ZONING CODE

TOWN OF WASHINGTON

DUTCHESS COUNTY, NEW YORK

YEAR 2008

As amended through December 31, 2007
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ARTICLE I - PURPOSES

Section 100. INTENT

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

Section 101.

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

Section 102.

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

Section 103.

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

Section 104.

To establish the most beneficial relationship between land use, buildings, and the circulation of traffic throughout the Town with particular regard to the lessening of congestion, the safe and efficient movement of vehicles and pedestrians, the provision of adequate parking facilities, and convenient access appropriate to the prospective use.

Section 105.

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

Section 106.
To safeguard natural, agricultural, historic and scenic resources; prevent the contamination of public and private drinking wells and aquifers, lakes and ponds, and freshwater wetlands and watercourses; and preserve the integrity, stability, and beauty of the community.

Section 107.

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

Section 108.

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

Section 110. MASTER PLAN

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

Section 111. 1GREENWAY CONNECTIONS.

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

ARTICLE II - ESTABLISHMENT OF DISTRICTS

Section 200. 2USE DISTRICTS

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

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

Section 201. FLOATING DISTRICTS

In addition to the use districts listed in Section 200 above, the following floating districts are hereby created, to be mapped by the Town Board at such future time as it deems appropriate, pursuant to Sections 316 through 319 of this Local Law. When mapped by the Town Board,

1 Section 111 added; Local Law #1 of the year 2007 on March 15, 2007.
2 Section 200 amended; Local Law #2 of the year 1991 on 10/10/91.
these districts replace and supersede any previous use classification, but they do not supersede overlay districts as described in Section 202 below.

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

Section 202. OVERLAY DISTRICTS

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

| APO: Agricultural Protection | AQ: Aquifer Protection |

Section 210. 3 ZONING MAP SERIES

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

Section 220. VISUAL RESOURCES MAPPING SERIES

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

Section 230. INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts, the rules specified below shall apply. In cases where these rules do not identify the true location of a

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3 Section 210 amended; Local Law #3 of the year 1990 on 10/11/90.
Along Centerlines. Where district boundaries are indicated as following roads, highways, driveways, watercourses, or power lines, the centerlines of such rights-of-way shall be construed to be the boundaries of the zoning district.

Parallel to Centerlines. Where district boundaries are indicated as being parallel to roads, highways, driveways, watercourses, or power lines, a line parallel to the centerline of such rights-of-way and at a distance therefrom as specified in the Zoning Maps shall be construed to be the boundaries of the zoning district. If no distance is given, such dimension shall be determined by use of the scale shown on the Zoning Maps.

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.

Land Conservation Districts. Areas zoned as Land Conservation Districts represent swamps, wetlands, or floodplains which are not suited for building purposes. The boundaries shown on the Zoning Maps represent the approximate edge of the wet area unless noted otherwise, as determined from 1:20,000 United States Geological Survey Maps covering the Town of Washington and dated 1960.

Section 240. LOTS IN MORE THAN ONE DISTRICT

Where a district boundary line divides a lot or land in single ownership as existing at the time of the enactment of this Local Law, the use authorized on, and the district requirements applying to the less restricted portion of the property, shall be construed as extending into the remaining portion of the property beyond the district boundary lines for a distance not exceeding thirty-five (35) feet.

ARTICLE III - DISTRICT REGULATIONS

Section 300. APPLICATION

In interpreting and applying this Local Law, the requirements contained herein are declared to be the minimum. Further, this Local Law shall not be deemed to affect, in any manner whatsoever, any easements, covenants, or other agreements between parties, provided, however, that where this Local Law imposes a greater restriction upon the use of buildings or land, or upon the erection, construction, establishment, moving, alteration, or enlargement of buildings than are imposed by other ordinances, local laws, rules, regulations, licenses, certificates, or other authorizations, or by easements, covenants, or agreements, the provisions of this Local Law shall prevail.
Section 310. SCHEDULES

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

1. Schedule of District Use Regulations. In any district established by this Local Law, no premises shall be used, and no building shall be erected, constructed, enlarged, altered, arranged, or designed to be used in whole or in part except for a use as set forth in the accompanying Schedules of Residential and Non-Residential Use Regulations. Only those uses specifically listed shall be permitted.

2. Schedule of Area and Bulk Regulations. In any district established by this Local Law, no premises shall be used, and no principal or accessory building or structure shall be erected, constructed, enlarged, altered, or arranged on a lot except in accordance with the requirements set forth in the accompanying Schedule of Area and Bulk Regulations. No yard or other open space provided around any building for the purpose of complying with the provisions of this Schedule shall be considered as providing a yard or open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.

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

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4 Section 310 amended; Local Law # 1 of the year 2000 on 08/10/00.
+ Stated in Zoning Law as Schedule of Use Regulations. Should be Schedule of District Use Regulations.
Planning Board shall use its discretion to determine the amount of parking to be required.

Section 313. **HAMLET MIXED-USE DISTRICT REGULATIONS**

1. **Purpose.** The Town of Washington values the historic architectural character of its largest settlement, the hamlet of Mabettsville, 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 Mabettsville hamlet should occur in a manner that follows the principles of traditional village planning, exemplified by the pattern of development found in the Village of Millbrook. To that end, the Hamlet Mixed-Use (HM) District is intended to be an area of mixed residential and non-residential uses in which historic and residential character predominates, pedestrian activity is encouraged, and suburban “strip” shopping center development is discouraged.

2. **Limitation on Non-Residential Development.**
   a. In order to preserve the mixed-use character of the District, the Planning Board shall limit the proportion of new non-residential development to fifty percent (50%) of the total square footage of floor space of all new residential building construction within the HM District over any two-year period.
   b. The Planning Board shall deny any application for a Special Permit allowing a non-residential use that would result in exceeding this fifty percent (50%) threshold for the two (2) years immediately preceding the date of submission of such an application. In the event that two (2) or more of such applications are before the Planning Board and not all of such applications can be approved without violating this limitation, the Planning Board shall give preference to that use or those uses that best achieve the purposes of the HM District as set forth in this Section 313.
   c. “New Residential building construction” shall include interior living space contained in new residences, additions to or enlargements of existing residences, and conversions of non-residential structures to residential use. It shall not include non-residential accessory structures, decks, or garage space.
   d. “New non-residential development” shall include interior floor space of new non-residential principal and accessory structures and new non-residential uses in structures converted from residential use after the date of this Local Law. It shall not include non-residential accessory structures used in connection with residential uses, interior or exterior areas used for home occupations, changes in non-residential use of structures already used for non-residential

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5 Section 313 amended; Local Law # 3 of the year 1990 on 10/11/90.
6 Section 313, paragraph 2 subsection d. amended; Local Law #4 of the year 1999 on 12/2/99.
purposes, or exterior or interior areas used for loading, vehicular circulation, or employee, customer, or visitor parking. Specifically excluded from this definition are the expansion of conforming and legally non-conforming non-residential uses in existence as of the date of this Local Law, so long as such expansion is within the confines of a legal building lot created prior to the date this Local Law is adopted. The expansion of such excluded non-residential uses, including without limitation changes in the size or configuration of any structure within the confines of a legal building lot created prior to the date of this Local Law and the expansion of the use onto other land, shall be subject to special permit and/or site plan review by the Planning Board as provided in the Zoning Law.

e. The number of square feet of new residential and non-residential construction shall be established by using information shown on approved Building Permits over the aforesaid two-year period.

3. Consistency Requirement. Before approving any use that is subject to Special Permit or Site Plan review, the Planning Board must make a written finding that the proposed use, layout, and design will enhance the historic architectural fabric of Mabbottsville, and that it is consistent with the purposes and limitations stated in Subsections (1) and (2) above.

4. Uses. Allowable uses in the HM District are listed in Appendix A. Auxiliary apartments may be included in non-residential buildings if they follow traditional village mixed usage patterns.

5. Supplementary Use Regulations. In addition to all other restrictions and provisions of this Local Law, the following shall apply in the HM District:
a. There shall be no outdoor storage of more than one heavy construction vehicle (exceeding 20,000 pounds gross vehicle weight), nor outdoor overnight storage of more than two (2) motor vehicles or pieces of construction equipment, per non-residential use.
b. No dry cleaning, septic tank pumping services, or other businesses that may create a risk of release of toxic or unsanitary materials shall be permitted.
c. Repair, restoration, and other potentially noisy or unsightly service operations shall be conducted indoors.

6. Standards. In addition to any other applicable standards required by this Local Law, the following provisions shall also apply to all non-residential uses in the Hamlet Mixed-Use District.
a. Off-street Parking.
   (1) All off-street parking shall be located behind the front building line. For purposes of this Subsection, “front building line” shall also include, on a corner lot, any side building line that fronts on a street.
(2) The Planning Board may allow a single row of parking spaces in front of a front building line, if it finds that such parking will enhance the traditional character of the hamlet and is otherwise consistent with the purposes of this Section.

(3) The Planning Board may reduce the number of off-street parking spaces required if the applicant can make permanent arrangements for space-sharing with other residential or non-residential uses, or can otherwise show that the parking standards in Appendix C are excessive for the particular use proposed.

b. To the extent practical, new buildings shall front on new interior roads, and not on U.S. Route 44 or Dutchess County Routes 98 or 99. Such roads shall be built with sidewalks at least four feet wide, and shall permit on-street parallel or diagonal parking.

c. The maximum footprint of any structure (ground area covered by the building, foundation, and roof) shall be 5,000 square feet. Non-residential uses may include more than one building on a lot. There shall be a minimum of thirty feet separation between principal (non-accessory) buildings.

7. Architectural Review. Before approving any site plan, or subdivision of land resulting in the construction of new roads, the Planning Board shall consult an architect with expertise in historic village planning and design. Said architect shall evaluate the architectural compatibility of the proposed development with the purposes of this Section and with the historic architectural character of the hamlet. “Historic architectural character” may be established by the architectural consultant and the Planning Board by identifying exemplary existing structures and groups of structures in Mabbittsville and the surrounding area and/or by adopting design guidelines to supplement this Local Law. The scope of architectural review shall include the layout, proportions, massing, and relationship of streets, sidewalks, open spaces, parking areas, landscaping, and buildings, as well as building materials and building design. Reasonable costs of such architectural review shall be borne by the applicant.

Section 314. AQUIFER PROTECTION OVERLAY DISTRICT REGULATIONS

1. Purpose. The AQ Aquifer Protection Overlay District Regulations (hereinafter the “AQ District”) are intended to preserve and maintain the quality and quantity of groundwater found in the Town of Washington sand and gravel, limestone, and limestone overlaid with sand and gravel aquifers, and thereby protect this water supply source for the Town. The AQ District provides a means of reviewing, on a case by case basis, actions or uses proposed within the Town’s aquifer areas in order to prohibit or control those uses and activities which may be incompatible with the goal of long-term groundwater protection.
2. Aquifer Protection Overlay District Description.

a. The AQ District consists of those areas containing deposits of water-bearing sand and gravel, limestone, or limestone overlaid with sand and gravel as shown on the map entitled “Aquifer Overlay District (AQ)” dated December 27, 1989. The Town Board finds that the protection of these aquifer areas from degradation and pollution is in the Town’s interest because of present or projected future use of such aquifers as public or private water supplies. The Town Board hereby adopts said map as part of this Local Law. Said Map identifies the approximate locations of sand and gravel, limestone, and limestone overlaid with sand and gravel aquifers within the Town of Washington. Said map may be modified by the Town Board by zoning amendment so as to correct or clarify the extent of the Town’s aquifers; to incorporate additional aquifers; to eliminate from the jurisdiction of this Local Law particular aquifers deemed to be insignificant for purposes of this Local Law; or to incorporate or replace with supplementary maps that correct, clarify, or affirm in detail the area of jurisdiction of this Local Law.

b. Any landowner whose land lies within the mapped Aquifer Overlay District may present evidence based upon on-site investigation by qualified experts to show that such land does not contain aquifer conditions of water-bearing sand and gravel, limestone, or limestone overlaid with sand and gravel. The Town Board may, by resolution, exempt such land from the regulations of the AQ District if it finds, based upon such evidence, that said aquifer conditions do not exist. In reviewing any proposal for a subdivision, special permit, site plan, or variance, the Planning Board or Zoning Board of Appeals may also exempt land lying within the mapped AQ District from the provisions of this Section if it finds, based upon expert evidence gathered from on-site investigation, that said aquifer conditions do not exist.

3. Effects of District. The AQ District shall be a supplemental overlay district mapped in conjunction with underlying use or floating districts. In the AQ District the requirements of this Section shall be applied together with all the limitations and requirements applicable in the underlying district.

4. Applicability.

a. An applicant for any proposed action requiring a subdivision approval, special use permit, site plan approval, rezoning, or variance, under this Local Law or the land subdivision regulations shall be subject to the provisions of this Section. Any application for a building permit or certificate of occupancy for an activity listed in Subsection 8 of this Local Law shall also be subject to this

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7 Section 314, paragraph 2 subsection a. amended; Local Law #3 of the year 1990 on 10/11/90.
Section. Compliance shall be required as a condition of approval of any such action within the AQ District. The applicant shall show, on any required submissions, the location of any portion of the subject property which lies within the AQ District as identified on the Aquifer Overlay District Map.

b. Existing development, uses, or activities located within the AQ District are not subject to the requirements of this Local Law and are considered permitted nonconforming uses or activities. Any change in a permitted nonconforming use or activity will be subject to the requirements of the AQ District Regulations. Notwithstanding the foregoing, if any permitted nonconforming uses are found to pose a potential or imminent health hazard, they shall be deemed violations of this Local Law.

5. Review of Actions. Any Board approving a proposed action pursuant to Subsection (4)(a) above shall be responsible for assuring compliance with the provisions of this Section. In addition to the maps, plans, and information required for such authorizations, or for review under the New York State Environmental Quality Review Act, the reviewing board or Zoning Administrator may require additional information, analysis, or documentation as may be necessary and appropriate to show compliance with the standards imposed by this Section, and to fully and properly consider the particular action proposed.

6. Decision. Every decision on each AQ District proposed action shall include written findings of fact, specifying the reason or reasons for such decision, and shall contain a statement which shall set forth the decision to grant approval, to grant approval subject to expressly stated conditions or safeguards, or to deny approval. Every resolution shall expressly set forth any limitations, conditions, or safeguards imposed to satisfy the requirements of this Section. Violation of such conditions or safeguards shall be a violation of this Local Law.

7. Standards. No proposed action within the AQ District shall be approved unless the reviewing board or official finds that, based upon available information, analysis, and evidence, the proposed action will not:
   a. Alter the subsurface flow of groundwater to private water supply wells and existing and potential public water supply wells.
   b. Degrade the quality of groundwater through the introduction of sewage wastes, stormwater runoff, liquid chemicals, petroleum products, dissolved metals, or other toxic substances.
   c. Increase the long-term risk of groundwater contamination through the siting, establishment, or expansion of uses which store, transport, or utilize significant quantities of material which is potentially harmful to groundwater quality.
   d. Increase the long-term risk of groundwater contamination through the introduction of relatively small quantities of hazardous or toxic
substances which, over a period of time, may accumulate in groundwater.

e. Increase the risk of groundwater contamination through the removal of soil, sand, stone, or gravel which provides a protective mantle for groundwater or which is part of the geologic deposits making up the Town’s aquifers.

f. Reduce to less than five (5) feet the separation between the surface of the ground and the seasonal high water table.

8. Use Restrictions. The following use restrictions and requirements shall apply to all land within the AQ District:

a. Disposal Wells. The installation or use of disposal wells is prohibited.

b. Recharge Basins. The installation or use of stormwater runoff recharge basins is prohibited.

c. Snow Disposal. The stockpiling or dumping of snow removed from streets, driveways, private roads, and public or private parking lots is prohibited.

d. Animal Wastes. Farm animal wastes shall not be concentrated in one area except where provisions has been made to prevent seepage into groundwater. Suitable storage facilities are required when it is not possible to spread or dispense of wastes on a daily basis.

e. Industrial Sludge and Toxic Chemicals. No toxic chemicals identified by the United States Environmental Protection Agency or the New York Department of Environmental Conservation shall be stored except under permit from those agencies.

f. Wastewater Lagoons and Pits. Use of wastewater lagoons and pits for temporary storage of wastewater is prohibited. All storage facilities shall be water tight, located above ground, and under permit by the New York Department of Environmental Conservation.

g. Disposal. Disposal of toxic chemicals, industrial sludge, or radioactive materials is prohibited.

h. Fertilizer Storage. All bulk storage of fertilizers for agricultural or commercial use must be within a completely enclosed building or structure which will prevent any seepage or runoff.

i. Pesticide and Herbicide Use. No pesticides or herbicides shall be stored or applied unless expressly authorized following review under the procedures and standards of this Section. All such use, storage, or application shall be under permit as provided by the New York State Environmental Conservation Law.

j. Storage Tanks and Pipelines. The installation, construction, placement, or replacement of new or existing underground storage tanks, pipelines, or containers for petroleum products or any other toxic chemical is prohibited. All above ground storage tanks, pipelines, and transfer areas, shall to the maximum extent feasible, be designed to minimize the risk of groundwater contamination by
incorporating backup containment structures, impervious surfaces, catchment areas, and other features. The Town reserves the right to prohibit installation or expansion of above ground storage tanks and pipelines where consistent with the purpose and standards of this Section. Further, the owner of any storage tank, pipeline, container, or transfer area is responsible for promptly reporting to the Zoning Administrator and the New York State Department of Environmental Conservation any spills or leaks and for the cost of cleanup, containment, and damages.

k. Salt and Coal Stockpiles. The storage of salts or coal is prohibited except in a completely enclosed building or structure which will prevent any seepage or runoff containing such materials.

l. Water Wells. All water supply wells shall be constructed in accordance with the requirements of the Dutchess County Department of Health.

m. Abandoned Wells. All abandoned wells shall be sealed in accordance with the requirements of the Dutchess County Department of Health.

n. [Deleted]

9. Applicability of Village of Millbrook Water Supply Watershed Regulations. Notwithstanding any provisions of this Local Law, 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 Commissioner of Health under Section 1100 of the Public Health Law. In case of any conflict in such standards, the more restrictive standard shall apply.

Section 315. AGRICULTURAL PROTECTION OVERLAY DISTRICT REGULATIONS

1. Purpose. The Agricultural Protection Overlay District (hereinafter the “APO District”) is intended to:
   a. Preserve agricultural land for food and fiber production;
   b. Protect agriculturally productive farms;
   c. Maintain a viable agricultural base to support agricultural processing and service industries;
   d. Prevent conflicts between incompatible land uses;
   e. Reduce costs of providing public services to scattered non-farm uses;
   f. Pace and shape the growth of the Town;
   g. Protect agricultural land from encroachment by non-agricultural uses, structures, or activities; and
   h. Maintain the rural, natural, and scenic qualities of the Town.

2. Agricultural Protection Overlay District Description.

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

(1) Parcels of land of at least ten (10) acres on which at least fifty percent (50%) of the surficial soils are classified as prime farmland soils or farmland soils of statewide importance, as established by criteria of the Soil Conservation Service, United States Department of Agriculture (hereinafter “agricultural soils”).

(2) Parcels of land included in an Agricultural District established pursuant to the New York Agriculture and Markets Law, Article 25AA.

b. The Town Board hereby adopts the maps entitled “Agricultural Protection Overlay District Map,” Parts I and II, dated December 27, 1989, as part of this Local Law. Said maps shall be the basis for the administration of the regulations contained in this Section.

c. Any landowner whose land has been mapped on the Agricultural Protection Overlay District Maps may be exempted from the provisions of this Section if the Town Board, Planning Board, or Zoning Board of Appeals, in reviewing an application for rezoning, subdivision approval, special permit, site plan approval, or variance, finds that:

(1) Land shown as part of an Agricultural District on Part I of the Agricultural Protection Overlay District Maps is not included within Certified Agricultural District #21 established by the Dutchess County Legislature pursuant to Article 25AA of the New York State Agriculture and Markets Law on the effective date of this Local Law; or

(2) Land shown as containing agricultural soils (as defined herein) on Part II of the Agricultural Protection Overlay District Maps does not in fact meet Soil Conservation Service criteria for such soil designations based upon evidence presented by a qualified soils expert who has conducted an on-site investigation.

d. Any landowner whose land has not been mapped on the Agricultural Protection Overlay District Maps may request to be covered by the provisions of this Section, and the Town Board, Planning Board, or Zoning Board of Appeals may apply the provisions of this Section if it finds that such land satisfies the criteria for APO designation in Subsection 2(a) above.

e. In the case of parcels of land of at least ten (10) acres on which at least fifty percent (50%) of the soils are agricultural soils as defined herein, the reviewing Board shall make the initial determination as to whether a particular parcel contains fifty percent (50%) agricultural soils, and is therefore covered by the

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9 Section 315, paragraph 2 subsection (b) amended; Local Law #3 of the year 1990 on 10/11/90.
provisions of this Section. Acreage determinations may be rebutted by evidence presented by a licensed surveyor or engineer.

3. Uses Permitted in the APO District. In addition to the uses permitted in the underlying use district, including any and all types of agricultural production, other uses permitted as of right in the APO District include:
   a. Forest, wildlife, and game management;
   b. Equestrian trails;
   c. Nature trails and walks;
   d. Greenhouses;
   e. Composting of manure and vegetative wastes;
   f. One roadside stand per farm, selling agricultural products, and containing not more than five hundred (500) square feet, in which at least fifty percent (50%) of the products sold are produced on the premises or adjoining premises.

4. Uses allowed in the APO District by Special Permit. In addition to the uses allowed by special permit in the underlying district, the following uses may be permitted by special permit in the APO District:
   a. Employee housing for farm workers and accessory residences for members of the immediate family of the farm owner or operator. Such additional residential structures must be constructed in a manner that does not detract from the scenic views described in the Visual Resources Mapping Series and that avoids, to the extent practical, building upon the best agricultural soils on the property.
   b. Agriculture-related service or commercial uses including but not limited to: the sale of farm products in facilities greater than five hundred (500) square feet; the sale and service of farm machinery; the storage and sale of seed, feed, fertilizer, manure, and other agricultural products; the centralized bulk collection, storage, and distribution of agricultural products; veterinary services; and processing of agricultural products.

5. Special Permit Approval Standards.
   a. The Planning Board, prior to granting special permit approval for development in the APO District pursuant to Section 470 et seq. of this Local Law, shall consider the following relevant factors in addition to the standards set out in Section 473 of this Local Law:
      (1) The statement of purpose of this Local Law and the APO District Regulations;
      (2) The potential for conflict with agricultural use;
      (3) The need of the proposed use for a location in an agricultural area;
      (4) The availability of alternative locations;
      (5) Compatibility with existing or permitted uses on adjacent lands;
      (6) The agricultural productivity of the lands or soils involved;
(7) The need to minimize the amount of agricultural soils converted to non-agricultural use;
(8) The need for public services created by the proposed use;
(9) The availability of adequate soils for subsurface sewage disposal or public services, and the ability of the Town to provide them without an unreasonable burden;
(10) The effect of the proposed use on water, air, or soil resources and on rare or irreplaceable natural resources;
(11) The location of the use so as to minimize the interruption of scenic views from public roads; and
(12) The feasibility of designing the structure or the lot to take maximum advantage of solar heating and cooling opportunities.

b. Conditions Which May Be Attached to Special Permit Approval. Upon consideration of the information supplied to the Planning Board and a review of the standards contained in Subsection (a) above, the following conditions may be attached to the granting of a special permit;
(1) Increased setbacks and yards;
(2) Specifications for water supply, liquid waste, and solid waste disposal facilities;
(3) Additional landscaping and vegetative screens or buffers;
(4) Time of operation;
(5) Air pollution controls;
(6) Location of the use; and
(7) Similar requirements found necessary to fulfill the purpose of this Local Law. Violation of these conditions shall constitute a violation of this Local Law as provided in Section 490, Violations.

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

7. Standards for Residential Development in the APO District.
a. Residential structures in the APO District shall be located according to the following criteria (some of which may conflict with each other on a particular site, in which case the Planning Board shall use its discretion to resolve such conflicts):

1. In the least fertile agricultural soils and in a manner which maximize the usable area remaining for agricultural use;
2. In locations least likely to block or interrupt scenic views, as seen from public roadways according to the guidelines of the Visual Resources Mapping Series;
3. Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland to reduce encroachment upon agricultural soils, provide shade in summer and shelter in winter, and to enable new residential development to be visually absorbed by natural landscape features;
4. On the most suitable soils for subsurface sewage disposal (in unsewered areas only);
5. In such a manner that the boundaries between house lots and active farmland are well buffered by vegetation, topography, roads, or other barriers to minimize potential conflict between residential and agricultural uses; and
6. In locations where the greatest number of units could be designed to take maximum advantage of solar heating opportunities.

b. Buffer zones at least seventy-five (75) feet in width may be required between residential and agricultural uses in the APO District, containing either thickly planted fast-growing native shrubs and trees, or naturally existing vegetation, in order to create an effective barrier separating residential yards from fields and pastures. These buffer requirements may be modified by the Planning Board, if appropriate, in order to create or maintain scenic views.

c. These standards shall be implemented by the Planning Board as provided in the Town of Washington Subdivision Regulations, Section 30.1 and Article VI.

Section 316. ENVIRONMENTAL PRESERVATION DISTRICT REGULATIONS

1. Purpose. An Environmental Preservation District (hereinafter an “EP District”) is defined as a geographic area of the Town of Washington exhibiting special and distinctive environmental characteristics which are of significant value to the public. These characteristics may include natural phenomena such as unique geologic strata, water bodies or watercourses, soil formations, slopes, vegetation, scenic views, viewsheds, sensitive watersheds, and trail or wildlife migration corridors, as well as
historic or cultural resources of value to the Town. Maintaining the Town’s quality of life depends in large part upon the protection of these areas. To preserve these valued resources it is necessary first to identify the areas with special qualities, and then to provide a means by which these areas shall be subject to development controls, over and above the controls provided by existing zoning district and overlay zone provisions.

