

# **Town of Pine Plains**

## **Zoning Law**

**Prepared for the Town of Pine Plains Town Board**

**October 2009**

**Updated August 2015**

**This Law incorporated the Following Amendments:**

**Local Law 2 of 2015  
Local Law 3 of 2015**

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## TABLE OF CONTENTS

Page No.

<b>ARTICLE I. TITLE AND SCOPE.....</b>	<b>1</b>
§100-1. Title .....	1
§100-2. Scope .....	1
§100-3. Authority and purpose. ....	1
<b>ARTICLE II. ESTABLISHMENT OF DISTRICTS.....</b>	<b>3</b>
§100-4. Establishment and intent of zoning districts. ....	3
§100-5. Zoning map .....	5
§100-6. Interpretation of zoning district boundaries.....	5
§100-7. Applicability of district regulations.....	5
§100-8, 9. Reserved.....	7
<b>ARTICLE III. USE REGULATIONS .....</b>	<b>8</b>
§100-10. Schedule of use regulations .....	8
<i>Table A – Schedule of Use Regulations</i> .....	8
§100-11 to 14. Reserved.....	11
<b>ARTICLE IV. AREA AND BULK REGULATIONS.....</b>	<b>12</b>
§100-15. Purpose; schedule of bulk regulations.....	12
<i>Table B – Schedule of Bulk Regulations</i> .....	13
§100-16. Minimum lot area; density. ....	14
§100-17. Supplementary bulk requirements.....	14
§100-18. Building access. ....	17
§100-19. Accessory uses and structures.....	17
<b>ARTICLE V. SUPPLEMENTARY USE REGULATIONS.....</b>	<b>21</b>
§100-20. Agricultural uses.....	21
§100-21. Standards for certain permitted uses required site plan approval .....	23
§100-22. Incentive zoning .....	24
§100-23. Affordable housing. ....	28
§100-24. Reserved. ....	36
<b>ARTICLE VI. OVERLAY, RESOURCE PROTECTION AND FLOATING DISTRICT REGULATIONS .....</b>	<b>37</b>
§100-25. Wellhead protection. ....	37
§100-26. Agricultural overlay.....	39
§100-27. Mining overlay.....	40
§100-28. New Neighborhood Development.....	45
§100-29. Reserved .....	60
<b>ARTICLE VII. SUBDIVISION DESIGN STANDARDS .....</b>	<b>61</b>
§100-30. Subdivision design .....	61
§100-31. Conservation subdivisions.....	61
§100-32. Required protected open space; ownership and maintenance standards.....	66
§100-33. Subdivision of pre-existing lots. ....	69
§100-34. Density Credit for Re-subdivision of Existing Subdivision Lots of Record .....	70

## TABLE OF CONTENTS (CONT.)

Page No.

### **ARTICLE VIII. ENVIRONMENTAL CONTROLS AND SITE DESIGN STANDARDS ..... 72**

§100-35. General performance standards .....	72
§100-36. Greenway compact .....	73
§100-37. Landscaping and Screening .....	73
§100-38. Lighting .....	74
§100-39. Flood hazard areas .....	75
§100-40. Freshwater wetlands .....	75
§100-41. Local protection of streams .....	76
§100-42. Stormwater management .....	76
§100-43. Solid waste disposal .....	84
§100-44. District design standards .....	84

### **ARTICLE IX. PARKING AND LOADING REQUIREMENTS ..... 86**

100-45. Off-street parking. ....	86
<i>Table C – Schedule of Minimum Parking Requirements Applicable to All Zoning Districts .....</i>	<i>87</i>
§100-46. Off-street loading.....	92
§100-47 to 49. Reserved.....	92

### **ARTICLE X. SIGNS ..... 93**

§100-50. Purpose . ....	93
§100-51. Permit required. ....	93
§100-52. Sign requirements.....	93
§100-53. Nonconforming signs. ....	98
§100-54. Enforcement.....	98

### **ARTICLE XI. SPECIAL USE PERMITS..... 99**

§100-55. Special use procedures.....	99
§100-56. Individual standards for special uses.....	102
A. Dwelling in a mixed use building. ....	102
B. Dwelling, multiple family; Dwelling, senior citizen. ....	103
C. Dwellings, single-family attached (townhomes); dwelling, single-family semi-detached. ....	104
D. Accessory dwelling; guest dwelling, caretaker dwelling .....	106
E. Elder cottage.....	107
F. Major home occupation.....	108
G. Airstrip. ....	109
H. Automotive repair.....	109
I. Automotive sales.....	109
J. Automotive service station. ....	110
K. Bank with drive-through. ....	111
L. Bed and breakfast.....	112
M. Camp, day and seasonal. ....	112
N. Car wash. ....	113
O. Cemetery. ....	114
P. Commercial logging/timber harvesting. ....	114
Q. Communications facility, personal wireless service facility and/or tower.....	116
R. Convenience store associated with gasoline service station. ....	122

## TABLE OF CONTENTS (CONT.)

	<u>Page No.</u>
S. Daycare center. ....	123
T. Educational facility. ....	124
U. Equipment storage. ....	125
V. Farm market. ....	125
W. Golf course. ....	126
X. Inpatient health care facility. ....	128
Y. Kennels and veterinary hospitals. ....	129
Z. Lodging. ....	129
AA. Manufacturing. ....	130
BB. Membership Club, Multiple Use Social and Recreation. ....	130
CC. Office use in the R District. ....	132
DD. Public utilities. ....	132
EE. Recreation, commercial indoor and commercial outdoor. ....	132
FF. Research and laboratory use. ....	133
GG. Resort. ....	134
HH. Restaurant. ....	135
II. Riding stable or academy. ....	135
JJ. Self storage facility. ....	136
KK. Service business with or without customers on site. ....	136
LL. Shooting preserve. ....	137
MM. Warehouse. ....	138
NN. Zoo. ....	138
§100-57 to 59. Reserved. ....	139
<b>ARTICLE XII. SITE PLAN REVIEW. ....</b>	<b>140</b>
§100-60. Authority. ....	140
§100-61. Applicability. ....	141
§100-62. Procedures. ....	137
§100-63. Criteria for decisionmaking. ....	145
§100-64. Phasing ....	147
§100-65. Reservation of parkland. ....	147
§100-66. Guarantee of site improvements. ....	148
§100-67. Enforcement. ....	149
§100-68,69 Reserved. ....	150
<b>ARTICLE XIII. NONCONFORMING BUILDINGS, STRUCTURES, USES. ....</b>	<b>151</b>
§100-70. Applicability. ....	151
<b>ARTICLE XIV. ADMINISTRATION AND ENFORCEMENT. ....</b>	<b>155</b>
§100-71. Purpose and intent. ....	155
§100-72. Code Enforcement Officer and Inspectors. ....	155
§100-73. Zoning Enforcement Officer ....	156
§100-74. Building permits. ....	157
§100-75. Construction inspections. ....	160
§100-76. Stop work orders. ....	161
§100-77. Certificate of occupancy. ....	162

## TABLE OF CONTENTS (CONT.)

	<u>Page No.</u>
§100-78. Certificate of use. ....	164
§100-79. Filing of administration decision at time of appeal. ....	165
§100-80. Notification regarding fire or explosion. ....	166
§100-81. Unsafe buildings and structures. ....	166
§100-82. Operating permits.....	167
§100-83. Fire safety and property maintenance inspections. ....	168
§100-84. Complaints. ....	169
§100-85. Recordkeeping.....	169
§100-86. Program review and reporting. ....	170
§100-87. Violations. ....	170
§100-88. Intermunicipal agreements. ....	172
§100-89. Reserved. ....	172
<b>ARTICLE XV. ZONING BOARD OF APPEALS .....</b>	<b>173</b>
§100-90. Creation, appointment and organization.....	173
§100-91. Powers and duties.....	173
§100-92. Procedure. ....	174
§100-93. Relief from decisions.....	177
§100-94. Rehearing. ....	177
§100-95. Other provisions of Town Law Section 267-a. ....	177
<b>ARTICLE XVI. PROFESSIONAL FEES .....</b>	<b>178</b>
§100-96. Professional fees.....	178
§100-97. Escrow accounts.....	179
§100-98. SEQRA review. ....	180
§100-99. Reserved. ....	180
<b>ARTICLE XVII. AMENDMENTS .....</b>	<b>181</b>
§100-100. Amendments.....	181
<b>ARTICLE XVIII. DEFINITIONS .....</b>	<b>184</b>
§100-101. Definitions. ....	184
<b>ARTICLE XIX. SEVERABILITY .....</b>	<b>206</b>
§100-102. Severability. ....	206
<b>ARTICLE XX. REPEALER .....</b>	<b>206</b>
§100-103. Repealer. ....	206
<b>ARTICLE XXI. EFFECTIVE DATE.....</b>	<b>207</b>
§100-104. Effective Date.....	207
<b>INDEX .....</b>	<b>208</b>

Appendix A. Hamlet and Rural District Design Standards

Appendix B. Conservation Subdivision Design Standards

ARTICLE I  
**Title and Scope**

**§100-1. Title.**

This chapter shall be known and may be cited as the “Zoning Law of the Town of Pine Plains, New York”.

**§100-2. Scope.**

This Zoning Law is adopted for the protection of the residents and property owners of Pine Plains, by means of regulating and restricting the location, construction, alteration, occupancy and use of buildings and structures and the use of land and, for said purpose, dividing the town into zoning districts.

**§100-3. Authority; purpose.**

This Zoning Law is enacted pursuant to the authority and power granted by Municipal Home Rule Law of the State of New York, Article 2, Section 10, *et. seq.* of the Consolidated Laws and Town Law Section 261, to protect and promote public health, safety, morals, comfort, convenience, economy, aesthetics, and the general welfare, and for the following additional purposes:

- A. To implement the Town of Pine Plains Comprehensive Plan adopted in 2004, as may be amended from time to time.
- B. To implement the Hudson River Valley Greenway Compact.
- C. To conserve the Town’s rural, small town character and scenic beauty.
- D. To protect the Town’s sensitive environmental features, including but not limited to ridgelines and steeply sloping hillsides; streams, wetlands, flood plains and other surface water features; groundwater resources; and ecosystems, including protection of the Town’s biodiversity.
- E. To preserve open space for purposes that include but are not limited to agricultural preservation, scenic quality of viewsheds, ecological habitat protection, and passive recreation.
- F. To preserve lands that are conducive to agricultural use, and to support agricultural activities and uses that are integral to the heritage of Pine Plains.
- G. To maintain the functional continuity of the Town’s remaining open space, both in the working agricultural landscape and across the Town’s expansive, diverse natural environment.
- H. To protect the Town’s historic structures, features and character, including the history embodied in the Town’s numerous hamlets.
- I. To maintain the Pine Plains hamlet as the town’s center and principal location for residential and nonresidential uses.

- J. To promote and encourage economic development in the hamlets consistent with the use regulations contained herein.
- K. To encourage a range of housing types and residential densities in suitable locations.
- L. To provide adequate transportation facilities, ensure safe and efficient traffic circulation, and encourage a circulation system that supports pedestrians and cyclists.
- M. To ensure that the Town's current and future needs for community facilities and services, including but not limited to emergency protection, recreational resources, and educational facilities are considered and addressed during the review of land development applications.
- N. To protect property owners from nuisances including but not limited to noxious odors, noise, light, air and water pollution, and other unsightly, obtrusive effects of offensive land uses and activities, and to secure property owners from the perils of fire, flood and other dangers.
- O. To protect existing and future property values through pursuit of the purposes set forth herein.



ARTICLE II  
Establishment of Districts

**§100-4. Establishment and intent of zoning districts.**

- A. Zoning district designations. In order to fulfill the purposes of this Zoning Law, the Town of Pine Plains is hereby divided into the following zoning districts (also referred to as “district”), as shown on the Zoning Map, for the purposes indicated below:

Symbol                  District Name

Pine Plains Hamlet Districts:

H-BUS	Hamlet - Business
H-MS	Hamlet – Main Street
H-CR	Hamlet – Center Residential
H-R	Hamlet – Residential

Pulvers Corners Hamlet District:

H-PC	Hamlet – Pulvers Corners
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Bethel Hamlet District:

H-B	Hamlet – Bethel
R	Rural
WP	Wellhead Protection
AG-O	Agricultural Overlay
M-O	Mining Overlay
NND	New Neighborhood Development

- B. District purposes.

1. Hamlet (“H”). The primary purpose of the Hamlet (“H”) zoning districts is to foster development in the historic settlement areas known as Pine Plains, Pulvers Corners and Bethel. The hamlet of Pine Plains is the Town’s historic, cultural, commercial and residential center. New development and adaptive reuse of existing structures shall have a building scale, massing, layout and design that is pedestrian-oriented and consistent with the traditional character of each hamlet. The hamlet districts have the following additional purposes:

Pine Plains Hamlet Zoning District(s):

- (a) Hamlet-Business (“H-BUS”). To allow commercial uses that are consistent with the scale, dimensions, and character of existing structures located at this crossroad location in the hamlet of Pine Plains.
- (b) Hamlet-Main Street (“H-MS”). To allow a mix of residential and commercial uses that are consistent with the scale, dimensions, and character of existing structures on properties with lot frontage primarily along Main Street and Church Street. Commercial uses have been selected that are or may be made compatible with

adjoining residential uses through the site plan and special use permit approval process.

- (c) Hamlet-Center Residential ("H-CR"). To allow residential uses at the highest densities in the Town consistent with the existing residential character of the Pine Plains hamlet. Uses in this zoning district shall be interconnected to other portions of the Pine Plains hamlet through establishment of a comprehensive sidewalk system.
- (d) Hamlet Residential ("H-R"). To allow residential uses at a density consistent with the more open character of this area of the hamlet of Pine Plains.

Pulvers Corners Hamlet Zoning District(s):

- (e) Hamlet-Pulvers Corners ("H-PC"). To allow a mix of residential and commercial uses in Pulvers Corners, designed in a manner that reflects this hamlet's traditional building patterns in terms of scale, form, and architectural character, and in a manner that promotes pedestrian-oriented design.

Bethel Hamlet Zoning District(s):

- (f) Hamlet-Bethel ("H-B"). To allow a mix of residential and commercial uses in Bethel, designed in a manner that reflects this hamlet's traditional building patterns in terms of scale, form, and architectural character, and in a manner that promotes pedestrian-oriented design.
2. Rural ("R"). The primary purpose of this district is to allow agricultural uses and low density residential uses in a manner that is consistent with the existing rural character of the Town outside its hamlets.
  3. Wellhead Protection ("WP"). The purpose of this district is to protect the well and recharge areas associated with the public water supply system that serves the hamlet of Pine Plains. The boundary of the district is based on an identification of these resources as set forth in the 2007 Wellhead Protection Plan prepared by the New York Rural Water Association. The WP district is also considered a residential district as that term may be used and regulated by this Zoning Law.
  4. Agricultural Overlay ("AG-O"). The purpose of this overlay district is to protect any property now or formerly in agricultural use, property that may not be in agricultural use, but is characterized by the presence of prime farmland soils, soils of statewide importance, or property that is within a County-designated agricultural district. Regulations applicable to this overlay district are set forth in Section 100-26 of this Zoning Law.
  5. Mining Overlay ("M-O"). The purpose of this overlay district is to allow and regulate mining uses within the Town of Pine Plains. Regulations applicable to this overlay district are set forth in Section 100-27 of this Zoning Law.
  6. New Neighborhood Development Floating Zone ("NND"). The New Neighborhood Development ("NND") District is an unmapped zoning district that is established only upon an applicant's submission of a zoning petition and approval of the petition by the Pine Plains Town Board. The purpose of the NND is to allow planning and zoning

flexibility which is necessary to achieve environmentally sensitive, economically beneficial and socially desirable development, and a commonality of benefits to the public and to an Applicant than is possible under more rigid conventional zoning regulations. The NND is intended to allow creation of a new residential neighborhood adjacent to any portion of a Pine Plains hamlet zoning district as established herein. Regulations applicable to the NND district are set forth in Section 100-28 of this Zoning Law.

#### **§100-5. Zoning map.**

The boundaries of the zoning districts set forth in §100-4 are shown on a map entitled “Zoning Map of the Town of Pine Plains”, hereinafter referred to as “Zoning Map”, certified by the Town Clerk as adopted by the Town Board of the Town of Pine Plains. The Zoning Map, together with all explanatory matter shown thereon and all amendments thereto, is hereby adopted and is declared to be an appurtenant part of this Zoning Law.

#### **§100-6. Interpretation of zoning district boundaries.**

Where uncertainty exists with respect to the boundary of any zoning district shown on the Zoning Map, the following rules shall apply:

- A. Where a district boundary is indicated as approximately following the centerline or right-of-way line of a street, highway, railroad, public utility easement, or watercourse, said boundary shall be construed to be coincident with such line. Such boundary shall be deemed to be automatically adjusted if a centerline or right-of-way line of such street, highway, railroad, public utility, or watercourse is moved a maximum distance of fifty (50) feet.
- B. Where a district boundary is indicated as approximately following the Town of Pine Plains boundary line, a property line, or a lot line, the district boundary shall be construed to be coincident with such boundary, property or lot line.
- C. Where a district boundary is so indicated that it is approximately parallel to the Town of Pine Plains boundary line, a property line, lot line, right-of-way line, or projections thereof, said boundary shall be construed as being parallel thereto and at such distance as indicated on the Zoning Map or as shall be determined by use of the scale shown on the Zoning Map.
- D. Where a district boundary divides a single lot in a single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, except that this provision shall not apply to lots located in the WP district.
- E. In all other cases, the location of a boundary shown on the map shall be determined by the use of the scale appearing thereon.

#### **§100-7. Applicability of district regulations.**

Except as hereinafter provided:

- A. No building shall be erected, moved, altered, rebuilt or enlarged, nor shall any land or building be used, occupied, designed or arranged to be used, for any purpose or in any

manner except in conformity with all regulations, requirements and restrictions specified in this Zoning Law for the zoning district in which such building or land is located.

- B. Unless as otherwise permitted herein, no more than one principal building or use shall be permitted on any individual lot. No yard or other open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.
- C. No lot shall be subdivided from part of a lot already occupied by a building unless such building, all yards and open spaces connected therewith and the remaining lot comply with all requirements prescribed by this Zoning Law for the district in which said lot is located.
- D. Table A establishes use regulations for the base zoning districts. Any use which is not permitted as a matter of right, pursuant to a special use permit, or allowed as an accessory use as set forth in Table A, Schedule of Use Regulations, shall be deemed to be prohibited unless otherwise allowed by the provisions regulating an overlay district. Uses for the NND floating zone shall be established as per the requirements set forth in §100-28 of this Zoning Law.
- E. Building under construction. Where a building permit has been issued lawfully prior to the effective date of this Zoning Law, and provided that construction is begun within one hundred twenty (120) days of the effective date of this Zoning Law and is diligently pursued, said building may be completed in accordance with approved plans and may be occupied by the use originally intended provided construction is completed and the certificate of occupancy issued in accordance with the conditions prescribed. Such buildings and uses shall be subject to the provisions of this Zoning Law pertaining to non-conforming buildings and uses if the building or use is non-conforming.
- F. Existing lots of record.
  - (1) Nothing contained herein shall prohibit the use of an existing lot of record, as defined in Article XVIII of this Zoning Law, which does not comply with the minimum lot area requirements set forth in Table B, Schedule of Bulk Regulations, provided that each of the following criteria are satisfied:
    - (a) Development of the lot shall satisfy all requirements applicable to potable water supply and sewage disposal systems promulgated by the Town of Pine Plains, the Dutchess County Health Department, the New York State Department of Health and New York State Department of Environmental Conservation.
    - (b) The lot is either:
      - [i] shown on a subdivision map filed in the Office of the Dutchess County Clerk, prior to the creation of a Planning Board and Subdivision Regulations of the Town of Pine Plains; or
      - [ii] the lot is part of a subdivision plat approved by the Town of Pine Plains Planning Board in accordance with the Pine Plains Subdivision Regulations, and filed in the Office of the Dutchess County Clerk, in a timely manner pursuant to Town Law.

- (c) The use of the lot shall be limited to one principal single-family detached dwelling and such other accessory dwellings and structures as may be permitted by this Zoning Law.
  - (d) The lot is developed in accordance with all other bulk requirements for the zoning district in which it is located as set forth in Table B of this Zoning law.
- (2) The use of an existing lot not meeting the requirements set forth above shall require an area variance(s).
- G. Pending Planning Board and building permit applications. Any site plan, subdivision or building permit application which was submitted prior to and is still pending on the effective date of this Zoning Law may continue to be processed and considered by the permitting authority provided the application is amended to fully comply with the requirements of this Zoning Law. The amended application shall not be deemed complete until such time as all the application requirements of this Zoning Law are submitted and accepted by the permitting authority and, where SEQRA is applicable, a Negative Declaration has been filed or, where a Positive SEQRA Declaration has been or is issued, a notice of completion of the draft environmental impact statement has been filed in accordance with the requirements of SEQRA. The permitting authority and/or the Lead Agency may, in its discretion, and where appropriate and relevant to the permitting and SEQRA review of the amended application, allow application and/or SEQRA submissions made by the applicant to the permitting authority and/or Lead Agency prior to the effective date of this Local Law to be deemed part of the amended application and SEQRA review of the amended application. This provision shall not be interpreted as vesting any rights in the applicant to approval of any applications submitted prior to, and pending, on the effective date of this Zoning Law.

**§100-8, 100-9.** Reserved.

### ARTICLE III Use Regulations

#### §100-10. Schedule of Use Regulations.

No building or premises shall be erected, altered or used in any district except as set forth in Table A, Schedule of Use Regulations.

Key to Symbols.

- P = Denotes a use permitted as a matter of right; Planning Board approval is not required.  
 SU = Denotes a use that is allowed by special use permit approval by the Planning Board. Except as otherwise set forth in this Zoning Law, a special use shall require site plan approval by the Planning Board.  
 SP = Denotes a use permitted as a matter of right and requiring site plan approval by the Planning Board.  
 X = Denotes that a use is prohibited.

TABLE A SCHEDULE OF USE REGULATIONS								
Use	H-BUS	H-MS	H-CR	H-R	H-B	H-PC	R	WP
<b>RESIDENTIAL USES</b>								
Dwelling, Mixed use building (§100-56A)	SU	SU	SU	SU	SU	SU	SU	X
Dwelling, Manufactured Home (§100-21B)	X	SP	SP	SP	SP	SP	SP	SP
Dwelling, Multiple Family (§100-56B)	X	SU	SU	SU	SU	SU	SU(1)	X
Dwelling - Senior Citizen (§100-56B)	X	SU	SU	SU	SU	SU	SU	X
Dwelling, Single Family Attached (§100-56C)	X	SU	SU	SU	SU	SU	SU(1)	X
Dwelling, Single Family Detached	X	P	P	P	P	P	P	P
Dwelling, Single Family Semi-Detached (§100-56C)	X	SU	SU	SU	SU	SU	SU(1)	X
Dwelling, Two Family	X	P	P	P	P	P	P	SP
Dwelling, Two Family conversion (§100-21C)	X	SP	SP	SP	SP	SP	SP	SP
<b>USES ACCESSORY TO RESIDENTIAL USES</b>								
Customary Accessory Use	P	P	P	P	P	P	P	P
Dwelling, Accessory (§100-56D)	SU	SU	SU	SU	SU	SU	SU	SU
Dwelling, Elder Cottage (§100-56E)	SU	SU	SU	SU	SU	SU	SU	SU
Dwelling, Caretaker or Guest Cottage (100-56D)	X	X	X	X	X	X	SP/ SU (2)	SP/ SU (2)
Home Occupation,	P	P	P	P	P	P	P	P

**TABLE A  
SCHEDULE OF USE REGULATIONS**

<b>Use</b>	<b>H-BUS</b>	<b>H-MS</b>	<b>H-CR</b>	<b>H-R</b>	<b>H-B</b>	<b>H-PC</b>	<b>R</b>	<b>WP</b>
Minor								
Home Occupation, Major (§100-56F)	SU	SU	SU	SU	SU	SU	SU	SU
Swimming pool (100- 19F)	P	P	P	P	P	P	P	P
<b>NONRESIDENTIAL USES</b>								
Agricultural operations	X	X	X	X	P	P	P	P
Airstrip (§100-56G)	X	X	X	X	X	X	SU	X
Automotive repair (§100-56H)	X	SU	X	X	X	X	SU	X
Automotive sales (§100-56I)	X	SU	X	X	X	X	X	X
Automotive service station (§100-56J)	X	SU	X	X	X	X	X	X
Bank	SP	SP	X	X	SP	SP	X	X
Bank, with drive through (§100-56K)	X	SU	X	X	X	X	X	X
Bed and breakfast (§100-56L)	SU	SU	SU	SU	SU	SU	SU	SU
Camp, day (§100-56M)	X	X	X	X	X	X	SU	SU
Camp, seasonal (§100-56M)	X	X	X	X	X	X	SU	SU
Car wash (§100-56N)	X	SU	X	X	X	X	X	X
Cemetery (§100-56O)	X	X	X	X	X	X	SU	X
Commercial logging (§100-56P)	X	X	X	X	X	X	SU	SU
Communications facility/ personal wireless service facility or tower (§100-56Q)	X	X	X	X	X	X	SU	SU
Convenience store associated with automotive service station (§100-56R)	X	SU	X	X	X	X	X	X
Craft workshop	SP	SP	SP	SP	SP	SP	SP	SP
Day care center (§100- 56S)	SU	SU	X	X	SU	SU	SU	X
Educational facility (§100-56T)	SU	SU	X	X	SU	SU	SU	X
Equipment storage (§100-56U)	X	SU	X	X	X	X	SU	X
Farm market (§100-56V)	SP	SP	X	X	SP	SP	SP	SP
Farmers Market	P	P	X	X	P	P	P	SP
Farm stand	P	P	P	P	P	P	P	P
Funeral home	SP	SP	X	X	X	X	SP	X
Golf course (§100-56W)	X	X	X	X	X	X	SU	X
Heliport	X	X	X	X	X	X	X	X
In-Patient health care Facility (§100-56X)	X	SU	X	X	X	X	SU	X

**TABLE A  
SCHEDULE OF USE REGULATIONS**

<b>Use</b>	<b>H-BUS</b>	<b>H-MS</b>	<b>H-CR</b>	<b>H-R</b>	<b>H-B</b>	<b>H-PC</b>	<b>R</b>	<b>WP</b>
Kennel (§100-56Y)	X	X	X	X	X	X	SU	X
Laundromat	SP	SP	X	X	X	X	X	X
Lodging (§100-56Z)	SU	SU	X	X	SU	SU	X	X
Manufacturing (§100-56AA)	X	X	X	X	X	X	SU	X
Membership club	SP	SP	X	X	SP	SP	SP	SP
Membership Club, Multiple Use Social and Recreation (100-56BB)	X	X	X	X	X	X	SU	X
Mining	Refer to 100-27 of this Zoning Law.							
Municipal support	X	SP	X	X	X	X	SP	SP
Office (§100-56CC)	SP	SP	X	X	X	X	SU	SU
Office, medical	SP	SP	X	X	SP	SP	X	X
Performing Arts/Cultural Uses	SP	SP	X	X	X	X	X	X
Public utilities (§100-56DD)	SU	SU	SU	SU	SU	SU	SU	SU
Recreation, commercial indoor (§100-56EE)	SU	SU	X	X	X	X	SU	X
Recreation, commercial outdoor (§100-56EE)	X	X	X	X	X	X	SU	X
Religious institution	SP	SP	SP	SP	SP	SP	SP	SP
Research/laboratory facility (§100-56FF)	X	X	X	X	X	X	SU	X
Resort (§100-56GG)	X	X	X	X	X	X	SU	X
Restaurant (§100-56HH)	SP	SP	X	X	X	X	SU	X
Retail use	SP	SP	X	X	SP	SP	X	X
Riding stable or academy (§100-56II)	X	X	X	X	X	X	SP	SP
Self-storage facility (§100-56JJ)	X	SU	X	X	X	X	SU	X
Service business, with no customers at site (§100-56KK)	SP	SP	X	X	X	X	SU	SU
Service business, with customers at site (§100- 56KK)	SP	SP	X	X	SP	SP	SU	X
Shooting preserve (§100-56LL)	X	X	X	X	X	X	SU	SU
Veterinary hospital (§100-56Y)	X	X	X	X	X	X	SU	SU
Warehouse (§100- 56MM)	X	SU	X	X	X	X	SU	X
Zoo (§100-56NN)	X	X	X	X	X	X	SU	SU
<b>USES ACCESSORY TO NONRESIDENTIAL USES</b>								
Customary accessory uses	P	P	P	P	P	P	P	P

(1) = Conservation subdivision only



- (2) = More than one accessory, guest or caretaker cottage or combination thereof on an individual lot may require a special use permit as provided in Section 100-56.D.
- (3) = Uses in the AG-O district shall be regulated in accordance with the use regulations applicable to the underlying base zoning district and §100-26 of the Zoning Law.
- (4) = Uses in the M-O districts shall be regulated in accordance with the use regulations applicable to the underlying base zoning district and in accordance with §100-27 of the Zoning Law.
- (5) = Permitted uses of the NND district are established by the Town Board in accordance with §100-28 of the Zoning Law.

**§100-11 through 100-14. Reserved.**

ARTICLE IV  
**Area and Bulk Regulations**

**§100-15. Purpose; schedule of bulk regulations.**

In order to provide adequate space for access of light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population, and to lessen congestion on streets, no building or premises shall be erected, altered or used except in accordance with the standards set forth in this Article. **Table B, Schedule of Bulk Regulations**, shall be deemed a part of this Article.

**Table B: Schedule of Bulk Regulations**

Bulk Requirements (5)			Zoning Districts							
			H-BUS	H-MS	H-CR	H-R	H-PC	H-B	R	WP
							(Pulvers Corners)	(Bethel)		
Lot Area, Minimum (Note 1)	Residential	no central sewer	20,000 sf	20,000 sf	20,000 sf	30,000 sf	30,000 sf	30,000 sf	5 ac	5 ac
		with central sewer	15,000 sf	15,000 sf	15,000 sf	20,000 sf	20,000 sf	20,000 sf	5 ac	5 ac
	Non- residential	no central sewer	20,000 sf	20,000 sf	1 ac	1 ac	1 ac	1 ac	2 ac	2 ac
		with central sewer	15,000 sf	15,000 sf	1 ac	1 ac	1 ac	1 ac	2 ac	2 ac
Lot Width, Minimum (ft)			50	50	50	50	50	50	200	200
Lot Depth, Minimum (ft)			100	100	100	100	100	100	100	100
Front Yard, Minimum (ft)			10 (2)	10	15	15	15	15	75	75
Front Yard, Maximum (ft)			10 (2)	25	25	50	50	50	n/a	n/a
Side Yard, Minimum (ft)			5 (3)	15	15	15	20	20	50	50
Side Yard, Both (ft)			10	30	30	30	40	40	100	100
Rear Yard, Minimum (ft)			40	40	40	40	40	40	75	75
Building Height, Maximum (ft)			35 (4)	35	35	35	35	35	35	35
Lot Coverage, Maximum (%)			75	50	35	30	30	30	30	15
n/a = not applicable		ac = acres		sf = square feet						

**NOTES:**

Note 1: For residential lots within a conservation subdivision, the minimum bulk regulations shall be determined as per Section 100-31.I.

Note 2: For nonresidential uses in the H-BUS district, the maximum front yard is zero (0) feet. The maximum front yard may be increased to 10 feet where the front yard is designed and maintained as a garden, courtyard, or outdoor seating or dining area. Entries may be recessed up to (5) feet.

Note 3: For a nonresidential use or mixed use, the required side yard may be decreased to zero (0) feet where a building on one lot is attached to a building on an adjacent lot. The maximum side yard shall be 22 feet.

Note 4: The maximum first floor elevation of the first floor of a building in the H-BUS District shall be no higher than two (2) feet above the sidewalk grade.

Note 5: Bulk requirements for the NND zone are established by the Town Board in accordance with §100-28 of this Zoning Law.

**§100-16. Minimum lot area; density.**

- A. Applicability.** These provisions shall apply to any subdivision, site plan, or special use permit application proposing the development of residential uses.
- B. Calculation.** Wherever the phrase lot area, minimum lot area, or minimum lot size or similar term appears in this Zoning Law, such phrase shall be deemed to be based upon net acreage after exclusion of the following lands:
- (1) The 100-year flood plain as defined by the Federal Emergency Management Agency (FEMA) Flood Hazard Boundary maps as those maps now exist or as they may be amended from time to time;
  - (2) Wetlands, including New York State designated wetlands but excluding the 100-foot buffer, and wetlands regulated by the U.S. Army Corps of Engineers or any successor agency, all as those wetlands now exist or as may be found to exist;
  - (3) Lands covered by natural or constructed water bodies including, without limitation, retention and detention basins.
  - (4) Steep topography in excess of 25 percent slopes. For topography between the slope ranges of 15 percent to 25 percent, 50 percent of said land area shall be excluded from the calculation of minimum lot area.
- C. Density.** The net acreage that is determined to be available after exclusion of the types of lands set forth in §100-16B shall be calculated and the resultant permissible density based upon the net acreage shall be one dwelling unit per minimum lot size. All density calculations shall be rounded to the nearest whole number.

**§100-17. Supplementary bulk requirements.**

- A. Lot frontage; exceptions.** The minimum lot frontage shall not be less than 75% of the required lot width, or 50 feet, whichever is greater, except that these regulations shall not apply to flag lots as set forth in §100-17.B. below, or to any lot where a variance from 280-a of the New York State Town Law has been approved by the Zoning Board of Appeals or unless said lot is located in an open development area established by resolution of the Town Board as per Section 280-a of Town Law. Lot frontage for proposed lots in a NND zoning district shall be determined by the Town Board in accordance with §100-28.D(7)(h) of this Zoning Law.
- B. Flag lots.** Within the R or WP districts, a flag lot is permitted, provided that:
- (1) The Planning Board finds that the character of the land precludes typical subdivision development, or a unique and desirable lot can be created;
  - (2) The creation of a flag lot is not to circumvent typical subdivision with internal street development and does not negatively impact continuing use of agricultural land;
  - (3) The proposed lot has a minimum lot frontage of twenty five (25) feet, a minimum lot width of 25 feet through the "pole" part of the flag lot, and meets the required minimum

lot width applicable to the district in which the lot is located within the flag portion of the lot;

- (4) The minimum required lot area and required yard dimensions are met where the portion of the lot complies with the required minimum lot width.

### **C. Principal buildings.**

- (1) Except as allowed elsewhere in this Zoning Law and this Section “C”, no more than one (1) principal building or one (1) principal use shall be located on an individual lot.
- (2) Dwellings constructed on individual residential lots shall be oriented in a manner that the front door faces the public street on which the lot fronts, except in the R and WP districts where lot configuration and topography screen the residence from said street.
- (3) Building size limitations. The following limitations shall apply to any principal building occupied by nonresidential and mixed uses. Said limitations shall not apply to agricultural operations:

Zoning District	Maximum Building Footprint – Nonresidential and Mixed Use	Maximum Gross Floor Area	Multiple Uses Permitted in Principal Building
H-BUS	6,000 square feet, more than one building is allowed.  At the discretion of the Planning Board, exceptions may be made if the facades of larger buildings are articulated to appear as multiple buildings, each with a maximum building footprint of 6,000 square feet.	12,000 square feet	In the H-BUS district, more than one principal use is allowed within a principal building. Buildings can be designed for multiple uses, with offices and/or residential units on upper stories.
H-MS	6,000 square feet; more than one building is allowed on an individual lot.	12,000 square feet	In the H-MS district, more than one principal use is allowed within a principal building. Buildings can be designed for multiple uses, with offices and/or residential units on upper stories.
H-CR, H-R, H-B, H-PC	5,000 square feet	Not applicable	Not applicable
R	12,000 square feet	12,000 square feet	Not applicable

- (4) Bulk requirements for multiple buildings on the same lot. Except as may be regulated elsewhere herein for certain special uses, where more than one principal building is permitted on a lot as set forth in §100-17.C(3) above, no principal building shall be closer to any other principal building on the same lot than the height of the taller of the adjoining buildings, provided that the minimum distance between any adjoining buildings shall be twenty-five (25) feet. All other bulk requirements for the applicable zoning district shall apply.
- D. Required yards.** Required yards shall be met on the same lot as the principal building or use.
- E. Corner lots and through lots.** Corner lots shall be deemed to have two front yards, one side yard and one rear yard. During subdivision or site plan review, the Planning Board shall determine to which street a lot shall front and have access, taking into consideration the existing or anticipated traffic on each road and the ability of the occupant to exit safely to either street. For corner lots not involving site or subdivision plan review, the Zoning Enforcement Officer shall determine to which street a building shall front and have access. Lots in subdivisions shall be designed to avoid creation of through lots, i.e., lots that extend from street to street. Where the Planning Board approves a through lot, the required rear yard dimension shall be no less than the required front yard dimension. The Planning Board may require a vegetative buffer to screen views of the rear yard from the street to which it faces.
- F. Sight distance at intersections.** For the purpose of minimizing traffic hazards at street intersections, no obstruction between a height of 2 ½ feet and 10 feet above the adjacent center line elevation shall be planted, placed, erected, or maintained within an area formed by the intersecting pavement lines, or their projections where corners are rounded, and a straight line joining the pavement lines at points 50 feet distant from their point of intersection.
- G. Yard requirements involving irregular buildings and lot lines.** Where structures or lot lines are irregular in configuration, all points on the structure shall satisfy the minimum yard requirements from the point on the lot line which is the shortest distance and perpendicular to the structure.
- H. Height exceptions.** The maximum height requirements set forth in Table B., Schedule of Bulk Regulations, shall not apply to the following: flagpoles, radio or television antennas, solar energy systems, transmission towers or cables, spires or cupolas, chimneys, elevator or stair bulkheads, penthouses, parapets or railings, water tanks or cooling towers, or a similar structure. Structures located atop a roof shall not exceed 10 percent of the roof area of the building. Barns, silos and other structures used in an agricultural operation shall not be subject to the maximum height requirements set forth in Table B, Schedule of Bulk Regulations (refer also to §100-20). Wind energy and communication facilities/towers are not exempt from the height regulations set forth in this Zoning Law.
- I. Utility lines.** Unless waived by the Planning Board, all new utility lines shall be placed underground. Utilities include water, sewer, storm drainage, telephone, cable, electricity, gas, and wiring for street lights.

#### **§100-18. Building access.**

Every building shall have access to a public road, or access to an approved private road, and all structures shall be so located on lots as to provide safe and convenient access for emergency vehicles as required by Section 280-a of the New York State Town Law. The design of all new roads and intersections shall be approved by the Town Highway Department and/or Town Engineer.

#### **§100-19. Accessory uses and structures.**

**A. Accessory uses.** Accessory uses shall be compatible with the principal use and shall not be established prior to the establishment of a principal use.

