
 - (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in § 90-14E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.
- H. Information to be retained. The local administrator shall retain and make available for inspection copies of the following:
- (1) Floodplain development permits and certificates of compliance;
 - (2) Certifications of as-built lowest floor elevations of structures, required pursuant to § 90-14D(1) and (2), and whether or not the structures contain a basement;
 - (3) Floodproofing certificates, required pursuant to § 90-14D(1), and whether or not the structures contain a basement;
 - (4) Variances issued pursuant to Article VI, Variance Procedure; and,
 - (5) Notices required under § 90-14C, Alteration of watercourses.

ARTICLE V
Construction Standards

§ 90-15. General construction standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 90-6.

- A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):
- (1) Proposals shall be consistent with the need to minimize flood damage;
 - (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and
 - (3) Adequate drainage shall be provided to reduce exposure to flood damage.
- B. Encroachments.
- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or
 - (b) The Town of Washington agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Washington for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Washington for all costs related to the final map revision.
 - (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 90-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or
 - (b) The Town of Washington agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Washington for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Washington for all costs related to the final map revisions.

§ 90-16. Standards for all structures.

The following standards apply to new development, including new and substantially improved structures,

in the areas of special flood hazard shown on the Flood Insurance Rate Map designed in § 90-6.

- A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- B. Construction materials and methods.
- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
 - (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
 - (3) Enclosed areas.
 - (a) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if based flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - [2] The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.
 - (b) Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.
- C. Utilities.
- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall also be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such wet items in wet locations;
 - (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
 - (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or

other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and

- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§ 90-17. Elevation of residential structures.

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in § 90-15A, Subdivision proposals, and § 90-15B, Encroachments, and § 90-16, Standards for all structures.

- A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- B. Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- C. Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 90-6 (at least two feet if no depth number is specified).
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§ 90-18. Nonresidential structures.

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in § 90-15A, Subdivision proposals, and § 90-15B, Encroachments, and § 90-16, Standards for all structures.

- A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure shall either:
 - (1) Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (2) Be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:
 - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
 - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in § 90-18A(2).

- C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of § 90-18A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
- E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 90-19. Manufactured homes and recreational vehicles.

The following standards, in addition to the standards in § 90-15A, Subdivision proposals, and § 90-15B, Encroachments, and § 90-16, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

A. Recreational vehicles.

(1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:

- (a) Be on site fewer than 180 consecutive days;
- (b) Be fully licensed and ready for highway use; or
- (c) Meet the requirements for manufactured homes in § 90-19B, C and D herein.

(2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

- B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- C. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements or at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- D. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 90-6 (at least two feet if no depth number is specified).

ARTICLE VI
Variance Procedure

§ 90-20. Appeals Board.

- A. The Planning Board as established by the Town of Washington shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Planning Board may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Planning Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
- (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity of the facility of a waterfront location, where applicable;
 - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- E. Upon consideration of the factors of § 90-20D and the purposes of this chapter, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The local administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

§ 90-21. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the items in § 90-20D(1) through (12) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure; and
 - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
- (1) The criteria of Subsections A, D, E and F of this section are met; and
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
- (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Notice.
- (1) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
 - (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - (b) Such construction below the base flood level increases risks to life and property.
 - (2) Such notification shall be maintained with the record of all variance actions as required in § 90-14H of this chapter.

Chapter 100**LITTERING**

[HISTORY: Adopted by the Town Board of the Town of Washington 8-12-2021 by L.L. No. 2-2021 . Amendments noted where applicable.]

§ 100-1. Title.

This chapter shall be known and may be cited as the "Washington Litter Control Law."

§ 100-2. Definitions; word usage.

For the purpose of this chapter, the following words, phrases and terms and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the singular; words used in the singular number include the plural; and words in the masculine include the feminine and the neuter. The word "shall" is always mandatory and not merely directory.

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

GARAGE SALE — The sale of tangible personal property from residential premises entitled "garage sale," "yard sale," "tag sale," "porch sale," "lawn sale," "attic sale," "basement sale," "rummage sale," "flea market" or any similar casual or occasional sale advertised to the public at large as such.

GARBAGE — Putrescible animal and vegetable wastes resulting from handling, preparation, cooking and consumption of food.

HANDBILL — Any printed or written matter, any sample or device, circular, leaflet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature.

LESSEE — Any person, corporation, firm, partnership, agency, or association that rents, bails, leases or contracts for the use of one or more vehicles and has the exclusive use thereof for any period of time.

LESSOR — Any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee or bailee under a rental agreement, lease or otherwise, wherein the lessee or bailee has the exclusive use of the vehicle for any period of time.

LITTER — Garbage, refuse and rubbish, as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger of public health, safety and welfare or tends to create blight.

NEWSPAPER — Any newspaper of general circulation, as defined by general law, any newspaper duly entered with the Post Office Department of the United States in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer, as provided by general law, and, in addition thereto, includes any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

OWNER — Any person, corporation, partnership, firm, agency, association, lessee, or organization which at the time of the notice of violation is issued pursuant to this chapter in which a vehicle is operated:

- A. Is the beneficial or equitable owner of such vehicle; or
- B. Has title to such vehicle; or

- C. Is the registrant or coregistrant of such vehicle which is registered with the Department of Motor Vehicles of this state or any other state, territory, district, province, nation or other jurisdiction; or
- D. Uses such vehicle in its vehicle renting and/or leasing business.

PARK — A park, reservation, playground, beach, recreation center or any other public area in the Town, owned or operated by the Town and devoted to active or passive recreation.

PERSON — Any person, firm, partnership, association, corporation, company or organization of any kind.

PRIVATE PREMISES — Any house, building or other structure not owned or operated by the Town, whether inhabited or temporarily or continuously inhabited or vacant, including any yard, around parking lot, walk, driveway, porch steps, vestibule or mailbox belonging or appurtenant to such house, building or other structure.

PRIVATE RECEPTACLE — A storage and collection container for the storage of litter or rubbish or for the collection of reusable or recyclable household items, such as clothing or shoes, constructed of steel, aluminum or rigid plastic, with or without a heavy duty plastic liner or sack structured and placed so that the exit and entrance of rodents or other animals is prevented; they can be easily cleaned; they will not break or burst when lifted; they are easily unloaded; and they are of sufficient integrity to confine such litter or recyclables between the regular collections thereof. On its own initiative, or at the request of any person, firm or corporation, the Town Board may approve as fit and suitable for such purposes any such container. The term "private receptacle" shall include within its meaning those containers commonly known as "dumpsters" or any other container when used to accumulate or store refuse or trash.

PUBLIC PLACE — Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, beaches, squares, spaces, grounds and buildings.

RECORDED IMAGES — Images recorded on photographs, microphotographs, videotape, electronic or digital images, or any other medium, showing the front or rear of a vehicle, clearly identifying the registration plate number of the vehicle.

REFUSE — All putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, street cleanings and solid market and industrial wastes.

RESIDENTIAL PREMISES — A single- or multiple-family dwelling unit used for residential purposes which is not located in an area of Town zoned for commercial, industrial, business, manufacturing or mercantile uses.

RUBBISH — Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as, but not limited to, paper wrappings, cardboard, tin cans, wood, glass, bedding and crockery.

TOWN — The Town of Washington.

VEHICLE — Every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power.

§ 100-3. Littering in public places prohibited.

- A. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the Town except in public receptacles or in authorized private receptacles designated for the deposit of such litter, or in an official Town transfer station.
- B. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements, upon any street, sidewalk or other public place or upon private property.

- C. No person shall sweep into or deposit in any gutter, street or other public place within the Town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway.
- D. Persons owning or occupying property shall keep the area or sidewalk in front of their premises free of litter.

§ 100-4. Littering from vehicles prohibited.

No person shall throw or deposit litter from any vehicle upon any street or other public place within the Town or upon private property.

§ 100-5. Littering in/on parks, beaches and bodies of water prohibited.

- A. No person shall throw or deposit litter in any park or beach within the Town except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or private place. Where public receptacles are not provided, all such litter shall be carried away from the park or beach by the person responsible for its presence and properly disposed elsewhere, as provided herein.
- B. No person shall throw or deposit litter in any pond, river, stream or body of water within the Town.

§ 100-6. Littering on private property prohibited.

- A. No person shall throw or deposit litter on any private property within the Town, whether owned by such person or not and whether occupied or vacant, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.
- B. Any owner or person in control of premises upon which litter shall be found shall, upon being ordered to do so by the Building Inspector of the Town of Washington or an Assistant Building Inspector of the Town of Washington, remove the same from the premises within 72 hours of having been so ordered. Any such order which is sent to any person within the State of New York by mail shall be presumed to have been received within two business days from the date of mailing. Any such order which is sent to any person outside of New York State by mail shall be presumed to have been received within four business days from the date of mailing.
- C. Trash pickup.
 - (1) No items or materials which are intended for regular trash, rubbish or refuse pickup, including private receptacles therefor, shall be placed at curbside or on the public way earlier than 5:00 p.m. on the day prior to the time of regularly scheduled pickup or allowed to remain beyond midnight of the day the pickup actually occurs. Except within the aforementioned specified times, these items or materials, including private receptacles therefor, may not be placed or stored at the curb or in a public space or, in the case of a private premises, in the area between the curb or public space and the nearest wall of main building on said premises, unless within an enclosure and completely concealed from view.
 - (2) The owner, resident or person in control of private property or any portion thereof shall at all times maintain the premises or that portion controlled by him, free of any violation of Subsection C(1).

§ 100-7. Distribution of handbills restricted; exemptions.

- A. In public places. No person shall throw or deposit any handbill in or upon any sidewalk, street or other public place within the Town. No person shall hand out or distribute any handbill in any public place except to persons willing to accept it.
- B. On vehicles. No person shall throw or deposit any handbill in or upon any vehicle; except it shall not be unlawful in any public place for a person to hand out or distribute a handbill to any occupant of a vehicle who is willing to accept it.
- C. On private property. No person shall throw or deposit any handbill in or upon any private premises which are:
 - (1) Temporarily or continuously uninhabited or vacant.
 - (2) Posted with a sign placed in a conspicuous position near the entrance thereof, bearing the words "no peddlers or agents," "no advertisements" or words of similar import, indicating the desire of the occupants not to have such handbills left upon such premises, or where an occupant expressly directs the person not to throw, deposit or distribute the handbill on the premises.
 - (3) Inhabited, but not posted or subject to an express warning by an occupant, except by handling or transmitting any such handbill directly to an occupant, unless he places or deposits any such handbill so as to secure or prevent it from being blown or drifted about the premises or sidewalks, streets or other public ways.
- D. The provisions of this section shall not apply to the distribution of mail by the United States Postal Service nor to newspapers (as defined herein), except that newspapers shall be placed on private property in such a manner as to prevent them being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

§ 100-8. Posting notices prohibited; exemptions.

- A. No person shall post or affix any notice, poster or other paper or device calculated to attract the attention of the public to any lamppost, utility pole or tree or upon any public structure or building, except as may be authorized or required by law.
- B. Exemptions. The prohibitions contained in this section shall not apply to:
 - (1) Notices, posters or other papers or devices calculated to attract the attention of the public to a garage sale. Such notices, posters, or other papers or devices may not be posted more than six days prior to such garage sale and must be removed within three days thereafter.
 - (2) Notices, posters or other papers or devices calculated to attract to attention of the public to a not-for-profit function or event of any charitable, educational, cultural, fraternal, religious corporation, association or institution, civic group, service club, voluntary association or not-for-profit corporation (but not political posters). Such notices, posters or other papers or devices may not be posted more than six days prior to such function or event and must be removed within three days thereafter.

§ 100-9. Penalties for offenses.

- A. Any person committing an offense against any of the provisions of this chapter shall be punished, upon conviction, by a fine not exceeding \$500 a day or by imprisonment not exceeding 15 days, or

by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

- B. It shall be the duty of the duly appointed Building Inspector, Zoning Administrator and/or his agents, as well as law enforcement officers, to enforce the provisions of this chapter.
- C. A person convicted of a violation of this chapter within one year of a prior conviction for an unrelated offense under this chapter shall be punished by a fine not to exceed \$1,000 a day or by imprisonment not to exceed 30 days, or by both such fine and imprisonment.

§ 100-10. Recorded images violations.

- A. Legislative intent. The Town hereby finds and determines that littering within the Town is a threat to the health, well-being and safety of the residents of the Town. As a result, the Town has determined to utilize any permissible technological means available to reduce the incidence of littering. Therefore, the Town has established a policy and procedure set forth in this section to impose liability on the owner of a vehicle in any instance where the image of the operator of such vehicle is captured digitally or otherwise recorded throwing or depositing litter from such vehicle upon any street or other public place within the Town or upon private property.
- B. Owner liability. The owner of a vehicle shall be liable for a civil penalty imposed pursuant to this section if such vehicle is used or operated with the permission of the owner, express or implied, in any instance where a recorded image is obtained showing the operator throwing or depositing litter from such vehicle upon any street or other public place within the Town or upon private property.
- C. Notice of liability. A notice of liability shall be sent by the Town's Code Enforcement Officer by first-class mail to each person alleged to be liable as an owner of a vehicle in violation of this section. A notice of liability shall contain the name and address of the person to be liable for the violation as the owner; the registration of the vehicle involved in such violation; the location where the violation occurred; the date and time of such violation. Further, the notice of liability shall advise the person charged of the court having jurisdiction to adjudicate the liability of the violation and the time in which he or she may contest the liability alleged in the notice and that a failure to contest the notice in the manner and time prescribed shall be deemed an admission of liability.
- D. Certificate as prima facie evidence. A certificate sworn to or affirmed by the duly appointed Building Inspector, Zoning Administrator and/or his agents, as well as law enforcement officers, primarily responsible for enforcing the provisions of this chapter based upon a review of the recorded images shall be prima facie evidence of the facts contained therein. Any recorded images shall be available for inspection in any proceeding commenced in a court of competent jurisdiction to adjudicate the liability of such violation.
- E. Penalties. An owner shall be required to pay to the Town for a violation of this section a monetary civil penalty not to exceed \$500 for each violation, in addition to any other penalties contained in any other provision of law. In the event the Town is required to institute legal proceedings in a court of competent jurisdiction to adjudicate the liability of the violation and to recover such civil penalty, upon such adjudication the Town shall be entitled to recover from the owner any and all associated costs and disbursements incurred by the Town, if any, including attorneys' fees and interest upon any unpaid civil penalty calculated at the statutory rate.
- F. Indemnification. If the owner of a vehicle liable for the civil penalty imposed in accordance with this section was not the operator of the vehicle at the time of violation, the owner may maintain an action

for indemnification against the operator for any civil penalties paid as well as any costs, disbursements or attorneys' fees assessed against the owner.

G. Defenses.

- (1) An owner shall have a valid defense to an allegation of liability under this section if the vehicle in question had been reported to a police department or agency as stolen prior to the time the violation occurred and had not been recovered by the time the violation occurred. For the purposes of asserting this defense, it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first-class mail to the court having jurisdiction to adjudicate the liability of the violation.
- (2) An owner who is a lessor of a vehicle to which a notice of liability is issued shall not be liable for the violation, provided that he or she sends to the court having jurisdiction to adjudicate the liability of the violation a copy of the rental, lease or other such contract covering such vehicle on the day of the violation, with the name and address of the lessee clearly legible, within 30 days after receiving notice of such violation. Failure to send such information within the 30 days shall render the owner liable for the penalty prescribed in this section. When the lessor complies with the provisions of this subsection, the lessee of such vehicle on the date of the violation shall be deemed to be the owner of such vehicle for the purposes of this section.
- (3) No owner of a vehicle shall be subject to a monetary fine under this section if the operator of such vehicle was operating the vehicle without the consent of the owner at the time of the violation. However, there shall be a presumption that the operator of such vehicle was operating the vehicle with the consent of the owner at the time the violation occurred.

H. Nothing in this section shall preclude the duly appointed Building Inspector, Zoning Administrator and/or his agents, as well as law enforcement officers, from taking other action in connection with violations of any other applicable rules, regulations, statutes or laws.

§ 100-11. Statutory authority.

This chapter is enacted by the Town Board of the Town of Washington pursuant to its authority to adopt local laws under the New York State Constitution, Article IX, and Municipal Home Rule Law, § 10.

§ 100-12. When effective.

This chapter shall take effect immediately upon filing with the New York State Secretary of State.

Chapter 107**NOTIFICATION OF DEFECTS**

[HISTORY: Adopted by the Town Board of the Town of Washington 3-11-1976 by L.L. No. 1-1976 . Amendments noted where applicable.]

§ 107-1. Prior notification of defects required.

No civil action shall be maintained against the Town of Washington, or the Town Superintendent of Highways of the Town of Washington, or against any improvement district in the Town of Washington, for damages or injuries to person or property sustained by reason of any highway, bridge, culvert, or any other property, either real or personal, of any type or description, owned by the Town of Washington, or any property owned by any improvement district therein, being defective, out of repair, unsafe, dangerous or obstructed, unless written notice of such defective, unsafe, dangerous or obstructed condition of such highways, bridge, culvert or any other property owned by the Town of Washington, or any property owned by any improvement district, was actually given to the Town Clerk of the Town of Washington, or the Town Superintendent of Highways of the Town of Washington, and that there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of, and no such action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert or any other property owned by the Town of Washington, or any property owned by the improvement district in the Town of Washington, unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the Town of Washington or the Town Superintendent of Highways of the Town of Washington and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 107-2. Snow or ice on sidewalks.

No civil action shall be maintained against the Town of Washington and/or the Town Superintendent of Highways of the Town of Washington for damages or injuries to person or property sustained by reason of any defect in the sidewalks of the Town of Washington or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the Town of Washington or the Superintendent of Highways of the Town of Washington pursuant to statute, nor shall any action be maintained for damages or injuries to person or property sustained by reason of such defect or in consequence of such existence of snow or ice unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the Town of Washington or to the Town Superintendent of Highways of the Town of Washington and there was a failure or neglect to such defect to be remedied, such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 107-3. Transmittal of notices.

The Town Superintendent of Highways of the Town of Washington shall transmit, in writing, to the Town Clerk of the Town of Washington, within 10 days after receipt thereof all written notices received by him pursuant to this chapter, and he shall take any and all corrective action with respect thereto as soon as possible.

§ 107-4. Recordkeeping.

The Town Clerk of the Town of Washington shall keep an index record, in a separate book, of all written

§ 107-4

NOTIFICATION OF DEFECTS

notices which she shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of ice and snow upon, any Town Highway, bridge, culvert or a sidewalk, or any other property described in § 107-1 owned by the Town of Washington, or by any improvement district, which record shall state the date of the receipt of the notice, the nature and location of the condition stated to exist, and the name and address of the person from whom the notice is received. The record of such notice shall be preserved for a period of five years from the date it is received. The Town Clerk, upon receipt of such written notice, shall immediately and in writing notify the Town Superintendent of Highways of the Town of Washington of the receipt of such notice.

§ 107-5. Interpretation; severability.

- A. Nothing contained in this chapter shall be held to repeal or modify or waive any existing requirement or statute of limitations which is applicable to these causes of action, rather, this chapter is intended to prescribe additional requirements as conditions precedent to the right to maintain such action; nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence, nor to impose upon the Town of Washington, its officers and employees, and any of its improvement districts any greater duty or obligation than it may already have to keep its streets and sidewalks fit for public use and travel.
- B. If any clause, sentence, phrase, paragraph or any part of this chapter shall for any reason be adjudged finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this chapter but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof directly involved in the controversy or action in which judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this chapter would have been adopted had any such provisions not been included.

§ 107-6. When effective.

This chapter shall take effect immediately upon its passage by the Town Board of the Town of Washington and its filing with the Secretary of State.

Chapter 115**RENTALS, SHORT-TERM**

[HISTORY: Adopted by the Town Board of the Town of Washington 1-31-2024 by L.L. No. 1-2024 . Amendments noted where applicable.]

§ 115-1. Definitions.

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

CODE ENFORCEMENT OFFICER — Includes the Building Inspector, the Zoning Administrator, the Code Enforcement Officer and any other person charged with enforcing the Code or local laws of the Town and any applicable Building, Fire and Residential Codes of New York State.

OWNER or OWNERS — Includes the person or people actually owning real property, a person or people holding membership interests in a limited-liability company, a person or people holding a partnership interest in a partnership or limited- liability partnership, the trustee or trustees or a trust, or a person or people owning shares in a corporation, when any such an entity owns the real property.

SHORT-TERM RENTAL — Any portion of a dwelling unit or housing unit (as defined in any applicable NYS Fire, Building or Residential Code) rented for compensation in exchange for lodging for a period of not more than 31 consecutive days, including the primary structure or a permanent accessory structure. This may not include campgrounds, tent sites or tent platforms, and other temporary structures on the parcel. For the purpose of this chapter, the term "short-term rental" shall not include a bed-and-breakfast, boardinghouse/lodging house, hotel, motel, or ongoing month-to-month tenancies. In addition, there shall be no more than one short-term rental per property. Short-term rentals are allowed everywhere in the Town regardless of the zoning district.

§ 115-2. Presumption of dwelling unit as short-term rental property.

- A. The presence of the following shall create a presumption that all or a part of the property is being used as a short-term rental:
- (1) All or a part of the property is offered for lease on a short-term rental website, including but not limited to Airbnb, HomeAway and VRBO™, for a rental period of less than 31 days; and/or
 - (2) All or a part of the property is offered for lease for a period of 31 days or less through any form of advertising.
- B. The foregoing presumptions may be rebutted by evidence presented to the Code Enforcement Officer that the premises are not operated as a short-term rental.

§ 115-3. Required permit; limitations on short-term rental permits.

- A. Owners shall not advertise or use their property as a short-term rental without obtaining a revocable short-term rental permit in advance. Short-term rental permits shall be limited to one permit for any owner(s) for each two-year cycle. Only an owner or owners of the property can obtain a short-term rental permit (meaning that tenants or other occupants cannot apply for or obtain one). In addition, in order to qualify for the issuance of a short-term rental permit, one of the owners must meet the following criteria:
- (1) At least one of the owners must have owned the property (or maintained an ownership interest in the entity which owns the property) which is the proposed site of the short-term rental for a

period of at least one year before applying for a short-term rental permit.

- (2) At all times during which a short-term rental permit is in effect, and for the year immediately preceding the issuance of a short-term rental permit, at least one of the owners must reside in the dwelling unit or housing unit (or, in the case of an accessory structure, in the primary structure) for at least 100 days per year.
 - (3) At no time shall there be more than 40 short-term rental permits in effect for properties in the Town of Washington (exclusive of the Village of Millbrook).
- B. A short-term rental permit shall be valid for two years and must be renewed 30 days' prior to expiration of current permit if the premises are to continue to operate as a short-term rental.
- C. The short-term rental permit is not transferable to a new owner. The new owner of the premises subject to a short-term rental permit must file a new permit application.
- D. Notwithstanding the foregoing, those properties with short-term rental commitments existing on the date this chapter takes effect shall be permitted to honor such existing commitments and continue to make commitments for short-term rentals, but must apply for a permit within 180 days of this chapter's effective date for all future short-term rental commitments. In the event such application is denied, all commitments shall be cancelled.

§ 115-4. Short-term rental permit application requirements.

- A. Applications and application forms for a short-term rental permit may be obtained at the Town of Washington Town Hall or Town website, and fully completed applications shall be submitted to the Code Enforcement Officer, accompanied by payment of a nonrefundable application fee to be determined from time to time by resolution of the Town Board. The application shall include the following:
- (1) The signatures of all property owners or their designated agents.
 - (2) A statement authorizing the Code Enforcement Officer or his designee to inspect the property to ensure compliance with all requirements and standards contained within this chapter.
 - (3) An acknowledgment of present and ongoing compliance with the short-term rental standards as defined in this chapter,⁵ including, but not limited to, the demonstration of adequate off-road parking spaces for the proposed short-term rental and proof of a garbage and waste storage and disposal plan.
 - (4) A list of each property owner and the name of any manager, management agency managing the property, or other party responsible for maintaining the property in the owner's absence, including names, addresses, telephone numbers and email addresses of each individual.
 - (5) The name, address, telephone number and email address of a local contact person, who shall be responsible for and authorized to act on the owners behalf to promptly remedy any violation of the standards outlined in this chapter. The contact person may be an owner, or an agent designated by the owner(s) to serve as a contact person, and shall respond to any correspondence or concern from the Town Code Enforcement Officer within 24 hours.
 - (6) An accurate suitable floor plan for each level of the dwelling that can be occupied measuring at

5. Editor's Note: See § 115-5.

least 8.5 inches by 11 inches, and a plot plan, both drawn to scale and certified by the applicant. The floor plan and plot plan do not need to be prepared by a professional, but must include the following:

- (a) The location of buildings, required parking spaces, any swimming pools, hot tubs and spas.
 - (b) Basement location of house utilities and all rooms, including bedrooms, windows, exits and any heating/cooling units.
 - (c) First floor: all rooms, including bedrooms, windows, exits and any heating/cooling units.
 - (d) Second floor: all rooms, including bedrooms, windows, exits and any heating/cooling units.
 - (e) Attic (if present): all rooms, including bedrooms, windows, exits and any heating/cooling units.
 - (f) All rooms which are not included in the short-term rental must also be shown.
- (7) A statement that none of the owners of the subject property have had a short-term rental permit revoked within the previous year for any rental properties owned individually or together with others.
- B. All completed applications are subject to a floor plan review and plot plan review and approval by the Code Enforcement Officer.
- C. Owners wishing to apply for a variance relating to sleeping capacity, parking capacity, or other standards stated below must petition to the Zoning Board of Appeals. Variance applications will be reviewed and decided by the Zoning Board of Appeals.

§ 115-5. Short-term rental standards.

- A. Property requirements.
- (1) Property must comply and meet all applicable NYS Uniform Building Codes.
 - (2) There shall be one working smoke detector in each sleeping room and one additional smoke detector on each floor. Carbon monoxide detectors shall be installed as required by the New York State Uniform Fire Prevention and Building Code.
 - (3) Evacuation procedures must be posted in each sleeping room to be followed in the event of a fire or smoke condition or upon activation of a fire or smoke-detecting or other alarm device.
 - (4) There shall be an ABC fire extinguisher on each floor and in the kitchen. Fire extinguishers shall be inspected prior to a renter occupying the property and no less than monthly by the permit holder(s) to ensure each contains a full charge. A record of the date inspected initialed by the permit holder shall be maintained and made available to the Code Enforcement Officer upon request.
 - (5) The house number shall be located both at the road and on the dwelling unit so that the house number is clearly visible from both the road and the driveway.
 - (6) Exterior doors shall be operational and all passageways to exterior doors shall be clear and unobstructed.

- (7) Electrical systems shall be in good operating condition, labeled, unobstructed and shall be visible for the Code Enforcement Officer during the permitting process. Any defects found shall be corrected prior to permit issuance.
 - (8) All fireplaces, woodstoves, pellet stoves and similar heating devices shall comply with all applicable laws and regulations.
 - (9) The property must have a minimum of one off-road parking space for every bedroom shown on the floor plan included with the application.
 - (10) Maximum occupancy for each short-term rental unit shall not exceed two people per bedroom shown on the floor plan included with the application and two people per minimum full-size, convertible sleeping accommodation furniture (i.e., futon, hide-a-bed) also identified on the floor plan. The maximum occupancy of a short-term rental unit shall not exceed eight people, including permanent residents and renters.
 - (11) In the event that the property has a septic system, the maximum occupancy shall be defined by the capabilities of the septic system, but in no event shall overnight occupancy for any short-term rental unit exceed eight people total.
 - (12) A septic system at the property must meet all state and county requirements.
 - (13) The septic system must have been pumped within the past four years and proof of pumping and satisfactory inspection by a qualified septic disposal firm shall be available to the Code Enforcement Officer. Once a short-term rental permit is issued, the septic system must be pumped at least once every four years.
 - (14) The water supply to the property must meet all state and county requirements.
 - (15) No outdoor signage advertising the short-term rental is allowed on the property.
 - (16) For properties in an R1 Zone or Zoning District, or for properties of less than one acre, the properties must have side yard and rear yard fencing, stone walls, or continuous hedges to show occupants where the property lines are.
 - (17) For properties which include a swimming pool, there must be water safety equipment on the property, in plain view and within 10 feet of the edges of the swimming pool, and a water alarm activated by water disturbance (unless an auto safety cover exists).
- B. Insurance standards. All applicants and permit holders must provide evidence of property insurance and a certificate of liability insurance indicating the premises are rated as a short-term rental and maintain such insurance throughout the term of the short-term rental permit. The amounts for the insurance coverage shall be set by the Town Board as part of the Town's Fee Schedule(s).
- C. Waste removal provisions shall be made for weekly garbage removal during rental periods. Garbage containers shall be secured with tightfitting covers at all times to prevent leakage, spilling, or odors, and placed where they are not clearly visible from the road except at approximate pickup time.
- D. Rental contract applicants and permit holders must have a rental contract, which includes the following:
- (1) Maximum property occupancy;
 - (2) Maximum on-site parking provided; and

- (3) Good neighbor statement, stating:
- (a) The short-term rental renters should be considerate of the residents in neighboring homes;
 - (b) Guests are requested to observe quiet hours from 11:00 p.m. to 7:00 a.m.;
 - (c) All renters will be subject to New York Penal Law § 240.20 or any successor statute regarding disorderly conduct;
 - (d) Littering is illegal;
 - (e) Recreational campfires must be attended at all times;
 - (f) Hunting, the discharge of firearms, pyrotechnics, motorcycles, motocross and off-road vehicles shall not be permitted or operated on the property which is subject to a short-term rental.

§ 115-6. Procedure upon filing application.

- A. Short-term rental permit applications shall be filed with the Town of Washington Code Enforcement Officer with all supporting documentation and the nonrefundable permit fee. Only completed applications will be accepted by the Town's Code Enforcement Officer. The Code Enforcement Officer may decline to accept an application for consideration for any of the following reasons:
- (1) The application documentation required by this chapter was not included or the full permit fee was not paid.
 - (2) A previously issued short-term rental permit was revoked within the past year and defects and/or violations have not been corrected and inspected by the Code Enforcement Officer.
- B. Upon receipt of a completed short-term rental permit application, adjacent property owners of the short-term rental will be notified of the application by the applicants by certified mail, return receipt requested. That notice shall contain all of the contact information identified in § 115-4A(5) and a statement that the local contact person must promptly remedy complaints of violations.
- C. Upon the Code Enforcement Officers acceptance of the completed permit application, including all documents and information required by this chapter and the permit fee, the Code Enforcement Officer shall have 30 days to conduct a property inspection to certify and approve that all short-term rental requirements have been met.
- D. Upon approval of the short-term rental application by the Code Enforcement Officer, a short-term rental permit will be issued. Short-term rental permits issued pursuant to this chapter shall state the following:
- (1) The names, addresses, and phone numbers of each person or entity that has an ownership interest in the short-term rental property.
 - (2) The name, address, and phone number of a primary local contact person who shall be available during the entire time the short-term rental property is being rented. "Local" for this purpose shall mean that the contact person can arrive at the property to respond to a complaint within 30 minutes of receiving the complaint.
 - (3) The maximum occupancy and vehicle limits for the short-term rental property.

- (4) Identification of the number of and location of parking spaces available.
- (5) Any conditions imposed by the Zoning Board of Appeals and/or Code Enforcement Officer.
- (6) The phone numbers for local emergency services (e.g., fire, police, EMT).

§ 115-7. Compliance required; display of permit.

Short-term rental permits are subject to continued compliance with the requirements of this chapter.