2. Creation. The Town Board may, from time to time, create EP Districts, as set forth below. The establishment of EP Districts shall be in accordance with the zoning amendment procedures set forth in Article V of this Local Law, and EP District boundaries shall be based upon the natural characteristics of the resource lands identified. The Conservation Advisory Commission may recommend creation of EP Districts to the Town Board.

a. The Conservation Advisory Commission shall prepare and submit to the Town board a Development Guidelines Report (DGR) for each EP District proposed to be established. The DGR shall contain a boundary map for the district and the justifications for establishment of said district. The DGR shall describe the distinctive natural or cultural characteristics which are to be protected and the types of development which would be most likely to threaten the protected resource values. The DGR shall recommend mitigation measures including modified uses and zoning densities, if appropriate, to protect these areas from the negative impacts of development.

b. The Town Board shall follow the zoning amendment procedures contained in Article V to adopt an EP District. It may simultaneously designate such an area a Critical Environmental Area (CEA) under the State Environmental Quality Review Act (SEQRA).

3. Categories. EP Districts shall be classified by categories, according to the provisions and qualifications as described herein, and each district shall be shown on the Zoning Map of the Town of Washington. EP Districts may fall into one or more of the following categories:

a. Areas that offer a benefit or pose a threat to human health;

b. Areas that contain an important natural setting;

c. Areas with social, cultural, historic, archaeological, recreational, or educational value;

d. Areas with inherent ecological, geological, or hydrological value or sensitivity.


a. No building permit or other land use permit not exempt by Subsection 4(b) below shall be issued for property within an EP District without site plan approval pursuant to the procedures specified in Subsection 5 below.
b. The following area exempt from the procedures of Subsection 5 below:

1. Any permit for plumbing, heating, air conditioning, fire alarms and extinguishing equipment, and all other mechanical and electrical equipment not involving a change of use or occupancy;
2. Any permit necessary for bringing an existing building into compliance with New York State building code;
3. Any permit necessary for compliance with a lawful order of the Zoning Administrator;
4. Any permit necessary for the immediate public health or safety;
5. Any permit for interior alterations and repairs;
6. Any permit for the construction of public utilities in the public right-of-way;
7. Any permit for fences under six (6) feet in height;
8. Any permit for construction of accessory structures with a floor area of two hundred (200) square feet or less;
9. Any permit for additions to buildings and structures not resulting in an increase in floor area of more than fifty percent (50%);
10. Any permit for a sign under six (6) feet in height;
11. Any permit for a driveway under fifty (50) feet in length;
12. Any permit for exterior alterations and repairs of dwelling structures which result in a change of use or occupancy or increase in floor area of more than fifty percent (50%); and
13. Such other exemptions as may be allowed in any regulations creating a specific EP District.

c. Applications for development permission in EP Districts not exempt in Section 4(b) above shall be made to the Planning Board as Site Plan applications pursuant to Section 480, Site Plan Approval, of this Local Law. The following Applications shall be Type I Actions (requiring a Long Environmental Assessment Form and Visual EAF Addendum) pursuant to the New York State of Environmental Quality Review Act:

1. All applications for new principal buildings or structures as defined in Article VI;
2. All applications for excavation and/or fill;
3. All applications for additions to buildings and structures resulting in an increase in floor areas of more than fifty percent (50%);
4. All applications for construction of accessory structures and buildings with a floor area of more than one thousand (1,000) square feet;
5. All applications for exterior alterations and repairs of structures which result in a change of use or occupancy or an increase in floor area of over fifty percent (50%); and
(6) All applications for driveways over three hundred (300) feet in length.

d. The Town Board may revise the classifications set forth in Subsection 4(c) above for any specific EP District upon a finding that conditions peculiar to such district require such revised classifications. Any such revised classifications adopted by the Town Board for any EP District shall be set forth in the regulations establishing such district.

5. Special Application Requirements and Review Procedure.
a. Site Plan and Environmental Review. In addition to the requirements of Section 480, Site Plan Review and Approval, of this Local Law, and in fulfillment of these requirements of the State Environmental Quality Review Act (SEQRA), the applicant shall provide information on the following matters:

(1) Compatibility of the proposed improvement, construction, or development with the official Development Guidelines Report for the EP District;

(2) Compatibility of the proposed improvement, construction, or development with the siting principles of the Visual Resources Mapping Series; and

(3) Such other information as may reasonably be required in order to assist in the EP review process.

6. Underlying and Alternative Zoning Regulations.
a. Upon establishment of an EP District pursuant to Subsection 2 above, the lot area and density requirements shall increase to the lot area and density requirements of the RR-10 zone unless otherwise specified by the Town Board in the zoning amendment creating the EP District.

b. Unless otherwise specified by the Town Board when the EP District is created, regulations for land use, coverage, floor area, yard requirements, parking, building height, fences, and landscaping in an EP District shall be determined by the zone in which the land was located prior to its designation as an EP District. When a property within an EP District is proposed for subdivision, the Planning Board shall consider alternative development proposals, including the option to require cluster development, and shall make a finding that any plan approved is consistent with the intent and purpose of this Section and with the DGR in order to protect the resources contained in designated EP Districts.

Section 317. INDUSTRIAL/OFFICE FLOATING DISTRICT REGULATIONS

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

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

2. Within six months after the Town Board has adopted a zoning amendment creating an I District, the applicant shall apply to the Planning Board for Site Plan approval pursuant to Section 480 of this Local Law. The Planning Board shall grant Site Plan approval if it finds that the site plan satisfies the standards and criteria in this Section and in Section 480 of this Local Law and that the site plan is substantially similar to the schematic site plan approved by the Town Board. If more than six months passes between Town Board approval and submission of a site plan application, the I  designation shall lapse, and the property shall revert to its prior zoning classification, unless the I District designation is extended by the Town Board.

3. The applicant may, at its sole risk, seek site plan approval from the Planning Board prior to receiving Town Board approval of a zoning amendment. However, the Planning Board shall not be obligated to consider such a site plan application and may not give it final approval until the Town Board has approved the zoning amendment.

4. In considering an application for designation of an I District, the Town Board shall be guided by the following criteria:
   a. The use must be designed, located, and operated so as to protect the public health, safety, and welfare of the community.
   b. The use must not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
   c. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the use, must assure that the use will be in harmony with the appropriate and orderly development of the neighborhood in which the use is to be located.
d. The use must not cause undue traffic congestion or create a traffic hazard.

e. The use must have road frontage and safe and adequate access directly onto U.S. Route 44 or New York State Routes 44A, 82 or 343, and must be appropriately located with respect to water supply, fire protection, waste disposal and other necessary services and/or facilities.

f. The use must be suitable for the site, must not impose a threat of pollution of the natural resources of the Town, must not pose a threat to valuable ecological or wildlife resources, and must be designed in accordance with the standards specified in Subsection 7 below.

5. The granting of permission for the establishment of an industrial or office use in the I District by the Town Board shall be limited to the specific proposal presented for approval within the area designated and according to the plans and specifications submitted. If, after the passage of one (1) year from the date of site plan approval construction has not started, the zoning amendment shall be automatically revoked and the land returned to the classification which it held prior to any district change undertaken pursuant to the provisions above.

6. Allowable Uses. The following uses, operations, or activities are allowed in an I District established by the Town Board subject to the requirements of Section 480, Site Plan Review and Approval, of this Local Law:

   a. Light Industrial/Manufacturing;
   b. Food processing;
   c. Offices;
   d. Wholesaling;
   e. Farm Machinery, Sales, and Rental;
   f. Veterinary Hospital;
   g. Research Facilities;
   h. Warehousing;
   i. Multi-family housing, up to a maximum of twenty-five percent (25%) of the developed floor space;
   j. Such other uses as the Town Board may deem appropriate.


   a. I District shall meet the following requirements:

   (1) Area and bulk requirements:

   (a) Minimum Lot Size: Ten (10) acres.
   (b) Minimum Lot Width: Four hundred (400) feet.
   (c) Minimum building setbacks from adjoining property lines:

   i. Front: One hundred (100) feet
   ii. Side: Fifty (50) feet.
   iii. Rear: Fifty (50) feet.
   (d) Maximum Building Height: Thirty-five (35) feet.
(e) Maximum Building Coverage: Thirty percent (30%).

(2) At least forty percent (40%) of the land on a tract zoned I shall be set aside as perpetual open space pursuant to the provisions of Section 64 of the Town of Washington Land Subdivision Regulations.

(3) In addition to the area and bulk requirements set forth above, no industrial use, building, or operation within an I District, including but not limited to accessory uses such as parking and loading areas, shall be permitted within one hundred (100) feet of any abutting APO District or any abutting residential district.

(4) The minimum setback areas set out in Subsection 7(1)(c) shall include buffering as indicated in Subsection (a) below. This required buffer area shall be landscaped with trees and shrubs sufficient in size and quantity to effectively screen the industrial/office use from any public road and from any existing or future use abutting an I District. Existing trees within the required buffer area shall be preserved to the maximum extent possible. A landscape plan shall be submitted pursuant to Section 483, Subsection 12, of this Local Law and shall satisfy the following buffer requirements.

(a) Perimeter Landscape Area Requirements for Industrial Uses:

i. Front Yard: Sixty (60) feet. The front yard landscaped area shall contain at least one (1) shade tree, at least three (3) inches in caliper for each fifty (50) feet or part thereof of road frontage.

ii. Side/Rear Yard: Ten (10) feet. The side and rear yards shall provide at least one (1) shade tree of at least three (3) inches in caliper for each fifty (50) feet or part thereof of side and rear property lines.

(b) When an industrial site abuts a natural amenity such as a wetland or watercourse, floodplain, or hillside, the landscape plan should protect the natural integrity of such amenity.

(c) Since industrial sites adjacent to major transportation corridors within the Town may be highly visible, landscaping should protect scenic views from these rights-of-way. Landscaped buffers between different uses should also emphasize a similar degree of sensitivity.

(d) Any required detention and retention ponds should be integrated into the total design of the landscape plan. Generally, slopes should not exceed 3:1 and
all ponds must be properly drained. Standing water is discouraged other than in-water features which provide recirculation.

(e) Any parcel in the I District which contains parking facilities for more than forty (40) cars shall provide landscaped areas within the parking lot equal to at least twenty percent (20%) of the gross parking lot area. This landscape area requirement shall be provided by landscaped end islands and landscaped center islands within the parking area. Landscaped end islands shall be a minimum of fifteen (15) feet in width and landscaped center islands shall be a minimum of eighteen (18) feet in width. One deciduous shade tree of at least three (3) inches in caliper shall be planted within landscaped areas for each ten (10) parking spaces if there are more than forty (40) spaces. No parking area or driveways shall be closer than ten (10) feet from any portion of a building other than its garage entrance or loading area apron. This ten (10) foot area shall not be counted as part of the twenty percent (20%) parking lot landscaping requirement above.

(f) Industrial Building Foundations. Foundation landscaping is required where buildings are visible from streets or abutting agricultural or residential land uses. Service and loading areas visible from agricultural or residential land uses or streets must also be screened. Fences, walls, landscaping, or a combination thereof may be used to screen these areas.

(5) Noise shall measure no more than fifty (50) decibels at the edge of the property and no vibration shall be measurable at the property line. All machinery shall be mounted on isolation blocks or pads to absorb or minimize vibration. Air compressors and similar machines shall have intake mufflers when needed.

(6) All operations, uses, or activities producing excessive humidity in the form of stream or moist air, or high intensity light, heat, or glare, shall be carried out in an enclosure or be shielded to prevent their impact or visibility past the property lines.

(7) All storage areas, parking lots, walks, and exterior walls of buildings shall be lighted to a minimum level of one (1) footcandle. Such lights shall be directed so as to eliminate glare from affecting abutting properties.

(8) All construction shall be Class ‘A’ fireproof construction in accord with the latest provisions of the “National Fire
Codes.” Inspections by a duly appointed inspector shall be permitted to check conformity.

(9) All storage of materials, supplies, and products for industrial uses shall be in accord with the applicable provisions of the latest edition of the “National Fire Codes.” Such storage shall not be located in any front or side yard area nor in any required yard. All outside storage areas shall be neatly maintained, fenced, lighted, and screened from any existing road or any adjoining residential, commercial, or agricultural use.

(10) The architectural style and layout of the proposed district shall, to the extent practical, replicate the historical patterns commonly associated with the hamlets and villages of Dutchess County and New England.

Section 318. MOBILE HOME DISTRICT REGULATIONS

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

1. Application for the establishment of an MH District shall be made to the Town Board pursuant to the zoning amendment provisions of Article V of this Local Law. The application shall include a schematic site plan showing the layout of the development, including the location of proposed structures, parking areas, roads, water and sewage facilities, open space, and other facilities. The Town Board may, in its discretion, reject an application for an MH District at any time prior to final adoption of a zoning amendment.

2. Within six (6) months after the Town Board has adopted a zoning amendment creating an MH District, the applicant shall apply to the Planning Board for Site Plan approval pursuant to Section 480 of this Local Law. The Planning Board shall grant Site Plan approval if it finds that the site plan satisfies the standards and criteria in this Section and in Section 480 of this Local Law and that the site plan is substantially similar to the schematic site plan approved by the Town Board. If more than six (6) months pass between Town Board approval and submission of a site plan application, the MH zoning designation shall lapse, and the property...
shall revert to its prior zoning classification, unless the MH District designation is extended by the Town Board.

3. The applicant may, at its sole risk, seek site plan approval from the Planning Board prior to receiving Town Board approval of a zoning amendment. However, the Planning Board shall not be obligated to consider such a site plan application and shall not give it final approval until the Town Board has approved the zoning amendment.

4. In considering an application for designation of a mobile home district, the Town Board shall be guided by the following criteria:
   a. The park must be designed, located, and operated so as not to impair the public health, safety, welfare, natural resources, and rural character of the community.
   b. The park must not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
   c. The location and size of the park, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, must assure that it will be in harmony with the appropriate and orderly development of the neighborhood in which it is located.
   d. The park must not cause undue traffic congestion or create a traffic hazard.
   e. The park must be appropriately located with respect to transportation facilities, water supply, fire protection, waste disposal, and other necessary services and/or facilities.
   f. The site must be suitable for the park and permit a development that will not impose a threat of pollution or destruction of the natural resources of the Town, that satisfies all applicable provision of this Local Law, and that is designed in accordance with the standards specified below.

5. The granting of permission for the establishment of a mobile home park by the Town Board shall be limited to the specific proposal presented for approval within the area designated and according to the plans and specifications submitted. If, after the passage of one (1) year from the date of site plan approval, construction has not started, such approval is automatically revoked and the land returned to the classification which it held prior to any action consummated pursuant to the provisions above.

6. In reviewing a mobile home park plan, the Planning Board shall be guided by the standards specified by Section 485 of this Local Law, as well as by the following:
   a. Mobile home parks shall have a minimum of twenty (20) acres of land area, and shall contain no more than four (4) mobile home units for each one (1) acre of land.
   b. No mobile home site shall be less than ten thousand (10,000) square feet in area and have less than eighty (80) feet of frontage along an interior roadway.
c. Mobile homes shall be located so as to provide minimum clearances between adjacent units as specified below:

(1) A minimum distance of twenty (20) feet shall be provided between the facing ends of two (2) mobile units; and

(2) A minimum distance of fifty (50) feet shall be provided between facing sides of two (2) mobile home units or the facing side of one unit and the end of another. In computing these clearances, lean-tos, auxiliary rooms, and similar accessories connected to the mobile home (but not including temporary porches and canopies which are open on two (2) or more sides) shall be considered as part of the mobile home.

d. No mobile home unit shall be placed within one hundred-fifty (150) feet of any Town, County, or State roadway, nor within seventy-five (75) feet of any adjoining property.

e. The park shall be designed as a self-contained unit with interior access roads at least eighteen (18) feet wide for one-way facilities, at least twenty-eight (28) feet wide for two-way movements, and paved with an all-weather, dust-free surfacing material approved by the Town Highway Superintendent.

f. Adequate recreational facilities shall be provided and up to ten percent (10%) of the total mobile home park land area shall be set aside and developed for recreational purposes.

g. There shall be at least two (2) off-street parking spaces for each mobile home, located within the mobile home site or within fifty (50) feet thereof.

h. Each mobile home park shall have a landscaped area at least twenty (20) feet wide along exterior lot lines and street frontages, suitably planted and maintained to provide visual screening from adjacent properties.

i. Open storage shall not be permitted; storage shall be provided within the mobile home unit or in enclosed accessory structures.

j. Every mobile home park shall be properly served with central sewage, water, and drainage facilities installed and maintained at the developer’s expense. Such financing shall be appropriately guaranteed by bond, escrow account, or such similar arrangement approved by the Town Board.

k. Each mobile home park shall have a sufficient number of conveniently located dumpsters.

l. All mobile home units must be furnished with two (2) exterior doors for fire safety.

m. The mobile homes shall be finished with a natural wood exterior or otherwise be constructed to blend in with the landscape and maintain the rural character of the area.

Section 319. HAMLET DISTRICT REGULATIONS
1. Purpose and Location. The Town of Washington recognizes the unique historic and architectural character of its unincorporated hamlet areas, and wishes to preserve them through the establishment of a Hamlet District, designated as “H” on the Zoning Map. The purpose of this Zoning District is to permit the growth and development of such hamlet areas in a manner that is compatible with their existing historic, architectural and cultural fabric, and that follows the pattern of development found in historic hamlets in Dutchess County, New York State, and New England. The Hamlet District is established as a floating zone which may be mapped by zoning amendment, pursuant to Article V of this Local Law. Such mapping may occur only in locations where the Town Board finds that historic hamlets worthy of preservation exist.

2. Schedule of Use Regulations

<table>
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<tr>
<th>Residential District</th>
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<th>Accessory Uses Permitted by Right</th>
<th>Special Uses Which May Be Allowed by Special Permit and Subject to Site Plan Approval</th>
<th>Applicable Overlay or Floating Districts</th>
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<tr>
<td>H</td>
<td>Dwelling, Single-Family Dwelling, Two-Family</td>
<td>Uses customarily incidental to any principal use permitted by right Garages, private *Home Occupation (Sec. 321.3.a) Off-Street Parking *Signs Swimming pools</td>
<td>Antique Shop *Bed and Breakfast Food Store General Store *Home Occupation (Sec 321.4) Professional Offices</td>
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</tbody>
</table>

* See Supplementary Use Regulations

3. Schedule of Area and Bulk Regulations.

<table>
<thead>
<tr>
<th>MINIMUM LOT SIZE</th>
<th>AREA (ACRES) WIDTH (FEET)</th>
<th>25** 75</th>
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<tbody>
<tr>
<td>MINIMUM/MAXIMUM SETBACK</td>
<td>(FEET) FRONT EACH SIDE REAR</td>
<td>20/50 15/50 25/none</td>
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<tr>
<td>MAXIMUM BUILDING HEIGHT</td>
<td>(STORIES) (FEET)</td>
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<td>MAXIMUM COVERAGE</td>
<td>(PERCENT)</td>
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<tr>
<td>MINIMUM ROAD FRONTAGE</td>
<td>(FEET)</td>
<td>50</td>
</tr>
</tbody>
</table>

* Stated in Zoning Law as Section 321.4.a. Should be Section 321.3.a.
++ Stated in Zoning Law as Section 321.5. Should be Section 321.4.
** or such greater area as may be required to comply with regulations of the Dutchess County Department of Health

4. Home Occupations and Non-residential Uses. In order to maintain the small-scale, non-commercial character of the Hamlet District, non-residential uses in the Hamlet District may occupy a maximum of two thousand (2,000) square feet of floor space per lot. Notwithstanding the provisions of Section 321(a)(2), home occupations within the Hamlet District may occupy a maximum of two thousand (2,000) square feet, regardless of the size of the residential structure in which they are located, provided that such home occupations are otherwise in compliance with Section 321.

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

Section 320. SUPPLEMENTARY USE REGULATIONS

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

Section 321. HOME OCCUPATIONS

1. Purpose and Intent. The conduct of business in residential units may be permitted under the provisions of this Section. It is the intent of this Section to:
   a. Ensure the compatibility of home occupations with other uses permitted in the residential districts;
   b. Maintain and preserve the rural character of residential neighborhoods and areas;
   c. Assure that public facilities and services designed for residential areas are not misused for inappropriate commercial purposes; and
d. Provide peace, quite, 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.

102. Criteria and Standards

a. In all residential and overlay districts, home occupations in compliance with the following criteria and standards and listed as allowed home occupations pursuant to Subsection 4 below are permitted upon issuance of a permit by the Zoning Administrator.

(1) A home occupation shall be incidental and secondary to the use of a dwelling unit for residential purposes. It shall be conducted in a manner which does not give the outward appearance of a business, does not infringe on the right of neighboring residents to enjoy the peaceful occupancy of their dwelling units, and does not alter the character of the residential or overlay district. A home occupation may be conducted within the dwelling unit or within an accessory structure, which shall meet the requirements of Section 355, Accessory Structures, below.

(2) No more than thirty percent (30%) of the floor area of the dwelling unit, with the exception of foster family care which may use fifty percent (50%), may be used in connection with a home occupation. Floor area of a dwelling unit is the habitable area.

(3) The home occupation is to be conducted only by members of the family residing in or maintaining the dwelling unit plus no more than two (2) non-resident assistants or employees.

(4) There shall be no external alteration of the appearance of the property, the dwelling or accessory structure in which the home occupation is conducted which would reflect the existence of said home occupation.

(5) Any signs used in conjunction with a home occupation shall meet the requirements of Section 334, Signs, of this Local Law.

(6) A home occupation, including studios or rooms for instruction, shall provide all necessary parking associated with the home occupation off-street, not to exceed four (4) spaces.

(7) A home occupation shall not generate traffic, noise, vibration, odor, smoke, glare or electrical interference greater than that normally created by other permitted uses in the same zoning district.

10 Section 321, paragraph 2 subsection a. amended; Local Law #1 of the year 2005 on 04/14/05.
(8) Delivery and pick-up of materials or commodities to and from the premises by a commercial vehicle shall not exceed two (2) trips per week, and the deliveries shall not restrict traffic circulation. A commercial vehicle for the purpose of this provision is any motor vehicle having a gross vehicle weight of more than fourteen thousand (14,000) pounds.

(9) There shall be no exterior storage of materials, equipment, vehicles, or other supplies to be used in conjunction with a home occupation.

(10) A home occupation shall produce no offensive noise, vibration, smoke, electrical interference, dust, odors, or heat. A home occupation as provided by this Local Law shall be completely contained within the principal or accessory structure. No noise, vibration, smoke, electric interference, dust, odors, or heat shall be detectable beyond the walls of the building where the home occupation is located. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted materials shall be used or stored on the site. Processes which are hazardous to public health, safety, morals, or welfare are prohibited.

(11) The total number of home occupations conducted within a dwelling unit is not limited, except that the cumulative impact of all home occupations conducted within the dwelling unit or on the premises thereof shall not be greater than the impact of one (1) home occupation.

(12) As constructed and improved at the time of the commencement of the home occupation, the entry and exit to and from the property shall be in such condition and location that the Town Highway Superintendent would issue a driveway permit for such entry and exit.

113. List of Home Occupations.

a. The following home occupations are permitted by right upon issuance of a permit by the Zoning Administrator, provided that they are carried on in a manner which complies with the standards in Subsection 2 above:

   (1) Architectural, engineering, interior design, and financial planning services;
   (2) Art restoration;
   (3) Art studio;
   (4) Babysitting;
   (5) Data processing;
   (6) Dental technician with laboratory;
   (7) Dentist;
   (8) Drafting and graphic services;

Section 321, paragraph 3 subsection a. amended; Local Law #1 of the year 2005 on 04/14/05.
(9) Dressmaking, sewing, tailoring, contract sewing;
(10) Flower arranging;
(11) Gardening, landscape maintenance;
(12) Home crafts including ceramics with kiln up to six (6) cubic feet, jewelry making, basketry;
(13) House cleaning service;
(14) Locksmith;
(15) Physician;
(16) Real estate sales or broker;
(17) Sales or manufacturer representative (office only);
(18) Swimming pool cleaning;
(19) Telephone answering, switchboard, and call forwarding;
(20) Tutoring;
(21) Typing and word processing;
(22) Watch repair; and
(23) Writing, computer programming.

b. The following home occupations are prohibited:
   (1) Ambulance service;
   (2) Appliance repair;
   (3) Automobile sale, repair, and retailing, sale of supplies, parts and upholstery, washing service (including businesses working at customer homes);
   (4) Helium balloon assembly, distribution, or sale;
   (5) Laundromats and dry cleaning;
   (6) Limousine or pedicab services exceeding one (1) vehicle;
   (7) Mortician, hearse service;
   (8) Restaurants and taverns;
   (9) Tow truck services; and
   (10) Tractor-trailer operations or parking.

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

135. Permit Application Procedure.
a. Application for a permit for a home occupation permitted by right shall be made to the Zoning Administrator, who shall issue a permit upon finding that the proposed home occupation will satisfy the criteria and standards in Subsection 2 above.

12 Section 321, paragraph 4 amended; Local Law #1 of the year 1991 on 03/14/91.
13 Section 321, paragraph 5 amended; Local Law #1 of the year 1991 on 03/14/91.
b. Application for a special permit for a home occupation that is
neither permitted by right nor prohibited shall be made in
accordance with Section 470, Special Permits, of this Local Law.