**B. Accessory structures.** Except as otherwise permitted herein, accessory structures are subject to the following requirements:

- (1) No accessory building shall be permitted within a front yard. No accessory structure shall be permitted within a front yard except for mailboxes, decorative light poles, landscaping elements, or fixtures and other minor accessory structures.
- (2) No accessory structure shall be permitted within a required side or required rear yard, except that a shed or other accessory structure used only for storage or other passive use may be located in a required side or required rear yard, subject to the following:
  - (a) The structure shall have a gross floor area of 150 square feet or less and a maximum height of twelve (12) feet.
  - (b) The structure shall be located at least ten (10) feet from any property line.
  - (c) Such structure shall not be used for any home occupation.
- (3) No accessory structure shall exceed 21 feet in height.
- (4) In a hamlet district, the building footprint of an accessory structure accessory to a residential use shall not exceed 1,200 square feet.

#### **C. Fences and walls.**

- (1) Fences and walls six (6) feet in height or less shall be permitted within a required rear or side yard.
- (2) Fences and walls four (4) feet in height or less shall be allowed in a front yard, provided, however, that fences and walls shall be required to conform to §100-17.F., Sight distance at intersections.
- (3) Fences and walls shall have their finished face directed to the abutting property. The face of the fence and wall shall be maintained, provided that if the abutting property owner does not provide access for such maintenance, the property owner shall be relieved of the obligation for maintaining the finished face of the fence or wall.

- (4) Customary wire, board or split rail fencing associated with an agricultural use is exempt from these regulations.
- (5) Where an applicant proposes to repair, alter or add to a fence legally in existence prior to the effective date of this Zoning Law, which repair, alteration or addition involves no more than 50 percent of the length of the entire fence, and said repair or alteration is being installed in a manner which matches the height and design of the existing fence, the CEO is authorized to issue a building permit where the fence does not comply with the requirements set forth in (1), (2), or (3) above, provided he finds that issuance of the permit will not result in any health or safety hazard.

#### **D. Temporary buildings.**

- (1) No manufactured home or trailer may be used or stored except during construction of a principal dwelling occurring on the same lot and subject to issuance of a permit from the Code Enforcement Officer. Said building shall be removed prior to, and as a condition of, issuance of a certificate of occupancy for the principal dwelling.
- (2) Construction management and sales office. Construction management and sales activities may be conducted within a dwelling or trailer. Sleeping accommodations within said dwelling or trailer are prohibited. The use of a construction management and sales office shall be reviewed and approved concurrently with the site plan or subdivision application for which its use is being sought.

#### **E. Swimming pools.**

- (1) In order to determine the location of the proposed swimming pool in relation to a property's lot lines and required setbacks, the Building Inspector may require that the applicant submit a property survey documenting the proposed location of the swimming pool. The Building Inspector may require that the survey illustrate the location of existing buildings and water, electric service, gas and sewer mains and lines, and the location where pool water will be discharged. Where applicable, the building permit shall not be issued without Department of Health approval. Swimming pools shall meet all requirements set forth in the New York State Building Code.
- (2) Location. A pool is not permitted in any front yard, and may be located anywhere outside the required side or rear yard.
- (3) Fencing. Fencing must meet all requirements of the New York State Building Code.
- (4) Lighting shall not be permitted in, on or about a swimming pool unless such lighting shines into or upon the pool and light or reflections are not cast onto abutting properties.
- (5) Overhead wires. Overhead electric lines shall not be located within twenty (20) feet of the nearest portion of the pool or appurtenances.
- (6) Pool water shall not be permitted to flow over or onto the land of any abutting property or street.



- (7) The pool shall not be filled or added to at any time during the effectiveness of emergency water orders or measures.
- (8) Abandonment. Whenever a pool is abandoned, the depression shall be filled and the surface of the ground shall be returned to its original grade. The Code Enforcement Officer shall be notified prior to the removal of any swimming pool and may inspect the premises to ensure this condition is met.

**F. Fire escapes.** No exposed fire escapes shall be permitted on any side of a building fronting to a street.

**G. Storage in yards.**

(1) Wood piles and wood pile storage is not permitted in any required front yard within a Hamlet District.

(2) Temporary storage containers and dumpsters. Containers, including but not limited to moving, shipping, portable and storage containers, trailers, dumpsters, and similar structures, are not permitted on any property in the Town of Pine Plains for more than seven (7) successive days except in accordance with the following standards:

- (a) Containers are allowed only upon issuance of a temporary permit from the ZEO for a time period not to exceed six (6) months. The ZEO may extend the permit for up to two additional time periods of no more than three (3) months each where the owner demonstrates a continuing need for temporary storage, e.g., home construction and repair or similar circumstance.
- (b) Containers shall be used only for the temporary storage of goods in the ownership or used by the occupants of the lot upon which the container is located.
- (c) The ZEO shall prohibit any type of storage which the ZEO deems is hazardous or flammable. The general contents of the storage container shall be described in the temporary permit application.
- (d) The container shall not be stored in any required yard unless the ZEO determines there is no other reasonable location to store said container.
- (e) This section shall not apply to storage containers stored on a property conducting an agricultural operation and used for agricultural purposes.

**H. Dumpsters and trash containers.**

- (1) All properties within the Town of Pine Plains shall be kept free of litter and debris, and shall maintain trash receptacles and containers on-site. Trash receptacles and dumpsters shall remain closed at all times, and designed so as to prevent the release of refuse or other materials stored therein.
- (2) Except for a temporary dumpster which may be allowed in accordance with 100-18.G.(2), and refuse containers associated with a single-family or two-family dwelling, all permanent dumpsters and refuse areas associated with any other use shall be screened

from view with a six foot high opaque fence, or year-round vegetative screening no less than six (6) feet high at the time of planting.

- (3) After the effective date of this Zoning Law, a permanent dumpster or trash container with a capacity of three (3) cubic yards and greater shall be installed only on a site with a principal use which has received site plan or special use permit approval. These provisions shall not apply to any container associated with an agricultural operation and used for agricultural purposes.
- (4) No dumpster or similar container shall be located within twenty-five (25) feet of an adjoining residential property or residential building.

ARTICLE V  
**Supplementary Use Regulations**

**§100-20. Agricultural uses.**

**A. Purpose.** The Town Board recognizes agriculture as an essential and integral industry in the community that enhances the economic base, stabilizes the tax base, and perpetuates the rural character of the Town of Pine Plains. The Town Board further declares that it shall be the policy of Pine Plains to encourage agriculture and foster understanding by all residents of the necessary day to day practices associated with agricultural operations so as to encourage cooperation with those practices.

**B. Agricultural data statement.**

- (1) Any application for a special use permit, site plan approval, use variance, or subdivision approval that would occur on property within an agricultural district containing an agricultural operation or on property with boundaries within 500 feet of an agricultural operation located in an agricultural district shall include an agricultural data statement. The agricultural data statement shall be reviewed to determine the possible impacts of a proposed action upon the functioning of agricultural operations within such agricultural district. A copy of the Agricultural Data Statement shall be sent to the Dutchess County Farmland Protection Board or other similarly-designated agency for review and comment.
- (2) Written notice of an application for which an agricultural data statement has been submitted shall be mailed to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation for the said project. The cost of mailing the notice shall be borne by the applicant. The agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains agricultural operations and is located within five hundred feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of agricultural operations identified in the agricultural data statement.

**C. Required disclosure.** The following disclosure statement shall be included on any site or subdivision plan involving real property located partially or wholly within an agricultural district established pursuant to the provisions of Article 25AA of the New York State Agriculture and Markets Law:

"It is the policy of New York State and the Town of Pine Plains to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective owners or occupants of this property that it lies partially or wholly within an agricultural district and that agricultural activities occur within the district. Such activities may include, but not be limited to, activities that cause noise, dust and odors."

**D. Agricultural operation, exceptions.** The following shall apply to any agricultural operation situated on a property located within an agricultural district as defined in Article 25AA of the New York State Agriculture and Markets Law:

- (1) Agricultural buildings and structures, including but not limited to barns, silos, grain bins, and fences, as well as equipment related to such structures, shall not be subject to the height limitations of this Zoning Law.
- (2) Agricultural buildings and structures shall not be subject to maximum lot coverage requirements of this Zoning Law.
- (3) Site plan approval is not required for the installation of buildings or uses strictly associated with the growing of crops or raising of animals or storage of farm machinery. Multiple residence dwellings for farm worker housing, and buildings constructed for use by or open to the public or guests visiting the property such as tasting rooms, distilleries, wineries, farm markets, and similar buildings and uses shall be subject to site plan approval. The ZEO shall determine whether a proposed use or building requires site plan approval before issuing a building permit.
- (4) Farm worker housing. Farm worker housing is a permitted use.
- (5) In order to further protect and promote agriculture, agricultural operations in existence on the effective date of this Zoning Law that are located within an agricultural district created pursuant to Article 25-AA of the NYS Agriculture and Markets Law shall be deemed a permitted use within any zoning district in which said use is located, and this section shall supersede the Schedule of Use Regulations contained in Section 100-10. The agricultural operation shall otherwise comply with the Zoning Law and the provisions of this Section 100-20.

**E. Agricultural buffers.** The Planning Board may require that a buffer be established on any property located in the AG-O district or otherwise adjoining a parcel in active agricultural use as a condition of site plan, special use permit, or subdivision plan review. The buffer shall be located along any shared property line with the agricultural parcel to reduce exposure of non-agricultural uses to odors, noise, and other effects associated with any agricultural operation and to minimize complaints related to same. The buffer shall consist of vegetative screening, existing woodland, vegetated berms, or natural topographic features and shall be a minimum 50 feet, but may be increased if deemed necessary to achieve the objectives set forth herein. The Planning Board may waive the requirements of this section where it determines that a buffer is not warranted based on the layout of the proposed development or use and its relationship to any activities on the adjoining agricultural parcel.

**F. Applications involving properties in a New York State agricultural district.**

- (1) Where an application for site plan, subdivision or special use permit approval has been submitted to the Planning Board involving property located within or adjoining an agricultural district established pursuant to the provisions of Article 25AA of the New York State Agriculture and Markets Law, the Planning Board shall consider the following criteria in its decisionmaking in addition to any other standards set forth in this Zoning Law:

- (a) The types of agricultural activities occurring on and adjacent to the proposed use, and compatibility of the proposed use with same.
  - (b) The agricultural productivity of the land or soils proposed to be disturbed for non-agricultural uses and alternatives to said disturbance. The proposal shall preserve prime farmland soils and soils of statewide importance to the maximum extent practicable.
  - (c) The availability of soils for septic systems exclusive of prime farmland soils and soils of statewide importance. The siting of septic systems shall avoid these soils to the maximum extent.
  - (d) The impact of any proposed drainage facilities on an agricultural operation.
  - (e) The potential to introduce or increase farm trespass, the effect of proposed traffic on the transport of farm machinery, and the need to maintain or create access easements to and between properties in agricultural use.
  - (f) The proposed disposition of any agricultural land that may be preserved as open space, i.e., will it be made available to agricultural operators on a fee simple or lease-back basis.
  - (g) Any other effects of the proposed project on agricultural operations, as well as any measures designed to reduce the adverse effects or to provide additional benefits.
- (2) An applicant shall endeavor to situate dwellings, uses, and new construction on land that is the least suitable for agricultural uses to the maximum extent practicable. The Planning Board may establish conditions as part of its approval to ensure that this objective is met.

**§100-21. Standards for certain permitted uses requiring site plan approval**

**A. Applicability.** The standards set forth herein apply to certain permitted uses set forth in Table A, Schedule of Use Regulations.

**B. Manufactured home (single or double-wide)**

- (1) No manufactured home, single or double-wide, shall be placed on a property without site plan approval of the Planning Board.
- (2) Replacement of existing manufactured home. An existing single wide mobile or manufactured home can be replaced provided that the home is manufactured in accordance with current U.S. Housing and Urban Development standards and subject to site plan approval. Replacement of a manufactured home located on a conforming or nonconforming lot will be required to meet the standards set forth in subsection (3) below in addition to any variances that may be required to allow replacement on a nonconforming lot. Replacement of an existing manufactured home shall not be subject to §100-16.
- (3) A manufactured home must meet the following standards:

- (a) A manufactured home shall be mounted on a permanent concrete reinforced slab base or footing. Each home site must be suitably graded to provide adequate drainage. The perimeter of the home shall be enclosed with solid skirting with adequate ventilation.
  - (b) The exterior of a manufactured home shall be finished with a natural wood exterior or other natural or artificial material that, because of its color and texture, has the appearance of clapboard, wood shingle or other traditional siding.
  - (c) A manufactured home shall comply with applicable federal requirements and the New York State Uniform Fire Prevention and Building Code.
  - (d) A manufactured home shall have a minimum size of 720 square feet and a minimum width of 14 feet at the time it is installed.
  - (e) A lot shall meet the minimum requirements of the zoning district in which it is situated as set forth in Table B, Schedule of Bulk Regulations. No more than one manufactured home dwelling per lot is permitted.
  - (f) A suitable driveway shall be provided and constructed in conformity with existing Town regulations.
  - (g) All water and sewage requirements of the Dutchess County Department of Health shall be met.
  - (h) No evidence of a trailer hitch or wheels shall be visible after installation of the manufactured home.
  - (i) The pitch of the main roof shall not be less than one (1) foot of rise for each four (4) feet of horizontal run. Any roofing material may be used that is generally acceptable for site built housing if such material is applied in such a manner as to be similar in appearance.
- (4) Travel trailer, camp trailers, tent trailers, chassis-mounted trailers by any name known or devised, shall not be used as a manufactured home or converted to a permanent or seasonal residence, or occupied on any lot for more than sixty (60) days during one (1) calendar year.

### **C. Two-family dwelling conversion.**

- (1) The Planning Board shall ensure that adequate off-street parking may be accommodated on the lot for the two-family dwelling.
- (2) Conversion of a single family detached dwelling to a two-family dwelling shall require Dutchess County Health Department review and approval of the water supply and wastewater disposal systems serving the two-family dwelling.

### **§100-22. Incentive Zoning**

- A. Purpose.** Pursuant to §261-b of the New York State Town Law, the Town of Pine Plains hereby establishes a system of zoning incentives to advance the Town's specific physical, cultural, and social policies set forth in the Town's adopted Comprehensive Plan. The Town

Board hereby establishes the following procedures for the proper application of incentive zoning.

**B. Community benefits and incentives.** An applicant that has submitted a subdivision, special use permit or site plan application for residential development may apply for incentives to achieve community benefits or amenities as listed herein. The community benefits and amenities are not listed in any particular order of importance or priority.

- (1) Open space/agricultural land preservation. For properties located in the H-MS, H-CR, H-R, H-PC, H-B and R districts, a residential density bonus may be granted for the preservation of open space that exceeds fifty percent (50%) of the lot area on which the development is situated. For every one percent of land set aside as open space, a one-half percent residential density bonus may be approved provided no less than a minimum 10 percent of the tract which exceeds the 50 percent minimum open space requirement shall be set aside as open space to apply for this incentive. The residential density bonus granted for the protection of open space/agricultural land preservation shall not exceed fifteen percent (15%).
- (2) Senior citizen housing. For properties located in the H-MS, H-CR, H-R, H-PC, H-B, and R districts, a residential density bonus may be granted for the provision of senior housing. Said residential density bonus shall equal thirty percent (30%) of the senior citizen housing units being created. The density bonus may be applied to the construction of senior or non-senior dwelling units.
- (3) Cultural, archaeological, historic facilities or other unique features deeded to the Town of Pine Plains or a qualified not-for-profit agency. For properties located in the H-MS, H-CR, H-R, H-PC, H-B, and R districts, a residential density bonus not to exceed fifteen percent (15%) may be approved.
- (4) Public Access and recreation. For properties located in the H-MS, H-CR, H-R, H-PC, H-B, and R districts, a residential density bonus may be approved for the creation of public recreational lands or trails, public access to streams, railroad rights-of-way, or open space land, or for the provision of public fishing/hunting rights. A residential density bonus not to exceed thirty percent (30%) may be approved.
- (5) The total number of incentive dwelling units granted under this Section 100-22 shall not exceed thirty percent (30%) of the dwelling units determined by the Planning Board, or Town Board in the case of an NND zone petition, to represent the base residential yield of the application.
- (6) As a condition of approval, the Town Board may require that the bonus units be commingled with non-bonus units, contain the same number of bedrooms as the non-bonus units, and be compatible with the design of non-bonus units in terms of appearance, materials, and finish quality.
- (7) Community benefits may be accomplished by:
  - (a) Use of agricultural or other permanent conservation easements.
  - (b) Donations of land in fee simple for conservation and other community benefit purposes.

- (c) Construction of amenities, serving a Town-wide need, accessible to the general public, above and beyond that required to mitigate proposed impacts in accordance with SEQRA and the Town law.
- (d) Construction or improvement to public works above and beyond that required to mitigate proposed impacts in accordance with SEQRA and the Town law.
- (e) A fee in lieu of providing the community benefit (see §100-22.C(10)).
- (8) Nonresidential development applications are ineligible for incentive zoning. Properties within the WP zoning district are ineligible for incentive zoning.
- (9) The amenities or community benefits shall be in addition to and not in lieu of any other improvements or amenities otherwise required pursuant to any other provisions of this Zoning Law, the subdivision regulations and/or any other land use regulations of the Town, the provisions of the New York State Environmental Quality Review Act (SEQRA) and the regulations thereunder and the provision of other applicable New York State laws including, without limitation, Article 16 of the Town Law, all as any of these provisions now exist or as they may be amended from time to time. Incentives shall be granted only when the community benefits or amenities offered would not otherwise be required or likely to result from the applicable regulatory permitting/approval process before the Planning Board and/or Town Board and/or any other federal, state or local regulatory agencies. Additionally, incentive zoning shall not be a substitute, in whole or in part, for any other conditions or requirements of a conservation subdivision as regulated by this Zoning Law. Notwithstanding, incentive zoning may apply in addition to any such conservation subdivision conditions or requirements.
- (10) The community benefit may be located on-site or off-site of the property to which the incentive would be applied.

### **C. Procedures and criteria for approval of incentives.**

- (1) Submission of application. Applications for incentive zoning shall be submitted simultaneously to the Town Board and to the Planning Board. An applicant is encouraged to present its plans to the Town Board as early in the application process as possible. The Town Board may schedule an informal workshop to discuss the incentive zoning application and share information between the applicant, the Planning Board, the Town Board and the public.
- (2) Narrative statement. A narrative statement shall be submitted with the following information:
  - (a) A description of the incentive being requested.
  - (b) A description of the community amenity or benefit being offered to the Town.
  - (c) A current estimate of the market value of the proposed benefit.
  - (d) A preliminary indication that there is adequate wastewater treatment, water supply, transportation facilities, waste disposal, and emergency service protection facilities in the zoning district in which the proposal is located to handle the additional demands the incentive and amenity, if it is an on-site amenity, may place on these facilities beyond the demand that would be placed on them as if the district were developed to its fullest potential.
  - (e) An explanation as to how the amenity helps implement the physical, social or cultural policies of the Town of Pine Plains Comprehensive Plan.



- (3) Authorization of incentive zoning to a specific property is subject to approval by the Town Board prior to the grant of preliminary plat or site plan approval by the Planning Board. Applicants may seek non-binding input from the Town Board as to whether the proposal is worthy of consideration at any stage of the application process prior to the Planning Board's formal report issued pursuant to subsection (6) below.
- (4) Applications for incentive zoning shall be processed concurrently and with the same procedures applicable to subdivisions and/or special use/site plan approvals as set forth in this Zoning Law and the subdivision regulations of the Town of Pine Plains.
- (5) All applicable requirements of the State Environmental Quality Review Act shall be complied with as part of the review and hearing process.
- (6) Prior to rendering a decision on any preliminary plat or site plan that is the subject of incentive zoning, the Planning Board shall issue a report regarding the incentive zoning to the Town Board. Any hearing required or held on the preliminary plat or site plan shall be held open until the Planning Board has issued its report and the Town Board has rendered a decision with regard to the incentive zoning. The Planning Board's report shall include the following:
  - (a) The Planning Board's recommendations regarding the proposal, including an evaluation of the adequacy with which the benefit and incentives fit the site and how the development relates to adjacent uses and structures.
  - (b) an assessment that adequate water supply, wastewater treatment, transportation, waste disposal and emergency protection facilities exists to serve the development, and that such development will not substantially and deleteriously impact upon the future development of adjoining properties;
  - (c) a statement that the benefit would not otherwise result without the granting of incentive zoning.
- (7) Within 45 days of receipt of the Planning Board's report, the Town Board shall hold a public hearing on the incentive zoning application. Notice of the hearing shall be published in the official newspaper at least ten (10) days prior to the date of the hearing. The Town Board may provide for further notice as it deems appropriate.
- (8) Prior to rendering a decision, the Town Board shall evaluate the impact of the provision of such system of zoning incentives or bonuses upon the potential development of affordable housing gained by the provision of any such incentive or bonus afforded to an applicant or lost in the provision by an applicant of any community amenity to the town. Further, the Town Board shall determine that there is approximate equivalence between potential affordable housing lost or gained or that the town has or will take reasonable action to compensate for any negative impact upon the availability or potential development of affordable housing caused by the provisions of this section.
- (9) The Town Board shall render its decision within 45 days of the close of the public hearing. In no case, however, shall the Town Board be compelled to approve any aspect of this incentive zoning as such approval rests within the Town Board in its sole and absolute discretion. The Town Board may approve, approve with modifications or disapprove the incentive zoning application. Failure to render a determination within said 45-day period shall not be deemed to be a default approval. To approve incentive zoning, the Town Board shall determine that the community benefit provides sufficient public benefit to provide the requested incentive.

- (10) If the Town Board determines that a suitable community benefit or amenity is not immediately feasible, or otherwise not practical, the Board may require, in lieu thereof, a payment to the town of a sum to be determined by the Board. If cash is accepted in lieu of other community benefit or amenity, provision shall be made for such sum to be deposited in a trust fund to be used by the Town Board exclusively for specific community benefits authorized by the Town Board.
- (11) After the Town Board has rendered a decision, the record of decision shall be referred to the Planning Board for preliminary and/or final approval of the application with or without incentives, as prescribed by the Town Board. If the Town Board resolves to permit incentive zoning, no subsequent approval or permit or approval by any official, board or agency of the Town shall materially alter any condition imposed by the Town Board and, in the event that any permit or approval by any agency within or without the Town materially alters any such condition, the project may not proceed until and unless the Town Board approves the modification in its sole discretion.
- (12) In accordance with the provisions of Article XVI, Professional fees, the Town Board may engage a consultant to assist in review of the application, the cost of which will be borne by the applicant.
- (13) Generic environmental impact statement. If a generic environmental impact statement has been prepared by the Town Board in enacting or amending this section, the applicant will pay a proportionate share of the cost of preparing such impact statement.

#### **§100-23. Affordable housing.**

##### **A. Findings.** The Town Board of the Town of Pine Plains finds that:

- (1) the social and economic diversity of the Town is dependent upon a reasonable supply of affordable housing; and
- (2) the Town's Comprehensive Plan encourages the creation of affordable housing within the Town; and
- (3) it is important that any householder earning no more than a moderate income that is employed in the Town of Pine Plains, or provides an essential volunteer service to the Town of Pine Plains, be provided an opportunity to obtain housing that is affordable to said household.

##### **B. Methods to achieve affordable housing.** The Town Board, to promote continuing housing affordability, can accomplish the foregoing objectives through a variety of methods as follows:

- (1) Construction of affordable housing on site;
- (2) Payment of an affordable housing fee to the Pine Plains Housing Trust Fund in lieu of the construction of affordable housing as per §100-23.E. of this section;
- (3) Donations of land to the Town suitable for the construction of affordable housing;
- (4) Construction of affordable housing off site within the Town;

- (5) Rehabilitation of substandard housing to standard affordable housing;
- (6) Purchase of existing housing for conversion to affordable housing;
- (7) A combination of the above.

The Town Board shall approve, in its sole discretion, the method or combination of methods that shall be used to meet the provisions of this section of the Zoning Law based on the unique characteristics of the application being reviewed, and based on a recommendation of the Planning Board. Donations of land or construction off-site shall result in a number of dwelling units equal to the number of the required units or equal in value to the affordable housing fee.

### **C. Applicability.**

- (1) Zoning districts. These provisions shall apply to any residential application in any zoning district except the Wellhead Protection (WP) district wherein the provision of affordable housing is not required.
- (2) Applications of 10 or more dwellings and/or lots. Any site plan, special use permit and/or subdivision plan application that proposes 10 or more residential lots or dwellings or combination thereof shall be required to set aside ten percent of the total number of lots/dwellings for "moderate income households" as that term is defined by the Zoning Law. This set aside constitutes the applicant's affordable housing obligation. A market rate density bonus of ten percent (10%) of the total number of dwellings shall be granted to the applicant for meeting the required set aside. Calculations resulting in 0.5 dwellings or more shall be rounded up to the next whole dwelling unit.

Example: An applicant proposes a subdivision or site plan of ten dwellings and/or lots  
 Affordable Housing Obligation = 10 dwellings/lots x 10 percent = 1 dwelling/lot  
 Initial Buildout is 9 dwellings/lots + 1 affordable dwellings/lot  
 Market Rate Density Bonus = 10 dwellings/lots x 10 percent bonus = 1 market rate dwelling/lot  
 Final Buildout = 10 dwellings/lots which includes 1 affordable dwelling/lot, + 1 market rate dwelling/lot = 11 dwellings/lots

### **D. Procedure for determining affordable housing requirements.**

- (1) Affordable housing statement. Every residential site plan, special use permit or subdivision plan subject to the provisions of §100-23 shall include an Affordable Housing Statement. The statement shall address:
  - (a) The applicability of this Section to the proposed residential development, including the number of affordable dwellings to be constructed;
  - (b) The methodology proposed to be used to provide affordable housing as per Section 100-22.B. above;

- (c) Appropriate notations on any plan, building elevations, floor plans, and other information submitted in support of the application indicating the location and design of any affordable dwelling;
  - (d) any other documentation that the Planning Board and/or Town Board determine will be required to evaluate the application.
- (2) The Town Board shall approve, or approve with modifications, the Affordable Housing Statement prior to the Planning Board acting on any application.
- (3) Affordable housing notation. Notes shall be placed on any site plan or final subdivision plan reciting the affordable housing obligations of the applicant in conjunction with the plan. If applicable, this shall include the recording of notes on a plan indicating which lots or sites are to be set aside for the construction of affordable housing. The Town Board may require the imposition of deed restrictions ensuring that future lots are restricted to the construction of affordable housing. The Town Board, as a condition of approval, may require that an applicant pay an Affordable Housing Fee where the applicant proposes to set aside a lot in a subdivision for the construction of affordable housing, but where the applicant does not propose to construct an affordable dwelling.
- (4) Conditions on decision of approval. A site plan, subdivision and/or special use permit shall include specific conditions referencing the requirements of this Section of the Zoning Law. Noncompliance with the provisions of this Section shall be grounds for the Planning Board to disapprove a special use permit, site plan or subdivision application.
- (5) Violations. A violation of this section shall be deemed to be a violation of the subdivision, site plan and/or special use permit approval, as the case may be. Said violation may be addressed by the Town of Pine Plains pursuant to Article XIV, Administration and Enforcement, of this Zoning Law. In addition, any such violation shall, after the conduct of a public hearing, and notice to the applicant, be grounds for rescission of the subdivision, site plan and/or special use permit approval granted by the Planning Board.
- (6) Other procedures prescribed by the Town Board. The Town Board by local law or resolution shall prescribe such other procedures and requirements as it deems necessary for the approval of affordable housing in conjunction with a special use permit, subdivision plan or site plan.
- (7) Waiver of fees. The Town Board may waive in whole or in part the fee in lieu of recreation land or other building, zoning or land development fees where it finds that such waiver shall improve affordability.
- E. Affordable housing fee.** The Affordable Housing Fee shall be determined by the Town Board annually and set forth in a schedule contained in a local law or resolution. The fee shall be calculated using the “construction cost approach” set forth in the “Town of Pine Plains Affordable Housing Task Force Report to the Town of Pine Plains Town Board” (April 2012). The Affordable Housing Fee, if approved by the Town Board, shall be noted in any Affordable Housing Statement and made a condition of any site plan, special use permit and/or subdivision approval. The Affordable Housing Fee shall be paid at the time of the application for the first building permit issued for the applicant's site plan or subdivision plan, or at the time of the sale of the first lot or lots within a subdivision, whichever shall occur first.

As a condition of approval, the Town Board may establish a phasing schedule for the payment of the affordable housing fee. In no event, however, shall payment be deferred for more than two years after filing of a final site plan or subdivision plan unless the time period for said payments are extended by the Town Board. A sample calculation of the buildout with a payment in lieu of housing is as follows:

Example: An applicant proposes a subdivision or site plan of ten dwellings/lots  
Affordable Housing Obligation = 10 dwellings/lots x 10 percent = 1 dwelling/lot  
Initial Buildout is 9 dwellings/lots + 1 affordable dwelling/lot  
Market Rate Density Bonus = 10 dwellings/lots x 10 percent bonus = 1 market rate dwelling/lot  
Applicants provides fee in lieu of 1 affordable dwelling/lot  
Final Buildout = 9 dwellings/lots + fee in lieu of one affordable dwelling/lot + 1 market rate dwelling/lot, or 10 dwellings/lots and fee in lieu of one affordable dwelling lot

#### **F. Standards applicable to affordable dwellings.**

- (1) Integration of affordable dwellings. All affordable dwellings shall be physically integrated into the existing or new development and constructed with the same quality building materials as market rate units. An affordable dwelling shall resemble, from the exterior, the market rate dwellings in the development or surrounding neighborhood, as the case may be. The Town Board has the authority to review and approve the interior finishes of affordable housing. Said interior finishes may vary from those established for market rate dwellings within the same development where the Town Board finds that said variation will improve housing affordability.
- (2) Affordable dwellings by housing type. Affordable dwellings shall be the same housing type as the market rate housing type for single housing type developments. For example, if a development proposes single family detached dwellings, then the affordable housing units shall be single family detached dwellings. For mixed housing type developments, e.g., single-family detached and single-family attached, the affordable dwellings shall be constructed in the same proportion as the mix of housing types for the market rate units, except that the Town Board, in its discretion, may vary this requirement where it determines that an alternative mix of affordable housing units will improve housing affordability and negate equity issues when allocating dwellings among eligible households.
- (3) Dwelling type and size. An affordable dwelling may be a multi-family, single family detached or single family attached dwelling subject to the occupancy standards set forth below. The Town Board has the authority, by local law or resolution, to establish a minimum and maximum size for affordable dwellings by housing and bedroom type.
- (4) Phasing. For any development that will be constructed in phases, the schedule below shall apply. Certificates of occupancy shall be issued for market rate dwellings when the required percentage of affordable dwellings has been completed and a certificate of occupancy issued for the affordable dwellings.

<u>Percentage of Market Rate Dwellings Receiving Certificates of Occupancy</u>	<u>Percentage of Affordable Dwellings Receiving Certificates of Occupancy</u>
Up to 25 percent of Total	0 (none required)
50%	At least 50 percent
100%	100%

- (5) Occupancy standards. To prevent overcrowding or underutilization of affordable housing at the time of purchase or rent, the following schedule of occupancy shall apply:

<u>Number of Bedrooms</u>	<u>Maximum Number of Persons</u>
0 (studio)	1
1	2
2	4
3	6
4	8

The affordable dwelling shall be the primary residence of the owner or renter. An owner shall not rent the affordable dwelling to others and a renter may not sublet the affordable dwelling, except that one-year subleases shall be permitted if the household is required to move temporarily for reasons of employment, health, or family emergency, not to exceed a total of two (2) years. This exception shall not apply to a developer of an affordable dwelling.

- (6) Maintenance as a continuing obligation. An affordable dwelling shall be maintained as affordable in a manner as prescribed by procedures established by the Town Board or its designee. No household shall make any improvements that require a building permit without prior written permission.
- (7) Builders specifications. An affordable dwelling shall be maintained at least at the original builder's specification level. At the time of resale, the Town Board may determine that such unit has not been properly maintained and shall be authorized to impose such assessments as necessary to reasonably return the dwelling to its original conditions. Such assessment shall be deducted from that portion of the selling price reverting to the seller of the unit.
- (8) Affordability restrictions. An affordable dwelling shall remain affordable for thirty (30) years.
- (9) Tax assessment. The Tax Assessor of Pine Plains shall consider the limited resale value of an affordable dwelling and/or the limited rental value of units when determining the appropriate assessment on said dwelling.
- (10) Additional standards. The Town Board, by local law or resolution, may establish such other standards, rules and regulations it deems necessary to ensure the design intent applicable to an affordable dwelling is met. The following minimum standards are hereby established:

<b>Affordable Housing Size and Building Standards</b>				
<b>Building Type</b>	<b>Bedroom Size</b>	<b>Minimum Gross Square Footage</b>	<b>Maximum Gross Square Footage</b>	<b>Number of Bathrooms</b>
<b>Single family attached or detached</b>	2	1,200	1,500	1
	3	1,400	2,000	1.5
<b>Garden Style Condominiums (owner-occupied)/Apartments (renter-occupied)</b>	0	550	700	1
	1	650	850	1
	2	800	1000	1
	3	950	1200	1.5
<b>Additional Design Standards:</b> Note: Maximum Gross Square Footage as per Dutchess County Planning Department recommendation. 1. All affordable housing must have a refrigerator, range and range hood, dishwasher, and complete electric and plumbing connections and a dryer exhaust for a clothes washer and dryer. 2. The refrigerator must be at least 18 cubic feet and frost free. A 30-inch electric, porcelain enameled range/oven and range hood must be supplied. 3. All carpeting must meet minimum Federal Housing Administration (FHA) specifications. 4. Unit landscaping must be as designated on an approved site or subdivision plan. 5. Shelving must be included in closets. 6. The main bathroom must include a vanity. 7. Affordable housing shall have full basements if market rate units have full basements. 8. Use cement board siding or other long-lasting siding in the construction of affordable dwellings. 9. Use Energy Star compliant windows and doors.				

## **G. Sales and rental values.**

### **(1) Affordable for sale dwelling.**

- (a) Calculation of initial sales price. The initial sales price shall be set by a schedule prepared annually by the Town Board which shall ensure that an income-eligible household shall have adequate income to qualify to purchase an affordable dwelling. The initial sales price of an affordable dwelling shall be calculated such that the annual cost of the sum of principal, interest, taxes and insurance ("PITI") and common charges, as applicable, shall not exceed thirty percent (30%) of the income of a household earning 80 percent of the Town of Pine Plains median family income adjusted for bedroom size, using a standard of 1.5 persons per bedroom. Costs shall be determined based on a 30-year fixed rate mortgage at prevailing interest rates with a five percent down payment.
- (b) Resale of affordable dwelling. The Town Board shall establish, by local law or resolution, procedures for the resale of an affordable dwelling to ensure that the units remain affordable while allowing for a limited equity appreciation for the homeowner.
- (c) Deed restriction. The original deed and any subsequent deed or instruments used to transfer title to an affordable dwelling shall include a provision indicating that the housing unit is an affordable dwelling subject to restrictions on occupancy and resale. Said restrictive language shall be established by the Town Board.

(2) Affordable rental dwelling.

- (a) Calculating permissible rent. Maximum monthly rent, including utilities (heat, hot water and electric) shall be set by local law or resolution and updated annually by the Town Board. Rent for an affordable dwelling shall include an estimated cost for utilities and shall not exceed thirty percent (30%) of the maximum family income of an income eligible household earning 60 percent of the Town of Pine Plains median family income adjusted for bedroom size, using a standard of 1.5 persons per bedroom. Maximum rent shall be set in such a manner that an income eligible household will have sufficient income to qualify to rent said dwelling.
- (b) Lease terms and renewal. An eligible household for an affordable rental dwelling shall sign a lease for an initial term of one (1) year. As long as the household remains eligible and has complied with the terms of the lease, the household shall be offered a two-year renewal thereafter. Adequate proof of household income shall be provided to the Town Board or its designee. If at the time of renewal the household's income exceeds the maximum income limit established by the Town Board, such household shall be offered a market rate rental dwelling in the development if available. If no such market rate rental is available, the household may renew the lease for one more year, subject to the condition that should a market rate dwelling become available, the household shall be required to move to said market rate rental dwelling. At the end of the lease for such additional year the household shall have no further right to reside in the affordable rental dwelling. At that time, the landlord shall have the option of increasing the rent to the prevailing market rate, provided that the landlord shall make a comparable rental unit available to another eligible household at the restricted affordable housing rental rate.
- (c) Town Board review. All lease terms shall be reviewed and approved periodically by the Town Board.

**H. Applicant eligibility.**

- (1) Income eligibility. For "for sale" dwellings, a household shall be determined to be income eligible where its annual family income does not exceed 80 percent of the median family income for the Town of Pine Plains. Median family income will be calculated using the 2010 median family income reported by the U.S. Census Bureau and adjusted on an annual basis to account for inflation or deflation, as the case may be, until the median family income is updated in the next U.S. Census Bureau survey. The median family income level for Pine Plains will be adjusted using the Consumer Price Index (CPI) for All Urban Consumers for the Poughkeepsie-Newburgh-Middletown Metropolitan Statistical Area (encompassing Dutchess and Orange County, NY), published by the U.S. Bureau of Labor Statistics, and adjusted based on family size using the U.S. Department of Housing and Urban Development published family size adjustment data. For rental dwellings, a family shall be determined to be income eligible where its annual family income does not exceed 60 percent of the median family income for the Town of Pine Plains for a family of four, and calculated annually as set forth above for "for sale" dwellings. The Town Board may establish by local law or resolution additional standards to ensure income eligibility.



(2) Selection priority. Once an applicant is determined to be eligible to participate in the affordable housing program based on applicable income levels, preference will be given to applicants on the basis of the following factors. An "applicant" shall be defined to include any and all family members 18 years of age and older and who will occupy the affordable housing dwelling as a primary residence. An applicant seeking preference based on voluntary service must provide an affidavit from an authorized person within such organization attesting to the applicant's length of voluntary service or employment. The Town Board, by local law or resolution, may establish a point system to prioritize households that fall within the following categories:

- (a) Volunteer Fire Department or Ambulance Corps members serving the Town of Pine Plains, with a minimum 6 months consecutive active service.
- (b) Paid emergency service personnel serving the Town of Pine Plains, including police, fire and emergency medical services, with a minimum of 6 months of employment.
- (c) Town of Pine Plains full-time municipal employees, minimum of 6 months of employment.
- (d) School district employees for any schools that provide education services to students who live in Pine Plains, minimum of 6 months of employment.
- (e) Veterans of US Armed Services, honorably discharged.
- (f) Persons employed in the Town of Pine Plains.
- (g) Resident of the Town of Pine Plains who have lived in Pine Plains for at least three years.
- (h) Former residents of the Town of Pine Plains who are able to document they resided in the Town for at least three years.
- (i) Dutchess County residents for at least three years, not residing in Pine Plains.
- (j) All income eligible households not covered above.