- A. If the Code Enforcement Officer has probable cause to believe that the homeowner is not in compliance with the provisions of this chapter, the Code Enforcement Officer may request permission from the short-term rental permit holder to enter the premises and to conduct an inspection of the short-term rental property for purposes of ensuring compliance with this section. If the permit holder refuses to permit the Code Enforcement Officer to inspect the property, the permit will be revoked. If an inspection authorized herein is conducted, the Code Enforcement Officer shall use the results of such inspection in determining whether to revoke the permit.
- B. The short-term rental permit, maximum occupancy limit, maximum parking, contact form and standards shall be prominently displayed inside and near the front entrance of the short-term rental; and
- C. The short-term rental permit holder shall ensure that current and accurate information is provided to the Code Enforcement Officer and that the Code Enforcement Officer is notified immediately of any change in the information displayed on the permit. If, based on such changes, the Code Enforcement Officer issues an amended short-term rental permit, the owner(s) must immediately post the amended permit inside and near the front entrance of the short-term rental.
- D. The short-term rental permit holder must conspicuously display the short-term rental permit number in all advertisements for the applicable short-term rental.

§ 115-8. Penalties for offenses.

- A. Violations of this chapter or of any short-term rental permit issued pursuant to this chapter shall be subject to enforcement and penalties prescribed in this chapter and in Chapter 165, Zoning, of the Code of the Town of Washington, in relation to fines and additional penalties.
- B. If the Code Enforcement Officer either witnesses or receives a written complaint (unless the suspected violation is of life, health or safety matters, in which case the Code Enforcement Officer is authorized to act on an oral complaint) of an alleged violation of this chapter or of any short-term rental permit issued pursuant to this chapter, the Code Enforcement Officer shall properly record such complaint and immediately investigate the report thereon. If the Code Enforcement Officer determines there is a violation of this Code or this chapter, the owners shall be notified in writing by certified or registered mail, or personal service, of said violations and the Code Enforcement Officer may take any or all of the following actions:
 - (1) Attach conditions to the existing short-term rental permit.
 - (2) Suspend the short-term rental permit. The notice of suspension shall be provided to a property owner and a copy filed with the Town Clerk.
 - (3) Require corrective action that remedies the violation(s). The corrective action must be completed and approved within 30 days of notice from the Code Enforcement Officer or the

owner (or permit holder) risks revocation of the short-term rental permit.

- (4) Issue a court appearance ticket for violation of law.
- (5) Revoke the short-term rental permit. Should a permit be revoked, all owners of the short-term rental are prohibited from obtaining a short-term rental permit on the property for one year after the date of revocation. The Code Enforcement Officer shall send a notices of revocation to property owner(s) and shall file a copy with the Town Clerk.

§ 115-9. Application for renewal of permit.

Renewal permits will be granted for an additional two-year term if the following conditions are met:

- A. Application for renewal of the short-term rental permit shall be made 30 days' prior to expiration of current permit and requires payment of renewal fee.
- B. At the time of application for renewal, the owner or designated agent must present the previous permit for short-term rental.
- C. The property must have undergone re-inspection performed by the Code Enforcement Officer.
- D. Any violations, whether previously issued or observed during the reinspection, must be remedied prior to renewal of a permit for short-term rental.

§ 115-10. Grounds for suspension or revocation of permit.

The Code Enforcement Officer may immediately suspend a short-term rental permit based on any of the following grounds:

- A. Applicant has falsified or failed to provide information in the application for a permit or the application for permit renewal.
- B. Applicant failed to meet or comply with any of the requirements of this chapter.
- C. Owner is in violation of any provision of the Code of the Town of Washington or the New York State Uniform Fire Prevention and Building Code.
- D. Owner has violated any provision of the Penal Code of the State of New York, which violation occurred at, or related to the occupancy of, the short-term rental.
- E. Any conduct on the premises, which disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance.
- F. Removal or disrepair of any safety devices, such as, but not limited to, smoke and carbon monoxide detectors, fire extinguishers, and egresses.

§ 115-11. Appeals and hearings.

The property owner is entitled to appeal the Code Enforcement Officer's determination to the Zoning Board of Appeals when a property owner's application for a short-term rental permit or a short-term rental permit renewal is denied or a short-term rental permit is revoked. A notice of appeal shall be filed with the Town Clerk and the Zoning Board of Appeals within 60 days of the Code Enforcement Officer's filing of the denial or revocation with the Town Clerk. A hearing shall be held by the Zoning Board of Appeals not more than 45 days after the filing of the notice of appeal.

§ 115-12. Severability.

Should any word, section, clause, paragraph, sentence, part, or provision of this chapter be declared invalid by a court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

§ 115-13. Effect on prior provisions; repealer.

All other ordinances or local laws of the Town of Washington which are in conflict with the provisions of this chapter are hereby superseded or repealed to the extent necessary to give this chapter force and effect during its effective period.

§ 115-14. When effective.

This chapter will take effect upon filing in the office of the New York State Secretary of State.

WASHINGTON CODE

Chapter 120

SOLID WASTE

[HISTORY: Adopted by the Town Board of the Town of Washington as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Disposal of Garbage
[Adopted 10-23-1967]

§ 120-1. Definitions.

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

GARBAGE — Includes waste food, papers, dead fish or animals or parts thereof, waste fruit or vegetable matter or organic waste of any kind, discarded building material, or any other matter of inflammable composition or capable of fermentation or decay.

PERSON — Includes an individual, society, club, firm, partnership, corporation, or association of persons, and the singular number shall include the plural number.

RUBBISH — Includes waste metal, tin cans, ashes, cinders, glass of all kinds, pottery, and any and all kinds and types of discarded substances of a solid nature and of an incombustible composition.

§ 120-2. Designation of dump site; notice to separate waste.

- A. The premises now owned by the Town of Washington now situated approximately four miles east of the Village of Millbrook on the north side of Rt. 343 is hereby designated as the dumping ground of this Town for both rubbish and garbage for use by residents of the Town, subject to the further provisions of this article. The regulations herein contained shall also apply to any other lands hereafter acquired or leased for the purpose of disposal of rubbish and/or garbage.
- B. From time to time the Town Board, by directions to the Town dump custodian or custodians, may require, by posting written notice at the dump site, a separation of garbage from rubbish in delivery and deposit of the same at any Town dump site, such purpose being to facilitate earth covering of garbage within optimum time periods after such deposit and delivery.

§ 120-3. Restrictions on use of dump site.

- A. No person shall deliver or deposit either rubbish or garbage at the site described under § 120-2 herein, or at any other future Town dump site, except within such hours as the Town Board may from time to time set for such delivery and deposit; notice of such times of dumping will be by reasonable written notice clearly posted by signs at the dump site herein described or at any future dump site.
- B. The herein described Town dump and any future Town dump is intended for use limited solely to persons residing within the Town of Washington and/or to persons paying real property taxes/assessed exclusively upon the most recent tax rolls of the Town.
- C. No person shall deliver or deposit garbage or rubbish in the herein described Town dump or in any future Town dump if he has obtained such garbage or rubbish without the Town of Washington, except as may be authorized by a contractual relationship between any village or other municipal corporation.

§ 120-4. Licensing; fees. [Amended 4-26-1990 by L.L. No. 2-1990]

- A. Licensing provisions. No person shall commercially collect garbage and rubbish from residents of the Town of Washington unless he shall first apply for and have permission granted by the Town Board permitting such person to conduct such business within the Town. Such application shall be made annually and may be revoked by the Board at any time. Annual licenses shall be for the period June

1 to the following May 31. No matter when issued, all licenses will expire on May 31 of each year.

- B. Fees for use of site. Subject to the other provisions of this article, residents of the Town of Washington, commercial haulers and contractors doing business within the Town and industries and businesses located within the Town shall pay such charges or fees for use of the Town dump in advance of the issuance of a permit therefor to the Town Clerk, who shall issue permits entitling such persons to use the Town dump. Charges and fees may be changed from time to time by simple resolution of the Town Board.

§ 120-5. General provisions.

- A. No person shall throw, place or deposit garbage or rubbish within the lines of any street road or highway or other public place, playground, park or municipal property within the Town of Washington.
- B. No person shall throw, place or deposit garbage or rubbish elsewhere within the Town of Washington unless he shall immediately bury and cover the same with not less than 12 inches of compacted earth so as to prevent noxious fumes and odors, fire hazard, and the creation of a breeding place for vermin. The within section shall not apply to persons farming land when such a person deposits manure or fertilizer upon such land properly related to the cultivation of agricultural crops.
- C. No person shall operate or maintain, or allow or consent to be maintained, upon any land owned, rented, leased or otherwise controlled by him within the Town of Washington, any dump or dumping ground wherein commercially collected garbage or rubbish is dumped or deposited, as herein defined, except that the Town of Washington, as a municipal corporation, may and shall maintain, operate and regulate such dump or dumps, dumping grounds, and/or sanitary fill sites as it shall from time to time designate as a public dump for residents of the Town.
- D. Aforesaid § 120-5C shall not be deemed to prevent the Town Board from granting permission for the maintenance of such other dumps or dumping grounds by private persons for the deposit of rubbish and garbage as it may determine and under such conditions as it, in its sole discretion, may require; further, any such authorization may be revoked by the Board at any time for any reason whatsoever.
- E. No person shall ignite or burn garbage or rubbish in an unattended fire at any place within the Town of Washington. An unattended fire shall mean a fire not confined in a basket, rack or container of nonflammable material, or an open fire not attended constantly by a person of suitable age and discretion.
- F. No person shall at any time burn any rubbish or garbage (including leaves or grass) on any road or street in the Town of Washington which has been paved or surfaced with a bituminous or other flammable material.

§ 120-6. Penalties for offenses. [Amended 4-26-1990 by L.L. No. 2-1990 ; at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]

Any person violating any of the provisions of this article shall be guilty of a misdemeanor and upon the conviction thereof shall be punishable by a fine not exceeding \$250 for each offense or by imprisonment in the county jail for a term not exceeding 15 days, or by both fine and imprisonment.

§ 120-7. Revocation of privilege.

Any person whose agents, servants, officers or employees shall be convicted of one or more violations

hereof may thereafter be denied use of any such Town dumping ground and may have his license to collect garbage and rubbish revoked or license to maintain a private dump revoked.

§ 120-8. Charges for dumping; posting of fees.

The Town Board shall have the right at any time to establish charges for dumping at the Town dump, such charges to be fixed at a fair and equitable rate, such schedule of charges may be fixed by resolution of the Town Board and shall be effective upon the posting of such schedule of fees in the manner of posting provided in § 120-2 hereof.⁶ No fee schedule shall be applicable in any instance where there is an existing contract between the Town of Washington and a village or other municipal corporation for the use of said dump and/or dumps, said consideration recited therein shall be controlling.

§ 120-9. Severability.

Should any section, part or provision of this article be declared invalid by court of competent jurisdiction, such decision shall not effect the validity any remaining portions of this article not declared to be invalid by such court.

§ 120-10. When effective. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]

This article shall take effect upon filing in compliance with the statutes.

6. Editor's Note: The current Schedule of Fees is on file in the Town offices.

Town of Washington, NY

§ 120-10

WASHINGTON CODE

SUBDIVISION OF LAND

Chapter 137

SUBDIVISION OF LAND

[HISTORY: Adopted by the Town Board of the Town of Washington 10-11-2007 by L.L. No. 2-2007 . Amendments noted where applicable.]

ARTICLE I
General Provisions

§ 137-1. Statutory authorization.

Pursuant to the provisions of Article 16 of the Town Law, the Town Board of the Town of Washington has, by resolution, authorized the Town of Washington Planning Board to review and approve or disapprove plats showing lots, blocks, or sites, with or without roads, within the area of the Town of Washington outside the Village of Millbrook.

§ 137-2. Adoption; title.

In order that land in the Town of Washington may be subdivided in accordance with the policy set forth herein, this chapter is hereby adopted and shall be known and may be cited as the "Town of Washington Land Subdivision Regulations."

§ 137-3. Policy.

It is declared to be the policy of the Town of Washington Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient, and economical development of the Town of Washington, consistent with the Town of Washington Master Plan (hereinafter "Master Plan"), the Chapter 165, Zoning, of the Town Code (hereinafter "Chapter 165, Zoning"), and the requirements of the State Environmental Quality Review Act (SEQR). This shall be interpreted to include the following objectives which shall guide the Planning Board's decisions:

- A. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.
- B. Proper provision shall be made for drainage, water supply, sewerage, and other needed improvements and utilities.
- C. Proposed streets shall compose a convenient system conforming to the Official Map, if any, and shall be properly related to the proposals, if any, shown on the Master Plan.
- D. Streets shall be of such width, grade, and location as to accommodate prospective traffic, to afford adequate light and air, and to facilitate fire protection, and shall be designed to cause no more disruption of the natural environment than is reasonably necessary.
- E. Park or other natural areas of suitable location, size, and character for playground or other passive or active recreational purposes shall be shown on the subdivision plat, wherever appropriate.
- F. Proper provision shall be made for leaving undeveloped natural areas and corridors to mitigate the adverse environmental impacts of subdivision and to sustain a diversity of native vegetation and wildlife, to protect water resources, agricultural land and scenic viewsheds, and to implement the Town's policies of protection of its environmental and cultural resources pursuant to the Master Plan and Chapter 165, Zoning.

§ 137-4. Inconsistency with Town Law.

Should any of this chapter conflict or be inconsistent with any provision of the Town Law, such provision of Town Law shall apply.

§ 137-5. Severability.

The invalidity of any provision of this chapter shall not invalidate any other part thereof.

§ 137-6. Self-imposed restrictions.

Nothing in this chapter shall prohibit the subdivider from placing self-imposed restrictions, not in violation of this chapter, on the development. Such restrictions, however, shall be indicated on the plat.

§ 137-7. Greenway connections.

By Local Law No. 1 of the year 2007, 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 chapter, the Planning Board should take into consideration said statement of policies, principles and guides, as appropriate to be used as a tool at the Planning Board discretion, as other documents are.

§ 137-8. Penalties for violations. [Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six 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 years, punishable by a fine not less than \$350 nor more than \$750 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$750 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

ARTICLE II
Procedure

§ 137-9. Approval of proposed subdivision required.

Whenever any subdivision or resubdivision of land in the Town of Washington is proposed, the subdividing owner, his authorized agent, or an authorized contract vendee, or his agent, shall apply for and secure approval of such proposed subdivision before any sale of any part thereof is made and before any permit for the erection of a structure in such proposed subdivision shall be granted. Approval of a proposed subdivision shall be obtained in accordance with the procedure specified in this article.

§ 137-10. Sketch plan.

- A. Applicant responsibilities. Before filing an application and before preparing a preliminary plat pursuant to § 137-11, the applicant should:
- (1) Obtain such forms and guidelines as may be prescribed by the Planning Board to implement the provisions of this chapter, available in the office of the Town Clerk.
 - (2) Attend a regular meeting of the Planning Board to discuss his intentions and to determine the Board's requirements; the applicant should present a vicinity map, sketch plan and general information as specified in § 137-20 of this chapter.
 - (3) Determine the applicability of §§ 137-26 and 137-27 of this chapter and of §§ 165-16, 165-22, 165-23, 165-24, 165-51, and Article IX of Chapter 165, Zoning, of the Code of the Town of Washington.
 - (4) Determine the requirements of the Dutchess County Department of Health, whose approval is required by this chapter, and which must eventually approve any final plat coming within its jurisdiction.
 - (5) Pay such fees and escrow deposits as may be required under fee schedules established by the Town Board.⁷
- B. Minor subdivisions and lot line adjustments.
- (1) If the subdivision is a minor subdivision or lot line adjustment, as defined in Article VII, the applicant may request and the Planning Board may grant waivers from informational and procedural requirements in this chapter, provided that such waivers do not violate the provisions of §§ 276 and 277 of the Town Law.
 - (2) The Planning Board may, in its discretion, adopt a list of standard waivers that will normally be granted for minor subdivisions and lot line adjustments, respectively.
 - (3) No lot created through a minor subdivision approval shall be treated as a minor subdivision again until 10 years after final approval.
- C. Planning Board action.
- (1) The Planning Board shall determine whether to proceed pursuant to the provisions of § 137-27B of this chapter. If the sketch plan meets the cluster preference criteria in § 137-27B(2), the

7. Editor's Note: The current Fee Schedule is on file in the Town offices.

§ 137-27B procedures shall be followed.

- (2) If the Planning Board finds the sketch plan acceptable in concept, it shall, by resolution, approve said sketch plan, subject to such conditions as it may determine to be necessary.
 - (3) If the applicant requests waivers pursuant to Subsection B above, the Planning Board shall clearly indicate which requirements, if any, of this chapter shall be waived and the reasons for such waivers.
- D. Election to bypass sketch plan approval. An applicant may proceed directly with an application for preliminary plat approval. However, such preliminary plat application will be reviewed as both a sketch plan and a preliminary plat and must satisfy all procedural and substantive requirements of §§ 137-10, 137-11, 137-20 and 137-21 of this chapter, including the procedures in § 137-27B, if applicable.

§ 137-11. Preliminary plat.

- A. Application procedure. At any time after approval of a sketch plan, the applicant may file an application for the approval of a preliminary plat. The application shall be generally consistent with the approved sketch plan and shall:
- (1) Be made on forms available at the office of the Town Clerk.
 - (2) Include all land which the applicant proposes to subdivide.
 - (3) Be received at least 10 days prior to the date of the Planning Board Meeting.
 - (4) Include eight copies of:
 - (a) The application form.
 - (b) The preliminary plat and supplementary material described in § 137-21.
 - (c) Short form or long form environmental assessment form (EAF), as appropriate.
 - (d) Such other materials or reports as are required by this chapter, the instructions accompanying the application form, the Chapter 165, Zoning, and SEQR. Six copies of these materials shall be submitted directly to the Planning Board Secretary and two copies shall be submitted directly to the Planning Board's designated consultant.
 - (5) Comply in all respects with the requirements specified in Article III of this chapter and with the provisions of §§ 276, 277, and 278 of the Town Law and the State Environmental Quality Review Act (SEQR).
- B. Study of preliminary plat. The Planning Board will carefully study the practicability of the preliminary plat, taking into consideration the requirements of the community, the best use of the land being subdivided, environmental constraints, and the policies set forth in § 137-3. Particular attention will be given to the proposed arrangement, location, and width of streets; the relation of proposed streets to the topography of the land; sewage disposal; drainage; proposed lot sizes, shapes, and layout; location of proposed house sites; protection of natural and scenic resources; future development of adjoining lands as yet unsubdivided; the requirements of the Master Plan and Chapter 165, Zoning; and matters enumerated in § 277 of the Town Law.
- C. Determination of significance. Before an application for preliminary plat approval is deemed

complete, the Planning Board shall make a determination of significance under SEQR. If the Planning Board finds that the proposed subdivision may have a significant effect on the environment, it shall issue a positive declaration and direct the applicant to prepare an environmental impact statement pursuant to the procedures established under SEQR. The preliminary plat application shall not be deemed complete until either a negative declaration has been filed or an environmental impact statement has been accepted as complete by the Planning Board.

- D. **Public hearing.** Before the Planning Board acts on any preliminary plat, it shall hold a public hearing thereon. The public hearing shall be held within 62 days after receipt of a complete application for approval of a preliminary plat by the Secretary of the Planning Board in accordance with § 276, Subdivision 5(d)(i), of the Town Law. The applicant shall ensure that Notice of Public Hearing is published in a newspaper of general circulation in the Town at least five days prior to the date of the hearing. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- E. **Approval of preliminary plat.** Within 62 days after the close of the public hearing, the Planning Board shall approve, approve with modification, or disapprove the preliminary plat. The Board shall advise the applicant, in writing, of its decision and, if the Board approves with modification, include 1) the specific changes it will require in the plat, and 2) the character and extent of improvements and reservations which it will require as a prerequisite to approval of the final plat to be submitted subsequently. In approving with modifications or in disapproving the preliminary plat, the Board shall state the reasons upon the record. If the Board fails to act within the time prescribed, the preliminary plat will be deemed approved pursuant to the provisions of § 276 of the Town Law. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

§ 137-12. Final plat.

- A. **Application procedure.** Within six months of approval of the preliminary plat, the applicant shall file with the Planning Board an application for approval of a final plat. The application shall:
- (1) Be made on forms provided by the Planning Board.
 - (2) Include the entire subdivision, or a section thereof, which derives access from a street improved to municipal standards, or for which street a bond covering such improvement is held by the municipality.
 - (3) Be accompanied by eight copies of the final plat and supplementary materials as described in § 137-22 of this chapter. The final plat shall be submitted to the Planning Board Secretary and the Planning Board's consultant in the same manner and time frame as the preliminary plat. The final plat shall be properly endorsed by the Dutchess County Department of Health as meeting the standards of the State or County Sanitary Code.
 - (4) Comply in all respects with the preliminary plat, with any modifications, improvements, and reservations required by the Planning Board in its approval of the preliminary plat.
 - (5) Have plans for the proposed streets approved by the Town Superintendent of Highways, Town Engineer, and Commissioner of Public Works. In addition, if the proposed street(s) will intersect or connect with a state, county, or village highway, plans must also have the approval of the appropriate governmental unit.
 - (6) Comply with the improvement requirements of § 137-25 of this chapter.
 - (7) Be submitted to the Secretary (Clerk) of the Planning Board.

- B. Public hearing. Except as provided in § 137-12C, before the Planning Board acts on the final plat, it shall hold a public hearing thereon. The public hearing shall be held within 62 days after receipt of a complete application for approval of a final plat by the Clerk of the Planning Board in accordance with § 276, Subdivision 6(d)(i), of the Town Law. The applicant shall ensure that notice of public hearing is published in a newspaper of general circulation in the Town at least five days prior to the date of the hearing. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- C. Waiver of public hearing on the final plat. The Planning Board may waive the public hearing required under § 137-12B if, following receipt of the application for approval of a final plat, the Board finds the final plat to be in substantial agreement with the preliminary plat approval including any modifications or requirements imposed.
- D. Action on proposed final plat. After careful study, the Planning Board shall, by resolution, within 62 days of the date of closing of the public hearing on the final plat or, if the hearing is waived pursuant to § 137-12C, within 62 days of receipt of the application for approval of a final plat, approve, conditionally approve, conditionally approve with modifications, or disapprove such plat, and shall advise the applicant, in writing, of its decision. The grounds for disapproval of any plat shall be stated in the resolution of the Planning Board. If the Board fails to act within the stated time period, the final plat shall be deemed approved pursuant to § 276 of the Town Law. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- E. Signing of plat.
- (1) Every final plat approved by the Board shall carry a written endorsement of the Planning Board signed by the Chairman. In the absence of the Chairman, the Acting Chairman, the Secretary, or Acting Secretary may sign in his place.
 - (2) In granting conditional approval with or without modifications, the Board shall state in its resolution the requirements that must be completed before the final plat can be signed. A plat granted conditional approval must be so certified by the Clerk of the Planning Board within five days of the date of the resolution and a copy filed in the office of the Clerk and a certified copy of the plat and resolution mailed to the owner. Upon completion of the requirements, the plat shall be signed by the duly authorized officer of the Board.
- F. Plat void if revised after approval. No changes, erasures, modifications, or revisions shall be made on any final plat after approval has been given by the Board. In the event that any final plat, when recorded, contains any such changes, the plat shall be considered null and void, and the Board shall institute proceedings to have said plat stricken from the records of the County Clerk and the Town Clerk.
- G. Filing of approved subdivision plat. Within 62 days of the signing, the approved final plat shall be filed with the Dutchess County Clerk's office or become null and void. A duplicate copy of such plat shall also be filed in the office of the Town Clerk and the Town Assessor. Plats presented for filing must be 36 inches by 48 inches or less in size, and must be printed or drawn with pen and india ink upon transparent tracing cloth or printed on Mylar or polyester film or be photographic copies on the same material. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- H. Public acceptance of proposed streets and park areas. The approval by the Planning Board of a final plat shall not be deemed to constitute or imply the acceptance by the municipality of any street, park, playground, or other open space shown on said plat. The Planning Board may require said plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a

written agreement between the applicant and the Town Board covering future title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any park or playground area.

ARTICLE III
General Requirements and Design Standards

§ 137-13. Policy considerations.

The Planning Board, in considering an application for the subdivision of land, shall be guided by the policy considerations specified in § 137-3 of this chapter and the following standards.

§ 137-14. General.

Preservation of existing features. Existing features which would add value to residential development or whose preservation would benefit the Town, such as groves of mature trees, large individual trees, scenic vistas, watercourses, historic areas and similar irreplaceable assets, should be preserved, insofar as possible, through sensitive design of the subdivision and conservation easements, as defined in Article VII. Lands designated for protection under provisions of Chapter 165, Zoning, or other applicable local laws relating to wetlands, aquifers, scenic vistas, agricultural soils, and other environmental and cultural resources, shall also be preserved, insofar as possible, through the subdivision process. The Planning Board may, in order to ensure the preservation of such resources and to mitigate potentially adverse impacts of land subdivision, require that a subdivider place conservation easements upon such lands as should be protected as a condition of subdivision approval.

§ 137-15. Streets.

- A. Relation to topography. Streets shall be logically related and conform as far as possible to the original topography. A combination of steep grades and sharp curves shall be avoided.
- B. Block size. Block dimension shall be at least twice the minimum lot depth and generally not more than 12 times the minimum lot width required by Chapter 165, Zoning. In long blocks, the Planning Board may require the reservation through the block of a twenty-foot-wide easement to accommodate utilities or pedestrian traffic.
- C. Intersections. Intersections of major streets by other streets shall be at least 800 feet apart, if possible. Cross (four-cornered) street intersections shall be avoided, except at major traffic intersections. A distance of at least 150 feet shall be maintained between offset intersections. Within 40 feet of an intersection, streets shall be approximately at right angles and grades shall be limited to 1.5%. All street intersection corners shall be rounded by curves of at least 35 feet in radius at the property line.
- D. Visibility at intersections. Within the triangular area formed at corners by the intersecting street lines, for a distance of 75 feet from their intersection and the diagonal connecting the endpoints of these lines, visibility for traffic safety shall be provided by excavating, if necessary. No fences, walls, hedges, or other landscaping shall be permitted to obstruct such visibility.
- E. Design standards. Streets shall meet the following standards and the standards of the Town Highway Specifications for the Town of Washington, unless an exception is granted by the Planning Board in accordance with § 137-29B of this chapter.

| Street Classification | Rural or Suburban | Collector or Major | Commercial |
|---|---|---|------------|
| Minimum width of right-of-way (feet) | 50 | 60 | 60 |
| Minimum width of pavement (feet) | 20 to 28* | 34 | 40 |
| Minimum radius of horizontal curves (feet) | 150 except for street intersection corners | 400 | 400 |
| Minimum length of vertical curves as measured from center line of right-of-way (feet) | 100 but not less than 20 for each 1% algebraic difference of grade | 200, but not less than 30 for each 1% algebraic difference of grade | 200 |
| Minimum length of tangents between reverse curves (feet) | 100 except where excessive grades may be reduced to reasonable grades by shortening tangent | 200 | 200 |
| Maximum grade | 10% | 8% | 6% |
| Minimum grade | 1% | 1% | 1% |
| Minimum sight distance (feet) | 150 | 250 | 250 |

Note: Standards are not shown for arterial streets, as they would in all probability be built by the state or county.

*

Depending upon the length, number of houses, and degree of permanent restriction on further subdivision. Width of pavement shall be established by the Planning Board, upon the advice of the Highway Superintendent, the Town Engineer, and the Planning Board's consultant. The Planning Board shall weigh concerns of long-term cost to the Town, safety, environmental disruption, and aesthetics in making this determination. The Planning Board may waive the requirement of pavement upon a satisfactory showing that, if the maximum number of anticipated future users of the road were actually using it, traffic loads would not necessitate a paved surface.

- F. Continuation of streets into adjacent property. Streets shall be arranged to provide for the continuation of principal streets between adjacent properties where such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities, and particularly where such continuation is in accordance with the Master Plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way and improvements shall be extended to the property line. A temporary circular turnaround, a minimum of 50 feet in radius, shall be provided on all temporary dead-end streets, with the notation on the plat that land outside the street right-of-way shall revert to abutters whenever the street is continued.
- G. Permanent dead-end streets (culs-de-sac). Where a public or private street does not extend to the boundary of the subdivision and its continuation is not needed for access to adjoining property, it shall be separated from such boundary by a distance of not less than 100 feet. Reserve strips of land shall not be left between the end of a proposed street and an adjacent piece of property; however, the Planning Board may require the reservation of a twenty-foot-wide easement to accommodate pedestrian traffic or utilities. A circular turnaround with a minimum right-of-way radius of 50 feet

shall be provided at the end of a permanent dead-end street. For greater convenience to traffic, and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length to 1,200 feet. This limit may be waived in the case of conservation density subdivisions not exceeding eight lots.

- H. Street names. All streets shall be named and such names shall be subject to the approval of the Planning Board. Names shall be sufficiently different in sound and in spelling from other street names in the municipality so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name.
- I. Improvements (see also Article V).
 - (1) Streets shall be graded and improved with pavement, street signs, sidewalks, streetlighting standards, curbs, gutters, trees, water mains, sanitary sewers, storm drains, and fire hydrants, except where the Planning Board may waive, subject to appropriate conditions, such improvements as it considers are not requisite in the interest of public health, safety, and general welfare. Waivers shall be encouraged in those areas where such improvements would detract from the rural and scenic character of the Town.
 - (2) Underground utilities required by the Planning Board shall be placed between the paved roadway and street line to simplify location and repair of the lines, and the subdivider shall install underground service connections to the property line of each lot before the street is paved.
 - (3) Grading and improvements shall conform to the Town Highway Specifications and shall be approved as to design and specifications by the Highway Superintendent.

§ 137-16. Lots.

- A. Arrangement. The arrangement of lots shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in locating a building on each lot and in providing access to buildings on such lots from an approved street.
- B. Access across a watercourse. Where a watercourse separates the buildable area of a lot from the access street, provision shall be made for the installation of a culvert or other structure, of a design approved by the Highway Superintendent.
- C. Lot dimensions and area. Lot dimensions and area shall be equal to or greater than the minimum specified in Chapter 165, Zoning, except as authorized in Article VI.
- D. Side lot lines. Side lot lines shall be at right angles to street lines unless a variation from this rule will give a more appropriate street or lot plan.
- E. Street frontage. Every building lot shall abut an improved public or private street.
- F. Rear lots. Rear lots are allowed in any residential zone pursuant to § 165-65 of Chapter 165, Zoning. Such lots may be approved only where they will not endanger public health and safety and will advance the purposes of this chapter and Chapter 165, including, in particular, the preservation of natural and scenic resources.
 - (1) The minimum area of rear lots shall be 150% of the lot size as required by Chapter 165 for the applicable zoning district. The area of the accessway shall not be included in the calculation of the required minimum lot area for the rear lot.

- (2) Each rear lot must have a minimum frontage of 25 feet on an improved street to provide for an accessway as required by this chapter.
 - (3) Except for Subsection F(1) and (2) above, rear lots must meet all other requirements for a lot in the applicable zoning district.
 - (4) No more than two accessways to rear lots may abut, and abutting accessways must share one private drive over the accessways.
 - (5) A minimum distance of twice the minimum lot frontage of the applicable district is required between nonabutting accessways at their intersection with the improved street.
 - (6) The accessway shall be owned in fee simple by the owner of the rear lot.
 - (7) In considering the best use of land in a subdivision, the Board may reasonably limit the number and location of such rear lots and the length of the accessways.
 - (8) The applicant shall show that the design and layout of the subdivision with the proposed rear lots will be in keeping with the Town of Washington Master Plan.
 - (9) The applicant shall show that the proposed interior lots will, through the use of conservation easements, preserve important natural resource and landscape features identified in the Master Plan, Chapter 165, Zoning, and Visual Resources Mapping Series (§ 165-16 of Chapter 165), including but not limited to wetlands, agricultural land, scenic views, and ridgetops.
 - (10) When necessary to satisfy the above-stated criteria, the subdivision plan shall limit, on the rear lot, the area within which the house and driveway may be constructed. The Planning Board may require that such limitation of the building site be implemented through a conservation easement.
 - (11) In addition to the provisions of this Subsection F, rear lots may also be created pursuant to § 137-29A of this chapter.
- G. Access from major streets. Lots shall not, in general, derive access exclusively from a major street. Where driveway access from a major street may be necessary for several adjoining lots, the Planning Board may require that such lots be served by a common drive in order to limit possible traffic hazards on such street.
- H. Driveways and common drives. The Planning Board shall assure that driveways are of a sufficient length and width for a passenger (i.e. noncommercial) vehicle to turnaround in order to prevent vehicles from backing out onto improved streets and that driveways are suitably laid out to provide safe access to improved streets, taking into consideration the rural character of the Town and the expressed policies of minimizing environmental disruption. Where common drives are used, the Planning Board shall assure that safe access is feasible over the improved common drive travel way. If such access is acceptable, and legally adequate recorded common drive maintenance agreements are required as conditions of subdivision approval, the Planning Board may approve a subdivision in which lots served by a common drive have road frontage that is not physically suitable for the placement of a driveway.