146. De Minimus Use: No permit is required for a home occupation use which
meets all of the criteria of section 321(2)(a) and all of the following
additional standards:

a. No physical change to the exterior of a principal or accessory
   structure is required to accommodate the home occupation; and
b. The use is conducted on the site solely by persons utilizing the
   home as their primary residence; and

c. There is no sign or other exterior advertisement of the existence of
   the home occupation use; and

d. No more than one home occupation is conducted on the premises; and

and
e. There is no exterior storage of materials, equipment, vehicles or
   other supplies used in conjunction with the home occupation.

Section 322. PIG FARMS

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

Section 323. 15PRIVATE STABLES

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

1. Horses shall be solely for the use of residents and their guests.

2. All grain shall be stored in rodent-proof containers.

Section 324. 16RIDING ACADEMIES/PUBLIC STABLES

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

1. No manure or substance that produces objectionable odor or dust shall be
   stored within two hundred fifty (250) feet of any property line.

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14 Section 321, paragraph 6 added; Local Law # 1 of the year 2000 on 08/10/00.
15 Section 323 amended; Local Law #1 of the year 2003 on 01/02/03.
16 Section 324 amended; Local Law #1 of the year 2003 on 01/02/03.
2. No manure shall be stored within two hundred fifty (250) feet of any neighboring residence or the shoreline of any lake, pond, stream or wetland.

Section 325. CAGE-TYPE POULTRY FARMS

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

1. For each one thousand (1,000) birds more than five thousand (5,000), an additional setback of fifty (50) feet shall be provided from any property line.

2. Cage-type poultry houses shall be equipped with odor suppressors of the hydraulic pit type, or equivalent, with sufficient capacity to permit a lapse of not more than four months between cleanings.

3. Cage-type poultry house odor suppression devices shall not be cleaned during the months of June, July, August, or September.

Section 326. EDUCATIONAL INSTITUTIONS

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

1. No sports arena or other place of assembly having a capacity of more than one thousand (1,000) persons shall have entrances or exits on streets other than those designated as primary or secondary in the Town of Washington Master Plan.

2. Where feasible, entrances and exits should be on primary streets, and not on streets intended for predominately residential use.

Section 326A. CHARITABLE FOUNDATIONS AND TRUSTS

1. Preamble and Purpose. The Master Plan of the Town of Washington provides for the promotion of locally oriented business (those not dependent on trade attracted through traffic) and further provides that new growth should contribute to the local economy and rural environment, be compatible with the local character of its surroundings, be subject to strict performance standards and be subject to rigorous public review and enforcement. The Town of Washington (the “Town”) has historically deferred to the Village of Millbrook with regard to the location of commercial enterprises because, among other things, the Village is the

17 Section 326A., new section added; Local Law #1 of the year 1998 on 06/11/98.
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 pre-existing commercial uses and home occupations in its one-acre zone which have proved compatible with that neighborhood.

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

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

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

2. Administrative offices for charitable foundations or trusts shall be a permitted use in the HM District and the RH-1 Residential District, subject to the issuance of a special use permit and site plan approval as provided in Appendix A, Schedule of District Use Regulations, as amended, of this Zoning Law. In addition to conditions imposed by the Planning Board for the issuance of said special permit and site plan approval, such offices shall meet the following conditions:
Such offices shall be limited in size to no more than twelve (12) employees. The number of permitted employees will be directly related to the amount of parking space which is available on the proposed site which can be adequately screened from view by neighboring owners. Parking on the street should not be permitted.

b. In the Hamlet Mixed-Use District, such offices may only be permitted on lots which have a boundary on a state or county highway of at least the minimum frontage distance required for building lots in the subject district.

c. In the RH-1 Residential District such offices may only be permitted on lots of not less than three (3) acres and which are no further than two hundred (200) feet from a State highway.

d. In the RH-1 Residential district, only one (1) unilluminated identifying sign, no greater than two (2) square feet in size, shall be permitted on the building itself.

3. Administrative offices for charitable foundations or trusts located in the Hamlet Mixed-Use District need not satisfy the Limitation on Non-Residential Development as specified in Section 313 of the Zoning Law, as amended.

Section 327. PRIVATE CAMPS

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

Section 327A. PRIVATE CEMETERIES OR BURIAL PLOTS

Section 328. WETLANDS AND WATERCOURSES

1. Purpose. The purpose of this Section is to preserve, protect, and conserve wetlands and watercourses and the benefits derived therefrom, prevent the despoliation and destruction of wetlands 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.

2. Wetlands and Watercourses Map.
   a. The Town Board shall adopt by zoning amendment, pursuant to the procedures in Article V of this Local Law, a map entitled

\[^{+}\text{Paragraphs a, b, c and d are shown in the Local Law in Parenthesis.}\]
\[^{18}\text{Section 327A deleted in its entirety; Local Law #3 of the year 2007 on 10/11/07.}\]
“Town of Washington Wetlands and Watercourses Map.” Until said Map is adopted, this Section shall have no effect. Upon adoption of said Map, the LC District shown on the Zoning Map adopted as part of this Local Law shall be eliminated. Said Wetlands and Watercourses Map, drawn at a scale of one inch equals one thousand feet (1” = 1,000’) or larger, shall identify the approximate locations of regulated wetlands and watercourses within the Town. However, such locations are subject to more precise interpretation in accordance with the definitions of wetlands set forth in Subsection 2 of this Local Law. Such interpretation shall be made by the Planning Board in consultation with the Conservation Advisory Commission, and with the advice of such qualified biologists, hydrologists, soil scientists, ecologists, botanists, or other experts as may be needed to make the interpretation. The cost of such expert assistance, if required, shall be paid for by the applicant for a permit under this Section.

b. Said Map 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 Local Law particular wetlands or watercourses deemed to be insignificant for the purposes of this Local Law, or to incorporate supplementary maps that correct, clarify, or affirm in detail the area of jurisdiction of this Local Law.

3. Regulated Wetlands and Watercourses. Regulated wetlands are lands and adjacent watercourse of 0.5 acres or more in size which are mapped on the Wetlands and Watercourses Map and contain any or all of the following soil, hydrological, and vegetative characteristics.

a. Lands and submerged lands commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic or semi-aquatic vegetation of the following types:

(1) Wetland trees, which depend upon seasonal or permanent flooding or sufficiently water-logged soils to give them a competitive advantage over other trees, including, among others, red maple (Acer rubrum), willows (Salix spp.), black spruce (Picea mariana), swamp white oak (Quercus bicolor), red ash (Fraxinus pennsylvanica), black ash (Fraxinus nigra), silver maple (Acer saccharinum), American elm (Ulmus americana), and larch (Larix laricina).

(2) Wetland shrubs, which depend upon seasonal or permanent flooding or sufficiently water-logged soils to give them a competitive advantage over other shrubs, including, among others, alder (Alnus spp.), buttonbush (Cephalanthus occidentalis), bog rosemary (Andromeda glaucophylla), dogwoods (Cornus spp.), and leatherleaf (Chamaedaphne calyculata).
(3) Emergent vegetation, including, among others, cattails (*Typha* spp.), pickerelweed (*Pontederia cordata*), bulrushes (*Scirpus* spp.), arrow arum (*Peltandra virginica*), arrowheads (*Sagittaria* spp.), reed (*Phragmites communis*), wildrice (*Zizania aquatica*), bur-reeds (*Sparganium* spp.), purple loosestrife (*Lythrum salicaria*), swamp loosestrife (*Decodon verticillatus*), and water plantain (*Alisma plantagoaquatica*).

(4) Rooted, floating-leaved vegetation, including, among others, waterlily (*Nymphaea odorata*), water shield (*Brasenia schrebert*), and spatterdock (*Nuphar* spp.).

(5) Free-floating vegetation, including, among others, duckweed (*Lemna* spp.), big duckweed (*Spirodela polyrhiza*), and watermeal (*Wolffia* spp.).

(6) Wet meadow vegetation, which depends upon seasonal or permanent flooding or sufficiently water-logged soils to give it a competitive advantage over other open land vegetation, including, among others, sedges (*Carex* spp.), rushes (*Juncus* spp.), cattails (*Typha* spp.), rice cut-grass (*Leersia oryzoides*), reed canary grass (*Phalaris arundinacea*), swamp loosestrife (*Decodon verticillatus*), and spikerush (*Eleocharis* spp.).

(7) Bog mat vegetation, including, among others, sphagnum mosses (*Sphagnum* spp.), bog rosemary (*Andromeda glaucophylla*), leatherleaf (*Chamaedaphne calyculata*), pitcher plant (*Sarracenia purpurea*), and cranberries (*Vaccinium macrocarpon and V. oxycocos*).


b. Lands and submerged lands containing remnants of any vegetation that is not aquatic or semi-aquatic that has died because of wet conditions over a sufficiently long period, provided that such wet conditions do not exceed a maximum seasonal water depth of six (6) feet, and provided further that such conditions can be expected to persist indefinitely, barring human intervention.

c. Lands and waters substantially enclosed by aquatic or semi-aquatic vegetation as set forth in Subparagraph (a) above, or by dead vegetation as set forth in Subparagraph (b) above, the regulation of which is necessary to protect and preserve the aquatic and semi-aquatic vegetation.

d. Lands and submerged lands containing floodplain or hydric soils, defined as soils that are saturated, flooded, or ponded long enough
during the growing season to develop anaerobic conditions in the upper part.

e. The waters and watercourses overlying the areas set forth in Subparagraphs (b) and (d) above, and the underlying lands described in Subparagraph (c) above.

4. Regulated Activities
   a. It shall be unlawful for any person without a written permit issued by the Planning Board to alter any wetland or watercourse protected by this Section except as herein provided. Activities shall be deemed to alter a wetland or watercourse whether or not they occur upon the wetland or watercourse itself, if they impinge upon or otherwise substantially affect the wetland or watercourse, are located within one hundred (100) feet of the boundary of the wetland or watercourse, or are within its hundred-year flood zone.

   b. Activities subject to regulation under this Section shall include the following:
      (1) Any form of draining, dredging, excavation, removal of soil, mud, sand, shells, gravel, or other aggregate from any wetland or watercourse, either directly or indirectly;
      (2) Any form of dumping, filling, or depositing of any soil, stones, sand, gravel, mud, rubbish, or fill of any kind, either directly or indirectly;
      (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, or placing of any other obstructions whether or not they affect the ebb and flow of the water in a watercourse;
      (4) Any form of pollution, including but not limited to installing a septic tank, running a sewer outfall, discharging sewage treatment effluent or other liquid wastes directly or indirectly into a wetland or watercourse;
      (5) The use of any chemicals, dyes, fertilizers, herbicides, or similar materials such that the same may cause pollution;
      (6) Creating an increase or decrease in the flow, velocity, or volume of water in any watercourse, excluding customary seasonal raising and/or lowering of said watercourse;
      (7) Creating a diversion of waterflow on any watercourse;
      (8) Introducing any influents of high thermal content that may cause deleterious ecological effects;
      (9) Clearcutting, at once or over time, within one hundred (100) feet of a wetland or the edge of a watercourse; and
      (10) Any other activities, such as the removal of vegetation which substantially impairs any of the several functions served by wetlands and watercourses or the benefits derived therefrom.
5. Exclusions.
   a. The following activities shall be excluded from regulation under this Section:
      (1) The depositing or removal of the natural products of the wetlands and adjacent areas by recreational or commercial fishing, shellfishing, aquaculture, hunting, or trapping where otherwise legally permitted and regulated;
      (2) Agricultural and forestry activities including but not limited to grazing and watering a livestock, making reasonable use of water resources for irrigation, harvesting natural products of wetlands, selectively cutting timber, draining wetlands for growing agricultural products, and otherwise engaging in the use of wetlands or other land for growing agricultural products, provided that draining, filling, and construction activities not required for enhancement or maintenance of the agricultural productivity of the land shall be regulated under this Section;
      (3) 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 (or its designated agent) and that the Planning Board may request modification of such orders if it deems it necessary to implement this Local Law;
      (4) Any actual and ongoing emergency activity which is immediately necessary for protection and preservation of life or property, or the protection 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 large-scale contamination of streams or other bodies of water; emergency response to floods, hurricanes and other storms, fires, and other public health emergencies. Within five days of the end of such an emergency involving any activity which otherwise would be treated as a regulated activity under this law, the person chiefly responsible for undertaking such emergency activity shall send a written statement to the Planning Board setting forth the pertinent facts regarding such emergency, including an explanation of life, property, or resource values such activity was designed to protect or preserve;
      (5) Ordinary maintenance and repair of existing structures or improved areas which does not involve expansion or substantial restoration, reconstruction, rehabilitation, or modification, including, but not limited to bridges, roads, driveways, highways, railroad beds, bulkheads, docks, piers, or pilings; and
6. Permit Requirement. Any person desiring to conduct a regulated activity or activities in a wetland or watercourse must obtain a wetlands permit from the Planning Board.

7. Permit Application Requirements.
   a. Any person proposing to conduct or cause to be conducted a regulated activity upon any wetland or watercourse in the Town shall file an application for a wetlands permit with the Planning Board. Said application shall be filed in duplicate, with one copy submitted directly to the Conservation Advisory Commission, and shall include the following information on a form provided by the Planning Board.
      (1) Applicant’s name, home and business address, and telephone numbers;
      (2) If applicant is not the owner of the property, the owner’s name, home and business address and telephone numbers, the owner’s written authorization for the filing of the application or for the performance of the proposed activity, and the applicant’s interest in the land;
      (3) The geographical location of the property on which the proposed activity is to be conducted;
      (4) Detailed description of the proposed activity;
      (5) A map at a scale of one inch equals one hundred feet (1” = 100’) showing the area of wetland or watercourse directly or indirectly affected, with the location of the proposed activity thereon;
      (6) Names and addresses of abutting property owners;
      (7) Letter of determination from the United States Army Corps of Engineers that the wetlands and watercourses are not subject to regulation under Section 404 of the Federal Clean Water Act, or a copy of a 404 permit application; and
      (8) Additional information as required by the Planning Board.
   b. No sooner than thirty (30) days and not later than sixty (60) days after the receipt by the Planning Board of an application, the Planning Board shall hold a public hearing on such application. At such hearing, the Conservation Advisory Commission shall present its findings on the permit application. If the Planning Board finds that the proposed activity is so insignificant that it will not affect or endanger the natural systems within the wetland, it may waive such hearing. Where the Planning Board finds that a hearing is not necessary, a decision setting forth reasons therefor shall be prepared and shall be published in a newspaper having a general circulation in the area. The applicant shall assure that all owners
of record of land adjacent to the parcel on which the proposed activity is located are notified of the hearing by certified mail not less than fifteen (15) days prior to the date set for such hearing. The applicant shall also cause notice of such hearing to be published in a newspaper having a general circulation in the area where the affected wetland is located. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any interested person or persons may appear and be heard.

c. The applicant shall have the burden of demonstrating that the proposed activity will be consistent with the purpose of this Local Law and these regulations. To the greatest extent practicable, such hearing shall be incorporated with any public hearing required by the Town, in connection with approvals or permits otherwise required before commencement of regulated activities on lands containing such wetland or watercourse.

8. Standards for Permit Decisions.

a. In granting, denying, or conditioning any permit, the Planning Board shall consider the effect of the proposed activity on the ecology of the wetland or watercourse, on the public health and welfare, on flood hazards, and on the maintenance and enhancement of other benefits provided by wetlands and watercourses.

b. No permits shall be approved by the Planning Board pursuant to this Local Law unless the Planning Board finds that:

(1) The proposed regulated activity is consistent with the purposes of this Local Law, including:
   (a) Preserving and protecting wetlands and watercourses;
   (b) Preventing the despoliation and destruction of wetlands and watercourses; and
   (c) Regulating the development of such wetlands and watercourses, in order to secure the natural benefits derived therefrom, consistent with the general welfare and the beneficial economic and social development of the Town of Washington.

(2) The proposed regulated activity is consistent with the land use regulations applicable in the Town of Washington pursuant to E.C.L. Section 24-0903 of the Consolidated Laws of New York and the statewide minimum land use regulation in 6 NYCRR, Part 66.

(3) The proposed regulated activity is compatible with the public health and welfare.

(4) The proposed regulated activity is reasonable and necessary.
(5) There is no practicable alternative for the proposed regulated activity on a site which is not a wetland or watercourse.

(6) The applicant has demonstrated that the proposed regulated activity will be in accord with the standards set forth in this Section.

c. No building or sewage facility shall be constructed or installed within one hundred (100) feet of any watercourse or wetland which flows into a reservoir for public water supply.

d. In granting a permit, the Planning Board may limit the same or impose conditions designed to carry out the purposes of this Local Law. The Planning Board may require a bond in an amount and with surety and conditions satisfactory to secure compliance with the conditions and limitations set forth in the permit. The Planning Board may suspend or revoke a permit if it finds that the applicant has not complied with the conditions or limitations set for in the permit or has exceeded the scope of the activity as set forth in the application.

e. The Planning Board shall state upon the record findings and reasons for all actions taken pursuant to this Section.

f. Any owner of the wetland affected and any resident of the Town of Washington or any adjacent municipality within the watershed of the wetland affected shall be deemed to have the requisite standing to seek judicial review of any Planning Board decision under this Section.

g. Duly filed notice in writing that the State or any agency or subdivision thereof is in the process of acquiring any wetlands or watercourses on which a proposed regulated activity would be located by negotiation or condemnation shall be sufficient basis for denial of any permit for such regulated activity by the Planning Board.

Section 329. STRIPPING OF TOPSOIL

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

Section 330. CONVERSION OF BARNS AND ACCESSORY BUILDINGS

1. Purpose and Intent. This Section authorizes, upon issuance of a special permit, the conversion of barns or other accessory buildings in districts

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19 Section 330 amended; Local Law # 1 of the year 2000 on 08/10/00.
where residential uses are permitted. The purpose and intent of permitting conversion of barns or other accessory buildings is to:

a. Encourage the development of rental units in the Town to meet the needs of smaller households, and to provide housing for families or individuals with low to moderate income;

b. Provide homeowners, especially those of low and moderate income, with rental income, companionship, security, and services, and the means to enable them to stay more comfortably in homes and neighborhoods they might otherwise have to leave;

c. Provide affordable housing units through the efficient use of the Town's existing barns and other accessory buildings to help assure housing for employees of local businesses and farms, while ensuring healthy and safe living environments; and to

d. Protect neighborhood stability, property values, and the rural character of the Town by ensuring that the conversion of barns and other accessory buildings does not increase overall density above that permitted in the Zoning District.

2. Conditions and Requirements. In order to be granted a special permit to convert a barn or other accessory building for housing purposes, the following criteria and requirements must be met:

a. The building proposed for conversion must have been in existence on January 1, 1989.

b. The minimum size of a residential unit within a converted barn or accessory structure must be eight hundred (800) square feet.

c. Barns or other accessory buildings converted to housing must meet the requirements of Section 360, Supplementary Off-street Parking Regulations, of this Local Law.

d. The barn or accessory structure converted to residential use must be on the same lot as a principal dwelling.

e. The barn or accessory structure converted to residential use shall not be subdivided onto a separate lot unless the lot and the barn or accessory structure satisfies the bulk and area requirement of Appendix B of this Local Law, or the cluster subdivision requirements of Section 341 of this Local Law, and of the Land Subdivision Regulations. No area variances to permit such subdivisions shall be granted if the structure was constructed or converted to residential use after December 27, 1989. Such construction or conversion shall constitute a self-created hardship or practical difficulty.

f. Only one barn or accessory structure may be converted by-right to residential use on a single lot. The Planning Board may issue a special permit for the conversion of up to three barns or accessory structures on a single lot where the Board finds that such additional conversion(s) will not adversely affect the value of adjoining and nearby property. In issuing special permits for such additional conversions the Board shall make specific findings
regarding the proposed conversion(s) in accordance with the Standards of section 473 of the Zoning Law.

g. The water supply and sewage disposal systems serving any converted barn or accessory structure as permitted herein may be shared with the principal dwelling on the same lot where such sharing is allowed by the Health Department. All individual and shared water supply and sewage disposal facilities shall be approved, constructed and maintained in accordance with Health Department requirements.

3. Permit Application Procedure. Application for a special permit to convert barns or other accessory buildings must be made in accordance with Section 470, Special Permits, and Section 480, Site Plan Review and Approval, of this Local Law and include the following additional information:
   a. Floor plans (at 1/4” = 1 foot scale) showing existing and proposed uses, with dimensions specified;
   b. Facade drawings if exterior alterations are proposed (at 1/4” = 1 foot scale); and
   c. Proof of notification of abutting property owners.

Section 330-B. 20ACCESSORY RESIDENTIAL HOUSING

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

1. Accessory Residential Housing is allowed by special permit issued by the Planning Board in accordance with the requirements for special permits as set forth in section 470 of this Zoning Law. In addition, such application for a special permit shall be accompanied by floor plans (at 1/4” = 1 foot scale) for the structure, with dimensions specified, and facade drawings of the exterior (at 1/4” = 1 foot scale).

2. Accessory Residential Housing shall be provided on the same lot as the principal dwelling and may be later subdivided or separated onto its own lot only where the subdivision of such housing meets the strict requirements of area and bulk requirements of the Zoning District affecting the property.

3. Accessory Residential Housing is permitted only on lots where the owner resides.

4. The water supply and sewage disposal systems serving any Accessory Residential Housing as permitted herein may be shared with the principal

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20 Section 330-B added; Local Law # 1 of the year 2000 on 08/10/00.
dwellings on the same lot where such sharing is allowed by the Health Department.

5. Only one Accessory Residential Housing unit per lot is permitted. Such a unit shall maintain the minimum acreage density for a single-family residence in the Zoning District in which the lot is located. For example, the minimum acreage density for an Accessory Residential Housing unit and a principal structure in the 10 acre zones shall be 20 acres. The minimum acreage density for an Accessory Residential Housing unit and principal structure in the 5 acre zones shall be 10 acres. If an Accessory Residential Unit is built on a lot containing a barn or accessory structure previously converted to residential use under section 330 of this Zoning Law, the minimum acreage density for all of the residential units on the property shall not be less than the minimum acreage density for three (3) single family residences in the applicable zoning district.

6. Accessory Residential Housing is allowed in the "R" residential districts only. For lots located in the 1 and 2 acre zones, the minimum acreage density shall be the same as those of the 5 acre zones. This section shall not bar the Town Zoning Board of Appeals from considering an application for relief from these area requirements.

Section 331. SIGNS

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

2. Criteria and Standards. Signs may be erected and maintained on the premises only when in compliance with the following criteria and standards:
   a. Non-illuminated, non-advertising signs as specified below are permitted on premises in all districts:
      (1) Nameplates and identification signs not to exceed two (2) square feet in area;
      (2) Sale or rental signs not to exceed six (6) square feet in area;
(3) Institutional signs not to exceed twenty (20) square feet in area; and
(4) Temporary development signs during construction, repairs, or alterations not to exceed two (2) in number with each not to exceed six (6) square feet in area.

b. Illuminated, non-advertising signs shall be permitted on premises in non-residential districts provided such signs shall employ only lights emitting a light of constant intensity. Further:
(1) No sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights;
(2) An illuminated sign or lighting device shall not be placed or directed so as to permit the beams and illumination to be directed or beamed upon the public street, highway, sidewalk, or adjacent premises so as to cause glare or reflection that may constitute a nuisance or a traffic hazard;
(3) No more than two (2) signs shall be permitted for each business on the premises;
(4) Attached signs shall not cover more than ten percent (10%) of the front surface of a building; and
(5) Detached signs shall not exceed twenty (20) square feet in area and lettering shall not occupy more than seventy percent (70%) of the face of a detached sign.

c. Neon-type lighted signs and signs with moving parts shall not be permitted.

d. No signs shall be placed on the roof of any building, and any sign erected or maintained in the window of a building, visible from any public or private street or highway, shall not occupy more than thirty percent (30%) of the area of said window.

e. No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners, or other similar moving, fluttering, or revolving devices. Said devices, as well as strings of lights, shall not be used for the purpose of advertising or attracting attention when not part of a sign.

f. No signs shall use “day glow” type paints. Garish colors and combinations of colors shall not be used.

g. Any sign existing on or after the effective date of this Local Law which no longer advertises an existing business conducted or products sold on the premises shall be removed by the owner of the premises upon which sign is located, after written notice is provided for removal and within thirty (30) days of the date of such notice.

h. In the event a sign is erected prior to the effective date of this Local Law, which sign does not conform with the provisions and standards of this Local Law, the sign or structure will be permitted to stand for a period of three (3) years, at which time the sign must be replaced to meet the provisions of this Local Law or removed, except if the sign has historical significance to the Town and is so designated.
Only one flush-mounted or free-standing, non-illuminated sign, not over two (2) square feet in area, is permitted per dwelling unit where a home occupation is conducted. The legend on the sign shall show only the name of the occupant and type of home occupation.

3. Criteria for Increased Sign Area. To encourage design excellence, the maximum sign areas for certain business, industrial, marquee, and directory signs may be increased by the percentages herein. A separate increase is granted for compliance with each of the criteria and the total is cumulative, but each percentage increase is based on the original sign area limitation.
   a. Ground signs may be increased as follows:
      (1) Twenty percent (20%) when the sign is constructed of solid wood and uses only the colors approved by the Zoning Administrator;
      (2) Ten percent (10%) when a directory sign utilizes uniform coloring and lettering for all establishments listed in the directory, except the one (1) major facility;
      (3) Twenty percent (20%) when the sign is installed in a landscaped planter having an area four (4) times the area of the resultant sign and the entire design is approved by the Zoning Administrator;
      (4) Ten percent (10%) if the sign is not designed or used with illumination; and
      (5) Five percent (5%) if the sign face is made from unbreakable material.
   b. Facial signs may be increased as follows, but only if the projection of the sign does not exceed twelve (12) inches:
      (1) Ten percent (10%) when all the lettering and background is uniform in style and color for signs in a shopping center or for any three (3) consecutive separate establishments;
      (2) Ten percent (10%) if the sign is not designed or used with illumination;
      (3) Ten percent (10%) if the facial sign is the only sign identifying the establishment or its principal product;
      (4) Ten percent (10%) if the sign is designed to contain only the identification of the establishment without advertisement of any products sold on the premises; and
      (5) Five percent (5%) if the sign face is made from unbreakable material.