(3) Non-Eligible applicants. In the event that there are no eligible applicants for affordable dwellings by application of the selection criteria, the Town Board may allow by resolution an affordable dwelling to be rented by the owner on a temporary basis at market rate.

**I. Administration.** The Town Board of Pine Plains shall administer this affordable housing program. The Town Board may delegate its responsibilities to an Affordable Housing Committee. The Town Board may also hire staff or contract with Dutchess County or other qualified not-for-profit organization, governmental agency, or private consultant to administer all or a portion of the affordable housing program under the direction and oversight of the Town Board or an Affordable Housing Committee. The responsibilities and duties of the Town Board shall include, but shall not necessarily be limited to the following:

- (1) Review and approve an Affordable Housing Application.
- (2) Maintain eligibility priority list, annually certify and re-certify applicants.

- (3) Establish annual maximum income limits; rental, sale and re-sale prices.
- (4) Maintain list of affordable dwellings in the Town.
- (5) Review and approve deed restrictions applicable to an affordable dwelling.
- (6) Review and approve the lease terms for an affordable rental dwelling.
- (7) Promulgate rules and regulations as necessary.
- (8) Such other and additional responsibilities and duties as established by the Town Board by local law or resolution.

**§100-24. Reserved.**

ARTICLE VI  
**Overlay, Resource Protection and Floating Zoning District Regulations**

**§100-25. Wellhead protection district.**

- A. Purpose.** The Town of Pine Plains hereby establishes a Wellhead Protection (WP) zoning district to protect the health, safety, and general welfare of the community by preventing groundwater contamination to the Town's public water supply system.
- B. Boundaries.** The WP district consists of the wellfields and recharge areas of the Town of Pine Plains water supply system. The boundary of the district is shown on the Zoning Map of the Town of Pine Plains and said boundary is based on data presented in the 2007 Wellhead Protection Plan for the Pine Plains Water Improvement Area (Source: New York Rural Water Association).
- C. Prohibited uses and activities in the WP district.** The following uses and activities are prohibited:
- (1) The on-site disposal of solid waste, pathological or medical waste, petroleum, radioactive material, hazardous substances, hazardous waste, or process wastes, including aqueous-carried waste (except for sewage, animal manure and associated bedding material, and agricultural use of food processing wastes where the waste is applied at or below agronomic rates).
  - (2) Surface land application of septage, sewage, sludge, or human excreta except where permitted by NYSDEC for agricultural production. Where such application is permitted, the landowner shall submit to the Town a copy of all correspondence between the landowner/applicant and the applicable federal, state or local regulatory agencies and a copy of all applicable federal, state and local permits.
  - (3) Disposal of snow or sand containing deicing compounds that have been transported from off-site areas.
  - (4) Stockpiling or storage for other than residential uses of coal, bulk chemicals, deicing compounds, hazardous substances, hazardous waste, except in structures designed to prevent contact with precipitation and constructed on low permeability pads.
  - (5) Stockpiling or storage of fertilizers except in containers or structures designed to prevent contact with precipitation.
  - (6) Storage of manure, except in conjunction with agricultural operations.
  - (7) Construction of municipal or industrial sewage treatment facilities with disposal of primary or secondary effluent.
  - (8) Mining and excavation of overburden and/or minerals from the earth for sale or exchange, or for commercial, industrial, or municipal use (except for the sale of incidental overburden and/or minerals from excavation related to construction as part of an agricultural or residential use).
  - (9) Drilling of wells used for oil, gas, gas storage, solution mining, or brine disposal.
- D. Lot coverage.** The maximum lot coverage shall not exceed fifteen percent (15%) of the lot area except that agricultural operations are not subject to this requirement. The Planning Board may allow an increase in the maximum lot coverage, provided that the applicant submits a Stormwater Pollution Prevention Plan that demonstrates that the post-development stormwater recharge volume to ground water is, at a minimum, equal to the

predevelopment recharge volume to ground water, and that said increase shall not have a detrimental impact on water quality. In no event shall the maximum lot coverage requirement exceed thirty percent (30%).

**E. Subdivision design.** All major subdivisions (5 or more lots) shall be designed as a conservation subdivision and shall meet the standards set forth in §100-31 of this Zoning Law.

**F. Site plan approval required.** Site plan approval shall be required except for the following uses:

- (1) construction or expansion of a one-family detached dwelling or any accessory structure appurtenant thereto that conforms to the maximum lot coverage requirement of the district;
- (2) Agricultural operations located within an agricultural district created pursuant to New York State Agriculture and Markets Law.

**G. Site plan submission.** In addition to other data set forth in Article XII, Site plan review, the following shall be submitted:

- (1) A location map of the proposed use in relation to the WP district boundary.
- (2) A report detailing the proposed conveyance, storage, distribution, generation, use, treatment, and/or disposal of any stormwater runoff or sewage. If applicable, a Stormwater Pollution Prevention Plan (SWPPP) shall be submitted. The SWPPP shall document the methods for the removal of oil, gasoline, and other contaminants from runoff by the use of treatment swales, sediment traps, oil/gas separator, and/or other devices. To maximum extent, all runoff from impervious surfaces shall be recharged to ground water in a method to be approved by the Planning Board. Recharge may be achieved through site design that incorporates natural drainage patterns and vegetation, and through use of stormwater infiltration basins and trenches, porous pavement or similar systems. Long-term maintenance measures shall be described in the management plan.
- (3) A description of all pollution control measures and activities proposed to prevent on-site disposal and potential contamination of groundwater or surface water, including spill response activities.
- (4) A statement as to the degree of threat to groundwater and surface water quality that could result if the control measures failed.
- (5) A description of off-site disposal methods for handling solid waste, petroleum, radioactive material, hazardous substances, hazardous waste, process wastes, and/or aqueous-carried waste (except sewage).
- (6) Copies of any permits and applications made to any other governmental agencies.
- (7) Additional information or material as may be requested by the Planning Board.

**H. Review and approval criteria.** The following criteria shall be used by the Planning Board in reviewing applications and shall serve as minimum requirements for approval pursuant to this section. The application shall not be approved unless the Planning Board determines that the applicant has met all of these standards.

- (1) The application complies with the regulations and requirements set forth in this section.

- (2) Adequate provisions have been made for the collection and disposal of all stormwater that runs off proposed roads, parking areas, roofs, and other surfaces, and ground water is recharged to the maximum extent practicable on-site.
  - (3) Filling, excavation and earth moving activity shall be minimized.
  - (4) Soil erosion and sedimentation is minimized.
  - (5) The proposed use is located in a manner that will not adversely impact the quantity of groundwater available to public water supply wells or other wells.
  - (6) The proposed use is designed with adequate control measures that prohibit on-site disposal of solid waste, pathological or medical waste, petroleum, radioactive material, hazardous substances, hazardous waste, or process waste, including aqueous-carried waste (except sewage). The adequacy of the proposed control measures must be evaluated in terms of their simplicity, reliability, and feasibility, as well as the degree of threat to public water supply wells and other wells in the event that the control measures failed.
  - (7) All handling and storage of solid waste, pathological or medical waste, petroleum, pesticides, herbicides, radioactive material, hazardous substances, hazardous waste, or process wastes shall meet the standards of the New York Department of Environmental Conservation, and/or all applicable state or federal agencies.
  - (8) The proposed use or activity must provide adequate provisions for the safe off-site disposal of solid waste, hazardous waste, process waste, and other wastes generated. All waste must be disposed of at a licensed disposal facility having adequate capacity to accept the use's wastes.
  - (9) In the event of an on-site disposal (i.e. spill) of potential contaminants, the proposed use or activity must have adequate spill response and containment plans in place to minimize groundwater or surface water contamination.
- I. No building permit or certificate of occupancy shall be issued unless and until all conditions of site plan approval have been met. All improvements shall be completed in strict conformance with the approved site plan.

**§100-26. Agricultural overlay district (“AG-O”).**

- A. Purpose.** The purpose of the AG-O district is to protect any property now or formerly in agricultural use, and any property that may not be in agricultural use, but is characterized by the presence of prime farmland soils, soils of statewide significance, or is within a County-designated agricultural district.
- B. Properties affected.** Properties included in the AG-O district are shown on the Zoning Map of the Town of Plains.
- C. Uses allowed.** Uses and structures permitted by right, by special use permit, or accessory uses or structures incidental thereto, shall be as regulated in the underlying base zoning district.
- D. Minimum open space requirement.** No less than 50 percent of the area of any property being developed as a conservation subdivision shall be preserved as permanent open space. During review of the subdivision plan, the Planning Board shall give priority to the protection of the following resources:

- (1) Agricultural soils, identified as Prime Farmland or Soils of Statewide Importance;
- (2) Agricultural fields and pasture, either presently cultivated or fallow;
- (3) Existing agricultural operations, including structures incidental thereto.

For properties situated in the AG-O district, these resources shall be deemed to be “primary conservation features” as regulated in §100-31 of the Zoning Law.

- E. Aerial photography.** As part of the review of any application, the Planning Board may require that the application be accompanied by a current aerial photo showing the extent of existing agricultural fields and pasture. Agricultural soils, fields and pasture shall be mapped on the Conservation Resources Map.
- F. Minor subdivisions.** The Planning Board, in its discretion, may require that a minor subdivision be designed as a conservation subdivision where it is necessary to preserve the agricultural operations and features of the subject property.

#### **§100-27. Mining overlay district (M-O)**

- A. Purpose.** The Town of Pine Plains wishes to allow soil and gravel mining activities and limit their location so as to protect the significant visual, historic, economic and cultural resources of the Town, and to minimize any adverse impacts by protecting residential areas and land uses from potential physical damage and undue exposure to environmental impacts associated with mining activities. Consistent with the foregoing, a Mining-Overlay District is hereby established to regulate said use. This Local Law will regulate the location, design, and operation of mining activities in order to:
- (1) Protect the health, safety, and general welfare of the residents of the Town of Pine Plains.
  - (2) Establish predictability in the siting and regulation of mining activities.
  - (3) Avoid potential damage to adjacent properties from a mining facility by imposing mining standards and setback requirements.
  - (4) Ensure harmony and compatibility with surrounding land use patterns.
  - (5) Limit mining activities to the M-O district as depicted on the Town of Pine Plains zoning map. Furthermore, the mining activities shall be situated no closer than 250 feet to any residence on an adjacent property. Access to a mine shall be from a State or County road.
- B. Special use permit required.** Uses and structures permitted by right, by special use permit, or accessory uses or structures incidental thereto, shall be as regulated in the underlying base zoning district. In addition, mining activities are allowed upon special use permit approval solely in the M-O district. For mining activities, the New York State Mined Reclamation Law (“MLRL”) establishes that the NYSDEC is responsible for the regulation and permitting of mining activities and reclamation of same for operations that extract 1,000 tons, or 750 cubic yards or more, of a mineral during twelve (12) successive calendar months. The NYSDEC is the entity responsible for administering a MLRL permit for mining activities of this magnitude. A mining activity, regardless of whether the operation is regulated by the NYSDEC, requires a special use permit and site plan approval by the Planning Board.
- C. Excavation activities not requiring special use permit and site plan application approval.** Upon a determination made by the Zoning Enforcement Officer, the following activities shall not require a mining special use permit:

- (1) Operations in connection with construction of improvements, changing of contours and grading of lots in an approved subdivision plat in accordance with final plat maps, construction plans and grading plans approved by the Planning Board.
- (2) Operations in connection with bona fide construction or alteration of buildings, structures, off-street parking and loading areas, access, outside storage areas, landscaping and other site development in accordance with a site plan approved by the Planning Board.
- (3) Operations reasonably necessary in connection with bona fide agricultural pursuits (production of crops, etc., as defined in §301 of the New York Agricultural and Markets Law), provided that no earth materials are removed from the tract or tracts that constitute the farm.
- (4) Operations reasonably necessary in connection with the bona fide construction or alteration of a building or structure, and access, parking spaces, structures or facilities accessory thereto and landscaping therefore, for a use permitted in a district as of right, and for which a building permit has been issued or an application for a certificate of occupancy has been approved, provided that no more than 500 cubic yards of earth materials are removed from the lot. The processing of excavated materials on-site for sale or delivery off-site is expressly prohibited in the absence of a mining permit in accordance with the regulations of this section.
- (5) Bona fide landscaping operations, provided that no more than 500 cubic yards of earth materials are removed from the lot where the landscaping operation is being conducted.

**D. MLRL permit.** The following requirements are applicable to special use permit and site plan applications for mining activities in the M-O district that require a MLRL permit:

- (1) If the mining activity is subject to a NYSDEC MLRL permit, the applicant for such permit shall simultaneously apply to both the NYSDEC and the Planning Board, and shall provide the Planning Board simultaneously with copies of any subsequent submissions to the NYSDEC. The Planning Board shall advise the NYSDEC on the following:
  - (a) Whether mining is permitted in the location indicated on the MLRL permit application;
  - (b) The appropriate setbacks from roads and property boundaries;
  - (c) The location and design of barriers to restrict access to the mine;
  - (d) Dust control measures;
  - (e) Hours of operation; and
  - (f) Any other issue as may be referenced in and appropriate under the MLRL.
- (2) The applicant shall submit to the Planning Board copies of all correspondence and documentation between the applicant and NYSDEC, specifically including but not limited to the mining application, mining plan, reclamation plan, reclamation bond(s), all SEQRA documentation, engineering reports and renewal application(s).
- (3) Upon the receipt of a complete special use permit and site plan application, including all materials submitted to the NYSDEC required for a complete MLRL permit application, the Planning Board shall schedule and hold a public hearing on the application for special use permit and site plan approval. The public hearing shall remain open until the NYSDEC concludes its SEQRA review of the MLRL permit application.
- (4) Within sixty-two days (62) days following the Planning Board's receipt of a Negative Declaration or Findings Statement, the Planning Board shall close the public hearing and

take action on the application for a special use permit and site plan. The site plan/mined reclamation plan approved by the NYSDEC shall constitute the site plan to be approved by the Planning Board.

- (5) If a special use permit is granted by the Planning Board, the term for such special use permit shall be coterminous with the NYSDEC MLRL permit. Any application for renewal or modification of the NYSDEC MLRL permit must be submitted simultaneously to the Planning Board.
- (6) An application shall be submitted to the Zoning Enforcement Officer for a certificate of occupancy under this chapter and pay to the Town an inspection fee. The Zoning Enforcement Officer shall issue the certificate of occupancy upon special use permit and site plan approval by the Planning Board. Said certificate shall confirm the mining activity as a permitted use under the regulations of this section, if the Zoning Enforcement Officer finds that the NYSDEC-approved operation is consistent with the determination of a permitted use.
- (7) Any mining activity that obtains a MLRL permit and site plan approval by the Planning Board is subject to inspections and other requirements set forth in Article XIV, Administration and Enforcement, of this Zoning Law. The applicant at all times shall maintain a valid NYSDEC mining permit which shall be available for inspection by the Town Zoning Enforcement Officer. The Applicant shall operate in compliance with the NYSDEC mining permit.

**E. Applications not subject to MLRL permit.** If the mining activity is not subject to a NYSDEC MLRL permit, the applicant shall make application in accordance with §100-27.F below in order to undertake the mining activity. Planning Board approval of a special use permit and site plan shall be required. The stockpiling of material in excess of 500 cubic yards on any lot shall be permitted for no more than 60 days unless associated with a approved special use permit and site plan approval issued as per the regulations of this section. The regulations set forth in subsections F through N below apply to applications for mining activities that are not subject to NYSDEC review and approval and do not require a MLRL permit.

**F. Application.** Applications involving mining activities that are not regulated by the NYSDEC in accordance with a MLRL permit are subject to special use permit and site plan approval and shall follow the procedures set forth in Articles XI and XII of this Zoning Law. In addition to the information required to be submitted as set forth in Articles XI and XII, the following information shall be submitted:

- (1) Participants. Proof of ownership of the property and the names and addresses of all parties having an interest in any entity involved as the owner or operator of the site, such as a limited liability company, corporation or limited partnership which owns or has an interest in the property.
- (2) Description of proposed operations. A statement clearly detailing the nature and extent of operations, including the type and amount of material to be extracted, the manner in which it will be accomplished, and the proposed hours of operation. The duration of the operation through to site restoration, proposed hours and days of operation and the program for staging the site preparation, excavation and restoration in time and geographic sections.
- (3) A SWPPP in accordance with §100-42 of the Zoning Law.



- (4) Site plan. The site plan shall illustrate all existing structures and proposed grading areas and improvements on the property to be used in conjunction with the mining activity.
- (5) Phasing plan.
- (6) Reclamation plan.
- (7) An estimate of the number of vehicles expected to enter and exit the tract on a daily basis and at peak hours, and description of any roadway capacity and safety improvement proposed on the streets giving access to the tract.
- (8) Description of the nature and capacity of any processing equipment proposed to be established on the tract.
- (9) An evaluation of the impact of the proposed soil extraction operation upon the market value of properties adjacent to the operation and in the neighborhood.
- (10) Such other maps, plans, boring tests, feasibility studies and engineering data as may be required by the Planning Board in order to determine and provide for the proper enforcement of these regulations.
- (11) State Environmental Quality Review. Part 1 of the full environmental assessment form shall be submitted with the application.

**G. Criteria for decision making related to applications not subject to NYSDEC review and a MLRL permit.** The Planning Board, in its decisionmaking, shall be guided by the criteria set forth in Articles XI and XII of the Zoning Law, as well as the following:

- (1) No mining activity shall occur within 250 feet of any residence on an adjacent property or within 200 feet from any public street.
- (2) Man made or natural barriers shall be installed or retained to provide adequate screening of visual and noise impacts.
- (3) Dust shall be controlled to avoid off-site migration.
- (4) The hours of operation shall not exceed 9.5 hours in any one day nor commence before 7:30 a.m. on any day nor extend beyond 5:00 p.m. on any day, nor shall there be any operation conducted on Saturday or Sunday.
- (5) No excavation shall occur within five (5) feet of the existing water table except for pond excavation where approved by the Planning Board.
- (6) Slopes will not exceed one foot of rise for two feet of horizontal distance or such lesser slope that the Planning Board may specify to ensure public health and safety and soil stability
- (7) The applicant shall submit proof of New York State Department of Transportation or Dutchess County Highway Department approval of all access roads serving the mining activity. The applicant shall demonstrate that the proposed access to and from the property will not create safety or traffic hazards.
- (8) All vehicles shall be loaded and operated so as not to spill gravel, rocks, sand or other earth materials upon the roads and highways utilized to and from the site, or otherwise impair or damage to roads or highways.
- (9) The Planning Board shall find that the reclamation plan restores the property. Where appropriate, the top layer of arable soil for a depth of four inches shall be set aside and retained on the property and re-spread over the excavated or graded area as the work progresses, that a suitable ground cover will be planted and grown to an erosion-

resistant conditions upon the completion of the excavation or removal in accordance with approved contour lines.

- (10) Stormwater management and erosion control measures shall be suitable.
- (11) No excavation shall interfere or alter any natural water course.
- (12) The Planning Board may require phasing of mining and reclamation activities.
- (13) After reclamation, no sharp pits, depressions or soil erosion problems shall be created and no slopes or banks shall exceed whatever slope is necessary in order to obtain stability.
- (14) The Planning Board may require methods to secure the property, including suitable fencing.
- (15) Noise and vibration. Measures shall be implemented to reduce the noise level to the extent possible. The applicant shall demonstrate that there shall be no vibrational effects to properties beyond the limits of the property being mined.
- (16) The Planning Board may require the submission of written proof that the proposed mining is not subject to the New York State Mined Land Reclamation Law.
- (17) The Planning Board may require that the applicant submit reports periodically, prepared by and bearing the seal of a land surveyor or engineer, showing the status and progress of the excavation operation.

- H. Inspections.** The Zoning Enforcement Officer shall have the right to inspect all or any part of the mine and a fee may be charged for said inspections.
- I. Time of approval.** The mining permit shall be valid for a time period of five (5) years. The Planning Board may grant extensions of the five-year limitation for periods not more than two years for each extension.
- J. Bonding.** At the time of issuance of a certificate of occupancy for the special use permit, the applicant shall file with the Town Board a completion bond, in form and with surety acceptable to the Town Board and in an amount set by the Town Board after consideration of any recommendations by the Planning Board, to guarantee completion of the mining, grading or removal of material as approved and the restoration of the property as required by this section. Before the Planning Board recommends release of the bond, the Planning Board or Town Board may request a report from the Zoning Enforcement Officer concerning compliance with the requirements of this section of the Zoning Law. The Town Board, in establishing the amount of the bond for the extraction operation, shall require a cash bond to guarantee installation, maintenance and completion of measures for soil erosion and sediment control unless same has been established as per §100-42 of the Zoning Law.
- K. Other required permits.** Approval of a special use permit shall be conditioned upon the applicant obtaining all other permits required by the Town, County, State or any other regulatory agency.
- L. Enforcement, fines and violations.** Any enforcement proceedings, fines and violations shall be processed in accordance with Article XIV, Administration and Enforcement.
- M. Existing mining activities.** Mining activities in existence on the effective date of this Zoning Law and operating pursuant to valid permits may be continued to completion in accordance with the maps, plans, standards, conditions and time limits of the permit. The operator shall be permitted to continue the operation of same pursuant to the provisions of a valid permit

currently in effect through the time that such permit expires. Thereafter, any application for renewal of an existing valid permit shall be subject to the provisions of this law.

- N. Prohibited activities.** The importation, processing and/or stockpiling of materials from off-site sources, including but not limited to other mining operations within or outside of the Town of Pine Plains, shall be prohibited.

#### **§100-28. New Neighborhood Development (“NND”)**

- A. Purpose.** The New Neighborhood Development (“NND”) District is an unmapped floating zone that is established only upon an applicant’s submission of a zoning petition and approval of the petition by the Pine Plains Town Board. Approval of a zoning petition and NND Final Master Plan by the Pine Plains Town Board allows an applicant to apply for Site Plan and/or Subdivision approval of a New Neighborhood Development in compliance with the standards set forth in this section of the Zoning Law and the NND Final Master Plan approved by the Town Board. The purpose of the NND is to create the type of planning and zoning flexibility which is necessary to achieve environmentally sensitive, economically beneficial and socially desirable development, and a commonality of benefits to the public and to the Applicant than is possible under more rigid conventional zoning regulations. The NND is intended to allow creation of new residential neighborhoods on properties that adjoin a Pine Plains hamlet zoning district. The NND promotes neighborhood development characteristics comparable or complementary to those exhibited in the existing Pine Plains hamlet. The NND allows residential densities that are transitional between the residential neighborhoods of the Pine Plains hamlet, and the low residential density areas of the Rural zoning district. The NND recommends a range of housing types to ensure that housing is available to a diversity of households. The NND may also incorporate a limited range of nonresidential uses subject to §100-28.E of this section. In order to achieve these purposes, a higher density of development than normally would be permitted in the Rural zoning district may be permitted by the Town Board in the NND. The publication “Crossroads, Hamlet, Village, Town” (Randall Arendt) should be used by the applicant as a guide for designing the proposed NND.
- B. Criteria for approval of the NND.** In determining whether to approve an NND, the Town Board shall consider the following criteria and determine to what extent the proposed NND meets these criteria and whether the NND proposal, on balance, benefits the Town of Pine Plains:
- (1) creates a distinct neighborhood settlement area integrated with protected open space which may be used for agricultural, silvicultural, recreational, limited nonresidential and environmental protection purposes;
  - (2) in its design, maximizes opportunities to provide a continuous system of open space which may be linked to open space areas on adjoining property;
  - (3) creates opportunities and/or the potential to physically link the existing Pine Plains hamlet to the NND by creation of pedestrian and bicycle corridors and accessways;
  - (4) promotes architecture and building design consistent with that existing in traditional and historic Hudson River valley communities including the Pine Plains hamlet;

- (5) promotes energy-saving and building techniques, like those promulgated by the U.S. Green Building Council;
- (6) includes a diversity of dwellings that satisfy the needs of various household types, age groups, and income levels in Pine Plains, and promotes affordable housing opportunities;
- (7) promotes traditional building and site development patterns with an interconnected and generally grid-like pattern of streets and blocks, except where topography and other unique environmental characteristics limit said pattern;
- (8) promotes use of neighborhood greens, landscaped streets, and “single-loaded” streets woven into street and block patterns in order to provide neighborhood identity and space for social activity, parks, and visual enjoyment, except where topography and other unique environmental characteristics limit said pattern;
- (9) meets the community service demands generated by an increased population associated with a NND;
- (10) is designed in accordance with the design standards set forth in §100-28.F;
- (11) preserves the site’s biodiversity, maintains the diversity of plant and animal communities, protects significant habitats and insures long-term protection of water quantity and quality;
- (12) encourages protection of historical buildings and sites, sensitive archaeological areas and other important cultural resources;
- (13) encourages the conservation and enhancement of the visual quality and rural character of undeveloped areas of the Town by protecting visible open space and scenic vistas and encourages the creation and/or preservation of vegetative buffers along highways and between potentially conflicting land uses by the careful siting, design and buffering of building development;
- (14) minimizes flooding and erosion by protecting the functions of wetlands, water bodies, water courses, flood plains, areas of high water table, steep slopes, erosion hazard areas and natural vegetative cover;
- (15) minimizes stormwater runoff and maximizes the quality and quantity of groundwater recharge by reducing land disturbance, using natural drainage systems wherever possible, filtering runoff from impervious surfaces and maximizing on-site recharge;
- (16) provides special community benefits such as open space protection, public access to park land, hiking trails, biking trails and recreational resources;
- (17) provides for the construction or improvement of public facilities, services or utilities;
- (18) allows limited opportunity for nonresidential development through adaptive reuse of historic structures, or proposes uses that are allowed in the R district and will not compete with retail, personal service or other commercial uses intended to be accommodated in the Pine Plains hamlet.

**C. Minimum NND Standards.** The following minimum standards must be met in order to submit a NND zone petition to the Town Board:

- (1) **Location of NND.** The proposed NND may be applied only to properties zoned R (Rural) District.
- (2) **Minimum Size.** The minimum size of the tract, or combination of tracts, encompassing the NND shall be 750 acres and in single ownership. Said tract(s) shall be contiguous, except that roads and utility rights-of-way shall be permitted to cross the tract, and still render the tract contiguous. No part of the required 750 acres may be composed of land or property already restricted from development by a conservation easement, deed restriction, or other restriction limiting development. For purposes of these regulations, no portion of said restricted lands may be used in the calculation of open space or for purposes of calculating residential density.
- (3) **Proximity to Pine Plains hamlet.** The proposed NND, or a portion thereof, shall adjoin a Pine Plains hamlet zoning district (see §100-4.B.(1) which defines the hamlet zoning districts in Pine Plains). The NND is not permitted adjacent to Pulvers Corners or Bethel hamlet zoning districts.
- (4) **Utilities.** No less than 75 percent of all residential dwellings in the NND shall be served by community water and central sewer services.
- (5) **Road Access.** The NND tract, or portion thereof, shall have frontage on a state road or state highway.
- (6) **Non Constrained Lands.** The NND shall contain sufficient amounts of land included in the non-constrained district illustrated in the "Pine Plains Future Land Use Concept" map in the Town of Pine Plains Comprehensive Plan to allow for development satisfying, to the fullest extent practicable, the criteria set forth in §100-28.B.

**D. Procedure.** The following procedures shall be followed in the creation of a NND District:

- (1) **Pre-application meeting.** The Applicant shall request a pre-application meeting with the Town Board and Planning Board to discuss the Applicant's NND proposal. A sketch plan shall be submitted which shall include the information set forth in Article XII, Site plan review, of this Zoning Law. The purpose of this meeting will be to solicit preliminary non-binding comments of the Town Board and Planning Board with regard to the consistency of the NND proposal with the criteria set forth in §100-28.B. and to identify any issues that would need to be addressed during the NND review process. In addition to submission of a sketch plan, the following information shall be submitted for the Town's consideration:
  - (a) A narrative indicating how the NND proposal meets or will be designed to meet the minimum standards set forth in 100-28.C. above;
  - (b) A preliminary identification and calculation of the residential base yield;
  - (c) A preliminary identification and calculation of incentive dwelling units being requested and community benefits to be provided;

- (d) Initial description of how the affordable housing component will be achieved.

The foregoing information shall be received by the Town Board and Planning Board at least thirty (30) days prior to the pre-application meeting at which the NND proposal shall be discussed. Subsequent to issuance of the Town's non-binding comments, the Applicant may submit a formal zone petition to the Town Board.

**(2) Submission of the NND zone petition.** The applicant shall petition the Town Board for NND zoning in accordance with the procedures set forth in Article XVII., Amendments, of this Zoning Law. The petition for NND zoning shall be in a form sufficient to enable the Town Board to evaluate the applicant's proposal and its consistency with the purpose, criteria, minimum standards and general design standards expressed herein. Copies of the NND zone petition shall also be submitted to the members of the Planning Board. The NND zone petition shall be accompanied by the following which shall represent the Applicant's NND Concept Master Plan:

- (a) A written description of the purpose of the NND and to what extent it meets the purposes, and criteria set forth in §100-28.A and B. and the minimum standards set forth in §100-28.C.
- (b) A metes and bounds description and survey of the proposed NND Zone District certified by a licensed land surveyor.
- (c) A conceptual site/subdivision plan for the NND showing a proposed NND layout with:
  - (i) Delineation of the various residential uses, identifying the core and peripheral residential areas and including general extent, size and composition in terms of the total number of dwelling units, and approximate percentage allocation by dwelling-unit types (for example, single-family detached, duplex, townhouses).
  - (ii) The proposed pedestrian, bicycle and/or vehicular circulation system illustrating how said system connects the NND to the Pine Plains hamlet or may connect to the same in the future.
  - (iii) Delineation and approximate acreage of the protected open space areas and description of the uses, if any, proposed within said areas, together with proposals for the ownership, maintenance and protection of the open space.
  - (iv) Delineation of all recreational and common facilities such as clubhouses, swimming pools, tennis courts, community centers, ballfields, racquet courts, hiking trails, horseback trails, golf courses, and a description of ownership and proposed access, whether public or private.
  - (v) A location map, showing generally the land use and ownership of abutting lands within five hundred (500) feet of the property line.
  - (vi) Description and preliminary mapping of community water and sewer system. The proposed capacity, ownership and maintenance of said system shall be specifically described.

- (vii) A location and outline of existing water bodies, streams, marshes and wetlands and their respective classification as determined by the appropriate governmental regulatory body.
  - (viii) Boundaries of any areas subject to flooding or within a FEMA-mapped 100-year flood plain.
  - (ix) Identification of any other significant natural features.
  - (x) Identification of environmentally constrained lands, as defined in §100-16.
  - (xi) The approximate location and dimensions of proposed principal and accessory buildings on site and the relationship to one another and to other structures in the vicinity. Proposed bulk regulations to guide development of the NND shall be submitted.
  - (xii) The location, scale, approximate dimensions, floor area and type of any secondary on-site or off-site commercial, service or other non-residential use proposed for the NND and its relationship to residential uses and adjoining properties, together with proposed maximum build out from such uses measured in gross floor area.
  - (xiii) Proposed safeguards to be provided to minimize possible detrimental effects of the proposed development on adjacent properties and the neighborhood in general, including proposed plans for landscaping, tree preservation and/or buffering to adjacent properties.
  - (xiv) A preliminary stormwater management plan for the property prepared in accordance with §100-42.
  - (xv) Approximate location of lands, if any, proposed to be dedicated to the Town.
  - (xvi) Other information, plans and details as may be required by the Town Board to assess whether the NND will result in one or more of the public benefits set forth in 100-28.B.
  - (xvii) The Town Board shall have the discretion to modify any of these submission requirements if it determines that the submission is not necessary for the Town Board's evaluation of the proposed NND.
- (d) A residential/non-residential yield determination in accordance with the provisions of §100-28.E.
  - (e) If applicable, a description of the incentive zoning being sought pursuant to this section and §100-22 and the community benefits being provided such as public access to NND park land, hiking and biking trails and recreational facilities and/or the construction or improvement of on-site or off-site public facilities, services and/or utilities.
  - (f) An affordable housing statement pursuant to §100-23 and the requirements of this section.

- (g) If applicable, a description of the Economic Development Area Incentives being sought pursuant to §100-28.E(5).
  - (h) A description and examples of the architectural and green building design features and programs to be incorporated into the development. The Town Board may require the submission of building elevations and floor plans.
  - (i) A description as to how the common elements, e.g., open space and recreational resources, are to be owned, operated and maintained.
  - (j) If the project is to be phased, a proposed Phasing Plan indicating the approximate phasing of land dedication, site development and infrastructure improvements both on and off site, including the general order of construction and estimated timing of each phase. The Phasing Schedule shall also identify the sequence, and timing, for construction of affordable housing units both on site and/or off site and the sequence of construction of all special community benefits and/or construction or improvement of public facilities, services and/or utilities. The Town Board, at its discretion, may require that the NND be phased.
  - (k) Market feasibility study demonstrating the short and long-term demand for the uses proposed in the NND.
  - (l) The present ownership of all lands included within the NND.
  - (m) Evidence acceptable to the Town Board to demonstrate the applicant's financial capacity to carry out the project and a description of previous experience with projects of a similar scale and magnitude.
  - (n) Such other documentation and information as may be required by the Town Board to evaluate the NND zone petition and Concept Master Plan.
- (3) SEQRA review.** The NND zone petition and Concept Master Plan shall not be deemed complete until such time as the Lead Agency issues a Negative SEQRA determination or a Draft Environmental Impact Statement ("DEIS") is accepted by the Lead Agency as complete for purposes of commencing public review. The proposed development of a NND shall be designated a Type I action and requires submission of a full Environmental Assessment Form ("EAF"). Consistent with the regulations implementing SEQRA, coordinated review shall be conducted. The Lead Agency, based on the facts contained in the EAF, the NND Zone Petition and Concept Master Plan, shall determine whether the proposed action may have a significant effect on the environment, requiring issuance of a Positive Declaration and the preparation of a Draft Environmental Impact Statement ("DEIS"). The following information, at a minimum, shall be provided by the applicant as part of the SEQRA review process, and may be incorporated into a DEIS, if submission of same is required:
- (a) Maps and narrative illustrating the natural and sensitive environmental features of the site, including all features set forth in §100-31.J.(2) of this Zoning Law. A narrative shall be provided describing the sensitive environmental features that are being protected and how they have been incorporated into the proposed boundary of the open space area.



- (b) A demographic analysis identifying the number and type of dwelling units, the bedroom mix, and the anticipated population, including school age children, to be generated, utilizing demographic multipliers acceptable to the Lead Agency.
  - (c) A community services/fiscal impact study analyzing the demand that will be placed on community service providers and the costs associated with same. The study shall set forth specific methodology and assumptions upon which it is based. The Lead Agency shall review and consider the estimated community service costs, including municipal and school district capital and operating costs, and the tax revenues to be generated by the development to offset said costs.
  - (d) A traffic impact study indicating the ability, in terms of geometry and capacity, of the internal and adjacent roadway network to accommodate traffic generated by the proposed development. The traffic study shall identify mitigation measures, as necessary, to ensure adequate and safe traffic flow.
  - (e) An ecological survey identifying flora and fauna and assessing the type and quality of ecological habitat found on the project site, , taking into consideration seasonal variations. Said survey shall summarize the results of on-site field investigations.
  - (f) Design calculations and preliminary plans illustrating on- and off-site improvements related to the design, construction and installation of a centralized system of wastewater treatment and water supply.
  - (g) A drainage study, indicating methods to control stormwater runoff and methods to protect water quality of receiving water bodies.
  - (h) Such other information and data that the Lead Agency determines necessary for adequate SEQRA review of the proposed action.
- (4) Dutchess County Planning referral.** A petition for a NND zoning shall be referred to the County Planning Department in accordance with §100-100.F(2) of this Zoning Law.
- (5) Public hearing.** The Town Board shall hold one or more public hearings in accordance with §100-100.F(1). The Town Board may, in its discretion, combine the NND rezoning public hearing with other required hearings, including the incentive zoning hearing and the SEQRA hearings conducted by the Lead Agency.
- (6) Planning Board report.** Subsequent to the completion of SEQRA, i.e., issuance of a Negative Declaration or issuance of a Findings Statement, but prior to any action taken by the Town Board on the zone petition, the Planning Board shall issue a report on the incentive zoning as required by Section 100-22.C. of the Zoning Law. The Planning Board shall also render a report addressing the matters specified in Section 100-100.E of the Zoning Law. The Planning Board is authorized to submit other comments in its report related to its review of the NND and Concept Master Plan that should be considered by the Town Board prior to its decision making. Said report shall be issued within 45 days following completion of the SEQRA process.
- (7) Town Board NND zone decision.** Approval by the Town Board of the NND zoning is a legislative act. The Town Board by resolution and in its sole discretion, may elect to

consider, may elect not to consider, or may reject any request for a NND rezoning at any time during the zone petition review process. The Town Board, within 62 days after the close of the public hearing and after completion of the SEQRA process by the Lead Agency, including, if required, the issuance of SEQRA Findings, shall make its decision to: (i) approve; (ii) disapprove; or (iii) approve with conditions the NND zoning. If the Town Board disapproves the NND zone, it shall set forth its reasons for said determination in a written statement. However, the requirement of a written statement shall not be deemed to impair or affect the legislative nature of the Town Board's decision-making powers. The timeframe within which the Town Board may act may be extended upon mutual consent of the Town Board and the Applicant. Failure to act within the time prescribed shall not result in default approval of the NND zoning. If the Town Board approves the NND zoning, or approves the NND zoning with conditions, it shall, in its Decision:

- (a) State that it has considered the criteria for decision-making set forth in §100-28.B and state its finding as to what extent the proposed NND meets these criteria and to what extent the NND, on balance, benefits the Town of Pine Plains.
- (b) Set forth or establish the number, and type, of zoning incentives which shall be granted to the Applicant as part of the NND.
- (c) Set forth or establish the maximum number of residential dwelling units which may be included in the NND which number shall not exceed the limitation set forth in §100-28.E(1).
- (d) Set forth or establish the housing mix to be established in the NND, in accordance with §100-28.F(1)(c).
- (e) Establish the affordable housing requirements of the NND.
- (f) Identify those portions of the plans, submissions, studies and proposals of the Applicant which shall be incorporated in the NND including, but not limited to, all preliminary Site Plan and Subdivision Plans; non-residential uses that shall be of the NND; and all community benefits to be provided by the Applicant as part of the NND.
- (g) Determine all uses which shall be allowed in the NND.
- (h) Establish the phasing plan as may be requested by the applicant or required by the Town Board.
- (i) Prescribe such bulk regulations which will apply in the NND, including an identification of the provisions of the Zoning Law that shall be superseded.
- (j) Establish such other conditions and requirements which the Applicant must adhere to in the development of the NND.
- (k) All of the above shall be deemed to be, upon approval, or approval with conditions of the NND Petition, the "NND Final Master Plan".