§ 137-17. Reservations and easements.

- A. Parks, playgrounds, and open space.

- (1) The Planning Board may require adequate, convenient, and suitable areas for parks and playgrounds, or other recreational purposes, to be reserved on the plat, but in no case more than 10% of the gross area of any subdivision. The area shall be shown and marked on the plat: "reserved for park or playground purposes." The Planning Board may require that the applicant grant a conservation easement on such land to assure that it remains undeveloped.
 - (2) If the Planning Board determines that a suitable park or parks or that open space of adequate size cannot be properly located in any such plat, or is otherwise not practical, the Board may require, as a condition to approval of such plat, a payment to the Town of a sum to be determined by the Town Board. The sum shall be placed in a trust fund to be used by the Town exclusively for park, playground, or recreation purposes, including the acquisition of property.
- B. Realignment and widening of existing streets. Where the subdivision borders an existing street, and the Official Map or Master Plan indicates plans for realignment or widening of the street that would require reservation of some land of the subdivision, the Planning Board may require that such areas be shown and marked on the plat: "reserved for street alignment (or widening) purposes."
 - C. Utility and drainage easements. Where topography or other conditions make inclusion of utilities or drainage facilities within street rights-of-way impractical, perpetual unobstructed easements at least 20 feet in width for such utilities shall be provided across property outside the street lines and with satisfactory access to the street.
 - D. Easements for pedestrian access. The Planning Board may require, in order to facilitate pedestrian access from streets to schools, parks, playgrounds, natural areas set aside for the benefit of the public, or other nearby streets, perpetual unobstructed easements at least 20 feet in width.
 - E. Responsibility for ownership of reservations. Ownership shall be clearly indicated on all reservations.

ARTICLE IV
Required Data and Plans

§ 137-18. Submission of plans and documents.

Any subdivider who proposes to develop a subdivision in the Town of Washington shall submit plans and documents as provided in this article.

§ 137-19. General requirements.

The following general requirements are applicable to both the preliminary plat and the final plat submittal.

- A. Plats shall be clearly and legibly drawn on transparent, linen tracing cloth with black, waterproof ink, at a convenient scale of not more than 100 feet equals one inch.
- B. Drawings shall be submitted on uniform size sheets, not larger than 36 inches by 48 inches. When more than one sheet is required to show the plat, an index map of the same size shall be submitted.
- C. All submissions shall indicate the proposed subdivision name or identifying title; the words "Town of Washington, Dutchess County, New York"; the name and address of the record owner and/or subdivider; the name, address, and seal of the licensed engineer or land surveyor responsible for the plat; the date, approximate true North point; and graphic scale.

§ 137-20. Sketch plan.

A sketch plan submission shall contain the following information:

- A. Vicinity map, sketched at a scale of 2,000 feet equals one inch, indicating the relationship of the proposed subdivision to existing community facilities which serve it, such as roads, shopping areas, schools, etc. Such a sketch may be superimposed upon a USGS topographic map of the area.
- B. Sketch plan on a topographic survey of the proposed area to be subdivided showing in simple sketch form the proposed layout of streets, lots, the open space system showing conservation easement areas, and other features, including those mapped pursuant to §§ 165-16, 165-22 through 165-24, and Article IX of Chapter 165, Zoning. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- C. General subdivision information necessary to explain and/or supplement the vicinity map and sketch plan.
- D. If the cluster preference criteria in § 137-27B(2) apply, the land inventory information listed in § 137-21P and the report described in § 137-27B(1).

§ 137-21. Preliminary plat.

The preliminary plat, clearly titled as such, submitted to the Planning Board, shall show or be accompanied by the following information, except where specific requirements have been waived.

- A. Data required by §§ 137-19C and 137-20.
- B. Location, bearings, and distances of tract boundary.
- C. Topography at a contour interval of five feet or less, unless waived by the Planning Board.

- D. Names of all adjoining property owners of record or the names of adjacent developments.
- E. Location, name, and dimensions of existing streets, easements, property lines, buildings, parks, and public properties.
- F. Location of existing sewers, water mains, culverts, and storm drains, if any, including pipe sizes, grades, and direction of flow.
- G. Zoning district(s) in which the proposed subdivision is located and zoning districts of adjoining properties, including overlay zones and floating zones.
- H. Area map, at a scale of one inch equals 400 feet, showing location of proposed subdivision with respect to all streets and property within 1,000 feet of the applicant's tract and identifying all property in the area held by the applicant.
- I. Location, width, and approximate grade of all proposed streets with approximate elevations shown at the beginning and end of each street, at street intersections, and at all points where there is a decided change in the slope or direction.
- J. Proposed provision of water supply, fire protection, sanitary waste disposal, stormwater drainage, street trees, streetlight fixtures, street signs, and sidewalks.
- K. Approximate shape, dimensions, and area of all proposed or existing lots and suggested location of buildings.
- L. Approximate location and dimensions of all property proposed to be reserved for park or public use.
- M. Areas to be placed under permanent conservation easement to implement applicable provisions of Chapter 165, Zoning, and the open space reservations required by this chapter.
- N. Any reports or applications submitted to other local, county, state or federal agencies in connection with the subdivision or development of the property.
- O. Other data which must be available for consideration of the subdivision at this stage.
- P. Land inventory information relating to natural features on and within 500 feet of the property as follows:
 - (1) Wetlands, including all DEC-mapped wetlands and soils classified as very poorly drained or permanently wet by the U.S. Department of Agriculture Natural Resource Conservation Service; wetlands as defined or mapped in any local law; and wetlands as defined by the criteria established by the U.S. Army Corps of Engineers;
 - (2) Streams, drainage channels, and other watercourses, indicating, where applicable, any DEC water quality classifications;
 - (3) One-hundred-year floodplain, as mapped on the Federal Emergency Management Agency's Flood Insurance Rate Maps (and Floodway Maps);
 - (4) Slopes in excess of 20%;
 - (5) "Agricultural soils," as defined in Chapter 165, Zoning;
 - (6) Soils with three feet or less depth to bedrock or seasonally high water table;

- (7) Forested areas with general description of species type;
- (8) Tree lines and hedgerows;
- (9) Open fields and meadows;
- (10) Trees greater than eight inches in diameter at breast height that are not within forests or tree lines;
- (11) Scenic vistas from public roads, and any designated scenic roads;
- (12) Designated critical environmental areas.
- (13) Aquifers, if the Town has adopted an aquifer map pursuant to § 165-22 of Chapter 165, Zoning.
- (14) Environmental Preservation Districts adopted pursuant to § 165-24 of Chapter 165, Zoning, together with the applicable development guidelines report.

§ 137-22. Final plat.

The final plat submitted to the Board shall show or be accompanied by the following information:

- A. Data required by §§ 137-19C, 137-20A, and 137-21B through H.
- B. Location, width, and name of each proposed street and typical cross sections, showing street pavement and, where required, curbs, gutters, and sidewalks.
- C. Lengths and deflection angles of all straight lines and radii, length, central angles, chords, and tangent distances of all curves for each street proposed.
- D. Profiles showing existing and proposed elevations along the center lines of all proposed streets and the elevations of existing streets for a distance of 100 feet on either side of their intersection with a proposed street.
- E. Present elevations of all proposed streets shown every 100 feet at five points on a line at right angles to the center line of the street; said elevation points being indicated at the center line of the street, each property line, and points 30 feet inside each property line (only when required by the Board because of the existence of steep slopes).
- F. Setback lines.
- G. Endorsement of the Dutchess County Department of Health indicating its approval of the proposed septic systems on all lots under five acres.
- H. Location, size, and invert elevations of existing and proposed stormwater drains and sanitary sewers; the exact location of utilities and fire hydrants.
- I. Location of street trees, streetlighting standards, and street signs.
- J. Area of all lots in hundredths of an acre.
- K. Location, material, and size of all permanent monuments.
- L. Accurate location of all property to be offered for dedication for public use, with the purpose indicated thereon, of all property to be reserved by deed covenant for the common use of the property

owners of the subdivision, and of all property to be preserved as open space by perpetual conservation easement, together with notes indicating the liber and page number of any documents required to be recorded as conditions of subdivision approval.

- M. Sufficient data, acceptable to the Highway Superintendent, to readily determine the location, bearing, and length of all street, lot, and boundary lines, and to reproduce such lines upon the ground.
- N. Necessary agreements in connection with required easements or releases.
- O. Formal offers of cession to the Town of all streets and public parks.
- P. Key map showing the location of the subdivision.
- Q. An erosion and sedimentation control plan prepared pursuant to the requirements of § 165-44, Erosion and sedimentation control, of Chapter 165, Zoning.
- R. Conservation easements, deed restrictions, homeowners' association bylaws, or other documents required by the Planning Board to assure the preservation and proper ownership and management of areas preserved as open space or recreational land.

ARTICLE V

Required Improvements and Agreements**§ 137-23. Bond requirement.**

Prior to an action by the Planning Board approving a final plat, the applicant shall be required to complete, in accordance with the Planning Board's decision and to the satisfaction of the appropriate Town departments, all the street and other improvements specified in the action approving said plat or, as an alternative, to file with the Town Board bond in an amount estimated by the Planning Board to secure to the municipality the satisfactory construction and installation of the uncompleted portion of the required improvements. All required improvements shall be made by the applicant at his expense without reimbursement by the municipality or any district therein.

§ 137-24. Performance bonds.

- A. Performance bonds shall comply with the requirements of § 277 on the Town Law, and shall be satisfactory to the Town Board as to form, sufficiency, and manner of execution. A period of one year or such other period as the Planning Board may determine appropriate within which required improvements must be completed shall be specified by the Planning Board and expressed in the bond.
- B. The bond shall also provide that an amount determined adequate by the Planning Board shall be retained for a period of one year after the date of completion of the required improvements to assure their satisfactory condition.

§ 137-25. Inspection; utilities; monuments.

- A. Inspection. The municipality may employ an inspector to act as agent of the Planning Board for the purposes of assuring the satisfactory completion of improvements required by the Planning Board, and shall determine an amount sufficient to defray costs of inspection. The applicant shall pay the Town costs of inspection before the final plat is signed for filing. If the Planning Board or its agent finds, upon inspection, that any of the required improvements have not been constructed in accordance with the approved drawings, the applicant and the bonding company will be severally and jointly liable for the costs of completing said improvements according to specifications.
- B. Utilities. The Board may accept assurance from each public utility company whose facilities are proposed to be installed. Such assurance shall be in writing, addressed to the Board, stating that such public utility company will make the installations necessary for the furnishing of its services within a specified time, in accordance with the approved subdivision plat.
- C. Monuments. Permanent monuments shall be set at block corners and at intervals of approximately 500 feet, or such other distance as the Planning Board may determine appropriate, and their location shall be shown on the subdivision plat. Such monuments shall be set so as to prevent their movement due to normal frost upheaval pressures and movements. Iron pipes shall not be considered permanent monuments for the purpose of this chapter.

ARTICLE VI
Open Space Subdivisions

§ 137-26. General.

- A. Policy and authority. It is the policy of the Town of Washington, as expressed in § 165-50 of Chapter 165, Zoning, of the Code of the Town of Washington, to encourage the modification of applicable provisions of Chapter 165 and this chapter in order to preserve open space and harmonize new development with the traditional open, rural, wooded, agricultural, and hamlet landscapes of the Town. To that end, the Town Board of the Town of Washington, through its resolution approving this chapter, hereby adopts the provisions of § 278 of the New York Town Law, and hereby grants to the Planning Board of the Town of Washington the full authority set forth in that section to modify applicable provisions of Chapter 165 as they apply to a specific plat, including the authority to require an applicant to modify a plat in a manner consistent herewith. The regulations contained in this section shall constitute the rules and regulations required by § 278 of the Town Law, setting forth criteria pursuant to which a cluster subdivision may be required. The Planning Board also maintains the authority to waive or modify applicable provisions of this chapter for the purposes indicated in § 137-26B. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**
- B. Purposes. This provision encourages flexibility in the design and development of land in order to promote the most appropriate use of land 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. An open space subdivision plan may involve grouping development on one or more portions of a parcel to permanently preserve other portions of it ("cluster development"), modifying road design and frontage requirements in return for permanent open space preservation measures ("conservation density subdivision"), or a combination of these approaches. An open space subdivision shall achieve the following specific purposes:
- (1) Better protection of natural and scenic resources identified in the Master Plan and Chapter 165, Zoning, than would be provided by a conventional subdivision plan;
 - (2) Compatibility with surrounding land uses and the overall character of the area;
 - (3) Provision of adequate buffers for adjoining properties;
 - (4) Contribution to Townwide open space planning by creating a system of permanently preserved open spaces, both within large parcels of land and among such parcels throughout the Town, providing linkages between existing open space areas; and
 - (5) Preservation of land suitable for agriculture, particularly where the open space subdivision borders active agricultural land or land suitable for agriculture.
- C. Types of open space subdivisions.
- (1) Cluster subdivisions. A cluster subdivision accomplishes the purposes in § 137-26B above by reducing the lot size and bulk requirements contained in Chapter 165, Zoning, clustering homes in those areas where they will have the least impact on identified environmental resources. These resources are then 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 ("mini-clusters"), enabling the subdivided lots to be smaller than the 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 Chapter

165, Zoning.

- (2) Conservation density subdivisions. Conservation density subdivisions achieve the goals of § 137-26B through the creation of lots that average at least five times the minimum size required in the zoning district. This low density is maintained in perpetuity through the use of permanent conservation easements running with the land. To encourage the establishment of these permanent low densities, the Planning Board may modify road specifications and frontage requirements that would otherwise apply.
- D. Applicability. This section shall be applicable only to land zoned for residential uses, including areas subject to EP designation and areas included in the APO and AQ Overlay Districts, pursuant to Chapter 165, Zoning.

§ 137-27. Procedures.

- A. Voluntary application. If a sketch plan application involves review under the provisions of this section, the Planning Board, in its discretion, may use its authority to permit open space subdivisions if, in the Planning Board's judgement, the use of this authority will achieve the purposes in § 137-26B above and benefit the Town. The Planning Board may require that the applicant submit the land inventory information listed in § 137-21P above at the sketch plan stage to assist in making such a judgement. The Planning Board may also hold a public hearing and may refer the sketch plan application to the Conservation Advisory Commission following the procedure in § 137-27B(3) below. If the Planning Board grants sketch plan approval to the proposed open space subdivision, it shall proceed through the review process for the proposed subdivision using the procedures contained in Article II of this chapter.
- B. Planning Board's option to require a cluster plan.
- (1) If a sketch plan application for a conventional subdivision meets any of the cluster preference criteria in Subsection B(2) below, the applicant shall include, as part of the sketch plan submission, a brief report that describes how the proposed subdivision plan achieves the purposes listed in § 137-26B above, and why a cluster plan prepared under this section would not better achieve these purposes.
 - (2) Criteria for cluster preference.
 - (a) Total land included in the proposed subdivision is 50 acres or more;
 - (b) Total number of lots is five or more, or three or more in the APO District;
 - (c) Average lot size (excluding residual land) is under 20 acres;
 - (d) The property includes one or more of the following features:
 - [1] Freshwater wetlands and watercourses as mapped pursuant to Article IX of Chapter 165, Zoning;
 - [2] Flood hazard area as mapped on the Federal Emergency Management Agency's Flood Insurance Rate Maps;
 - [3] Critical Environmental Areas designated by the Town Board;
 - [4] Sand and gravel, limestone, and limestone overlaid with sand and gravel aquifer as identified on the Town's official Aquifer Protection Map;

- [5] Slopes in excess of 25%.
 - [6] Critical environmental features as identified in the Visual Resource Mapping Series, sheet entitled "Resource Report," or as may be identified by the Planning Board; or
 - [7] Areas within designated EP Districts.
- (3) Upon receipt of a sketch plan for a conventional subdivision that meets the criteria in Subsection B(2) above, the Planning Board shall direct the applicant to submit the land inventory information listed in § 137-21P above. Upon receipt of that information, the Planning Board shall refer the application, including the land inventory, to the Conservation Advisory Commission (CAC) for its comments on the adequacy of the plan to fulfill the objectives of § 137-26B above and to protect the natural resources on and adjoining the property. The CAC shall submit its comments to the Planning Board within 25 days of its receipt of such sketch plan. Failure of the CAC to make its report within that period shall be deemed a waiver of its comments on the sketch plan as submitted. The Planning Board may hold a public hearing, to be held after receipt of the CAC's comments.
- (4) Within 45 days of receipt of a sketch plan hereunder, the Planning Board shall determine whether the conventional subdivision accomplishes the purposes in § 137-26B of this chapter, whether it needs to be modified, and whether the applicant shall be required to apply for a cluster subdivision. In making its determination, the Planning Board shall consider the application and supporting materials presented, the purposes stated in § 137-26B above, the comments of the CAC, and public comments at any hearing that has been held.
- (5) Following this determination, the Planning Board shall advise the applicant, in writing, of its decision on the submitted sketch plan. If the Planning Board's decision is to require a cluster plan, it shall deny the submitted plan and, in its written decision, it shall state its reasons for requiring a cluster plan and specifically identify those portions of the property proposed for development which should be set aside as protected open space.
- (6) The applicant shall then prepare a cluster subdivision plan and proceed pursuant to § 137-27A above.

§ 137-28. Cluster subdivision requirements.

- A. Required plans. An application for cluster subdivision shall include all plans and materials required for a conventional subdivision under this chapter. In addition, a preliminary plat of a conventional subdivision of the property conforming to the applicable minimum lot size, density requirements, and all other normally applicable requirements of the district shall be submitted.
- B. Allowable density. The Planning Board shall review the conventional subdivision plan required in § 137-29A above and shall determine the number of building lots or dwelling units that could be practically created pursuant to said plan, considering the requirements of this chapter and Chapter 165, Zoning, the requirements of the Dutchess County Departments of Health and Public Works, and the limitations of soils, topography, wetlands, and other environmental features, but not including the limitations imposed by the APO Overlay District. In no case shall the number of building lots or dwelling units permitted in the cluster exceed 125% of this number of lots or units, as permitted in § 165-51, Cluster subdivision requirements, of Chapter 165, Zoning.
- C. Types of dwelling units. Dwelling units in a cluster development may be provided, at the discretion of the Planning Board, in one-family or two-family dwelling structures.

- D. Maximum lot sizes and dimensional requirements.
- (1) For parcels not subject to the APO District regulations (§ 165-23 of Chapter 165, Zoning) building lots shall be grouped and have an average building lot size for the subdivision not to exceed the following:
 - (a) RR-10: four acres;
 - (b) RL-5: two acres;
 - (c) RM-2: 50,000 square feet; and
 - (d) RH-1: 30,000 square feet.
 - (2) For parcels subject to the APO district regulations of § 165-23 of Chapter 165, Zoning, the building lots shall be grouped, and on average consume no more than 50% of the lot sizes listed in Subsection D(1) above or one acre of buildable land per residential lot, whichever is greater.
 - (3) The Planning Board may vary the requirements in Subsection D(1) and (2) above, if necessary, to ensure adequate separation distances between water supply and sewage disposal facilities. Such facilities may be located on lots or portion of lots to be set aside as permanent open space.
 - (4) Any lot fronting on a previously existing public road shall have frontage of not less than 150 feet.
 - (5) Distance between dwelling units shall not be less than 60 feet.
- E. Layout and siting standards in the APO District. 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 § 165-23G of Chapter 165, Zoning.
- F. Open space. All lands identified as having special resource value and/or not included in a cluster development plat as building lots or roads shall be set aside as permanent open space pursuant to § 137-30 below.

§ 137-29. Conservation density subdivisions.

The Planning Board is hereby empowered to modify applicable provisions of Chapter 165, Zoning, for the purpose of encouraging the preservation of large tracts of open space by affording flexibility to landowners in road layout and design and road frontage requirements if, and only if, such landowners commit to the permanent preservation of significant open space resources. The following standards and procedures shall be followed by the Planning Board in reviewing applications for approval of a conservation density subdivision.

- A. Waiver of road frontage requirements. In addition to the provisions of § 137-16F, Rear lots, and § 165-65 of Chapter 165, Zoning, minimum road frontage requirements of Chapter 165 may be waived by the Planning Board pursuant to this section, provided that all of the following requirements are met:
- (1) The average lot size in the proposed subdivision is at least five times the minimum lot size required in the zoning district;
 - (2) A permanent conservation easement is placed on the land to be subdivided, to maintain its natural and scenic qualities and to assure that it will not be subdivided to a density higher than

that permitted in Subsection A(1) above;

- (3) In the Planning Board's judgement, such a modification will maintain or enhance the rural quality of the area, benefit the Town, and accomplish the purposes in § 137-26B above; and
 - (4) Adequate access to all parcels can be assured by private roads and/or common drives.
- B. Private roads. The Planning Board may grant an exception to the road design standards of § 137-15E and approve private roads to provide access to lots in conservation density subdivisions. In granting such exceptions, the Board must find that the proposed subdivision accomplishes the purposes set forth in § 137-26B above and meets all of the conditions of this section and such other conditions as the Planning Board deems appropriate under the particular circumstances.
- (1) The average size of the lots within the subdivision (including any residual land) must be at least five times the lot size required within the applicable zone and in no event less than a 10 acre minimum average lot size.
 - (2) The maximum number of lots using the proposed private road shall be 10.
 - (3) The applicant shall submit to the Planning Board as part of the application for preliminary plat approval, a professional engineer's drawings showing the exact location, dimensions, and grade of the road, as well as the specifications setting forth the proposed composition of the road. The Planning Board shall be entitled to retain its own engineer to review these plans and specifications and make further recommendations for consideration to the Planning Board. The Planning Board's engineer shall be paid for by the applicant.
 - (4) Written approval from the Town Superintendent of Highways and the Town's engineer shall be secured before approval of any private roads.
 - (5) The private road may never be offered for dedication to the Town of Washington unless it conforms to Town Highway Specifications in effect on the date of the offer of dedication. In the event such dedication becomes necessary to assure public safety, the cost of bringing the road up to Town Highway Specifications shall be borne by the homeowners' association (HOA).
 - (6) A homeowners' association must be created to own and provide for the perpetual care and maintenance of the private road. Such HOA shall meet all requirements for an open space HOA set forth in § 137-30D(2)(a) through (f) below. The HOA must have the power to assess the subdivision lot owners for their share of the maintenance costs of the private road. The HOA shall contract directly with the Town of Washington or a qualified road contractor to assure that the road will always be maintained and kept open to permit emergency vehicle access. In the event that a private road contractor does not properly maintain the road, the Town of Washington may assume maintenance responsibilities and charge the HOA for all reasonable costs thereof. Such costs, if unpaid for more than 60 days, shall become a lien on the property and enforceable in the same manner as a property tax lien. The Planning Board shall have discretion to determine whether the applicant should be required to establish a maintenance fund at the time of approval and, if so, how much of a deposit should be required. The Planning Board shall also have discretion to determine whether a performance bond must be posted by the applicant to assure the proper completion of the private road and, if so, how much the performance bond shall be and what form it shall take.
 - (7) The HOA shall contract with the Town of Washington to provide, at regular intervals (to be determined by the Planning Board), a written certification from a licensed professional engineer

that the physical integrity of the private road is adequate to meet its present needs and the needs which can reasonably be anticipated in the future.

- (8) The lots in the private road subdivision shall be restricted by conservation easement so that they may never be subdivided beyond the lesser of 10 lots or five times the zoning density at the time of subdivision approval, regardless of whether the private road remains a private road.
- (9) The subdivision map shall show the street clearly labeled "private street."
- (10) Design standards.
 - (a) The following are minimum standards for construction of private roads and of private drives for rear lots:
 - [1] All construction shall be in accordance with this chapter and shall be under the immediate inspection, supervision and approval of the Planning Board.
 - [2] The accessway for a private road shall be not less than 50 feet in width with a wearing surface not less than 18 feet in width.
 - [3] Whenever possible, and as far as practicable, streets shall follow natural contours.
 - [4] Minimum curve radius shall be 100 feet; minimum tangent distance between reverse curves shall be 50 feet.
 - [5] Grade shall not exceed 12% nor be less than 1%. Grade shall not be greater than 3% within 50 feet of an intersection.
 - [6] The subgrade and foundation course shall be constructed as required by the Town Highway Specifications for the Town of Washington.
 - [7] The wearing surface shall consist of two inches of crushed gravel.
 - (b) These conditions are not meant to be exclusive, and the Planning Board may specify additional conditions for approval.

§ 137-30. Permanent open space.

Open space set aside in a cluster subdivision or a conservation density subdivision shall be permanently preserved as required by this section.

A. Open space uses.

- (1) Open space shall be preserved and maintained for one or more of the following uses, which shall be noted on the plat for each open space subdivision.
 - (a) On parcels subject to APO District regulations, open space shall be preserved principally for agriculture. Secondary open space uses include, but are not limited to, recreation and conservation of water, plants, or wildlife, consistent with the purposes specified in § 165-23 of Chapter 165, Zoning. Land preserved for agricultural purposes but not in active production shall, if required by the Planning Board, be mowed or plowed at least once annually.
 - (b) On all other parcels, open space uses shall be appropriate to the site, including but not limited to passive and active recreation (including trail use), forestry, and agriculture.

- (2) When the principal purpose of preserving the open space is the protection of natural resources such as wetlands, aquifers, steep slopes, mature forests, wildlife habitats, and stream corridors, open space uses shall be limited to those which are no more intensive than passive recreation.
- B. Notations on plat. Open space created by the use of this article 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 not be platted for building lots, and shall indicate the liber and page of any conservation easements or deed restrictions required to be filed to implement such reservations.
- C. Preservation in perpetuity. A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture, forestry, active or passive recreation, watershed protection, wildlife habitat or other open space use, and prohibiting residential, industrial, or commercial use of such open space land, pursuant to § 247 of the General Municipal Law and/or §§ 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. Said conservation easement shall not be amendable to permit commercial, industrial, or residential development, and shall be recorded in the Dutchess County Clerk's office prior to filing an approved open space subdivision final plat.
- D. Ownership of open space land.
 - (1) Open space land may be owned in common by a homeowner's association (HOA), dedicated to the Town, county, or state governments, transferred to a nonprofit organization acceptable to the Planning Board, held in private ownership, or held in such other form of ownership as the Planning Board finds adequate to fulfill the purposes of this Article VI. The appropriate form of ownership shall be based upon the purpose of the open space reservation as stated pursuant to § 137-30A above.
 - (2) If the land is owned in common by an HOA, such HOA shall be established in accordance with the following:
 - (a) The HOA must be set up before the lots are sold and must comply with all applicable provisions of the General Business Law;
 - (b) Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities;
 - (c) The open space restrictions must be in perpetuity;
 - (d) The HOA must be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities and private roads;
 - (e) Property owners must pay their pro rata share of the costs in Subsection D(2)(d) above, and the assessment levied by the HOA must be able to become a lien on the property;
 - (f) The HOA must be able to adjust the assessment to meet changed needs;
 - (g) The applicant shall make a conditional offer of dedication to the Town, binding upon the

HOA, for all open space to be conveyed to the HOA. Such offer may be accepted by the Town, at the discretion of the Town Board, upon the failure of the property owners' association to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes;

- (h) Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own;
- (i) The attorney for the Planning Board shall find that the HOA documents presented satisfy conditions Subsection D(2)(a) through (h) above and such other conditions as the Planning Board shall deem necessary.

E. Maintenance standards.

- (1) 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.
- (2) 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 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 ratably 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.

ARTICLE VII
Definitions

§ 137-31. Definitions.

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

ACCESSWAY — A strip of land 25 feet in width, abutting an improved street or a county or state highway, providing access to a rear lot.

ARTERIAL STREET — A street which serves or is designed to be used primarily for fast or heavy traffic.

COLLECTOR OR MAJOR STREET — A street which carries traffic from minor streets to the major system of secondary or arterial streets; the principal entrance and circulation streets within a development.

COMMERCIAL STREET — A street which serves or is designed to serve as an access to abutting business properties.

COMMON DRIVE — A driveway normally serving two or three residences which have the amount of road frontage required under Chapter 165, Zoning. A common drive may be owned in common or may be created by reciprocal easements.

CONSERVATION EASEMENT — A perpetual restriction on the use of land, created in accordance with the provisions of Article 49, Title 3 of the Environmental Conservation Law or § 247 of the General Municipal Law, for the purposes of conservation of open space, agricultural land, and natural, cultural, and scenic resources.

DEAD-END STREET or CUL-DE-SAC — A street or a portion of a street with only one vehicular outlet.

EASEMENT — Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

FINAL PLAT — The final map prepared in accordance with § 137-22, conforming to the preliminary plat as approved by the Planning Board, which, if approved, is filed with the County Clerk.

GREENWAY CONNECTIONS — The document entitled "Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities," prepared by the Dutchess County Department of Planning, and as amended from time to time.

IMPROVED STREET — Any street which meets the design and construction standards of this chapter and the Town Highway Specification for Town roads or private roads or the design and construction of which has been approved by the Town Board.

LAND INVENTORY — A map or maps showing the natural features on and adjacent to the property to be subdivided as described in § 137-21P.

LOT LINE ADJUSTMENT — A modification of parcel boundaries in which a portion of one parcel is combined with an adjoining parcel without increasing the total number of parcels.

MASTER PLAN — The plan prepared by the Planning Board for the future preservation and development of the Town of Washington, pursuant to § 272-a of the Town Law, which identifies the general locations recommended for different types of development, for open space preservation, and for public improvements, including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

MINOR STREET — A street intended to serve primarily as an access to abutting residential properties.

MUNICIPAL, MUNICIPALITY, TOWN — Refers to the Town of Washington, Dutchess County, New

York.

OFFICIAL MAP — The Map, and any amendments thereto, adopted by the Town Board under § 270 of the Town Law.

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

PLANNING BOARD, BOARD — The Town of Washington Planning Board.

PRELIMINARY PLAT — The preliminary map or drawing on which the subdivider's proposed layout of the subdivision is presented to the Planning Board for consideration and approval prior to submittal of a final plat.

PRIVATE ROAD — A privately owned roadway approved pursuant to § 137-29B.

RESUBDIVISION — A change in a subdivision plat or re-subdivision plat filed in the office of the Dutchess County Clerk which:

- A. Affects any street layout shown on such plat;
- B. Affects any area reserved thereon for public use;
- C. Constitutes a lot line adjustment as defined herein; or
- D. Creates any new lots.

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 an accessway.

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.

RIGHT-OF-WAY WIDTH — The distance between property lines reserved for vehicular traffic.

SECONDARY STREET — A street which serves or is designed to serve as a route connecting different parts of the municipality.

SKETCH PLAN — A freehand sketch made on a topographic survey map showing the proposed subdivision in relation to existing conditions.

STREET PAVEMENT — The wearing or exposed surface of the roadway used by vehicular traffic.

STREET, ROAD — A right-of-way for pedestrian and vehicular traffic, including avenue, lane, highway, or other way.

SUBDIVIDER — Any person, firm, corporation, partnership, or association who shall lay out, for the purpose of sale, conveyance, or development, any subdivision or part thereof as defined herein, either for himself or for others.

SUBDIVISION — The division of any parcel of land into two or more lots, parcels, or plots, with or without streets, for the purpose of building development or conveyance by deed or lease. A division of real property into units of single-family or two-family condominium ownership shall be deemed a subdivision of land.