4. Maximum Sign Area. Notwithstanding any provision of this Section to the contrary, no sign shall be greater than one hundred (100) square feet in area.

5. Billboards shall be prohibited.
Section 332. QUARRYING AND SOIL MINING LOCATION.

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

21 Section 332 amended; Local Law #2 of the year 1991 on 10/10/91.

* Stated in Local Law as “depended”. Should be “dependent”.

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taken from other sites to be an industrial activity and not included within the uses permitted in the zones where soil mining is a permitted use.

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

2. Exemptions. The following, to the extent specified herein, are exempt from the permitted zone requirements of this Section of the Local Law:
   a. Excavation in conjunction with utility installation, which is to be backfilled;
   b. Excavation in conjunction with road construction within the limits of the right-of-way or slope rights of any Town, County, or State highway, or for the sole purpose of building roads and slopes incidental thereto which lie within the area of a subdivision approved by the Planning Board;
   c. Excavation which by its nature lasts for a matter of hours or days, e.g. graves, septic tanks, swimming pools, etc., and does not involve removal of material from the property;
   d. Agricultural drainage work incidental to agricultural operations, including farm ponds, if no material is removed from the property;
   e. Excavation for structures, parking areas, and rights-of-way;
   f. Regrading of property for aesthetic purposes that does not affect existing drainage, if no material is removed from the property;
   g. Dredging operations under the jurisdiction of the United Stated Army Corps of Engineers, and other governmental entities;
   h. Excavation in conjunction with the drainage maintenance or improvements under County or State jurisdiction;
   i. the improvement of a single lot or parcel of land in connection with construction of a dwelling, multi-family dwelling, building, or any other structure or structures for which a building permit has been issued; and
   j. The excavation, in any calendar year, of not more than one hundred (100) cubic yards of material from each forty thousand (40,000) square feet of lot area, provided that no more than six hundred (600) cubic yards of material may be removed from any parcel in any calendar year.

3. Location.
   a. Quarrying or soil mining may be permitted pursuant to E.C.L. Section 23-2711 of the Consolidated Laws of New York, in the RS-5 and RS-10 zoning districts only subject to the issuance of a Special Use Permit by the Town Planning Board.
4. **Special Use Permits.**
   a. No soil mining activity shall be conducted within the Town without the issuance of a Special Use Permit.
   b. The authority to grant Special Use Permits to soil mining applicants is granted to the Town Planning Board.
   c. In addition to the Special Use Permit filing fees, the applicant shall pay the costs of all independent technical assistance which the Planning Board may deem advisable in reviewing and acting upon the application for the Special use Permit including, without limitation, engineering, legal, and land planning and environmental assistance. The Planning Board may require a deposit from the applicant to apply against these anticipated costs and may require additions to that deposit from time to time as a condition of the issuance of the Special Use Permit.
   d. The application shall take such 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.
   e. The Planning Board shall hold a public hearing on any application prior to its issuance. Such hearing shall be held not later than ninety (90) days after receipt of a completed application by the applicant including all filing fees. The applicant shall cause such hearing to be advertised in a newspaper of general circulation in the area at least ten (10) days prior to such hearing date and shall give actual notice by certified mail, return receipt requested, to all adjoining landowners. Proof of compliance with these notice requirements shall be filed by the applicant with the Planning Board prior to the public hearing. The Planning Board shall issue its Special Use Permit within sixty-five (65) days after the completion of the public hearing, including all adjournments. The Special Use Permit shall be subject to the following conditions which shall be established by the Planning Board and shall be set forth in the Special Use Permit.

+ (1) Any limitations or prohibitions on the use of Town roads for the purpose of ingress and egress to and from the mining site to and from public thoroughfares.

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+ Stated Local Law as thess. Should be these.
++ (1), (2), (3) and (4) listed in Local Law as 1., 2., 3. and 4.
(2) Any limitations or prohibitions on the routing of mineral transport vehicles on Town roads.

(3) All of the limitations, requirements and conditions as specified in the applicant’s mining permit issued by the New York State Department of Environmental Conservation concerning setback from property boundaries and public thoroughfare rights-of-way, natural or man made barriers to restrict access, if required, dust control and hours of operation.

(4) The ability of the Town to enforce all of the reclamation requirements contained in the applicant’s mined land reclamation permits issued by the New York State Department of Environmental Conservation.

f. It is the intention of this local law to obtain and this local law does, therefore, include all power and authority granted by New York State law to the Town to enforce all conditions of an applicant’s mining permit, any special use permits hereunder and the conditions of the applicant’s mined land reclamation permit.

Section 333. DRIVEWAYS

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

Section 334. EMERGENCY HOUSING, TEMPORARY HOUSING, FIELD OFFICES, AND STORAGE

1. Emergency Housing. The erection of emergency housing may be allowed by special permit where the Zoning Board of Appeals finds that unusual or unforeseen circumstances necessitate the establishment of such emergency housing to accommodate the needs of individuals or a family which has lost their home because of fire or natural disaster, to provide additional living space for aged and/or medically indigent persons who need to be housed in proximity to relatives that can provide necessary care, or to furnish on-site accommodations for persons who must be housed close to an aged and/or medically indigent member of the family requiring their care. Issuance of a special permit for such housing shall be subject to the provisions of Section 470, Special Permits, of this Local Law and the following conditions:
   a. Applicant must show that an emergency exists and that no other suitable housing is available.
   b. Occupancy of such housing shall be limited to the applicant or applicants and their immediate family members, that is, the
mother, father, sister, brother, son, daughter, mother-in-law, father-in-law, aunt, uncle, or first cousin of the applicant.

c. Special permits for emergency housing shall be temporary and shall expire at the end of the calendar year following the date of issuance. The applicant may apply for renewal annually.

d. A mobile home, to be eligible for emergency housing use, must have two exterior doors.

e. Emergency housing shall not be placed within the front and side yards required by this Local Law.

f. Any such housing shall be removed within three (3) months of the date when the conditions upon which the permit was issued cease to exist, or upon order of the Zoning Board of Appeals.

2. Temporary Housing, Field Offices, or Storage During Construction.

a. Single and individual mobile homes may be allowed outside mobile home parks by special permit if the Zoning Board of Appeals finds that they are situated on a construction site in a residential district where a building permit has been obtained and the mobile homes are to be used or intended to be used for residential or living purposes, a field office, or storage purposes.

b. Issuance of a special permit for such temporary housing, field office, or storage use shall be subject to the provisions of Section 470, Special Permits, of this Local Law and the following additional conditions:

(1) Applicant must demonstrate that the premises on which the mobile home shall be sited is a bona fide and active construction site as evidenced by a valid and current building permit.

(2) A special permit shall be required for each individual mobile home on each lot.

(3) Only one (1) mobile home is allowed on any one (1) building lot.

(4) Special permits for temporary housing, field office or storage use shall be valid for a period of one (1) year from date of issuance or the cessation of construction activity, or obtaining a certificate of occupancy, whichever is earlier.

(5) If construction activity on such premises continues for a period exceeding one (1) year, such permit may be renewed for a maximum of two (2) consecutive one (1) year periods following the first year, provided any such renewal shall automatically cease upon cessation of construction activity. If the special permit is not renewed for an additional one (1) year period, the mobile home shall promptly be removed by the owner from the premises.

(6) The location of the mobile home shall be determined by the Zoning Board of Appeals. The Zoning Board of Appeals

22 Section 334, paragraph 2 subsection b.(6) amended; Local Law #1 of the year 2005 on 04/14/05.
shall consider the recommendations, if any, of the Building Inspector and the Zoning Administrator and the locations of the premises, adjacent properties and structures, nature of construction activities, surrounding development (both existing and proposed), and the purpose for which such mobile home is to be used or occupied.

(7) If the mobile home shall serve as a temporary residence or field office, it shall be properly served with adequate sewage, water, and drainage facilities.

d. Changes or Additions. No person shall make structural changes or erect additions to a mobile home allowed by a special permit pursuant to this Section for the purpose of converting it into a permanent dwelling, nor shall any mobile home be dismounted.

e. Compliance. Any special permit for temporary housing shall be voided upon the failure of the permittee to conform to this Local Law, any conditions of the permit, or the Dutchess County Health Code. A voided permit shall not be reinstated.

23f. Except as provided herein and unless specifically permitted in a specific district, trailers are not permitted in any district, whether they be for a home related use, storage, office, classroom or any other purpose.

Section 335. EROSION AND SEDIMENTATION CONTROL

1. Activities Requiring a Certified Erosion and Sediment Control Plan. A separate soil erosion and sediment control plan shall be submitted to the Planning Board with any application for a special permit, site plan approval, or subdivision when the disturbed area of such development is cumulatively more than one-half (½) acre, or within any application to strip topsoil, regardless of the acreage.

2. Exemptions. A single-family dwelling that is not a part of a new subdivision of land, or any activity directly related to agricultural production shall be exempt from these soil erosion and sediment control regulations.

3. Erosion and Sediment Control Plan. To be eligible for certification, a soil erosion and sediment control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from stormwater runoff on the proposed site based on the best available technology. Such principles, methods, and practices necessary for certification are found in the Dutchess County Soil and Water Conservation District’s Soil Erosion and Sediment Control Guidebook. Alternative principles, methods, and procedures may be used with prior

23 Section 334, section 2 added new subparagraph f.; Local Law #1 of the year 1994 on 06/09/94. Stated in Local Law as (f).
approval of the Planning Board. Said erosion and sediment control plan shall contain, but not be limited to the following:

a. A narrative describing:
   (1) The proposed development;
   (2) The schedule for grading and construction activities, including:
       (a) Start and completion dates;
       (b) Sequence of grading and construction activities;
       (c) Sequence for installation and/or application of soil erosion and sediment control measures; and
       (d) Sequence for final stabilization of the project site.
   (3) The design criteria for proposed soil erosion and sediment control measures and stormwater management facilities;
   (4) The construction details for proposed soil erosion and sediment control measures and stormwater management facilities;
   (5) The installation and/or application procedures for proposed soil erosion and sediment control measures and stormwater management facilities; and
   (6) The operation and maintenance of proposed soil erosion and sediment control measures and stormwater management facilities.

b. A site plan map prepared in accordance with the requirements of Section 480, Site Plan Review and Approval, of this Local Law which shall include the following additional requirements:
   (1) The proposed following alterations including cleared, excavated, filled, or graded areas and proposed structures, utilities, roads, and, if applicable, new property lines;
   (2) The location of and design details for all proposed soil erosion and sediment control measures and stormwater management facilities;
   (3) The sequence of grading and construction activities;
   (4) The sequence for installation and/or application of soil erosion and sediment control measures; and
   (5) The sequence for final stabilization of the development site.

   a. Plans for soil erosion and sediment control shall be developed in accordance with these regulations using the principles as outlined in Chapters 2, 3, 4, and 5 of the Soil Erosion and Sediment Control Guidebook. Soil erosion and sediment control plans shall result in a development that minimizes erosion and sedimentation during construction, is stabilized and protected from erosion when completed, and does not cause off-site erosion and/or sedimentation.

   b. The minimum standards for individual measures are those in the Soil Erosion and Sediment Control Guidebook. The Planning
Board may grant exceptions when requested by the applicant if technically sound reasons are presented.

5. Issuance or Denial of Certification.
   a. The Planning Board shall either certify that the soil erosion and control plan, as filed, complies with the requirements and objectives of this regulation, or deny certification when the development proposal does not comply with these regulations.
   b. Prior to certification, any plan submitted to the Planning Board may be reviewed by the Dutchess County Soil and Water Conservation District which may make recommendations concerning such plan, provided such review shall be completed within thirty (30) days after the receipt of such plan.
   c. The Planning Board may forward a copy of the soil erosion and sediment control plan and related site plans to the Conservation Advisory Commission or other board or consultant for review and comment.

   a. The estimated costs of measures required to control soil erosion and sedimentation, as specified in the certified plan, may be covered in a performance bond or other assurance acceptable to the Planning Board.
   b. Site development shall not begin unless the soil erosion and sediment control plan is certified and those control measures and facilities in the plan scheduled prior to site development are installed and functional.
   c. Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified plan.
   d. All erosion and sediment control measures and facilities shall be maintained in a condition which ensures compliance with the certified plan.

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

Section 336. **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:

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24 Section 336 amended; Local Law #1 of the year 2005 on 04/14/05.
1. In a garage, barn or fully enclosed carport; or

2. In the rear yard of the property if fully screened from the visibility of adjoining properties or public roads. The determination of whether the junk car or unregistered historical automobile is fully screened is in the sole discretion of the Zoning Administrator.

Section 336A. 25SALE OF PERSONAL AUTOMOBILE

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

Section 337. 26AUTO RESTORATION

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

Section 338. 27PARKING OF COMMERCIAL VEHICLES

1. Pickup trucks, vans and other similar vehicles that require commercial registration, but are not used for commercial purposes and do not exceed 5500 pounds in curb weight, may be parked on a regular basis in a residential district, subject to the same restrictions as are imposed on the parking of family passenger vehicles. Curb weight shall mean the weight of the vehicle without any load.

2. Commercial vehicles that are used in connection with one’s livelihood, but not in connection with any illegal business use of a residence, and do not exceed 8000 pounds in curb weight, shall be permitted to park in a residence district on a regular basis subject to the following restrictions:
   a. There shall be no parking within the right-of-way of any roadway.
   b. Such vehicles must be used on a regular basis in relation to the occupant’s employment responsibilities.
   c. The occupant shall produce, upon request of the Zoning Administrator, an affidavit stating the occupant’s place of employment and attesting to the requirement of driving the vehicle to and from this same place of employment. This affidavit shall be signed by the occupant’s employer.
   d. Vehicle engines shall not be left idling for a warm-up period, during the hours between 10:00 p.m. and 7:00 a.m.
   e. Parking shall be permitted in the following areas of the premises:

25 Section 336A added; Local Law #1 of the year 2005 on 04/14/05.
26 Section 337 amended; Local Law #3 of the year 1990 on 10/11/90.
27 Section 338 amended; Local Law #1 of the year 2005 on 04/14/05.
(1) In the driveway or on a pavement or an improved area similar to the driveway surface contiguous to it.

(2) In the side or rear yards.

f. All parking must be set back from side and rear yard property lines at whatever distance is required for accessory buildings in the residential district in which the premises is located.

g. All parking areas and access drives thereto must have a pavement or an improved surface similar to the driveway surface.

h. Parking areas shall be screened as necessary from property and properties adjacent to it. This determination shall be made by the Zoning Administrator.

i. The following classes of vehicles shall be prohibited from parking on a regular basis in any residential district, except that they may be temporarily parked in connection with any lawful exercise of their use:

(1) Earth-moving vehicles and any trailers that are normally required to transport such vehicles.

(2) Cargo trailers or flatbed trailers, where the cargo box or flatbed portion of the trailer is greater than ten (10) feet in length.

(3) Dump trucks greater than five (5) yards in capacity.

3. Farm and agriculturally related commercial vehicles located on agricultural residential parcels and owned by the property owner are exempt from this Local Law.

4. Non residential uses in the HM District (as specified in Section 319(2)(a) of this Local Law are exempt from this Local Law, provided commercial vehicles are parked in conformity with a site plan approved by the Planning Board.

Section 339. 28SHOOTING PRESERVES

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

Section 340. 29OPEN SPACE SUBDIVISIONS

1. Policy and Authority
   a. Statement of Policy: The Town of Washington hereby establishes a policy of encouraging the use of open space subdivisions to

28 Section 339 amended; Local Law #3 of the year 1990 on 10/11/90.
29 Section 340 amended; Local Law #1 of the year 2000 on 08/10/00.
preserve open space, agricultural land, aquifers, and other environmental resources identified in the Town of Washington Master Plan, and to harmonize new development with the traditional open, wooded, agricultural and hamlet landscapes of the Town. Any person or entity subdividing or developing land in the Town shall follow the principles and procedures contained in Sections 340 through 341 of this Local Law and in applicable sections of the Town of Washington Land Subdivision Regulations. These principles allow the Planning Board to modify applicable provisions of Appendix B (Schedule of Area and Bulk Regulations) in order to preserve open space and encourage more sensitive and efficient development patterns than would be possible by strict adherence to the Appendix B specifications. The procedures contained in Section 61.2 of the Land Subdivision Regulations also authorize the Planning Board to require a cluster plan.

b. Grant of Authority: The Town Board of the Town of Washington hereby grants to the Planning Board of the Town of Washington the authority to modify applicable provisions of the Zoning Law as they apply to a specific plat, including the authority to require an applicant to modify a plat in a manner consistent therewith. To the extent that any provisions of Sections 340 through 341 of this Local Law are inconsistent with the Town Law, Section 278 of the Consolidated Laws of New York, the Town Board of the Town of Washington hereby declares its intent to supersede those Sections of the Town Law, pursuant to its home rule powers under Municipal Home Rule Law, Article 2, Section 10 et seq.

2. Purposes: This Section encourages flexibility in the design and development of land in order to promote its most appropriate use and to preserve as permanent open space, agricultural land, important natural features, wildlife habitat, water resources, ecological systems, and scenic areas for the benefit of present and future residents. A cluster subdivision plan may involve grouping development on one or more portions of a parcel, modifying road design and frontage requirements in return for very low density and permanent open space preservation measures, or a combination of these approaches. Cluster subdivisions shall achieve the following specific purposes:

a. Long-term protection of natural and specific resources identified in the Master Plan, Subdivision Regulations and Zoning Law;

b. Compatibility with surrounding land uses and the overall character of the area;

c. Provision of adequate setbacks and visual buffers from adjoining properties;

d. Contribution to Town-wide open space planning by creating a system of permanently preserved open spaces providing linkages between existing open space areas;
e. Preservation of land suitable for active agriculture, particularly where the open space subdivision borders active agricultural land or land suitable for agriculture, and preservation of contiguous tracts of agricultural soils of prime or statewide importance;

f. Protection of ground and surface water, regulated wetlands, steep slopes, floodplains or unique areas of natural, scenic or historic significance;

g. Mitigation of significant environmental impacts identified through application of the State Environmental Quality Review Act requirements;

h. Reduction of the number of new roads or driveways obtaining access from existing public roads and reduction of the amount of new road that may be required to be dedicated to the Town;

i. Protection of Critical Environmental Areas designated by the Town Board;

j. Preserve large tracts of contiguous open space within subdivisions of 100 acres or larger.

3. Preservation of Open Space in Cluster Subdivisions: A cluster subdivision accomplishes the purposes in Section 340(2) et seq. above by reducing the lot size and bulk requirements contained in the Zoning Law, and by clustering homes in those areas where development will have the least impact on identified environmental resources. The resulting open space resources shall then be permanently preserved through the use of conservation easements. The cluster principle can be applied not only to large subdivisions but also to subdivisions of four or fewer lots ("mini-clusters"), enabling the subdivided lots to be smaller than zoning would normally require, provided that compensating buildable land is placed under open space conservation easement to maintain the overall density at or below the level permitted by the Zoning Law.

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

Section 341. 30CLUSTRER SUBDIVISION REQUIREMENTS

1. Application Procedures: All residential cluster developments shall be subject to Section 480 et seq. "Site Plan Review and Approval" and the Planning Board's Subdivision Regulations. It is in the best interest of the
applicant and the Planning Board to determine the applicable development pattern at the earliest possible time.

a. Concept Plan: The applicant shall submit the land inventory information required under Section 42(p) of the Subdivision Regulations at the conceptual plan stage to assist the Board in making such a judgment. The Planning Board may also hold a public hearing on the conceptual plan and may refer the conceptual plan application to the Conservation Advisory Committee. The decision to require or to permit a cluster subdivision is at the sole discretion of the Planning Board.

b. Required Plans: An application for cluster development shall include all plans and materials required for a conventional subdivision. The maximum number of residential lots that may be permitted and approved within a cluster development shall not exceed the maximum number of lots capable of being developed within a conventional subdivision layout of the same property. Lots shown on the conventional conceptual layout shall be fully consistent with the lot, area and bulk requirements for the zoning district in which the land is located, and all applicable requirements of the Town Subdivision Regulations.

c. Planning Board Findings: In order to approve a cluster subdivision, the Planning Board must find that the cluster subdivision will benefit the Town and will fulfill the applicable purposes stated in Section 340(2) of this Local Law.

2. Cluster Development Standards

a. Determination of Development Density and Minimum Acreage: The number and location of residential units permitted as part of a cluster subdivision development shall be as determined as follows:

   (1) Regulatory Compliance: The Planning Board shall review the conventional subdivision plan required in Subsection 1 above and shall determine the number of building lots or dwelling units that could be practically created pursuant to said plan. In making such determination the Planning Board shall consider the requirements of the Land Subdivision Regulations, the Town Zoning Law, the requirements of the New York State Department of Transportation, the Dutchess County Departments of Health and Public Works, and the Town of Washington Highway Superintendent, as well as the limitations of soils, topography, wetlands and other environmental features, but not including the limitations imposed by the APO Overlay District.

   (2) Maximum Density: The maximum developed density of a cluster Subdivision shall not exceed one (1) single family unit per lot. The Planning Board may allow two-family dwelling units so long as the overall density for the development does not exceed the total density calculation if each proposed lot were developed for single-family
residential use. Any regulations contained in this Local Law restricting the number of single family dwelling units permitted in a conventional subdivision shall also restrict the number of dwelling units permitted in a cluster development, including any limitations imposed by Section 313 "Wetlands and Watercourses" herein.

(3) Prohibited Construction: In approving the design of a cluster development the Planning Board shall require that no construction or development (i.e. roads, structures, utilities, etc.) shall occur in or on regulated wetlands (including associated buffer/setback areas), stream corridors (including associated buffer/setback areas), flood plains, Critical Environmental Areas, or on slopes of greater than 15 percent. The allowable density of a cluster development may be reduced where the Planning Board finds such a reduction is necessary to avoid disturbance of these sensitive areas and assure compliance with the cluster development standards stated herein.

(4) APO District Layout: In the APO District, the building lots on a parcel shall be laid out and the residences shall be sited in a manner consistent with the standards established in Section 315(7) of this Local Law.

(5) Existing Structures: A proposed cluster plat may be denied where the Planning Board finds that the location of proposed boundary lines, relative to the existing structures and proposed new lots and adjoining property, or the location of proposed means of ingress and egress for the existing structures relative to proposed new lots and adjoining property, do not meet the intent of section 340(2) of this section.

(6) Minimum Acreage Per Lot: The minimum land area for each residential lot created as part of a cluster subdivision is one (1) acre where the lots are served by individual water supply and/or sewage disposal systems, and one-half (½) acre where the lots are served by both central water supply and sewage disposal systems.

b. Location of Open Space: The Planning Board is authorized to require the reconfiguration of a cluster subdivision to ensure that the open space(s) to be protected under the plan consist of large contiguous land tracts unbroken by intervening lots, structures, roads or driveways.

c. Private Roads: Notwithstanding the requirements of Section 344 "Private Roads" of this Local Law, the Planning Board is hereby authorized to allow the use of private roads to access lots within a cluster subdivision development and to modify, as required, the otherwise required road frontage for such cluster lots along the private road. Where the Planning Board permits use of a private
road to access the cluster subdivision the following provisions shall apply:

(1) The private road shall have only one access onto a public highway. The Planning Board may require this access to be configured as a divided road with a landscape median strip with two separate lanes providing travel in one direction or in such other configuration as the Board may deem necessary to adequately service the subdivision and protect the public health, safety and convenience.

(2) Flag lots and "rear lots" as defined in the Town Zoning Law and Town Subdivision Regulations are prohibited on private roads. The Planning Board shall require that all lots of a proposed subdivision must access the private road.

(3) An application for a private road subdivision shall be referred to the Town Highway Superintendent who, after consultation with the Town Engineer, shall make a recommendation to the Planning Board supporting, denying or conditioning the use of a private road. A negative recommendation would require a super majority vote and supporting statement of the Planning Board to allow the use of the private road. The application shall also be referred to the local fire company for review and comment.

(4) The deed to each lot of a subdivision accessed via a private road shall contain an unconditional waiver of any right to offer or seek dedication of the private road to the Town, and shall contain a covenant against further subdivision of any lot in the subdivision. Additionally, the deeds shall contain a covenant against any other use of the private road corridor by lease, assignment, sale or license by any landowner.

(5) The boundary of each lot within a subdivision served by a private road shall extend to the center line of the private road with a right of way for ingress and egress across the private road granted to each lot within the subdivision.

(6) The length of a private road shall generally not exceed 3,500 feet.

(7) Street names shall be subject to the approval of the Town and the County (i.e., 911 emergency service). The location of bus stops and mail boxes shall be shown and approved by the Town Highway Superintendent, the Town Engineer and/or the appropriate State or County highway authority.

(8) Private roads shall be constructed in accordance with the plans approved by the Town Highway Superintendent and the Town Engineer. In reviewing the proposed plans for construction of a private road the Highway Superintendent and the Town Engineer shall be guided by the private road construction criteria of the Town, and shall be satisfied that
the proposed private road will be adequate to assure safe, continuous access for residents and emergency vehicles.