**(8) Development agreement.** The Town Board, and the Applicant (developer), shall enter into a written agreement, the purpose of which shall be to establish in writing and for the benefit of the parties, the specific parameters of the approval which has been granted by the Town Board and upon which the Applicant may rely in proceeding with its development project.

**(9) Filing of documentation.** Upon approval of the NND Zone Petition, the Town Zoning Map shall be duly amended by the Town Board. The map amendment shall be filed, as required, as local law with the New York State Department of State, and a copy shall be filed in the Dutchess County Clerk's Office. In addition, the NND Final Master Plan shall be filed in the Office of the Town Clerk, together with the Zoning Map Amendment and Development Agreement. Where the regulations of the Zoning Law vary with the standards set forth in the NND Final Master Plan, the NND Final Master Plan shall take precedence.

**(10) Planning Board approval.** The zoning of the property as a NND zoning district by the Town Board does not create any vested rights in the property owner (Applicant). The Applicant shall be required, after zoning of the NND, to make a complete application for Site Plan and/or Subdivision Approval for some or all of the NND. Nothing herein shall limit the Applicant's ability to make submission of a site plan or subdivision application prior to adoption of the NND zone amendment. However, until the zoning petition is approved, no subdivision plan or site plan application shall be deemed complete, and said determination of completeness shall be made only by the Planning Board. The applicant shall pursue diligently preliminary subdivision plan and/or site plan approval. The NND Zoning shall entitle the applicant to construct the NND in accordance with the NND Final Master Plan, subject to Planning Board site plan and/or subdivision approval. However, any significant changes to building location, sizes, building type, unit count, bedroom configuration, or changes which the Planning Board deems may have the potential to have a significant impact or represents a significant deviation from the plans upon which the NND zone is based shall be referred back to the Town Board for its review and consideration. The Town Board shall determine whether said changes require amendments to the NND Final Master Plan. If a preliminary subdivision and/or site plan for either a phase or for the NND in its entirety is not submitted within one (1) year of the date the NND rezoning is granted, the rezoning shall become null and void and the land which is the subject of the NND rezoning shall revert to the underlying base zone. Prior to said one year period, the Applicant may request from the Town Board an extension of time for the submission of a plan and shall state in writing the reasons for said extension. The Town Board, in its discretion, may conduct a public hearing and may approve or deny the extension. In making its site plan and/or subdivision determination, the design standards set forth §100-28.F together with all standards set forth in the Town Board's NND and Final Master Plan approval shall be applied by the Planning Board.

**E. Residential/Nonresidential Yield Determination.** The maximum residential yield for the NND shall be calculated as follows:

(1) Maximum number of dwellings in a NND. A maximum development size for a NND is established herein to ensure that no NND shall exceed the residential size of the Pine Plains hamlet, as defined by the 2000 U.S. Census as a "Census Designated Place" (CDP). The number of dwellings in a NND shall not exceed 611 dwelling units inclusive

of the base residential yield, pre-existing lots, incentive dwellings, and on-site affordable dwellings.

- (2) Base residential yield determination. The maximum base residential density for the NND district shall be one dwelling unit per three (3) acres. The base residential yield shall be determined in accordance with §100-31.C which, by reference, requires that environmentally constrained lands be deducted in accordance with the provisions of §100-16.
- (3) Mandatory affordable housing bonus. A NND shall comply with the provisions of §100-23, Affordable Housing, of this Zoning Law, and fifteen percent (15%) of the base residential yield shall be set aside as affordable dwellings to be constructed as part of a NND application. One for one market rate dwelling unit bonuses shall be given only for ten percent (10%) affordable dwellings. Consistent with the provisions of §100-23.B., the objective of providing affordable housing may be met in a number of ways and the affordable dwelling units may be located on-site, off-site, by payment of an in-lieu fee, or by a combination of methods. In the Town Board's discretion, if affordable units are provided off site, or by payment of an in lieu of fee, all, or a portion of, the off site or in lieu of dwelling units may be excluded in the on site count of dwelling units. However, the total number of on-site dwelling units shall not exceed 611.
- (4) Zoning law incentives. A NND may apply for and receive incentive zoning as set forth in §100-22, Incentive Zoning. Incentives authorized under this section of the Zoning Law shall not exceed 30 percent of the base residential yield established in Section 100-28.E(2).
- (5) Economic development area incentive. The Town Board, in its discretion and in addition to any incentives allowed in Section §100-22 of this Zoning Law, may grant a residential density bonus of no more than ten percent (10%) of the dwelling units established in Section 100-28.E(2) for purposes of encouraging the establishment of tax ratable nonresidential uses that will not detract from the economic viability of, or compete with, the uses allowed in the Pine Plains hamlet. Uses allowed as a matter of right or allowed by special use permit in the R district are allowed to be integrated into the NND. A minimum of five percent (5%) of the gross land area of the NND shall be dedicated to nonresidential uses to qualify for this incentive. The procedures for approving said incentive shall be the same as those outlined in §100-22, except that the economic development incentive shall not be subject to the limitations imposed by §100-22.B(5).
- (6) Residential density calculation. The maximum number of dwelling units to be permitted in a NND shall be the sum of the following (fractions shall be rounded to the nearest whole number):

See Zoning Law Section Number	Procedure	No. of Dwelling Units
See §100-31.C	1. Determine Net Density Acreage	
See §100-28.E(2)	2. Determine Residential Base Yield (Net Buildable Area/3 acres)	
See §100-28.E(3)	3. Mandatory Affordable Housing Bonus (10% of “2” above)	
See 100-28.E(4)	4. Zoning Law Incentives (up to 30% of “2” above)	
See 100-28.E(5)	5. Economic Development Area Incentive (10% of “2” above)	
See 100-34	6. Resubdivision of pre-existing lots	
See 100-28.E(1)	7. Maximum Number of Dwelling Units On- Site (Shall not exceed 611 dwelling units) =	

- (7) The NND shall identify all other lots, including but not limited to lots to be held in common ownership, e.g., a homeowners association, lots to be dedicated for public ownership, utility lots, and nonresidential lots to be created as part of the economic development incentive. These lots shall be in addition to the maximum number of residential lots established in subsection (6) above.

## **F. Design standards.**

### **(1) Land use areas.**

- (a) The NND may consist of the following four land use areas: Residential Core Area, Peripheral Residential Areas, Economic Development Area, and Open Space Area. A NND shall contain both a Core Residential Area and an Open Space Area. Fifty percent (50%) of all dwelling units shall be situated within the Core Residential Area. A NND is also required to incorporate on-site and/or off-site civic uses and areas to ensure that the NND is served adequately by community facilities. For purposes of this section, “civic” uses may include, but shall not necessarily be limited, to governmental, educational, and/or cultural gathering places or buildings serving the NND.
- (b) Overall Form. The NND shall be generally compact with a well-defined edge between a Residential Core Area and adjacent and intermingled Open Space Areas. Areas of new construction shall be located to best preserve natural resources, cultural features, and scenic vistas. Modification of existing topography shall be minimized to the greatest extent possible.
- (c) Housing diversity. In order to promote housing diversity, the following housing mix shall be established for the base residential yield determined in §100-28.E(2):
- (i) Seventy percent (70%) of all dwelling units shall consist of single-family detached dwellings.
  - (ii) Thirty percent (30%) of all dwellings units shall be single-family attached, two-family, and/or multifamily dwellings. However, multifamily dwellings shall not

exceed five percent (5%) of all dwelling units.

- (iii) The Town Board may impose conditions and limitations, or vary the mix of dwelling units specified in this subsection based on a consideration of the potential fiscal impact of the NND on the community and consideration of the Town's housing needs.
- (d) Special use permit requirements. To the extent that a NND incorporates uses that are regulated as special uses in the R district, the design of the NND shall be reviewed against the design standards applicable to said special uses. The NND may vary a special use requirement upon approval of the Town Board. Upon NND approval, all uses shall be deemed approved and individual special use permit approvals shall not be required.
- (e) The maximum building height of any structure in the NND shall not exceed 35 feet. The maximum lot coverage, including all new roadways, shall not exceed 50 percent.
- (f) Pedestrian connectivity. The Residential Core and Peripheral Residential Area shall be served by a series of sidewalks and/or trails.
- (g) Parking and loading requirements. The minimum off-street parking and loading requirements for any uses or structures in the NND shall be as set forth in Article IX of this Zoning Law.
- (h) Hamlet connection. A pedestrian sidewalk and/or trail system linking the NND to a Pine Plains hamlet zoning district shall be constructed.
- (i) Design guidelines. The applicant shall submit design guidelines that shall be approved as part of the NND. The design guidelines shall set forth architectural styles to be utilized and landscape guidelines for communitywide and individual lot plantings. Architectural styles shall be based on precedents gathered in surveys of the Town of Pine Plains historic hamlets, as well as the hamlets and villages and towns in adjoining communities in the Hudson River Valley region. House styles shall be defined by a set of standards – massing and proportion, materials, colors, roof-pitch, height, etc. – that distinguish them from another style and encourage good building design. Housing styles, shapes, and materials shall be varied, and subject to the following design parameters. Landscape design guidelines shall encourage use of native species and shall avoid introduction of invasive species. Dwellings on conservancy lots shall not be subject to design guidelines.
- (j) Lot Area and Yard Requirements. No minimum lot size, frontage or yard requirements within a NND shall be required except those dictated by health, fire, safety, function and buffer considerations. With the design guidelines, the applicant shall be required to submit proposed bulk requirements that would apply to the various lots and housing types proposed in the NND which shall be subject to Town Board approval.
- (k) Roads. The arrangement, character, extent, width, grade and location of all streets shall be considered in relation to existing and planned streets, topography and public convenience and safety, and in their appropriate relation to the proposed use of the land to be served by said streets. Whether public or private, streets shall conform to

all road specifications of the Town of Pine Plains unless alternative standards are approved by the Town Board.

**(2) Residential core area.** The Residential Core Area is the central residential location for dwellings in a NND. It shall be compact in order to promote traditional neighborhood design characteristics and walkability. The Residential Core Area shall be defined by establishing a centerpoint for the Residential Core. From the centerpoint, no less than 50 percent of all dwelling units in the NND shall be located within ½-mile of said centerpoint. The Residential Core Area shall contain single-family detached dwelling units, and no less than 75 percent of all other proposed housing types. Uses accessory to residential uses shall be the same as those allowed in the underlying R zoning district. Accessory dwellings shall be included within the maximum residential yield allowed in a NND.

(a) Residential core design.

- (i) Residential areas in the NND shall be designed generally in a gridded pattern of blocks and interconnecting streets and rear lanes except where topography and other unique environmental characteristics limit said pattern, defined by buildings, landscaping, pedestrian ways, sidewalks and street furniture. To avoid the monotony of a rigid grid layout and to better conform to the natural terrain, streets may include frequent gentle curves.
- (ii) The maximum length of a block shall be 500 feet. This length may be extended up to 800 feet when mid-block footpaths are provided.
- (iii) Gridded blocks of the dimensions required above may be reshaped when topography, existing vegetation, or hydrology considerations influence block shape and size.
- (iv) Residential uses should not be located within 300 feet of a two-lane state highway, unless effectively screened from public view by virtue of topography, dense vegetation or other physical or visual barriers.

**(3) Open space area.**

- (a) Purpose. No less than sixty percent (60%) of the entire tract shall be contained within an Open Space Area.
- (b) Uses permitted in the open space area. The following activities are allowed:
  - (i) Conservation of open land in a natural or managed state (for example, woodland, fallow field, or meadow).
  - (ii) Agricultural uses including pasture.
  - (iii) Equestrian facilities, including commercial facilities, shall be permitted but may not consume more than 25 percent of the minimum required Open Space Area. Indoor or outdoor riding arenas are permitted, excluding seating areas and facilities for audiences.

- (iv) Silviculture, in keeping with established standards for selective harvesting and sustained-yield forestry.
- (v) Neighborhood greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding gas-powered motorized off-road vehicles such as all-terrain vehicles and snowmobiles (except maintenance vehicles are permitted where approved as part of a NND), rifle ranges, and other uses similar in character and potential impact as determined by the Town Board.
- (vi) Active noncommercial recreation areas, such as playing fields, playgrounds, courts, and bikeways, provided such areas do not consume more than 5 percent of the minimum required Open Space Area. Parking facilities for the same shall also be permitted, provided they shall not be included in the required Open Space Area.
- (vii) Golf courses may comprise up to 50 percent of the minimum required Open Space Area, but shall not include driving ranges or miniature golf. Areas devoted to golf course structures (e.g., clubhouses) and parking areas shall not count toward the minimum Open Space Area.
- (viii) Areas for stormwater management facilities, provided that such areas do not occupy more than 5 percent of the required Open Space Area, and excluding detention and retention basins greater than 36 inches in depth.
- (ix) Single-family detached dwellings and accessory units on conservancy lots. Of the land area on conservancy lots, 80 percent of any lot may be counted toward the Open Space Area provided conservation easements protect the Open Space Areas and restrict same from inappropriate building development.
- (x) Open space shall be permanently protected in accordance with the provisions set forth in §100-32, Required protected open space; ownership and maintenance standards of common facilities, of this Zoning Law.

(c) Greens, Commons, Squares and Parks.

- (i) At least one percent (1%) of the minimum required Open Space Area shall consist of multiple greens, commons, squares or parks and shall serve as focal and gathering places for residents of the NND.
- (ii) Active recreation facilities located in greens, commons, squares or parks shall be set back a minimum of 100 feet from adjoining residential lot lines. The need for active recreation facilities shall be determined in accordance with §100-65, Reservation of parkland, of this Zoning Law and applicable provisions of the Town of Pine Plains subdivision regulations.
- (iii) Greens, commons, squares, and parks shall serve a variety of outdoor leisure and assembly needs of NND residents and enhance its form and appearance.



- (iv) Greens, commons, squares and parks shall be distributed throughout the NND in the Residential Core Area and the Peripheral Residential Area. Said spaces are not required in areas set aside for conservancy lots.
- (v) Additional, smaller greens, commons and squares, no less than 8,000 square feet in size, shall be dispersed throughout the NND in such a way that no lot is more than ¼-mile from a green, common or square. Said distance may be increase to ½-mile where the lot is linked to a green, common or square via a sidewalk or trail.
- (vi) All greens shall be planted with shade trees along their edges, at intervals not greater than 40 feet, unless the Planning Board determines that a more irregular planting plan is appropriate and in keeping with the NND.
- (vii) An effort shall be made to limit fragmentation of significant wildlife habitats and intact ecosystems.

**(4) Peripheral residential areas.**

- (i) Peripheral Residential Areas are clusters of dwellings outside the Residential Core Area. Up to fifty percent (50%) of all dwellings may be situated in Peripheral Residential Areas.
- (ii) No Peripheral Residential Area shall consist of fewer than twenty (20) dwellings. This requirement shall not apply to areas of the NND with conservancy lots.

**(5) Economic development areas.**

- (i) The NND allows Economic Development Areas that permit nonresidential uses to enhance the Town's ratable base and promote a jobs/housing balance.
- (ii) The minimum gross area of any Economic Development Area shall be one acre. Where Economic Development Areas are established as an incentive, the Town Board may require that a certain percentage of development in the Economic Development Area be developed and occupied prior to the construction of incentive residential dwellings.
- (iii) Economic Development Areas shall be situated on any tract in a manner that does not have a negative impact on existing or proposed residential uses.
- (iv) Consistent with the provisions of 100-22.B.(7), the Town Board may accept a fee in lieu of providing the community benefit.

**(6) Municipal civic areas and uses.** The creation of a NND, due to its size and the resulting population that will be introduced to the Town, will place demand on various municipal service providers. These providers include but are not limited to: applicable school district, fire district, library, town governmental services, and emergency service providers. In addition to neighborhood civic uses set forth in §100-28.F.(1)(a) above, the Town Board may require that the NND incorporate into its design locations for municipal service providers where the Town Board finds that the project would have a significant adverse impact in the absence of providing said location and that such locations would

mitigate such impacts. Alternatively, the applicant may mitigate community service impacts through funding the construction and expansion of existing facilities off-site to handle the additional demand.

**(7) Housing/Bedroom Mix.** The Town Board, in its discretion, may establish specific housing types and limit the bedroom mix to ensure that the proposed project will not unduly burden the Town's existing community services and facilities and ensure that a diversity of households are encouraged.

**(8) "Green building" techniques.** As a requirement of the NND, no less than 25 percent of all dwelling units within the NND shall be designed in accordance with "green building" techniques or standards such as those promulgated by the U.S. Green Building Council, i.e., Leadership in Energy and Environmental Design ("LEED") standards, or comparable standard. Said techniques shall be set forth and incorporated into the design standards for the NND.

**(9) Signage and lighting.** The NND shall incorporate sign and lighting design standards which shall regulate said improvements within an NND. The Town Board shall give due consideration to the goals, objectives and standards set forth in Article X and §100-38 of this Zoning Law in its review and approval of said standards.

**G. Professional fees.** The Applicant for an NND zoning shall be required to reimburse the Town for all professional fees incurred by the Town in its review of the application and in its SEQRA Review of the application, in accordance with the provisions of Article XVI of this law. As a condition of the commencement of the review of any NND Petition, the Town Board may require the Applicant to enter into an Escrow Agreement for reimbursement of professional fees.

**§100-29. Reserved.**

ARTICLE VII  
Subdivision Design Standards

**§100-30. Subdivision design.**

**A. Applicability.** This section shall apply to all subdivisions for which an application is submitted after the effective date of this Zoning Law.

**B. Standards and procedures.** The following table sets forth the type of subdivision layout permitted in the applicable zoning district:

Zoning District	Type of Subdivision(2)	Type of Subdivision Allowed		Recommended Design*
		Conventional	Conservation	
R and WP	Major – 30 and more lots	--	■	Traditional neighborhood hamlet
	Major - 15-29	--	■	Rural hamlet
	Major – 5-14 lots	□	■	Rural cluster
	Minor – 2-4 lots	■	■	Rural cluster
AG-O	Major – 30 and more lots	--	■	Traditional neighborhood hamlet
	Major - 15-29	--	■	Rural hamlet
	Major – 5-14 lots	--	■	Rural hamlet
	Minor – 2-4 lots (1)	■	■	Rural cluster
Hamlet Districts	Major – 5 or more lots	■	■	To be determined by PB
	Minor – 2-4 lots	■	■	Rural cluster

Notes:

■ = Permitted by right with subdivision approval.

□ = The Planning Board may permit this type of subdivision, subject to waiver findings as per §100-31.F.

-- = Conservation subdivision design is required.

(1) = The Planning Board may require a minor subdivision to be designed as a conservation subdivision where it finds that a conventional subdivision would have an impact on the preservation of agricultural resources.

(2) = No more than 4 lots may be subdivided in the form of a conventional subdivision from any "parent" parcel on the effective date of this Zoning Law. Any subsequent subdivision of land shall be designed as a conservation subdivision and adhere to the requirements of §100-31.G.

\*Appendix B describes the design standards for conservation subdivisions.

**§100-31. Conservation subdivisions.**

**A. Authority.** In accordance with the provisions of §278 of the New York State Town Law, the Town Board hereby authorizes the Planning Board to approve a conservation subdivision simultaneously with the approval of a plat or plats. For purposes of this Zoning Law, a cluster development as authorized by New York State Town Law is referred to herein as a "conservation subdivision". The purpose of a conservation subdivision is to enable and encourage flexibility of design and development of land in such a manner as to preserve the natural and scenic qualities of open lands.

**B. Purposes.**

(1) The Town of Pine Plains wishes to preserve its open space and agricultural land, and in accordance with the principles of traditional compact patterns of development, including

building patterns exhibited in the Town's traditional hamlets, using flexible regulations for density and lot dimensions.

- (2) In order to increase design flexibility, two or more contiguous properties, including parcels separated by a Town, County, State or private road, may be grouped together as one conservation subdivision provided the parcels are in common ownership and are merged by deed into one parent parcel.
- (3) A conventional subdivision is a subdivision that complies with the minimum lot, yard, and height regulations set forth in the Table of Bulk Requirements without setting aside land as permanently protected open space. The Town wishes to discourage this type of subdivision where it will have a negative impact on the Town's rural and agricultural landscape and natural resources.
- (4) In accordance with §100-30.B, the Town requires the use of conservation subdivision design as an alternative to conventional subdivision design. A conservation subdivision allows for the preservation of contiguous open space and the protection of important, sensitive environmental features and agricultural resources, by allowing design flexibility that is not allowed for a conventional subdivision. A conservation subdivision also affords an opportunity to reduce the extent of public highway expansion and other infrastructure improvements necessary to serve the subdivision.
- (5) The application of the provisions of this section shall be guided by the important physical, cultural, and natural features of the particular property under review as set forth below.

**C. Number of lots or dwelling units in a conservation subdivision.** The maximum permitted number of lots or dwelling units within a conservation subdivision shall not exceed the number that would be achieved if the land were subdivided into lots conforming to the minimum lot size requirement applicable to the district in which the land is situated, which shall be computed as follows:

- (1) The maximum number of lots or dwelling units shall be determined by one of the following methods selected by the applicant:
  - (a) Yield Determination without Submission of a Conventional Plan:
    - (i) Environmental constraints shall be subtracted from the gross lot area of the property as per §100-16, Minimum lot area.
    - (ii) The net lot area of the property shall be reduced by 15 percent to adjust for that area that would be required for streets in a conventional subdivision and to account for irregular lots. For a minor subdivision designed as a conservation subdivision, the Planning Board may waive this requirement where the Board finds that a road would not be constructed as part of a conventional subdivision plan given the limited size of the property and number of proposed lots associated with it.
    - (iii) The resulting net area shall be divided by the minimum required lot area for a single family dwelling in the district in which the property is located to determine

the total number of lots or dwelling units permitted. The maximum number of lots or dwelling units is referred to as the “base residential yield”.

(b) Yield Determination with Submission of a Conventional Plan:

- (i) As an alternative to the above formula, the applicant may submit a subdivision plat meeting all bulk requirements of the district in which it is located as set forth in Table B of this Zoning Law. The conventional subdivision layout shall demonstrate that each individual lot conforms to §100-16, Minimum lot area.

(2) The base residential yield may be increased where: incentive zoning has been approved by the Town Board; an affordable housing density bonus has been granted; and/or pre-existing lots of record have been approved by the Town Board. All of these lots or dwellings shall be laid out to conform to the requirements set forth in this section. The sum of all dwellings and/or lots developed in conjunction with a subdivision shall be the “maximum residential yield”.

(3) Where a conservation subdivision has been fully platted to accommodate the maximum residential yield of the applicable property, a note shall be added to the subdivision plat indicating that the lots created represent the maximum number of lots permitted in accordance with the applicable zoning district and these regulations and that no further subdivision is permitted other than lot line adjustments, where allowed by the Planning Board.

(4) On any conservation subdivision plan, whether platted based on maximum or partial yield, the maximum residential yield shall be noted on the subdivision plan prior to filing in the office of the Dutchess County Clerk.

**D. Protected open space.** At least 50 percent of the gross area of a conservation subdivision shall be set aside as protected open space. Large conservancy lots of five (5) acres or more may comprise some or all of the required protected open space. Lots and dwellings shall be arranged to preserve the primary and secondary conservation features of the land. No less than 80 percent of a conservancy lot shall be set aside as required protected open space.

**E. Design standards.** The design of a conservation subdivision shall be guided by the design standards set forth in Appendix B of this Zoning Law. The Planning Board may waive a design standard set forth in Appendix B where it finds that said waiver shall not have the effect of nullifying the purpose and intent of this section, the Zoning Law, and the goals and objectives of the Pine Plains Comprehensive Plan. Nothing herein shall be construed to permit a waiver of any other requirements set forth in this Article VII or the Zoning Law.

**F. Waiver allowing a conventional subdivision layout.** These waiver provisions shall apply major subdivisions consisting of 5 to 14 lots in the R and WP district except in no circumstance shall these provisions apply to property zoned AG-O. Conventional subdivisions shall be allowed only upon issuance of a waiver of the requirements of a conservation subdivision, including the design standards set forth in Appendix B, by the Planning Board. The applicant must demonstrate to the satisfaction of the Planning Board that the conventional layout better fulfills the policies and goals of the Pine Plains Comprehensive Plan, compared with a conservation subdivision design for the property.

## **G. Phasing/Partial Subdivision.**

- (1) When an application includes only a portion of a property, the Planning Board may require that a sketch subdivision plan be submitted illustrating future potential subdivision of the remaining property to ensure that future development is consistent with the purposes of this section. When required by the Planning Board, the applicant shall determine the maximum residential yield of the property to avoid piecemeal design and ensure that the subdivision shall protect the important aspects of the property.
- (2) Where up to four lots have been subdivided from a parent parcel, i.e., a parcel in existence on the effective date of this Zoning Law, any subsequent subdivision of the remainder of the parent parcel shall be designed as a conservation subdivision in accordance with the requirements of this section. This provision shall not apply to any proposed subdivision in a Hamlet District or subdivisions of 5-14 lots granted a waiver in accordance with the requirements of §100-31.F. above. For subdivisions in the R and WP district granted a waiver, any future subdivision of the parent parcel exceeding 14 lots shall be designed as a conservation subdivision.

**H. Uses.** Permitted, accessory and special uses shall be the same as allowed in the zoning district in which the subdivision is located. Except for single family dwellings, all other uses shall meet the requirements of this Zoning Law, including the minimum bulk requirements set forth in the Table of Bulk Requirements. The dwellings permitted may be, if requested by the applicant and at the discretion of the Planning Board, in detached, semi-detached, attached and multifamily dwellings. Semi-detached, attached and multifamily dwellings shall meet the design requirements set forth elsewhere in this Zoning Law.

**I. Dimensional requirements.** The following dimensional requirements shall apply to single-family detached dwellings on conservation subdivision lots:

- (1) Minimum lot frontage: 50 feet.
- (2) Minimum required front yard: 20 feet.
- (3) Minimum required rear yard: 40 feet.
- (4) Minimum required side yard: 15 feet.
- (5) Maximum building height: 35 feet.
- (6) Maximum impervious coverage: 35% on each individual lot.
- (7) Minimum lot area: The minimum lot area shall be the minimum necessary to obtain Dutchess County Department of Health approval for water supply and wastewater treatment. The Planning Board, in its discretion, shall approve minimum lot area based on review of the subdivision and its ability to meet the purposes of this section of the Zoning Law.

**J. Conservation subdivision review and approval process.** The following information shall be submitted to the Planning Board.

- (1) Yield map. The applicant shall submit a map illustrating the features set forth in §100-16, Minimum lot area, and calculations establishing the proposed maximum number of lots in accordance with §100-31.C., Number of lots or dwelling units in a conservation subdivision. The Planning Board, upon review of the yield plan, shall establish the base

residential yield by resolution.

(2) Conservation resources map.

- (a) A Conservation Resources Map shall be submitted illustrating the following Primary and Secondary Conservation features located on the property, and within 200 feet of the property boundary to the extent said data are available in the public record for the adjoining properties:

Primary Conservation Features

- (i) Slopes of twenty-five percent (25%) or greater and ridge lines.
- (ii) Surface water resources, including but not limited to wetlands, watercourses, water bodies and the 100-year flood plain.
- (iii) Any habitat identified by the NYSDEC Natural Heritage Program as critical habitat associated with any species identified on the New York State or Federal listings of rare, threatened, endangered or special concern species.

Secondary Conservation Features

- (iv) Properties or features listed, or eligible for listing on National, state or local historic registers.
  - (v) Scenic and recreational resources identified in the Town's *Comprehensive Plan*.
  - (vi) NYSDEC, Dutchess County, or Town-designated critical environmental areas, or unique natural or geological formations.
  - (vii) Outlines of the vegetative cover conditions on the property including but not limited to: cultivated land, grassland, old field, stone walls, hedge row, woodland and wetland, and the actual canopy line of existing trees and woodlands.
  - (viii) Existing or planned routes of trails, bikeways, and pedestrian facilities as per comprehensive or resource plans of local, county, state, federal or regional agencies.
  - (ix) Location of existing streets, buildings, utilities and other improvements.
  - (x) All easements and other encumbrances affecting development of the subject property.
  - (xi) Contiguous areas in public or private ownership set aside as open space.
- (b) In consultation with the applicant, the Planning Board shall identify and prioritize features to be conserved. On the basis of those priorities, and considering the context of the subdivision to resources on adjoining properties and the applicant's development objectives, conservation areas shall be delineated so as to set aside at least 50 percent of the gross lot area of the property subject to the application as protected open space.
- (3) Sketch subdivision plan. After Planning Board review of the Conservation Resource Map, the applicant shall submit a sketch subdivision plan identifying Primary and Secondary Conservation features, and proposed building sites as follows:
- (a) Location of building sites. Building envelopes shall be located within the potential development area. The Planning Board may require that building envelopes be set back a minimum distance from a Primary Conservation Area or Secondary Conservation Area to protect said resource.

- (b) Align streets and trails. Lots shall be logically arranged to allow adequate vehicular access to a street, complying with the standards identified herein and bearing a logical relationship to topographic conditions. Disturbances to wetlands and slopes exceeding 25% shall be avoided to the maximum extent practicable. Street connections to adjoining properties are encouraged to reduce the introduction of dead end roads wherever possible. However, the Planning Board may permit a cul-de-sac where it finds that a cul-de-sac is requisite to the preservation of open space and is necessary to avoid construction of an excessive length of road. All requirements of the Town of Pine Plains Highway Specifications as may be revised from time to time shall be met.
  - (c) Lot lines shall be drawn to define individual lot boundaries.
  - (d) The sketch subdivision plan shall demonstrate compliance with the subdivision design standards set forth in Appendix B of this Zoning Law unless the standards have been waived by the Planning Board in accordance with §100-31.E.
- (4) A preliminary plat shall be submitted following Planning Board review and endorsement of the sketch subdivision plan. Endorsement of the sketch subdivision plan shall not be deemed to be approval of the preliminary or final subdivision plan. All other procedures and submission requirements of Article A61, Town of Pine Plains Subdivision Law, related to preliminary and final subdivision plat approvals shall be followed.

**§100-32. Required protected open space; ownership and maintenance standards of common facilities.**

- A. Permanent protection.** All open space land required to be protected by this zoning law shall be permanently restricted from future subdivision and development other than those limited activities that are found to be consistent with the intent of protecting open space. No development shall be permitted in the protected open space land except as otherwise approved by the Planning Board in accordance with this section, the subdivision regulations, and other sections of the Zoning Law. Land required to be permanently protected as open space shall be protected by a perpetual conservation easement authorized under Article 49, Title 3 of the Environmental Conservation Law or Section 247 of the General Municipal Law. Such easement shall be granted to a qualified not-for-profit conservation organization acceptable to the Planning Board or to the Town, with the approval of the Town Board. Other instruments, such as deed restrictions, acceptable to the Town Attorney, may also be used to protect open space in the event there is no available Grantee qualified and willing to hold a conservation easement. Regardless of the method chosen, the permanent preservation of such open space shall be legally assured to the satisfaction of the Planning Board and the Town Attorney. In the event that the conservation easement is granted to a not-for-profit conservation organization, the Town shall be granted third party enforcement rights to enforce the terms of the easement.
- B. Ownership.** Unless indicated otherwise, the following methods may be used, either individually or in combination, for ownership of open space land and/or common facilities: fee simple dedication to the Town; a bona fide not-for-profit conservation organization or land trust; Homeowners Association; or non-common private ownership in the case of a conservancy lot.
- C. Ownership methods described.** Common facilities and protected open space land shall only be transferred to another entity as permitted under this section. Each deed to each lot sold shall include by reference all recorded declarations, such as covenants, restrictions, easements, charges and liens, dedications and other restrictions, including assessments



and the provision for liens for nonpayment of such. Any such legal instruments shall also be noted on any site plan or subdivision plat to be filed in the office of the Dutchess County Clerk. Proof of filing of the legal instruments established to protect the open space shall be provided to the Town Attorney who shall review and approve said legal instruments prior to filing or simultaneously with the filing of any final plan . Ownership options are as follows:

- (1) Fee simple dedication to the Town. The Town may, but shall not be required to, accept any portion of the protected open space land and/or common facilities that the applicant may wish to offer, provided that the Town agrees to, and has access to maintain, such land and/or facilities.
- (2) Homeowners Association ("HOA"). Common facilities and protected open space land may be held in common ownership by a homeowners association, subject to all of the provisions for homeowners associations set forth in state statutes and subject to the following provisions:
  - (a) The HOA shall be established as an incorporated, not-for-profit corporation operating under recorded land agreements through which each lot owner and any succeeding owner is automatically a member and each lot is automatically subject to a charge for a proportional share of the expenses for the corporation's costs.
  - (b) Title to all common property and protected open space shall be placed in the HOA or definite and acceptable assurance shall be given that it automatically will be so placed within a reasonable period of time, in no instance more than one year from issuance of a building permit.
  - (c) Each lot(s) owner shall have equal voting rights in the association and shall have the right to the use and enjoyment of the common property.
  - (d) Once established, all responsibility for the operation and maintenance of the common property and protected open space approved at the time of site plan or final subdivision approval shall lie with the HOA. Under no circumstances shall said association approve any alteration or use or construction of structures in the common areas except in accordance with the plans approved by the Planning Board.
  - (e) Dedication of all common property and protected open space shall be recorded on the site plan or subdivision plat and by reference made on the plans to such a dedication in a separately recorded document. Resubdivision of such area is prohibited. The dedication shall include, among other provisions:
    - (i) Reserve the title of the common property for the homeowner association free of any cloud of implied public dedication, except that in the event that the HOA ceases to exist or to function as an entity, the HOA documents shall provide that such property is subject to an offer of dedication to the Town, subject to the provisions of the conservation easement.
    - (ii) Commit the developer to convey the areas to the homeowners association at any approved time.
    - (iii) Grant easements of enjoyment over the area to the lot owners.
    - (iv) Give to the homeowners association the right to borrow for improvements upon the security of the common areas.
    - (v) Give to the homeowners association the right to suspend membership rights for nonpayment of assessment or infraction of published rules.

- (vi) A homeowners association shall be perpetual and shall purchase insurance, pay taxes, specify in its charter and bylaws an annual homeowners fee, provide for assessments and establish that all such charges become a lien on each property in favor of said association. A homeowners association shall have the right to proceed in accordance with all necessary legal action for the foreclosure and enforcement of liens, and it shall also have the right to commence action against any member for the collection of any unpaid assessment in any court of competent jurisdiction.
    - (f) Whenever a HOA is proposed, the Town Board shall retain the right to review and approve the organizational and governance documents of said association and to require whatever conditions it shall deem necessary to ensure that the intent and purpose of this section are carried out.
  - (3) Private conservation organization, land trust. With approval by the Planning Board , an owner may transfer fee simple title of required protected open space land to a private, nonprofit conservation organization qualified to own and manage the land.
  - (4) Private ownership of a conservancy lot.
- D. Public use easements.** The Town may, but shall not be required to, accept an easement for public use of any portion of the required protected open space land or facilities which may be offered by the applicant. In such cases, the land and/or facility shall remain in the ownership of the homeowners association, private conservation organization or conservancy lot owner while the Town holds the easements. A satisfactory maintenance agreement for the land and/or facility shall be reached between the owner and the Town.
- E. Maintenance.**
- (1) Unless otherwise agreed to by the Town Board, the cost and responsibility of maintaining common facilities and required protected open space land shall be borne by the owner.
  - (2) The applicant shall, at the time of site plan or final plat application submission, provide a plan for maintenance of required protected open space lands and operation of common facilities in accordance with the following requirements:
    - (a) The plan shall define ownership.
    - (b) The plan shall establish necessary regular and period operation and maintenance responsibilities for the various kinds of open space such as lawns, playing fields, meadow, pasture, cropland, and woodlands.
    - (c) The plan shall estimate staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the protected open space land and operation of any common facilities on an on-going basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs.
    - (d) Any changes to the maintenance plan shall be approved by the Planning Board and said requirement shall be provided for in the conservation easement.
  - (3) The conservation easement for the protected open space land shall provide that the holder and/or the Town may enter the premises, after notice, and failure of the property owner to comply and take corrective action, including necessary maintenance in accordance with the plan. The easement shall further provide that the costs of such corrective action are the responsibility of the property owner or the entity responsible for

carrying out the maintenance plan and shall include administrative costs and penalties. Such costs shall become a lien on said property. Notice of such lien shall be filed by the Town in the office of the County Clerk. The Town or the holder will have, through the easement, the right to enforce the easement as provided in Article 49, Title 3, of the State Environmental Conservation Law or Section 247 of the General Municipal Law. The Town or other holder shall be entitled to recover damages for violation of the terms of the conservation easement or injury to any conservation values protected by the easement, including, but not limited to, damages for the loss of scenic, aesthetic or environmental values. All reasonable costs of enforcement incurred by the Town or other holder, including costs for restoration, shall be borne by the landowner; provided, however, that if the landowner ultimately prevails in a judicial enforcement action, each party shall bear its own costs.

**F. Baseline documentation, endowment for stewardship and enforcement of conservation easement; other costs.**

- (1) The applicant shall prepare a baseline document, or pay for such preparation by the holder of the conservation easement, showing the existing condition of the protected open space land as of the date of the conservation easement pursuant to the regulations for such documentation set forth in Treasury Regulations 1.170-14(g)(5)(i).
- (2) Contributions to stewardship endowment and enforcement fund. The Planning Board, in its discretion, may require that an applicant pay the conservation easement holder funds designed to cover the future costs of monitoring and enforcing the conservation easement to ensure compliance with its terms. Such funds shall be kept in segregated accounts for such purposes and the amounts shall be established based upon the projected future costs of monitoring, administration, and enforcement, as well as consideration of prevailing rates for such endowments and enforcement funds required in connection with easements donated to land trusts in the general vicinity. In establishing such payments, consideration shall also be given to the amount of development permitted within close proximity to the protected land.
- (3) Where the required open space land is located on conservancy lots or in close proximity to permitted development areas, the applicant may be required to deposit funds into an escrow account which may be drawn upon to ensure that owners of private lots do not encroach into the land protected by the conservation easement.
- (4) Where improvements will be made within the open space land, which, if left incomplete, may create a nuisance, safety hazard, environmental damage, or aesthetic blight, the Planning Board may require the posting of a bond or other form of security to ensure completion of such improvements.

**G. Marking of conservation easement boundaries.** In order to facilitate compliance with the provisions of a conservation easement, the Planning Board shall require physical marking in the field of the boundaries of the land area protected by the conservation easement, using methods such as fencing, concrete markers, or hedges, as appropriate to site conditions and consistent with the conservation purposes of the easement.

**§100-33. Subdivision of pre-existing lots.**

In the R and WP district, a lot in existence on the effective date of this Zoning Law that is less than ten acres in net lot area may be subdivided so as to create one additional lot, provided the following requirements are met:

- A. The minimum net lot area of each lot created shall be one acre.