SUBDIVISION, CONVENTIONAL — A subdivision that is not a cluster subdivision or an open space subdivision as defined in § 137-26.

SUBDIVISION, MINOR — A subdivision which requires no new road construction, and which creates three or fewer new parcels, or six or fewer new parcels if the average parcel size is at least five times the

minimum lot size in the zoning district. The number of new parcels shall be calculated based upon lots that were in existence on January 1, 1989, and all subdivisions since that date shall be treated as cumulative for purposes of determining the number of new parcels created.

SUPERINTENDENT — The duly elected Highway Superintendent or other such authorized official.

TOWN LAW — The Town Law of the State of New York, Chapter 62 of the Consolidated Laws.

ZONING LAW — The officially adopted Zoning Law of the Town of Washington, together with any and all amendments thereto, in accordance with Article 16 of the Town Law and Articles 2 and 3 of the Municipal Home Rule Law.

Town of Washington, NY

§ 137-31

WASHINGTON CODE

TAXATION

Chapter 145

TAXATION

[HISTORY: Adopted by the Town Board of the Town of Washington as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Business Investment Exemption Opt Out
[Adopted 2-18-1977 by L.L. No. 1-1977]

§ 145-1. Amount of exemption.

Pursuant to the authority of Subdivision 7 of § 485-b of the Real Property Tax Law, the partial exemption from taxation, special ad valorem levies and service charges, provided by Subdivision 2 of such § 485-b to eligible real property assessed for Town purposes, is hereby reduced as provided herein. The exemption granted for the first year shall be to the extent of 0%. Thereafter for each of the next succeeding nine years, such exemption shall be 0%.

§ 145-2. When effective.

This article shall take effect immediately upon filing with the Secretary of State in accordance with § 27 of the Municipal Home Rule Law.

ARTICLE II

Taxation of Real Property Owned by Certain Nonprofit Organizations
[Adopted 4-27-1977 by L.L. No. 3-1977]

§ 145-3. Taxable real property.

Real property located within the Town of Washington and owned by a corporation or association which is not organized or conducted exclusively for religious, charitable, hospital, educational, moral or mental improvement of men, women or children or cemetery purposes, or for two or more such purposes, but which is organized or conducted exclusively for bible, tract, benevolent, missionary, infirmary, scientific, literary, bar association, medical society, patriotic or historical purposes, for the enforcement of laws relating to children or animals, or for two or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes, either by the owning corporation or association, or by another such corporation or association, whether by lease or otherwise, shall be taxable.

§ 145-4. When effective.

This article shall take effect immediately upon filing with the Secretary of State in accordance with § 27 of the Municipal Home Rule Law.

ARTICLE III

**Alternative Veterans Exemption Opt Out
[Adopted 10-14-1984 by L.L. No. 2-1984]**

§ 145-5. Town opts out of exemption.

Pursuant to the authority of Subdivision 4 of § 458-a of the Real Property Tax Law, the Town of Washington elects not to have the exemption of such § 458-a apply to the Town of Washington.

§ 145-6. When effective.

This article shall take effect immediately upon filing in the office of the Secretary of State.

ARTICLE IV

Senior Citizens Exemption

[Adopted 10-27-1986 by L.L. No. 1-1986 ; amended in its entirety 2-8-1990 by L.L. No. 1-1990]

§ 145-7. Eligibility. [Amended 11-21-2008 by L.L. No. 2-2008 ; 2-14-2019 by L.L. No. 1-2019 ; 2-8-2024 by L.L. No. 2-2024 ; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

The Town of Washington Town Board hereby elects to amend and increase the maximum income eligibility level for the granting of the partial exemption from municipal taxation to persons 65 years of age or over pursuant to the authority of § 467, Subdivision 3(a)(i), of the Real Property Tax Law, as follows:

- A. No owner or owners of real property shall be entitled to the exemption provided in Real Property Tax Law § 467 if the income of the owner or combined owners of the property for the income tax year immediately preceding the date of making application for the exemption exceeds \$37,400 ("maximum income"), except as provided in Subsection B, below.
- B. An owner or owners of real property with income in excess of the maximum income set forth in Subsection A above shall be entitled to exemptions in accordance with the following schedule:

| Annual Income | Percentage Assessed Valuation Exempt From Valuation |
|---|---|
| More than \$37,400 ("M") but less than \$38,400 (M + \$1,000) | 45% |
| \$38,400 or more but less than \$39,400 (M + \$2,000) | 40% |
| \$39,400 or more but less than \$40,400 (M + \$3,000) | 35% |
| \$40,400 or more but less than \$41,300 (M + \$3,900) | 30% |
| \$41,300 or more but less than \$42,200 (M + \$4,800) | 25% |
| \$42,200 or more but less than \$43,100 (M + \$5,700) | 20% |
| \$43,100 or more but less than \$44,000 (M + \$6,600) | 15% |
| \$44,000 or more but less than \$44,900 (M + \$7,500) | 10% |
| \$44,900 or more but less than \$45,800 (M + \$8,400) | 5% |

- C. Persons 65 years of age on or before December 31 may qualify for the partial tax exemption for real property of senior citizens, as stated in the Real Property Tax Law, Chapter 50-A, Article 4, Title 2.⁸ [Added 2-8-2024 by L.L. No. 2-2024]

§ 145-8. Applications for renewal after taxable status date. [Added 2-14-2019 by L.L. No. 1-2019 ; 2-8-2024 by L.L. No. 2-2024]

For persons 65 years of age and older, the Assessor may accept applications for renewal of exemptions pursuant to Real Property Tax Law §467 after the taxable status date and on or before the date for the hearing of complaints.

8. Editor's Note: See Real Property Tax Law § 467.

§ 145-9. When effective.

This article shall take effect immediately upon its filing with the Secretary of State in accordance with § 27 of the Municipal Home Rule Law.

ARTICLE V

Cold War Veterans Exemption

[Adopted 3-13-2008 by L.L. No. 1-2008 ; amended in its entirety 12-14-2017 by L.L. No. 2-2017]

§ 145-10. Purpose.

The purpose of this article is to adopt the exemption for Cold War veterans allowable pursuant to § 458-b of the Real Property Tax Law.

§ 145-11. Statutory authorization; exemption.

Pursuant to the provisions of Subdivision 2(a) and 2(b) of § 458-b of the Real Property Tax Law of the State of New York, the Cold War Veterans exemption from real property taxes allowable pursuant to § 458-b of the Real Property Tax Law is established as follows:

- A. Qualifying residential real property shall be exempt from taxation to the extent of 15% of the assessed value of such property: provided, however, that such exemption shall not exceed the lesser of \$12,000 or the product of \$12,000 multiplied by the latest state equalization rate for the Town of Washington.
- B. In addition to the exemptions provided by Subsection A of this section, where the Cold War veteran received a compensation rating from the United States Veterans Affairs or from the United States Department of Defense because of a service-connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property, multiplied by 50% of the Cold War veteran disability rating; provided, however, that such exemption shall not exceed \$40,000, or the product of \$40,000 multiplied by the latest state equalization rate for the assessing unit. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

ARTICLE VI

Exemption for Persons with Disabilities and Limited Incomes
[Adopted 11-13-2008 by L.L. No. 2-2008]

§ 145-12. Statutory authority.

Tax exemptions under this article are provided pursuant to the authority granted under Real Property Tax Law (RPTL) § 459-c and are subject to all the terms and provisions of that section.

§ 145-13. Exemption stated.

Subject to the terms of this article, real property owned by one or more persons with disabilities, or real property owned by husband, wife, or both, or by siblings, at least one of whom has a disability, or real property owned by one or more persons, some of whom qualify under this section and the others of whom qualify under for the senior citizen's exemption under RPTL § 467, and whose income is limited by reason of such disability, shall be exempt from taxation by the Town of Washington to the extent of 50% of the assessed valuation thereof.

§ 145-14. Income limit.

- A. No owner or owners of real property shall be entitled to the exemption provided in this article if the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds \$37,400 ("maximum income"), except as provided in Subsection B below. **[Amended 2-14-2019 by L.L. No. 1-2019 ; 2-23-2023 by L.L. No. 1-2023 ; 2-8-2024 by L.L. No. 2-2024]**
- B. An owner or owners of real property with income in excess of the maximum income set forth in Subsection A above shall be entitled to exemptions in accordance with the following schedule: **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

| Annual Income | Percentage Assessed Valuation Exempt From Valuation |
|---|---|
| More than \$37,400 ("M") but less than \$38,400 (M + \$1,000) | 45% |
| \$38,400 or more but less than \$39,400 (M + \$2,000) | 40% |
| \$39,400 or more but less than \$40,400 (M + \$3,000) | 35% |
| \$40,400 or more but less than \$41,300 (M + \$3,900) | 30% |
| \$41,300 or more but less than \$42,200 (M + \$4,800) | 25% |
| \$42,200 or more but less than \$43,100 (M + \$5,700) | 20% |
| \$43,100 or more but less than \$44,000 (M + \$6,600) | 15% |
| \$44,000 or more but less than \$44,900 (M + \$7,500) | 10% |
| \$44,900 or more but less than \$45,800 (M + \$8,400) | 5% |

- C. For persons with disabilities and limited incomes, the income for an applicable application may be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance. **[Added 2-8-2024 by L.L. No. 2-2024]**

WASHINGTON CODE

Chapter 165

ZONING

[HISTORY: Adopted by the Town Board of the Town of Washington 12-27-1989 by L.L. No. 5-1989 ; as amended through 12-31-2007 . Subsequent amendments noted where applicable.]

ARTICLE I
Purposes

§ 165-1. Intent.

This chapter is adopted pursuant to the authority and power granted by Municipal Home Rule Law, Article 2, § 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:

§ 165-2. Establishing population densities.

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.

§ 165-3. Securing safety.

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.

§ 165-4. Conserving land value.

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.

§ 165-5. Establishing beneficial relationship between land use, buildings and traffic circulation.

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.

§ 165-6. Public requirements and economic activity relating to land use and buildings.

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.

§ 165-7. Safeguarding natural, agricultural, historic and scenic resources.

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.

§ 165-8. Nuisances.

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.

§ 165-9. Solar energy systems; access to sunlight.

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

§ 165-10. 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.

§ 165-11. 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 chapter, the reviewing agency should take into consideration said statement of policies, principles and guides, as appropriate.

ARTICLE II
Establishment of Districts

§ 165-12. Use districts.

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

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

§ 165-13. Floating districts.

In addition to the use districts listed in § 165-12 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 §§ 165-26 through 165-28 of this chapter. 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 § 165-14 below.

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

§ 165-14. Overlay districts. [Amended 6-3-2024 by L.L. No. 3-2024]

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 §§ 165-22, 165-24 and 165-25 of this chapter. Any overlay maps adopted or modified under this chapter shall be adopted or modified by zoning amendment pursuant to the procedures specified in Article XI. 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:

| | |
|-----|-------------------------|
| HOS | Hospitality |
| APO | Agricultural Protection |
| AQ | Aquifer Protection |

§ 165-15. Zoning Map Series. [Amended 6-3-2024 by L.L. No. 3-2024]

The districts listed in §§ 165-12 through 165-14 are bounded as shown on the map series entitled "Zoning

Map Series, Town of Washington, Dutchess County, New York," dated August 2023, which, with all explanatory matter thereon, is made a part of this chapter.⁹ Said Zoning Map Series must include, at a minimum, the districts described in § 165-12 of this chapter, and shall include any mapped floating zones (EP, MH, H, or I) or overlay zones (HOS, APO or AQ), as well as the Wetlands and Watercourses Map described in § 165-92 of this chapter. Until such time as the Wetlands and Watercourses Map has been adopted by the Town Board, the preexisting Land Conservation (LC) Zone shall be used to protect wetlands. Upon adoption of this new map, the LC Zone shall be deemed superseded.

§ 165-16. Natural Resources Inventory. [Added 6-3-2024 by L.L. No. 3-2024]

The Natural Resources Inventory (NRI), entitled "Town of Washington and Village of Millbrook Natural Resources Inventory 2023," which was adopted by resolution of the Town Board dated February 15, 2024, identifies and describes the naturally occurring resources located in the Town of Washington and Village of Millbrook, including climate, topography, geology and soils, water resources, and habitat, as well as farmland and conserved or publicly owned lands. By bringing this information together in one place, the NRI is a valuable resource to aid in the understanding and appreciation of the community's natural resources. The NRI provides valuable baseline information for comprehensive and open space planning, zoning updates, identifying critical environmental areas, climate adaptation strategies, and other municipal plans and policies for the Town and Village. The NRI can also inform local land stewardship and conservation. When preparing development proposals, applicants are directed to consult the NRI to satisfy the requirements and standards of this chapter. The Planning Board shall consider the NRI to identify and understand natural resources during its review of any application before it, where relevant. Likewise, the NRI shall be used during any SEQRA review conducted by any municipal board. The Town Board hereby adopts these maps as official guidelines to be used in conjunction with this chapter.¹⁰

§ 165-17. 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 chapter. The Town Board hereby adopts these maps as official guidelines to be used in conjunction with this chapter.

§ 165-18. 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.

- A. Along center lines. Where district boundaries are indicated as following roads, highways, driveways, watercourses, or power lines, the center lines of such rights-of-way shall be construed to be the boundaries of the zoning district.
- B. Parallel to center lines. Where district boundaries are indicated as being parallel to roads, highways, driveways, watercourses, or power lines, a line parallel to the center line 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

9. Editor's Note: Said map series is on file in the Town offices and available online at <https://washingtontny.org/building-and-land-use/>.

10. Editor's Note: The NRI maps are included as Attachments 7 through 23 of this chapter.

on the Zoning Maps.

- C. 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.
- D. 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 United States Geological Survey Maps covering the Town of Washington. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

§ 165-19. 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 chapter, 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 35 feet.

ARTICLE III
District Regulations

§ 165-20. Interpretation; applicability.

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

§ 165-21. Schedules.

To facilitate public understanding and for convenience in administration, there is hereby declared to be a part of this chapter a Schedule of District Use Regulations (Appendix A), a Schedule of Area and Bulk Regulations (Appendix B), and an Off-Street Parking and Loading Schedule (Appendix C),¹¹ 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 chapter.

- A. Schedule of District Use Regulations. In any district established by this chapter, 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 Nonresidential Use Regulations. Only those uses specifically listed shall be permitted.
- B. Schedule of Area and Bulk Regulations. In any district established by this chapter, 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.
- C. Off-Street Parking and Loading Schedule. In any district established by this chapter, 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.

11. Editor's Note: Said appendixes are included as attachments to this chapter.

§ 165-22. Hospitality Overlay District regulations. [Added 6-3-2024 by L.L. No. 3-2024]

- A. Purpose and intent. The purpose and intent of the Hospitality Overlay District (hereinafter the "HOS District") is to permit small-scale, hospitality lodging uses and related accessory uses in appropriate locations within the Town. The creation of the HOS District is intended to support local tourism and economic development while ensuring that the scale and character of such uses are compatible with our rural and scenic character, reducing conflicts between potentially incompatible land uses, and ensuring that such development protects environmental resources within the Town. It is also intended to promote sustainable development and historic preservation by encouraging investment in existing structures within the Town through adaptive reuse. Additionally, the purpose of the HOS District is also to ensure that hospitality uses are consistent with the adopted Town of Washington Comprehensive Plan.
- B. Overlay boundary description. The boundaries and limits of the Hospitality Overlay District shall be as depicted on the map entitled "Hospitality Overlay District, Town of Washington, Dutchess County, New York," incorporated in the Zoning Map Series and made part of this chapter as provided in § 165-15. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- C. Interpretation of boundaries. The interpretation of any boundaries of the HOS District shall be in accordance with the provisions of § 165-18.
- D. Effect of Overlay District. The HOS District shall be a supplemental zoning district, mapped in conjunction with the underlying zoning districts or floating districts. In the HOS District, the requirements of this section shall be applied together with all the limitations and requirements applicable in the underlying zoning district, unless otherwise noted.
- E. Maximum total HOS District density. There shall be no more than a combined total of three inns or adaptive reuse inns in the HOS District, in which the total number of such establishments permitted may comprise a mix of inns and adaptive reuse inns.
- F. Uses permitted in the HOS District. All of the principal and accessory uses permitted in the underlying zoning district(s) shall continue to be permitted and remain unchanged. The HOS District does not add any additional principal or accessory uses permitted without a special permit. Motels, hotels, campgrounds, glamping and all other uses not specifically listed as allowed in the underlying zoning district(s) are not permitted.
- G. Uses allowed by special permit in the HOS District. In addition to the special permit uses in the underlying zoning district(s), the following principal and accessory uses may also be permitted by special permit and subject to site plan approval within the HOS District.
- (1) Inns;
 - (2) Adaptive reuse inns;
 - (3) Restaurant (accessory);
 - (4) Bar/tavern (accessory);
 - (5) Spa and/or fitness gym (accessory); and
 - (6) Swimming pools (accessory).
- H. Use and are requirements and limitations. Any inn or adaptive reuse inn proposed pursuant to this section shall adhere to the following minimum requirements and limitations:

- (1) There shall be no more than 20 guest rooms in any inn. Guest rooms for an inn may be developed through the construction of new square footage. A project that creates guest rooms through the use of existing structure(s) in addition to the construction of new square footage shall be deemed an inn, not an adaptive reuse inn, and shall be limited to a maximum of 20 guest rooms. For an adaptive reuse inn, all guest rooms must be within the existing primary structure(s) being adaptively reused.
- (2) There shall be no more than 40 guest rooms in any adaptive reuse inn. All guest rooms shall be located within the existing primary structure(s) being adaptively reused. The number of guest rooms in any adaptive reuse inn is subject to approval by the Planning Board.
- (3) There shall be only one adaptive reuse inn or one inn per lot within the HOS District. No lot within the HOS District shall contain both an adaptive reuse inn and an inn.
- (4) In addition to the special permit limitations and requirements set forth herein, all inns and adaptive reuse inns shall be subject to the applicable area and bulk requirements of the underlying zoning district.
- (5) Off-street parking shall be provided at the rate of one space per guest room for the inn or adaptive Reuse Inn use, and as specified in Appendix C, Off-Street Parking and Loading Schedule,¹² for any approved accessory uses or as may be modified or required by the Planning Board.

I. Special permit approval standards.

- (1) Inn. In determining whether a special permit for an inn within the HOS District may be approved, the Planning Board shall consider the following relevant requirements and factors, in addition to the criteria generally applicable to special permits as set forth in § 165-119:
 - (a) Whether the proposed development is in keeping with the traditional rural, historic and community character of the area;
 - (b) The effect of any proposed development on the natural environment or natural resources of the Town of Washington. In evaluating this standard, the Planning Board shall consult the adopted Natural Resources Inventory of the Town of Washington as set forth in § 165-16, in addition to any other available resource;
 - (c) Whether the proposed development is within the Town's capacity to handle additional demand with regard to considerations including, but not limited to, vehicle traffic, emergency services, water and electrical supply, stormwater, septic, sewer and noise/light pollution;
 - (d) Whether the acreage of the lot upon which the inn is proposed is adequate to accommodate the proposed use, inclusive of, but not limited to, any proposed parking areas, accessory uses and structures, screening, landscaping, stormwater management systems, septic systems, and private wells;
 - (e) Whether the design of structure(s) is in keeping with or enhances the architectural character of the area; and
 - (f) The benefit of environmental or conservation improvements proposed to the site and/or

12. Editor's Note: Appendix C is included as an attachment to this chapter.

the existing structures.

- (2) Adaptive reuse inn. In determining whether and to what extent a special permit for an adaptive reuse inn within the HOS District may be approved, the Planning Board shall consider all the factors for an inn as set forth in Subsection I(1) above, the criteria generally applicable to special permits as set forth in § 165-119, and the following requirements and criteria:
 - (a) Number of rooms. The maximum number of guest rooms that can be permitted is 40. The actual number of guest rooms permitted in an adaptive reuse inn is subject to approval by the Planning Board on a case-by-case basis, taking into account the following factors:
 - [1] Whether the adaptively reused structure(s) can reasonably accommodate the total number of guest rooms proposed;
 - [2] The number of existing structure(s) proposed to remain and be incorporated into the design;
 - [3] The percentage of the existing structure(s) to remain;
 - [4] The quality of the overall site improvements, including but not limited to lighting, sustainability, stormwater management, landscaping, and reduction of impervious surfaces;
 - [5] The sensitivity to neighboring properties, considering the location, screening, and buffering;
 - [6] The provision of accessory uses available to the public, if any;
 - [7] The extent of the renovation and rehabilitation of a historic structure, if applicable; and
 - [8] Whether the lot will accommodate and have the capacity for such density without causing significant adverse impacts to traffic, traffic circulation, pedestrian opportunities, noise or light pollution, environmental features, stormwater, water supply, septic capacity or other potential impacts.
 - (b) The adaptive reuse shall utilize the existing primary structure(s) on the lot, either substantially or in their entirety, for the core guest-oriented functions of the adaptive reuse inn, including but not limited to functions such as guest reception and check-in facilities, lobby space, guest bedrooms, bars, restaurants or similar public functions. The adaptive reuse structure shall not be used primarily for ancillary support functions such as storage space, offices or other nonguest/nonpublic functions.
 - (c) All guest rooms shall be located within the existing primary structure(s) being adaptively reused. New buildings or structures built on the property shall be utilized for accessory uses only.
 - (d) All proposed rehabilitations, new buildings, or site improvements shall be in accordance with the design standards established in Subsection K below
 - (e) Whether the design of adaptively reused structure(s) and any new structure(s) is in keeping with or enhances the architectural character of the area.
 - (f) Whether the acreage of the lot upon which the adaptive reuse inn is proposed is adequate

to accommodate the proposed use, inclusive of, but not limited to, any proposed parking areas, accessory uses and structures, screening, landscaping, stormwater management systems, septic systems, and private wells.

(3) Accessory uses permitted by Subsection J below

J. Accessory uses. The following accessory uses, clearly incidental and secondary to the principal inn or adaptive reuse inn use, may be permitted by special permit issued by the Planning Board after consideration of the site, parking capacity, vehicle trips and potential impacts to the community and nearby properties, and after consideration of the requirements and factors set forth for inns and adaptive reuse inns as set forth in Subsection I above. The Planning Board, in its judgment, shall have the authority to impose additional limits, conditions or performance standards as may be reasonably necessary, including but not limited to hours of operation, traffic, parking, lighting, outdoor activities, and noise, to mitigate identified issues and assure that the accessory use will not be the main use but will be incidental and secondary to the principal use. Accessory uses shall also comply with the applicable requirements for accessory structures set forth in § 165-70 and any applicable requirements of the underlying zoning district. The permitted accessory uses are:

- (1) Restaurant, which may be accessible to the general public, as well as room guests.
- (2) Bar/tavern, which may be accessible to the general public, as well as room guests.
- (3) Spa and/or fitness gym, accessible only to room guests of the inn or adaptive reuse inn.
- (4) Swimming pools, subject to § 165-61 and accessible only to room guests of the inn or adaptive reuse inn

K. Design standards. In addition to the requirements of the underlying zoning district, special permit or site plan review criteria, all inns and adaptive reuse inns shall meet the following design standards to enhance compatibility with the scale and character of the Town:

- (1) General. The architecture of the building(s) should be the most prominent visual feature of the site, with clearly visible public entryways, showcased and highlighted by robust landscaping, which reflect and enhance the rural historic character of the Town of Washington.
 - (a) Any additions to existing structures shall be located at the rear or side(s) of the existing structure and scaled appropriately so as not to overwhelm or detract from the massing of the original building.
 - (b) Where a new separate building is proposed to be constructed on the same property as an adaptive reuse structure, the new building shall be set back further from the public roadway than the existing structure.
- (2) Site layout and landscaping. The site layout shall provide attractive, shaded and safe routes for pedestrian walkways that link surrounding buildings and parking areas. The incorporation of existing mature trees into the site design is encouraged to maintain shade areas.
 - (a) Limit the visibility of parking and other utilitarian functions (to the extent practical for the site and existing conditions) by locating these functions in the side or rear of the property and screening from view from the public roadway and adjacent properties with the use of existing or proposed vegetation, landscaping and site features. No parking shall be permitted in the front yard area, except as may be permitted by the Planning Board for limited convenience or handicap parking or dropoff areas, or in cases where an adaptive

reuse of an existing building is taking place and siting of that building does not allow for parking to the side or rear.

- (b) Parking areas shall integrate existing shade trees and/or new tree planting areas to create shade and capture stormwater runoff.
 - (c) Dumpsters or trash/recycling containers shall be located toward the rear of the site where not readily visible and surrounded in a four-sided screening enclosure, composed of wood and/or landscaping, as directed by the Planning Board.
 - (d) Mechanical equipment, transformers and similar devices shall be screened from view using a combination of fencing and landscaping.
 - (e) A variety of shrubs and flowers with nonstone mulch shall be provided along the base of the building perimeter, at least three feet in depth from the facade.
 - (f) Pedestrian walkways and outdoor patio areas shall be accented, where possible, with a dense planting of a variety of shrubs and flowers.
 - (g) Where preexisting native trees on the site cannot be preserved or do not exist, new tree plantings shall be incorporated into the site, where possible, to provide shade in larger areas of lawn. In the absence of existing street trees along the public road frontage, new street trees are encouraged to be planted approximately 50 feet on center.
 - (h) Landscaping selections should utilize a variety of species native to the region.
- (3) Stormwater.
- (a) Minimize the amount of impervious surfaces, such as paved parking lots, to the extent practicable to reduce stormwater runoff.
 - (b) Landscaped areas on-site are encouraged to also serve as integrated stormwater management areas, where practical. These may include recessed parking island dry wells, rain gardens, vegetated swales or retention ponds which capture rainwater on the site while appearing to be a part of the landscape.
- (4) Facades. For adaptive reuse inns, exterior facade materials used shall reflect or complement the existing facade materials found on the structure being adaptively reused. For inns, the use of small-scale natural building materials (such as wood clapboards, wood shingles, brick, or natural stone) or materials that are aesthetically reasonable facsimiles of these materials are required on new exterior facades
- (a) With larger structures or longer building facades, the overall building massing may need to be broken up into smaller, discrete parts, where possible, to reflect the scale and massing of structures typically found in the area or on-site.
 - (b) There shall be no blank walls or large facade areas without windows facing a public street.
 - (c) The use of appurtenances on the front facade, such as porches, awnings, balconies, porticos, or porte cochere, to the maximum extent possible, shall be required to give the facade shade, reduce building scale and provide more visual interest.
- (5) Lighting. In order to reduce unnecessary light pollution and trespass, all exterior lighting for pedestrian walkways, parking or security shall be full cutoff, shielded and dark-sky-compliant

fixtures which do not permit any light to project outward above a horizontal plane from the fixture head.

- (a) The number of light standards and intensity of lighting are encouraged to be set at minimal performance levels to reduce unnecessary glare, trespass and energy consumption. Lighting levels at the adjacent property boundaries shall be measured at no more than 0.02 footcandle. Where feasible, motion-sensing lights are encouraged for any necessary security lighting. The Planning Board may require a photometric plan to be provided as part of the application.
 - (b) Lighting standards shall be appropriate to the design of the structure(s) and shall not exceed 12 feet in height
 - (c) The color temperature of exterior lighting shall be visually consistent across all fixtures. It is required that warmer color temperature light (i.e., below 4,000 Kelvin) be utilized and that colder temperature light above 3,000 Kelvin generally be avoided.
- (6) All signage shall comply with § 165-42 and the requirements of the underlying zoning district.
 - (7) All main entrances for staff, guests, and visitors for any use within an HOS Overlay District shall be from New York State Highway Route 44, Route 82 or Route 343. An alternative entrance on a secondary road, such as but not limited to College Lane, may be approved by the Planning Board, in its discretion, for use by delivery vehicles and emergency access or egress only. When permitted, such secondary access points shall have signage posted "for deliveries only".
 - (8) All other standards and requirements for the underlying zoning district shall also be met, including but not limited to protections of wetlands and watercourses pursuant to Article IX, erosion and sedimentation control pursuant to § 165-46, preservation of scenic roads pursuant to § 165-54, projecting architectural features pursuant to § 165-71 and others from Article III of this Chapter 165, Zoning, of the Code of the Town of Washington. Where the HOS District overlaps with another overlay district pursuant to this Chapter 165, the standards and requirements of the overlaying districts and the underlying district shall apply. If the requirements of any overlaying and underlying district conflict, the more restrictive standard or requirement shall take precedence. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- L. Approval process. All applications for uses enabled by this overlay district shall be considered under the processes of special use permits and site plan review.
- (1) Site plan review shall also include a review of the architectural compatibility of any proposed new structure(s), demolition, expansion, or alteration with the historic architectural character of the area, including the layout, placement, and proportions of buildings, and their relationships to each other, streets, open space, and landscaping
 - (2) Site plan review shall also include a review of any new or existing water and septic systems.

§ 165-23. Hamlet Mixed-Use District regulations.

- A. 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 nonresidential uses in which historic and residential character predominates, pedestrian activity is encouraged, and suburban "strip" shopping center development is discouraged.

B. Limitation on nonresidential development.

- (1) In order to preserve the mixed-use character of the district, the Planning Board shall limit the proportion of new nonresidential development to 50% of the total square footage of floor space of all new residential building construction within the HM District over any two-year period.
- (2) The Planning Board shall deny any application for a special permit allowing a nonresidential use that would result in exceeding this 50% threshold for the two years immediately preceding the date of submission of such an application. In the event that two 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 § 165-23.
- (3) "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.
- (4) "New nonresidential development" shall include interior floor space of new nonresidential principal and accessory structures and new nonresidential uses in structures converted from residential use after the date of this chapter. It shall not include nonresidential accessory structures used in connection with residential uses, interior or exterior areas used for home occupations, changes in nonresidential use of structures already used for nonresidential purposes, or exterior or interior areas used for loading, vehicular circulation, or employee, customer, or visitor parking. Specifically excluded from this definition is the expansion of conforming and legally nonconforming nonresidential uses in existence as of the date of this chapter, so long as such expansion is within the confines of a legal building lot created prior to the date this chapter is adopted. The expansion of such excluded nonresidential 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 chapter 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 this chapter.
- (5) The number of square feet of new residential and nonresidential construction shall be established by using information shown on approved building permits over the aforesaid two-year period.

C. 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 A and B above.

D. Uses. Allowable uses in the HM District are listed in Appendix A.¹³ Auxiliary apartments may be included in nonresidential buildings if they follow traditional village mixed usage patterns.

13. Editor's Note: Appendix A is included as an attachment to this chapter.

- E. Supplementary use regulations. In addition to all other restrictions and provisions of this chapter, the following shall apply in the HM District:
- (1) 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 motor vehicles or pieces of construction equipment, per nonresidential use.
 - (2) 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.
 - (3) Repair, restoration, and other potentially noisy or unsightly service operations shall be conducted indoors.
- F. Standards. In addition to any other applicable standards required by this chapter, the following provisions shall also apply to all nonresidential uses in the Hamlet Mixed-Use District.
- (1) Off-street parking.
 - (a) 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.
 - (b) 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.
 - (c) 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 nonresidential uses or can otherwise show that the parking standards in Appendix C¹⁴ are excessive for the particular use proposed.
 - (2) To the extent practical, new buildings shall front on new interior roads, and not on U.S. Route 44 or Dutchess County Route 98 or 99. Such roads shall be built with sidewalks at least four feet wide and shall permit on-street parallel or diagonal parking.
 - (3) The maximum footprint of any structure (ground area covered by the building, foundation, and roof) shall be 5,000 square feet. Nonresidential uses may include more than one building on a lot. There shall be a minimum of thirty feet separation between principal (nonaccessory) buildings.
- G. 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 chapter. 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.

14. Editor's Note: Appendix C is included as an attachment to this chapter.

§ 165-24. Aquifer Protection Overlay District regulations.