(9) The Planning Board may require the applicant to post a bond, in an amount to be set by the Highway Superintendent and the Town Engineer, sufficient to assure the construction and maintenance of the private road. Upon completion, the applicant's professional engineer shall certify to the Planning Board, the Highway Superintendent and the Town Engineer that the private road (or part thereof) was constructed in accordance with the approved plans. Additionally, the applicant's professional land surveyor shall provide the Planning Board, the Highway Superintendent, the Town Engineer and the Building Inspector with a certified "as-built" survey of the private road. No certificate of occupancy may be issued for any structure on any lot served by the private road until the Planning Board, the Highway Superintendent and the Town Engineer have received the applicant's engineer construction certification and certified copies of the "as-built" survey of the private road.

(10) The maintenance and repair of the private road shall be subject to a private road maintenance agreement binding all property owners equally which agreement shall be approved by the Town Attorney.

d. Common Driveways: Common driveway access to individual lots from a public highway created as part of the cluster subdivision may be provided to the extent considered practical by the Planning Board. A common driveway may not be used to access more than three (3) lots within the cluster subdivision.

e. Pedestrian Access: The Planning Board may require that the cluster subdivision layout include sidewalks and trails for pedestrian circulation. Such pedestrian access ways shall be designed and installed to meet the needs of residents.

f. Architectural Review: The architectural design and appearance of principal and accessory structures to be constructed as part of a cluster subdivision shall be in accordance with the Architectural Review Standards of the Town. Until such time as the Town Board shall act to create an Architectural Review Board, the Planning Board shall act as the Architectural Review Board to administer the Town Architectural Review Standards. This paragraph shall have no force and effect until the Town Board has adopted Architectural Review Standards for the Town. Nothing herein shall be construed to limit or constrain the ability of the Planning Board to review the architectural style and type of proposed structures in a cluster development when conducted as part of the Planning Board’s environmental review of the action under SEQRA.
g. Water Supply and Sewage Disposal: Water supply and sewage disposal facilities serving the cluster subdivision shall be designed by a licensed professional engineer in accordance with Town and/or County health department standards. The Planning Board may require well and soil test data during review of the application for cluster subdivision approval.

h. Utilities: All telephone, natural gas, electric and similar utilities serving the cluster subdivision shall be located underground.

3. Open Space Preservation Requirements: All lands identified as having one or more of the features or characteristics identified in section 340(2) herein not included in a cluster development plat as building lots or roads shall be set aside as permanent open space. The creation, preservation and management of open space to be protected as part of a cluster subdivision development shall be as follows:

a. Prohibited Use: No portion of the minimum common open space as defined in paragraph b. below shall be used for roads, building lots, utility structures, driveways, or any principal or accessory structure.

b. Minimum Open Space: Common open space totaling not less than seventy (70) percent of the total cluster development land in the RR-10, RS-10, RR-5, and RS-5 districts, and not less than fifty (50) percent of the total cluster development land in the HM, 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.

c. Location of Preserved Open Space: Open space set aside in a cluster subdivision shall be permanently preserved as required by this Section. Land set aside as permanent open space shall be included as a portion of one or more large parcels on which dwellings are permitted, provided that a conservation easement is placed on such land pursuant to this local law and provided that the Planning Board approves such configuration of the open space. Additionally, each lot created as part of the cluster subdivision shall, at a minimum, be granted individual rights to enforce the covenants and restrictions of the conservation easement protecting and preserving the open space.

d. Preservation for Agricultural Use: On parcels subject to APO District regulations, open space shall be preserved for active agricultural uses only. Active agricultural uses are hereby defined

as principal uses involving the on-going business of growing of crops for cash sale, the raising of animals for cash sale, and the raising of animals for production of derivative products (i.e. dairy farming) for cash sale. Secondary open space uses include but are not limited to forestry, recreation, and conservation of water, plants, or wildlife, consistent with the purposes specified in Section 315(l) of this Local Law. Land preserved for agricultural purposes but not in active production shall be periodically mowed as specified by the Planning Board. On all parcels not subject to APO District regulations, open space uses shall be appropriate to the site, including but not limited to passive and active recreation (including trail use), and forestry.

e. Plat Notations: Open space created by the use of open space subdivisions must be clearly labeled on the Final Plat as to its use, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land. The Plat shall clearly show that the open space land is permanently reserved for open space purposes, and shall contain a notation indicating the liber and page of any conservation easements or deed restrictions required to be filed to implement such reservations or restrictions.

f. Permanent Protection of Open Space: Open Space shall be protected by a perpetual conservation easement restricting development of the open space land and allowing use only for active agriculture (as defined in paragraph "d" above), forestry, active or passive recreation or protection of natural resources, pursuant to Section 247 of the General Municipal Law and/or Section 49-0301 through 49-0311 of the Environmental Conservation Law, shall be granted to the Town, with the approval of the Town Board, or to a qualified not-for-profit conservation organization acceptable to the Planning Board. Such conservation easement shall be reviewed and approved by the Planning Board and be required as a condition of plat approval hereunder.

g. Primary Enforcement: The Planning Board may require that such conservation easement be enforceable by the Town of Washington if the Town is not the holder of the conservation easement.

h. Secondary Enforcement: In addition to enforcement of the conservation easement by a qualified not for profit organization it is in the Town's interest to allow private enforcement of the restrictions contained in such a conservation easement because residents of the Town living closest to the land protected by the Conservation easement have the greatest interest in enforcing it. The Town has determined that supplementing the conservation easement with a legal instrument providing for private enforcement of the restrictions in the conservation easement will help to ensure long-term compliance with such restrictions. Therefore, in addition to requiring a conservation easement in all cases as a condition of approval of any cluster subdivision, the Planning Board may also require the applicant to file in the
Dutchess County Clerk's Office a separate declaration of restrictions or other legal instrument running with the land in perpetuity, conferring a private right of enforcement of the substantive restrictions of the conservation easement. Such declaration or other instrument shall contain the same restrictions as the conservation easement, and shall designate as parties who may enforce such declaration or instrument all owners of lots within the cluster subdivision including properties separated from the proposed subdivision by a public or private road or right-of-way.

i. Prohibited Uses: The conservation easement shall prohibit residential, industrial, or commercial use of such open space land (except in connection with active agricultural and forestry use), and shall not be amendable to permit such use. Where the open space is in single private ownership, and not in common ownership, subject to Planning Board approval the conservation easement may allow structures to be constructed on portions of the parcel that include protected open space land.

j. Recording: The conservation easement shall be recorded in the Dutchess County Clerk's office prior to or simultaneously with the filing of the Open Space Subdivision final plat in the Dutchess County Clerk's Office.

k. Ownership: The open space land of any cluster subdivision shall be included as a portion of one or more large parcels of the subdivision on which dwellings are permitted. In order to prevent the encroachment of any part of the residential development of such a lot into the preserved open space, the final cluster subdivision plat map shall depict, by metes and bounds, the location of a building envelope within which all development on the lot shall occur. The size of such a building envelope shall not exceed the minimum lot acreage and density requirements for any individual lot within the cluster subdivision as specified elsewhere in this local law.

l. Maintenance: Ongoing maintenance standards shall be established, enforceable by the Town against an owner of open space land as a condition of subdivision approval, to assure that the open space land does not detract from the character of the neighborhood. Such maintenance standards may include the obligation to mow open fields to maintain their scenic character.

m. Town Enforcement of Maintenance Standards: If the Town Board finds that the open space set aside is being maintained in such a manner as to constitute a public nuisance, it may, upon thirty (30) days written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed pro-rata against the owner or, in the case of an HOA, the owners of properties within the development, and shall, if unpaid, become a tax lien on said properties.
Objectives. The objectives of the Scenic Road Local Law are for the common good and to:

+ Preserve and protect the present quality and character of certain and specific roads of the Town of Washington (the “Town”),

+ 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,

+ 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,

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

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

31 Section 342 deleted in its entirety; Local Law #1 of the year 2000 on 08/10/00.
32 Section 343 deleted in its entirety; Local Law #1 of the year 2000 on 08/10/00.
33 Section 344, new section added; Local Law #
+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.

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

+This Local Law recognizes it is the intent of the Town of Washington that all activities on or along Town roads conform to relevant law.

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

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

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

+ Paragraph listed as f. in Local Law.
+ Paragraph listed as g. in Local Law.
+ Paragraph listed as h. in Local Law.
4. Designation Procedure
   a. The Town Board, after following the designation procedure set forth herein, may consider a road for Scenic Road designation. Not less than three (3) property owners may petition the Town Board for designation of a road as a Scenic Road if they each own property which abuts that Scenic Road. The petition shall state by name which road is requested to be designated as a Scenic Road and describe the characteristics of the road which qualify it for Scenic Road status, as well as any other characteristics which enhance the scenic character of the road.
   b. An original and one copy of the petition shall be filed with the Town of Washington Town Clerk (the “Town Clerk”), who shall retain the copy and forward the original to the Town Board.
   c. In order to designate a road as a Scenic Road, the Town Board shall first refer any proposal or petition to the Planning Board, the Highway Superintendent, and the CAC for review and comment within 90 calendar days. The Town Board shall then hold a public hearing regarding the designation of such road as a Scenic Road. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the Town of Washington at least 5 calendar days prior to the date of such hearing and by sending notice by mail to the owners of lots fronting the road to be designated as a Scenic Road. The Town Board shall act upon the proposed designation within 45 calendar days after such hearing.

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

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

d. In the case of a natural disaster in which, in the judgment of the Highway Superintendent, a road or a portion thereof becomes impassable or unsafe for public travel and access must be provided, emergency repairs and reconstruction by the Highway Superintendent may be made as needed to restore the road to its pre-emergency condition without public hearing or Planning Board approval.

e. Any proposal by a public entity or official for alteration or improvement not involving routine road maintenance, emergency repairs or the issuance of a driveway permit, shall be submitted to the Planning Board. The Planning Board shall submit such proposal to the CAC and Highway Superintendent for review and comments and shall hold a public hearing in the manner set out in Section 4, above.

(1) Applications for 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.

(2) In reviewing applications for alteration or improvement not involving routine road maintenance, emergency repairs or the issuance of driveway permits, the Planning Board shall consider the following:

+ (i) Any alternatives to the proposed alteration or improvement and evidence that the applicant has chosen the alternative least damaging to the Scenic Road.

+ (ii) That the applicant has considered the following, where appropriate;

+ Stated in Local Law as (a) and (b). Should be (i) and (ii).
(a) The impact of the alteration or improvement on stone walls within the right of way of the Scenic Road;

(b) The impact of the alteration or improvement upon the speed of vehicular traffic along the Scenic Road;

(c) The preservation of non-hazardous curves in the Scenic Road;

(d) The preservation of non-hazardous hills and valleys by avoidance of unnecessary cuts and fills;

(e) The placement of wide by-passes and turnouts to avoid unnecessary widening of the Scenic Road;

(f) Preservation of views of near and distant landscapes through appropriate landscaping techniques within the right of way only;

(g) Minimize impact on roadside vegetation, including but not limited to trees, shrubs and wild flowers; and

(h) Avoidance of signage, sand, gravel, refuse and salt piles to the extent practicable.

f. The official Scenic Road will be recorded on the New York State’s inventory of the Town of Washington Highways.

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

Section 344A. PRIVATE ROADS


a. The creation of new private roads shall be at the discretion of the Town Planning Board which must make specific findings that a proper case exists for the creation of a private road.

b. A private road may be used to access only single and two-family dwellings. A private road may not be used to access any other type of property.

c. A private road may service no more than ten (10) lots.

d. The total amount of land that may be served by a private road must not be less than eight hundred percent (800%) of the minimum lot size in the district (i.e. 40 acres in a 5 acre district, 80 acres in a 10 acre district).

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

Stated in Local Law as Section 344. Should be 344A.

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

Stated in Local Law as CAPS. Should be lower case.
e. “Flag lots” and “rear lots” as defined in this Local Law are prohibited on a private road.

f. Common driveways are prohibited on a private road.

g. The length of a private road shall not exceed 2,500 feet in a five acre district nor 3,500 feet in a ten acre district.

h. A private road shall have only one access on a public highway. The Planning Board may require this access to be configured as a divided road with a landscape median strip with two separate lanes providing travel in one direction.

i. Any lot to be served by a private road shall have not less than the minimum road frontage required for a public road in the same district.

j. The boundary of each lot served by a private road shall extend to the center line of the private road with the right of way for ingress and egress across the private road granted to each lot served by such road.

k. The segmentation of a subdivision plan into phases in order to avoid the costs of constructing a Town Road is prohibited. If such illegal segmentation occurs, the Town Planning Board has the power to impose such conditions on a subsequent subdivision of land by the owner or successor in title as it may deem appropriate.

l. The deed to each lot of a subdivision containing a private road shall contain an unconditional waiver of any right to offer or seek dedication of the private road to the Town and shall contain a covenant against further subdivision of each lot. In addition, the deed shall contain a covenant against any other use of the private road by lease, assignment, sale, or license by the lot owner.

m. The name to be given to a private road shall be subject to the approval of the Town and County.

n. Location of bus stops and mail boxes on a private road shall be approved by the Town Highway Superintendent, the Town Engineer, and/or the appropriate State or County Highway authority.

o. All lot owners served by a private road shall enter into a maintenance and repair agreement with all other lot owners served by such private road. Such agreement shall be approved by the Town Attorney.

p. The width of a private road shall be referred to as a “corridor” rather than a “right-of-way” to avoid confusion with the classic use of the term as applied to public roads. Specifically, a “private road corridor” shall mean the full potential width of the road right-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.

2. Application to Create a Private Road.
   a. Every entity or individual that wishes to create a private road must file an application with the Town Planning Board. Copies of the application shall be located in the office of the Town Planning Board.
   b. The Town Highway Superintendent, after consultation with the Town Engineer and the local fire company, shall make a recommendation to the Planning Board supporting, denying, or conditioning the use of a proposed private road. The recommendation of the Town Highway Superintendent shall be submitted to the Town Planning Board, which shall make a statement of findings in regard to the creation of the proposed private road. If the Town Planning Board decides to approve the creation of the private road, the Town Planning Board shall make specific findings that the private road as designed will adequately protect the public safety, will be part of a subdivision in keeping with the neighborhood, and will be protective of down-stream drainage, aquifer recharge, and neighboring wells and septic systems.
   c. Notwithstanding the preceding paragraph, if the Town Planning Board receives a negative recommendation regarding the creation of the proposed private road from the Town Highway Superintendent, a majority plus at least one vote and supporting statements of the Town Planning Board shall be required to allow the creation of the private road.

3. Construction of a Private Road.
   a. A private road shall be constructed in accordance with the plans approved by the Town Highway Superintendent and the Town Engineer. In reviewing the proposed plan for the creation of a private road, the Town Highway Superintendent shall be guided by the private road construction criteria of the Town and shall be satisfied that the proposed private road will be adequate to insure safe, continuous access for residents and emergency vehicles.
   b. The Town Planning Board may require the applicant to post a bond, in an amount to be determined by the Town Highway Superintendent and the Town Engineer, sufficient to insure the construction and maintenance of the private road.
   c. Upon completion of construction of the private road, the applicant’s professional engineer shall certify to the Town Planning Board, the Town Highway Superintendent, and the Town Engineer that the private road (or part thereof) was constructed in accordance with the approved plans.
   d. Upon completion of construction of the private road, the applicant’s professional land surveyor shall provide the Town
Planning Board, the Town Highway Superintendent, the Town Engineer, and the Town Building Inspector with a certified “as-built” survey of the private road.

e. No certificate of occupancy may be issued for any structure on any lot served by a private road until the Town Planning Board, the Town Highway Superintendent, and the Town Engineer have received the above-mentioned certifications.

Section 345. **TELECOMMUNICATION FACILITIES**

I. LEGISLATIVE PURPOSES

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

1. Facilitating the provisions of wireless telecommunication and other communication services to the residents and businesses of the Town, while simultaneously preserving the character, appearance and aesthetic resources of the Town:

2. Minimizing the adverse visual effects of telecommunications towers and facilities through development of locational and approval criteria;

3. Protecting the scenic, historic, environmental, natural and man-made resources of the Town;

4. Preserving the property value of the community;

5. Minimizing the undue proliferation and height of communications towers throughout the community;

6. Avoiding potential harm to adjacent persons and properties from tower failure, noise, falling objects and attractive nuisances through set-back and height limitations; and

7. Encouraging the shared use of existing and approved towers in order to reduce the number of towers needed to serve the community where reasonably possible, so as to minimize and mitigate the adverse visual impacts of towers and their facilities.

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

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35 Section 345, new section added; Local Law #2 of the year 1998 on 08/20/98.
++ Stated in Local Law as (a), (b), (c), (d), (e), (f) and (g). Should be as shown.
+1. They do not prohibit, or have the effect of prohibiting, the provision of personal wireless services;

2. They are not intended to be used to unreasonably discriminate among providers of functionally equivalent services; and

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

II. APPLICATION OF REGULATIONS.

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

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

III. DEFINITIONS

1. Cellular Communication System - shall mean a radio telecommunication service provided using a cellular system.

2. Personal Communication System - shall mean radio telecommunication services that encompass mobile and ancillary fixed communications operating at 1.8 to 2.1 GHz that provide services to individuals and businesses and can be integrated with a variety of competing networks.

3. Specialized Mobile Radio Services - shall mean a radio communication system in which licensees provide land mobile communication services in the 800 MHz and 900 MHz bands on a commercial basis to entities eligible to be licensed under 47 CFR 90, Federal Government Entities and individuals.

*Shown in Local Law as (a), (b) and (c). Should be as shown.
4. Paging Service - shall mean a numeric, text and voice messaging service.

5. Co-location - shall mean the location of one or more PWRT Facilities at a common site.

6. As-Of-Right Facilities - shall mean those PWRT Facilities as described herein which may be installed and operated subject only to the securing of a building permit for construction and a certificate of occupancy for operation from the Town Building Inspector upon furnishing the information and plans specified by the Building Inspector and this Local Law.

7. Monopole Tower - shall mean a freestanding tower consisting of a single pole.

8. Lattice Tower - shall mean a freestanding tower supported by a series of interconnected struts or stanchions.

9. Antenna - shall mean a device that converts radio frequency electrical energy to radiated electromagnetic energy and vice versa.

10. Base Station - shall mean a stationary transmitter that provides radio telecommunication services to mobile and fixed receivers including antennas.

11. Stealth Technique - shall mean a method or methods that would hide or conceal an antenna, supporting electrical or mechanical equipment, or any other support structure that is identical to or closely compatible with the color or appearance of the support structure so as to make the antenna and related equipment as visually unobtrusive as possible.

12. Exempt Facilities - shall mean transmitting and receiving telecommunication facilities which are exempt from regulation under this section, and shall include: (1) amateur radio and satellite facilities so long as such facilities are operated by a licensed amateur operator; (2) civil emergency facilities; and (3) home satellite facilities where installed on residential premises solely for the use of the residents of that premises and not offered for re-sale to off-premises locations.

IV. AS-OF-RIGHT FACILITIES.

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

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

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

1. Towers shall maintain a galvanized steel finish or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness.

2. Towers shall not be artificially lighted.

3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of a neutral color identical to or closely compatible with the color of the supporting structure.

4. Except for towers constructed and in use prior to the effective date of this Local Law, towers which are no longer in service as part of a PWRT Facility network shall be removed within ninety (90) days of the cessation of the use of the tower.

5. If an As-of-Right PWRT Facility has no existing access road, the necessary access road shall meet or exceed the standards set for specially permitted facilities in Paragraph V.A.6. of this local law.

6. The applicant shall post a security deposit or bond in an amount satisfactory to the Planning Board and in a form acceptable to the Town Attorney, to assure:
   (a) The adequate construction of any access road to the PWRT Facility.
   (b) The removal of those portions of the PWRT Facility and any base station and ancillary support structures which were not in place prior to the effective date of this Local Law.

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

1. An application for construction of a PWRT Facility shall contain all the information ordinarily required by the Building Inspector for the issuance of the building permit. In addition, the application shall contain a map of the proposed PWRT Facility prepared in accordance with the requirements of section 483 of this Zoning Law.
2. An application for construction of a PWRT Facility shall include a report certifying that the electro-magnetic emissions from the PWRT Facility will be within the threshold limits established by the Federal Communications Commission, and certifying that the proposed facility will not cause interference with existing communication devices.

3. Upon installation of the PWRT Facility the applicant shall submit to the Building Inspector an as-built survey of the PWRT Facility, including a certification as to the finished height above ground level of the structure, certified to the Town of Washington by a Land Surveyor or Professional Engineer, licensed to practice in the State of New York.

4. Documentation of intent from the owner of the existing PWRT Facility to allow co-location and shared use.

5. An engineer’s report certifying that the proposed shared use of an existing structure or tower will not diminish the structural integrity and safety of the existing structure or tower.

6. A completed short EAF and a completed visual EAF addendum.


V. SPECIFICALLY PERMITTED FACILITIES

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

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

Co-location is required for telecommunication facilities unless:
(i) There are no other usable existing structures in the area for telecommunication facility services.
(ii) Co-location cannot achieve the minimum reasonable technical needs of the proposed telecommunication facility.
(iii) Structural or other engineering limitations, absent reasonable refurbishment, are demonstrated by clear and convincing evidence to be prohibitive.
(iv) The telecommunication facility, after thorough and good faith efforts disclosed to the Town, is unable to secure permission from tower or structure owner to co-locate.

f. The clustering of towers and structures on a common site should be considered if co-location cannot be facilitated.

g. Visual appearance.
(i) Unless such a structure cannot achieve the applicant’s purposes as disclosed in its application and supporting data, the Planning Board shall have the authority to require the applicant to furnish an alternative proposal using a tree-like structure or some other alternative structure at the proposed site rather than a conventional tower in order to better achieve the least negative impact on the visual environment.
(ii) The height of any new tower shall be the minimum required to establish and maintain adequate service, but in no event shall the height of any new tower exceed three (3) times the maximum building height for the zoning district in which the tower is to be located, as shown in Appendix B of the Town Zoning Law.
(iii) All equipment shelters and accessory structures shall be architecturally uniform and no taller than twelve (12) feet.
(iv) All equipment shelters used shall only be used for housing of equipment related to the particular facility on the particular site.
(v) Materials and colors for a proposed utility structure(s) shall be of an appearance which is compatible with any surrounding structures and/or vegetation to the maximum extent practicable and as approved by the Planning Board.

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

3. No tower or monopole shall be located:
   a. Closer than 300’ on a horizontal plane, to any structure, existing at the time of application, which is, or is able to be, occupied or habitable on the property of any school (both public and private).
   b. Closer than 300’ on a horizontal plane, to an existing dwelling unit on a parcel other than the parcel on which the subject tower or PWRT Facility is located, or any day-care center, hospital, nursing home, church, synagogue or other place of worship.
   c. Subject to the provisions of (a) and (b) above, the Planning Board shall determine appropriate distance set backs from any school, power line, dwelling unit or other structures, whether on or off the parcel, on which a tower or monopole shall be based. Visibility of the tower or monopole from such structures and consideration for the safety of the users or occupants of such structures in the event of the structural failure of the tower or monopole shall also be considered.

4. Tower Facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent properties. The standard buffer shall consist of a landscaped strip at least six (6) feet wide outside the perimeter of the compound. The plantings shall consist of alternately spaced evergreens having a height of not less than six (6) feet above the height of the ground elevation at the time of installation. The Planning Board may waive these landscaping requirements where the Board determines that the amount and type of existing on-site vegetation is adequate to fully screen the Facility.

5. Existing mature trees and natural land forms on the site shall be preserved to the maximum extent possible.

6. The Planning Board shall review and approve the plans for construction of any access road or driveway for the Facility and may require the preparation and implementation of an erosion and sedimentation control plan as the Board may deem appropriate after referral of the site plan to the Town Highway Superintendent and the Board’s consulting Professional Engineer for recommendation. A road and parking plan shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made, provided said use is consistent with safety and aesthetic considerations. Road construction shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and soil erosion potential. Except to the extent that the Planning Board shall determine to apply its own road criteria as the same
may exist from time to time, the applicant shall adhere to the standards for unpaved forest roads set forth in New York State Department of Environmental Conservation Unpaved Forest Road Handbook - ECH - 8409.11, as the same may be amended or revised from time to time.

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

361. A photo simulation of the proposed facility as seen from the north, south, east and west from the Facility. The photo simulation shall be keyed to a location map. Photographs for the photo simulation shall be taken during periods when deciduous leaf cover is minimal (i.e. during the late autumn, winter, and early spring months), and shall only be taken when there is no precipitation, fog, or more than fifty percent cloud cover, in order to present a worst-case scenario for visual impact assessment purposes. Prior to performing the visual test the applicant shall meet with the Planning Board to obtain the Board’s consent as to the date and time on which the visual test will be conducted and photographs for the photo simulation will be taken. The applicant shall also inform the Board as to the manner in which the visual test will be conducted (i.e. a crane test or balloon test). The Board may require the visual test to be performed on more than one day when the Board determines that additional time for the visual test is required in order to provide neighboring and nearby land owners and residents adequate time to observe the test. Not less than ten (10) days prior to the authorized date of the visual test the applicant shall notify in writing, by certified, first class mail, return receipt, all owners of land within 500 feet of the boundary of the parcel of land which the applicant proposes to locate the PWRT Facility. The notice shall include the date, time and manner in which the visual test will be conducted and shall state the reason for the test.

2. An application for construction of a PWRT Facility shall include a report certifying that the electromagnetic emissions from the PWRT Facility will be within the threshold limits established by the Federal Communications Commission, and certifying that the proposed Facility will not cause interference with existing communication services.

3. A certification by a licensed professional engineer as to wind loading and the ability of the supporting structure to accommodate the Facility and any additional users.

4. A statement by the applicant as to all other alternative sites, including other alternative sites not owned or operated by the applicant in any area, considered and the reasons for their rejection.

36 Section 345, Subsection V.B.1. amended; Local Law #1 of the year 2003 on 01/02/03.
5. A statement by the applicant that locating the facility in an As-Of-Right Location is not practical or feasible and the reasons supporting that determination.