- B. The lot is legally in existence and meets all other bulk dimensions set forth in the §100-15, Establishment of bulk requirements, for the applicable zoning district.
- C. The lot meets all Dutchess County Department of Health regulations for public water supply and wastewater treatment (septic) systems.
- D. The lot is used for a single family or two-family dwelling.
- E. A note shall be placed on the map that no further subdivision of the lots shown thereon is permitted.

**§100-34. Density Credit for Re-Subdivision of Existing Subdivision Lots of Record.**

- A. **Purpose.** The purpose of this section is to encourage the elimination of lots of record created pursuant to subdivisions approved by the Planning Board prior to the enactment of this Zoning Law which are made nonconforming by this law, and to encourage the replatting of those lots as part of new subdivisions which adhere to the requirements, and purposes, of this Zoning Law.
- B. **Power of Town Board.** The Town Board shall have the authority, upon application of a property owner, to grant a density credit of one dwelling for each existing lot of record upon the following terms and conditions:
  - (1) The existing lot is part of a Subdivision Plat approved by the Town of Pine Plains Planning Board in accordance with the Town of Pine Plains Subdivision Regulations in existence at the time of the approval, and after the approval the Subdivision Plat was filed in the Office of the Dutchess County Clerk in a timely manner pursuant to the requirements of Town Law.
  - (2) The lot within the previously approved subdivision does not conform to the bulk requirements of the zoning district in which it is located, as prescribed by this Zoning Law.
  - (3) The lot is re-configured or subsumed by a new subdivision application which achieves the design standards, and intent set forth in this Article VII, including Appendix "B" of this Zoning Law.
  - (4) If the re-subdivision is part of a New Neighborhood Development Zone (NND), the development project generally achieves the design standards and purposes, of §100-28 of this Zoning Law, including the design standards included therein.
  - (5) The density credit will be in addition to the density which the property owner would be entitled to by application of the provisions of Article IV and Article VII of the Zoning Law, and any density bonuses which the property owner may be entitled to by application of §100-22, §100-23 and §100-28.E of this law. However, the land area comprising the existing subdivision lots of record shall not be included in determining the base residential yield of any subdivision or NND Zone of which it is a part.
- C. **Procedure.** An applicant for a subdivision and/or a NND shall submit an application to the Town Board for this density credit simultaneously with the application for the subdivision, or simultaneously with the petition for zoning, pursuant to §100-28 of this law, as the case may be.

- (1) The application shall be on a form provided by the Town Clerk and shall specify the density credit being applied for, and provide all documentation, facts and circumstances which support the granting of such density credit.
- (2) If the application is in conjunction with a subdivision application, the applicant shall provide a copy of the subdivision application to the Town Board. The Town Board shall refer the density credit application to the Planning Board for a written report and recommendation. If the application is in conjunction with an NND zone petition, the referral to the Planning Board shall be made in conjunction with any referral required by §100-28. The Planning Board shall issue its report and recommendation for approval, denial, or approval in part, of the applicant's request for credit within thirty (30) days of the date of its receipt of the referral from the Town Board in the case of a subdivision application. If the referral is made in conjunction with an NND application, the Planning Board shall issue its report and recommendation as part of its report and recommendation on the NND in accordance with §100-28. Failure of the Planning Board to issue its report and recommendation within the time periods prescribed shall be deemed to be an approval by the Planning Board of the applicant's request for credit.
- (3) The Town Board shall hold a public hearing in conjunction with the application for credit and shall comply with the public hearing and notice requirements prescribed in the Zoning Law and Subdivision Regulations for subdivision application hearings. If the application is submitted in conjunction with a NND zone petition, the public hearing shall be held in conjunction with the public hearing held by the Town Board on the NND zone petition.

**D. Decision of Town Board.** The Town Board, after receipt of the report and recommendation of the Planning Board, if such report and recommendation is submitted, and after the conduct of the public hearing, shall determine whether to: (i) grant the applicant's request for credit; (ii) deny the applicant's request for credit; or (iii) grant the applicant's request for credit, in part. In making its determination, the Town Board shall consider if, on balance, the grant of the credit, in whole, or in part, will result in land development more beneficial to the Town than land development that could occur in conjunction with the original subdivision approval.

ARTICLE VIII  
**Environmental Controls and Site Design Standards**

**§100-35. General performance standards.**

In addition to all relevant provisions of other local, state and federal laws, no use shall be established, maintained, altered, moved, expanded or continued unless said use complies to the maximum extent practicable with the following standards:

- A. Noise. No noise shall exceed intensity, as measured from the boundaries of the lot where such use is situated, which exceeds levels normally associated with activities allowed within the applicable zoning district. In determining acceptable noise levels, the Planning Board shall rely on local and county regulation, as well as criteria established by the U.S. Federal Highway Administration, the U.S. Environmental Protection Agency and the U.S. Department of Housing and Urban Development.
- B. Atmospheric effluence. No unreasonable dust, dirt, smoke, noxious odor or noxious gases shall be disseminated beyond the boundaries of the lot where such use is located.
- C. Heat. No unreasonable heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.
- D. Industrial wastes. No solid or liquid wastes shall be discharged into any public sewer, private sewage disposal system, stream, or on or into the ground, unless in strict accordance with the standards approved by the Dutchess County Department of Health or other duly-empowered agency.
- E. Radioactivity or electromagnetic disturbance. No activities shall be permitted which emit dangerous radioactivity beyond the building in which such activity is located or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.
- F. Fire and explosion hazards. All activities involving, and all storage of, flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire suppression equipment and devices standard in the industry. All burning of such waste materials in open fires is prohibited.
- G. Vibration. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or beyond the lot line; nor shall any vibration produced exceed 0.002g peak at up to 50cps frequency, measured at or beyond the lot line using either seismic or electronic vibration measuring equipment. Vibrations associated with construction activities may exceed these measurements only where the Planning Board has authorized said exceedances in conjunction with special use, site plan and/or subdivision plan approval and only in accordance with a blasting protocol approved by same.
- H. Glare. No direct glare shall be permitted and all lighting fixtures shall be shielded so that the angle of illumination is directed downward.

- I. Underground storage tanks. The installation, construction, or placement of new underground storage tanks or containers of 1,100 gallons or less for petroleum products, including their pipelines, or underground storage tanks, pipelines, or containers for any other toxic chemical is prohibited in connection with all uses including home fuel storage tanks for residential purposes. This subsection is intended to be consistent with the requirements of the New York State Petroleum Bulk Storage Code found in 6 NYCRR 612, 613, and 614 which regulates storage tanks holding 1,100 gallons or more.
- J. Mining material restriction. The importation, processing and/or stockpiling of materials from off-site sources, including but not limited to other mining operations within or outside of the Town of Pine Plains, shall be prohibited unless said activities are associated with bona fide construction activities on-site conducted in accordance with an approved building permit, site plan, subdivision plan or special use permit.

#### **§100-36. Greenway compact.**

The Town of Pine Plains is a designated Greenway Compact Community. During review of any subdivision, site plan, special permit, zone amendment or petition or use variance application, the reviewing agency shall consider an application's consistency with the principles set forth in "Greenway Connections" in its decisionmaking process.

#### **§100-37. Landscaping and Screening.**

- A. **General.** All areas of a lot not left in a natural state and not developed with buildings, driveways, or other impervious surfaces shall be maintained continuously in a dust-free condition by installing suitable landscaping including trees, shrubs, grass or other ground cover, or by providing a stable pervious surface such as gravel, crushed rock or similar material. Yards shall be landscaped and maintained in a manner consistent with the general character of the neighborhood in which the property is situated. Landscape treatments shall minimize soil erosion and stormwater runoff, and provide necessary screening as set forth herein.
- B. **Landscaping standards.** The Planning Board may require submission of a landscape plan in conjunction with any site plan or special use permit application. The following standards shall be met:
  - (1) Landscaping shall be appropriate to the project and the natural vegetative cover shall be preserved to the maximum extent practicable. All landscaping plans shall be prepared by a landscape architect or other NYS-licensed qualified professional.
  - (2) A landscape plan shall include plant selection suitable to the conditions of the site. Plant specimens native to the region are to be used wherever possible.
  - (3) Within the area of proposed disturbance, the location of trees with a diameter of twelve (12) inches or greater measured at chest height ("dbh") shall be indicated on the plan. The tree specimen and its conditions shall be noted on the plan. Healthy trees twelve (12) inch dbh shall be preserved to the maximum extent practicable.
  - (4) Construction practice and planting specifications should follow **ANSI Z60.1 American Standards for Nursery Stock**.
  - (5) Natural vegetation shall be preserved by appropriate construction practices and site layout.
  - (6) All planting shown on an approved plan shall be maintained throughout the duration of the use, and plants not so maintained shall be replaced in accordance with the specifications of the approved plan.

### **C. Screening.**

- (1) As a condition of site plan or special use permit approval, the Planning Board may require that a screen be established to minimize views of facilities, buildings, and parking areas associated with nonresidential uses from adjoining residences or the public right-of-way.
- (2) Transformers, gas meters, dumpsters (except those that may be allowed by temporary permit), and similar appurtenances associated with new uses shall be screened from view. No dumpster or trash container shall be located within twenty-five (25) feet of an adjoining residential property or building and the receptacle shall remain closed at all times, and designed to prevent the release of refuse or other materials stored therein.
- (3) Method of screening.
  - (a) Plant materials shall be no less than four (4) feet in height when planted and shall be spaced to form a continuous, solid screen at maturity. Plant materials shall be spaced at distances no greater than ten (10) feet on center.
  - (b) A wall, fence (finished side out), or earthen berm may be substituted for, or required in conjunction with, planting materials. The Planning Board shall establish conditions on the location, height, and design of same.

**D. Modifications.** Where existing topography or vegetation warrant exceptions to the strict application of standards in this section, the Planning Board may modify the planting or screening requirements set forth in this section.

### **§100-38. Lighting.**

**A. Purpose and applicability.** It is the purpose of this section to minimize light pollution in the Town of Pine Plains by:

- (1) Using fixtures with optical controls that distribute light in the most effective and efficient manner;
- (2) Using shielded outdoor light fixtures where required and wherever feasible;
- (3) Assuring that the light generated by outdoor fixtures does not extend beyond the property line of the property from which it emanates at levels exceeding the requirements of this section; and
- (4) Requiring that certain outdoor fixtures be extinguished during nighttime hours as shall be determined by the Planning Board during site plan, special use permit, and subdivision plan review.
- (5) This section shall not apply to single-family detached dwellings.

**B. Lighting plan.** The Planning Board may require submission of a lighting plan and supporting data as part of any site plan, special use permit or subdivision plan application. Said plan and data shall illustrate proposed fixture locations, lighting levels measured in footcandles, illustrations of proposed fixtures, glare control devices, lamps, mounting heights, and a description of hours of operations and proposed maintenance. The Planning Board may require illumination intensities to be plotted on a 10'x10' grid.

**C. Standards.** Lighting shall conform to the following standards:

- (1). All lighting, including sign lighting, shall be designed and arranged so as to minimize glare and reflection on adjacent properties.



- (2) The style of the light, light standard, pole and fixture shall be consistent with the architectural style of the building and its surroundings.
- (3) Pole mounted lighting located within any existing or proposed public right-of-way within a Hamlet district shall be Halophane Granville Series Postlite, with rib and band hinged lunar optic top and cross finial, mounted on a Wadsworth series tapered fluted post or approved equal.
- (4) The maximum height of a light fixture shall not exceed twenty (20) feet.
- (5) The source of the light shall be fully shielded with full 90 degree cut-off luminaries or located such that it shall not be visible beyond the property boundary on which it is situated.
- (6) All outdoor lighting shall be of such type and location to provide a minimum illumination of one (1) footcandle in publicly accessible areas and shall be shielded so as prevent the source of the light from being a visual nuisance to any adjoining residential property.
- (7) Illumination from light fixtures shall not exceed 0.1 foot-candles on adjacent residential property, or 0.5 foot-candles on adjacent business property, as measured along the shared property boundary.
- (8) The Planning Board, as a condition of any approval, may impose limits on the hours of operation. To effectuate this objective, the Planning Board may require that lights be controlled by automatic timing devices. The Planning Board shall consider the need to provide security in determining the hours of operation.
- (9) Light control shall be accomplished primarily through the proper selection and layout of lighting fixtures. The installation of landscaping, fences, walls or similar screening devices may also be considered by the Planning Board.
- (10) Mercury vapor lights and quartz lamps are prohibited light sources.
- (11) Luminance and uniformity. Light levels shall be designed not to exceed the latest recommended levels for outdoor lighting set by the Illuminating Engineering Society of North America (IESNA) for the type of activity/area being lighted, except light levels for ATM machines shall be in accordance with the New York State ATM Safety Act. Where no standard is available from the IESNA, the applicable standard shall be determined taking into account the levels for the closest IESNA activity.

#### **§100-39. Flood hazard areas.**

All requirements, procedures, and standards of Local Law No. 2 of 1983 (Flood Damage Prevention Local Law) and Local Law No. 1 of 1990 (A Local Law Amending Local Law No. 2 of 1983 Regulating Flood Plain Land Use) shall be met for all areas identified by the Federal Emergency Management Agency on Flood Insurance Rate Maps.

#### **§100-40. Freshwater wetlands.**

- A. Any building permit application that proposes activities that would disturb any area regulated by the U.S. Army Corps of Engineers or the New York State Department of Environmental Conservation (NYSDEC) as freshwater wetlands shall comply with the Article 24 and Title 23 of Article 71, Environmental Conservation Law and/or the federal Section 404 law. Freshwater wetland boundaries shall be flagged and verified by the NYSDEC or the US Army Corps of Engineers.
- B. Any wetland boundary and, in the case of NYSDEC wetlands, a 100-foot regulated area, shall be illustrated on any site plan or subdivision plan. For NYSDEC regulated wetlands,

the plan showing the wetland boundary shall bear the signature of a DEC officer that has approved such field flagging.

- C. No building permit shall be issued for any disturbance requiring a permit prior to issuance of said permit by the NYSDEC or the US Army Corps of Engineers.

**§100-41. Local protection of streams.**

Any activity requiring site plan, special use permit, or subdivision plan approval, that is proposed within 100 feet of a stream or its banks shall be reviewed and approved by the Planning Board. No alteration, whether by excavation, filling, grading, clearing, draining or similar disturbance shall be made that will negatively impact a stream. The Planning Board, in its discretion, and based on a consideration of the extent and type of disturbance to the stream and/or the adjoining 100-foot regulated area, may require submission of analyses to determine how said disturbances affect the water level and flow, recharge, drainage patterns, water quality, and aquatic ecosystems associated with said stream. The Planning Board shall ensure that any activity is conducted in a manner that minimizes potential environmental impacts to the stream. Where the applicant must obtain a stream disturbance or discharge permit from the NYSDEC, Planning Board approval shall be conditioned on the agency's approval.

**§100-42. Stormwater management.**

**A. Findings.**

- (1) Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- (2) Stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- (3) Clearing and grading during construction may increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- (4) Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- (5) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- (6) Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- (7) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- (8) The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety; and.
- (9) Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse impacts of erosion and sedimentation from development.

- B. Purposes.** The purpose of this section is to establish minimum stormwater management practices to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction, to protect water quality, maintain habitat, and prevent stream

bank and lake shore erosion in the town's water resources, and to address the findings of §100-42.A. hereof. This section seeks to meet those purposes by achieving the following objectives:

- (1) Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-08-001 or as amended or revised;
- (2) Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- (3) Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- (4) Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- (5) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

**C. Applicability.**

- (1) This section shall be applicable to all commercial development projects proposing equal to or greater than one acre of disturbance and all residential development projects proposing equal to or greater than five acres of disturbance. This section shall also be applicable to all projects that are proposed to be constructed in phases.
- (2) The municipality shall designate the Zoning Enforcement Officer to accept all Erosion and Sediment Control Plans (E&SC) and Stormwater Pollution Prevention Plans (SWPPP) and shall forward such plans to the Town Engineer. The Town Engineer may review the plans, specifications and related documents at a cost not to exceed a fee schedule established by the Town Board, and may accept the certification of a licensed professional that the plans conform to the requirements of this law.
- (3) Any site plan, subdivision, or special use permit application resulting in a disturbance of greater than one acre shall be reviewed and approved by the Planning Board subject to the standards set forth in this section.
- (4) Activities not subject to review as stated in section C(3) shall be required to submit a SWPPP to the Zoning Enforcement Officer who shall approve the SWPPP if it complies with the requirements of this law.

**D. Exemptions.** The following activities are exempt from review under this section.

- (1) Agricultural uses.
- (2) Forestry activity except that landing areas and log haul roads are subject to this section.
- (3) Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- (4) Repairs to any stormwater management practice or facility deemed necessary by the Zoning Enforcement Officer and/or the Town Engineer.
- (5) Cemetery graves.

- (6) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- (7) Emergency activity immediately necessary to protect life, property or natural resources.
- (8) Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- (9) Landscaping and horticultural activities in connection with an existing structure.

**E. Stormwater pollution prevention plan.**

- (1) Stormwater pollution prevention plan. No application shall be deemed complete until the Planning Board or Zoning Enforcement Officer has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications below.
- (2) Contents of Stormwater Pollution Prevention Plan. All SWPPPs shall provide the following, unless waived by the Planning Board or Zoning Enforcement Officer:
  - (a) Information regarding the scope of the project, including location, type and size.
  - (b) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; location(s) of the stormwater discharges(s) at a scale no smaller than 1"=100'.
  - (c) Description of the soil(s) present at the site;
  - (d) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
  - (e) Description of the measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
  - (f) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
  - (g) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
  - (h) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
  - (i) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
  - (j) Temporary practices that will be converted to permanent control measures;
  - (k) Implementation schedule for staging temporary erosion and sediment control

practices, including the timing of initial placement and duration that each practice should remain in place;

- (l) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
  - (m) Name and water quality classification of any receiving water;
  - (n) Delineation of SWPPP implementation responsibilities for each part of the site;
  - (o) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
  - (p) Any existing data that describes the stormwater runoff at the site.
- (3) Activities meeting Condition "A", "B" or "C" below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as part of the SWPPP submission and as set forth below:

Condition A -Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired waterbody identified on the New York State Department's of Environmental Conservation's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

Condition B -Stormwater runoff from land development activities disturbing five (5) or more acres.

Condition C -Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of a single family residence.

Additional Material to be Submitted:

- (a) Description of each post-construction stormwater management practice;
- (b) Site map/construction drawings showing the specific locations(s) and size(s) of each post-construction stormwater management practice;
- (c) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
- (d) Comparison of post-development stormwater runoff conditions with pre-development conditions;
- (e) Dimensions, material specifications and installation details for each post-construction stormwater management practice;
- (f) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice;
- (g) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
- (h) Inspection and maintenance agreement binding on all subsequent landowners served by the onsite stormwater management measures as per the requirements of this section.

- (4) Plan certification. The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the preparer, who shall certify that the design of all stormwater management practices meet the requirements of this section.
- (5) Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.
- (6) Contractor certification.
  - (a) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: *"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."*
  - (b) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
  - (c) The certification statement(s) shall become part of the SWPPP for the land development activity.
- (7) Copies of SWPPP. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final site stabilization.

**F. Performance and design criteria.** Stormwater management practices that are designed and constructed in accordance with the following documents and specifications shall be presumed to meet the standards imposed by this law:

- (1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor);
- (2) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor);
- (3) The Instruction Manual for Stormwater Construction Permit (New York State Department of Environmental Conservation, most current version or its successor).
- (4) Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

**G. Maintenance and repair of stormwater facilities.**

- (1) Maintenance during construction.
  - (a) The applicant or developer shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used to achieve compliance with the conditions of the SWPPP. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.

- (b) The applicant or developer or a designated representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be delivered to the Zoning Enforcement Officer and also copied to the site log book.
- (2) Maintenance easement. Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer shall execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Pine Plains to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this section. The easement shall be recorded by the grantor in the office of the County Clerk after review and approval by the Town Attorney.
- (3) Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this section shall operate and maintain the stormwater management practices (SMP) to achieve the objectives of this section. Proper operation and maintenance also includes as a minimum, the following:
  - (a) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the objectives set forth herein.
  - (b) Written procedures for operation and maintenance and training new maintenance personnel.
  - (c) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations as set forth in this section.
- (4) Maintenance agreements. Where a maintenance agreement is required, the Town of Pine Plains shall approve same which shall be binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to any final approval. The maintenance agreement shall be in a form acceptable to the Town Attorney. The Town of Pine Plains, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this section and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance. The agreement shall incorporate the following requirements:
  - (a) The agreement will bind the Town of Pine Plains and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved plans which shall be attached to the agreement.
  - (b) The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures as necessary to ensure performance of the measures to design specifications. Stormwater control measures may include, but are not limited to the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.

- (c) The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.
- (d) The facility owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Town Engineer within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.
- (e) The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Town Engineer.
- (f) The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Town Engineer.
- (g) The facility owner shall provide to the Town within 30 days of the date of the agreement, a security for the maintenance and continuation of the stormwater control measures in the form of a bond, letter of credit or escrow account, based on the recommendations of the Town Engineer and in a form acceptable to the Town Attorney.
- (h) The agreement shall be recorded in the Office of the County Clerk, County of Dutchess together with the deed for the common property and shall be included in the offering plan and/or prospectus approved.
- (i) The agreement shall include a condition that where the Town Engineer determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with approved plan or has failed to undertake any corrective action, the Town Engineer is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.
- (j) The agreement shall include a requirement that the landowner grant to the Town of Pine Plains the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection.

#### **H. Administration and enforcement.**

- (1) Erosion and sediment control inspection. The Zoning Enforcement Officer may require such inspections as necessary to determine compliance with this section and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of the SWPPP. The applicant shall notify the Zoning Enforcement officer at least two working days before any of the following:
  - (a) Start of construction
  - (b) Installation of sediment and erosion control measures
  - (c) Completion of site clearing
  - (d) Completion of rough grading
  - (e) Completion of final grading
  - (f) Close of the construction season



(g) Completion of final landscaping

(h) Successful establishment of landscaping in public areas.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Town Engineer.

- (2) Stormwater management practice inspections. The Town Engineer and/or Zoning Enforcement Officer is responsible for conducting inspections of stormwater management practices (SMPs). The Town may retain the services of a registered professional engineer to conduct inspections, and prepare related inspection reports at a cost not to exceed a fee schedule established by the Town Board. All applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.
- (3) Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practice.
- (4) Submission of reports. The Town of Pine Plains Zoning Enforcement Officer may require the submission of monitoring reports to ensure compliance with this law.

#### **I. Performance guarantee.**

- (1) Construction completion guarantee. In order to ensure the full and faithful completion of all activities related to compliance with all conditions set forth by the Town of Pine Plains in its approval of the SWPPP, the Town may require the applicant or developer to provide, prior to construction, performance bond, cash escrow, or irrevocable letter of credit, in a form acceptable to the Town Attorney, from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Pine Plains as the beneficiary. The security shall be in an amount to be determined the Town Board based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility has been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Zoning Enforcement Officer.
- (2) Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation

that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of Pine Plains with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Pine Plains may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

- (3) Recordkeeping. The Town of Pine Plains may require entities subject to this section to maintain records demonstrating compliance with this law.

**J. Enforcement and penalties.**

- (1) Notice of violation. When the Zoning Enforcement Officer determines that an activity is not being carried out in accordance with the requirements of this section, it may issue a written notice of violation, a stop work order, and abate the violation with fines, penalties, and by withholding a Certificate of Occupancy pursuant to Article XIV of this Zoning Law.
- (2) Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Pine Plains may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

**K. Fees for services.** The Town of Pine Plains may require any person undertaking activities regulated by this section to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town of Pine Plains or performed by a third party for the Town of Pine Plains.

**§100-43. Solid waste disposal.**

- A. Provision for safe and sanitary storage and disposal of anticipated solid and process waste shall be shown and/or described on any site plan.
- B. Waste containers and storage areas shall be accessible and effectively screened from public view and view from adjacent properties.

**§100-44. District design standards.**

- A. **Applicability.** The design standards for Hamlet districts shall apply in the H-BUS, H-MS, H-CR, H-R, H-PC and H-B districts as further described in Appendix A, Section I, included at the end of this Zoning Law. Design standards applicable to the R and WP District are described in Appendix A, Section II, included at the end of this Zoning Law. The regulations established herein are not intended as a substitute for other district provisions but are additional standards to be met by the applicant or developer for actions described in subsection B below. If there should be a conflict between the provisions of this section and other provisions of this Zoning Law, the more restrictive shall apply.
- B. **Regulated actions.** The actions that shall be subject to the Design Standards in Appendix A are those that require site plan, subdivision plan, or special use permit approval by the Town of Pine Plains Planning Board.
- C. **Review procedures.**
  - (1) No separate application for approval under this section is required.

- (2) In addition to data and plans required to be submitted for subdivision, site plan approval or special use permit approval, every applicant shall also submit the additional data or plans necessary to comply with the guidelines set forth in Appendix A.
- (3) Prior to any approval, the Planning Board shall make a determination that the proposed action complies with the Design Standards set forth in Appendix A to this Zoning Law and set forth such finding in its resolution of approval. Where the Planning Board determines to waive any design standards, the Planning Board shall note the reason for said waiver in written findings.

**D. Findings by the Planning Board.**

- (1) During its review of an application for site plan, subdivision plan or special use permit approval, the Planning Board shall consider the Design Standards in addition to other applicable standards and requirements of Chapter 100, Zoning.
- (2) To assist in the review of applications subject to these Design Standards, the Planning Board may solicit assistance from design professionals including but not limited to the services of a professional architect, landscape architect or planner, at the applicant's expense.
- (3) Following complete and thorough review of all documentation, the Planning Board shall, in addition to all other required actions, make a determination that the proposed action complies, subject to certain modifications, or does not comply with these Design Standards. If it is determined that a proposed action does not comply with the Design Standards, the Planning Board shall set forth the basis for such determination and shall deny the application.
- (4) The Planning Board is authorized to consider and approve additional variations to the Design Standards, at the request of the applicant, if it determines that the proposed variations are due to specific unique circumstances of the applicant's property, are particularly innovative and of extremely high quality design, will contribute to the aesthetic character of the surrounding area and will further the objectives of the Design Standards.
- (5) If the Planning Board finds that one or more alternatives subject to special conditions is appropriate for approval, it shall set forth the basis for such a determination, including the specific measures which shall be required as a condition of approval.
- (6) Approvals, determinations and conditions rendered under this section shall have the same effect and shall be administered and enforced in the same manner as any other approvals, determinations or conditions rendered by the Planning Board regarding the site plan, subdivision, or special use permit for which approval has been sought.

ARTICLE IX  
**Parking and Loading Requirements**

**§100-45. Off-street parking.**

**A. Parking standards.**

- (1) Off-street parking required. In conjunction with any principal building hereafter erected or any use of land hereafter established, there shall be provided on the same lot sufficient off-street parking spaces to meet the minimum requirements specified herein.
- (2) Other permitting authorities. The New York State Department of Transportation and the Dutchess County Highway Department have jurisdiction over certain roads in the Town. Where the permitting standards of the county or state vary from the provisions contained in this section, and said standards would result in a parking layout which does not conform to these regulations, the county or state standards shall prevail.
- (3) Parking location.
  - (i) Areas which may be computed as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than a street or front yard. Notwithstanding, a driveway within a front yard for a single-family or two-family residence may count toward meeting the requisite number of parking spaces.
  - (ii) For any residential use, a garage in a detached structure located within a rear yard (exclusive of the required rear yard) is encouraged. For any residential use in a hamlet zoning district that is subject to site plan or subdivision approval, attached garages recessed at least 10 feet from the plane of the front façade is required if the garage doors front to the street unless waived by the Planning Board.
  - (ii) The Planning Board, at its discretion, may allow parking within the front yard in the H-MS and H-BUS districts due to specific site conditions and/or functional requirements subject to the provisions of §100-45.J(11) below. .

- B. Minimum number of spaces.** The minimum number of spaces shall be determined by the amount of dwelling units, bedrooms, floor area, members, equipment, employees, and/or seats contained in such new buildings or structures, or added by alteration of building or structures, and such minimum number of spaces shall be maintained by the owners of such buildings or structures. Spaces shall be provided in accordance with Table C, Schedule of Minimum Parking Space Requirements.

**Table C**  
**Schedule of Minimum Parking Space Requirements Applicable to All Zoning Districts**

<b>Use</b>	<b>Minimum required parking spaces:</b>
Dwelling, Mixed use building	1 for each dwelling, in addition to spaces for the nonresidential use.
Dwelling, Manufactured Home	2 for each dwelling
Dwelling, Multiple Family	2 for each dwelling, plus sufficient visitor parking to be determined by the Planning Board
Dwelling - Senior Citizen	1.5 for each dwelling, plus sufficient visitor parking to be determined by the Planning Board.
Dwelling, Single Family Attached	2 for each dwelling, plus sufficient visitor parking to be determined by the Planning Board.
Dwelling, Single Family Detached	2 for each dwelling
Dwelling, Two Family	2 for each dwelling
Dwelling, Two Family conversion	2 for each dwelling
Dwelling, Accessory	1 for each dwelling
Dwelling, Elder Cottage	1 for each dwelling
Home Occupation, Minor	Parking as required for the applicable dwelling unit type.
Home Occupation, Major	As required by the Planning Board.
Agricultural operations	Not applicable
Airstrip	As required by the Planning Board.
Automotive repair	1 for each employee for the largest shift, and an additional one parking space per service bay, plus requisite parking spaces for storage of vehicles being repaired.
Automotive sales	1 for each 700 sf of sales area within a building, but not fewer than five spaces for customer parking and one space for each two employees.
Automotive service station	2 for each service bay.
Bank	1 for each 500 sf gfa.
Bank, with drive through	1 for each 500 sf gfa. Stacking lanes shall accommodate 5 spaces per window.
Bed and breakfast	1 for each guest sleeping room, plus 1 for each 1.5 employees, plus required parking for the dwelling.
Camp, day	1 for each 5 campers
Camp, seasonal	1 for each 5 campers, plus required space for any on-site dwelling
Car wash	5 parking spaces for each employee, and stacking lanes shall accommodate at least three times the number of vehicles that may be within the wash process at one time. For self-serve washes, the employee spaces may be eliminated.
Cemetery	As required by the Planning Board.
Commercial logging	As required by the Planning Board.
Communications facility/ personal wireless service facility or tower	2 for each tower.
Convenience store	1 for each 150 sf gfa

**Table C**  
**Schedule of Minimum Parking Space Requirements Applicable to All Zoning Districts**

<b>Use</b>	<b>Minimum required parking spaces:</b>
associated with automotive service station	
Craft workshop	1 for each 250 sf gfa.
Day care center	1 for each 6 children, plus 1 per employee.
Educational facility	1 for each 6 seats or students, plus one per employee.
Equipment storage	As required by the Planning Board.
Farm market	1 for each 250 sf gfa
Farm stand	As required by the Planning Board.
Funeral home	1 for each 5 seats available under maximum occupancy, at least one parking space provided for each funeral vehicle and each employee.
Golf course	2 per hole. Additional parking shall be as determined by the Planning Board
In-Patient health care Facility	1 per 1.5 beds for hospitals; 1 per 3 beds for inpatient care facility, plus one space for each estimated employee
Kennel	1 per 400 square feet of gross floor area
Laundromat	1 per 2 washers or dryers, plus 1 per employee.
Lodging	1 space for each guest sleeping room, plus 1 for each 1.5 employees
Manufacturing	1 for each 2 employees for the maximum employed shift, plus one space for each company vehicle, or one per 400 sf gfa, whichever is greater.
Membership club, and Membership Club, multiple use social and recreation.	As required by the Planning Board.
Municipal support	1 for each 300 square feet of gross floor area
Office	1 for each 300 square feet of gross floor area
Office, medical	1 for each 150 square feet of gross floor area
Public utilities	As required by the Planning Board.
Recreation, commercial indoor	Bowling Alley: 3 for each alley Tennis Court: 3 for each court Swim Club: 1 for each 4 members For any use not listed – as required by the Planning Board.
Recreation, commercial outdoor	Same as recreation, commercial indoor. For any use not listed – as required by the Planning Board.
Religious institution	1 for each 4 seats or pew spaces or in places without seats, 1 for each 100 square feet of floor space used for public assembly; 1 per 3 theater seats
Research/laboratory facility	1 for each 2 employees for the maximum employed shift, plus one space for each company vehicle, or one per 400 sf gfa, whichever is greater.
Resort	1 for each guest sleeping room, plus 1 for each 1.5 employees
Restaurant	1 for each 150 square feet of gfa
Retail use	1 for each 250 square feet gfa
Riding stable or academy	1 for each 5 persons for which there are accommodations.
Self-storage facility	1 for each 4 storage areas, plus 2 for each dwelling.
Service business, with no customers at site	1 for each 250 sf gfa
Service business, with customers at site	1 for each 250 sf gfa
Shooting preserve	As required by the Planning Board.
Veterinary hospital	1 for each 400 sf gfa

Table C Schedule of Minimum Parking Space Requirements Applicable to All Zoning Districts	
Use	Minimum required parking spaces:
Warehouse	1 for each 1,000 sf gfa
Zoo	As required by the Planning Board.
Uses not listed herein or to be determined by the Planning Board	Standards used in generally accepted traffic engineering and planning manuals shall serve as a reference.
Notes: sf = square feet gfa = gross floor area	

**C. Nonresidential uses.** Parking requirements for non-residential uses shall be determined by the Planning Board based upon the requirements set forth in Table C. The Planning Board may reduce the requisite minimum number of parking spaces associated with any nonresidential use where it determines that existing off-street parking or on-street parking capacity is available to serve the particular use. The Planning Board, in establishing parking demand, shall consider the following:

- (1) The operational characteristics of the use, including for example, the number of employees, customers, clients, members, students or other uses at times of peak usage. Parking spaces shall be sufficient to satisfy 85% of the anticipated peak parking demand.
- (2) The size of the structure(s) and site layout. In the H-BUS and H-MS districts, on-street parking along the length of the front property line may specifically be used in determining the minimum parking requirement for any nonresidential use on that lot.
- (3) The availability of on-street parking.
- (4) The availability of any off-street parking within 500 feet that is available to the public, owned or controlled by the applicant, or available for joint use.

**D. Environmental considerations.** The installation of large expanses of paved surfaces visible from public rights-of-way can detract from the Town's visual character. Parking lots with excess capacity result in unnecessary site disturbance, increases in stormwater runoff, and create sinks for air and water pollutants. Adequate parking facilities shall be created in a manner that meets the parking demand created by various uses and is designed in a manner that minimizes any negative impacts associated with same.

**E. Shared parking.** The Planning Board may allow off-street parking and loading spaces required for structures or uses on the same or adjacent lots to be provided in a single common facility, on one or more of said lots, subject to the following:

- (1) The total capacity of the common facility shall be the sum of the requirements of each individual use. Said total capacity may be reduced where the applicant demonstrates to the satisfaction of the Planning Board that the capacity of such facility will meet the intent of the requirements by reason of the provision of non-reserved parking spaces and

variation in the probable time of maximum use by residents, visitors, patrons and employees among such uses.

- (2) As a condition of the approval of the joint use, the Planning Board may require a legal instrument in a form acceptable to the Town Attorney assuring the continued existence and use of said parking spaces in connection with the uses and structures that they serve. Such instrument shall also guarantee that upon termination of such use, each individual participant will provide off-street parking and loading spaces for its own use in accordance with all requirements of this Law. Such instrument shall be recorded in the office of the County Clerk of Dutchess County.

**F. Prohibited use of parking areas.** Off-street parking areas shall not be used for any purpose other than parking of vehicles for resident, guest, customer, or employee use. There shall be no storage, servicing or dismantling of automobiles or other vehicles. Loading or unloading shall occur only in accordance with §100-46. In no event shall any part of the parking area, lawn or other required open space be used for the storage or abandonment of any articles or goods.

**G. Parking prohibition.** In no event shall parking spaces or driveway access for a use not permitted in a zoning district be located in that district.

**H. Handicapped parking.** Adequate parking for handicapped persons shall be provided in accordance with applicable laws and designed in accordance with all State and Federal ADA regulations (ICC/ANSI A117.1). The parking standards are inclusive of handicapped spaces.

**I. Phasing.** The intent of this section is to allow flexibility in the timing of the provision of parking, where the Planning Board has determined that there is some uncertainty as to the parking demand for a particular use, and where the immediate provision of parking would result in unnecessary disturbances to lands presently in a natural state. Where the Planning Board determines that the immediate use of any property may not require the full initial improvement of all off-street parking or loading facilities, the Planning Board may waive the initial improvement of not more than 50% of the required number of spaces, provided that an area accommodating the total number of reserve parking spaces is shown on the approved plan. The reserve parking area shall be noted on any site plan as "reserved for future parking". The Planning Board may require that said reserve area be graded for parking in accordance with the approved plan. All reserve lands, if graded, shall be landscaped in accordance with the approved landscaping plan until the reserved spaces may be required to be improved. Reserved spaces shall be improved within six months of the date of a written notice from the Planning Board that such spaces have been determined to be necessary. Appropriate written guaranties shall be provided by the owner and approved by the Town Attorney. The Planning Board may require that a performance guaranty or other surety be posted to ensure the completion of the reserve parking, if so required.

**J. Parking design.**

- (1) **Size of Parking Spaces.** Each parking space shall be at least nine (9) feet wide and nineteen (19) feet long or as follows:



Angle	Stall Length	Min. Stall Width	Aisle Width
90	19'	9'	24'
60	19'	9'	16'
45	18'	9'	14'

- (2) A parking facility with a capacity of six (6) spaces or more shall be stabilized with crushed stone, blacktop, or similar surface approved by the Planning Board. Reduction of impervious surfaces through the use of interlocking pavers is strongly encouraged for areas that serve low-intensity parking needs.
- (3) The maximum finished grade for parking areas shall not exceed three percent (3%). The maximum grade of access drives shall be twelve percent (12%). Requirements for driveways shall also adhere to the standards contained in the Town of Pine Plains Highway Specifications.
- (4) A parking facility shall be maintained throughout the duration of its use to the extent necessary to avoid nuisances of dust, erosion or excessive water flow across public ways or adjacent lands.
- (5) Landscaping shall be integrated into parking areas to visually break up large expanses of paving and provide shade. All off-street parking areas, including all paved areas for off-street parking, drives, aisles, standing zones and other vehicular use areas, shall have a minimum landscape area equal to 20% of the paved parking area. Landscaping shall be placed at parking entryways and at parking end islands and shall help to define vehicular access and pedestrian movement. Landscaping shall consist of a mix of grass, vegetative ground cover, shrubs, trees and other landscaping materials. Where necessary, landscaping shall be protected from vehicular encroachment by raised curbing. Landscaping shall not block sight lines. Landscaping shall meet the requirements of other sections of this Zoning Law, including the requirements of §100-37, Landscaping and Screening.
- (6) "Lighting for Parking Facilities" (Illuminating Engineering Society of North America) shall be used as a guide to determining parking lot illumination requirements. Lighting shall adhere to the requirements of §100-38. Where these standards may conflict, the more restrictive requirement shall apply.
- (7) Curbing may be required to assure proper drainage, delineate the parking area and driveway access.
- (8) There shall be adequate provisions for ingress and egress to all parking spaces. Access to off-street parking areas shall be limited to several well-defined driveway locations, and in no case shall there be permitted unrestricted access along the length of the street upon which the parking area abuts.
- (9) Stacking lanes may be required to avoid stacking of vehicles into the public right-of-way. Examples of uses which may require stacking lanes include gasoline station pump aisles and drop off areas for daycare facilities and schools.
- (10) To the greatest extent practicable, adequate turnaround areas shall be provided on a property to preclude vehicles from backing out onto a public right-of-way.