- A. 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.
- B. Aquifer Protection Overlay District Description.
- (1) 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 chapter. 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 chapter particular aquifers deemed to be insignificant for purposes of this chapter; or to incorporate or replace with supplementary maps that correct, clarify, or affirm in detail the area of jurisdiction of this chapter.
 - (2) 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 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.
- C. 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.
- D. Applicability.
- (1) An applicant for any proposed action requiring a subdivision approval, special use permit, site plan approval, rezoning, or variance under this chapter or Chapter 137, Subdivision of Land, 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 H of this section 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.
 - (2) Existing development, uses, or activities located within the AQ District are not subject to the requirements of this chapter 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 chapter.

- E. Review of actions. Any Board approving a proposed action pursuant to Subsection D(1) 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.
- F. 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 chapter.
- G. 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:
 - (1) Alter the subsurface flow of groundwater to private water supply wells and existing and potential public water supply wells.
 - (2) Degrade the quality of groundwater through the introduction of sewage wastes, stormwater runoff, liquid chemicals, petroleum products, dissolved metals, or other toxic substances.
 - (3) 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.
 - (4) 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.
 - (5) 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.
 - (6) Reduce to less than five feet the separation between the surface of the ground and the seasonal high water table.
- H. Use restrictions. The following use restrictions and requirements shall apply to all land within the AQ District:
 - (1) Disposal wells. The installation or use of disposal wells is prohibited.
 - (2) Recharge basins. The installation or use of stormwater runoff recharge basins is prohibited.
 - (3) Snow disposal. The stockpiling or dumping of snow removed from streets, driveways, private

roads, and public or private parking lots is prohibited.

- (4) 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.
 - (5) 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.
 - (6) Wastewater lagoons and pits. Use of wastewater lagoons and pits for temporary storage of wastewater is prohibited. All storage facilities shall be watertight, located above ground, and under permit by the New York Department of Environmental Conservation.
 - (7) Disposal. Disposal of toxic chemicals, industrial sludge, or radioactive materials is prohibited.
 - (8) 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.
 - (9) 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.
 - (10) 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.
 - (11) 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.
 - (12) Water wells. All water supply wells shall be constructed in accordance with the requirements of the Dutchess County Department of Health.
 - (13) Abandoned wells. All abandoned wells shall be sealed in accordance with the requirements of the Dutchess County Department of Health.¹⁵
- I. Applicability of Village of Millbrook water supply watershed regulations. Notwithstanding any provisions of this chapter, any 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

15. Editor's Note: Original Subsection 8.n, Soil Mining, which immediately followed this subsection, was repealed 9-26-1991 by L.L. No. 2-1991.

Commissioner of Health under § 1100 of the Public Health Law. In case of any conflict in such standards, the more restrictive standard shall apply.

§ 165-25. Agricultural Protection Overlay District regulations.

A. Purpose. The Agricultural Protection Overlay District (hereinafter the "APO District") is intended to:

- (1) Preserve agricultural land for food and fiber production;
- (2) Protect agriculturally productive farms;
- (3) Maintain a viable agricultural base to support agricultural processing and service industries;
- (4) Prevent conflicts between incompatible land uses;
- (5) Reduce costs of providing public services to scattered nonfarm uses;
- (6) Pace and shape the growth of the Town;
- (7) Protect agricultural land from encroachment by non-agricultural uses, structures, or activities; and
- (8) Maintain the rural, natural, and scenic qualities of the Town.

B. Agricultural Protection Overlay District description.

- (1) The APO District boundary is herein established as an overlay district covering land zoned in districts RR-10, RS-10, RL-5, RS-5, and RM-2, and mapped according to the following criteria:
 - (a) Parcels of land of at least 10 acres on which at least 50% of the surficial soils are classified as prime farmland soils or farmland soils of statewide importance, as established by criteria of the Natural Resource Conservation Service, United States Department of Agriculture (hereinafter "agricultural soils").
 - (b) Parcels of land included in an Agricultural District established pursuant to the New York Agriculture and Markets Law, Article 25AA.
- (2) 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 chapter. Said maps shall be the basis for the administration of the regulations contained in this § 165-25.
- (3) 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 rezoning, subdivision approval, special permit, site plan approval, or variance, finds that:
 - (a) 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 No. 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 chapter; or
 - (b) Land shown as containing agricultural soils (as defined herein) on Part II of the Agricultural Protection Overlay District Maps does not in fact meet Natural Resource Conservation Service criteria for such soil designations based upon evidence presented by a qualified soils expert who has conducted an on-site investigation.

- (4) 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 B(1) above.
 - (5) In the case of parcels of land of at least 10 acres on which at least 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 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.
- C. 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:
- (1) Forest, wildlife, and game management;
 - (2) Equestrian trails;
 - (3) Nature trails and walks;
 - (4) Greenhouses;
 - (5) Composting of manure and vegetative wastes;
 - (6) One roadside stand per farm, selling agricultural products, and containing not more than 500 square feet, in which at least 50% of the products sold are produced on the premises or adjoining premises.
- D. 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:
- (1) 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.
 - (2) Agriculture-related service or commercial uses, including but not limited to the sale of farm products in facilities greater than 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.
- E. Special permit approval standards.
- (1) The Planning Board, prior to granting special permit approval for development in the APO District pursuant to § 165-116 of this chapter, shall consider the following relevant factors in addition to the standards set out in § 165-119 of this chapter:
 - (a) The statement of purpose of this chapter and the APO District regulations;
 - (b) The potential for conflict with agricultural use;

- (c) The need of the proposed use for a location in an agricultural area;
 - (d) The availability of alternative locations;
 - (e) Compatibility with existing or permitted uses on adjacent lands;
 - (f) The agricultural productivity of the lands or soils involved;
 - (g) The need to minimize the amount of agricultural soils converted to nonagricultural use;
 - (h) The need for public services created by the proposed use;
 - (i) 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;
 - (j) The effect of the proposed use on water, air, or soil resources and on rare or irreplaceable natural resources;
 - (k) The location of the use so as to minimize the interruption of scenic views from public roads; and
 - (l) The feasibility of designing the structure or the lot to take maximum advantage of solar heating and cooling opportunities.
- (2) 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 E(1) above, the following conditions may be attached to the granting of a special permit:
- (a) Increased setbacks and yards;
 - (b) Specifications for water supply, liquid waste, and solid waste disposal facilities;
 - (c) Additional landscaping and vegetative screens or buffers;
 - (d) Time of operation;
 - (e) Air pollution controls;
 - (f) Location of the use; and
 - (g) Similar requirements found necessary to fulfill the purpose of this chapter. Violation of these conditions shall constitute a violation of this chapter as provided in § 165-132, Penalties for offenses.

F. Procedures for residential development in the APO District.

- (1) 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 § 137-29, Conservation density subdivisions, of Chapter 137, Subdivision of Land, of the Code of the Town of Washington.
- (2) Any subdivision of a parcel lying within the APO district into three or more lots shall be subject to the procedures of § 137-27B, Planning Board's option to require a cluster plan, of Chapter 137, Subdivision of Land, of the Code of the Town of Washington. In designing a cluster plan, the applicant shall comply with the standards set forth in Subsection G below. For purposes of

determining the coverage of this Subsection F(2), "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 F(2).

G. Standards for residential development in the APO District.

- (1) 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):
 - (a) In the least fertile agricultural soils and in a manner which maximize the usable area remaining for agricultural use;
 - (b) 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;
 - (c) 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;
 - (d) On the most suitable soils for subsurface sewage disposal (in unsewered areas only);
 - (e) 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
 - (f) In locations where the greatest number of units could be designed to take maximum advantage of solar heating opportunities.
- (2) Buffer zones at least 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.
- (3) These standards shall be implemented by the Planning Board as provided in § 137-14 and Article VI of Chapter 137, Subdivision of Land, of the Code of the Town of Washington.

§ 165-26. Environmental Preservation District regulations.

- A. 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.
- B. 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 XI of this chapter, 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.

- (1) 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.
 - (2) The Town Board shall follow the zoning amendment procedures contained in Article XI 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).
- C. 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:
- (1) Areas that offer a benefit or pose a threat to human health;
 - (2) Areas that contain an important natural setting;
 - (3) Areas with social, cultural, historic, archaeological, recreational, or educational value;
 - (4) Areas with inherent ecological, geological, or hydrological value or sensitivity.
- D. Development permit classification in EP Districts.
- (1) No building permit or other land use permit not exempt by Subsection D(2) below shall be issued for property within an EP District without site plan approval pursuant to the procedures specified in Subsection E below.
 - (2) The following area exempt from the procedures of Subsection E below:
 - (a) 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;
 - (b) Any permit necessary for bringing an existing building into compliance with New York State Building Code;
 - (c) Any permit necessary for compliance with a lawful order of the Zoning Administrator;
 - (d) Any permit necessary for the immediate public health or safety;
 - (e) Any permit for interior alterations and repairs;
 - (f) Any permit for the construction of public utilities in the public right-of-way;
 - (g) Any permit for fences under six feet in height;
 - (h) Any permit for construction of accessory structures with a floor area of 200 square feet or

less;

- (i) Any permit for additions to buildings and structures not resulting in an increase in floor area of more than 50%;
 - (j) Any permit for a sign under six feet in height;
 - (k) Any permit for a driveway under 50 feet in length;
 - (l) 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 50%; and
 - (m) Such other exemptions as may be allowed in any regulations creating a specific EP District.
- (3) Applications for development permission in EP Districts not exempt in Subsection D(2) above shall be made to the Planning Board as site plan applications pursuant to § 165-125, Site plan review and approval, of this chapter. 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:
- (a) All applications for new principal buildings or structures as defined in Article XII;
 - (b) All applications for excavation and/or fill;
 - (c) All applications for additions to buildings and structures resulting in an increase in floor areas of more than 50%;
 - (d) All applications for construction of accessory structures and buildings with a floor area of more than 1,000 square feet;
 - (e) 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 50%; and
 - (f) All applications for driveways over 300 feet in length.
- (4) The Town Board may revise the classifications set forth in Subsection D(3) 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.
- E. Special application requirements and review procedure; site plan and environmental review. In addition to the requirements of § 165-125, Site plan review and approval, of this chapter, 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.

- F. Underlying and alternative zoning regulations.
- (1) Upon establishment of an EP District pursuant to Subsection B 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.
 - (2) 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.

§ 165-27. Industrial/Office Development District regulations. [Amended 6-3-2024 by L.L. No. 3-2024]

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 HOS, 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 § 165-125, Site plan review and approval, of this chapter, and such other reasonable conditions as the Town Board in its discretion deems appropriate.

- A. Application for the establishment of an I District shall be made to the Town Board pursuant to the zoning amendment provisions of Article XI of this chapter. 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.
- B. 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 § 165-125 of this chapter. 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 § 165-125 of this chapter 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 District designation shall lapse, and the property shall revert to its prior zoning classification, unless the I District designation is extended by the Town Board.
- C. 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.
- D. In considering an application for designation of an I District, the Town Board shall be guided by the following criteria:

- (1) The use must be designed, located, and operated so as to protect the public health, safety, and welfare of the community.
 - (2) The use must not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
 - (3) 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.
 - (4) The use must not cause undue traffic congestion or create a traffic hazard.
 - (5) 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.
 - (6) 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 G below.
- E. 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 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.
- F. Allowable uses. The following uses, operations, or activities are allowed in an I District established by the Town Board subject to the requirements of § 165-125, Site plan review and approval, of this chapter:
- (1) Light industrial/manufacturing;
 - (2) Food processing;
 - (3) Offices;
 - (4) Wholesaling;
 - (5) Farm machinery, sales, and rental;
 - (6) Veterinary hospital;
 - (7) Research facilities;
 - (8) Warehousing;
 - (9) Multifamily housing, up to a maximum of 25% of the developed floor space;
 - (10) Such other uses as the Town Board may deem appropriate.
- G. I District design guidelines. I District shall meet the following requirements:

- (1) Area and bulk requirements:
 - (a) Minimum lot size: 10 acres.
 - (b) Minimum lot width: 400 feet.
 - (c) Minimum building setbacks from adjoining property lines:
 - [1] Front: 100 feet.
 - [2] Side: 50 feet.
 - [3] Rear: 50 feet.
 - (d) Maximum building height: 35 feet.
 - (e) Maximum building coverage: 30%.
- (2) At least 40% of the land on a tract zoned I shall be set aside as perpetual open space pursuant to the provisions of § 137-30 of Chapter 137, Subdivision of Land, of the Code of the Town of Washington.
- (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 100 feet of any abutting APO District or any abutting residential district.
- (4) The minimum setback areas set out in Subsection G(1)(c) shall include buffering as indicated in Subsection G(4)(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 § 165-128L, of this chapter, and shall satisfy the following buffer requirements:
 - (a) Perimeter landscape area requirements for industrial uses:
 - [1] Front yard: 60 feet. The front yard landscaped area shall contain at least one shade tree, at least three inches in caliper, for each 50 feet or part thereof of road frontage.
 - [2] Side/rear yard: 10 feet. The side and rear yards shall provide at least one shade tree of at least three inches in caliper for each 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 40 cars shall provide landscaped areas within the parking lot equal to at least 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 15 feet in width and landscaped center islands shall be a minimum of 18 feet in width. One deciduous shade tree of at least three inches in caliper shall be planted within landscaped areas for each 10 parking spaces if there are more than 40 spaces. No parking area or driveways shall be closer than 10 feet from any portion of a building other than its garage entrance or loading area apron. This ten-foot area shall not be counted as part of the 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 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 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.

§ 165-28. Mobile Home District regulations. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

Notwithstanding any other provision of this chapter, 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 § 165-45 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 § 165-125, Site plan review and approval, of this chapter, and such other reasonable conditions as the Town Board in its discretion deems appropriate.

- A. Application for the establishment of an MH District shall be made to the Town Board pursuant to the zoning amendment provisions of Article XI of this chapter. 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.
- B. Within six 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 § 165-125 of this chapter. 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 § 165-125 of this chapter and that the site plan is substantially similar to the schematic site plan approved by the Town Board. If more than six 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.
- C. 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.
- D. In considering an application for designation of a mobile home district, the Town Board shall be guided by the following criteria:
 - (1) 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.
 - (2) The park must not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
 - (3) 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.
 - (4) The park must not cause undue traffic congestion or create a traffic hazard.
 - (5) The park must be appropriately located with respect to transportation facilities, water supply, fire protection, waste disposal, and other necessary services and/or facilities.
 - (6) 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 chapter, and that is designed in accordance with the standards specified below.
- E. 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 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.

- F. In reviewing a mobile home park plan, the Planning Board shall be guided by the standards specified by § 165-130 of this chapter, as well as by the following:
- (1) Mobile home parks shall have a minimum of 20 acres of land area and shall contain no more than four mobile home units for each one acre of land.
 - (2) No mobile home site shall be less than 10,000 square feet in area and have less than 80 feet of frontage along an interior roadway.
 - (3) Mobile homes shall be located so as to provide minimum clearances between adjacent units as specified below:
 - (a) A minimum distance of 20 feet shall be provided between the facing ends of two mobile units; and
 - (b) A minimum distance of 50 feet shall be provided between facing sides of two 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 or more sides) shall be considered as part of the mobile home.
 - (4) No mobile home unit shall be placed within 150 feet of any Town, county, or state roadway, nor within 75 feet of any adjoining property.
 - (5) The park shall be designed as a self-contained unit with interior access roads at least 18 feet wide for one-way facilities, at least 28 feet wide for two-way movements, and paved with an all-weather, dustfree surfacing material approved by the Town Highway Superintendent.
 - (6) Adequate recreational facilities shall be provided and up to 10% of the total mobile home park land area shall be set aside and developed for recreational purposes.
 - (7) There shall be at least two off-street parking spaces for each mobile home, located within the mobile home site or within 50 feet thereof.
 - (8) Each mobile home park shall have a landscaped area at least 20 feet wide along exterior lot lines and street frontages, suitably planted and maintained to provide visual screening from adjacent properties.
 - (9) Open storage shall not be permitted; storage shall be provided within the mobile home unit or in enclosed accessory structures.
 - (10) 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.
 - (11) Each mobile home park shall have a sufficient number of conveniently located dumpsters.
 - (12) All mobile home units must be furnished with two exterior doors for fire safety.

- (13) 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.

§ 165-29. Hamlet District regulations.

- A. 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 XI of this chapter. Such mapping may occur only in locations where the Town Board finds that historic hamlets worthy of preservation exist.
- B. Schedule of use regulations.

| Residential District | Principal Uses Permitted by Right | Accessory Uses Permitted by Right | Special Uses Which May Be Allowed by Special Permit and Subject to Site Plan Approval | Applicable Overlay or Floating Districts |
|----------------------|---|--|---|--|
| H | Single-Family Dwelling Two-Family Dwelling | Uses customarily incidental to any principal use permitted by right Garages, private *Home occupation [§ 165-31C(1)] Off-street parking *Signs Swimming pools | Antique Shop *Bed-and-breakfast Food Store General Store *Home occupation [§ 165-31D] Professional offices | APO Overlay AQ Overlay EP Floating |

*

See Article IV, Supplementary Use Regulations

- C. Schedule of area and bulk regulations.
 - (1) Minimum lot size:
 - (a) Area (acres): 0.25. (NOTE: or such greater area as may be required to comply with regulations of the Dutchess County Department of Health.)
 - (b) Width (feet): 75.
 - (2) Minimum/maximum setback (feet):
 - (a) Front: 20/50.
 - (b) Each side: 15/50.
 - (c) Rear: 25/none.
 - (3) Maximum building height:

- (a) Stories: 2.5.
 - (b) Feet: 35.
 - (4) Maximum coverage (percent): 75%.
 - (5) Minimum road frontage (feet): 50.
- D. Home occupations and nonresidential uses. In order to maintain the small-scale, noncommercial character of the Hamlet District, nonresidential uses in the Hamlet District may occupy a maximum of 2,000 square feet of floor space per lot. Notwithstanding the provisions of § 165-31B(2), home occupations within the Hamlet District may occupy a maximum of 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 § 165-31.
- E. Architectural review.
- (1) 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.
 - (2) 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.

ARTICLE IV
Supplementary Use Regulations

§ 165-30. General provisions.

The provisions set forth by the Schedule of District Use Regulations¹⁶ shall be subject to such exceptions, additions, or modifications as provided herein by the following supplementary use regulations.

§ 165-31. Home occupations.

- A. 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:
- (1) Ensure the compatibility of home occupations with other uses permitted in the residential districts;
 - (2) Maintain and preserve the rural character of residential neighborhoods and areas;
 - (3) Assure that public facilities and services designed for residential areas are not misused for inappropriate commercial purposes; and
 - (4) 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.
- B. Criteria and standards. 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 D 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 § 165-70, Accessory structures, below.
 - (2) No more than 30% of the floor area of the dwelling unit, with the exception of foster family care which may use 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 nonresident 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 § 165-42, Signs, of this chapter.
 - (6) A home occupation, including studios or rooms for instruction, shall provide all necessary

16. Editor's Note: See Appendix A, included as an attachment to this chapter.

parking associated with the home occupation off-street, not to exceed four 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 pickup of materials or commodities to and from the premises by a commercial vehicle shall not exceed two 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 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 chapter 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 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.

C. List of home occupations.

- (1) 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 B above:
 - (a) Architectural, engineering, interior design, and financial planning services;
 - (b) Art restoration;
 - (c) Art studio;
 - (d) Babysitting;
 - (e) Data processing;
 - (f) Dental technician with laboratory;
 - (g) Dentist;
 - (h) Drafting and graphic services;
 - (i) Dressmaking, sewing, tailoring, contract sewing;
 - (j) Flower arranging;

- (k) Gardening; landscape maintenance;
 - (l) Home crafts, including ceramics with kiln up to six cubic feet; jewelry making; basketry;
 - (m) House cleaning service;
 - (n) Locksmith;
 - (o) Physician;
 - (p) Real estate sales or broker;
 - (q) Sales or manufacturer representative (office only);
 - (r) Swimming pool cleaning;
 - (s) Telephone answering, switchboard, and call forwarding;
 - (t) Tutoring;
 - (u) Typing and word processing;
 - (v) Watch repair; and
 - (w) Writing; computer programming.
- (2) The following home occupations are prohibited:
- (a) Ambulance service;
 - (b) Appliance repair;
 - (c) Automobile sale, repair, and retailing; sale of supplies, parts and upholstery; washing service (including businesses working at customer homes);
 - (d) Helium balloon assembly, distribution, or sale;
 - (e) Laundromats and dry cleaning;
 - (f) Limousine or pedicab services exceeding one vehicle;
 - (g) Mortician; hearse service;
 - (h) Restaurants and taverns;
 - (i) Tow truck services; and
 - (j) Tractor-trailer operations or parking.
- D. Home occupation by special permit. Any home occupation meeting the standards and criteria of Subsection B above but not listed as a permitted or prohibited home occupation under Subsection C 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 B above, as well as generally applicable special permit standards in § 165-119 of this chapter.
- E. Permit application procedure.

- (1) 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 B above.
 - (2) Application for a special permit for a home occupation that is neither permitted by right nor prohibited shall be made in accordance with § 165-116, Special permits, of this chapter.
- F. De minimus use. No permit is required for a home occupation use which meets all of the criteria of § 165-31B and all of the following additional standards:
- (1) No physical change to the exterior of a principal or accessory structure is required to accommodate the home occupation; and
 - (2) The use is conducted on the site solely by persons utilizing the home as their primary residence; and
 - (3) There is no sign or other exterior advertisement of the existence of the home occupation use; and
 - (4) No more than one home occupation is conducted on the premises; and
 - (5) There is no exterior storage of materials, equipment, vehicles or other supplies used in conjunction with the home occupation.

§ 165-32. Pig farms.

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

§ 165-33. Private stables.

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

- A. Horses shall be solely for the use of residents and their guests.
- B. All grain shall be stored in rodentproof containers.

§ 165-34. Riding academies/public stables.

Buildings to be used for riding academy or public stable purposes shall be set back a minimum distance of 125 feet from the street line and 250 feet from the side and rear of property lines. Further:

- A. No manure or substance that produces objectionable odor or dust shall be stored within 250 feet of any property line.
- B. No manure shall be stored within 250 feet of any neighboring residence or the shoreline of any lake, pond, stream or wetland.

§ 165-35. Cage-type poultry farms.

Buildings housing cage-type poultry operations and containing 5,000 birds or less shall not be erected within 500 feet of any property line nor within 1,000 feet of the boundary line of the zoning district in

which the use is permitted nor within 100 feet of any lake, pond, watercourse, or wetland. Further:

- A. For each 1,000 birds more than 5,000, an additional setback of 50 feet shall be provided from any property line.
- B. 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.
- C. Cage-type poultry house odor suppression devices shall not be cleaned during the months of June, July, August, or September.

§ 165-36. Educational institutions.

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

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

§ 165-37. Charitable foundations and trusts.

- A. Preamble and purpose.

- (1) 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, 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 preexisting commercial uses and home occupations in its one-acre zone which have proved compatible with that neighborhood.
- (2) 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 and evaluate and make determinations relating to requests for funding from other charitable organizations.
- (3) 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 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 Mixed-Use 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.

- (4) Based upon its experience, the Planning Board advised the Town Board that the limitation on nonresidential development in the Hamlet Mixed-Use District (§ 165-23B) needs to be waived to have any real prospect for administrative offices for charitable foundations in the Hamlet Mixed-Use District.
- B. 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 chapter.¹⁷ 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:
- (1) Such offices shall be limited in size to no more than 12 employees. The number of permitted employees will be directly related to the amount of parking space which is available on the proposed site which can be adequately screened from view by neighboring owners. Parking on the street should not be permitted.
 - (2) 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.
 - (3) In the RH-1 Residential District, such offices may only be permitted on lots of not less than three acres and which are no further than 200 feet from a state highway.
 - (4) In the RH-1 Residential District, only one unilluminated identifying sign, no greater than two square feet in size, shall be permitted on the building itself.
- C. 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 § 165-23 of this Chapter 165, Zoning, as amended.

§ 165-38. Private camps.

No private camp shall be placed less than 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 100 feet from any lake, pond, watercourse, or wetland. No building, whether principal, accessory, or temporary, or sewage facility shall be within 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 100 feet of any watercourse or wetland which flows into a reservoir used for public water supply purposes.¹⁸

§ 165-39. Stripping of topsoil.

No person, firm, or corporation shall strip, excavate, or otherwise remove topsoil for sale or for use other

17. Editor's Note: Appendix A is included as an attachment to this chapter.

18. Editor's Note: Original Sec. 327.A, Private Cemeteries or Burial Plots, added 6-11-1998 by L.L. No. 1-1998, which immediately followed this section, was repealed 10-11-2007 by L.L. No. 3-2007, and Sec. 328, Wetlands and Watercourses, which immediately followed this section, was repealed 5-12-2011 by L.L. No. 1-2011.

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 § 165-46 of this chapter.

§ 165-40. Conversion of barns and accessory buildings.

- A. 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:
- (1) 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;
 - (2) 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;
 - (3) 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
 - (4) 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.
- B. 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:
- (1) The building proposed for conversion must have been in existence on January 1, 1989.
 - (2) The minimum size of a residential unit within a converted barn or accessory structure must be 800 square feet.
 - (3) Barns or other accessory buildings converted to housing must meet the requirements of Article VI, Supplementary Off-Street Parking Regulations, of this chapter.
 - (4) The barn or accessory structure converted to residential use must be on the same lot as a principal dwelling.
 - (5) 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 chapter,¹⁹ or the cluster subdivision requirements of § 165-53 of this chapter, and of Chapter 137, Subdivision of Land, § 137-28. 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.
 - (6) 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

19. Editor's Note: Appendix B is included as an attachment to this chapter.

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 § 165-119 of this chapter.

- (7) 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.
- C. Permit application procedure. Application for a special permit to convert barns or other accessory buildings must be made in accordance with § 165-116, Special permits, and § 165-125, Site plan review and approval, of this chapter and include the following additional information:
- (1) Floor plans (at 1/4 inch equals one foot scale) showing existing and proposed uses, with dimensions specified;
 - (2) Facade drawings if exterior alterations are proposed (at 1/4 inch equals one foot scale); and
 - (3) Proof of notification of abutting property owners.

§ 165-41. 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:

- A. 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 § 165-116 of this chapter. In addition, such application for a special permit shall be accompanied by floor plans (at 1/4 inch equals one foot scale) for the structure, with dimensions specified, and facade drawings of the exterior (at 1/4 inch equals one foot scale).
- B. 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 requirements of area and bulk requirements of the zoning district affecting the property.
- C. Accessory residential housing is permitted only on lots where the owner resides.
- D. 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.
- E. 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 ten-acre zones shall be 20 acres. The minimum acreage density for an accessory residential housing unit and principal structure in the five-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 § 165-41 of this chapter, the minimum acreage density for all of the residential units on the property shall not be less than the minimum acreage density for three single-family residences in the applicable zoning district.
- F. Accessory residential housing is allowed in the R Residential Districts only. For lots located in the

one- and two-acre zones, the minimum acreage density shall be the same as those of the five-acre zones. This section shall not bar the Town Zoning Board of Appeals from considering an application for relief from these area requirements.

§ 165-42. Signs.

- A. 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:
- (1) 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
 - (2) Preserve the general welfare by controlling the aesthetics and attractiveness of signs in order to:
 - (a) Protect the residential, business, industrial, and historic character of each district;
 - (b) Mitigate any negative impacts on adjoining properties; and
 - (c) Assist in achieving a more desirable environment in order to maintain property values and to encourage economic growth.
- B. Criteria and standards. Signs may be erected and maintained on the premises only when in compliance with the following criteria and standards:
- (1) Nonilluminated, nonadvertising signs, as specified below, are permitted on premises in all districts:
 - (a) Nameplates and identification signs not to exceed two square feet in area;
 - (b) Sale or rental signs not to exceed six square feet in area;
 - (c) Institutional signs not to exceed 20 square feet in area; and
 - (d) Temporary development signs during construction, repairs, or alterations not to exceed two in number with each not to exceed six square feet in area.
 - (2) Illuminated, nonadvertising signs shall be permitted on premises in nonresidential districts, provided such signs shall employ only lights emitting a light of constant intensity. Further:
 - (a) No sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights;
 - (b) 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;
 - (c) No more than two signs shall be permitted for each business on the premises;
 - (d) Attached signs shall not cover more than 10% of the fronts surface of a building; and
 - (e) Detached signs shall not exceed 20 square feet in area and lettering shall not occupy more than 70% of the face of a detached sign.

- (3) Neon-type lighted signs and signs with moving parts shall not be permitted.
 - (4) 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 30% of the area of said window.
 - (5) 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.
 - (6) No signs shall use dayglow-type paints. Garish colors and combinations of colors shall not be used.
 - (7) Any sign existing on or after the effective date of this chapter 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 30 days of the date of such notice.
 - (8) In the event a sign is erected prior to the effective date of this chapter, which sign does not conform with the provisions and standards of this chapter, the sign or structure will be permitted to stand for a period of three years, at which time the sign must be replaced to meet the provisions of this chapter or removed, except if the sign has historical significance to the Town and is so designated.
 - (9) Only one flush-mounted or freestanding, nonilluminated sign, not over two 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.
- C. 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.
- (1) Ground signs may be increased as follows:
 - (a) When the sign is constructed of solid wood and uses only the colors approved by the Zoning Administrator: 20%;
 - (b) When a directory sign utilizes uniform coloring and lettering for all establishments listed in the directory, except the one major facility: 10%;
 - (c) When the sign is installed in a landscaped planter having an area four times the area of the resultant sign and the entire design is approved by the Zoning Administrator: 20%;
 - (d) If the sign is not designed or used with illumination: 10%; and
 - (e) If the sign face is made from unbreakable material: 5%.
 - (2) Facial signs may be increased as follows, but only if the projection of the sign does not exceed 12 inches:
 - (a) When all the lettering and background is uniform in style and color for signs in a shopping center or for any three consecutive separate establishments: 10%;

- (b) If the sign is not designed or used with illumination: 10%;
 - (c) If the facial sign is the only sign identifying the establishment or its principal product: 10%;
 - (d) If the sign is designed to contain only the identification of the establishment without advertisement of any products sold on the premises: 10%; and
 - (e) If the sign face is made from unbreakable material: 5%.
- D. Maximum sign area. Notwithstanding any provision of this section to the contrary, no sign shall be greater than 100 square feet in area.
- E. Billboards shall be prohibited.

§ 165-43. Quarrying and soil mining location.

A. Purpose.

- (1) 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.
- (2) Residents of the Town of Washington are substantially 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.
- (3) 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.
- (4) 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 Environmental Conservation Law (ECL), § 23-2701 et seq., of the Consolidated Laws of New York.
- (5) The Town recognizes that processing is an integral part of the soil mining process. However, the Town is also mindful that 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.

- (6) 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.
- B. Exemptions. The following, to the extent specified herein, are exempt from the permitted zone requirements of this section:
- (1) Excavation in conjunction with utility installation which is to be backfilled;
 - (2) 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;
 - (3) 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;
 - (4) Agricultural drainage work incidental to agricultural operations, including farm ponds, if no material is removed from the property;
 - (5) Excavation for structures, parking areas, and rights-of-way;
 - (6) Regrading of property for aesthetic purposes that does not affect existing drainage, if no material is removed from the property;
 - (7) Dredging operations under the jurisdiction of the United States Army Corps of Engineers and other governmental entities;
 - (8) Excavation in conjunction with the drainage maintenance or improvements under county or state jurisdiction;
 - (9) The improvement of a single lot or parcel of land in connection with construction of a dwelling, multifamily dwelling, building, or any other structure or structures for which a building permit has been issued; and
 - (10) The excavation, in any calendar year, of not more than 100 cubic yards of material from each 40,000 square feet of lot area, provided that no more than 600 cubic yards of material may be removed from any parcel in any calendar year.
- C. Location. Quarrying or soil mining may be permitted, pursuant to ECL § 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.
- D. Special use permits.
- (1) No soil mining activity shall be conducted within the Town without the issuance of a special use permit.
 - (2) The authority to grant special use permits to soil mining applicants is granted to the Town

Planning Board.