6. A graphic depicting the location of all of the applicant’s existing wireless communication facilities located in or otherwise serving the Town of Washington.

7. A graphic depicting the geographic area to be served by the proposed Facility.

8. A copy of the applicant’s FCC operating license.

9. Upon installation of the PWRT Facility the applicant shall submit to the Building Inspector an “as-built” survey of the Facility, including a certification as to the finished height above ground level of the structure, certified to the Town of Washington by a Land Surveyor or Professional Engineer, licensed to practice in the State of New York.

10. Documentation from an expert qualified in the field of telecommunications and radio frequency engineering showing that the tower and/or facility is needed to provide adequate coverage to an area of the Town that currently has inadequate coverage; including a sealed, graphical depiction of the inadequate coverage area.

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

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

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

3. Applicant shall demonstrate with written documentation that it has analyzed the feasibility of repeaters or non-tower mounted PWRT Facilities in conjunction with all sites listed in compliance with C.(1) and C.(2) to provide adequate coverage and/or adequate capacity to the Town of Washington. Radial Plots indicating such consideration shall be provided as part of the application.

4. The applicant shall also submit a three (3) year buildout plan for the proposed and other sites within the Town and within adjacent Towns and Villages, clearly demonstrating the Applicant’s plan for other structures, proposed application and building dates, and justification for additional structures. Additionally, the three (3) year buildout plan must take into consideration known and potential changes in technology.

5. An applicant for a new tower must demonstrate the structure’s ability to handle additional co-locators and must identify the maximum number of co-locators which could be supported on the structure.

6. Documentation of intent from the owner and/or lessee of the Facility to allow co-location and shared use.

VI. ANNUAL CERTIFICATIONS

After the issuance of a special permit, the owner/operator of the Facility shall annually (on January 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.

VII. 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 local law, or to perform any testing called for hereunder, they may retain such assistance and charge the cost thereof to the applicant. A deposit for the purpose of paying these expenses may be required of the applicant at the time of application for the special permit or building permit, as the case may be. If a deposit is not taken at the time of application and said costs are incurred thereafter, the applicant shall be charged for them and must pay said charges as a condition of retaining its special permit or As-Of-Right use.

VIII. VILLAGE OF MILLBROOK PROXIMITY

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

IX. SEVERABILITY

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

Section 346. AIRFIELDS AND AIRCRAFT

DEFINITIONS

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

++Airfield. An area for the landing and takeoff of aircraft, including, without limitation, an airport, airstrip, heliport, helipad or helistop.

1. Airfields are not a permitted use in any zoning district in the Town.

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

Section 347. GARAGE AND YARD SALES AND TEMPORARY PERMITS

37 Section 345, subsection VII, first sentence amended; Local Law #1 of the year 2005 on 04/14/05.
38 Section 346 amended by adding a new section; Local Law #4 of the year 1999 on 12/02/99.
++ Stated in Local Law as Paragraph 1.
++ Stated in Local Law as Paragraph 2.
** Stated in Local Law as Paragraphs (a) and (b).
1. Garage or yard sales are not permitted unless they meet the following standards:
   a. Sales last no longer than three (3) consecutive days.
   b. Sales are held no more than twice yearly.
   c. Sales are conducted on the owner’s property. Multiple family sales are permitted if they are held on the property of one of the participants.
   d. No goods purchased for resale may be offered for sale.
   e. No consignment goods may be offered for sale.
   f. Directional signs may be placed on the street right-of-way.
   g. All directional and advertising signs shall be free-standing and removed after completion of the sale.
   h. All directional and advertising signs placed on private property shall have the owner’s permission.
   i. No directional or advertising signs may be larger than two (2) square feet.

2. Nothing in these regulations shall prevent a church, school or other tax exempt charitable organization from holding a fair, auction, carnival, circus, horse show or similar event, for a period not exceeding five (5) days, upon its premises, the income of which is for the sole benefit of said applicant, provided said organization receives a temporary permit for said event from the Town Zoning Administrator subject to such conditions as may be specified by the Town Zoning Administrator. Said temporary permit shall be issued only for the event and for the dates specified in the permit.

Section 348. **BED-AND-BREAKFASTS**

A. Definitional Limitations

1. A bed and breakfast may have no more than five (5) bedrooms for guests and may accommodate no more than ten (10) transient lodgers.

2. The bed and breakfast may offer meals to its lodgers only.

3. Bed and breakfast establishments may not be used commercially for conference centers, weddings, concerts, a public restaurant, auctions, retreats or other for hire events.

B. Additional Conditions for Special Permit

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

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39 Section 347, new section added; Local Law #1 of the year 2003 on 01/02/03.
40 Section 348, new section added; Local Law #1 of the year 2003 on 01/02/03.
structure is to be converted to a bed and breakfast, in which case the owner must live in the principal residence on the same parcel as the accessory structure. If the principal residence and an accessory structure are to have bed and breakfast rooms, the total bedrooms allowed is still limited to five (5) and the total transient lodgers is still limited to ten (10).

2. For all bed and breakfast applications, the Planning Board must make a statement of findings as required by Section 473 of this Zoning Code.

3. The structure which is to be covered by the special permit shall be specified in the application, together with a statement of the amenities to be available to guests, including bedrooms, bathrooms, common rooms, parking areas and other areas to be used by guests. Before issuing a special permit, all areas defined for use in the Bed and Breakfast may be inspected by the Planning Board.

4. The applicant shall comply with all applicable health codes, building codes and other applicable laws. Applicant must provide documentation that applications for all applicable permits (for example, Dutchess County Department of Health) have been filed with the appropriate agencies. Prior to the issuance of a certificate of occupancy, the applicant must show that all applicable permits have been received.

5. The permit shall specify the number of bedrooms covered by the permit, which number shall not exceed five (5).

6. If the property on which a Bed and Breakfast exists is sold or otherwise transferred to a new owner, the special permit for the Bed and Breakfast shall expire unless (a) within one hundred twenty (120) days after the transfer of title the new owner makes an application for a renewal of the special permit and (b) receives a renewal of the special permit subject to such conditions deemed necessary by the Planning Board.

7. Application must include a floor plan of the structure to be used for the Bed and Breakfast at ¼”=1” scale. The plans must clearly delineate all areas of the structure and their function.

8. All signage shall be included in the special permit application process. A sketch showing all wording, dimensions and design shall be submitted.

9. No parking lots or parking areas shall be located closer than twenty (20) feet to any residential property line.

10. The dwelling shall comply with all applicable bulk regulations and other applicable provisions of this Zoning Code.
The provisions of this Local Law set forth in the schedules of regulations shall be subject to such exceptions, additions, or modifications as provided herein by the following Supplementary Area and Bulk Regulations.

Section 351. PRINCIPAL STRUCTURE

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

Section 352. MINIMUM AREA AND LOT DIMENSIONS

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

Section 353. REAR LOT ROAD FRONTAGE

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

Section 354. EXCEPTIONS TO HEIGHT LIMITATIONS

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

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

2. No tower shall be used as a place of habitation or for tenant purposes.

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

Section 355. ACCESSORY STRUCTURES

When an accessory structure is attached to the principal building, all the yard requirements of this Local Law as set forth in Appendix B of this Zoning Code applicable to the principal

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41 Section 355 amended; Local Law # 1 of the year 2003 on 01/02/03.
building shall be met. If an accessory structure of not more than six hundred (600) square feet is not attached to the principal structure on a non-conforming lot of one (1) acre or less or on a one (1) acre conforming lot, it may be located at a distance which is not less than fifty percent (50%) of the distance required by Appendix B of this Zoning Code from the side and rear lines of the property, provided it is not located any closer to the road(s) bordering the property than the principal structure. In addition and subject to the foregoing, accessory structures are permitted as set forth in Appendix A of this Zoning Code subject to the following requirements.

1. Accessory structures shall not exceed the greater of thirty-five (35) feet or two (2) stories in height, and shall not occupy more than ten percent (10%) of a required rear yard.

2. No accessory structure shall be located closer to the street than the front yard setback required for a principal structure in the district in which such accessory structure is located.

3. For corner lots the setback from the side street shall be the same for accessory structures as for principal buildings.

4. Accessory structures may be used for residential purposes in any zoning district provided such accessory structures meet the requirements of section 330 or 330-B of this Zoning Code as applicable.

Section 356. PROJECTING ARCHITECTURAL FEATURES

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

Section 357. IRREGULAR SIDE YARDS

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

Section 358. CORNER LOTS AND THROUGH LOTS

1. Any corner lot delineated by subdivision after the adoption of this Local Law shall provide a side street setback line which shall not be less than the minimum front yard required on any adjoining lot fronting on the side street.

2. At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.
Section 359. VISIBILITY AT INTERSECTIONS

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

Section 361. 42SWIMMING POOLS

1. A swimming pool constructed in ground or above ground, including accessory equipment, shall be considered an accessory structure and shall be set back from lot lines at least the minimum distance required for an accessory structure in that district.

2. A swimming pool must be completely surrounded by a fence or wall enclosure. Such fence or wall enclosure shall comply with the requirements of the New York State Uniform Fire Prevention and Building Code. A wall or fence or other enclosure wholly enclosing a dwelling house and the swimming pool shall constitute compliance with this requirement.

3. If a pool will be visible from a neighbor’s residence or from a public road, it and its associated equipment shall be adequately screened to the satisfaction of the Zoning Administrator.

4. This section does not apply to portable pools that do not exceed one hundred (100) square feet.

Section 362. 43TRAILERS

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

Section 363. 44FENCES, WALLS AND BERMS

1. The bulk requirements of this Local Law as set forth in Appendix B of this Zoning Code shall not be deemed to prohibit any necessary retaining wall nor to prohibit any fence, wall or berm, provided that in any residential district such fence or wall shall not exceed six and one-half feet in height from the existing grade in any yard and such berm shall not exceed four feet in height from the existing grade in any yard, except where approved by the Zoning Administrator.

42 Section 361 added; Local Law #1 of the year 2005 on 04/14/05.
43 Section 362 added; Local Law #1 of the year 2005 on 04/14/05.
44 Section 363 added; Local Law #1 of the year 2005 on 04/14/05.
2. Fences, walls and berms shall meet the requirements of Section 359 Visibility at Intersections, where applicable.

3. Farm and agriculturally related fences and walls located on agricultural parcels are exempt from this Section.

4. This Section shall not apply to fences, walls or berms placed onto portions of the property which are not visible from adjoining properties or public roads. The determination of whether a fence, wall or berm is visible from adjoining properties or public roads is in the sole discretion of the Zoning Administrator.

Section 364. **TENNIS COURTS**

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

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

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

Section 371. **SIZE AND ACCESS**

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

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

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

Section 373. **SURFACE TREATMENT**

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

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

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

Section 381.  NUMBER OF SPACES

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

Section 382.  DIMENSIONS

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

Section 390.  NONCONFORMING USES, BUILDINGS, AND LOTS

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

Section 391.  NONCONFORMING USES, BUILDINGS, AND STRUCTURES

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

1. Except as permitted by Subparagraph 7 below, no building or other structure or part thereof devoted to a nonconforming use shall be enlarged, extended, constructed, reconstructed, or structurally altered, if the result would be an increase in nonconformity.

2. Except as provided herein, no nonconforming use of a lot or lots shall be moved, in whole or in part, to another part of a lot or outside the lot. Further, no nonconforming use of a lot shall be enlarged or increased nor shall it be extended to occupy a greater area of land than occupied by such use at the time of the adoption of this Local Law. No nonconforming use of a building or other structure shall be moved or extended to any part of the building or other structure not manifestly arranged and designed for such use at the time the use became nonconforming, and no building or

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46 Section 390, last sentence amended; Local Law #1 of the year 2005 on 04/14/05.
47 Section 391, paragraph 2 amended; Local Law #1 of the year 2005 on 04/14/05.
other structure containing a nonconforming use shall be moved, unless the result of any such move is to eliminate or reduce the nonconformity.

3. No nonconforming use of land, buildings, or other structures shall be changed to any use which is substantially different in nature or purpose from the existing nonconforming use, except to a use which is permitted in the district in which the land, building, or other structure is located, unless the Zoning Board of Appeals finds that the new use will have no greater injurious impact upon the surrounding area than the existing use.

4. No nonconforming use of land, buildings, or other structures which is changed to conform or to more nearly conform to this Local Law shall thereafter be changed to be less conforming.

5. No nonconforming use of land, buildings, or other structures which shall have been discontinued shall thereafter be resumed. In determining whether a nonconforming use has been discontinued, any one of the following items shall constitute prima facie evidence of discontinuance:
   a. Any positive act indicating intent to discontinue;
   b. Any conscious failure to take all necessary steps to resume the nonconforming use with reasonable dispatch in the circumstances;
   c. Cessation of the nonconforming use of a lot and/or structure for twelve (12) consecutive months, or for a total of eighteen (18) months during any three (3) year period;
   d. Substitution of a conforming use.

6. All nonconformities shall conform in all other respects to the requirements of the zoning districts in which they are located.

487. Nonconforming structures or structures containing nonconforming uses may be enlarged, extended, reconstructed, or altered by a maximum of twenty-five percent (25%) of the aggregate gross floor area of the structure sought to be enlarged as it existed on May 13, 1971, or up to the maximum lot coverage allowed in the zoning district in which the nonconforming structure is located, as provided in Appendix B, whichever is less. Such extension or enlargement of a nonconforming building or other structure must be by special permit from the Zoning Board of Appeals pursuant to Section 470, Special Permits, of this Local Law and subject to Site Plan approval from the Planning Board.

8. Signs of a size or type not permitted in the zoning district in which they are situated, or which are improperly located or illuminated, or nonconforming in any other way, shall be considered nonconforming structures under this Section, and shall be brought into conformity with this Local Law pursuant to Section 331(2)(h) of this Local Law.

48 Section 391, paragraph 7 amended; Local Law #1 of the year 2005 on 04/14/05.
9. Notwithstanding any provision to the contrary herein, no junkyard shall be permitted to continue for more than six (6) months after the effective date of this Local Law, nor shall any use, structure, or activity regulated by Sections 336 through 339 of this Local Law enjoy protection as a prior nonconforming use. Quarrying or soil mining conducted in a manner that is exempt from the permitting requirements of the New York State Department of Environmental Conservation or the location restrictions under Section 332(2) of this Local Law shall not be considered a nonconforming use giving rise to any right to mine above applicable permit thresholds in locations where quarrying or soil mining is not a permitted use.

Section 392. NONCONFORMING LOTS

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

1. The nonconformity results solely from the adoption of this Local Law (including any preceding zoning law or subsequent amendments); and

2. The nonconformity has not been increased by any act or event subsequent to the effective date of this Local Law; and

3. The lot contains at least twenty thousand (20,000) square feet of area.

A nonconforming lot satisfying Subsections 1 through 3 above shall be designated an “eligible nonconforming lot.” A lot shall remain an eligible nonconforming lot until the occurrence of any of the following events:

a. Reduction in the lot’s size, or any other increase in the degree of its nonconformity for any reason, other than the adoption of a more stringent zoning law;

b. Acquisition after December 27, 1989 by the owner of adjoining land which, when added to the original nonconforming lot, forms one or more lots complying with the area, shape, and frontage requirements of this Local Law. In such case no portion of the lot(s) so formed shall thereafter qualify as an eligible nonconforming lot under this Section, unless and until again made nonconforming by the adoption of a more stringent zoning law; and

c. Acquisition after December 27, 1989 by the owner of the lot of adjoining land which, when added to the original nonconforming lot, reduces its nonconformity, but does not form a lot complying with the area, shape, and frontage requirements of this Local Law.

Section 392, paragraph 4 amended; Local Law #3 of the year 1990 on 10/11/90.
In such case, a new eligible nonconforming lot shall be formed which reflects the addition of the adjoining lot.

Nothing herein is intended or shall be construed to affect any requirement of this Local Law with respect to matters other than the area, shape and frontage of nonconforming lots. An eligible nonconforming lot shall be required to comply with all other requirements of this Local Law, including those set forth in the Schedule of District Use Regulations (Appendix A), the minimum setback, maximum building height, and maximum lot coverage Regulations set forth in the Schedule of Area and Bulk Regulations (Appendix B), and with all other requirements of the Town, County, and State regarding the construction of buildings and supporting systems. If not specifically listed, eligible nonconforming lots shall comply with the requirements applicable to one (1) acre lots. The Zoning Board of Appeals shall have the authority to modify the lot setback requirements insofar as deemed appropriate and justifiable in the public interest.

Section 393. RESTORATION

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

Section 394. COMPLETION OF BUILDINGS UNDER CONSTRUCTION

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

Section 395. REGULATION FOR AN INTERIM PERIOD OF DEVELOPMENT AND USE OF LANDS AND BUILDINGS

A. LEGISLATIVE INTENT AND FINDINGS

The Town of Washington (the “Town”) is a rural community located at the center of Dutchess County. The Town is primarily an agricultural and residential community. There are few commercial and industrial enterprises in the Town. Although the hamlet of Mabettsville provides some goods and services, the Village of Millbrook serves as the Town's economic and commercial center.

50 Section 392, paragraph 5 amended; Local Law #1 of the year 2005 on 04/14/05.
51 Section 395 added; Local Law #4 of the year 2007 on 11/8/07.
The Town of Washington is an attractive community with a rural character and protected open space. The Town Board finds that the qualities that make the Town a desirable place to live are increasingly vulnerable to the increased growth and development of residential subdivisions which place pressure on available water supply, stormwater and erosion control, wetland protection, open and recreational space, community character, natural resources, and transportation infrastructure of the Town. The Town's pattern of alternating hills and valleys, steep slopes and ridgelines, water bodies and wetlands contribute greatly to the Town's natural beauty and rural character, but also impose constraints on the design and intensity of residential development that may be reasonably sustained without endangering the public health, safety and welfare.

The Town Board finds that the Town of Washington is distinct from other Towns in Dutchess County in that the Town maintains a strong agricultural base. Carefully planned land use policies need to be sustained and strengthened where necessary if the Town is to maintain this agricultural base, protect the irreplaceable prime agricultural soils present within the Town and sustain its rural character. Residential developments subject to subdivision, site plan and special use permit review can reduce the availability of open space and agricultural lands. To maintain the character of the Town and to continue to protect its valuable resources, the Town Board has determined that it should review and update its Town Comprehensive Plan (the “Master Plan”) at this time. The last Master Plan revision was completed in 1987, and substantial changes have occurred in and around the Town since that time. The development and implementation of an updated Master Plan will require a substantial commitment of community involvement, public comment, and planning resources to update the Town's Zoning Code. The design and location of roads, schools, parking lots, subdivision and commercial resources are all determinants in shaping a community's character. This character is being challenged by certain trends: requests for approval of residential subdivisions with the resulting impact on open space, water resources and vehicular traffic. The ability of the Town to continue to absorb additional development without sacrificing its existing quality of life assets is of central importance to the Town. The Town must clearly define the boundaries between those areas that are best suited for commercial and business uses and those that would be appropriately used for residential purposes.

The Town Board determines that there is a need to review the Town's land use plans to ensure that an appropriate balance between agricultural, open space, residential and commercial/business use is maintained. As a result, the Town Board has formed a Comprehensive (Master) Plan Committee consisting of twelve (12) members who will serve to steer the various subcommittees through a study and analysis of the existing land use, population trends and fiscal, institutional, environmental, agricultural and open space resources of the Town to determine the sufficiency of the existing land use regulations and the possible need for revision of such regulations. After the Master Plan Committee completes its work to prepare a new Master Plan, updates to the Town Zoning Code may be necessary to implement the Plan. The Town Board is vested with the authority to enact reasonable stop-gap or interim legislation prohibiting the commencement of construction for a reasonable time during consideration of proposed zoning changes. The participation of citizens in an open and flexible planning process is essential to the development of an effective and useful town plan. To maximize the benefits of this process and to ensure that the work of the Master Plan Committee (and its subcommittees) is efficiently carried out, the Town Board finds that the enactment of a limited residential
The moratorium is necessary maintain the status quo pending the preparation and enactment of a new Master Plan and any necessary companion updates to the Town Zoning Code.

The Town's existing procedures and laws should have the practical effect of ensuring that new development and redevelopment are in accordance with the Town's planning objectives. The Town finds it necessary for the Master Plan Committee to study and analyze whether the Town's land use regulations and procedures are in fact having this effect. Until the comprehensive planning process is completed, the Town Board finds it necessary to impose a moratorium on the processing and granting of approvals for residential subdivisions, for the establishment of an I District which involves the creation of new multi-family housing units, the establishment of an MH District and for use variances that create additional residential dwelling units. This moratorium will enable the Town to focus on crafting and implementing a strategy to ensure that it actually achieves its planning objectives. This action is necessary in order to protect the character and natural resources of the Town of Washington and the public health, safety and welfare of Town residents.

B. AUTHORITY

This moratorium 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 Section 10.

C. ENACTMENT OF A TEMPORARY MORATORIUM

For a period of one (1) year following the effective date of Local Law No. 4 of 2007 (the “Local Law”), after which date said Local Law shall lapse and be without further force and effect, and subject to any other Local Law adopted by the Town Board during the one (1) year period:

1. The Planning Board shall not accept for review, continue review, hold a hearing on, continue a hearing on, or make any decision upon any application for a residential subdivision containing more than four lots, whether that subdivision application was submitted prior to or after the effective date of this law. The law applies to subdivisions as defined in Article VII of the Town of Washington Land Subdivision Regulations and Section 610 of the Town of Washington Zoning Code. The statutory and locally-enacted time periods for processing and making decisions in all aspects of subdivision approval (including, but not limited to, sketch plan, preliminary and final subdivision plats) are suspended and stayed while said Local Law is in effect;

2. The Town Board and the Planning Board shall not accept for review, continue review, hold a hearing on, continue a hearing on, or make any decision upon any application for the establishment of an I District which involves the creation of new multi-family housing units, whether said application was submitted prior to or after the effective date of said Local Law. The statutory and locally-enacted time periods for processing and making decisions in all aspects of applications for the establishment of an
I District which involves the creation of new multi-family housing units are suspended and stayed while said Local Law is in effect;

3. The Town Board and the Planning Board shall not accept for review, continue review, hold a hearing on, continue a hearing on, or make any decision upon any application for the establishment of an MH District, whether said application was submitted prior to or after the effective date of said Local Law. The statutory and locally-enacted time periods for processing and making decisions in all aspects of applications for the establishment of an MH District are suspended and stayed while said Local Law is in effect;

4. The Zoning Board of Appeals shall not accept for review, continue review, hold a hearing on, continue a hearing on, or make any decision upon any application for a use variance that creates additional residential dwelling units, whether said application was submitted prior to or after the effective date of said Local Law. The statutory and locally-enacted time periods for processing and making decisions in all aspects of application for use variances are suspended and stayed while said Local Law is in effect;

5. For the purpose of this Section, the terms Planning Board, Town Board and Zoning Board of Appeals shall be interpreted to include all Departments, employees and consultants of the Town who serve as staff to said Boards in the review of applications as cited in preceding paragraph One (1) through Four (4).

D. APPLICATION

Said Local Law shall not apply to:

1. Subdivisions for which an application was: (a) received by the Town of Washington Planning Board; (b) deemed complete by the Town of Washington Planning Board; and (c) scheduled on the agenda for discussion, and was actually discussed, at a minimum of one (1) meeting of the Planning Board on or before November 8, 2007 (being the date on which the Town Board held the public hearing on this moratorium); and

2. Lot line amendments where no new lots are being created; and

3. Subdivision of four (4) lots or less; provided that in no instance shall more than four (4) building lots be obtained from any lot or parcel existing on the effective date of said Local Law; and

E. CONFLICT WITH STATE STATUTES AND AUTHORITY TO SUPERSEDE

To the extent that any provisions of said Local Law are in conflict with or are construed as inconsistent with provisions of the Town Law, said Local Law supersedes, amends
and takes precedence over the Town Law pursuant to the Town’s municipal home rule powers, pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3); §10(1)(ii)(a)(14) and §22 to supersede any inconsistent authority.

Said Local Law supersedes any inconsistent provisions of the following:

1. Town Law §276, Town Law §274-a, the Town of Washington Land Subdivision Regulations, and the Town of Washington Zoning Code which require the Planning Board or the Town Board to act upon, hold hearings on, and make decisions concerning subdivision (including, but not limited to sketch, conditional preliminary, preliminary, conditional final and final approvals), site plan, and use variance applications within specified time periods; and

2. Town Law §§267, 267-a, 267-b and 267-c and Section 420 the Town of Washington Zoning Code relating to the authority to grant variances, waivers or other relief from the Town Zoning Code.

3. Section 317 of the Town of Washington Zoning Code which requires the Town Board and the Planning Board to act upon, hold hearings on and make decisions concerning applications for the establishment of an I District which involves the creation of new multi-family housing units; and

4. Section 318 of the Town of Washington Zoning Code which requires the Town Board and the Planning Board to act upon, hold hearings on and make decisions concerning applications for the establishment of an MH District.

Further, said Local Law suspends and stays the running of time periods for processing, action upon, holding hearings on, making decisions and taking action on the applications provided for in those laws stated in Subsections (E)(1) through (E)(4) of said Local Law.

F. APPEAL PROCEDURES

1. The Town Board shall have the authority to vary or waive the application of any provision of said Local Law, in its legislative discretion, upon its determination, that such variance or waiver is required to alleviate an unnecessary hardship affecting a parcel of property. To grant such a request, the Town Board must find that a variance or waiver will not adversely effect the purpose of the local law, the health, safety or welfare of the Town of Washington or any comprehensive planning being undertaken in the Town. The Town Board shall take into account the existing land use in the immediate vicinity of the property and the impact of the variance or waiver on the water supply, agricultural lands, open and recreational space, neighborhood and community character, natural resources, and transportation infrastructure of the Town. The application
must comply with all other applicable provisions of the Town of Washington Zoning Code and the Town of Washington Land Subdivision Regulations.