- (11) Where the Planning Board allows parking in the front yard of a property in the H-BUS or H-MS district, a berm, masonry wall, solid fence or evergreen hedge at least 30 inches in height at the time of planting shall be installed to screen the view of any parking area from a street. Where existing vegetation adequately screens views, the Planning Board may allow same to substitute for new screening, provided notes are added to any plan indicating that the existing vegetation shall not be removed and that continued maintenance of same shall be required as a condition of approval.

**K. Easements.** The Planning Board may require the establishment of cross-access easements in the H-BUS and H-MS districts in order to interconnect parking lots as a condition of approval. The language of the easement shall be in a form acceptable to the Town Attorney.

#### **§100-46. Off-street loading.**

**A. Requirements.** Off-street loading spaces shall be required as follows:

- (1) For retail, service or office uses of six thousand (6,000) square feet or more: a minimum of one space for the first six thousand (6000) square feet, plus one space for each additional ten thousand (10,000) square feet of gross floor area, or major fraction thereof.
- (2) For manufacturing, storage, or warehouses: a minimum of one space for each establishment, plus one space for each additional eight thousand (8,000) square feet of gross floor area, or major fraction thereof.

**B. Dimensions.** Each off – street loading space shall be at least fifteen (15) feet in width and at least twenty five (25) feet in length, exclusive of access and turning areas.

**C. Setback of loading areas or bays.** Loading areas or bays shall be set back from any right-of-way a minimum distance sufficient to permit the largest vehicle anticipated to use a proposed facility to maneuver into the loading area without extending into the right-of-way. Loading and unloading is not permitted within thirty-five (35) feet of any residential use or property in the H-CR, H-R, WP and R districts.

#### **§100-47 to 49. Reserved.**

## ARTICLE X Signs

### **§100-50. Purpose.**

Pine Plain's ability to attract economic development activity is accomplished in part by the enforcement of regulations that maintain an attractive community and streetscape, of which signs are a contributing element. A multiplicity of signs clutters the overall appearance of the town, detracts from its visual quality, and shall be discouraged.

### **§100-51. Permit required.**

No permitted sign shall be erected without a sign permit issued by the Zoning Enforcement Officer. The ZEO shall approve all sign applications, except for signs which are accessory to a use requiring special use permit approval from the Planning Board which signs shall be approved by the Planning Board. For purposes of this Article, the Planning Board and ZEO shall be referred to as the "reviewing agency". Information to be submitted to the reviewing agency as part of the sign permit application shall include:

- A. A scale drawing of the sign showing type of sign;
- B. Dimensions, advertising content, materials, method and style of illumination;
- C. Method of structural support;
- D. Colors;
- E. Location on the land or building in relation to buildings, roadways, driveways and sidewalks,
- F. The name of the sign owner and person responsible for maintenance of the sign; and
- G. The reviewing agency may accept a hand-drawn illustration of the sign to convey the above information if deemed sufficient to make the required determinations for approval.

### **§100-52. Sign requirements.**

These requirements shall apply to all zoning districts in the Town of Pine Plains.

#### **A. Exempt signs.** The following signs are exempt from the requirements of this section:

- (1) Memorial or historical signs, names of buildings, and dates of erections when cut or cast into any masonry, bronze, stainless steel or similar permanent material.
- (2) Traffic control signs required for traffic control purposes shown on an approved site plan or posted pursuant to the order of traffic control agencies and conforming to the Manual of Uniform Traffic Control Devices of the New York State Department of Transportation.
- (3) Signs required by duly constituted governmental bodies and their agencies, where such signs are established in the interest of the safety, convenience or welfare of the general public. The number and location of such signs shall be as directed by the governmental agency having jurisdiction. Signs required to be maintained or posted by law or governmental order, rule or regulation, unless specifically prohibited, limited or restricted.
- (4) A farm produce sign not exceeding six (6) square feet.

- (5) Temporary non-illuminated signs on the premises for up to one year for the following purposes:
  - (a) Real estate "For Sale" or "For Rent" signs not exceeding six (6) square feet and located on the front wall of the building or if freestanding, not nearer than ten (10) feet to any roadway edge or property line.
  - (b) Signs which announce anticipated occupancy of a site or building or identifies the contractors, architects, engineers, etc., on a building or site under construction not exceeding twenty (20) square feet in area. Such sign shall be a minimum of ten (10) feet from a roadway edge on the subject property.
- (6) Temporary, non-illuminated off-premises directorial signs for the convenience of the general public not exceeding two (2) square feet in area.
- (7) Temporary signs pertaining to and displayed during campaigns, drives, or events of civic, philanthropic, educational or religious institutions, provided such signs are erected not more than thirty (30) days prior to the event and are removed not later than one week after the event.
- (8) Temporary signs for tag or garage sales not exceeding four (4) square feet in area, provided such signs contain the name of the seller and date of the sale, are displayed only seven (7) days prior to the sale, and are removed the day after the sale.
- (9) "No trespassing" signs.
- (10) Flags of the national, state, county or Town government and banners and emblems or name and meeting place signs of civic, philanthropic, educational or religious organizations or institutions.

**B. Prohibited signs.** The following signs are prohibited:

- (1) Signs including or consisting of pennants, ribbons, streamers, spinners or other moving, fluttering or revolving devices, except same are permitted during holiday seasons, grand openings and other special or temporary events as long as they are not installed for a time period exceeding thirty (30) days.
- (2) Signs containing flashing lights.
- (3) Revolving, moving or animated signs.
- (4) Permanent signs erected on utility poles, trees or other natural features.
- (5) Advertising signs or billboards.
- (6) Temporary, movable signs, except for holiday seasons, grand openings, and other special events, exceeding sixty (60) days, except those allowed in accordance with §100-52.C.(2)(b).

- (7) Vending machines placed on sidewalks, parking areas, or other locations exterior of a structure.
- (8) Signs with neon, mercury vapor, low or high pressure sodium and metal halide lighting, or plastic panel rear lighted signs, or internally lighted signs.

**C. Permitted signs.**

- (1) General Standards. The reviewing agency shall consider the following in issuing a sign permit:
  - (a) Signs must be clearly accessory to the use or uses on the lot on which they are located, and such signs and lighting must be shown to be essential to the principal use upon the lot.
  - (b) Signs shall be of such design and construction so as to convey information with clarity and without disruption to the visual character of the community.
  - (c) Signs should be a subordinate part of the streetscape. Signs shall be architecturally compatible with the style, composition, colors, materials, and details of the building and should reflect the visual character of its surrounds.
  - (d) The size and content of the sign shall be the minimum essential for legibility and for the provision of information to patrons or invitees seeking the particular use being identified. Signs should convey a minimum of information in order to avoid clutter.
  - (e) Whenever feasible, multiple signs should be combined into one to avoid clutter.
  - (f) No sign shall be located so as to project into the public right-of-way or to be a hazard to traffic or pedestrians, to obstruct any door, window, ventilating system or fire escape, or to cause any other hazard to public safety.
  - (g) No exterior sign shall be illuminated beyond two (2) hours after the close of business and in no event between the nighttime hours of midnight and 6:00 am unless the premises on which it is located is open for business.
  - (h) A use located in a corner building is permitted to have one sign for each lot frontage.
  - (i) Businesses with service entrances may identify such entrances with one sign that does not exceed four (4) square feet.
  - (j) The lowest point of any hanging sign in a pedestrian circulation area shall be at least seven and one – half (7 ½ ) feet above the ground.
  - (k) Not more than two (2) signs per use including window signs may be displayed. Only one such sign shall be a freestanding sign.
- (2) Number of signs and type permitted.

- (a) In any zoning district, one (1) freestanding sign, which may be double-faced, shall be permitted along the lot frontage of a property on a public street. Not more than one freestanding sign shall be permitted for each principal building regardless of the number of stores or businesses located therein. Each business use located on a property may have one additional building sign.
  - (b) In addition to other allowed signs, one sandwich sign per business use is allowed. The sandwich sign shall not exceed five (5) square feet, and shall consist of wood, chalkboard or finished metal, have handwritten or painted letters, and must be located near the entrance to or in front of the business it identifies. Such signs shall not interfere with pedestrian circulation and must be removed at the close of business each day.
  - (c) H-MS and H-BUS Districts. Each principal building shall be permitted one (1) sign. Buildings that are over 5,000 square feet shall have a sign no larger than twenty-four (24) square feet. Buildings that are less than 5,000 square feet shall have signs no larger than sixteen (16) square feet. A principal building with more than one tenant is permitted a multi-business directory sign that is no larger than 24 square feet. Each individual business in the multi-business building will be allowed one sign to mark their individual entrance that is no larger than four (4) square feet.
  - (d) Special Uses. Special uses may be regulated by additional sign requirements set forth in Section 100-56 of this Zoning Law. Where the standards set forth in this Article X vary from the dimensional or locational standards for signs established in Section 100-56, the provisions of 100-56 shall govern. Signs for special uses shall comply with all other the regulations of this Article.
- (3) Freestanding sign standards. Freestanding signs shall comply with the following dimensional standards:
- (a) All signs shall be set back no less than fifteen (15) feet from the street edge of pavement except that this distance shall be increased to ensure the sign is located outside any street right-of-way.
  - (b) The maximum height for freestanding signs shall be ten (10) feet.
  - (c) Signs shall be externally illuminated.
  - (d) In the H-MS and H-BUS zoning districts, signs sized sixteen (16) square feet shall have a maximum six-inch (6") main letters and signs sized twenty-four (24) square feet shall have a maximum seven-inch (7") main letters.
  - (e) The Planning Board may require that a freestanding sign be placed within a landscaped base.
- (4) Building sign standards. Building signs shall comply with the following dimensional standards:
- (a) The maximum area shall be equal to the length of the building front façade measured in feet multiplied by one foot, but in no case shall the sign area exceed

ten percent (10%) of the building face area or twenty-four (24) square feet, which ever is smaller.

- (b) Signs shall not project above the highest point along the face of the building.
- (c) Iconic signs, such as barber poles, eye glasses, etc., which are traditional in appearance and size should not extend more than four (4) feet from a building wall nor occupy a space of more than fifteen (15) square feet when viewed from any angle.
- (d) Signs shall not be mounted on roofs or extend above the roof line unless they are mounted on the face parapet wall which extends above the roof line, in which case it cannot extend above the top of the parapet.
- (e) One sign not exceeding four (4) square feet in area may be hung under a roof overhang perpendicular to each storefront in a multi-tenant building.

**D. Optional design standards.** A sign may be increased in size if the sign meets certain additional design standards set forth herein. The reviewing agency shall make the final determination as to which design standards listed below have been met. The size of a permitted sign may be increased by the following percentages, not to exceed 20% of the permitted sign size:

- (1) 5% for any sign made of wood or wood simulated materials.
- (2) 10% for any sign designed to contain only the identification of a business use without advertising products sold on the premises.
- (3) 15% for any sign where only one (1) sign shall identify the business use.
- (4) 15% if the sign is not illuminated.
- (5) 15% for a monument-type freestanding sign.
- (6) 15% for a building sign that is integrated with the building and that enhances the architecture and character of the building. This will require a detailed scale drawing or photosimulation showing the proposed sign on the building with accurate color and detail. This bonus is available only in the hamlet districts.

**E. Planning Board waiver of sign regulations.** Where a sign application does not meet the standards and requirements set forth above, an Applicant may appear before the Planning Board which may, in its discretion, grant a waiver of these sign regulations where it finds that the literal application of this Article would substantially impair the visibility of a sign resulting from site characteristics unique to the property, e.g., exceptional topographic conditions, not created by the owner or applicant, on which the sign is to be located, or where the Planning Board determines that the waiver would have a beneficial effect on the architectural or historic character of a property. Any waiver shall not be detrimental to property owners in the vicinity, shall not result in undue concentration of signs, shall not be detrimental to public health and safety, and shall not have the effect of nullifying the intent and purpose of this article or the Zoning Law. In allowing any waiver, the Planning Board may attach such conditions as are, in its judgment, necessary to secure the objectives of the standards or requirements so modified. The Planning Board is not authorized to waive the requirements establishing prohibited signs set forth in Section 100-52.B. of this Zoning Law. Upon the Planning Board's approval of any waiver, the ZEO shall issue the sign permit.

### **§100-53. Nonconforming signs.**

Any sign made nonconforming by these regulations may be permitted to continue; however, any change of use shall require the removal of the nonconforming sign and installation of a sign that conforms to these regulations.

### **§100-54. Enforcement.**

**A. Violations.** The installation of a sign not conforming to an approved plan shall be deemed a violation of this chapter. No sign shall hereafter be approved or sign permit issued except pursuant to the requirements of this chapter. No permit shall be issued for any sign which does not conform to an approved sign plan, subdivision plan or site plan.

(1) The Zoning Enforcement Officer shall notify a property owner by written notice of a sign which has been installed in contravention of sign approval and any conditions which have been attached thereto. Said notice shall be sent by certified mail to the owner of the sign.

(2) The sign owner shall remove the sign or obtain sign approval immediately in accordance with the procedures contained in these regulations. If the owner of the nonconforming sign has not met the requirements of the notice, the Zoning Enforcement Officer shall be authorized to issue a violation against said owner.

**B. Sign removal.** Any sign not in use shall be removed within six (6) months after cessation of the use. Any sign, including structural supports or frame, now or hereafter existing, which no longer identifies a use on the subject premises, or which is not being maintained, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which such sign is found within ten (10) days after written notification from the Zoning Enforcement Officer. Upon failure to comply with such notice within the time specified in such order, the Zoning Enforcement Officer shall issue a violation to said owner.

**C. Unsafe signs.** Should a sign be or become insecure or in danger of falling or otherwise unsafe in the opinion of the Zoning Enforcement Officer, the owner thereof or person maintaining the same shall, upon receipt of written notice from the Zoning Enforcement Officer and in any case within five (5) days thereafter, secure the same in a manner to be approved by the Zoning Enforcement Officer. If such order is not complied with, the Zoning Enforcement Officer is hereby authorized to cause removal of the unsafe sign, and any expense incident thereto shall be paid by the owner of the building, structure or premises on which such sign is located. When any sign is in such dangerous condition as to be immediately dangerous to the safety of the public, the Zoning Enforcement Officer is hereby authorized to take such action as in his opinion shall be necessary to protect the public or property. The cost of the removal shall be borne by the owner of the property on which such sign was erected and shall become a lien upon such property until paid.



ARTICLE XI  
**Special Use Permits**

**§100-55. Special uses procedures.**

**A. Authorization to grant or deny special uses.** The Town Board authorizes the Planning Board to authorize the issuance of special use permits in accordance with the requirements set forth in this section. No special use listed in this Zoning Law may be permitted, enlarged or altered unless approved by the Planning Board.

**B. Findings.** On application and after public notice and hearing, the Planning Board may authorize by resolution, the issuance of a special use permit exclusively for uses that require such a permit under this Zoning Law. In authorizing the issuance of a special use permit, the Board shall take into consideration the public health, safety, and welfare and shall prescribe appropriate conditions and safeguards to ensure accomplishment of the following objectives:

- (1) The proposed use shall be deemed to be compatible with adjoining properties, and with the natural and built environment of its surrounds.
- (2) The site is accessible to fire, police, and emergency vehicles.
- (3) The special use is suitable to its site upon consideration of its scale and intensity in relation to environmentally sensitive features, including but not limited to steep slopes, wetlands, and watercourses.
- (4) Adequate screening and separation distances are provided to buffer the use from adjoining properties.
- (5) The use will not impact ambient noise levels, generate excess dust or odors, release pollutants, generate glare, or cause any other nuisances.
- (6) Parking demand shall be met on-site, unless alternate arrangements are approved by the Planning Board as may be allowed by this Zoning Law.
- (7) Vehicular, pedestrian and bicycle circulation, including levels of service and roadway geometry, shall be safe and adequate to serve the special use.
- (8) The location, arrangement, size, and design of the special use, including all principal and accessory structures associated with same, shall be compatible with the character of the neighborhood in which it is situated.
- (9) Utilities, including stormwater, wastewater, water supply, solid waste disposal and snow removal storage areas, shall be adequate to serve the proposed use.
- (10) The use shall not impact the character of the town, neighborhood or values of surrounding property.
- (11) The special use shall not impact historic, scenic or natural environmental features on-site or within the adjoining neighborhood.

### **C. Application.**

- (1) Application form. Application for a special use permit shall be in an amount and on forms prescribed by the Planning Board. The application shall be submitted to the Zoning Enforcement Officer for consultation and review. Once the Zoning Enforcement Officer determines that the application contains the relevant data required for submission of a special use permit application, the application shall be forwarded to the Planning Board for its review in accordance with the provisions of this Article.
- (2) Site plan required. A site plan application shall be submitted simultaneous with any special use permit application unless a site plan is waived in accordance with the provisions of this Article XI of the Zoning Law.
- (3) Fees. Fees for the special use permit application shall be in accordance with the Standard Schedule of Fees of the Town of Pine Plains.
- (4) Informal consultation. Prior to submission of a formal application, an applicant is encouraged to meet with the Zoning Enforcement Officer to review submission requirements. An applicant is also encouraged, but not required, to discuss the proposal with abutting landowners to ascertain any concerns early in the application process.

### **D. Public hearing required.**

- (1) The Planning Board shall conduct a public hearing within sixty-two (62) days from the day a complete application is received. Public notice of the hearing shall be printed in a newspaper of general circulation in the Town at least five (5) days prior to the date thereof.
- (2) Not less than ten (10) days prior to the hearing, written notice of the public hearing shall be mailed to the owners of all property within three hundred (300) feet of any property line of the lot which is the subject of a special use application, as the names of said owners appear on the most current tax assessment roll of the Town of Pine Plains.
- (3) The notice shall include the name and location of the application, the date, place, and time of the public hearing.

**E. Notice to applicant and Dutchess County planning department.** At least ten (10) days prior to the public hearing, the Planning Board shall mail notices thereof to the applicant and to the Dutchess County Planning Department, as required by section 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of the matter under consideration, as defined in section 239-m. The Dutchess County Planning Department shall have thirty (30) days to review the full statement of the proposed action.

**F. SEQRA.** The Planning Board shall comply with the provisions of the New York State Environmental Quality Review Act under article 8 of the Environmental Conservation Law and its implementing regulations. An application shall not be deemed complete until a Negative Declaration has been adopted, or until a draft environmental impact statement has been accepted by the lead agency as per §617.3(c) of the regulations implementing SEQRA.

### **G. Decision.**

- (1) Timeframe. The Planning Board shall decide upon the application within sixty-two (62)

days after the close of the public hearing. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The Planning Board may approve, approve with modifications, or disapprove the special use permit application.

(2) **Conditions.** In authorizing the issuance of a special use permit, the Planning Board has the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the special use. Upon its granting of said special permit, any such conditions must be met in connection with the issuance of a permit by the Zoning Enforcement Officer.

(3) **Waiver.** The Planning Board may waive any specific requirements set forth in §100-56 for the approval, approval with modifications or disapproval of special use permits submitted for approval. The grant of any such waiver shall be accompanied by written findings that compliance with the requirements is not requisite in the interest of the public health, safety and general welfare, or inappropriate to the particular special use permit. The Planning Board may, in granting waivers, incorporate such reasonable conditions as will in its judgment substantially secure the objectives of the requirements so waived. No waiver or modification may be deemed approved or granted by implication. All waivers and modifications must be expressly set forth in the findings of the Planning Board.

**H. Decision to be filed.** The decision of the Planning Board shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.

**I. Area variance.** Where a proposed special use permit contains one or more features which do not comply with the Zoning Law, application may be made to the Zoning Board of Appeals without the necessity of a decision or determination of the Zoning Enforcement Officer.

**J. Existing violation.** No special use permit shall be issued for a property in violation of this Zoning Law unless the granting of a special use permit and site plan approval will result in the correction of said violation.

**K. Deemed to be conforming.** Any use for which a special use permit may be granted shall be deemed to be a conforming use in the district in which said use is located, provided that the permit shall be deemed to affect only the lot or portion thereof for which a special use permit shall have been granted. A use lawfully in existence on the effective date of this Zoning Law which is made a special use in the district in which said use is located shall conform to the requirements of §100-70.I of this Zoning Law.

**L. Expansion of special use.** The expansion of any special use shall require amendment and approval of the special use permit by the Planning Board in accordance with the procedures set forth herein. For purposes of this section, expansion shall be interpreted to mean an increase in the area allocated to the special use, an increase in lot coverage, or an increase in the intensity of the use, e.g., an increase in water demand, wastewater generation, traffic or need for on-site parking. For purposes of this subsection, the Zoning Enforcement Officer shall make determinations regarding when a proposal constitutes an “expansion”.

**M. Expiration of special use permit.** A special use permit shall be deemed to have expired if, for any reason, the use ceases operation for a time period equal to or greater than twelve (12) consecutive months or if construction, in accordance with the conditions of the special use permit, is not completed within eighteen (18) months from the date of issuance. The Planning Board may extend the approval for a period of time not to exceed six (6) months, and the Planning Board may not grant more than two (2) extensions. Any request to extend approval of the special use shall be made no less than thirty (30) days prior to the expiration of approval. In addition, the special use permit shall be deemed to have expired if all improvements are not maintained and all conditions and standards complied with throughout the duration of the special use permit. The Zoning Enforcement Officer shall be responsible for making determinations related to the expiration of a special use permit.

**N. Renewal procedure.** As a condition of approval, the Planning Board may require that special use permits be renewed periodically. Thirty (30) days prior to the expiration of a special use permit, the applicant shall apply to the Zoning Enforcement Officer for renewal of the special use permit. The Zoning Enforcement Officer shall inspect the premises to verify that the conditions of the permit have been met. Upon a finding that there are no violations and no complaints have been lodged against the applicant, the special use permit shall be renewed for a time period equal to the original special use permit approval. However, where the Zoning Enforcement Officer finds that the applicant is in noncompliance of the special use permit, or that complaints have been lodged against the applicant, then such renewal shall require Planning Board approval and may be granted only following due notice and hearing. Renewal may be withheld upon a determination by the Planning Board that such conditions as may have been prescribed by the Planning Board in conjunction with the issuance of the permit have not been or are being no longer complied with. In such cases, a period of sixty (60) days shall be granted the applicant for full compliance prior to revocation of the permit.

#### **§100-56. Individual standards for special uses.**

In addition to the general objectives set forth above, the following requirements shall apply to special uses and shall supersede other applicable requirements of this Zoning Law. Unless regulated and superseded by the individual standards set forth herein, special uses shall meet all other regulations established in this Zoning Law.

##### **A. Dwelling in a mixed use building.**

- (1) Dwellings on the ground floor shall be permitted to the rear portion of a mixed use building, with the nonresidential use facing the streetfront. Alternatively, dwellings may be permitted in the upper stories of a mixed use building. In no case shall the total floor area devoted to residential uses exceed two times the total floor space devoted to nonresidential uses.
- (2) The gross floor area of any dwelling in a mixed use building shall not be less than 720 square feet.
- (3) Dwellings may have one or two bedrooms occupied by a family. Boarders and roomers shall not be permitted.
- (4) The residential component of any structure shall have an entrance or entrances which do not require access through the nonresidential use, other than a common lobby. The

location and design of such entrances shall be subject to approval by the Planning Board.

- (5) Only nonresidential permitted uses or special uses allowed in the zoning district in which the proposed mixed use building is located shall be allowed. Nothing herein shall be construed to exempt a nonresidential use in a mixed use building from obtaining a special use permit, where required.
- (6) A minimum of one (1) off-street parking space shall be provided for each dwelling.
- (7) The Planning Board, in reviewing an application, may request a floor plan to confirm apartment size. The Planning Board shall consider the compatibility of the proposed mix of uses in its decisionmaking.

**B. Dwelling, multiple family; Dwelling, senior citizen.**

- (1) Multiple family dwellings and senior citizen dwellings are permitted in the NND district and in conjunction with a conservation subdivision in the R district. The maximum number of dwellings shall be no more than the residential yield established as per Section 100-31.C. of this Zoning Law. This number may be increased upon approval of incentive zoning or as required in accordance with the affordable housing provisions of this Zoning Law.
- (2) In all other districts where said uses are allowed, multiple family dwellings and senior citizen dwellings shall be permitted at a density equivalent to four dwellings per net acre after excluding environmental constraints set forth in Section 100-16 of this Zoning Law. This number may be increased upon approval of incentive zoning or as required in accordance with the affordable housing provisions of this Zoning Law.
- (3) The maximum lot coverage shall not exceed fifty percent (50%) and the maximum building coverage shall not exceed thirty percent (30%).
- (4) Multiple principal residential buildings and accessory structures are permitted on a single lot. The maximum number of dwellings in any residential building shall not exceed twelve (12) dwellings.
- (5) Each building shall be separated from another residential building a distance no less than twenty-five (25) feet. Accessory structures shall be situated at least fifteen (15) feet from the nearest residential building.
- (6) Parking areas and drives shall be located no closer than twenty-five (25) feet to a residential building in order to provide an adequate buffer between vehicular areas and residential uses, and to accommodate sidewalks from parking areas to the building. The distance between parking areas and drives may be reduced or eliminated where the Planning Board determines that resident mobility needs demand closer placement of parking areas to the building served.
- (7) Each dwelling shall be provided a balcony or patio at least fifty (50) square feet. An additional one hundred (100) square feet per dwelling shall be set aside for active recreational facilities, which may consist of tennis courts, bocci courts, swimming pools, clubhouse and/or other similar amenities.

- (8) Sidewalks shall connect the residential buildings with parking areas, public streets, recreation facilities and other amenities.
- (9) A landscaping plan, lighting plan, building elevations and floor plans for each dwelling unit type shall be submitted for review.
- (10) Centralized locations shall be provided on-site for solid waste storage and recycling receptacles. Said locations shall be screened from view by a combination of fencing and landscaping. Dumpster enclosures shall be designed to be compatible with the architecture of the buildings.
- (11) Snow storage areas shall be indicated on the site plan and shall not interfere with required parking or traffic circulation.
- (12) Where a development is to be served by an on-site private drive, the Planning Board shall determine the minimum number of access points to ensure adequate vehicular access in the event of an emergency.
- (13) One (1) identification sign is permitted at each permanent (i.e., non-emergency) access and shall be compatible with the architecture of the development. The maximum height of the sign shall be six (6) feet and no face of a sign shall exceed sixteen (16) square feet. No sign shall be located closer than fifteen (15) feet to the street line. In addition, small signs for wayfinding purposes within the development shall be allowed, subject to Planning Board approval.

**C. Dwellings, single-family attached (townhomes); dwelling, single-family semi-detached.**

- (1) Single family attached and single family semi-detached dwellings are permitted in the NND district and in conjunction with a conservation subdivision in the R district. The maximum number of dwellings shall be no more than the residential yield established as per Section 100-31.C. of this Zoning Law. This number may be increased upon approval of incentive zoning or as required in accordance with the affordable housing provisions of this Zoning Law.
- (2) In all other districts, single-family attached and single-family semi-detached dwellings shall be permitted at a density equivalent to one (1) dwelling per the minimum lot area established for residential uses in the applicable zoning district, which shall vary depending on the provision of central sewer.
- (3) The maximum lot coverage shall not exceed fifty percent (50%) and the maximum building coverage shall not exceed thirty percent (30%) for a single-family attached dwelling. The maximum lot coverage shall not exceed forty percent (40%) and the maximum building coverage shall not exceed thirty percent (30%) for single-family semi-detached dwellings.
- (4) Each single-family attached dwelling and semi-detached dwelling shall be situated on its own lot. Common facilities serving an overall development may be located on one or more lots to be controlled by a homeowners association.

- (5) The maximum number of dwellings in any single-family attached residential building shall not exceed six (6) dwellings. No building shall exceed 180 feet in length. The yard requirements of the zoning district in which the attached dwelling development is located shall be applicable to the overall tract.
- (6) Each single-family attached building shall be separated from another residential building a distance no less than twenty-five (25) feet. Accessory structures shall be situated at least fifteen (15) feet from the nearest residential building. A minimum rear yard of fifty (50) feet shall be provided on each single-family attached dwelling lot. The minimum front yard shall be as dictated by the Planning Board, but shall be no less than ten (10) feet.
- (7) Each single-family semi-detached dwelling shall be separated from any lot line a minimum distance of 25 feet except where attached to an adjoining dwelling, where the minimum side yard requirement is zero (0) feet. A minimum rear yard of fifty (50) feet shall be provided on each single-family semi-detached dwelling lot. The minimum front yard shall be as dictated by the Planning Board, but shall be no less than ten (10) feet.
- (8) For single family attached buildings, common parking areas and drives shall be located no closer than twenty-five (25) feet to a residential building. A minimum of 50 percent of all required parking spaces, not including visitor spaces, shall be provided in an enclosed garage within the principal residential dwelling. Each single-family attached dwelling shall be provided with an attached garage.
- (9) Each dwelling shall be provided a balcony or patio at least fifty (50) square feet which shall be situated on the individual lot. An additional one hundred (100) square feet per dwelling shall be set aside for active recreational facilities, which may consist of tennis courts, swimming pools, clubhouse and/or other similar amenities.
- (10) Sidewalks shall connect the residential buildings with parking areas, public streets, recreation facilities and other amenities.
- (11) A landscaping plan, lighting plan, building elevations and floor plans for each dwelling unit type shall be submitted for review.
- (12) Where the Planning Board deems appropriate to the design of the development, centralized locations shall be provided on-site for solid waste storage and recycling receptacles. Said locations shall be screened from view by a combination of fencing and landscaping. Dumpster enclosures shall be designed to be compatible with the architecture of the buildings.
- (13) Snow storage areas shall be indicated on any site and/or subdivision plan and shall not interfere with required parking or traffic circulation.
- (14) Where a single-family attached or semi-detached development is to be served by an on-site private drive, the Planning Board shall determine the minimum number of access points to ensure adequate vehicular access in the event of an emergency.
- (15) One (1) identification sign is permitted at each permanent (i.e., non-emergency) access and shall be compatible with the architecture of the development. The maximum height of the sign shall be six (6) feet and no face of a sign shall exceed sixteen (16) square

feet. No sign shall be located closer than fifteen (15) feet to the street line. In addition, small signs for wayfinding purposes within the development shall be allowed, subject to Planning Board approval.

**D. Accessory dwelling; guest dwelling, caretaker dwelling.**

(1) Accessory dwelling.

- (a) An accessory dwelling is allowed accessory to an existing single-family detached dwelling. The accessory dwelling may be attached to the principal dwelling, or located in a detached structure on the same lot as the principal dwelling. No accessory dwelling shall be permitted in a front yard or a required side or required rear yard.
- (b) The principal dwelling shall be owner-occupied for the duration of the special use permit.
- (c) An accessory dwelling shall not exceed 75% of the gross floor area of the principal dwelling, or 1,250 square feet, whichever is less. An accessory apartment shall be no less than 250 square feet of gross floor area. The accessory dwelling shall have separate sleeping, cooking, and bathroom facilities.
- (d) There shall be no more than one accessory dwelling per lot.
- (e) Where part of a principal dwelling, the entry to the principal dwelling and its design shall be such that the appearance of the dwelling will remain as a single family dwelling.
- (f) The single-family detached dwelling shall meet all bulk regulations applicable to the district in which it is located.
- (g) The applicant shall demonstrate that adequate sewer and water service may be supplied to the additional dwelling in compliance with Dutchess County health department standards.
- (h) Parking shall be provided as per the requirements of Table C of this Zoning Law.
- (i) Accessory dwellings shall not be allowed accessory to dwellings in a NND district.

(2) Guest dwelling, caretaker dwelling.

- (a) One caretaker dwelling or guest dwelling is permitted accessory to a single-family detached dwelling on a conservancy lot without the need to obtain a special use permit provided the dwellings complies with all other requirements in this subsection (2). On lots of 100 acres or more, a total of two such dwellings may be permitted without the need to obtain a special use permit. Any application proposing a guest or caretaker dwelling not complying with these requirements shall require a special use permit in addition to any variances or waivers that may be required.



- (b) The principal dwelling to which the guest or caretaker dwelling is accessory shall be owner-occupied.
  - (c) No guest or caretaker dwelling shall be rented or operated for gain.
  - (d) A guest or caretaker dwelling shall not exceed 75% of the gross floor area of the principal dwelling, or 1,250 square feet, whichever is less. A guest or caretaker dwelling shall be no less than 250 square feet of gross floor area. The dwelling shall have separate sleeping, cooking, and bathroom facilities.
  - (e) No guest or caretaker dwelling shall be permitted in any required yard. The Planning Board may permit a guest or caretaker dwelling in a front yard where it determines said dwelling will not impact residences on adjoining properties or views the Planning Board determines are scenic.
  - (f) The single-family detached dwelling to which the dwelling(s) are accessory shall meet all bulk regulations applicable to the district in which it is located.
  - (g) The applicant shall demonstrate to the satisfaction of the Building Inspector that adequate sewer and water service may be supplied to the additional dwelling in compliance with Dutchess County health department standards.
  - (h) Parking shall be provided as per the requirements of Table C of this Zoning Law.
  - (i) Additional dwellings on a conservancy lot. Subject to special use permit approval, additional caretaker or guest dwellings may be permitted on a conservancy lot. A minimum lot area of five acres shall be required for each additional caretaker dwelling or guest dwelling after subtracting for environmental features set forth in §100-16. The additional caretaker or guest dwelling shall comply with all other requirements of this subsection (2). The applicant shall provide evidence to the Planning Board that additional dwellings may be provided adequate water and sewer service in compliance with Dutchess County health department standards.
- (3) The Planning Board is authorized to increase the gross floor area of an accessory dwelling, guest or caretaker dwelling up to a maximum gross floor area not to exceed 75 percent of the principal dwelling. The Planning Board shall find that the waiver will not have a negative impact on adjoining properties and community character. The Planning Board shall consider the potential impact on: the pattern of residential buildings, residential density, existing lot sizes and impervious surface coverage in the neighborhood; the ability of the subject property to accommodate off-street parking and utilities; and, the decrease in open yard area that may result. The waiver must be requested prior to opening the public hearing on the special use permit.

#### **E. Elder cottage.**

- (1) Occupancy. An elder cottage shall not be occupied by more than two persons, who shall be persons 55 years of age or older, and at least one of such person shall be a family relation of the owner occupant of the dwelling. The family relationship may be waived by the Planning Board where the applicant can show a long standing relationship

substantially equivalent to a familial relationship and the maintenance of the unit is not simply an economic relationship.

- (2) The elder cottage shall not exceed 650 square feet in gross floor area and be no less than 250 square feet.
- (3) An elder cottage is permitted accessory to a single-family detached dwelling. No more than one elder cottage is permitted per lot.
- (4) An elder cottage is permitted within a rear yard exclusive of the required rear yard.
- (5) The exterior appearance of the elder cottage shall be in harmony with the existing single family detached dwelling.
- (6) An elder cottage shall be constructed so as to be easily removable. No permanent foundation, fencing, walls, or other structures shall be installed that would hinder removal of the cottage.
- (7) The special use permit shall be renewed annually. The owner of the dwelling to which the elder cottage is accessory shall submit a letter substantiating that circumstances of the original application have not changed. Special permit approval shall terminate 120 days after the death or permanent change of residence of the original occupant or occupants of the elder cottage.
- (8) The special use application shall include the following:
  - (a) Name and age of proposed occupants of the elder cottage and relationship to owner of the dwelling to which the elder cottage will be accessory.
  - (b) Proposed location and size of the elder cottage.
  - (c) Photos, sketches, or other materials which describe the floor plan and exterior appearance of the proposed elder cottage.
  - (d) A signed agreement consenting to remove the elder cottage upon special permit expiration, including consent for the Town to enter on the property and to remove the elder cottage if the owner fails to timely remove it, said cost to be borne by the owner.

#### **F. Major home occupation.**

- (1) The lot on which a home occupation is situated shall be owner-occupied.
- (2) No more than thirty percent (30%) of the total floor area (heated, habitable space) of the dwelling unit may be used for conduct of the home occupation.
- (3) Accessory structures existing at the time of enactment of this law may be used for home occupation purposes.
- (4) One non-illuminated identification sign not more than four (4) square feet shall be permitted. There shall be no other evidence of the home occupation such as additional

lighting, display or storage exterior to the dwelling or accessory structure within which the home occupation is conducted.

- (5) The Planning Board may impose conditions on the hours of operation of the business to protect abutting properties.

#### **G. Airstrip.**

- (1) No airstrip shall be located on a property with a gross lot area less than 50 acres.
- (2) The airstrip shall be set back a minimum distance of 200 feet from any property line.
- (3) A site plan shall be submitted illustrating the runways, the location of all overhead utilities, parking areas, lighting, and accessory buildings associated with the airstrip, e.g., hangar locations.
- (4) The narrative accompanying the special use permit shall indicate: hours of operation, maximum number of planes to be stored at the airstrip, and an identification of all approvals and permits required from outside agencies.

#### **H. Automotive repair.**

- (1) All automotive repair work shall be conducted in a fully enclosed building. All vehicles stored on the premises in excess of 72 hours shall be placed in an enclosed and screened storage yard.
- (2) The exterior display or storage of new or used automobiles or automobile parts is prohibited.
- (3) Where an automotive repair use adjoins a residential use, a minimum 10-foot landscape screen shall be provided adjacent to the shared property line.
- (4) Bay doors to the garage shall not front to any public right-of-way. Bay doors shall face the rear yard or to a side yard not abutting a residential use. Where an automotive repair establishment adjoins a residential use, a minimum 10-foot landscape screen shall be provided adjacent to the shared property line. The Planning Board may approve an alternative arrangement of bay doors to mitigate impacts to adjoining uses.
- (5) Dumpster locations shall be screened from public view. All refuse shall be disposed of in waste containers and removed from the premises on a regular basis.
- (6) No parking shall be permitted within the front yard.

#### **I. Automotive sales.**

- (1) The minimum lot area shall be no less than 40,000 square feet and shall have a minimum lot width of 150 feet. Driveway access shall be controlled through limitations on the number of driveways, installation of curbing and/or landscaping, and such other means as the Planning Board deems appropriate. The rear yard shall be fenced and graded with a stabilized dust free surface such as gravel or macadam.