- (3) 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.
- (4) The application shall take such form 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.
- (5) The Planning Board shall hold a public hearing on any application prior to its issuance. Such hearing shall be held not later than 62 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 five 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 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 62 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. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
 - (a) 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.
 - (b) Any limitations or prohibitions on the routing of mineral transport vehicles on Town roads.
 - (c) 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.
 - (d) 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.
- (6) It is the intention of this chapter to obtain and this chapter 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.

§ 165-44. 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.

§ 165-45. Emergency housing, temporary housing, field offices, and storage.

A. 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 § 165-116, Special permits, of this chapter and the following conditions:

- (1) Applicant must show that an emergency exists and that no other suitable housing is available.
- (2) 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.
- (3) 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.
- (4) A mobile home, to be eligible for emergency housing use, must have two exterior doors.
- (5) Emergency housing shall not be placed within the front and side yards required by this chapter.
- (6) Any such housing shall be removed within three 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.

B. Temporary housing, field offices, or storage during construction.

- (1) 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.
- (2) Issuance of a special permit for such temporary housing, field office, or storage use shall be subject to the provisions of § 165-116, Special permits, of this chapter and the following additional conditions:
 - (a) 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.
 - (b) A special permit shall be required for each individual mobile home on each lot.
 - (c) Only one mobile home is allowed on any one building lot.

- (d) Special permits for temporary housing, field office or storage use shall be valid for a period of one year from date of issuance or the cessation of construction activity or obtaining a certificate of occupancy, whichever is earlier.
 - (e) If construction activity on such premises continues for a period exceeding one year, such permit may be renewed for a maximum of two consecutive one-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-year period, the mobile home shall promptly be removed by the owner from the premises.
 - (f) 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.
 - (g) 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.
- (3) 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.
 - (4) Compliance. Any special permit for temporary housing shall be voided upon the failure of the permittee to conform to this chapter, any conditions of the permit, or the Dutchess County Health Code. A voided permit shall not be reinstated.
 - (5) 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.

§ 165-46. Erosion and sediment control.

- A. 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 1/2 acre or within any application to strip topsoil, regardless of the acreage.
- B. 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.
- C. 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:
 - (1) A narrative describing:

- (a) The proposed development;
 - (b) The schedule for grading and construction activities, including:
 - [1] Start and completion dates;
 - [2] Sequence of grading and construction activities;
 - [3] Sequence for installation and/or application of soil erosion and sediment control measures; and
 - [4] Sequence for final stabilization of the project site.
 - (c) The design criteria for proposed soil erosion and sediment control measures and stormwater management facilities;
 - (d) The construction details for proposed soil erosion and sediment control measures and stormwater management facilities;
 - (e) The installation and/or application procedures for proposed soil erosion and sediment control measures and stormwater management facilities; and
 - (f) The operation and maintenance of proposed soil erosion and sediment control measures and stormwater management facilities.
- (2) A site plan map prepared in accordance with the requirements of § 165-125, Site plan review and approval, of this chapter, which shall include the following additional requirements:
- (a) The proposed following alterations, including cleared, excavated, filled, or graded areas and proposed structures, utilities, roads, and, if applicable, new property lines;
 - (b) The location of and design details for all proposed soil erosion and sediment control measures and stormwater management facilities;
 - (c) The sequence of grading and construction activities;
 - (d) The sequence for installation and/or application of soil erosion and sediment control measures; and
 - (e) The sequence for final stabilization of the development site.
- D. Minimum acceptable standards.
- (1) Plans for soil erosion and sediment control shall be developed in accordance with this section 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.
 - (2) 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.
- E. Issuance or denial of certification.
- (1) The Planning Board shall either certify that the soil erosion and control plan, as filed, complies

with the requirements and objectives of this section, or deny certification when the development proposal does not comply with this section.

- (2) 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 30 days after the receipt of such plan.
- (3) 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.

F. Conditions relating to soil erosion and sediment control.

- (1) 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.
- (2) 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.
- (3) Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified plan.
- (4) All erosion and sediment control measures and facilities shall be maintained in a condition which ensures compliance with the certified plan.

G. Inspections. Inspections shall be made by the Zoning Administrator during development to ensure compliance with this section 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.

§ 165-47. 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:

- A. In a garage, barn or fully enclosed carport; or
- B. 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.

§ 165-48. Sale of personal automobile.

During each calendar year, a property owner shall be allowed to place one 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.

§ 165-49. 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.

§ 165-50. Parking of commercial vehicles.

- A. Pickup trucks, vans and other similar vehicles that require commercial registration, but are not used for commercial purposes and do not exceed 5,500 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.
- B. 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 8,000 pounds in curb weight, shall be permitted to park in a residence district on a regular basis subject to the following restrictions:
- (1) There shall be no parking within the right-of-way of any roadway.
 - (2) Such vehicles must be used on a regular basis in relation to the occupant's employment responsibilities.
 - (3) 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.
 - (4) Vehicle engines shall not be left idling for a warmup period during the hours between 10:00 p.m. and 7:00 a.m.
 - (5) Parking shall be permitted in the following areas of the premises:
 - (a) In the driveway or on a pavement or an improved area similar to the driveway surface contiguous to it.
 - (b) In the side or rear yards.
 - (6) 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.
 - (7) All parking areas and access drives thereto must have a pavement or an improved surface similar to the driveway surface.
 - (8) Parking areas shall be screened as necessary from property and properties adjacent to it. This determination shall be made by the Zoning Administrator.
 - (9) 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:
 - (a) Earthmoving vehicles and any trailers that are normally required to transport such vehicles.
 - (b) Cargo trailers or flatbed trailers, where the cargo box or flatbed portion of the trailer is greater than 10 feet in length.
 - (c) Dump trucks greater than five yards in capacity.

- C. Farm and agriculturally related commercial vehicles located on agricultural residential parcels and owned by the property owner are exempt from this chapter.
- D. Nonresidential uses in the H District (as specified in § 165-29B of this chapter) are exempt from this chapter, provided commercial vehicles are parked in conformity with a site plan approved by the Planning Board.

§ 165-51. 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.

§ 165-52. Open space subdivisions.

A. Policy and authority.

- (1) 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 §§ 165-52 through 165-53 of this chapter and in applicable sections of Article VI, Chapter 137, Subdivision of Land. These principles allow the Planning Board to modify applicable provisions of Appendix B (Schedule of Area and Bulk Regulations)²⁰ 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 § 137-27B of Chapter 137, Subdivision of Land, also authorize the Planning Board to require a cluster plan.
- (2) 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 this chapter 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 §§ 165-52 through 165-53 of this chapter are inconsistent with the Town Law, § 278, of the 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, § 10 et seq.

B. 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:

- (1) Long-term protection of natural and specific resources identified in the Master Plan, Chapter

20. Editor's Note: Appendix B is included as an attachment to this chapter.

137, Subdivision of Land, and this chapter;

- (2) Compatibility with surrounding land uses and the overall character of the area;
 - (3) Provision of adequate setbacks and visual buffers from adjoining properties;
 - (4) Contribution to Townwide open space planning by creating a system of permanently preserved open spaces providing linkages between existing open space areas;
 - (5) 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;
 - (6) Protection of groundwater and surface water, regulated wetlands, steep slopes, floodplains or unique areas of natural, scenic or historic significance;
 - (7) Mitigation of significant environmental impacts identified through application of the State Environmental Quality Review Act requirements;
 - (8) 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;
 - (9) Protection of critical environmental areas designated by the Town Board;
 - (10) Preserve large tracts of contiguous open space within subdivisions of 100 acres or larger.
- C. Preservation of open space in cluster subdivisions. A cluster subdivision accomplishes the purposes in § 165-52B above by reducing the lot size and bulk requirements contained in this chapter 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 this chapter.
- D. 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 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 § 165-52B.

§ 165-53. Cluster subdivision requirements.

- A. Application procedures. All residential cluster developments shall be subject to § 165-125, Site plan review and approval, and the Planning Board's regulations under Article VI, Chapter 137, Subdivision of Land. It is in the best interest of the applicant and the Planning Board to determine the applicable development pattern at the earliest possible time.
- (1) Concept plan. The applicant shall submit the land inventory information required under § 137-21P of Chapter 137, Subdivision of Land, 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.

- (2) 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 Article VI, Chapter 137, Subdivision of Land.
- (3) Planning Board findings. In order to approve a cluster subdivision, the Planning Board must find that the cluster subdivision will benefit the Town and will fulfill the applicable purposes stated in § 165-52B of this chapter.

B. Cluster development standards.

- (1) 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:
 - (a) Regulatory compliance. The Planning Board shall review the conventional subdivision plan required in Subsection A 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 Article VI, Chapter 137, Subdivision of Land, 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.
 - (b) Maximum density. The maximum developed density of a cluster subdivision shall not exceed one 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 chapter 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 Article IX, Wetlands and Watercourses, herein.
 - (c) 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), floodplains, critical environmental areas, or on slopes of greater than 15%. 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.
 - (d) 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

§ 165-25G of this chapter.

- (e) 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 § 165-52B of this chapter.
 - (f) Minimum acreage per lot. The minimum land area for each residential lot created as part of a cluster subdivision is one acre where the lots are served by individual water supply and/or sewage disposal systems, and 1/2 acre where the lots are served by both central water supply and sewage disposal systems.
- (2) 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.
- (3) Private roads. Notwithstanding the requirements of § 165-55, Private roads, of this chapter, 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:
- (a) 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.
 - (b) Flag lots and rear lots, as defined in this chapter and Chapter 137, Subdivision of Land, are prohibited on private roads. The Planning Board shall require that all lots of a proposed subdivision must access the private road.
 - (c) 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.
 - (d) 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.
 - (e) 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.
 - (f) The length of a private road shall generally not exceed 3,500 feet.
 - (g) 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 mailboxes shall be shown and approved by the Town Highway Superintendent, the Town Engineer and/or the appropriate state or county highway authority.

- (h) 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.
 - (i) 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 as-built survey of the private road.
 - (j) 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.
- (4) 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 lots within the cluster subdivision.
 - (5) 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.
 - (6) 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 subsection 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.
 - (7) 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.

- (8) Utilities. All telephone, natural gas, electric and similar utilities serving the cluster subdivision shall be located underground.
- C. Open space preservation requirements. All lands identified as having one or more of the features or characteristics identified in § 165-52B, 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:
- (1) Prohibited use. No portion of the minimum common open space, as defined in Subsection C(2) below, shall be used for roads, building lots, utility structures, driveways, or any principal or accessory structure.
 - (2) Minimum open space. Common open space totaling not less than 70% of the total cluster development land in the RR-10, RS-10, RL-5, and RS-5 Districts, and not less than 50% of the total cluster development land in the HM, RM-1 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.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
 - (3) 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 chapter 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.
 - (4) 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 ongoing 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 § 165-25A of this chapter. 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.
 - (5) 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.
 - (6) 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 Subsection C(4) above], forestry, active or passive recreation or

protection of natural resources, pursuant to § 247 of the General Municipal Law and/or §§ 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.

- (7) 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.
- (8) 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-of-way.
- (9) 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.
- (10) 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.
- (11) 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 chapter.
- (12) 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.
- (13) 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 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.²¹

§ 165-54. Scenic roads.

A. Objectives. The objectives of this section are for the common good and to:

- (1) Preserve and protect the present quality and character of certain and specific roads of the Town of Washington (the "Town");
- (2) 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;
- (3) 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;
- (4) To recognize that there are specific unique features which contribute to the beauty and enjoyment of the Town's road system;
- (5) 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 Superintendent") 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 section 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.
- (6) 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.
- (7) To recognize these many fragile components that are connected with the Town roads and are presently taken for granted. This section recognizes that fragility. Once eliminated or adversely altered, these resources may be irreplaceable.
- (8) This section recognizes it is the intent of the Town of Washington that all activities on or along Town roads conform to relevant law.

B. Authority. Pursuant to the authority granted by Municipal Home Rule Law, Article 2, § 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

21. Editor's Note: Original Section 342, Conservation Density Subdivision and Section 343, Permanent Open Space, added 3-14-1991 by L.L. No. 1-1991, as amended, which immediately followed this subsection, were repealed 8-10-2000 by L.L. No. 1-2000.

scenic nature of the roads so designated, the Town of Washington is authorized to regulate, in accordance with this section, 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.

- C. Role of Town Board. 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.
- D. Criteria for designation. 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 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.
- E. Designation procedure.
- (1) The Town Board, after following the designation procedure set forth herein, may consider a road for scenic road designation. Not less than three 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.
 - (2) 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.
 - (3) 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 five 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.
- F. Rescission and appeal.
- (1) The designation of a road as a scenic road may be rescinded by the Town Board, using the above procedures as outlined in Subsection E(3).
 - (2) 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.
- G. Alterations and improvements.

- (1) Pursuant to § 271 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 section. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- (2) 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.
- (3) 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 retreatment 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.
- (4) 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 preemergency condition without public hearing or Planning Board approval.
- (5) 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 Subsection E above.
 - (a) Applications for alteration 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.
 - (b) 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:
 - [1] Any alternatives to the proposed alteration or improvement and evidence that the applicant has chosen the alternative least damaging to the scenic road.
 - [2] That the applicant has considered the following, where appropriate:
 - [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 nonhazardous curves in the scenic road;
- [d] The preservation of nonhazardous hills and valleys by avoidance of unnecessary cuts and fills;
- [e] The placement of wide bypasses 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 wildflowers; and
- [h] Avoidance of signage, sand, gravel, refuse and salt piles to the extent practicable.

(6) The official scenic road will be recorded on the New York State's inventory of the Town of Washington Highways.

H. Definitions. As used in this section, the term "Town road" shall have the meaning provided in § 165-140, Definitions. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

§ 165-55. Private roads.

A. General provisions.

- (1) 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.
- (2) 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.
- (3) A private road may service no more than 10 lots.
- (4) The total amount of land that may be served by a private road must not be less than 800% of the minimum lot size in the district (i.e., 40 acres in a five-acre district, 80 acres in a ten-acre district).
- (5) Flag lots and rear lots, as defined in this chapter, are prohibited on a private road.
- (6) Common driveways are prohibited on a private road.
- (7) 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.
- (8) 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.
- (9) 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.
- (10) 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.

- (11) 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.
- (12) 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.
- (13) The name to be given to a private road shall be subject to the approval of the Town and county.
- (14) 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.
- (15) 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.
- (16) 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-of-way, 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.

B. Application to create a private road.

- (1) 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.
- (2) 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 downstream drainage, aquifer recharge, and neighboring wells and septic systems.
- (3) Notwithstanding Subsection B(2), 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.

C. Construction of a private road.

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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 as-built survey of the private road.
- (5) 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.

§ 165-56. Telecommunications facilities.

A. Legislative purposes.

- (1) It is the purpose of this section 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:
 - (a) Facilitating the provision of wireless telecommunications and other communication services to the residents and businesses of the Town, while simultaneously preserving the character, appearance and aesthetic resources of the Town;
 - (b) Minimizing the adverse visual effects of telecommunications towers and facilities through development of location and approval criteria;
 - (c) Protecting the scenic, historic, environmental, natural and man-made resources of the Town;
 - (d) Preserving the property value of the community;
 - (e) Minimizing the undue proliferation and height of communications towers throughout the community;
 - (f) Avoiding potential harm to adjacent persons and properties from tower failure, noise, falling objects and attractive nuisances through setback and height limitations; and
 - (g) 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.

- (2) These regulations are intended to be consistent with the Telecommunications Act of 1996, in that:
 - (a) They do not prohibit, or have the effect of prohibiting, the provision of personal wireless services;
 - (b) They are not intended to be used to unreasonably discriminate among providers of functionally equivalent services; and
 - (c) 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.
- B. Application of regulations. Telecommunications facilities regulated and covered under these regulations shall include the following:
 - (1) Personal wireless radio telecommunications facilities using an automated, high-capacity system with two or more multichannel fixed base stations arranged as part of an integrated cellular system providing radio telecommunications from the fixed (immobile) base stations to mobile stations. Such personal wireless radio telecommunications facilities employ low power transmitting and receiving and automatic handoff 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 telecommunications facilities ("PWRT facilities") shall include cellular services, personal communication services (PCS), specialized mobile radio services, and paging services.
- C. Definitions. As used in this section, the following terms shall have the meanings indicated:

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

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 chapter.

BASE STATION — A stationary transmitter that provides radio telecommunications services to mobile and fixed receivers, including antennas.

CELLULAR COMMUNICATION SYSTEM — A radio telecommunications service provided using a cellular system.

CO-LOCATION — The location of one or more PWRT facilities at a common site.

EXEMPT FACILITIES — Transmitting and receiving telecommunications 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 resale to off-premises locations.

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

MONOPOLE TOWER — A freestanding tower consisting of a single pole.

PAGING SERVICE — A numeric, text and voice messaging service.

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

SPECIALIZED MOBILE RADIO SERVICES — 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.

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.

D. As-of-right facilities.

(1) In order to encourage the appropriate location and co-location of telecommunications systems in the Town of Washington, the following PWRT facilities shall be permitted as of right:

- (a) On monopole or lattice towers in existence prior to the date of this chapter anywhere in the Town so long as no change or alteration to the height or appearance of the existing structure is required.
- (b) 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 or appearance of the existing structure is required.

(2) Standards. An as-of-right PWRT facility shall meet the following additional standards and requirements:

- (a) 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.
- (b) Towers shall not be artificially lighted.
- (c) 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.
- (d) Except for towers constructed and in use prior to the effective date of this section, towers which are no longer in service as part of a PWRT facility network shall be removed within 90 days of the cessation of the use of the tower.
- (e) 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 Subsection E(1)(f) of this section.
- (f) 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:

- [1] The adequate construction of any access road to the PWRT facility.
- [2] 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 section.

(3) Data. An application for approval of an as-of-right PWRT facility shall contain the following:

- (a) 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 § 165-128 of this chapter.
- (b) 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 devices.
- (c) 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.
- (d) Documentation of intent from the owner of the existing PWRT facility to allow co-location and shared use.
- (e) 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.
- (f) A completed short EAF and a completed visual EAF addendum.
- (g) A copy of its Federal Communications Commission (FCC) license.

E. Specifically permitted facilities.

- (1) 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 §§ 165-116 and 165-125 of this chapter, shall satisfy the standards for as-of-right facilities as applicable and as set forth above and, in addition, the following standards shall apply:
 - (a) In addition to any other authority conferred under this chapter, the Planning Board is authorized to attach the following conditions on the granting of a special permit/site plan approval for a PWRT facility:
 - [1] Increased setback, sideline and rear line requirements.
 - [2] Utilization of stealth techniques to minimize the visual impact of the facility.
 - [3] Measures to secure the facility from intruders, including fences and chained entryways.
 - [4] Security deposit or bonding in an amount acceptable 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 facility.
 - [b] The proper maintenance and continued vitality of the plantings and landscaping done to properly screen the tower compound from adjacent properties.
 - [c] The removal of the tower and ancillary facilities upon abandonment or decommissioning by the applicant.
 - [d] Reclamation of the tower site.
- [5] Co-location is required for telecommunications facilities unless:
- [a] There are no other usable existing structures in the area for telecommunications facility services.
 - [b] Co-location cannot achieve the minimum reasonable technical needs of the proposed telecommunications facility.
 - [c] Structural or other engineering limitations, absent reasonable refurbishment, are demonstrated by clear and convincing evidence to be prohibitive.
 - [d] The telecommunications facility, after thorough and good faith efforts disclosed to the Town, is unable to secure permission from tower or structure owner to co-locate.
- [6] The clustering of towers and structures on a common site should be considered if co-location cannot be facilitated.
- [7] Visual appearance.
- [a] 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.
 - [b] 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 times the maximum building height for the zoning district in which the tower is to be located, as shown in Appendix B of this chapter.²²
 - [c] All equipment shelters and accessory structures shall be architecturally uniform and no taller than 12 feet.
 - [d] All equipment shelters used shall only be used for housing of equipment related to the particular facility on the particular site.
 - [e] 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.

22. Editor's Note: Appendix B is included as an attachment to this chapter.

- (b) 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 rear line requirements set forth above.
- (c) No tower or monopole shall be located:
- [1] Closer than 300 feet, 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).
 - [2] Closer than 300 feet, 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.
 - [3] Subject to the provisions of Subsection E(1)(c)[1] and 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.
- (d) 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 feet wide outside the perimeter of the compound. The plantings shall consist of alternately spaced evergreens having a height of not less than six 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.
- (e) Existing mature trees and natural land forms on the site shall be preserved to the maximum extent possible.
- (f) 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 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.

- (2) Data. In addition to the information required by § 165-128 of this chapter, an application for approval under this section shall contain the following additional information:
- (a) 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 50% 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 landowners and residents adequate time to observe the test. Not less than 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.
 - (b) 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.
 - (c) 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.
 - (d) A statement by the applicant as to all other alternative sites considered, including other alternative sites not owned or operated by the applicant in any area, and the reasons for their rejection.
 - (e) 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.
 - (f) A graphic depicting the location of all of the applicant's existing wireless communication facilities located in or otherwise serving the Town of Washington.
 - (g) A graphic depicting the geographic area to be served by the proposed facility.
 - (h) A copy of the applicant's FCC operating license.
 - (i) 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.
 - (j) 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.

- (3) For applications involving tower construction or modification to accommodate a PWRT facility:
- (a) 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.
 - (b) 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.
 - (c) 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 Subsection E(3)(a) and (b) 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.
 - (d) The applicant shall also submit a three 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 year buildout plan must take into consideration known and potential changes in technology.
 - (e) 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.
 - (f) Documentation of intent from the owner and/or lessee of the Facility to allow co-location and shared use.

- F. Annual certifications. After the issuance of a special permit, the owner/operator of the Facility shall annually (on January 1st 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.
- G. Retention of experts and engineers. 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 chapter, 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.
- H. 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.
- I. Severability. The invalidity of any section, subsection, paragraph, sentence, clause or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

§ 165-57. Airfields and aircraft.

- A. Definitions. As used in this section, the terms "aircraft" and "airfield" shall have the meaning provided in § 165-140, Definitions. [**Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)**]
- B. Airfields are not a permitted use in any zoning district in the Town.
- C. 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.

§ 165-58. Garage and yard sales; temporary permits.

- A. Garage or yard sales are not permitted unless they meet the following standards:
 - (1) Sales last no longer than three consecutive days.
 - (2) Sales are held no more than twice yearly.
 - (3) 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.
 - (4) No goods purchased for resale may be offered for sale.
 - (5) No consignment goods may be offered for sale.
 - (6) Directional signs may be placed on the street right-of-way.
 - (7) All directional and advertising signs shall be freestanding and removed after completion of the

sale.

- (8) All directional and advertising signs placed on private property shall have the owner's permission.
 - (9) No directional or advertising signs may be larger than two square feet.
- B. Nothing in this section 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 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.

§ 165-59. Bed-and-breakfasts.

A. Definitional limitations.

- (1) A bed-and-breakfast may have no more than five bedrooms for guests and may accommodate no more than 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 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 and the total transient lodgers is still limited to 10.
- (2) For all bed-and-breakfast applications, the Planning Board must make a statement of findings as required by § 165-119 of this chapter.
- (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.
- (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 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 inch equals one foot scale. The plans must clearly delineate all areas of the structure and their function. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- (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 20 feet to any residential property line.
- (10) The dwelling shall comply with all applicable bulk regulations and other applicable provisions of this chapter.

§ 165-60. Solar energy systems and wind energy systems. [Added 6-25-2018 by L.L. No. 1-2018]

- A. Authority. This "Town of Washington Solar and Wind Zoning Code" is adopted pursuant to §§ 261 through 263 of the Town Law of the State of New York, which authorize the Town of Washington to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.
- B. Statement of purpose. The purpose of this section is to establish standards and limitations for the installation and operation of solar and wind systems within the Town of Washington. The Town of Washington intends to encourage the use of natural energy resources in accordance with its Comprehensive Master Plan.
- C. Definitions. As used in this section, the following terms shall have the meanings indicated:
- 110% LIMITATION — Shall have the meaning ascribed to it in Subsection E(1) below.
- ADJOINING PARCELS — Shall have the meaning ascribed to it in Subsection E(5) of this section.
- BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEM — A combination of photovoltaic building components integrated into any building envelope system such as vertical facades, including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.
- CONSENT — Shall have the meaning ascribed to it in Subsection F(3)(c) of this section.
- GLARE — The effect produced by reflections of light with an intensity sufficient to cause significant annoyance, discomfort or loss in visual performance and visibility.
- GROUND-MOUNTED SOLAR ENERGY SYSTEM — A solar energy system that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure, and in which the anticipated annual total amount of electric energy generated from such system does not exceed 110% of the anticipated annual total amount of electric energy used by the applicant's parcel (this 110% limitation is hereinafter referred to as the "110% limitation").

NONRESIDENTIAL PROPERTY — Real property that is not considered residential property.

NYSERDA — The New York State Energy Research and Development Authority.

RESIDENTIAL PROPERTY — Real property that is primarily used for residential purposes and contains a one- or two-family residence.

ROOF-MOUNTED SOLAR ENERGY SYSTEM — A solar panel system located on the roof of any legally permitted building or structure for the purpose of producing electricity for on-site or off-site consumption.

SOLAR ENERGY EQUIPMENT — Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

SOLAR ENERGY SYSTEM — An electrical generating system composed of a combination of both solar panels and solar energy equipment.

SOLAR PANEL — A photovoltaic device capable of collecting and converting solar energy into electrical energy.

- D. Applicability. The requirements of this section shall apply to all solar energy systems installed or modified after its effective date, excluding general maintenance and repair.
- E. General provisions.
- (1) Solar energy systems installed for the purpose of supplying power measured by the personal use of the property shall be permitted as an accessory use so long as the solar energy system satisfies the other provisions of this section. A solar energy system shall be limited to a power generating capacity not in excess of 110% of the anticipated annual total amount of electric energy used by the applicant's parcel (this 110% limitation is hereinafter referred to as the "110% limitation").
 - (2) All solar energy systems shall be installed in accordance with applicable electrical and building codes (including the New York State Uniform Fire Prevention and Building Code) in effect at the time of installation, the manufacturer's installation, and industry standards, and prior to operation the electrical connections must be inspected by the Town Zoning Administrator or by an appropriate electrical inspection person or agency, as determined by the Town of Washington. In addition, any connection to the public utility grid must be inspected by the appropriate public utility. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
 - (3) When solar storage batteries are included as part of the solar energy system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code when in use and when no longer used shall be disposed of in accordance with all applicable laws and regulations.
 - (4) The installation of any ground-mounted solar energy system shall be outside any land area exhibiting sensitive environmental characteristics such as freshwater wetlands, 100-year flood hazard areas, severe topography (slopes more than 15%), stream corridors, wetland transition areas, historic and/or culturally significant areas or other areas regulated under Article IX, Wetlands and Watercourses, of this chapter. No solar energy system shall be within any conservation easement or conservation deed restricted area unless within the approved building envelope.
 - (5) It is acknowledged that an applicant may own one or more adjoining parcels which technically

consist of more than one legal parcel. In such case, there may a solar energy system on one parcel which produces electricity primarily for the needs of that parcel and/or the needs of one or more of such other adjoining parcels (the "adjoining parcels"). In such case, for purposes of the definition of "ground-mounted solar energy system," the term "applicant's parcel" shall include the adjoining parcels.

- (6) All solar energy systems shall require a building permit and a certificate of occupancy/compliance upon completion.
- (7) All solar energy systems shall be maintained in good working order.
- (8) No solar energy system shall be permitted if such installation would require the installation of a new aboveground power line, power pole or an electrical substation; provided, however that i) if a new building structure is being constructed in connection with the solar energy system, a new power pole shall be permitted or ii) a new power pole shall be permitted if it is required by the local utility company to maintain the solar energy system's safe operation.
- (9) Prior to the installation of a solar energy system, the Town of Washington Building Inspector shall receive.
 - (a) A letter from a licensed engineer or other qualified professional or from the installer of the solar energy system stating in effect that the solar energy system will satisfy the 110% limitation; and
 - (b) Any applicable consent. The Town of Washington Building Inspector shall have the right to confirm the satisfaction of the 110% limitation by reviewing prior utility statements.
- (10) If a solar energy system causes any glare, the owner of such solar energy system shall use reasonable efforts to eliminate such glare within 60 days of notice of the existence of such glare from the Town of Washington.

F. Solar as an accessory use or structure.

- (1) Building-integrated photovoltaic system (BIPS). BIPS material shall be permitted in all zoning districts.
- (2) Roof-mounted solar energy systems.
 - (a) Roof-mounted solar energy systems are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.
 - (b) Height. Roof-mounted solar energy systems shall not exceed the maximum height restrictions of the zoning district within which they are located.
 - (c) Aesthetics. Roof-mounted solar energy system installations shall incorporate, when feasible, the following design requirements:
 - [1] Panels must be mounted at the same angle as the roof's surface up to a maximum distance of 18 inches between the roof and highest edge of the system.
 - [2] The solar panels and all ancillary equipment for the solar energy system shall not extend beyond the edge of the roof.
 - [3] Solar energy equipment forming a part of the roof-mounted solar energy system shall

be installed inside walls and attic spaces to reduce their visual impact. If such solar energy equipment is visible from a public road or adjacent property, it shall match the color scheme of the underlying structure.

- (d) Roof-mounted solar energy systems shall be exempt from site plan review under this chapter or other land use regulations.
- (3) Ground-mounted solar energy systems for a residential property:
 - (a) Ground-mounted solar energy systems for a residential property are permitted as accessory structures in the Town of Washington.
 - (b) In no event shall the height of the ground-mounted solar energy system for a residential property exceed 12 feet. This twelve-foot requirement shall be calculated when the solar energy system is oriented at maximum tilt.
 - (c) Subject to the terms set forth herein, a ground-mounted solar energy system for a residential property shall not be visible from any public road or from any other parcel. If a ground-mounted solar energy system for a residential property would be visible from any public road or other parcel, the ground-mounted solar energy system shall be screened from view at all times by existing vegetation or topography or through the use of architectural features, earth berms, landscaping, new plantings, fencing or a combination thereof. Plantings used for screening shall be of such a height and width, at the time of planting, so as to obscure the ground-mounted solar energy system from public roads and such other parcels. Notwithstanding anything herein to the contrary, a ground-mounted solar energy system for a residential property may be visible from another parcel if:
 - [1] The ground-mounted solar energy system is at least 300 feet from the affected parcel; or
 - [2] The owner of the affected parcel consents in writing (the "consent") to the ground-mounted solar energy system.
 - (d) All ground-mounted solar energy systems for a residential property shall have a minimum setback of the greater of:
 - [1] One hundred feet from the property line; or
 - [2] The setback required by this chapter.
 - (e) Ground-mounted solar energy systems for a residential property shall be exempt from site plan review under this chapter or other land use regulations.
 - (f) Ground-mounted solar energy systems for a residential property shall not be considered as a building for purposes of determining building coverage of the lot.
 - (g) Solar panels for a residential property shall not be included in any calculation of impervious surface or impervious cover, however the base or foundation of the solar panel shall be included in any calculation.
- (4) Ground-mounted solar energy systems for a nonresidential property:
 - (a) Ground-mounted solar energy systems for a nonresidential property are permitted as accessory structures in the Town of Washington.

- (b) In no event shall the height of the ground-mounted solar energy system for a nonresidential property exceed 12 feet. This twelve-foot requirement shall be calculated when the solar energy system is oriented at maximum tilt.
- (c) Subject to the terms set forth herein, a ground-mounted solar energy system for a nonresidential property shall not be visible from any public road or from any other parcel (unless the owner of such other parcel executes a consent). If a ground-mounted solar energy system for a nonresidential property would be visible from any public road or other parcel (and a consent is not executed by the affected owner), the ground-mounted solar energy system shall be screened from view at all times by existing vegetation or topography or through the use of architectural features, earth berms, landscaping, new plantings, fencing or a combination thereof. Plantings used for screening shall be of such a height and width, at the time of planting, so as to obscure the ground-mounted solar energy system from public roads and such other parcels.
- (d) All ground-mounted solar energy systems for a nonresidential property shall have a minimum setback of the greater of:
 - [1] One hundred feet from the property line; or
 - [2] The setback required by this chapter.
- (e) Ground-mounted solar energy systems for a nonresidential property shall require a special permit and site plan review under this chapter or other land use regulations.
- (f) Ground-mounted solar energy systems for a nonresidential property shall not be considered as a building for purposes of determining building coverage of the lot.
- (g) Solar panels for a nonresidential property shall not be included in any calculation of impervious surface or impervious cover; however, the base or foundation of the solar panel shall be included in any calculation.