2. Any application for a variance or waiver shall be filed with the Town Clerk and shall include a fee of two hundred fifty ($250.00) dollars for the processing of such application, along with copies of such plat or plan showing all required improvements in accordance with the procedures of the Town of Washington.

3. All applications for a variance or waiver of said Local Law shall, within five (5) days of the next regularly scheduled meeting of the Town Board following the application’s filing with the Town Clerk be referred to the Planning Board. The Planning Board shall have forty-five (45) days following receipt of the application to make a recommendation to approve, modify or disapprove a variance or waiver of said Local Law. The failure of the Planning Board to issue a recommendation within 45 days following receipt of the application shall be deemed a recommendation to deny said application. The Planning Board’s recommendation shall be transmitted to the Town Board which may conduct a public hearing and make a final decision on the application, with or without conditions.

ARTICLE IV - ENFORCEMENT AND ADMINISTRATION

Section 400. GENERAL

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

Section 401. NORMAL SEQUENCE OF STEPS

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

Section 402. FEE SCHEDULE

1. All applications submitted pursuant to this Local Law shall be accompanied by the applicable fee that shall be used to cover review,
administrative, and stenographic costs. The fees shall be set forth in the fee schedule established annually by resolution of the Town Board. The fee schedule shall be available at the Town Hall.

2. If the Town Board, Planning Board, or Zoning Board of Appeals finds it necessary to retain counsel, planning consultants, engineers or other experts to review a particular project, an escrow deposit may be required from which additional reasonable administrative and review costs may be charged back to the applicant. Administrative costs which may be charged back to the applicant shall also include necessary stenographic time charges, copying and mailing charges related to the specific project or issue under review. When a board establishes an escrow requirement, the applicant must maintain a positive escrow account balance as required by the Board. If an applicant fails to maintain the escrow account, or fails to pay charges for these costs, the board shall be entitled to defer further consideration of the subject application until the escrow is restored, or the costs paid, as the case may be.

Section 403. **COMPLIANCE WITH THE ZONING LAW FOR CERTAIN TOWN ACTIONS**

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

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

Section 410. **POWERS AND DUTIES OF THE ZONING ADMINISTRATOR**

1. Except as otherwise provided, it shall be the duty of the Zoning Administrator to enforce literally the provisions of this Local Law and of all the rules, regulations, conditions and requirements adopted or specified pursuant thereto, and to enforce strict compliance with all conditions

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55 Section 403 amended; Local Law #1 of the year 2005 on 04/14/05.
56 Section 410 amended; Local Law #1 of the year 2005 on 04/14/05.
attached to approvals issued by the Zoning Board of Appeals and the Planning Board.

2. The Zoning Administrator may, from time to time, promulgate such application forms, rules and regulations as deemed necessary for the proper administration and enforcement of this Local Law.

3. The Zoning Administrator is authorized to make all inspections which are necessary or proper for carrying out his or her duties and shall, if necessary, obtain a search warrant or court order to conduct such inspections. The Zoning Administrator is further authorized to issue a written order, to the owner of the property or the owner’s agent, to cease and desist any conditions found to be in violation of this Local Law, and to cure such violation within a reasonable period of time. Such order shall be in writing and may be served upon a person to whom it is directed by delivering it personally to him or her or by sending a copy of the same by first-class mail to the address for the property on file in the tax assessment roll.

4. The Zoning Administrator shall keep a record of every identifiable complaint of a violation of any of the provisions of this Local Law, whether reported by private citizens or by any board, agency, officer or employee of the Town, and such record shall show the action taken on each such complaint. The Zoning Administrator shall make a report to the Town Board, in writing, at least once every three (3) months, listing all reported or continuing violations of this Local Law and the disposition or pending action of such violations.

Section 411. 57 POWERS AND DUTIES OF THE BUILDING INSPECTOR

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

Section 420. ZONING BOARD OF APPEALS

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

58 1. Appeals for Review. The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, and

57 Section 411, amended; Local Law #6 of the year 2007 on 11/8/07.
58 Section 420, paragraph 1 amended; Local Law #1 of the year 2005 on 04/14/05.
determination made by the Building Inspector or the Zoning Administrator, as well as hear and decide all matters referred to it or upon which it is required to pass under the provisions of this Local Law in accordance with the procedure outlined by Section 460, Appeals, of this Local Law.

59. Appeals for Variance. The Zoning Board of Appeals shall have the power in passing upon appeals, to vary or modify the application of any of the regulations or provisions of this Local Law relating to the use, construction, or alteration of buildings or structures, or the use of land, so that the spirit of this Local Law shall be observed, public safety and welfare secured, and substantial justice done.

a. Use Variances.

(1) The Zoning Board of Appeals, upon appeal from the decision or determination of the Zoning Administrator, shall have the power to grant use variances authorizing a use of land which otherwise would not be allowed or would be prohibited by the terms of the Zoning Code of the Town of Washington.

(2) No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that the applicable regulations and restrictions imposed by the Zoning Code of the Town of Washington have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,

(a) that the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(b) that the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;

(c) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and

(d) that the alleged hardship has not been self-created.

(3) The Zoning Board of Appeals, in the granting of a use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

b. Area Variances.

59 Section 420, paragraph 2 amended; Local Law #6 of the year 2007 on 11/8/07.
The Zoning Board of Appeals, upon appeal from the decision or determination of the Zoning Administrator, shall have the power to grant area variances authorizing the use of land in a manner which is not allowed by the dimensional or physical requirements of the Zoning Code of the Town of Washington.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the area variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Zoning Board of Appeals shall also consider each of the following factors:

(a) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

(b) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue, other than an area variance;

(c) whether the requested area variance is substantial;

(d) whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district; and

(e) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in the granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

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

3. Appeals for Interpretation. The Zoning Board of Appeals shall, upon appeal from a decision by an administrative official, decide any questions involving the interpretation of any provision of this Local Law, including determination of the exact location of any district boundary if there is
uncertainty with respect thereto pursuant to the procedures outlined by
Section 460, Appeals, of this Local Law.

Section 430. PLANNING BOARD

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

Section 440. BUILDING PERMITS

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

Section 450. CERTIFICATES OF OCCUPANCY

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

Section 460. APPEALS

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

1. Application. Appeals shall be taken by filing a written application with the Town Clerk on forms prescribed by the Zoning Board of Appeals. Such application shall refer to the specific provision of this Zoning Law for which the appeal is sought, the variance requested, or the interpretation claimed. The Town Clerk shall record receipt of the application and promptly transmit it to the Zoning Board of Appeals. If the applicant seeks to appeal the decision of the Building Inspector or the Zoning Administrator, that official shall promptly transmit all the papers constituting the record of the action appealed to the Zoning Board of Appeals.

2. Referral to County Planning Department. Request for variances affecting real property within five hundred (500) feet of the boundary of the Town

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60 Section 440 amended; Local Law #6 of the year 2007 on 11/8/07.
61 Section 450 amended; Local Law #6 of the year 2007 on 11/8/07.
62 Section 460, paragraph 1 amended; Local Law #1 of the year 2005 on 04/14/05.
of Washington, or the boundary of any existing or proposed County or State park or other recreational area, or the boundary of any existing or proposed County or State roadway, or the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, or the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated shall be referred to the Dutchess County Planning Department pursuant to General Municipal Law, Article 12-B, Sections 239-l and 239-m, as amended.

63. Hearing and Public Notice. The Zoning Board of Appeals shall fix a reasonable time for the hearing of appeals or other matters referred to it, and at least five (5) days prior to the date thereof the applicant shall give public notice thereof by causing the publication of a notice of such hearing in the official newspaper and by mailing a notice thereof to the parties involved and to the regional park commission having jurisdiction over any State park within five hundred (500) feet of the property affected. Written notice of the hearing shall be given at least ten (10) days prior thereto to the owners of land within five hundred (500) feet of the site. At the hearing any party may appear in person or by agent or by attorney. Upon the day for hearing any appeal, the Zoning Board of Appeals may adjourn the hearing for a reasonable period for the purpose of causing such further notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal.

4. Action. In the exercise of its functions upon appeals, the Zoning Board of Appeals may, in conformity with the provisions of this Local Law, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination in accordance with the provisions hereof.
   a. Any such action shall be decided within sixty (60) days after the final hearing.
   b. Every decision of the Zoning Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Zoning Board of appeals in the particular case.
   c. A majority vote of a majority of the members of the Zoning Board of Appeals shall be necessary to deny, approve, uphold or reverse any order, requirement, decision, or determination either of the Zoning Administrator or the Building Inspector. A majority vote of the Zoning Board of Appeals is necessary in order to decide any matter upon which it is required to pass under the terms of this Local Law or to effect any variation of this Local Law.

5. Filing. Every rule, regulation, amendment, or repeal thereof and every order, requirement, decision, or determination of the Zoning Board of

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63 Section 460, paragraph 3 amended by adding new second sentence; Local Law #1 of the year 1994 on 06/09/94.
64 Section 460, paragraph 4 subsection c. amended; Local Law #1 of the year 2005 on 04/14/05. Stated in Local Law as (c).
Appeals shall be filed immediately in the office of the Town Clerk, and shall be a public record.

6. Re-hearing and Review of Prior Decisions. Upon motion initiated by any member and adopted by the unanimous vote of the members present, but not less than a majority of all the members, the Zoning Board of Appeals shall review at a re-hearing held upon notice given as upon an original hearing, any order, decision, or determination of the Zoning Board of Appeals not previously reviewed. Upon such re-hearing, and provided it shall then appear that the rights vested prior thereto in persons acting in good faith in reliance upon the order, decision, or determination reviewed will not be prejudiced thereby, the Zoning Board of Appeals may, upon the concurring vote of all the members then present, reverse, modify, or annul its original order, decision, or determination.

7. Court Review of Board Decisions. Any person or persons, jointly or severally aggrieved by any decision of the Zoning Board of Appeals or any officer, department, board, or bureau of the Town, may apply to the Supreme Court for review by a proceeding under Article Seventy-eight of the Civil Practice Law and Rules.

8. Expiration of Appeal Decision. Unless otherwise specified by the Zoning Board of Appeals, a decision on any appeal shall expire if the applicant fails to obtain any necessary building permit or comply with the conditions of said authorized permit within six (6) months from the date of authorization thereof.

9. Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies for the Zoning Board of Appeals, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, it would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by the Supreme Court on application, on notice to the Zoning Administrator for due cause shown.

Section 470. 65SPECIAL PERMITS

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

1. Certain uses in the APO Overlay Zone (Section 315)

65 Section 470 amended; Local Law #3 of the year 1990.
2. Certain Home Occupations (Section 321)

3. Stripping of Topsoil (Section 329)

Section 471. APPLICATION

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

Section 472. REQUIRED SPECIAL PERMIT PLANS

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

Section 473. STANDARDS

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

1. The use is a permitted special use as set forth in the Schedule of District Use Regulations (Appendix A).

2. The use is so designed, located, and proposed to be operated that the public health, safety, welfare, and convenience will be protected.

3. The use will not diminish groundwater or surface water quality.

+ Stated in Zoning Law as Schedule of Use Regulations. Should be Schedule of District Use Regulations.
4. The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.

5. The lot size and lot coverage are appropriate to the use.

6. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.

7. The location, nature, and height of buildings, walls, and fences, and the nature and extent of the landscaping on the site, are such that the use will not hinder or discourage the appropriate development and use of adjacent land buildings.

8. Operations in connection with the special use will not be more objectionable to nearby properties by reason of noise, fumes, noxious vibration, glare, or flashing lights, than would be the operations of any permitted use.

9. The use will not cause undue traffic congestion or create a traffic hazard.

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

11. The use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

12. If there are phases planned, then the impact of all phases may be a factor in determining the appropriateness of the use.

13. The use conforms with all applicable regulations governing the district where it is located, including any overlay zones designed to protect special features of the property.

14. The site plan for the use satisfies the requirements of Section 485 of this Local Law, Standards for Review and Design.

Section 474. REFERRAL TO COUNTY PLANNING DEPARTMENT

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

Section 475. HEARING AND PUBLIC NOTICE

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

Section 476. ACTION

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

Section 477. EXPIRATION

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

Section 478. EXISTING VIOLATIONS

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

Section 480. SITE PLAN REVIEW AND APPROVAL

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65 Section 475 amended by adding a new third sentence; Section incorrectly stated in Local Law as Section 474, should be 475; Local Law #1 of the year 1994 on 06/09/94.
66 Section 480 amended; Local Law #1 of the year 1994 on 06/09/94.
A. The Planning Board shall review site plans for those uses which possess characteristics that necessitate site plan review in each case. This site plan review and approval process regulates the development of structures and sites in a manner which considers the following concerns and, where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:

1. The balancing of landowners’ rights to use their land with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (such as noise, smoke, fumes, dust, odor, glare, stormwater runoff);

2. The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;

3. The adequacy of waste disposal methods and protection from pollution of surface or groundwater; and

4. The protection of historic and natural environmental features on the site under review, and in adjacent areas.

B. Before the issuance of any building permit or certificate of occupancy for a use requiring site plan approval as required by this zoning law, the detailed site plan for such use shall be approved by the Planning Board and no development shall be carried out, except in conformity with such site plan.

Section 481. APPLICABILITY OF SITE PLAN REVIEW AND APPROVAL

A. Site Plan Review and Approval shall be required for the following uses:

1. Those uses shown in Appendix A as requiring special permits or site plan approval and those uses for which other sections of this Zoning Law 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 (i) grant the variance without any further need for site plan approval, (ii) grant the variance with conditions without any further need for site plan approval or (iii) refer the application to the Planning Board to complete the Site Plan Review and Approval process.

3. Unless waived as provided by Section 481(B), all site plan changes.

+ Stated in Local Law as “and”. Should be “on”.
68 Section 481 amended; Local Law #1 of the year 1994 on 06/09/94.
++ Stated in Local Law as “used”. Should be “uses”.
69 Section 481, paragraph A.2. amended; Local Law #1 of the year 2003 on 01/02/03.
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.


70B. 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.

Section 482. APPLICATION

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

Section 483. REQUIRED PLANS

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

1. Name of the project, boundaries, date, north arrow, and scale of the plan.

2. Name and address of the owner of record, developer, and seal of the engineer, architect, or landscape architect.

3. Vicinity map drawn at the scale of two thousand (2,000) feet to the inch or larger that shows the relationship of the proposal to existing community facilities which affect or serve it, such as roads, shopping areas, schools, etc. The map shall also show all properties, subdivisions, streets, and easements within five hundred (500) feet of the property on which the use

+++ Stated in Local Law as “MH”. Should be “HM”.

70 Section 481, paragraph B amended; Local Law #1 of the year 2005 on 04/14/05.
for which application is made is proposed to be situated. Such a sketch may be superimposed on the most recent United States Geological Survey map of the area.

4. Site plan drawn at a scale of forty feet to the inch (1” = 40’) on standard 24” x 36” sheets, with continuation on 8 ½” x 11” sheets as necessary for written information.

5. The location and use of all existing and proposed buildings and structures within the development, including all dimensions of height and floor area, all exterior entrances, and all anticipated future additions and alterations.

6. The location of all present and proposed public and private ways, 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.

7. The location, height, intensity, and bulb type (sodium, incandescent, etc.) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.

8. The location, height, size, material, and design of all proposed signage.

9. The location of all present and proposed utility systems including:
   a. Sewage or septic system;
   b. Water supply system;
   c. Telephone, cable, and electrical system; and
   d. Storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.

10. Plan to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.

11. Existing and proposed topography at five (5) foot contour intervals. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the 100-year floodplain, the area will be shown, and base flood elevations given. Indicate areas within the proposed site and within fifty (50) feet of the proposed site, where ground removal or filling is required, and give its approximate volume in cubic yards.

12. A landscape plan showing all existing natural land features that may influence the design of the proposed use such as rock outcrops, single trees eight (8) or more inches in diameter, forest cover and water sources, and all proposed changes to these features including size and type of plant
material. Water sources include ponds, lakes, wetlands and watercourses, aquifers, floodplains, and drainage retention areas.

13. Zoning district boundaries within five hundred (500) feet of the site’s perimeter shall be drawn and identified on the plan.

14. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within one hundred (100) feet of the site. The Planning Board may at its discretion require a detailed traffic study for large developments or for those in heavy traffic areas to include:
   a. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
   b. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
   c. The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels as well as road capacity levels shall also be given.

15. For new construction or alterations to any building, a table containing the following information must be included:
   a. Area of building to be used for a particular use such as retail operation, office, storage, etc.;
   b. Maximum number of employees;
   c. Maximum seating capacity, where applicable; and
   d. Number of parking spaces existing and required for the intended use.

16. Elevation plans at a scale of one-quarter inch equals one foot (¼” = 1’) for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features and indicating the type and color of materials to be used.

17. For large or environmentally intrusive developments, the Planning Board may request soil logs, percolation test results, and storm runoff calculations.

18. Plans for disposal of construction and demolition waste, either on-site or at an approved disposal facility.

Section 484. 71NOTICE AND MEETING WITH APPLICANT

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

71 Section 484 amended (changed heading); Local Law #1 of the year 1994 on 06/09/94.
at which the application is to be considered and request the applicant’s presence to discuss the application.

Section 485. 72STANDARDS FOR REVIEW AND DESIGN

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

1. Relationship of proposal to the Town Master Plan and Official Map:
   a. Due attention by the applicant shall be given to the goals, objectives and the stated land use policies for the Town in the specific area in which the development is proposed. The Planning Board shall determine whether the site use, site design and site architecture proposed by an applicant comply with the land use and environmental protection policies and objectives of the Town of Washington.
   b. In the site plan and design, consideration shall be given to the use of traditional building forms and layouts which are evidence of the distinctive historic development of the area and, in particular, of any specially designated or recognized scenic and historic districts within the vicinity of the proposed development.

2. Relationship of Structures and Buildings to Site:
   a. The site shall be planned to accomplish a desirable transition with the streetscape to provide for adequate planting, safe pedestrian movement and safe ingress, egress and parking for vehicles.
   b. Site planning in which setbacks and yards are in excess of minimum area and bulk requirements is encouraged to provide a variation in relationship between buildings.
   c. Parking shall, wherever feasible, be located to the rear or sides of buildings so as not to interfere with the front landscape treatment.
   d. Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and the existing, or anticipated, adjoining buildings. The Planning Board shall determine the visual compatibility of a proposed use or site plan change including concerns for the proportion of the property’s front façade, proportion and arrangement of windows and other openings within the façade (i.e. fenestration), roof shape and the rhythm or spacing of properties along the street or roadway, including consideration of setbacks and the treatment of yard areas.

72 Section 485 amended; Local Law #1 of the year 2003 on 01/02/03.
e. Newly installed and renovated utility services, and service revisions necessitated by exterior alterations shall be underground unless otherwise allowed by the Planning Board.

f. A non-residential use on a single lot or parcel may include more than one building on that lot provided that collectively the total amount of building coverage on a single lot does not exceed the maximum building coverage for the district in which the building is located.

3. Relationship of Buildings and Site to Adjoining Areas:
   a. Site plans proposed for non-residential uses adjacent to a residential district shall be reviewed with regard to the impact of the development on that district.
   b. The Planning Board shall encourage the use of a combination of common materials, landscaping, buffers, screens and visual interruptions to create attractive transitions between buildings of different architectural styles.
   c. All buildings in the plan shall be integrated with each other and with adjacent buildings and shall have convenient access to and from adjacent uses.
   d. Individual buildings shall be related to each other and to traditional structures in the surrounding area in architecture, design, masses, materials, placement and connections to harmonize visually and physically with traditional elements in the architectural fabric of the area.

4. Landscape, Buffering and Site Treatment:
   a. Where possible, natural or existing topographic patterns, which contribute to beauty and character of a development, shall be preserved.
   b. Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting appearance and shall be of such width, as determined by the Planning Board, to easily accommodate pedestrian movement.
   c. Landscape treatment shall be provided to enhance architectural features, strengthen vistas and visual corridors and provide shade.
   d. Unity of design shall be achieved by repetition of certain plant varieties and other materials and by coordination with adjacent developments.
   e. Plant material shall be selected for interest in its structure, texture and color and in consideration of its ultimate growth pattern. Plants that are indigenous to the area and others that will be harmonious to the design and exhibit a good appearance, shall be used.
   f. In locations where plants will be susceptible to injury by pedestrian or motor traffic, appropriate curbs, tree guards, or other devices shall protect them.
g. Parking areas and traffic ways shall be enhanced with landscaped islands, containing trees and tree groupings.

h. Screening of service yards, commercial vehicles, commercial trailers, passenger vehicles, parking areas, refuse containers and other places that tend to be unsightly, shall be accomplished by use of walls, fencing, planting or combinations of these, with all such enclosures being compatible in material, texture and color with the principal building or buildings on the site.

i. Landscaping shall be designed and maintained so as not to create hazardous conditions.

j. Landscaping shall be maintained to preserve its original integrity and intended purpose during the entire life of the proposed use or project.

k. Landscaping shall be an integral part of the entire project area, and shall buffer the site from and/or integrate the site with surrounding areas, as appropriate.

l. Primary landscape treatment shall consist of shrubs, ground cover, and shade trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to the growing conditions of the Town’s environment.

m. Whenever appropriate, existing trees shall be conserved and integrated into the landscape design plan.

n. There shall be an adequate, safe, and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking, and loading space.

o. Roads, pedestrian walks, and open space shall be designed as integral parts of an overall site design, be properly related to existing and proposed buildings, and be appropriately landscaped.

p. Buildings and vehicular circulation areas shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.

q. Landscaped, paved, and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas, and adjacent buildings.

r. Materials and design of paving, light fixtures, retaining walls, fences, curbs, benches, etc., shall be of good appearance, easily maintained, and indicative of their function.

s. Pedestrian connection between parking areas and buildings shall be provided by special pedestrian walkways.

5. Lighting:
a. Exterior lighting shall enhance the building design and the adjoining landscape. Lighting standards and building fixtures shall be of a design and size compatible with the building and adjacent areas, as determined by the Planning Board.
b. The number of light standards and the intensity of lighting shall be appropriate to illuminate the location for safety without glare to adjoining properties, as determined by the Planning Board.

c. Lighting standards shall be appropriate to the design of the structures and shall not exceed fifteen (15) feet in height.

d. The light level at the lot line shall not exceed .02 footcandles, measured at ground level. To achieve this, luminaires shall be shielded to prevent light from shining beyond the lot lines onto neighboring properties or public ways. Where residential uses adjoin commercial uses, light standards shall be restricted to a maximum of fifteen (15) feet in height. In addition, all lighting (except for security purposes) shall be turned off between 11 p.m. and 6 a.m. Exceptions may be considered for those businesses which are operating during these hours.

6. Building Design

a. Proposed building design shall recognize compatible building forms indigenous to the community and in particular of the historic character of the Town of Washington. Adaptive re-use of existing structures is encouraged.

b. Materials proposed for new structures and rehabilitation/redesign of existing structures shall have good architectural character and shall be selected for harmony with traditional building materials.

c. Building components such as windows, rooflines, doors, eaves, trim and parapets, shall have well designed proportions and relationships to one another and be compatible with the historic character of the Town of Washington.

d. Mechanical equipment such as air conditioners, satellite dishes or other utility hardware located on roofs, the ground or buildings shall be screened from public view with materials harmonious with the building, specified as to color so as to blend with their surroundings, or located as not to be visible from any public way or lands.

e. Treatment of the sides and rear of all buildings shall be comparable in amenity and appearance to the treatment given to street frontages of these same buildings.

f. The design of buildings and the parking facilities shall take advantage of the topography of the project site where appropriate.

g. All buildings shall be oriented to ensure adequate light and air exposures to the rooms within.

h. All buildings shall be arranged to avoid undue exposure to concentrated loading or parking facilities wherever possible, and shall be oriented to preserve visual and auditory privacy between adjacent buildings.

i. All buildings shall be accessible to emergency vehicles.

j. Drainage of the site and surface waters flowing therefrom shall not adversely affect adjacent properties or public roadways.
k. Access from and egress to public highways shall be approved by the appropriate Highway Department, including Town, County, State, and Federal, to the extent that said Highway Department or Departments have jurisdiction over such access.

l. Wherever appropriate, the siting principles within the Visual Resource Mapping Series described in Section 220 of this Local Law shall be observed.

m. Additional site plan requirements and standards for review set out in other sections of this Local Law shall be observed.

n. Proper disposal of construction and demolition waste shall be provided, including any necessary permits or agreements for off-site disposal.

7. Parking and Loading:
   a. The Planning Board may allow parking spaces within a front building setback line, if it finds that such parking will not detract from the aesthetic character of the district and is otherwise consistent with the purposes of this Section. The Planning Board may reduce the number of off-street parking spaces required if the applicant can make permanent arrangements for space-sharing with other residential or non-residential uses, or can otherwise show that the parking standards in Appendix C are excessive for the particular use proposed. Additionally, the Planning Board shall determine the dimensional requirements for access and internal driveways for the particular use proposed, and may require larger dimensions for site driveways and access roads than the minimum dimensions stated elsewhere in the Town Zoning Code. The Board shall, as much as practicable, locate driveways for non-residential uses so that the centerline of such a driveway shall line up with the centerline of a street or driveway opposite the proposed use.

   b. Notwithstanding the requirements for off-street loading spaces as specified in Sections 380, 381 and 382 of this Zoning Code, the Planning Board may require additional space(s) for delivery vehicle loading, may require larger dimensions for each loading space (including additional setback from adjacent buildings and structures), and may require larger dimensions and means of access for vehicles to such loading spaces than may be stated elsewhere in the Town Zoning Code.

   c. All parking areas shall be set back a minimum of twenty (20) feet from all boundary lines.

   d. Parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and monotony of parked cars.

   e. Parking facilities shall be designed with regard for orderly management, topography, landscaping, and ease of access, and shall be developed as an integral part of an overall site design.
f. Any above-grade loading facility shall be screened from public view to the extent necessary to eliminate unsightliness.

g. Off-street parking and loading requirements required in this Zoning Code shall be satisfied.