- (2) Where an automotive sales establishment adjoins a residential use, a minimum 10-foot landscape screen shall be provided adjacent to the shared property line.
- (3) All motor vehicle storage other than the display area and customer parking shall be fully screened. A fence or masonry wall may be substituted for or in addition to landscape screening.
- (4) All other accessory uses, including servicing of vehicles, shall be conducted within fully enclosed structures.
- (5) The sales building shall have at least one office room and a full-service public restroom.
- (6) Gasoline service, if provided, shall be located within the rear yard but outside the required rear yard. Oil and fuel storage shall be solely in tanks and subject to approval by the NYSDEC or other appropriate governmental regulatory agency.
- (7) Sufficient off-street parking is to be provided for all vehicles brought for repair. Vehicles shall be stored overnight in an enclosed rear yard, fenced from adjoining uses. No more than eight (8) vehicles shall be stored at any one time and must be repaired within a reasonable time period. All vehicles brought in for a repair shall be placed on a concrete pad with drainage connected to a separation tank in accordance with the NYSDEC regulations.
- (8) Property shall be maintained in a neat and orderly manner with no accumulation of junk vehicles, tires, auto parts, garbage, refuse or debris on the property.

**J. Automotive service station.**

- (1) The minimum lot area (including that portion of a convenience store that may have gas facilities) shall be one (1) acre. The minimum lot frontage shall be 250 feet. Where an automotive service station adjoins a residential use, a minimum 10-foot landscape screen shall be provided adjacent to the shared property line.
- (2) The area for use by motor vehicles, except access drives thereto, and all principal and accessory structures shall not encroach on any required yard.
- (3) No fuel pump shall be located closer than 20 feet from any side lot line nor closer than 35 feet from any street line, measured from the perimeter of the fuel island or the perimeter of any canopy over the fuel island, whichever is closer to the lot or street line. Pumps shall be sited to the side of a principal building to the extent practicable.
- (4) All repair work and storage shall be within a completely enclosed building.
- (5) The Planning Board may limit the number of gas pumps to ensure consistency in scale between the automotive service station and adjacent land uses.
- (6) All canopy lights shall be recessed with no bulb, lens or globe extending below the casing or canopy ceiling.
- (7) No signs shall be allowed on the canopy mansard, fascia or roof area covering gas dispensers.

- (8) The Planning Board shall approve the architecture of the principal building and canopy. The canopy shall be decorative and designed with architectural treatments consistent with the principal building.
- (9) There shall be no amplified sound audible at property lines.
- (10) All pumps, pump islands, tanks, piping and canopies shall be removed when fuel dispensing activity has been inactive for a period of twelve (12) months.
- (11) Construction, maintenance and inspection of any service station shall comply with applicable federal, state and county environmental protection and mitigation requirements relative to installation, use and removal of tanks and pumps.
- (12) Applicants shall submit and maintain on site, an acceptable Spill Prevention, Control and Countermeasure Plan prepared under the supervision of a professional licensed engineer. Employees shall receive spill prevention training on a regular basis.
- (13) The Planning Board may limit hours of operation or limit acceptable hours of fuel delivery where a service station adjoins residential uses.
- (14) An applicant shall evaluate site conditions and provide information, analysis, and evidence that the proposed service station will not impact groundwater resources. Mitigation measures, including but not limited to use of steel above ground tanks encased in concrete, may be required as mitigation.

**K. Bank with drive-through.**

- (1) The minimum lot area shall be 20,000 square feet.
- (2) The drive through facility shall be attached to the principal building. ATM facilities shall be located in or attached to the principal building.
- (3) Vehicle drive-through aisles shall not be permitted in any front yard or any required side or required rear yard. Aisles shall be screened from a public road by use of extensive landscaping and grading, including berms.
- (4) A lighting plan shall be submitted for the entire site, including the drive-through canopy. All canopy lighting shall be recessed.
- (5) Lighting shall be placed on timers and the Planning Board shall establish conditions on the hours of operation.
- (6) Freestanding bank buildings shall be architecturally treated on all sides.
- (7) The Planning Board shall approve no more than two signs per bank, which shall be limited to a freestanding or facade type signs. The freestanding sign shall not exceed sixteen (16) square feet per face. The façade sign shall be no more than two (2) feet in height, and shall not exceed 70 percent of the length of the façade on which it is installed.

**L. Bed and breakfast.**

- (1) A bed and breakfast shall be owner-occupied and conducted in a single-family detached dwelling. A maximum of five (5) guest sleeping rooms shall be permitted.
- (2) Off-street parking shall not be located in a front yard and shall be screened from the street right-of-way and adjacent properties so as to provide no variation from the residential character of the site. Off-street parking spaces for the bed and breakfast shall be in addition to the number of spaces required for a single-family detached dwelling. One (1) parking space per guest sleeping room shall be provided.
- (3) Each bed-and-breakfast shall be maintained and operated so as to preserve and complement the residential character and integrity of the surrounding area.
- (4) No guest shall stay for a period of time in excess of thirty (30) consecutive days.
- (5) Each guest sleeping room shall be equipped with a properly installed and functioning smoke detector. Further, a smoke detector shall be properly installed and functioning on or near the ceiling in the room or hallway from which each bedroom rented to paying guests exists.
- (6) The owner/operator shall give reasonable access for inspections to be conducted on an annual basis to ensure compliance with this Zoning Law and the Uniform Code. Approval of the special use permit shall be conditioned upon consent of the owner to permit said inspections.
- (7) One (1) identification sign is permitted. Said sign or display shall not exceed sixteen (16) square feet in area per face. No sign shall be located less than fifteen (15) feet from the street line. The sign may be illuminated upon approval by the Planning Board.
- (8) The owner shall maintain a guest register and shall preserve registration records for a minimum of three (3) years.

**M. Camp, day and seasonal.**

- (1) The minimum lot area shall be 25 acres, plus 3,000 square feet per person based on the maximum occupancy to be established in conjunction with the special use permit.
- (2) Multiple buildings for sleeping quarters and tents may be permitted on a lot. No building, tent, activity, parking area, or recreation facility shall be located closer than 100 feet from any lot line and said activities shall be effectively screened as required by the Planning Board. No two buildings intended for use as sleeping quarters shall be closer than 30 feet from each other. Tents shall maintain a separation distance to other tents of no less than ten (10) feet.
- (3) Amplifier systems shall be designed so as not to be audible beyond the property lines.
- (4) Sanitary and wastewater disposal systems shall be approved by the Dutchess County Department of Health. Flush toilets shall be provided.

- (5) Centralized solid waste receptacles shall be provided.
- (6) Recreational facilities accessory to the camp shall be for use of members only.
- (7) Each camp shall be equipped with a land line public phone.
- (8) Adequate emergency access shall be provided throughout the camp site. The Planning Board, in consultation with the applicable fire district, shall ensure that suitable surfaces are provided for internal driveways to ensure emergency equipment can access the site.
- (9) The owner or resident manager shall keep a register of all visitors and members of the facility. The register shall include the name of a contact person for each camping party or member, their home address and a phone number where they may be reached in the event of an emergency.
- (10) No permanent dwellings shall be permitted except for one dwelling to be used by the owner or resident manager of the camp.
- (11) The resident manager or owner shall attend to the premises on a regular basis during off-season to guard against trespass and vandalism.

**N. Car wash.**

- (1) The minimum lot area shall be 20,000 square feet. The minimum front yard shall be 50 feet, and the minimum rear and side yards shall be 25 feet. No drive lane or parking area shall be located closer than twenty-five (25) feet to any property line adjoining a residential use.
- (2) The roof shape and materials of car washes shall be constructed so that they are similar to design styles of buildings in the area. Blank walls are not permitted and false windows and facade treatments shall be provided. Pitched roofs are required.
- (3) The orientation of the drive-in bays shall be perpendicular to the public right-of-way, unless it is impracticable to do so or results in bays that face adjoining residential uses. In such cases, additional landscaping, screening, or an alternative orientation of the bays may be allowed by the Planning Board.
- (4) Parking is not permitted in the front yard.
- (5) The Planning Board may limit the hours of operation to protect the health, safety and welfare of any adjoining residential use or residential district.
- (6) Noise abatement. All accessory structures such as vacuum islands shall be situated at least 25 feet from any lot line adjoining a residential use. The Planning Board may require noise abatement such as screening, fencing or other sound-proofing methods, or may prohibit said activities in conjunction with a car wash where noise may not be mitigated.

## **O. Cemetery.**

- (1) The minimum lot area shall be 40,000 square feet. Required yards shall be measured from grave sites to property lines unless a building/structure is proposed, in which case the yard is measured from the building/structure. The minimum front, rear and side yard shall be 25 feet.
- (2) All grave sites and mausoleums shall be set back at least 50 feet from a property line.
- (3) The Planning Board shall require suitable fencing, landscaping, and screening as deemed necessary to provide a buffer from any adjacent parcel of land in a residential district or in residential use and to secure the cemetery.
- (4) All cremorial units shall be set back at least 50 feet from the property line of an adjacent parcel of land in a residential district or in residential use. Cremorial units located within a mausoleum or other similar structure shall be set back at least 100 feet from the property line of any adjacent parcel of land in a residential district or in residential use.

## **P. Commercial logging/timber harvesting.**

- (1) A special use permit is required for any commercial logging activity proposing harvesting of more than 50 standard cords of wood or 50,000 board feet of timber as measured by international "1/4" log rule in any one year.
- (2) All commercial timber harvesting shall comply with the most current Timber Harvesting Guidelines for New York and Best Management Practices, as promulgated by the New York State Department of Environmental Conservation (DEC) and available from the Town's Planning Department.
- (3) The timber harvesting operation shall be conducted in accordance with an approved timber harvesting plan. The timber harvesting plan shall be developed by a New York State Cooperating Consultant Forester, or a professional forester with active membership in the Society of American Foresters or the Association of Consulting Foresters. Such plan shall contain a minimum of the following information:
  - (a) Location of haul roads, skid trails, landings, and staging areas.
  - (b) Limits of harvesting operation and buffer zones to be provided along streams, property boundaries, and public roads.
  - (c) Description of the harvesting activity; i.e. clearcutting, diameter limit cutting, thinning, selection cutting, including the dates between which such harvesting activity will occur.
  - (d) Erosion control plan.
  - (e) Reclamation plan.
- (4) Permits, where appropriate, will be secured by the applicant prior to any clearing for access to a public road, stream crossing, or wetlands disturbance. The Town of Pine Plains Highway Superintendent shall approve all access.



- (5) The Planning Board may seek advice from the Dutchess County Soil and Water Conservation District in relation to logging road layout and stream disturbances.
- (6) Loading areas, which must be located in the same zone as the operation, shall be smoothed to remove all ruts and debris. Wood and soil waste materials shall be buried or removed to a point out of sight of any road or adjacent property. A fifty-foot buffer zone shall be required between any logging area or landing site and any public road or adjacent property.
- (7) No commercial logging operations or removal of products shall take place between the hours of 8:00 p.m. and 8:00 a.m.
- (8) The Zoning Enforcement Officer shall have the authority to order the suspension of logging operations if, in his opinion, conditions created by spring thaw, adverse weather or any other cause make soil erosion probable.
- (9) The Town Highway Superintendent shall have the authority to:
  - (a) Order the suspension of logging operations if it is determined that conditions created by the spring thaw, adverse weather or other cause may likely damage a public road.
  - (b) Restrict the weight of logging trucks in accordance with the capabilities or condition of roads, bridges and culverts.
  - (c) Require the repair of roads, bridges and culverts damaged as a result of a logging operation.
- (10) All streams shall be crossed in accordance with the provisions of New York State Environmental Conservation Law, Article 15, and all other applicable state and federal laws.
- (11) There shall be no skidding in any stream channel except at approved stream crossings.
- (12) Haul and skid trails shall be maintained and abandoned in a manner that will prevent erosion.
- (13) The logger shall clean up any debris or deposits of any kind on public roads and shall repair or pay the cost of repair of any damage done to roads, curbs, utility lines and any other property resulting from the logging operation.
- (14) The Zoning Enforcement Officer may require that, prior to completion of the operation, a report be filed by the forester indicating what measures have been taken in order to restore the property and prevent erosion.
- (15) The term of this permit shall be for one year. However, since the operation may be adversely affected or delayed by unusual circumstances of weather or other occurrences, a one-year extension may be granted by the Zoning Enforcement Officer. Any additional extensions shall require application to the Planning Board.

- (16) The Planning Board shall have the right to waive any of the requirements, except the requirement to notify adjacent property owners, and to add any additional conditions, including restoration of damaged roads, deemed necessary to protect the health, welfare and safety of the residents of the Town of Pine Plains.
- (17) Any logging operation in existence at the time of the enactment of this chapter may continue without interruption, provided that application be made within thirty (30) days of said enactment for a special use permit under the provisions of this chapter and that such permit be granted by the Planning Board.

**Q. Communications facility, personal wireless service facility and/or tower.**

- (1) Purpose. The purpose of these regulations is to:
- (a) establish predictable and balanced regulations for the siting of any telecommunication facility while protecting the public health, safety and welfare, and protecting against any adverse impacts on the Town's rural, aesthetic and historic character. These regulations shall: control the location and number of towers; minimize adverse visual impacts through proper design, siting and screening; avoid potential physical damage to adjacent properties; and encourage shared use of existing tower structures.
  - (b) limit the number of telecommunication facilities in the community by requiring shared use of any existing or future tower, and encouraging the use of existing tall buildings and other high structures, in order to further minimize adverse visual effects.
- (2) Restrictions on use. No telecommunication facility, except those approved prior to the effective date of these regulations, shall be used, located, constructed or maintained on any lot, structure or land area unless in conformity with these regulations. No wireless communication facility may hereafter be erected, moved, reconstructed, changed or altered unless in conformity with these regulations. No existing structure shall be modified to serve as a wireless communications facility unless in conformity with these regulations.
- (3) General Criteria. No special use permit relating to a telecommunication facility shall be approved unless the Planning Board finds that such facility:
- (a) Is necessary to provide adequate service to locations that the applicant is not able to serve with existing facilities;
  - (b) Conforms to all application regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies;
  - (c) Will be designed and constructed in a manner which minimizes visual impact to the extent practicable;
  - (d) Is the most appropriate site among those available within the service coverage area;
  - (e) Cannot be co-located on an existing structure.
- (4) Minor telecommunication facility.
- (a) The shared use of an existing structure or existing telecommunication facility shall be preferred to the construction of a new wireless communication facility. Any facility

sited on an existing structure or existing wireless communication facility shall be deemed a "minor telecommunication facility".

- (b) An application proposing collocation or for any other minor telecommunication facility shall be subject to site plan review by the Planning Board in accordance with this section and Article XII of this Zoning Law. The Planning Board may require the applicant to submit any of the items required for submission in major wireless communications facilities' applications as part of the special use and site plan review process.
- (c) In addition to any requirements set forth in Article XII of this Zoning Law, an application for a minor telecommunication facility shall include the following:
  - (i) Consent from the owner of the existing facility to allow shared use.
  - (ii) The site plan shall illustrate all existing and proposed structures and improvements, including antennas, roads, buildings, guy wires and anchors, parking and landscaping and shall include plans for new facilities and roads. Any methods used to conceal the modification to the existing facility shall be indicated on the site plan.
  - (iii) An engineer's report certifying that the proposed shared use will have no impact on the structural integrity and safety of the existing structure. Any modifications to the existing structure shall be detailed in said report.
  - (iv) A copy of the applicant's Federal Communications Commission (FCC) license.
  - (v) A visual simulation of the tower pre- and post-collocation.
  - (vi) The Planning Board may require any other documentation, reports or evidence that it deems necessary to ensure that the health, safety and welfare of the community is adequately addressed.
- (5) Major telecommunication facility. In addition to any requirements set forth in Section (4) above, an application for a major telecommunication facility shall include the following:
  - (a) Details of the telecommunication facility and appurtenances, including but not limited to: the number, type and design of antennae; the make, model and manufacturer of antennae; a description of the proposed antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above grade, materials, color, grounding and lighting; the frequency, modulation and class of service of radio equipment; transmission and maximum effective radiated power of the antenna(s); certification that the proposed antenna(s) will not cause interference with existing communication devices; elevation drawings depicting the front, side and rear of the property, illustrating the proposed antenna, mounting device and structure, if any, on which the antenna(s) is mounted.
  - (b) Detailed description and map of any existing and proposed towers or other structures of significant height (50 feet and greater) within a five-mile radius of the proposed facility, including height of structure, ground elevation, number of existing users, height available for collocation, if any, and structural deficiencies, if any.

- (c) Propagation maps showing coverage without the proposed facility, coverage with the proposed facility, coverage at lower facility heights, and coverage for each collocation possibility. Base maps should show roads and other physical features at a minimum and preferably on a USGS Quadrangle base map.
- (d) Detailed analysis of collocation possibilities including coverage overlap percentages and signal interference problems. Additional information may be requested to determine collocation potential.
- (e) A long-range plan shall be submitted, evidencing that the proposed location has been planned to result in the least number of telecommunication facilities within the Town. The plan shall indicate how the applicant intends to provide service throughout the Town, and how the applicant plans to coordinate with all other providers of telecommunication services in the Town and adjoining municipalities. The plan shall identify planned locations of additional telecommunication facility sites, additional antennas, related service area coverage and alternative long-range plan scenarios that illustrate the potential effects of multiple towers and tower height, community intrusion impacts and visual and aesthetic impacts.
- (f) Documentation, sufficient to demonstrate that the height of the proposed telecommunication facility is the minimum height and bulk necessary to provide licensed services to locations within the town which the applicant is not able to serve with existing or planned facilities, shall be provided including evidence that visual, aesthetic and community character intrusion impacts have been minimized to the greatest extent practicable.
- (g) Shared use. The Planning Board may issue a permit for a major telecommunication facility only upon the applicant demonstrating that shared use of an existing structure is impractical. An applicant shall be required to present a report inventorying all existing structures within a one-mile radius of the proposed site located at an elevation that renders them potential sites. The report shall describe opportunities for shared use of these existing facilities as an alternative to a proposed facility. The report shall demonstrate that the applicant used its best efforts to secure permission for shared use from the owner of each existing facility as well as documentation of the physical, technical and/or financial reasons why shared usage is not practical in each case. The applicant's written request and the property owner's written responses for shared use shall be provided.
- (h) Intermunicipal notification. An applicant shall notify in writing the legislative body of each municipality that borders the Town as well as the Dutchess County Department of Planning that an application for a new telecommunications facility has been submitted to the Pine Plains Planning Board. Notification shall include the exact location of the proposed facilities, and the general description of the project including, but not limited to, the height of the facility and the capacity for future shared use.
- (i) A visual impact assessment, which shall include as follows:
  - (i) A viewshed analysis study area – said area shall be that area within a five-mile radius of the proposed location of the telecommunication facility.

- (ii) An identification of visually sensitive resources such as scenic roads or byways, scenic overlooks or vistas, state parks, designated historic sites, forests, wildlife management areas, historic and scenic resources identified in any County Plan or Town Comprehensive Plan, and other visually sensitive locations shall be identified within the study area.
  - (iii) A viewshed map of the study area using a USGS digital elevation model and (DEM) data (7.5-minute series) and a computer program such as MicroDem. The viewshed shall be defined by running elevation cross sections every 0.25 degrees, in a 360-degree circle through the study area. The viewshed map is to be based on a maximum structure height above an identified base elevation in feet above sea level. The viewshed map shall define the maximum area from which the tallest element of the completed facility could potentially be seen within the study area (ignoring the screening effects of existing vegetation). Foreground (0 to 0.5 miles), middleground (0.5 to 3.5 miles), and background (3.5 to 5 miles) should be delineated on the map.
  - (iv) Field verification. Assess the nature and extent of the structure's actual visibility from each identified sample area. Visibility during off-leaf conditions shall be assessed. This step will assess any screening of the facility by intervening vegetation, buildings, etc. The purpose of the field verification is to document potential project visibility based on actual field conditions, and provide a scale reference for subsequent computer-generated visual simulations. A balloon test, using a brightly colored balloon shall be raised to a height above the existing grade that approximates the finished elevation of the tower. The Planning Board may require that a crane be used to simulate the tower height. Weather conditions shall be favorable throughout most of the day. The visibility of the balloon from sensitive vantage points shall be documented. Photos shall be taken using a lens setting at 50 mm to simulate normal human eyesight. The time, date, and location of each photo shall be logged and the visibility from each site noted. The date and time of the balloon test shall be announced to the public in advance, and the Planning Board shall observe the balloon test or other method of field verification approved by the Planning Board.
  - (v) Photosimulations. Viewpoints showing representative views of the proposed project will be selected for photosimulation. Existing conditions (which will have the balloon in the photo) shall be compared to computer assisted visual simulations of the same view following completion of the proposed project.
  - (vi) Assessment. The visual impact of the facility on the landscape shall be assessed, taking into consideration the viewpoint that will be affected. Where a significant visual impact is identified by the Planning Board, the applicant shall describe methods to mitigate said impacts.
- (6) Design Criteria.
- (a) Location, lot size and setbacks. The minimum lot size shall be determined by the amount of land required to meet the minimum yard requirements but in no event shall it be less than three (3) acres. If the land is to be leased, the entire area required shall be leased from a single parcel. A telecommunication facility shall be

located a minimum distance from any property line equal to 1.5 times the height of the facility and 3 times the height of the facility from occupied buildings and structures. Accessory structures shall be located no less than 50 feet from any lot line. The maximum height of a telecommunication facility, including any antennae or other devices extending above the tower, measured from the ground surface shall be 150 feet. The Planning Board may require the submission of structural or other data that establishes the fall zone for the facility.

(b) Co-location. Any new telecommunication facility shall be designed to allow co-location of additional providers. The applicant shall submit to the Planning Board an irrevocable letter of intent committing the owner of the telecommunication facility, and its successors in interest, to permit shared use of the proposed facility by other telecommunication providers in the future. This letter shall also be filed with the Building Inspector prior to issuance of a building permit. The letter shall commit the applicant and its successors in interest to the following:

- (i) To notify all carriers licensed to provide telecommunication services within the town of its application and that it will entertain requests for co-location.
- (ii) To respond within 90 days to a request for information from a potential shared-use applicant.
- (iii) To use best efforts and negotiate in good faith concerning future requests for shared use of the tower by other telecommunications providers.

(c) Visibility.

- (i) A tower shall be a galvanized finish or painted a color designed to blend the facility into the natural surroundings to the maximum extent.
- (ii) A tower shall be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements. Accessory structures shall maximize use of building materials, colors and textures designed to blend with the natural surroundings. Any lighting, if required, shall be minimized and shall be properly shielded to prevent light emission and glare onto adjoining properties.
- (iii) Structures offering slender silhouettes (i.e., monopole) are preferable to freestanding lattice structures except where such freestanding structures offer capacity for future shared use. The Planning Board shall consider the type of structure being proposed in relation to the surrounding area.
- (iv) A telecommunication facility shall not be situated on the crest of any ridgeline. The facility shall be located no less than 100 feet from the crest, and shall be situated at a topographic elevation at least 75 feet below the elevation of the crest.
- (v) The Planning Board may require that the telecommunication be camouflaged, e.g., mimicking the appearance of steeples, tree, silo, or other design compatible with the surrounding visual environment, where it determines that the facility would have a visual impact on the environment.

(d) Vegetation and screening.

- (i) Existing on-site vegetation shall be preserved to the maximum extent practicable. Clearcutting of all trees in a single contiguous area shall be minimized to the extent possible.
- (ii) The Planning Board may require vegetative screening around the fences of the tower base area, accessory structures and the anchor points of guyed towers to buffer views from adjoining properties.

(e) Access and parking. A driveway and parking will be provided in a manner to assure adequate emergency and service access.

(f) Signage. The use of any portion of a telecommunication facility for signs for promotional or advertising purposes is prohibited. For safety purposes, each site shall include a sign containing the name of the owner and operator of any antenna present, including an emergency phone number. Any door giving access to a roof-mounted antenna and all entrances to any fenced enclosure shall be similarly signed.

(g) Security.

- (i) Towers, anchor points around guyed towers, and accessory structures shall each be surrounded by fencing not less than six (6) feet in height.
- (ii) There shall be no permanent climbing pegs within fifteen (15) feet of the ground.
- (iii) Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site.
- (iv) A locked gate at the junction of the driveway and a road giving access thereto may be required to obstruct entry by unauthorized vehicles.

(h) Noise and electricity. All electrical power supply to service the on-site buildings and appurtenances supporting the facility operations shall be installed underground. Noise suppression shall be utilized in the structural design and construction of the tower and all appurtenances. No facility or its appurtenances shall generate noise in excess of 57 dBA measures at any lot line between the hours of 7 AM and 10 PM, and in excess of 47 dBA between the hours of 10 PM and 7 AM.

(i) Engineering standards. A telecommunication facility shall be built, operated and maintained to acceptable industry standards. Each application must contain a site plan for the facility containing the signature of an engineer licensed by the State of New York. Every facility shall be inspected at least every second year for structural integrity by a New York licensed engineer. A copy of the inspection report shall be submitted to the Town.

(7) Requirements imposed on approval.

- (a) The special permit shall be valid for a period of five (5) years from the date of issuance. Prior to renewal of the special permit, the facility owner shall conduct an inspection of the its structural integrity and safety by an independent licensed professional structural engineer. A report of the inspection results shall be certified and submitted to the ZEO. Any major modifications of an existing facility including changes to antenna numbers or type shall require a special permit amendment and new structural inspection.
- (b) Abandonment and removal. At the time of submission of the application for a telecommunication facility, the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower used as a telecommunication facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for not more than twelve (12) consecutive months. Upon removal, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils. The Planning Board has the authority to require a bond to ensure the removal of any telecommunications facility.
- (c) An extension of up to six (6) months may be granted by the Zoning Enforcement Officer upon a written request, including proof as determined reasonable by the ZEO that the owner is actively engaged in the marketing of the property for sale or rent.
- (d) In the event that the facility is not removed and the site restored as herein required, the Town, after notice and hearing, may cause the same to be removed and the site restored at the expense of the property owner, the costs to be assessed in the same manner as a real property tax.
- (e) Operational certification. Within 45 days of operation of the telecommunication facility, the operator shall submit to the ZEO a written certification prepared by a professional engineer that the operation facility is in compliance with the application submitted, any conditions imposed and all other provisions of this Zoning law as a condition to continue operating past the forty-five-day period. The town may confirm and periodically reconfirm compliance as necessary to ensure that the provisions of this chapter, including NIER level thresholds, as set forth by the FCC are in compliance. The owner/operator of the facility shall supply all necessary documentation to permit the town to make such a determination regarding compliance. If found not to be in compliance, the facility shall cease operation until compliance is restored.
- (f) Fees and insurance.
- (8) Pre-existing uses. Any legal nonconforming telecommunication facility shall be permitted to continue until such time as said facility is enlarged, altered, or modified at which time said facility shall be required to obtain special use permit approval in compliance with this section and the Zoning Law.

**R. Convenience store associated with gasoline service station.**

- (1) A convenience store is allowed on the same lot as a gasoline service station subject to the conditions set forth herein. The required front yard shall be 25 feet, and the required side and required rear yard shall be 25 feet.



- (2) The minimum lot area shall be one (1) acre.
- (3) The maximum gross floor area of the convenience store shall be 2,500 square feet.
- (4) Parking for the convenience store shall not be permitted in the required front yard.
- (5) No more than 10% of the gross floor area of the convenience store shall be dedicated to seating facilities.
- (6) Exterior display of merchandise for sale is allowed only on a paved walkway within three (3) feet of the exterior façade of the convenience store.
- (7) Loading areas shall be so located to minimize any impact on the neighborhood. The Planning Board may require screening and buffers where the lot adjoins a residential use or district.
- (8) At least one entrance and all principal windows shall be street oriented.

**S. Daycare center.**

Day-care centers authorized by the New York State Office of Children and Family Services shall be subject to the following:

- (1) Application narrative. The special use permit application shall be accompanied by a narrative description of the proposed occupancy of the facility by age group, i.e., infant, toddler, and school age, and the hours of operation of the facility.
- (2) The minimum lot area shall be one (1) acre.
- (3) Floor plan. A preliminary floor plan of the child day-care center shall be submitted.
- (4) Parking. One (1) parking space shall be provided per employee. Additional parking spaces shall be provided for dropoff and pickup of children at a rate of no less than one parking space per 15 children. Said spaces shall be provided directly in front of the facility along an internal driveway or in an approved parking area. The location for dropoff parking shall include a consideration of emergency access, and shall be determined by the Planning Board during site plan review. The dropoff location shall be clearly posted with appropriate signage or pavement markings. Fire lanes shall not be used for dropoff areas.
- (5) A fenced-in outdoor play area shall be provided, and said play area shall not be located nearer than 50 feet to any street or lot line. A minimum outdoor play area of 125 square feet per child under three years of age, or per child three and over, whichever is greater, shall be provided. Outdoor play areas shall be located a minimum distance of 25 feet from any parking area. The Planning Board may vary these setback requirements on a case-by-case basis to ensure that play areas are adequately screened and buffered from vehicular areas. Outdoor play areas shall be directly accessible from the principal structure, and shall not require crossing any street, driveway, or parking area for access. The Planning Board may, as part of site plan review and in consultation with the

prospective operator, modify the area requirement to apply only to the largest age group enrollment scheduled to use the outdoor play area at one time.

- (6) Minimum indoor play area. A minimum indoor play area shall be provided in accordance with the New York State Social Services Law regulating child day-care centers. Areas used for large motor activity, staff lounges, storage spaces, halls, bathrooms, kitchens and offices shall not be included in the calculation of the 35 square feet per child requirement.
- (7) Noise and visual screening. Operation of a child day-care center shall be conducted in a manner which minimizes any impacts to adjoining residential uses. The Planning Board shall determine the appropriate combination of materials to buffer and screen the outdoor play area, which may include a combination of berm, fence and landscape materials.
- (8) Ingress and egress. Said facility shall provide a minimum of two access drives.
- (9) Traffic considerations. Due to the special occupancy of a child day-care center, a center shall be situated on properties which afford safe internal and external traffic circulation. In order for the Planning Board to make this determination, a traffic impact study shall be submitted with the special use permit application and shall include, but not be limited to: a traffic capacity analysis, sight distance calculations, study of internal traffic circulation. The study shall include the submission of traffic data from existing comparable facilities. The Planning Board may impose reasonable conditions, including but not limited to restrictions on traffic flow and direction into and out of the center, based on the results of the traffic impact study.
- (10) Security. To ensure adequate safety to the occupants of the child day-care center, the applicant shall demonstrate that reasonable measures may be implemented to secure the center from entry by persons other than employees, children being cared for, and their parents or guardians. Security measures may include, but are not limited to, appropriate locations for lighting and internal security systems.

#### **T. Educational facility.**

- (1) Such schools shall be nonprofit organizations within the meaning of the Internal Revenue Act, or shall be a nonpublic school or institution conducting a regular, scheduled curriculum of study similar to that of the public schools and operated by a nonstock corporation under the Education Law of New York State.
- (2) The prime purpose shall be the general education in the arts and sciences, chartered by the Board of Regents of the State of New York. The Planning Board may condition continued approval of a special use for a school upon receiving registration of the school from the Board of Regents in accordance with the regulations of the New York State Education Department.
- (3) Such schools shall have site areas of five acres, plus two acres for each 100 pupils, with a minimum of 10 acres.
- (4) Outdoor playing fields shall be screened from public view by trees, hedges or other suitable landscaping.

- (5) Adequate roads for ingress and egress shall be provided, which roads shall create no unusual traffic hazard or traffic congestion.
- (6) Nursery schools, trade schools (except if some instruction in a particular trade or trades may be incorporated in the general education curriculum of the school), correctional institutions, health institutions or similar institutions not primarily directed to the general education of the students in the arts and sciences shall not be permitted.
- (7) The maximum permitted building height for such schools may be increased to three stories and 45 feet, whichever is greater, provided that the minimum property line setback for buildings shall be three times the building height of the tallest building.
- (8) Appropriate buffer screening shall be designed and installed within setback areas adjoining or facing residential properties, to the extent determined appropriate by the Planning Board.
- (9) Dormitory dwellings are not allowed incidental or accessory to an educational facility as part of this special use.

**U. Equipment storage.**

- (1) The outside storage of goods, supplies, parts, materials, or heavy equipment must be located in the rear yard only and screened from adjacent residential uses or shall be stored in an enclosed structure.
- (2) Outside storage areas shall not exceed 25 percent of the lot area.
- (3) Parking shall not be permitted in a front yard. Parking areas shall be completely screened from view of the public road and adjacent residential uses.
- (4) The Planning Board shall evaluate impacts related to noise, traffic, hours of operation, and lighting requirements and shall minimize negative impacts on adjacent uses.

**V. Farm market.**

A farm market shall be a use permitted in conjunction with an agricultural operation, subject to the following:

- (1) The farm market must be operated as an accessory use to the principal use of agricultural operation and shall only be for the use of the owner-applicant.
- (2) The farm market shall be located on the same property as the agricultural operation.
- (3) At least two-thirds of the total amount of the annual retail sale of agricultural, horticultural, floricultural, vegetable and fruit products, soil, livestock and meats, poultry, eggs, dairy products, nuts, honey, wool and hides and other agricultural products shall be grown, raised or produced on the property on which the market is located. Notwithstanding the aforementioned restrictions, the farm market may sell supporting agricultural products and products not grown by the owner-applicant, provided that said products do not exceed one-third of the total annual retail sales of the farm market. Processed food, where the majority of the ingredients are grown on

the farm, shall not be considered supporting farm products subject to the one- third annual sales limitation. Receipts and records of such purchases must be kept by the owner-applicant. Supporting farm products include but shall not necessarily be limited to baked goods, eggs, dairy products, preserves, syrups, herbal vinegars and salad dressings. Supporting farm products shall not include prepackaged grocery items or tropical fruits. The purpose of this provision is ensure that farm markets are limited primarily to the sale of locally grown products. A conventional grocery store or supermarket shall not be deemed a "farm market".

- (4) The farm market may also sell food prepared on premises for off-site consumption, utilizing agricultural and farm products sold at the farm market.
- (5) The farm market may sponsor and conduct farm and harvest festivals on site, provided that the number of festivals conducted by the farm market each year is not greater than four and the festivals are designed to provide agricultural marketing and promotional opportunities for the agricultural operation and/or the region's agricultural producers, and further provided that each such festival receives Planning Board approval in conjunction with the special use permit.
- (6) A farm market may be operated on a year-round basis and may contain bathrooms and/or an area for food preparation occupying no more than 10% of the gross floor area of the market.
- (7) The Planning Board shall have the power to permit a structure or use of space exceeding the maximum building allowed in the R district, or allow a building containing a second story, and/or allow the food preparation area to occupy a greater percentage of the gross floor area of the market without the requirement of an application for an area variance, provided that the applicant can demonstrate that such additional square footage and/or storage area and/or larger food preparation area are shown to be necessary to the proposed farm market operation and will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties by reason of traffic, noise, or other adverse impacts, and will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.

#### **W. Golf course.**

- (1) A special use permit shall be required to operate a golf course, including all uses and structures accessory thereto. The following uses shall be permitted as accessory uses to a golf course: clubhouse (including dining rooms, common rooms, pro shop, social rooms, kitchen, recreation facilities, and locker rooms), snack bar/refreshment stand, a groundskeeper residence, putting greens, practice range, parking, maintenance facility, garage, cart storage facility, water supply impoundments and other uses and buildings that the approving agency determines are accessory to the golf course use. The proposed golf course shall be integrated with any existing development and land uses adjacent to the site, including safe locations for golf holes (tees, holes and greens), and practice areas, as related to adjacent roads, residential development, and other neighboring improvements. The maximum gross floor area and building footprint for a golf course structure may exceed those established in §100-17.C. where it is determined that said increase will not have a detrimental visual impact on adjoining properties.

- (2) Where a golf course site is adjacent to, contains, or incorporates flood plains, open water, watercourses, trails, flyways, and conservation areas, the applicant may be required to provide and maintain an adequately designed walking trail easement within the property open to the public in furtherance of the Town's goal of linking open spaces in the community. The pedestrian easement shall be located so it does not interfere with play and shall be appropriately isolated from the general operation of the golf course.
- (3) Assurances shall be provided by the applicant that the necessary infrastructure and utilities, including sanitary disposal system, potable water and irrigation water are available from on-site municipal or private systems. The provision of infrastructure and utilities shall not have a detrimental impact on groundwater or surface water resources.
- (4) The golf course shall have two safe and adequate access points from one or more public roads. One of the two accesses may be provided for emergency access only, if, in the determination of the Planning Board, said arrangement provides adequate access. The two means of access shall be connected internally and may be achieved by use of a stabilized surface sufficient to allow passage by emergency vehicles.
- (5) Adequate provisions shall be made for solid waste collection and storage. All solid waste storage shall be adequately screened and buffered.
- (6) One monument sign not exceeding sixteen (16) square feet shall be permitted at the entrance to the golf course. All other signs shall be directional signs and each shall not exceed four (4) square feet. All signs, including size, location, materials and design shall be approved as part of site plan approval. The Planning Board may approve an additional monument sign at the second access.
- (7) Amplifier systems shall be designed so as not to be audible beyond the property lines.
- (8) The number of parking spaces shall be as few as necessary to serve the golf course and accessory uses. The number shall be determined by a parking needs study to be conducted by the applicant and submitted at the same time as the special use permit application.
- (9) A minimum vegetative buffer shall be maintained between any watercourse or wetland and any turf area which is to be treated chemically. The Planning Board shall retain an ecologist and/or other specialist(s) to review the plans and recommend appropriate buffer sizes which will depend on the specific nature of the watercourse or wetland to be protected. The buffer shall be of sufficient size and design to protect the surface water from chemicals carried by stormwater runoff. The Planning Board may consider alternative methods of protecting wetlands and water courses, e.g., diversion of runoff via swales, where it determines that said methods protect watercourses, wetlands and other natural water bodies.
- (10) Special events open to the general public, such as tournaments, shall be approved by the Planning Board. Adequate provisions shall be made by the golf course operator to handle the crowd generated by such an event and to satisfactorily mitigate off-site impacts including traffic management, parking, trash removal and waste disposal, security and safety and utility demand. The golf course may be required to post a performance guarantee for these purposes. All local permissions and permits required for a special event shall be obtained prior to the event.