G. Abandonment and decommissioning.

- (1) Solar energy systems are considered abandoned after one year without electrical energy generation and must be removed from the property. An applicant shall have the right to request a one year extension of that time upon notice to, and approval from, the Town of Washington Planning Board. If a property owner fails to remove a solar energy system as required by this section, then the Town of Washington may elect, at its sole and absolute discretion, to remove such solar energy system from the property, in which case all of the costs and expenses incurred by the Town of Washington, together with interest at the annual rate of 16%, or such lower rate required by any applicable usury law or regulation, shall be immediately paid by the property owner. In addition, any violation of this section shall result in a fine of \$350 per day for each day such violation exists. The cost incurred by the Town shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- (2) In the case of a ground-mounted solar energy system for a nonresidential property, the Town of Washington Planning Board may, at its discretion, require the adoption of an abandonment, restoration and decommissioning plan in connection with any approval of such project.

- H. Enforcement. Any violation of this section shall be subject to the same civil and criminal penalties provided for in this chapter (except that any violation of Subsection G hereof shall result in the fines and penalties set forth therein).
- I. Real estate tax exemption. Owners of solar energy systems shall be entitled to the real estate tax exemption set forth in Real Property Tax Law (RPTL) § 487, as amended and supplemented through time.
- J. SEQRA. Building-integrated photovoltaic systems, ground-mounted solar energy systems for a residential property and roof-mounted solar energy systems shall be considered Type II actions for SEQRA purposes. At the option of the Town of Washington Planning Board, ground-mounted solar energy systems for a nonresidential property shall be considered for action for SEQRA purposes.
- K. Wind energy systems. Based on an assessment by NYSERDA, the geographical territory of the Town of Washington is not conducive to wind energy systems. Accordingly, no type of wind turbines, wind towers or similar systems shall be permitted in the Town of Washington. If, in the future, circumstances change and NYSERDA notifies the Town of Washington that wind energy systems can be conducive to the economic production of wind technology, then the Town of Washington shall revisit this section.
- L. Severability. The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision or phrase of the aforementioned sections as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision or phrase, which shall remain in full force and effect.²³

§ 165-61. Swimming pools.

- A. 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.
- B. 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 subsection.
- C. 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.
- D. This section does not apply to portable pools that do not exceed 100 square feet.

§ 165-62. Trailers.

No trailer or motor vehicle shall be used for the purpose of a storage shed in a residential district, except as provided by § 165-45B of this chapter.

23. Editor's Note: Original Sec. 350, Supplementary area and bulk regulations, which immediately followed this section, was redesignated as § 165-65 at time of adoption of Code (see Ch. 1, General Provisions, Art. I), said local law also redesignated original Secs. 361, 362 and 364 as §§ 165-61, 165-62 and 165-63, respectively; subsequent sections renumbered accordingly.

§ 165-63. 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.

§ 165-64. Short-term rentals. [Added 1-11-2024 by L.L. No. 2-2024]

Short-term rentals are regulated pursuant to Chapter 115, Rentals, Short-Term, of the Code of the Town Washington.

ARTICLE V

Supplementary Area and Bulk Regulations.**§ 165-65. General provisions.**

The provisions of this chapter set forth in the Schedules of Area and Bulk Regulations²⁴ shall be subject to such exceptions, additions, or modifications as provided herein by the following supplementary area and bulk regulations.

§ 165-66. Principal structure.

Except for farm operations, multifamily developments, community facilities, and public utilities, only one principal structure shall be permitted on one lot.

§ 165-67. 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 chapter, except as provided by §§ 165-68 and 165-85; if already less than the minimum required by this chapter, said area or dimension may be continued but shall not be further reduced.

§ 165-68. Rear lot road frontage.

Notwithstanding the provisions of § 165-21 and Appendix B, rear lots with a minimum of 25 feet of road frontage may be created pursuant to § 137-16F of Chapter 137, Subdivision of Land.

§ 165-69. 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.

- A. 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 40%.
- B. No tower shall be used as a place of habitation or for tenant purposes.
- C. 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.

§ 165-70. Accessory structures.

When an accessory structure is attached to the principal building, all the yard requirements of this chapter as set forth in Appendix B of this chapter applicable to the principal building shall be met. If an accessory structure of not more than 600 square feet is not attached to the principal structure on a nonconforming lot of one acre or less or on a one acre conforming lot, it may be located at a distance which is not less than 50% of the distance required by Appendix B of this chapter 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

24. Editor's Note: See Appendix B, included as an attachment to this chapter.

addition and subject to the foregoing, accessory structures are permitted as set forth in Appendix A of this chapter²⁵ subject to the following requirements.

- A. Accessory structures shall not exceed the greater of 35 feet or two stories in height, and shall not occupy more than 10% of a required rear yard.
- B. 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.
- C. For corner lots the setback from the side street shall be the same for accessory structures as for principal buildings.
- D. Accessory structures may be used for residential purposes in any zoning district, provided such accessory structures meet the requirements of § 165-40 or 165-41 of this chapter, as applicable.

§ 165-71. 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 feet into any required yard.

§ 165-72. 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.

§ 165-73. Corner lots and through lots.

- A. Any corner lot delineated by subdivision after the adoption of this chapter 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.
- B. 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.

§ 165-74. Visibility at intersections.

At all street intersections, no obstruction to vision (other than an existing structure, post, column, or tree) exceeding 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 30 feet distant from their points of intersection.²⁶

§ 165-75. Fences, walls and berms.

- A. The bulk requirements of this chapter as set forth in Appendix B of this chapter shall not be deemed

25. Editor's Note: Said appendixes are included as attachments to this chapter.

26. Editor's Note: Original Secs. 361, Swimming pools, and 362, Trailers, which immediately followed this section, were redesignated as §§ 165-61 and 165-62, respectively, at time of adoption of Code (see Ch. 1, General Provisions, Art. I); subsequent sections renumbered accordingly.

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 6 1/2 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.

- B. Fences, walls and berms shall meet the requirements of § 165-74, Visibility at intersections, where applicable.
- C. Farm and agriculturally related fences and walls located on agricultural parcels are exempt from this section.
- D. 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.²⁷

27. Editor's Note: Original Sec. 364, Tennis courts, which immediately followed this section, was redesignated as § 165-63 at time of adoption of Code (see Ch. I, General Provisions, Art. I); subsequent sections renumbered accordingly.

ARTICLE VI

Supplementary Off-Street Parking Regulations.**§ 165-76. General provisions**

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 § 165-21C, the Off-Street Parking and Loading Schedule (Appendix C),²⁸ and the following supplementary regulations.

§ 165-77. Size and access.

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

§ 165-78. Minimum number of spaces required.

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 vehicles.

§ 165-79. 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, all-weather surface, appropriate for the use of the land, with adequate drainage.

28. Editor's Note: Said appendix is included as an attachment to this chapter.

ARTICLE VII
Supplementary Off-Street Loading Requirements.

§ 165-80. General provisions.

In any district and in connection with every building, building group, or part thereof thereafter erected and having a gross floor area of 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.

§ 165-81. Number of spaces.

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

§ 165-82. Dimensions.

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

ARTICLE VIII

Nonconformities; Restoration; Completion of Construction**§ 165-83. General provisions.**

It is the intent of this chapter 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 chapter 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.

§ 165-84. Nonconforming uses, buildings, and structures.

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

- A. Except as permitted by Subsection G 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.
- B. 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 chapter. 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.
- C. 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.
- D. No nonconforming use of land, buildings, or other structures which is changed to conform or to more nearly conform to this chapter shall thereafter be changed to be less conforming.
- E. 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:
 - (1) Any positive act indicating intent to discontinue;
 - (2) Any conscious failure to take all necessary steps to resume the nonconforming use with reasonable dispatch in the circumstances;
 - (3) Cessation of the nonconforming use of a lot and/or structure for 12 consecutive months, or for a total of 18 months during any three-year period;

- (4) Substitution of a conforming use.
- F. All nonconformities shall conform in all other respects to the requirements of the zoning districts in which they are located.
- G. Nonconforming structures or structures containing nonconforming uses may be enlarged, extended, reconstructed, or altered by a maximum of 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,²⁹ 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 § 165-116, Special permits, of this chapter and subject to site plan approval from the Planning Board.
- H. 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 chapter pursuant to § 165-42B(8) herein.
- I. Notwithstanding any provision to the contrary herein, no junkyard shall be permitted to continue for more than six months after the effective date of this chapter, nor shall any use, structure, or activity regulated by §§ 165-47 through 165-51 of this chapter 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 § 165-43B of this chapter 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.

§ 165-85. Nonconforming lots.

- A. A nonconforming lot, as defined in § 165-140, Definitions, of this chapter, 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 chapter, provided:
- (1) The nonconformity results solely from the adoption of this chapter (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 chapter; and
 - (3) The lot contains at least 20,000 square feet of area.
- B. A nonconforming lot satisfying Subsection A(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:
- (1) 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;
 - (2) 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 chapter. In such case no portion of the lot(s) so formed shall thereafter

29. Editor's Note: Said appendix is included as an attachment to this chapter.

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

- (3) 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 chapter. In such case, a new eligible nonconforming lot shall be formed which reflects the addition of the adjoining lot.
- C. Nothing herein is intended or shall be construed to affect any requirement of this chapter 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 chapter, 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),³⁰ 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 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.

§ 165-86. 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 chapter, provided such repairs or reconstruction shall be completed within two years of the date on which the damage occurred.

§ 165-87. Completion of buildings under construction.

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 chapter, 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 year of the adoption of this chapter.³¹

30. Editor's Note: Said appendixes are included as attachments to this chapter.

31. Editor's Note: Original Sec. 395, Regulation for an interim period of development and use of lands and buildings, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

ARTICLE IX

Wetlands and Watercourses.**[Added 5-12-2011 by L.L. No. 1-2011]³²****§ 165-88. Language and purpose.**

- A. It is the purpose of this "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.
- B. It is further the purpose of this article 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.

§ 165-89. 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, floodplains 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)³³ and publication titled the National Wetlands Mitigation Action Plan (12-26-2002; 11-16-2004) 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.
 - (2) Protection of aquifers and water bodies that are, or can, or may be used in the future for water

32. Editor's Note: Original Sec. 396.I through XIV. was redesignated as §§ 165-88 through 165-102, respectively, at time of adoption of Code (see Ch. 1, General Provisions, Art. I); subsequent sections renumbered accordingly.

33. Editor's Note: See 33 U.S.C. § 1251 et seq.

supply purposes.

- (3) The protection of stream channel and streambank stability thereby controlling and reducing erosion, flooding and related property damage.
 - (4) The control of floodwater and stormwater 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.

§ 165-90. 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 article 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 article 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 article 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 665), provided that such provisions are at least as protective of the regulated areas as 6 NYCRR 663 through 664 and regulations promulgated pursuant to Freshwater Wetlands Act permits ECL § 24-0701 et seq.
- D. It is the intent of this article to locally provide greater protection to wetlands than that provided by federal wetland regulations promulgated by the U.S. Army Corps 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 § 165-95, Regulated activities.
- E. It is the intent of this article 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 article 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 article 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 article to administer the provisions of this article to ensure administrative efficiency with the Town's land use development regulatory processes.

§ 165-91. Definitions.

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

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 streambanks 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 four inches 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 article, determined as follows, all measurements to be taken on the horizontal plane:

A. For all wetlands, the controlled area shall be:

- (1) For a wetland that is one acre or greater in size, the land area within 100 feet of the boundary of the wetland.
- (2) For a wetland that is less than one acre and greater than 1/4 acre in size, the land area within 50 feet of the boundary of the wetland.

B. For a perennial watercourse or water body, the controlled area shall be the land area within 100 feet

from the top of the bank of the watercourse or water body. The "top of bank" shall be the mean high water mark of the watercourse or water body. For an intermittent watercourse, the controlled area shall be the land area within 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.

DCSWCD — Dutchess County Soil and Water Conservation District.

DEPOSIT — For purposes of this article, "deposit" shall mean to fill, place, eject or dump any material deliberately.

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:

- A. The routine maintenance of roads, easements and rights-of-way and the clearing of farm fence lines;
- B. The clearing of approved subdivision roads, site plans and public utility easements;
- C. 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 article, intermittent watercourses are those where water stands or flows for a total of three months or more in a consecutive twelve-month period, as determined in the sole discretion of the Wetland Administrator. [NOTE: Waterways specifically designed and constructed to serve a stormwater conveyance or treatment function, such as grassy swales, roadside drainage ditches, and other structures engineered to concentrate and convey stormwater from development and only retain water for short duration after a rainstorm or spring snowmelt 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.

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 months out of the year.

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.

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 article.

REGULATED ACTIVITIES — Activities and uses regulated under this article 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 article pursuant to the title, purpose, finding and intent of this article (i.e., wetlands, watercourses, water bodies and controlled areas).

REGULATED SETBACK — See "controlled area."

REMOVE — To dig, dredge, suck, bulldoze, dragline, blast or otherwise excavate or regrade, 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.

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.

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 § 308 of the Agriculture and Markets Law (AML), which provides for this review. The guidelines for this review state that:

- A. The practice should be legal;
- B. The practice shall not cause bodily harm or property damage off the farm;
- C. The practice should achieve results intended in a reasonable and supportive way;
- D. The practice should be necessary.

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.

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 stormwater conveyance or treatment function, such as grassy swales, roadside drainage ditches, and other structures engineered to concentrate and convey stormwater from development and only retain water for short duration after a rainstorm or spring snowmelt are not considered watercourses.

WETLANDS — As defined by the Corps of Engineers and the EPA, those areas but that are inundated or saturated by surface water 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 article, this includes all geographic areas greater than 1/4 acre identified on the Wetlands and 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 floodplain soils or potential hydric soils as defined by the Soil Survey of the United States Department of Agriculture, Natural Resource Conservation Service, and the Dutchess County Soil and Water Conservation District, including but not limited to the following:
 - (1) Hydric soils: Canandaigua, Carlisle, Fluvaquents, Halsey, Hydraquents, Livingston, Medisaprists, Palms, Sun, Wayland.
 - (2) 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:
 - (1) 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*).
 - (2) 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*).

- (3) Emergent vegetation, including, among others, cattails (*Typha* spp.), pickererweed (*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*).
- (4) Rooted, floating-leaved vegetation, including, among others, water lily (*Nymphaea odorata*), water shield (*Brasenia schreberi*), hornwort (*Ceratophyllum* spp.), and water smartweed (*Polygonum amphibium*).
- (5) Free-floating vegetation, including, among others, duckweed (*Lemna* spp.) and watermeal (*Wolffia* spp.).
- (6) 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, sedge (*Carex* spp.), rushes (*Juncus* spp.), cattails (*Typha* spp.), rice cutgrass (*Leersia oryzoides*), reed canary grass (*Phalaris arundinacea*), swamp loosestrife (*Decodon verticillatus*), purple loosestrife (*Lythrum salicaria*), spike rush (*Eleocharis* spp.), joe-pye weeds (*Eupatorium* spp.), NY 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*).
- (7) Bog mat vegetation, including, among others, sphagnum moss (*Sphagnum* spp.), pitcher plant (*Sarracenia purpurea*), large cranberry (*Vaccinium macrocarpon*) and sundew (*Drosera rotundifolia*).
- (8) 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.)

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.

§ 165-92. Wetlands and Watercourse Map.

- A. Concurrent with the adoption of this article, the Town of Washington Town Board hereby adopts a map entitled "Zoning Map Series Map No. 5: Streams, Wetlands, Hydric Soils and Floodplains" (the "Wetlands Protection Map"), drawn at a scale of one inch equals 1,000 feet 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 water bodies 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 watercourse boundary and the controlled area around the watercourse, 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 article 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 watercourse boundaries, wetland boundaries, and their associated controlled areas pursuant to this article. The cost of such expert assistance, if required, shall be paid for by the applicant for a permit under this article in accordance with the provisions of § 165-105B of this chapter.

- 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:
- (1) 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.
 - (2) 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 article particular wetlands or watercourses that do not meet the criteria established in this article, or to incorporate supplementary maps that correct, clarify, or affirm in detail the area of jurisdiction of this article.

§ 165-93. Activities allowed without permit (exempt activities).

The following activities are exempt from the permitting requirement as set forth under this article, 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, shellfishing, hunting, or trapping where otherwise legally permitted and regulated.
- B. Agriculture, as defined herein, on lands that are either:
 - (1) 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

- (2) 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 article if proposed to take place within wetlands and their associated buffer areas:
 - (a) Clear-cutting, as defined herein.
 - (b) The construction of roads that requires moving of earth or other aggregate or alters wetlands or watercourses in any way.
 - (c) Any filling of a wetland, even by deposit of soil for agricultural purposes.
 - (d) Mining, as defined in 6 NYCRR 663.2.
 - (e) The erecting of structures not required to enhance or maintain the agricultural productivity of the land.
 - (f) Draining all or part of a wetland.
 - (3) It is expected that exempt agricultural activities will follow sound agricultural practices, as defined in this article, 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 article, is prohibited within wetlands and controlled areas without review and approval by the Planning Board under this article.
 - 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 article.
 - 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 § 165-95).
 - 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 article, 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.
- 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 nonnative species (see Appendix D, attached hereto and made part hereof).

§ 165-94. Preexisting lawful activities.

- A. Preexisting lawful activities shall mean land uses and structures legally established prior to the effective date of this article. 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 article; 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 article shall not apply to preexisting lawful activities, including uses and structures established prior to the effective date of this article. In no event shall any preexisting lawful activity be expanded, changed, enlarged, or altered except in accordance with the provisions of this article. Should the permit, license, or approval under which any preexisting lawful use or activity was established cease or expire or, if any preexisting use or activity shall cease, then the activity may not be reestablished and the use of such structure shall not resume except pursuant to a permit issued under the terms of this article.
- C. With respect to all other uses and structures established prior to the effective date of this article said uses and structures may continue as preexisting 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 article; 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 article; 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 article.

§ 165-95. Regulated activities.

- A. Activities and uses regulated under this article 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 article, 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.
- B. Regulated activities are those set forth in this section which occur or are proposed to occur within the boundary of a wetland, the boundary of a watercourse, or within the controlled area of a wetland or

watercourse, independent of whether the wetland or the watercourse or the controlled area is separated by one or more parcels or municipal boundaries. Regulated activities under this section shall be as follows:

- (1) Any form of draining, dredging, excavation, removal of soil, mud, sand, shells, gravel, or other material or aggregate from or within any regulated area;
- (2) 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);
- (3) 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 conduct 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;
 - (a) 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;
- (4) Placing any other obstructions within any regulated area, whether or not the same affects the ebb and flow of water;
- (5) 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;
- (6) Introducing any influents of high thermal content that may cause deleterious ecological effects into or on a regulated area;
- (7) Stripping any area of vegetation, including clear-cutting;
- (8) Using or storing chemicals, dyes, fertilizers, including manure, compost, topsoil, or other organic materials, fuels, herbicides, pesticides, deicing 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;
- (9) Installation of a septic tank, septic tank discharge pipe, stormwater discharge outlet, roof gutter, gray water discharge pipe, or any part of any stormwater management structure, or any sewer outfall within a regulated area;
- (10) The discharge of treated or untreated sewage effluent, stormwater discharge, or any other waste into a regulated area;
- (11) The depositing or removal of the natural products of the wetlands by commercial fishing or aquaculture.

§ 165-96. 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 article, 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 article; 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 article.
- B. Application procedure; preapplication consultation. It is recommended that the applicant, prior to filing an application for a permit under the provisions of this article, 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 article.
 - (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 and containing contour intervals of five 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 Subsection C(1) through (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 article. 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 and Wildlife and the "Technical Report Y-87-1 Corps of Engineers Wetlands Delineation Manual," no more than 18 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, water bodies 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) Groundwater table elevations indicating depth to groundwater, 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 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 stormwater 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 preconstruction 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 article 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 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 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 10 days prior to the date set for public hearing and shall, at least 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 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 article involving property located within 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 10 days prior to the date of said hearing.
- (18) Agricultural data statement. For activities on agricultural lands other than those listed in § 165-93B, 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 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 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 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 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.

§ 165-97. Standards for permit decisions.

- A. Standard for approval. An applicant is entitled to a wetland permit under this article 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 article 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 watercourse satisfy the requirements of this article, 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 article.
- 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:
- (1) 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:
 - (a) Potential impacts or changes to the ecology of the wetland, and the potential for significant adverse impacts to the general environment;
 - (b) The potential impact of the project on potable water sources and watercourses;
 - (c) Flood hazards and the significant alteration of drainage patterns and hydrology;
 - (d) The irreversible and irretrievable commitment of natural resources that would be involved in the proposed activity;
 - (e) 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;
 - (f) 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;
 - (g) The proposed mitigation plans that are incorporated in the plan or action;
 - (h) Depositing fill, soil, vegetation or stone in a regulated area, or other modification of topographic contours;
 - (i) Disturbance or destruction of flora and fauna, endangered and threatened species and significant habitats in a regulated area;
 - (j) Influx of sediments or other materials causing increasing water turbidity and/or substrate aggradations in a regulated area;

- (k) Removal or disturbance of regulated area soils;
 - (l) Destabilization of regulated area, channel or bank;
 - (m) Reductions and/or increases in regulated area hydrology;
 - (n) Interference with the circulation of water within or through a regulated area;
 - (o) Damaging thermal changes and/or nutrient levels in the water supply within or through a regulated area;
 - (p) Introduction of hazardous or toxic pollutants into a regulated area;
 - (q) Alterations to flood flows, flood storage, stormwater, upstream and downstream channel and bank stability, storm barriers and water quality of regulated areas;
 - (r) Cumulative adverse effect of any proposed or reasonably anticipated future activities on regulated areas subject to the application;
 - (s) A significant adverse impact on the general public health, safety and welfare;
 - (t) 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:
- (1) 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.
 - (2) 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.
 - (3) Consistency with public health and safety as well as any existing federal, state, county and local comprehensive land use plans and regulations.

§ 165-98. General wetland permit conditions.

- A. 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 Article IX of Chapter 165, Zoning, of the Town of Washington Code."

- B. The following general conditions shall be conditions of all wetland permits issued pursuant to this article.

- (1) By acceptance of the permit, the owner/applicant/permittee agrees that the permit is contingent

upon strict compliance with this Chapter 165, Article IX, of the Town of Washington Code, and any special conditions of the Planning Board.

- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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 30 days prior to the expiration of the permit.
- (6) The 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.
- (7) 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.
- (8) 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.
- (9) 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.
- (10) 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.
- (11) 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.

§ 165-99. Expiration of permit.

- A. All permits issued pursuant to this article 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 article 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 article.

§ 165-100. Enforcement.

- A. This article 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 article, 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 attorneys' fees.

§ 165-101. Penalties for offenses.

Any person convicted of having violated or disobeyed any provision of this article, 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.

§ 165-102. Compliance with 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 X
Enforcement and Administration

§ 165-103. General.

The provisions of this chapter 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.

§ 165-104. 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 Chapter 74, Construction Codes, Uniform, of the Town of Washington Code.

§ 165-105. Fees; administrative costs; escrow requirement.

- A. All applications submitted pursuant to this chapter 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.
- B. 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.

§ 165-106. Curing of violations required before certain Town actions.

- A. Upon receipt of written order, pursuant to § 165-107C below, from the Zoning Administrator that a violation of this chapter 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 in relation to the subject property until notified by the Zoning Administrator that such violation has ceased or been cured.
- B. If no written order pursuant to § 165-107C 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.

§ 165-107. Powers and duties of Zoning Administrator.

- A. Except as otherwise provided, it shall be the duty of the Zoning Administrator to enforce literally the provisions of this chapter 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.
- B. 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 chapter.
- C. 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 chapter, 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.
- D. The Zoning Administrator shall keep a record of every identifiable complaint of a violation of any of the provisions of this chapter, 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 months, listing all reported or continuing violations of this chapter and the disposition or pending action of such violations.

§ 165-108. Powers and duties of Building Inspector.

The powers and duties of the Building Inspector can be found in Chapter 74, Construction Codes, Uniform, of the Town of Washington Code.

§ 165-109. Zoning Board of Appeals.

This chapter 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 chapter as regards appeals to review decisions of the Zoning Administrators, to grant variances, and to resolve questions of interpretation. In administering this chapter, the Zoning Board of Appeals shall act in strict accordance with the procedures specified herein as well as the laws of New York State.

- A. 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 chapter in accordance with the procedure outlined by § 165-115, Appeals, of this chapter.
- B. 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 chapter relating to the use, construction, or alteration of buildings or structures, or the use of land, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.
 - (1) Use variances.

- (a) 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 this chapter of the Town of Washington.
 - (b) 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 this chapter 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 this chapter for the particular district where the property is located,
 - [1] That the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - [2] That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
 - [3] That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - [4] That the alleged hardship has not been self-created.
 - (c) 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.
- (2) Area variances.
- (a) 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 this chapter of the Town of Washington.
 - (b) 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:
 - [1] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - [2] Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue, other than an area variance;
 - [3] Whether the requested area variance is substantial;
 - [4] 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
 - [5] 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.

- (c) 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.
- (3) 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 this chapter, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- C. 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 chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto pursuant to the procedures outlined by § 165-115, Appeals, of this chapter.

§ 165-110. Alternate members to Zoning Board of Appeals. [Added 8-12-2010 by L.L. No. 1-2010]

- A. The Town Board may appoint up to two alternate members to the Zoning Board of Appeals, with each such position having a term of one year, for purposes of substituting for a member(s) in the event such member(s) is absent or unable to participate because of a conflict of interest. All provisions relating to members of the Zoning Board of Appeals, including training, continuing education, attendance and compensation apply to alternate members.
- B. The Chairman shall determine when an alternate member shall substitute for a member on any particular application or matter before the Board. Once designated, the alternate member shall possess all the powers and responsibilities of the member being substituted. The minutes of the Zoning Board of Appeals shall reflect the meeting at which the substitution is made.

§ 165-111. 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 chapter and pursuant to procedures outlined herein.

§ 165-112. Alternate members to the Planning Board. [Added 8-12-2010 by L.L. No. 1-2010]

- A. The Town Board may appoint up to two alternate members to the Planning Board, with each such position having a term of one year, for purposes of substituting for a member(s) in the event such member(s) is absent or unable to participate because of a conflict of interest. All provisions relating to members of Planning Boards, including training, continuing education, attendance and compensation apply to alternate members.
- B. The Chairman shall determine when an alternate member shall substitute for a member on any particular application or matter before the Board. Once designated, the alternate member shall possess all the powers and responsibilities of the member being substituted. The minutes of the Planning Board shall reflect the meeting at which the substitution is made.

§ 165-113. Building permits.

No building or structure shall be erected, added to, or structurally altered until a building permit therefor has been issued pursuant to Chapter 74, Construction Codes, Uniform, of the Town of Washington Code. 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 chapter.

§ 165-114. 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 Chapter 74, Construction Codes, Uniform, of the Town of Washington Code.

§ 165-115. Appeals.

An appeal from any ruling of any administrative officer administering any portion of this chapter 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.

- A. 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 chapter 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.
- B. Referral to County Planning Department. Request for variances affecting real property within 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, §§ 239-l and 239-m, as amended.
- C. 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 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 500 feet of the property affected. Written notice of the hearing shall be given at least 10 days prior thereto to the owners of land within 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 notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal.
- D. Action. In the exercise of its functions upon appeals, the Zoning Board of Appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order,

requirement, decision, or determination in accordance with the provisions hereof.

- (1) The Zoning Board of Appeals shall decide upon the appeal within 62 days after the conduct of said hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
 - (2) 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.
 - (3) 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 chapter or to effect any variation of this chapter.
- E. Filing. Every rule, regulation, amendment, or repeal thereof and every order, requirement, decision, or determination of the Zoning Board of Appeals shall be filed in the office of the Town Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant and shall be a public record. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- F. Rehearing 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 rehearing, 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 rehearing, 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.
- G. 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 78 of the Civil Practice Law and Rules.
- H. 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 months from the date of authorization thereof.
- I. 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.

§ 165-116. Special permits.

The Planning Board or the Zoning Board of Appeals, as specifically authorized by §§ 165-45 and 165-84 of this chapter, shall issue special permits where required by this chapter 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).³⁴ In addition, the following require special permits from the Planning Board:

- A. Certain uses in the APO Overlay Zone (§ 165-25).
- B. Certain home occupations (§ 165-31).
- C. Stripping of topsoil (§ 165-39).
- D. Certain uses in the HOS Overlay Zone (§ 165-22). **[Added 6-3-2024 by L.L. No. 3-2024]**

§ 165-117. Application for special permit. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

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 days of its receipt, forward the application to the Planning Board or the Zoning Board or Appeals, as specifically authorized by § 165-45, Emergency housing, temporary housing, field offices, and storage, and § 165-83, Nonconforming uses, buildings, and structures, of this chapter.

§ 165-118. 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 chapter. 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 § 165-128 of this chapter unless in the discretion of the Planning Board or Zoning Board of Appeals, as the case may be, selected site plan 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.

§ 165-119. Standards for special permit approval.

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 chapter. Further, in issuing a special permit the Planning Board or Zoning Board of Appeals must make written findings that:

- A. The use is a permitted special use as set forth in the Schedule of District Use Regulations (Appendix A).³⁵
- B. The use is so designed, located, and proposed to be operated that the public health, safety, welfare, and convenience will be protected.

34. Editor's Note: Said appendix is included as an attachment to this chapter.

35. Editor's Note: Said appendix is included as an attachment to this chapter.

- C. The use will not diminish groundwater or surface water quality.
- D. The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.
- E. The lot size and lot coverage are appropriate to the use.
- F. 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.
- G. 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.
- H. 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.
- I. The use will not cause undue traffic congestion or create a traffic hazard.
- J. 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.
- K. The use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.
- L. If there are phases planned, then the impact of all phases may be a factor in determining the appropriateness of the use.
- M. 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.
- N. The site plan for the use satisfies the requirements of § 165-130, Standards for review and design, of this chapter.

§ 165-120. Special permit referral to County Planning Department.

Requests for special permits affecting real property within 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, §§ 239-l and 239-m, as amended.

§ 165-121. 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 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 500 feet of the property affected. At least 10 days' advance notice shall be given to owners of land within 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.

§ 165-122. Action. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

After public hearing, the Planning Board or Zoning Board of Appeals, as the case may be, in conformity with this chapter, 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. Action on the special permit application by the presiding board shall be in conformity with the provisions of Town Law § 274-b, Approval of special permits.

§ 165-123. 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 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 months of the date of authorization thereof.

§ 165-124. Existing violations.

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

§ 165-125. Site plan review and approval.

- 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 water or groundwater; and
 - (4) The protection of historic and natural environmental features 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 chapter, 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.

§ 165-126. 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 A³⁶ as requiring special permits or site plan approval and those uses for which other sections of this chapter require special permits.
 - (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:
 - (a) Grant the variance without any further need for site plan approval;
 - (b) Grant the variance with conditions without any further need for site plan approval; or
 - (c) Refer the application to the Planning Board to complete the site plan review and approval process.
 - (3) Unless waived as provided by § 165-126B, 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 HM or I Floating District.
 - (6) Certain uses in the EP Floating District as described in § 165-26D.
- 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.

§ 165-127. Application for site plan review and approval.

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 § 165-126 which is discontinued for more than one 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 copies each of the site plan application and required plans. Upon receipt of such application, the Zoning Administrator shall, within five days of its receipt, forward the application to the Planning Board.