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

   b. Adequate facilities for disposal of refuse shall be provided. All refuse disposal units, or locations for deposit, shall be screened from view and designed so as to be fireproof and/or fire retardant, and to prevent access by rodents, dogs and vermin. All such enclosures shall remain closed at all times, and shall be designed to prevent blowing of paper and refuse.

Section 486. REFERAL TO COUNTY PLANNING DEPARTMENT

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

Section 487. DISPOSITION OF APPLICATION BY PLANNING BOARD

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

Section 490. VIOLATIONS

A violation of this Local Law is an offense punishable by fine not exceeding three hundred-fifty dollars ($350.00), or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred-fifty dollars ($350.00) nor more than seven hundred dollars ($700.00) or imprisonment for a period not to
exceed six (6) months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine of not less than seven hundred dollars ($700.00) nor more than one thousand dollars ($1,000.00) or imprisonment for a period not to exceed six (6) months, or both. Each week’s continued violation shall constitute a separate additional violation.

73. Complaints of Violations. Whenever a suspected violation of this Local Law occurs, any person may file a written complaint in regard thereto with the Zoning Administrator. All such complaints must be in writing (unless the suspected violation threatens life, health, or safety, in which case the Zoning Administrator is authorized to act on an oral complaint). The Zoning Administrator shall properly record such complaint and, if applicable, forward the complaint to the Building Inspector. The Zoning Administrator will immediately investigate and report thereon to the governing body.

2. Abatement of Violations. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Local Law, the Town Board or with its approval, the Zoning Administrator, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct, or abate such violation to prevent the occupancy of said building structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

3. Taxpayer Action. Upon the failure of refusal or the proper local officer, board, or body of the Town to institute any such appropriate action or proceeding for a period of ten (10) days after written request by a resident taxpayer of the Town so to proceed, any three (3) taxpayers of the Town residing in the district wherein such violations exists, who are jointly or severally aggrieved by such violation may institute such appropriate action or proceeding in like manner as such local officer, board, or body of the Town is authorized to do.

4. Accountability. For any and every violation of the provisions of this Local Law or of any of the rules, conditions, requirements, and regulations adopted or specified pursuant thereto, the owner, general agent, or contractor of the building or premises where such violation has been committed or shall exist, and the lessee, ground lessee, tenant, or licensee of an entire building or entire premises where such violation shall have been committed or shall exist and the owner, general agent, or contractor, lessee, ground lessee, tenant, or licensee of any part of a building or premises in which part of such violation has been committed or shall exist, and the general agent, architect, builder, or contractor, or any other person who commits, takes part, or assists in such violation or who maintains any

73 Section 490, paragraph 1 amended; Local Law #1 of the year 2005 on 04/14/05.
buildings or premises in which any such violations shall have been committed or which shall exist, shall be punishable according to the provisions of this Local Law.

ARTICLE V - AMENDMENTS

Section 500. AUTHORITY

The Town Board may, from time to time, on its own motion, or on petition, or on recommendation of the Planning Board amend, supplement, change, modify, or repeal the regulations, restrictions, and boundary provisions of this Local Law after public notice and hearing, as required by the Laws of New York State.

Section 510. REVIEW BY PLANNING AGENCIES

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

1. Referral to Town Planning Board and Conservation Advisory Commission. Every proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Town of Washington Planning Board and Conservation Advisory Commission for report thereon prior to public hearing.

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

Section 520. 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.

74 Section 520 amended; Local Law #1 of the year 1991 on 03/14/91.
York State and specified below. If a proposed amendment is initiated by petition, the petitioner shall be responsible for publication of notice and notice to adjacent municipalities.

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

2. **Posting.** Notice of the time and place of the public hearing shall be posted at least five (5) days in advance of such hearing on the bulletin board of the Town Clerk located at the Town Hall. This notice should specify the general nature of the proposed amendment, in such reasonable detail as will give adequate notice of its contents, indicating the place or places where copies of the proposed amendment may be examined and the time and place of the hearing.

3. **Notice to Adjacent Municipalities.** Written notice of any proposed amendment affecting property lying within five hundred (500) feet of an adjacent Town or the Village of Millbrook shall be given to the clerk of such municipality at least ten (10) days prior to the date of public hearing. Representatives of neighboring municipalities receiving notification of a proposed amendment shall have the right to appear and be heard at the public hearing thereon, but shall not have the right to review by a court.

**Section 530. ADOPTION**

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

1. **Local Protest.** The favorable vote of three-fourths (e.g. four) of the Town Board members shall be required for passage of any amendment which draws a written protest signed by twenty percent (20%) or more of the owners of land in any of the following areas:
   a. The land area included in the proposed amendment.
   b. The land area immediately adjacent to the area proposed to be changed and extending one hundred (100) feet therefrom.
   c. The land area directly opposite the area proposed to be changed and extending one hundred (100) feet from the street frontage of such opposite land.

2. **County Disapproval.** A majority plus one (1) vote shall be required to pass any amendment which receives a recommendation of disapproval from the County Department of Planning because of the referral process.
specified above, along with a resolution setting forth the reasons for such contrary action.

Section 540. EFFECTIVE DATE

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

ARTICLE VI - DEFINITIONS

Section 600. USE OF WORDS

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

Section 610. DEFINITIONS

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

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

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

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

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

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

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

75 Section 540 amended; Local Law #1 of the year 1991 on 03/14/91.
◊ Definition added or amended; Local Law #1 of the year 2005 on 04/14/05.
* Definition added; Local Law #4 of the year 1999 on 12/2/99.
• Definition added; Local Law #2 of the year 1998 on 8/20/98.
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 Local Law.

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

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

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

BASE STATION: A stationary transmitter that provides radio telecommunication services to mobile and fixed receivers including antennas.

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

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

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

BOARDING HOUSE: [Deleted]

BUILDABLE LAND: That portion of a lot exclusive of all wetlands and watercourses, slopes exceeding twenty percent (20%), and flood hazard areas as mapped on the Federal Emergency Management Agency’s Flood Insurance Rate Map.
BUILDING: A structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or chattels. When separated by a party wall, each portion of such building shall be deemed a separate building.

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

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

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

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

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

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

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

CELLAR: A story partly underground and having more than one-half (½) 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 telecommunication service provided using a cellular system.

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

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

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

COMMERCIAL VEHICLES: Any vehicle having a gross weight of three-fourths (¾) ton or more and licensed as a commercial vehicle or used for commercial purposes.

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

* Definition added; Local Law #2 of the year 1998 on 8/20/98.
Ω Definition added; Local Law #1 of the year 1991 on 3/14/91.
** Definition added; Local Law #3 of the year 1990 on 10/11/90.
CONDOMINIUM: A system of ownership of dwelling units, either attached or detached, within within a multi-family dwelling development established pursuant to the Condominium Law of the State of New York, the apartments or dwelling units of which are individually owned, each owner receiving a deed enabling him or her to sell, mortgage, or exchange his or her apartment or dwelling unit independently of the other owners in the building or buildings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Definition added or amended; Local Law #1 of the year 2005 on 04/14/05.
FAMILY: One person, or a group of two or more persons related by blood, marriage, legal adoption, or legal guardianship, or a group not more than six (6) persons who need not be so related, living and cooking together in the same dwelling unit as a single housekeeping unit. The persons constituting a family may include up to six (6) foster children when a married couple permanently reside in the same dwelling unit as foster parents, and gratuitous guests and domestic servants. A roomer, boarder, lodger, or occupant of supervised group quarters, regardless of relationship or ownership, shall not be considered a member of a family.

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

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

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

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

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

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

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

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

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

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

HOTEL: A building containing rooms intended or designed to be used or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes by guests, and

*Definition added; Local Law #1 of the year 1994 on 6/9/94.

◊ Definition added or amended; Local Law #1 of the year 2005 on 04/14/05.
where only a general kitchen and dining room are provided within the building or in an accessory building.

◊ **JUNK:** Any worn-out, cast-off, discarded, or neglected article or material of little or no value including, but not limited to, appliances, furniture, barrels, cartons, boxes, machinery, plastics, crates, rubber, rugs, clothing, rags, mattresses, blankets, tires, lumber, brick, stone and other building materials no longer intended for ordinary use; and any and all tangible personal property no longer intended for ordinary and customary use. The term “junk” shall include the terms “rubbish”, “clutter”, “litter”, “debris” or other similar phrases which refer to ordinary household or commercial trash including, but not limited to, paper and paper products, cardboard, cans, glass, metals and cigarettes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* Definition added; Local Law #2 of the year 1998 on 8/20/98.
LOT, THROUGH:  An interior lot having frontage in two (2) parallel or approximately parallel streets.
LOT WIDTH:  The distance between the side lot lines measured along the front building line as determined by the front yard requirements prescribed by this Local Law.

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

*MEDICAL OFFICES:  [Deleted]

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

◊ MOBILE HOME/RECREATIONAL VEHICLE:  Any vehicle or similar portable structure with or without a foundation of wheels, jacks, 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 “traveler” or other similar phrase. The term “traveler” 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-width mobile homes.

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

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

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

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

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

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

◊ Definition added or amended; Local Law #1 of the year 2005 on 04/14/05.
* Definition added; Local Law #2 of the year 1998 on 8/20/98.
NONCONFORMING USE: Any use lawfully existing prior to and at the time of the adoption or amendment of this Local Law or any preceding zoning law or ordinance, which use is not permitted by or does not conform with the permitted use provisions of this Local Law for the district in which it is located.

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

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

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

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

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

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

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

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

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

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

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

* Definition added; Local Law #2 of the year 1998 on 8/20/98.
Ω Definition added; Local Law #1 of the year 1991 on 3/14/91.
** Definition added; Local Law #3 of the year 1990 on 10/11/90.
ΩΩ Definition added; Local Law #2 of the year 1991 on 10/10/91.
Ω Definition added; Local Law #1 of the year 1991 on 3/14/91.
◊ Definition added or amended; Local Law #1 of the year 2005 on 04/14/05.
professionals including but not limited to accountants, architects, attorneys, consultants, engineers, real estate brokers, stockbrokers, and surveyors.

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

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

QUARRYING, SOIL MINING: Use of a parcel of land or contiguous parcels of land, or portions thereof, for the purpose of extracting and selling stone, sand, and/or gravel, exclusive of the process of grading land preparatory to construction of a building for which a building permit has been issued. As defined herein, the processing of stone, sand, or gravel that is excavated 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 Section 332(4)(b) of this Local Law.

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

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

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

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

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

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

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

** Definition added; Local Law #3 of the year 1990 on 10/11/90.
* Definition added; Local Law #2 of the year 1998 on 8/20/98.
◊ Definition added or amended; Local Law #1 of the year 2005 on 04/14/05.
SIGN: Any material, structure, or device composed of lettered or pictorial matter which is placed for outdoor display of an advertisement, announcement, notice, directional matter, or name including sign frames, billboards, signboards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs, or ground signs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Definition added; Local Law #3 of the year 1990 on 10/11/90.
SWIMMING POOL: Any body of water (excluding natural bodies of water fed by watercourses including rivers, streams, brooks, or springs) or receptacle for swimming or bathing, and constructed, installed, or maintained in or on the ground outside any building.

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

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

♢ ♦ TOWN ROAD: All roads within the Town of Washington which are maintained by the Town and shall include the strip of three (3) rods wide measured one and one-half (1 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.

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 VII - MISCELLANEOUS

Section 700. INTERPRETATION

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

Section 710. SEVERABILITY
If any provision of this Local Law or the application thereof to any person, property, or circumstances is held to be invalid, the remainder of this Local Law and the application of each provision to other persons, property, or circumstances shall not be affected thereby.

Section 720. CONFLICT WITH OTHER LAWS

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

Section 730. EFFECTIVE DATE

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

**SCHEDULE OF DISTRICT USE REGULATIONS**

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

* See Supplementary Use Regulations.

** These uses will not sell to the public at the subject property.

---

76 Schedule amended; Local Lawn #1 of the year 1994 on 6/9/94.

+ Stated in Zoning Law as Section 321.4.a. Should be Section 321.3.a

++ Stated in Zoning Law as Section 321.5. Should be Section 321.4.
# SCHEDULE OF DISTRICT USE REGULATIONS (continued)

<table>
<thead>
<tr>
<th>Residential District</th>
<th>Principal Uses Permitted by Right</th>
<th>Accessory Uses Permitted by Right</th>
<th>Special Uses Which May Be Allowed by Special Permit and Subject to Site Plan Approval</th>
<th>Applicable Overlay or Floating Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>RL-5 and RS-5</td>
<td><strong>Agriculture/Farm Uses customarily incidental</strong> to any principal use</td>
<td><strong>Animal Husbandry</strong></td>
<td>Animal Hospital</td>
<td>APO Overlay</td>
</tr>
<tr>
<td>RL-5</td>
<td><strong>Dwelling, Single-Family</strong></td>
<td><strong>Composting manure and vegetative waste</strong></td>
<td>*Barn Conversion</td>
<td>AQ Overlay</td>
</tr>
<tr>
<td></td>
<td><strong>Dwelling, Two-Family</strong></td>
<td><strong>Garages, private</strong></td>
<td>Bed and Breakfast</td>
<td>EP Floating</td>
</tr>
<tr>
<td></td>
<td><strong>Home Occupation (Sec. +321.3.a)</strong></td>
<td><strong>Open storage of farm machinery or vehicle associated with agriculture</strong></td>
<td>*Camps, private</td>
<td>MH Floating</td>
</tr>
<tr>
<td></td>
<td><strong>Swimming Pools</strong></td>
<td><strong>Educational Institution</strong></td>
<td>Church</td>
<td>I Floating</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Forestry</td>
<td>Kennel</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Golf Course</td>
<td>Membership Club</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>*Home Occupation (Sec. ++321.4)</td>
<td>Nursing Home or Convalescent Home</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Off-Street Parking</td>
<td>Parks, public and private</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Parks, public and private</td>
<td>*Pig Farm</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Playgrounds</td>
<td>Public Utilities</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>*Riding Academy</td>
<td>*Shooting Preserve</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>*Signs</td>
<td>*Soil Mining (RS-5 only and subject only to Special Use Permit)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>*Stables, public and private</td>
<td>Wildlife Preserve</td>
<td></td>
</tr>
</tbody>
</table>

* See Supplementary Use Regulations.
** These uses will not sell to the public at the subject property.

Note: Fur Farm and Poultry Farm, cage-type, were deleted from the list of Special Uses Which May be Allowed by Special Permit and Subject to Site Plan Approval in the RL-5 and RS-5 Districts pursuant to Local Law #1 of the year 2003 on 1/02/03.

Note: Cemetery was deleted from the list of Special Uses which May Be Allowed by Special Permit and Subject to Site Plan Approval in the RL-5 and RS-5 Districts pursuant to Local Law #3 of the year 2007 on 10/11/07.

+ Stated in Zoning Law as Section 321.4.a. Should be Section 321.3.a.
++ Stated in Zoning Law as Section 321.5. Should be Section 321.4.
<table>
<thead>
<tr>
<th>Residential District</th>
<th>Principal Uses Permitted by Right</th>
<th>Accessory Uses Permitted by Right</th>
<th>Special Uses Which May Be Allowed by Special Permit and Subject to Site Plan Approval</th>
<th>Applicable Overlay or Floating Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>RR-10 and RS-10</td>
<td><strong>Agriculture/Farm Uses customarily incidental</strong> Animal Hospital *Animal Husbandry to any principal use Barn Conversion **Animal Husbandry to any principal use Bed and Breakfast</td>
<td>**Home Occupation <em>(Sec. 321.3.a)</em> Camps, private *<em>Home Occupation (Sec. 321.3.a)</em> Camps, private</td>
<td>Animal Hospital APO Overlay Barn Conversion AQ Overlay Bed and Breakfast EP Floating</td>
<td>Animal Hospital APO Overlay Barn Conversion AQ Overlay Bed and Breakfast EP Floating</td>
</tr>
<tr>
<td></td>
<td>Dwellings, Single-Family Composting manure and vegetative waste Church Church</td>
<td>Dwellings, Two-Family Garages, private *Educational Institution Kernell</td>
<td>Dwellings, Two-Family Garages, private *Educational Institution Kernell</td>
<td>Dwellings, Two-Family Garages, private *Educational Institution Kernell</td>
</tr>
<tr>
<td></td>
<td>Open storage of farm machinery or vehicle <em>Refuse</em></td>
<td>Membership Club Nursing Home or Convalescent Home Off-Street Parking Parks, public and private *Pig Farm Playgrounds Public Utilities <em>Refuse</em></td>
<td>Membership Club Nursing Home or Convalescent Home Off-Street Parking Parks, public and private *Pig Farm Playgrounds Public Utilities <em>Refuse</em></td>
<td>Membership Club Nursing Home or Convalescent Home Off-Street Parking Parks, public and private *Pig Farm Playgrounds Public Utilities <em>Refuse</em></td>
</tr>
<tr>
<td></td>
<td>Swimming Pools <em>Signs</em></td>
<td>Shooting Preserve <em>Signs</em></td>
<td>Shooting Preserve <em>Signs</em></td>
<td>Shooting Preserve <em>Signs</em></td>
</tr>
<tr>
<td></td>
<td><em>Refuse</em></td>
<td><em>Soil Mining (RS-10 only and subject only to Special Use Permit)</em></td>
<td><em>Soil Mining (RS-10 only and subject only to Special Use Permit)</em></td>
<td><em>Soil Mining (RS-10 only and subject only to Special Use Permit)</em></td>
</tr>
<tr>
<td></td>
<td>*Stables, public and private Wildlife Preserve *Stables, public and private Wildlife Preserve</td>
<td>*Stables, public and private Wildlife Preserve *Stables, public and private Wildlife Preserve</td>
<td>*Stables, public and private Wildlife Preserve *Stables, public and private Wildlife Preserve</td>
<td>*Stables, public and private Wildlife Preserve *Stables, public and private Wildlife Preserve</td>
</tr>
</tbody>
</table>

* See Supplementary Use Regulations.
** These uses will not sell to the public at the subject property.
*** See Section 313 for regulations affecting all uses.

Note: Fur Farm and Poultry Farm, cage-type, were deleted from the list of Special Uses Which May be Allowed by Special Permit and Subject to Site Plan Approval in the RR-10 and RS-10 Districts pursuant to Local Law #1 of the year 2003 on 1/02/03.

Note: Cemetery was deleted from the list of Special Uses which May Be Allowed by Special Permit and Subject to Site Plan Approval in the RR-10 and RS-10 Districts pursuant to Local Law #3 of the year 2007 on 10/11/07.

+ Stated in Zoning Law as Section 321.4.a. Should be Section 321.3.a.
++ Stated in Zoning Law as Section 321.5. Should be Section 321.4.
## SCHEDULE OF DISTRICT USE REGULATIONS (continued)

<table>
<thead>
<tr>
<th>Residential District</th>
<th>Principal Uses Permitted by Right</th>
<th>Accessory Uses Permitted by Right</th>
<th>Special Uses Which May Be Allowed by Special Permit and Subject to Site Plan Approval</th>
<th>Applicable Overlay or Floating Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>HM***</td>
<td>Agriculture/Farm Dwelling, Single-Family Dwelling, Two-Family (S)</td>
<td>Uses customarily incidental to any principal use Garages, private *Home Occupation (Sec. *321.3.a) Swimming Pools</td>
<td>Antique Shops (S) Auxiliary Apartments *Barn Conversion Bed and Breakfast Clubhouse Craft Workshop *Home Occupation (Section ++321.4) Hotel, Motel Off-Street Parking Professional Offices *Signs Storage and Repair of Equipment Restaurant Retail Business Service Business</td>
<td>APO Overlay AQ Overlay EP Floating</td>
</tr>
<tr>
<td>LC</td>
<td>Agriculture</td>
<td>Uses customarily incidental to any principal use permitted by right</td>
<td>Dwelling, Single-Family Forest Nurseries Forestry Golf Course Parks, public and private Recreation Facilities Shooting Preserve Wildlife Preserve</td>
<td>APO Overlay AQ Overlay EP Floating</td>
</tr>
</tbody>
</table>

* See Supplementary Use Regulations.
** These uses will not sell to the public at the subject property.
*** See Section 313 for regulations affecting all uses.
(S) Indicates subject to site plan approval pursuant to Section 480.

+ Stated in Zoning Law as Section 321.4.a. Should be Section 321.3.a.
++ Stated in Zoning Law as Section 321.5. Should be Section 321.4.
APPENDIX B

SCHEDULE OF AREA AND BULK REGULATIONS

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>RR-10 &amp; RS-10</th>
<th>RL-5 &amp; RS-5</th>
<th>RM-2</th>
<th>RH-1</th>
<th>HM NON-RESIDENTIAL USES</th>
<th>HM RESIDENTIAL USES</th>
<th>LC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Size</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Area (Acres)</td>
<td>10</td>
<td>5</td>
<td>2</td>
<td>1</td>
<td>.5</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>- Width (Feet)</td>
<td>400</td>
<td>300</td>
<td>200</td>
<td>200</td>
<td>100</td>
<td>200</td>
<td>400</td>
</tr>
<tr>
<td>Minimum Setback (Feet)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Front</td>
<td>100</td>
<td>100</td>
<td>75</td>
<td>50</td>
<td>80</td>
<td>50</td>
<td>100</td>
</tr>
<tr>
<td>- Each Side</td>
<td>100</td>
<td>75</td>
<td>50</td>
<td>30</td>
<td>15</td>
<td>30</td>
<td>100</td>
</tr>
<tr>
<td>- Rear</td>
<td>75</td>
<td>75</td>
<td>50</td>
<td>25</td>
<td>50</td>
<td>25</td>
<td>75</td>
</tr>
<tr>
<td>Maximum Building Height</td>
<td>2.5</td>
<td>2.5</td>
<td>2.5</td>
<td>2.5</td>
<td>N/A</td>
<td>2.5</td>
<td>1</td>
</tr>
<tr>
<td>- (Stories)</td>
<td>35</td>
<td>35</td>
<td>35</td>
<td>35</td>
<td>35</td>
<td>35</td>
<td>15</td>
</tr>
<tr>
<td>Maximum Coverage</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>60</td>
<td>10</td>
<td>5</td>
</tr>
<tr>
<td>- (Percent)</td>
<td>400</td>
<td>300</td>
<td>200</td>
<td>200</td>
<td>100</td>
<td>100</td>
<td>400</td>
</tr>
<tr>
<td>Minimum Road Frontage*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- (Feet)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* For rear lot frontages, see Section 353
# APPENDIX C

**OFF-STREET PARKING AND LOADING SCHEDULE**

## USES OFF-STREET PARKING SPACES REQUIRED

<table>
<thead>
<tr>
<th>Use</th>
<th>Spaces Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Places of Public Assembly</td>
<td>One for Each Four Seats</td>
</tr>
<tr>
<td>Single-Family and Two-Family Dwellings</td>
<td>Two for Each Dwelling Unit</td>
</tr>
<tr>
<td>Multi-Family Dwellings and Mobile Home Parks</td>
<td>Two for Each Dwelling Unit or Mobile Home</td>
</tr>
<tr>
<td>Retail Stores and Shops</td>
<td>One for Each 100 Square Feet of Floor Area Plus One for Each Employee</td>
</tr>
<tr>
<td>Gasoline Service Stations</td>
<td>Three for Each Employee Plus Space for All Vehicles Used Directly in the Conduct of Such Business</td>
</tr>
<tr>
<td>Motels, Hotels</td>
<td>One for Each Rental Unit</td>
</tr>
<tr>
<td>Restaurants</td>
<td>One for Each Five Seats</td>
</tr>
<tr>
<td>Home Occupations</td>
<td>Three for Each Home Occupation</td>
</tr>
<tr>
<td>Nursing or Convalescent Home</td>
<td>Two for Each Three Beds Plus One for Each Employee</td>
</tr>
<tr>
<td>Educational Institution</td>
<td>One for Each Employee Plus One for Every Four Adult Student Seats</td>
</tr>
<tr>
<td>Industrial Establishment</td>
<td>One for Each Employee</td>
</tr>
<tr>
<td>Nursery Schools</td>
<td>Two for Each Classroom</td>
</tr>
<tr>
<td>Bed and Breakfast</td>
<td>One for Each Bedroom</td>
</tr>
<tr>
<td>Barn Conversion</td>
<td>Two for Each Dwelling Unit</td>
</tr>
<tr>
<td>Professional Offices</td>
<td>Three for Each 500 Square Feet of Floor Area</td>
</tr>
</tbody>
</table>

*OFF-STREET PARKING AND LOADING SCHEDULE (continued)*
Reasonable and appropriate off-street parking requirements for structures and land uses which do not fall within the categories listed above shall be determined in each case by the Planning Board, which shall consider all factors entering into the parking needs of each such case as part of their site plan study and review.

Where two (2) or more different uses occur on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements for each individual use on the lot, except that the Planning Board may approve the joint use of parking space by two (2) or more establishments on the same or on contiguous lots, the total capacity of which space is less than the sum of the spaces required for each, provided that said Board finds that the capacity to be provided will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees among such establishments, and provided that such approval of such joint use shall be automatically terminated upon termination of the operation of any of such establishments.

Where common parking facilities are established, a written agreement among all landowners involved shall be subject to Planning Board review and Town Board approval.

Paragraphs added; Local Law #1 of the year 1994 on 6/9/94.
APPENDIX D

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