§ 165-128. Requirements for site plan review and approval.

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:

- A. Name of the project, boundaries, date, North arrow, and scale of the plan.

36. Editor's Note: Said appendix is included as an attachment to this chapter.

- B. Name and address of the owner of record, developer, and seal of the engineer, architect, or landscape architect.
- C. Vicinity map drawn at the scale of 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 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.
- D. Site plan drawn at a scale of one inch equals 40 feet, on standard 24 inches by 36 inches sheets, with continuation on 8 1/2 inches by 11 inches sheets as necessary for written information.
- E. 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.
- F. The location of all present and proposed public and private ways, off-street 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.
- G. 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.
- H. The location, height, size, material, and design of all proposed signage.
- I. The location of all present and proposed utility systems, including:
 - (1) Sewage or septic system;
 - (2) Water supply system;
 - (3) Telephone, cable, and electrical system; and
 - (4) Storm drainage system, including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.
- J. Plan to prevent the pollution of surface water 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.
- K. Existing and proposed topography at five-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 50 feet of the proposed site where ground removal or filling is required and give its approximate volume in cubic yards.
- L. 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 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.
- M. Zoning district boundaries within 500 feet of the site's perimeter shall be drawn and identified on the

plan.

- N. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within 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:
- (1) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
 - (2) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
 - (3) 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.
- O. For new construction or alterations to any building, a table containing the following information must be included:
- (1) Area of building to be used for a particular use such as retail operation, office, storage, etc.;
 - (2) Maximum number of employees;
 - (3) Maximum seating capacity, where applicable; and
 - (4) Number of parking spaces existing and required for the intended use.
- P. Elevation plans at a scale of 1/4 inch equals one foot 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.
- Q. For large or environmentally intrusive developments, the Planning Board may request soil logs, percolation test results, and storm runoff calculations.
- R. Plans for disposal of construction and demolition waste, either on-site or at an approved disposal facility.

§ 165-129. Notice and meeting with applicant.

Upon receipt of the application and after it has given at least 10 days' advance notice to owners of land within 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.

§ 165-130. Standards for site plan review and design.

- A. 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 chapter.
- B. Relationship of proposal to the Town Master Plan and Official Map:

- (1) 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 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.
- (2) 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.

C. Relationship of structures and buildings to site:

- (1) 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.
- (2) 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.
- (3) Parking shall, wherever feasible, be located to the rear or sides of buildings so as not to interfere with the front landscape treatment.
- (4) 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 facade, proportion and arrangement of windows and other openings within the facade (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.
- (5) Newly installed and renovated utility services, and service revisions necessitated by exterior alterations, shall be underground unless otherwise allowed by the Planning Board.
- (6) A nonresidential 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.

D. Relationship of buildings and site to adjoining areas:

- (1) Site plans proposed for nonresidential uses adjacent to a residential district shall be reviewed with regard to the impact of the development on that district.
- (2) 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.
- (3) 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.
- (4) 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.

E. Landscape, buffering and site treatment:

- (1) Where possible, natural or existing topographic patterns, which contribute to beauty and character of a development, shall be preserved.
- (2) 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.
- (3) Landscape treatment shall be provided to enhance architectural features, strengthen vistas and visual corridors and provide shade.
- (4) Unity of design shall be achieved by repetition of certain plant varieties and other materials and by coordination with adjacent developments.
- (5) 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.
- (6) In locations where plants will be susceptible to injury by pedestrian or motor traffic, appropriate curbs, tree guards, or other devices shall protect them.
- (7) Parking areas and traffic ways shall be enhanced with landscaped islands, containing trees and tree groupings.
- (8) 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.
- (9) Landscaping shall be designed and maintained so as not to create hazardous conditions.
- (10) Landscaping shall be maintained to preserve its original integrity and intended purpose during the entire life of the proposed use or project.
- (11) 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.
- (12) 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.
- (13) Whenever appropriate, existing trees shall be conserved and integrated into the landscape design plan.
- (14) There shall be an adequate, safe, and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking, and loading space.
- (15) 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.
- (16) Buildings and vehicular circulation areas shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
- (17) 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.

- (18) 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.
- (19) Pedestrian connection between parking areas and buildings shall be provided by special pedestrian walkways.

F. Lighting:

- (1) 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.
- (2) 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.
- (3) Lighting standards shall be appropriate to the design of the structures and shall not exceed 15 feet in height.
- (4) The light level at the lot line shall not exceed 0.02 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 15 feet in height. In addition, all lighting (except for security purposes) shall be turned off between 11:00 p.m. and 6:00 a.m. Exceptions may be considered for those businesses which are operating during these hours.

G. Building design.

- (1) 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 reuse of existing structures is encouraged.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) The design of buildings and the parking facilities shall take advantage of the topography of the project site where appropriate.
- (7) All buildings shall be oriented to ensure adequate light and air exposures to the rooms within.

- (8) 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.
- (9) All buildings shall be accessible to emergency vehicles.
- (10) Drainage of the site and surface waters flowing therefrom shall not adversely affect adjacent properties or public roadways.
- (11) 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.
- (12) Wherever appropriate, the siting principles within the Visual Resource Mapping Series described in § 165-17 of this chapter shall be observed.
- (13) Additional site plan requirements and standards for review set out in other sections of this chapter shall be observed.
- (14) Proper disposal of construction and demolition waste shall be provided, including any necessary permits or agreements for off-site disposal.

H. Parking and loading:

- (1) 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 nonresidential uses, or can otherwise show that the parking standards in Appendix C³⁷ 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 this chapter. The Board shall, as much as practicable, locate driveways for nonresidential uses so that the center line of such a driveway shall line up with the center line of a street or driveway opposite the proposed use.
- (2) Notwithstanding the requirements for off-street loading spaces as specified in §§ 165-80, 165-81 and 165-82 of this chapter, 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 this chapter.
- (3) All parking areas shall be set back a minimum of 20 feet from all boundary lines.
- (4) Parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and monotony of parked cars.
- (5) 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.

37. Editor's Note: Said appendix is included as an attachment to this chapter.

- (6) Any above-grade loading facility shall be screened from public view to the extent necessary to eliminate unsightliness.
- (7) Off-street parking and loading requirements required in this chapter shall be satisfied.

I. Material storage and waste container storage:

- (1) 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.
- (2) 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.

§ 165-131. Site plan referral to County Planning Department.

Requests for site plan review and approval affecting real property within 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, §§ 239-l and 239-m, as amended.

§ 165-132. Disposition of application by Planning Board. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

Within 62 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.

§ 165-133. Penalties for offenses. [Amended 8-12-2021 by L.L. No. 3-2021]

A violation of this chapter is an offense punishable by a fine not exceeding \$1,000, or imprisonment for a period not to exceed six 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 years, punishable by a fine not less than \$1,000 nor more than \$1,500 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$1,500 nor more than \$5,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter 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.

A. Complaints of violations. Whenever a suspected violation of this chapter 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 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.

- B. 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 chapter, 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.
- C. 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 10 days after written request by a resident taxpayer of the Town so to proceed, any three 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.
- D. Accountability. For any and every violation of the provisions of this chapter, 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 chapter.

ARTICLE XI
Amendments

§ 165-134. 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 chapter after public notice and hearing, as required by the laws of New York State.

§ 165-135. 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 chapter and/or the laws of New York State.

- A. 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.
- B. Referral to County Planning Department. Any proposed amendment affecting real property within 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, §§ 239-l and 239-m, as amended.

§ 165-136. 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.

- A. Publication of notice in newspaper. Notice of the time and place of the public hearing shall be published at least 10 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. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. Posting. Notice of the time and place of the public hearing shall be posted at least five 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.
- C. Notice to adjacent municipalities. Written notice of any proposed amendment affecting property lying

within 500 feet of an adjacent Town or the Village of Millbrook shall be given to the Clerk of such municipality at least 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.

§ 165-137. Adoption.

The Town Board may adopt amendments to this Chapter 165, Zoning, 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.

- A. 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 20% or more of the owners of land in any of the following areas:
- (1) The land area included in the proposed amendment.
 - (2) The land area immediately adjacent to the area proposed to be changed and extending 100 feet therefrom.
 - (3) The land area directly opposite the area proposed to be changed and extending 100 feet from the street frontage of such opposite land.
- B. County disapproval. A majority plus one 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.

§ 165-138. When effective.

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.

ARTICLE XII
Terminology.

§ 165-139. Word usage.

Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future; 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."

§ 165-140. Definitions.

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

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.

ADAPTIVE REUSE — The process of adapting an existing building through renovation or restoration to function for a new use which it may not have been originally designed for, while retaining its primary features and character. Typically utilized for the purposes of saving existing structures from demolition, historic preservation, or improved sustainability compared to completely new construction. **[Added 6-3-2024 by L.L. No. 3-2024]**

ADAPTIVE REUSE INN — An establishment providing sleeping rooms rented for overnight accommodations to transient visitors having no more than 40 guest rooms, where such guest rooms are developed exclusively through the rehabilitation, preservation, and adaptive reuse of an existing structure(s). An adaptive reuse inn is separate and distinct from inn(s) and other lodging uses. **[Added 6-3-2024 by L.L. No. 3-2024]**

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 Natural Resource 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.

AIRCRAFT — A device used for the transportation of one 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 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.

ANTIQUE 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.

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 chapter.

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.

AUXILIARY APARTMENT — A dwelling unit within a building containing a principal use that is nonresidential. No more than 30% of the floor space in any nonresidential building may contain auxiliary apartments.

BAR or TAVERN — An establishment primarily designed and licensed to sell alcoholic beverages to patrons for on-site consumption at provided seating areas and where the service of food is only incidental to the consumption of such beverages. **[Added 6-3-2024 by L.L. No. 3-2024]**

BASE STATION — A stationary transmitter that provides radio telecommunications services to mobile and fixed receivers, including antennas.

BASEMENT — A story partly underground, but having last least half 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 feet or if used for business or dwelling purposes.

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 30 days) lodgers for compensation. The term "bed-and-breakfast" is meant to include guesthouses, lodgings, accommodations and words or phrases of like import.

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.³⁸

BUILDABLE LAND — That portion of a lot exclusive of all wetlands and watercourses, slopes exceeding 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 AREA — All land covered by structures, interior roads, parking areas, sidewalks, and loading

38. Editor's Note: The original definition of "boardinghouse," which immediately followed this definition, was repealed 6-9-1994 by L.L. No. 1-1994.

areas.

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 decline of mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs. When a lot fronts on two 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, 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, 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.

CAMPGROUND — A parcel of land established or maintained for the commercial purposes of short-term outdoor recreational camping by transient users where campsite areas are provided and rented for tents, trailers, recreational vehicles, shelters, cabins, lean-tos or similar accommodations. A campground is separate and distinct from a private camp, as well as glamping, inn or other lodging use types. **[Added 6-3-2024 by L.L. No. 3-2024]**

CELLAR — A story partly underground and having more than half 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.

CELLULAR COMMUNICATION SYSTEM — A radio telecommunications 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 chapter.

CO-LOCATION — The location of one or more PWRT facilities at a common site.

COMMERCIAL VEHICLES — Any vehicle having a gross weight of 3/4 ton or more and licensed as a commercial vehicle or used for commercial purposes.

COMMON DRIVE — A driveway normally serving two or three lots which have the amount of road frontage required under this chapter. A common drive may be owned in common or may be created by reciprocal easements.

COMPREHENSIVE PLAN or MASTER PLAN — A document adopted and periodically updated by the

Town of Washington, containing goals and policies to direct long-term decisionmaking for the orderly growth of the community, including but not limited to land-use decisions such as zoning. **[Added 6-3-2024 by L.L. No. 3-2024]**

CONDOMINIUM — A system of ownership of dwelling units, either attached or detached, within a multifamily 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.

CONSERVATION EASEMENT — A perpetual restriction on the use of land, created in accordance with the provisions of Article 49, Title 3, of the Environmental Conservation Law, or § 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.

DESIGN STANDARDS — Specific design requirements regarding architectural elements, site planning, parking, building materials, lighting, signs or other considerations which may be required or recommended as part of application approval. **[Added 6-3-2024 by L.L. No. 3-2024]**

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 or more families, excluding motels, hotels, or other transient residence facilities.

DWELLING UNIT — A building or portion thereof, providing complete housekeeping facilities (living, cooking, sanitary and sleeping facilities) for one family.

DWELLING, MULTIFAMILY — A dwelling or group of dwellings containing separate living units for three 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 or more persons living as a family, and wherein not more than three boarders are sheltered and/or fed for profit.

DWELLING, TWO-FAMILY — A detached building containing two dwelling units.

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 12th 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.

EXEMPT FACILITIES — Transmitting and receiving telecommunications facilities which are exempt

from regulation under § 165-56, and shall include:

- A. Amateur radio and satellite facilities so long as such facilities are operated by a licensed amateur operator;
- B. Civil emergency facilities; and
- C. Home satellite facilities where installed on residential premises solely for the use of the residents of that premises and not offered for resale to off-premises locations.

FAMILY — One or more persons living together in a single dwelling unit as a traditional family or the functional equivalent of a traditional family. It shall be a rebuttable presumption that four or more persons living together in a single dwelling unit, who are not related by blood, adoption, or marriage, do not constitute the functional equivalent of a traditional family. In determining the functional equivalent of a traditional family, the following criteria shall be present: **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**

- A. The group shares the entire dwelling unit.
- B. The group lives and cooks together as a single housekeeping unit.
- C. The group shares expenses for food, rent, utilities or other household expenses.
- D. The group is permanent and stable, and not transient or temporary in nature.
- E. Any other factor reasonably related to whether the group is the functional equivalent of a family.

FARM — Any parcel of land containing at least three 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 feet six inches or more. All dimensions shall be measured between exterior faces of walls or center lines of walls separating two buildings.

GARAGE, PRIVATE — A garage not conducted as a business or used for the storage of more than one 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.

GLAMPING — The use of land rented for the purposes of short-term, outdoor camping by transient users, where additional amenities and comforts are provided for visitors beyond a normal camping experience, including but not limited to the use of beds, electricity, indoor plumbing, kitchen equipment, and more elaborate temporary shelters, such as yurts, sleeping pods or motor homes. Glamping is separate and distinct from a hotel, inn or other lodging use types. **[Added 6-3-2024 by L.L. No. 3-2024]**

GOLF COURSE — An area of land laid out for the game of golf with a series of nine or 18 holes, each

including tee, fairway, putting green and one or more natural or artificial hazards, as well as incidental buildings, including a clubhouse 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.

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.

HOSPITALITY — The activity or business of providing services and amenities, such as overnight lodging accommodations, food, drink, gathering or meeting space, for the purposes of attracting and serving visitors and tourists to the area. **[Added 6-3-2024 by L.L. No. 3-2024]**

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.

INN — An establishment providing sleeping rooms rented for overnight accommodations to transient visitors having no more than 20 guest rooms. Guest rooms for an inn may be developed through the construction of new square footage. A project that creates guest rooms through the use of existing structure(s), in addition to the construction of new square footage, shall be deemed an inn, not an adaptive reuse inn, and shall be limited to a maximum of 20 guest rooms. An inn is separate and distinct from adaptive reuse inn(s) and other lodging uses. **[Added 6-3-2024 by L.L. No. 3-2024]**

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 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:

- A. It is registered with the New York State Department of Motor Vehicles;
- B. It has motor vehicle liability insurance which satisfies the requirements of New York State law;
- C. It has a valid inspection sticker; and
- D. 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:

- A. Two or more junk cars.
- B. Two or more unregistered historical automobiles.
- C. Two or more pieces of junk, as defined in § 165-140 of this chapter.
- D. Any combination of the above that totals two or more items.

KENNEL — Any establishment including cages, dog runs, and structures wherein more than three dogs which are over six months old are harbored.

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

LODGING — A room or rooms rented for overnight accommodations to transient visitors, such as a bed-and-breakfast, inn, adaptive reuse inn, hotel, motel, short-term rental, campground or glamping. **[Added 6-3-2024 by L.L. No. 3-2024]**

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 chapter.

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

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 chapter as shown on the records in the office of the Dutchess County Clerk.

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 chapter.

LOT, CORNER — A lot at the junction and abutting on two or more intersecting streets or roads when the interior angle on the intersection does not exceed 135°. 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 135°.

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

LOT, THROUGH — An interior lot having frontage in two parallel or approximately parallel streets.

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 chapter, the removal of transport wheels and/or the anchoring of the home to a permanent foundation shall not remove it from this definition.³⁹

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 PARK — Any area of land consisting of 20 or more acres upon which one 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 § 165-45.

MOBILE HOME or RECREATIONAL VEHICLE — Any vehicle or similar portable structure with or

39. Editor's Note: The original definition of "medical offices," which immediately followed this definition, was repealed 8-23-1990 by L.L. No. 3-1990.

without a foundation of wheels, jacks, skirtings, 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.

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 or more individual living and sleeping accommodations consisting primarily of one-bedroom-and-bath units, each of which is provided with not less than one 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 chapter 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 chapter 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 chapter or any preceding zoning law or ordinance, which use is not permitted by or does not conform with the permitted use provisions of this chapter 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 chapter 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 chapter or such amendment hereto. No nonconforming use, lot, building, or other structure shall be deemed to have existed on the effective date of this chapter 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.

OVERLAY DISTRICT — A special zoning district which is superimposed on top of one or more zoning districts, or parts of districts, to implement modified land use regulations within a defined geographic area. An overlay's requirements may function in addition to the normal provisions of the underlying zoning district(s), or may replace or modify the normal provisions of the underlying zoning district(s), being more or less restrictive[**Added 6-3-2024 by L.L. No. 3-2024**]

PAGING SERVICE — A numeric, text and voice messaging service.

PARKING SPACE — The net area needed for parking one automobile, usually equal to 200 square feet with dimensions of 10 feet by 20 feet. An area of 300 square feet per car shall be used to compute the gross land area needed for meeting parking requirements.

PERSONAL COMMUNICATION SYSTEM — Radio telecommunications services that encompass mobile and ancillary fixed communications operating at 1.8 GHz 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 noncommercial, leisure use that is used on a seasonal basis for not more than six months in each year. **[Amended 6-3-2024 by L.L. No. 3-2024]**

PRIVATE ROAD — A privately owned road held in common ownership by a homeowners' association and approved pursuant to § 165-55B.

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 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 off-site 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 § 165-43D(2) of this chapter.

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.

RESTAURANT — An establishment where food and drink are sold for consumption on the premises at provided seating areas and where the taking of any food or drink off-premises is incidental to the principal use. May include permitted secondary accessory uses, such as a bar or tavern. **[Added 6-3-2024 by L.L. No. 3-2024]**

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.

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.

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

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 nonprofit 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, locksmith, photocopying, repair and restoration services, tailoring, typing, and word processing.⁴⁰

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

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.

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

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.

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 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

40. Editor's Note: The original definition of "shooting club," which immediately followed this definition, was repealed 8-23-1990 by L.L. No. 3-1990.

owned by homeowners in connection with use, operation and maintenance of residences.

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

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 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.

SUBDIVISION, CONVENTIONAL — A subdivision that is not an open space subdivision as defined in § 165-52C.

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 rods wide measured 1 1/2 rods to each side of the center line of the road.

TRAILER — A transport vehicle designed to be hauled by a truck or tractor.

TRANSIENT — Temporary visitation at a place for a short duration, typically for a period between one or a few days. **[Added 6-3-2024 by L.L. No. 3-2024]**

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.

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 XIII
Miscellaneous

§ 165-141. Interpretation; greater restrictions.

In their interpretation and application, the provisions of this chapter shall be deemed minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this chapter 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.

§ 165-142. Severability.

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

§ 165-143. Construal of provisions.

This chapter 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 chapter 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 chapter shall control.

§ 165-144. Effective date.

This chapter shall take effect on January 1, 1990.

Disposition List

Chapter DL**DISPOSITION LIST**

The following is a chronological listing of legislation of the Town of Washington reviewed for codification, indicating for each its inclusion in the Code or the reason for exclusion. The last legislation reviewed for the original publication of the Code was L.L. No. 2-2024, adopted February 8, 2024.

§ DL-1. Disposition of legislation.**KEY:**

| | | |
|-----|---|--|
| NCM | = | Not Code material (legislation is not general or permanent in nature). |
| REP | = | Repealed effective with adoption of Code; see Ch. 1, Art. I. |

| Enactment | Adoption Date | Subject | Disposition |
|------------------|----------------------|--|-------------------------------|
| Ord. No. | 10-23-1967 | Solid Waste: Disposal of Garbage | Ch. 120, Art. I |
| Ord. No. | 2-26-1970 | Zoning Amendment | Superseded by L.L. No. 5-1989 |
| Ord. No. | 3-2-1970 | Zoning Amendment | Superseded by L.L. No. 5-1989 |
| L.L. No. 1-1971 | 3-30-1971 | Assessor: Elected Assessors | Superseded by L.L. No. 1-2006 |
| Ord. No. | 5-13-1971 | Zoning | Superseded by L.L. No. 5-1989 |
| L.L. No. 1-1976 | 3-11-1976 | Notification of Defects | Ch. 107 |
| L.L. No. 1-1977 | 2-18-1977 | Taxation: Business Investment Exemption Opt Out | Ch. 145, Art. I |
| L.L. No. 2-1977 | 3-30-1977 | Environmental Quality Review | REP |
| L.L. No. 3-1977 | 4-27-1977 | Taxation: Taxation of Real Property Owned by Certain Nonprofit Organizations | Ch. 145, Art. II |
| L.L. No. 4-1977 | | Taxation: Senior Citizens Tax Exemption | Superseded by L.L. No. 1-1979 |
| L.L. No. 4-1977 | | Zoning Amendment | Superseded by L.L. No. 5-1989 |

| Enactment | Adoption Date | Subject | Disposition |
|------------------|----------------------|--|-------------------------------|
| L.L. No. 1-1978 | | Zoning Map Amendment | NCM |
| L.L. No. 1-1979 | | Taxation: Senior Citizens Tax Exemption | Superseded by L.L. No. 1-1981 |
| L.L. No. 1-1980 | | Flood Damage Prevention | Superseded by L.L. No. 3-1987 |
| L.L. No. 2-1980 | 6-12-1980 | Defense and Indemnification | Ch. 24 |
| L.L. No. 1-1981 | | Taxation: Senior Citizens Tax Exemption | Superseded by L.L. No. 1-1983 |
| L.L. No. 1-1982 | 10-14-1982 | Environmental Quality Review Amendment | REP |
| L.L. No. 1-1983 | | Taxation: Senior Citizens Tax Exemption | Superseded by L.L. No. 1-1986 |
| L.L. No. 1-1984 | | Officers and Employees: Town Sanitarian | Repealed by L.L. No. 1-1988 |
| L.L. No. 2-1984 | 10-14-1984 | Taxation: Alternative Veterans Tax Exemption Opt Out | Ch. 145, Art. III |
| L.L. No. 1-1985 | | Retirement Incentives | NCM |
| L.L. No. 2-1985 | | Zoning Amendment | Superseded by L.L. No. 5-1989 |
| L.L. No. 1-1986 | 10-27-1986 | Taxation: Senior Citizens Exemption | Ch. 145, Art. IV |
| L.L. No. 1-1987 | | Zoning Amendment | Superseded by L.L. No. 5-1989 |
| L.L. No. 2-1987 | | Development and Land Use (Interim) | Expired |
| L.L. No. 3-1987 | | Flood Damage Prevention | Superseded by L.L. No. 1-2012 |
| L.L. No. 1-1988 | | Officers and Employees: Town Sanitarian Repealer | Repealer Only (no copy) |
| L.L. No. 2-1988 | | Zoning Amendment | Superseded by L.L. No. 5-1989 |
| L.L. No. 3-1988 | | Development and Land Use (Interim) Amendment | Expired |

| Enactment | Adoption Date | Subject | Disposition |
|------------------|----------------------|---|-------------------------------|
| L.L. No. 4-1988 | | Funding Bicentennial Commemoration Program | NCM |
| L.L. No. 5-1988 | | Animals: Control of Dogs | Superseded by L.L. No. 3-2010 |
| L.L. No. 6-1988 | 7-28-1988 | Conservation Advisory Commission | Ch. 17 |
| L.L. No. 7-1988 | | Development and Land Use (Interim) Amendment | Expired |
| L.L. No. 8-1988 | | Development and Land Use (Interim) Amendment | Expired |
| L.L. No. 1-1989 | | Development and Land Use (Interim) Amendment | Expired |
| L.L. No. 2-1989 | | Flood Damage Prevention Amendment | Superseded by L.L. No. 1-2012 |
| L.L. No. 3-1989 | | Development and Land Use (Interim) Amendment | Expired |
| L.L. No. 4-1989 | | Development and Land Use (Interim) Amendment | Expired |
| L.L. No. 5-1989 | 12-27-1989 | Zoning | Ch. 165 |
| L.L. No. 1-1990 | 2-8-1990 | Taxation: Senior Citizens Exemption Amendment | Ch. 145, Art. IV |
| L.L. No. 2-1990 | 4-26-1990 | Solid Waste: Disposal of Garbage Amendment | Ch. 120, Art. I |
| L.L. No. 3-1990 | 8-23-1990 | Zoning Amendment | Ch. 165 |
| L.L. No. 4-1990 | 10-11-1990 | Defense and Indemnification Amendment | Ch. 24 |
| L.L. No. 1-1991 | 3-14-1991 | Zoning Amendment | Ch. 165 |
| L.L. No. 2-1991 | 9-26-1991 | Zoning Amendment | Ch. 165 |
| L.L. No. 1-1994 | 6-9-1994 | Zoning Amendment | Ch. 165 |
| L.L. No. 2-1994 | 9-8-1994 | Zoning Amendment | Ch. 165 |

| Enactment | Adoption Date | Subject | Disposition |
|------------------|----------------------|--|--------------------------------------|
| L.L. No. 1-1995 | 2-9-1995 | Animals: Dog License Fees Amendment | Superseded by L.L. No. 3-2010 |
| L.L. No. 1-1998 | 6-11-1998 | Zoning Amendment | Ch. 165 |
| L.L. No. 2-1998 | 8-20-1998 | Zoning Amendment | Ch. 165 |
| L.L. No. 3-1998 | 8-27-1998 | Retirement Incentive Program | NCM |
| L.L. No. 1-1999 | 1-4-1999 | Zoning Amendment | Ch. 165 |
| L.L. No. 2-1999 | 4-22-1999 | Moratorium on Cluster Subdivisions | NCM |
| L.L. No. 3-1999 | 9-2-1999 | Retirement Incentive Program | NCM |
| L.L. No. 4-1999 | 12-2-1999 | Zoning Amendment | Ch. 165 |
| L.L. No. 1-2000 | 8-10-2000 | Zoning Amendment | Ch. 165 |
| L.L. No. 2-2000 | 8-31-2000 | Retirement Incentive Program | NCM |
| L.L. No. 1-2003 | 1-2-2003 | Zoning Amendment | Ch. 165 |
| L.L. No. 1-2005 | 4-14-2005 | Zoning Amendment | Ch. 165 |
| L.L. No. 1-2006 | 9-14-2006 | Assessor: Appointed Assessor | Repealed by L.L. No. 2-2006 |
| L.L. No. 2-2006 | 12-14-2006 | Assessor | Ch. 8 |
| L.L. No. 1-2007 | 3-15-2007 | Zoning Amendment | Ch. 165 |
| L.L. No. 2-2007 | 10-11-2007 | Subdivision of Land | Ch. 137 |
| L.L. No. 3-2007 | 10-11-2007 | Zoning Amendment | Ch. 165 |
| L.L. No. 4-2007 | 11-8-2007 | Moratorium on Development | NCM |
| L.L. No. 5-2007 | 11-8-2007 | Construction Codes, Uniform | Ch. 74 |
| L.L. No. 6-2007 | 11-8-2007 | Zoning Amendment | Ch. 165 |
| L.L. No. 1-2008 | 3-13-2008 | Taxation: Cold War Veterans Exemption | Ch. 145, Art. V |
| L.L. No. 2-2008 | 11-13-2008 | Taxation: Senior Citizens Exemption Amendment Taxation: Exemption for Persons with Disabilities and Limited Incomes | Ch. 145, Art. IV Ch. 145, Art. VI |

| Enactment | Adoption Date | Subject | Disposition |
|------------------|----------------------|---|--------------------|
| L.L. No. 3-2008 | 12-11-2008 | Extension of Moratorium on Development | NCM |
| L.L. No. 1-2009 | 12-10-2009 | Extension of Moratorium on Development | NCM |
| L.L. No. 1-2010 | 8-12-2010 | Zoning Amendment | Ch. 165 |
| L.L. No. 2-2010 | 10-14-2010 | Extension of Moratorium on Development | NCM |
| L.L. No. 3-2010 | 12-9-2010 | Animals: Licensing and Control of Dogs | Ch. 65, Art. I |
| L.L. No. 1-2011 | 5-12-2011 | Zoning Amendment | Ch. 165 |
| L.L. No. 2-2011 | 11-10-2011 | Extension of Moratorium on Development | NCM |
| L.L. No. 1-2012 | 4-12-2012 | Flood Damage Prevention | Ch. 90 |
| L.L. No. 2-2012 | 6-14-2012 | Emergency Preparedness | Ch. 31 |
| L.L. No. 3-2012 | 11-8-2012 | Extension of Moratorium on Development | NCM |
| L.L. No. 1-2013 | 9-12-2013 | Terms of Office: Town Supervisor | Ch. 48, Art. I |
| L.L. No. 1-2015 | 11-5-2015 | Tax Levy Limit Override | NCM |
| L.L. No. 1-2017 | 11-9-2017 | Moratorium on Solar and Wind Energy Systems | NCM |
| L.L. No. 2-2017 | 12-14-2017 | Taxation: Cold War Veterans Exemption Amendment | Ch. 145, Art. V |
| L.L. No. 1-2018 | 6-25-2018 | Zoning Amendment | Ch. 165 |
| L.L. No. 2-2018 | 8-9-2018 | Flood Damage Prevention Amendment | Ch. 90 |
| L.L. No. 3-2018 | 10-15-2018 | Tax Levy Limit Override | NCM |

| Enactment | Adoption Date | Subject | Disposition |
|------------------|----------------------|--|--------------------------------------|
| L.L. No. 1-2019 | 2-14-2019 | Taxation: Senior Citizens Exemption Amendment Taxation: Exemption for Persons with Disabilities and Limited Incomes Amendment | Ch. 145, Art. IV Ch. 145, Art. VI |
| L.L. No. 2-2019 | 11-6-2019 | Tax Levy Limit Override | NCM |
| L.L. No. 1-2021 | 8-12-2021 | Moratorium on Land Development | NCM |
| L.L. No. 2-2021 | 8-12-2021 | Littering | Ch. 100 |
| L.L. No. 3-2021 | 8-12-2021 | Zoning Amendment | Ch. 165 |
| L.L. No. 4-2021 | 10-25-2021 | Tax Levy Limit Override | NCM |
| L.L. No. 1-2022 | 12-9-2021 | Cannabis: Retail Establishment and On-Site Consumption Opt Out | Ch. 72, Art. I |
| L.L. No. 2-2022 | 10-13-2022 | Ethics, Code of | Ch. 33 |
| L.L. No. 1-2023 | 2-23-2023 | Taxation: Exemption for Persons with Disabilities and Limited Incomes Amendment | Ch. 145, Art. VI |
| L.L. No. 2-2023 | 5-11-2023 | Meetings: Videoconferencing | Ch. 41, Art. I |
| L.L. No. 1-2024 | 1-11-2024 | Rentals, Short-Term Zoning Amendment | Ch. 115 Ch. 165 |
| L.L. No. 2-2024 | 2-8-2024 | Taxation: Senior Citizens Exemption Amendment Taxation: Exemption for Persons with Disabilities and Limited Incomes Amendment | Ch. 145, Art. IV Ch. 145, Art. VI |
| L.L. No. 3-2024 | 6-3-2024 | Zoning Amendment | Ch. 165 |