- (11) The course shall be designed, to the extent practicable, in a manner that preserves existing woodland and wooded corridors. Clearance of woodland shall not exceed 50 percent of the total acreage of the lot on which the golf course shall be situated.
- (12) Turf management and water quality. As part of the application for site plan approval, the applicant shall submit a turf management plan and an integrated pest management plan specific to the operation and maintenance of the proposed golf course. These plans shall be prepared in accordance with any guidelines established by the New York State Department of Environmental Conservation and shall also take into consideration guidelines established by the United States Golf Association. These plans must include best management practices to prevent or minimize adverse impacts of chemical applications on the groundwater and surface water resources to which the golf course contributes drainage.
- (13) Assurances shall be provided that any adverse impacts on groundwater or surface water quality resulting attributable to the golf course will be mitigated. The applicant shall provide for the monitoring of water quality of groundwater and surface water resources. The monitoring program, including the timing and frequency of testing and the identification of chemical parameters to be tested shall be established at the time the integrated turf management plan and integrated pest management plan are approved as part of the application. The applicant may be required to install permanent water quality monitoring devices to monitor water quality on an ongoing basis. The Planning Board and the applicant shall mutually agree to an independent consultant who shall be responsible for carrying out the monitoring program and the cost of the monitoring shall be borne by the applicant/owner of the golf course facility. The results and findings of any water quality monitoring shall be submitted by the owner to the Town to ensure compliance with the conditions of special use permit approval.

**X. Inpatient health care facility.**

- (1) Inpatient health care facilities may include general health care hospital, convalescent homes and nursing homes. Facilities may consist of one or more principal buildings on a lot.
- (2) All buildings associated with an inpatient health care facility shall be located at least 100 feet from any property line.
- (3) The minimum area of the lot shall be 5 acres. The distance between buildings shall be at least equal to twice the height of the taller building.
- (4) All other bulk regulations shall be that established for the applicable zoning district.
- (5) Staff quarters may be permitted as accessory buildings. Use of such staff quarters shall be limited exclusively to nurses or other members of the facility staff.
- (6) Parking areas shall be located at least 50 feet from all property lines.
- (7) The maximum permitted density shall not exceed one patient bed for each 5,000 square feet of lot area.

#### **Y. Kennels and veterinary hospitals.**

- (1) In considering the application for a special permit for a kennel or veterinary hospital, the Planning Board shall consider the number, size, breed and temperament of animals to be sheltered and impose reasonable conditions to protect proximate uses, aesthetic impact and safety of the animals sheltered in order to ensure the health, safety and general welfare of the community.
- (2) Animal waste shall be disposed of in a manner acceptable to the Dutchess County Department of Health.
- (3) Crematoria or land burial of animals in association with a kennel or veterinary hospital shall be prohibited.
- (4) The minimum lot area required shall be 2 acres plus 500 square feet for the number of animals to be boarded.
- (5) All facilities associated directly with the kennel or veterinary hospital, whether indoors or outdoors, shall be set back a minimum of 200 feet from any property line.
- (6) The Planning Board shall evaluate potential noise impacts and shall minimize negative impacts on adjacent uses which may include the use of sound proofing.
- (7) The Planning Board may require screening of outdoor runs from view.

#### **Z. Lodging.**

- (1) The minimum lot area shall be one (1) acre. One or more principal buildings may be located on a lot. A principal building shall be separated from another principal building a distance no less than twenty-five feet.
- (2) Guest sleeping rooms shall not contain kitchen facilities of any nature, shall not be used as apartments for nontransient tenants, shall not contain more than two rooms and shall not be connected by interior doors in groups of more than two. There shall be no more than one guest sleeping room for each 3,000 square feet of lot area in addition to the minimum lot area required herein.
- (3) Each guest sleeping room shall have an area of at least 300 square feet and shall be equipped with a bath facility with a shower or bath, one toilet facility and sink.
- (4) The following accessory uses shall be permitted:
  - (a) One apartment with or without kitchen facilities for the use of the hotel or motel manager or caretaker and his family within the lodging facility.
  - (b) A coffee shop/dining room. Such facilities shall be located within the principal building.
  - (c) Recreation facilities for the sole use of guests, including:

- (i) Swimming pool.
- (ii) Children's playground
- (iii) Tennis and other game courts.
- (iv) Game or recreation rooms.
- (v) Office and lobby, provision of which shall be mandatory for lodging.
- (vi) Breakfast, meeting and/or conference rooms and banquet facilities.

**AA. Manufacturing.**

- (1) The minimum lot area shall be 5 acre and the lot shall maintain no less than 100 feet of frontage on a county or state road. No more than one principal building shall be permitted on a lot. The manufacturing building shall be set back no less than 100 feet from any lot line.
- (2) No sales to the general public shall be permitted.
- (3) All uses, processes and storage shall be within a fully enclosed structure, and no tanks or other apparatus incidental to the processing shall be visible outside of a manufacturing building. The façade of buildings and structures shall be compatible with the rural character and adjacent development and the site shall be fully landscaped.
- (4) One business identification shall be permitted, and the sign face shall not exceed sixteen (16) square feet in area. No more than two sign faces are permitted. The Planning Board may approve a directly illuminated sign.
- (5) The applicant shall submit a list of the goods and materials to be stored and manufactured on the property. The Planning Board shall consider the nature of the materials, including potential flammable/hazardous nature of same, and may impose restrictions on the storage of said materials, or prohibit same.
- (6) Parking shall not be permitted in the front yard.
- (7) The location and hours of operation of all on-site lighting shall be approved by the Planning Board. Public address systems are prohibited.
- (8) The Planning Board may require a wall, fence, landscaping or other buffer be installed where a property adjoins a residential use. Said buffer shall be no less than ten (10) feet in width.

**BB. Membership Club, Multiple Use Social and Recreation.**

- (1) Minimum Lot Size. The minimum acreage for a membership club shall be 500 acres.
- (2) Multiple uses. Multiple principal buildings and principal uses are permitted on a single lot.
- (3) Setbacks. Principal buildings shall be set back no less than 100 feet from any property line.
- (4) Outdoor recreation facilities. Where outdoor recreation facilities are allowed, said facilities shall be located in a manner that minimizes potential impacts on nearby



residential properties. Consideration shall be given to locating outdoor facilities away from residential property lines. The Planning Board may require that said facilities be screened through use of vegetation, fencing or a combination thereof from adjoining residential properties.

- (5) Shooting preserve. Any shooting preserve operated in association with a membership club shall conform to the standards set forth in Section 100-56.LL of this Zoning Law without the necessity of having to obtain a separate special use permit. The Planning Board may waive any of the requirements associated with a shooting preserve based on a finding that said standards are not requisite to health, safety and welfare.
- (6) Lodging. Guest sleeping rooms shall be permitted in conjunction with the club. No more than twenty guest sleeping rooms shall be permitted per building. One guest sleeping room shall be permitted for each 10,000 square feet of lot area. In addition, individual stand-alone guest units are permitted, not to exceed 1,250 square feet of guest unit gross floor area for every five acres of lot area. The maximum number of guest sleeping rooms shall not exceed 20, and the maximum cumulative gross floor area of all guest units shall not exceed 25,000 square feet, including residences in existence on the date of adoption of this Section, which if used as guest units shall be counted toward the cumulative total. However, no individual guest unit shall exceed 5,000 square feet of gross floor area.
- (7) The following accessory uses shall be permitted in association with a club:
  - (a) Dwelling unit(s) for the exclusive use of the club manager(s).
  - (b) Dining rooms, including beverage service, for use by the members and guests.
  - (c) Storage and other maintenance areas.
  - (d) Clubhouse facility which may be used for any of the uses set forth in this section.
  - (e) Indoor recreation and entertainment facilities.
  - (f) Extraction of soil, gravel and similar materials used exclusively for the maintenance, operation and repair of the club.
  - (g) Indoor recreation facilities such as indoor riding ring, lockers, snack bar, tack room, and similar uses.
  - (h) Administrative offices.
  - (i) Sale of equipment associated with the recreational activities conducted on the premises.
  - (j) Outdoor or tented events with food and beverage service, whether in conjunction with recreational activities or otherwise, such as holiday parties, on an occasional basis.
  - (k) Other uses that the Planning Board finds are consistent with the operation of the membership club and clearly incidental to said use.
- (8) Signs. One identification sign is permitted at each full access entrance to the club. The maximum height shall be six feet and the maximum sign area shall be 16 square feet per sign face.
- (9) On-site housing for animals. A club is permitted to house animals used in the operation of its social and recreational activities. There shall be no stabling or housing of animals or storage or use of manure or other dust-producing substances within 200 feet of any lot line, excepting the pasturing of animals during the normal growing season.

Appropriate structures such as concrete platforms or containers or similar device shall be required to store manure on site to prevent its seepage into the ground.

(10) Parking. Adequate on-site parking shall be provided for the members and its guests.

(11) Guests. For purposes of this Section 100-56BB, "guests" shall include invitees.

**CC. Office use in the R District.**

(1) The purpose of this special use is to allow opportunities for the adaptive reuse of existing buildings in the R district. One or more principal buildings are allowed on a lot.

(2) An office use shall be conducted in a principal or accessory building in existence on the effective date of this Zoning Law.

(3) The maximum size of the office shall not exceed the building footprint and maximum gross floor area requirements set forth in Section 100-17.C.

**DD. Public utilities.**

(1) Public utility buildings, including but not limited to water supply reservoirs, wells, sewage treatment plants, water treatment facilities and transmission lines and utility poles for electric power (69Kv or higher voltage), telephone buildings and natural gas pipelines are subject to these special use requirements.

(2) These uses shall be subject to a finding, in addition to the general standards set forth in §100-55, that a public necessity exists for such use, and that use of the particular site for which application is made is necessary from the public standpoint.

(3) The Planning Board may require that such use be enclosed by protective fencing with a gate, which shall be closed and locked except when necessary to obtain access thereto.

(4) The installation shall be so designed, enclosed, painted and screened with fencing and/or landscaping that it will be harmonious with the area in which it is located. The entire property shall be suitably landscaped and maintained.

(5) Adequate off-street parking areas shall exist or be provided for maintenance, service or other vehicles.

(6) In appropriate cases, satisfactory evidence shall be submitted establishing that there will be no interference with radio and television reception on adjoining properties.

**EE. Recreation, commercial indoor and commercial outdoor.**

(1) Minimum bulk requirements. No portion of any outdoor commercial recreation facility area shall be located closer than 50 feet to any property line. Parking shall not be permitted in the front yard. One or more recreational uses are allowed on a lot.

(2) Location. Where outdoor recreation facilities are allowed, said facilities shall be located on-site and in a manner that minimizes potential impacts on nearby residential properties. Consideration shall be given to locating outdoor facilities away from

residential property lines. The approving board may require that said facilities be screened through use of vegetation, fencing or a combination thereof from adjoining residential properties.

- (3) Hours of operation. The hours of operation may be limited to minimize impacts associated with noise, lighting, traffic and similar potential effects which may be disruptive to adjoining uses.
- (4) Site lighting. A lighting plan shall be provided and designed so as not to affect adjoining residential properties. The Planning Board may approve a light fixture that exceeds the height set forth in §100-38 (Lighting) for an outdoor recreation use provided it finds that the lighting is integral to operation of the activity and there will be no detrimental impact on adjoining uses.
- (5) Noise. Adequate evidence shall be furnished by the applicant demonstrating that noise levels will not likely disturb nearby residential properties. Such evidence must take into account the nature of the activity, the general demeanor of the participants, the frequency of the activity and the time and day of the proposed activity. Public address systems are prohibited.
- (6) Waste. The site plan shall demonstrate that wastes, including runoff containing fertilizer, pesticides, as well as solid waste will be contained, treated and disposed of in accordance with applicable local, county, state and federal regulations. The Planning Board shall approve the location of any port-o-san or other temporary waste disposal system that may be allowed in conjunction with an outdoor recreation facility.
- (7) Safety considerations. Where outdoor recreation facilities are allowed, the approving Board shall consider the need for safety nets and similar design elements to secure stray balls or other equipment from reaching adjoining properties.
- (8) Special considerations. Because the range of recreational activities allowed as components of commercial recreation establishments are broad and the characteristics and intensity of use may vary, the approving Board may impose such additional requirements as may be necessary to provide adequate protection to adjoining and nearby properties, considering the proposed activity, the proposed location and the nature of the adjoining community.

**FF. Research and laboratory use.**

- (1) The minimum lot area shall be 5 acre and the lot shall maintain no less than 100 feet of frontage on a county or state road. No more than one principal building shall be permitted on a lot. The principal building shall be set back no less than 100 feet from any lot line.
- (2) No sales to the general public shall be permitted.
- (3) All uses, processes and storage shall be within a fully enclosed structure, and no tanks or other apparatus incidental to the processing shall be visible outside of a manufacturing building. The façade of buildings and structures shall be compatible with the rural character and adjacent development and the site shall be fully landscaped.

- (4) One business identification shall be permitted, and the sign face shall not exceed sixteen (16) square feet in area. No more than two sign faces are permitted. The Planning Board may approve a directly illuminated sign.
- (5) The applicant shall submit a list of the goods and materials to be stored and manufactured on the property. The Planning Board shall consider the nature of the materials, including potential flammable/hazardous nature of same, and may impose restrictions on the storage of said materials, or prohibit same.
- (6) Parking shall not be permitted in the front yard.
- (7) The location and hours of operation of all on-site lighting shall be approved by the Planning Board. Public address systems are prohibited.
- (8) The Planning Board may require a wall, fence, landscaping or other buffer be installed where a property adjoins a residential use. Said buffer shall be no less than ten (10) feet in width.

**GG. Resort.**

- (1) The minimum lot area shall be 10 acres. The minimum lot frontage shall be 300 feet to be located on a county or state road. The required front yard shall be 50 feet, which shall be amply landscaped. One or more principal buildings are allowed on a lot.
- (2) Retail, office or personal business uses shall be clearly incidental to the resort, and shall cumulatively total less than five (5) percent of the gross floor area devoted to overnight accommodations.
- (3) One guest sleeping room shall be allowed for every 4000 square feet of lot area.
- (4) Principal buildings shall be set back 100 feet from any property line, and accessory structures shall be set back 50 feet from any lot line. Outdoor recreation uses, including ball courts and swimming pools, shall be set back 100 feet from any lot line.
- (5) Parking. The minimum parking requirements are as follows:
  - (a) For each guest sleeping room - 1.2 parking spaces.
  - (b) For each 50 square feet of dining area – 1 parking space.
  - (c) For each two seats in meeting rooms or group assembly areas - 1 parking space.
  - (d) For each 300 square feet of retail, office or personal service use – 1 parking space
- (6) No loading, truck parking, trash containers or outdoor storage area shall be located within 100 feet of adjacent residentially zoned property. All such areas shall provide visual and noise screening to minimize impacts on adjacent residential property.
- (7) Signs.
  - (a) One identification sign is permitted at each entrance to the resort. The maximum height shall be six feet and the maximum sign area shall be 16 square feet per sign face.

- (b) On entrances from all other streets, the maximum height shall be 4 feet and the maximum area shall be 16 square feet, aggregate.

#### **HH. Restaurant.**

- (1) The purpose of this special use is to allow opportunities for the adaptive reuse of existing buildings in the R district. The restaurant use shall be conducted in a principal building in existence on the effective date of this Zoning Law. The size of an existing building may be expanded to accommodate the restaurant use but shall not exceed the maximum building footprint or gross floor area applicable to nonresidential uses in the R district as per 100-17.C of this Zoning Law.
- (2) Parking is not permitted in the front yard.
- (3) An applicant shall clearly demonstrate that the use will be compatible with the adjoining uses, particularly with regard to traffic circulation, parking, and appearance. No more than two curb cuts per lot frontage shall be allowed.
- (4) The Planning Board shall approve the location of loading areas. Sufficient screening shall be provided to buffer the site and limit noise impacts on adjacent residences.
- (5) Where a residential or historic building is proposed to be converted to a restaurant, exterior alterations shall be made in a manner that preserves the essential residential or historic character of the building.

#### **II. Riding stable or academy.**

- (1) One stable stall shall be provided for each horse housed on the site unless it is demonstrated that a stable stall is not appropriate for the horse. There shall be no stabling of animals or storage or use of manure or other dust-producing substances within a distance of 200 feet of any lot line.
- (2) Public events, horse shows, rodeos and competitive events held in connection with a riding academy shall require special use permit approval prior to the event being held. The Planning Board shall review said activities to ensure the property has sufficient areas for parking and utility capacity (water and sewer) to accommodate the event.
- (3) The use of outdoor public-address systems may be permitted, provided that the sound shall not be audible beyond the property line.
- (4) The site plan shall illustrate a plan of manure storage and processing. Appropriate structures such as concrete platforms or containers or similar device shall be required to store manure on site to prevent its seepage into the ground.
- (5) The riding academy is permitted a principal building which may have an indoor riding ring, lockers, snack bar, tack room, and similar uses clearly incidental to the function of the property as a riding academy. Said building shall not exceed the maximum building footprint established for the district in which the use is situated. Accessory structures including but not limited to outdoor riding rings, trails, cross-country jumps, stables, equipment storage, are allowed. No accessory building shall be situated closer than 25 feet to an adjoining lot line.

**JJ. Self storage facility.**

- (1) The minimum required front yard shall be 35 feet. One or more principal buildings are allowed on a lot.
- (2) No security fencing, security gate, or other obstruction to vehicle access shall be permitted in the required front yard or in any required transitional yard.
- (3) No door opening for any rental unit shall be constructed facing any residential use. Door openings for rental units shall face the interior of the site unless impracticable.
- (4) One (1) on-site dwelling is permitted for use of a resident manager in addition to the self storage facility. The minimum lot area shall be five (5) acres where an on-site dwelling is allowed. The dwelling shall be located no closer than 75 feet to the storage facility and shall meet all other bulk requirements for the self-storage use.
- (5) The roof shape and materials shall be pitched and compatible with the design and materials of neighboring buildings and shall meet all design and site requirements for the district.
- (6) Views of the storage facility from any public road shall be fully screened.
- (7) All parking shall be located in the rear yard. The Planning Board may permit parking in the side yard if the parking is adequately screened from the public road and property line.
- (8) Storage units shall not be used for the servicing or repair of motor vehicles, boats, trailers, lawn mowers and other similar equipment; or for office, retail, manufacturing or other similar uses.
- (9) No activities such as miscellaneous or garage sales shall be conducted on the premises.
- (10) All storage shall be conducted in an enclosed building.
- (11) An on-site office for a manager is allowed accessory to the storage use.
- (12) Electrically charged, barbed wire or razor wire fencing is not permitted. Fencing shall not be permitted in a required front yard.
- (13) Spacing between storage structures shall be a minimum of 20 feet and emergency access shall be provided to at least three (3) sides of all structures.
- (14) A lighting plan shall be submitted for review and approval by the Planning Board.

**KK. Service business with or without customers on site.**

- (1) Parking is not permitted in the front yard.
- (2) Applicants must clearly demonstrate that the use will be compatible with the adjoining uses, particularly with regard to traffic circulation, parking, and appearance. No more than two curb cuts per lot frontage shall be allowed.

- (3) The Planning Board shall approve the location of loading areas. Sufficient screening shall be provided to buffer the site and limit noise impacts on adjacent residences.
- (4) Where a residential building is proposed to be converted to a service business, exterior alterations shall be made in a manner that preserves the essential residential character of the building.

**LL. Shooting preserve.**

- (1) The minimum lot area shall be 200 acres.
- (2) DEC license required. No special use permit for a shooting preserve shall be issued until the applicant has obtained a shooting preserve license issued by the Department of Environmental Conservation pursuant to §11-1903 of the Environmental Conservation Law. Licensed shooting preserves that exist at the time of enactment of this local law shall be considered a non-conforming use and shall be allowed to continue operation without issuance of a Town of Pine Plains special use permit pursuant to this section.
- (3) Setbacks. All shooting shall take place a minimum distance of 1,000 feet from any lot line. An exception to this requirement may be allowed with written permission from the adjoining landowner(s).
- (4) Buildings. A shooting preserve is permitted a principal building for the conduct of the business and assembly of members.
- (5) The Planning Board may impose such conditions and restrictions on the operation of the shooting preserve which, in its discretion, are necessary to mitigate nuisances such as noise and protect the public safety.
- (6) As a condition of special use permit approval, the applicant shall agree to the conduct of annual inspections by the ZEO.
- (7) The Planning Board may impose restrictions and conditions including, but shall not necessarily be limited to, the following:
  - (a) Limitations on hours of operation and discharge of firearms.
  - (b) Increased setback requirements.
  - (c) Requirement of vegetative screening, buffering and/or berm.
  - (d) Limitations on areas within the preserve property in which firearms may be discharged.
  - (e) Prescribed siting, configuration or orientation of activities involving discharge of firearms and/or storage of ammunition.
- (8) Application materials. In addition to any special use or site plan review application requirements, applications for a shooting preserve shall include a narrative of all proposed shooting preserve activities, a statement as to the nature and extent of the proposed shooting preserve operation, and a copy of the shooting preserve license issued by the Department of Environmental Conservation.

**MM. Warehouse.**

- (1) No more than one principal building shall be permitted on a lot. The warehouse building shall be set back no less than 100 feet from any lot line.
- (2) Outdoor storage and display shall not be permitted in connection with a warehouse.
- (3) No sales to the general public shall be permitted.
- (4) One business identification shall be permitted, and the sign face shall not exceed 16 square feet in area. No more than two sign faces are permitted. The Planning Board may approve a directly illuminated sign.
- (5) The applicant shall submit a list of the goods and materials to be warehoused on the property. The Planning Board shall consider the nature of the materials, including potential flammable/hazardous nature of same, and may impose restrictions on the storage of said materials, or prohibit same.
- (6) Parking shall not be permitted in the front yard.
- (7) The location and hours of operation of all on-site lighting shall be approved by the Planning Board. Public address systems are prohibited.
- (8) The Planning Board may require a wall, fence, landscaping or other buffer be installed where a property adjoins a residential use. Said buffer shall be no less than ten (10) feet in width.

**NN. Zoo.**

- (1) The minimum lot area shall be 25 acres. The zoo shall maintain frontage of no less than 300 feet on a county or state road. Uses to be allowed in conjunction with a zoo include but are not limited to: indoor and outdoor displays, parking, offices, a snack bar or refreshment stand for use by the general public, incidental retail sale of merchandise, public bathrooms, a single-family detached dwelling used as a caretakers residence. The Planning Board shall find that uses are clearly incidental to the operation of the zoo.
- (2) The Planning Board shall consider the number, size, breed and temperament of animals to be housed and impose reasonable conditions to protect adjoining uses, aesthetic impact and safety of the animals sheltered in order to ensure the health, safety and general welfare of the community. The Planning Board may prohibit the housing of animals where it determines that said animals would pose a safety risk to the general public.
- (3) Animal waste shall be disposed of in a manner acceptable to the Department of Health. Crematoria shall be reviewed as part of the special use permit.
- (4) All principal and accessory buildings and structures associated with the zoo, whether indoors or outdoors, shall be set back a minimum of 200 feet from any property line.
- (5) Depending on the nature of the animals to be housed at the facility, the Planning Board may require that the site be secured with appropriate perimeter fencing.



(6) The Planning Board shall evaluate potential noise impacts and shall minimize negative impacts on adjacent uses which may include the use of sound proofing.

(7) The Planning Board may require screening of outdoor displays.

**§100-57 through §100-59. Reserved.**

ARTICLE XII  
**Site Plan Review**

**§100-60. Authority.**

The Planning Board is hereby empowered to review and approve, approve with modifications or disapprove site plans.

**§100-61. Applicability.**

**A. Actions subject to site plan review.** As regulated by §100-10, Schedule of Use Regulations, the following activities shall require site plan approval:

- (1) New construction of a principal building.
- (2) Enlargement or alteration of a principal building.
- (3) Use of Land. All use of land not involving buildings or structures.
- (4) Change of Use. Any change of use or intensity of use of premises other than the above which will require a modification of existing means of access or egress, parking or loading facilities, drainage, utilities, landscaping or screening or outdoor lighting, or of the exterior façade of a nonresidential or mixed use building in a hamlet district.

**B. Exempt uses.** Site plan approval shall not be required for the following:

- (1) A single-family detached dwelling or uses or structures accessory thereto.
- (2) A new two-family dwelling or uses or structures accessory thereto. Conversion of a single-family detached dwelling to a two-family dwelling shall require site plan approval.
- (3) Ordinary repair or maintenance of existing uses or structures.
- (4) Agricultural structures as defined under the N.Y. State Building and Fire Code Regulations and agricultural operations, including a farm stand as defined by this Zoning Law. Riding stables and riding academies are also exempted from these regulations.
- (5) Landscaping or grading incidental to an existing use or a use exempted herein.
- (6) Interior alterations to an existing nonresidential building.
- (7) Any change in use of an existing building that received prior site plan approval, or was in existence on the effective date of the Zoning Law, which does not require the issuance of a new certificate of occupancy pursuant to the New York State Uniform Building and Fire Code. The ZEO shall require that the use obtain site plan approval where it is determined that there would be the following: an increase in parking or utility demand, or other change in on-site utilization which changes the overall intensity of the operations on the subject property.

- C. Building permit and certificate of occupancy or use.** No building permit or certificate of occupancy or use shall be issued except in conformity with an approved site plan, including any conditions thereto. Continuing compliance with the approved site plan shall be requisite to a certificate of occupancy.
- D. Application fees and ZEO review.** The applicant shall pay a site plan application fee in an amount to be established by the Town Board. Application for a site plan shall be submitted on forms prescribed by the Planning Board. The application shall be submitted to the Zoning Enforcement Officer for consultation and review. Once the Zoning Enforcement Officer determines that the application contains the relevant data required for submission of a site plan application, the application shall be forwarded to the Planning Board for its review in accordance with the provisions of this Article.

#### **§100-62. Procedures.**

##### **A. Sketch plan submission and review.**

- (1) Submission. The applicant shall submit a sketch plan to the Planning Board to convey conceptually the use and site improvements being proposed. The applicant shall submit ten (10) copies of the following:
- (a) A narrative describing the proposed use.
  - (b) An area map showing the subject property and all properties, streets, rights-of-way, easements and other pertinent features within 200 feet of the boundaries of the subject property.
  - (c) A topographic map of the site with contours shown at intervals that adequately convey topographic conditions of the site.
  - (d) A sketch plan illustrating habitats identified in the Hudsonia Ltd Significant Habitats in the Town of Pine Plains, and natural features including but not limited to approximate locations of surface waters, wetlands, and tree stands.
  - (e) The locations and dimensions of existing and proposed principal and accessory uses and structures, including parking areas and signs and areas to remain undisturbed.
- (2) Sketch plan review. The Planning Board will review the sketch plan and advise the applicant preliminarily on the merits of the proposal based on a review of the Zoning Law, consistency of the sketch plan with the Town Comprehensive Plan, and potential site plan issues and concerns. The Planning Board will identify the data to be submitted in conjunction with the site plan application.

##### **B. Site plan application.** The applicant shall submit ten (10) copies of a complete site plan application.

##### **C. Site plan submission requirements.** The following information shall be submitted for the subject property and properties within 200 feet of the property boundaries unless waived by the Planning Board. The site plan shall be drawn at an engineering scale of 1 inch = 50 feet or larger. The plan shall be prepared by a New York State licensed design professional except that the Planning Board may require that the site plan be prepared by a licensed

professional engineer where detailed road improvements, drainage systems, grading plans, public or private utility systems, sewer and water facilities, and such other supporting data are prepared in conjunction with a site plan.

#### Application and Map Requirements

- (1) A vicinity map at a scale of 1 inch = 2,000 feet or larger showing the site in relation to existing community facilities, roads, and zoning district boundaries.
- (2) An area map showing the subject property and all properties, streets, rights-of-way, easements and other pertinent features within 200 feet of the boundaries of the subject property. Property owner names and addresses shall be provided for said adjacent lands as shown on the latest tax records. The area map shall show the location of existing zoning boundaries.
- (3) Title of site plan, name and address of applicant, property owner, and site plan preparer. The licensed professional shall affix his/her seal to the site plan.
- (4) North arrow, scale and date.
- (5) Property boundaries.
- (6) Existing uses and structures, including approximate location of existing wells, septic systems and utilities.
- (7) Existing and proposed roads and driveways including names, right-of-way and pavement width, and easements, sight distance measurements.
- (8) Existing and proposed contours at 2-foot intervals, vegetative cover, surface water resources and delineated NYSDEC and ACOE wetlands, steep slopes (15% and greater), and rock outcrops.
- (9) Size, design, type of construction, and exterior dimensions of all proposed principal and accessory buildings and structures including but not limited to retaining walls and fences.
- (10) Gross floor area of structures, proposed division of building into units of separate occupancy, hours of operation.
- (11) Required parking space calculation, parking and loading areas and driveways including dimensions and grades, and material specifications.
- (12) Sidewalks and pedestrian access, including material specifications and dimensions.
- (13) Outdoor storage and solid waste disposal facilities and screening.
- (14) Description of any hazardous materials to be used or stored on site and storage locations.
- (15) Utilities, including sewage disposal, communication, and energy infrastructure, such as gas, oil or propane storage or lines, electric lines, solar panels, water lines, septic systems, cable, drains, culverts.

- (16) Water supply including demand calculation, design and construction materials, distribution system.
- (17) Fire lanes and other emergency zones, including the location of fire hydrants, where applicable.
- (18) Signs, including size, height, design, lighting, and material specifications.
- (19) Landscaping and planting schedule, including location and development of all proposed screening areas. Where directed by the Planning Board, mature trees in excess of 12-inch dbh shall be surveyed and the specimen of tree identified.
- (20) Lighting, including location and design specifications.

Additional requirements

- (21) Identification of all required federal, state, county, regional and local agency permits and status of applications.
- (22) If the applicant varies from the property owner, a Consent Affidavit shall be submitted indicating the property owner's consent to filing of the site plan application.
- (23) Construction schedule.
- (24) Other site plan specifications as may be required by the Planning Board.
- (25) State Environmental Quality Review Act (SEQRA) Environmental Assessment Form.
- (26) Building elevations and/or sections, illustrating front, rear, and side profiles. The elevations and/or sections shall be scaled and shall illustrate the height of all buildings and other permanent structures included in the application.
- (27) Stormwater management report as per §100-42 of this Zoning Law.

**D. Other site plan submission requirements.** The Planning Board may require submission of the following:

- (1) Traffic Study. A traffic study consisting of the following:
  - (a) Internal traffic flow analyses.
  - (b) Existing average daily traffic and peak hour levels.
  - (c) Analyses of average daily traffic and peak hour levels resulting from the project.
  - (d) An analysis of existing and proposed intersection levels of service (LOS).
  - (e) Traffic distribution.
  - (f) Methods to mitigate any traffic impact.
  - (g) Pedestrian circulation needs analysis.
  - (h) The methodology and sources used to derive existing data and estimations.
- (2) Visual Impact Analysis (VIA). The VIA shall be prepared by a licensed architect, landscape architect or other qualified professional and shall:

- (a) Visually illustrate and evaluate the relationship of proposed new structures or alterations to nearby pre-existing structures in terms of visual character and intensity of use (e.g. scale, materials, color, door and window size and locations, setbacks, roof and cornice lines, and other major design elements);
  - (b) An analysis of the visual impacts on neighboring properties from the proposed development and alterations, and of the location and configuration of proposed structures, parking areas, open space, and grade changes;
  - (c) Renderings, photosimulations, and other information to convey alterations to the existing visual environment.
- E. Waiver of requirements.** The Planning Board, when reasonable, may waive any requirements for the approval, approval with modifications or disapproval of site plans submitted for approval. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety, or general welfare or inappropriate to a particular site plan. The Planning Board may, in granting waivers, incorporate such reasonable conditions as will in its judgment substantially secure the objectives of the requirements so waived. No waiver or modification may be deemed approved or granted by implication. All waivers and modifications must be expressly set forth in the findings of the Planning Board.
- F. Area variance.** Where a proposed site plan contains one or more features which do not comply with the Zoning Law, application may be made to the ZBA without the necessity of a decision or determination of the Zoning Enforcement Officer.
- G. Acceptance of site plan application.** Upon receipt of an application for site plan approval, the Planning Board shall review the application and accompanying maps for completeness. Upon determining that the application is complete, the Board shall accept the application at its next regular meeting. For purposes of meeting statutory requirements of Section 274-a of New York State Town Law, the date on which the Planning Board deems the application complete shall be considered to be the date an application for site plan approval is made. An application shall not be deemed complete unless a fee for site plan application has been paid in accordance with the Schedule of Fees of the Town of Pine Plains.
- H. Referrals.** Depending on the complexity of the application, the Planning Board may require additional copies of the site plan application to forward to the Conservation Advisory Council, the Town Highway Superintendent, Town Engineer or other department, official or agency of the Town or by outside experts, emergency and community service providers, the County Highway Department, the New York State Department of Transportation, the New York Department of Environmental Conservation, the U.S. Army Corps of Engineers and/or any other agency prior to determining that the application is complete.
- I. SEQRA.** The Planning Board shall comply with the provisions of the New York State Environmental Quality Review Act under article 8 of the Environmental Conservation Law and its implementing regulations. An application shall not be deemed complete until a Negative Declaration has been adopted, or until a draft environmental impact statement has been accepted by the lead agency as per §617.3(c) of the regulations implementing SEQRA.

- J. Public hearing.** The Planning Board may hold a public hearing on the site plan. Such hearing shall be held within sixty-two (62) days of the Planning Board's acceptance of a complete site plan application. The Planning Board shall mail notice of said hearing to the applicant at least ten (10) days before said hearing and shall give public notice of said hearing in a newspaper of general circulation in the Town at least five days prior to the date thereof. Notice of such hearing shall be given by the applicant to the owners of adjacent or surrounding properties within two hundred (200) feet of the subject property and proof of such notice shall be filed with the Board.
- K. Notice to Dutchess County planning department.** At least ten days before such hearing, the Planning Board shall mail notices thereof to the County Planning Department as required by section 239-m of the General Municipal Law of the State of New York, which notice shall be accompanied by a full statement of such proposed action as defined therein. In the event a public hearing is not required, such proposed action shall be referred before the final action is taken thereon.
- L. Site plan decision.** The Planning Board shall render a decision within 62 days of the close of a public hearing, or within 62 days after receipt of a complete site plan application if no public hearing is held. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant. A copy of the decision shall also be filed with the Zoning Enforcement Officer. The Planning Board may approve, approved with modifications or disapprove the site plan as follows:
- (1) Approve.** Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the town, the Planning Board shall endorse its approval on a copy of the site plan.
- (2) Approve with modifications.** The Planning Board may approve the site plan with modifications or conditions attached thereto. Upon a determination that the modifications and conditions have been met, and after payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board Chairman shall endorse the site plan by affixing his signature thereto.
- (3) Disapprove.** The Planning Board shall set forth its findings if disapproval as part of the record of decision.
- M. Expiration.** The approval of a site plan shall be effective for a period of eighteen (18) months from the date of the resolution of Planning Board approval. The Planning Board may extend the approval for a period of time not to exceed six (6) months, and the Planning Board may not grant more than two (2) extensions. Any request to extend approval of the site plan shall be made no less than thirty-one (31) days prior to the expiration of approval.
- N. Amendment to approved site plan.** An application for an amendment to a previously approved site plan shall be acted upon in the same manner as the application for approval of the original site plan.

#### **§100-63. Criteria for decisionmaking.**

The Planning Board shall consider the following criteria in its decisionmaking:

- A. Location, arrangement, size, design and general compatibility of buildings, lighting and signs with community character as defined in the Town Comprehensive Plan and design standards set forth in this Zoning Law.
- B. Consistency with the Town of Pine Plains Highway Specifications and adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, sight distance and traffic controls.
- C. Location, arrangement, appearance and adequacy of off-street parking and loading.
- D. Adequacy and arrangement of pedestrian access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- E. All entrance and exit driveways shall be located with due consideration for traffic flow so as to afford maximum safety to traffic on public streets and shall be reviewed and approved by the appropriate state, county, or local authority prior to the granting of site plan approval.
- F. Wherever practical, cross access between properties shall be provided to reduce the number of curb cuts and limit the amount of traffic on any arterial or collector road. The Planning Board may require a site layout that facilitates future cross access in anticipation of future adjoining development.
- G. Wherever practical, joint access to arterials or collector roads shall be provided to limit conflicting turning movements, reduce traffic congestion, reduce potential points of conflict between through and turning traffic, and facilitate the control and separation of vehicles and pedestrian movement. The Planning Board may require a site layout that facilitates future joint access in anticipation of future adjoining development.
- H. Adequacy of stormwater management. The site plan shall adhere to the requirements of §100-42 of the Zoning Law.
- I. Adequacy of water supply and sewage disposal facilities.
- J. Adequacy, type and arrangement of existing or proposed trees, shrubs and other landscaping constituting a visual screen or noise buffer.
- K. Landscape plantings of shrubs, ground cover, and shade trees, as well as perennials and annuals and other materials, such as rocks, water, sculpture, art, walls, fences, paving materials and street furniture, shall be encouraged to create pedestrian scale spaces and to maintain landscape continuity. All landscaping within the site shall be designed to facilitate conservation of the environment and preservation of community aesthetic character through the use of native plant material and the retention of existing natural vegetation.
- L. The preservation of mature plant species, hedgerows, wetlands, wildlife corridors, and woodlots shall be encouraged and included as a design element.
- M. Landscaping shall be used to create boundaries and transitions between areas of differing development intensities as well as to separate areas of incompatible land use.



- N. Solid waste facilities and containers, outdoor service areas, and loading docks shall be screened from public view and from adjacent residential properties.
- O. Adequacy of utilities. Newly installed utility service systems, and service revisions shall be installed underground. When feasible, existing aboveground utility service systems shall be placed underground.
- P. Adequacy of site accessibility, fire lanes and other emergency zones and the provision of fire hydrants. All buildings shall be accessible to emergency vehicles.
- Q. Location of and adequacy of measures to protect environmentally sensitive areas.
- R. When projects involve the renovation/reuse of an existing building, the Planning Board may require that the historic character and architectural elements be maintained.
- S. Reasonable provision shall be made for extension of utilities to adjoining properties, including installation of water gates and manholes if necessary, and the granting and recording of easements as required.
- T. Compatibility with agricultural operations.
- U. Compatibility with the Town of Pine Plains Comprehensive Plan.
- V. Consistency with the Greenway Compact.

**§100-64. Phasing.**

The site plan application and associated maps shall illustrate proposed phases of development. Site plan approval shall be based on the total planned project in order to assess all potential impacts associated with the project. The Planning Board shall consider applications incomplete where there is reason to believe the application applies to only a segment of the total planned development. In such situations, the Planning Board shall return such application to the applicant together with a letter stating the basis for its determination.

**§100-65. Reservation of parkland on site plans containing residential units.**

- A. Before the Planning Board may authorize a site plan containing residential units, such site plan shall also show, when required, a park or parks suitably located for playground or other recreational purposes.
- B. Land for park, playground or other recreational purposes may not be required until the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based on projected population growth to which the particular site plan will contribute.
- C. In the event the Planning Board makes a finding pursuant to paragraph B of this subsection that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the

Planning Board may require a sum of money in lieu thereof to be established by the Town Board. In making such determination of suitability, the Planning Board shall assess the size and suitability of lands shown on the site plan which could be possible locations for park or recreational facilities, as well as practical factors including whether there is need for additional facilities in the immediate neighborhood. Any monies required by the Planning Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited in a trust fund to be used by the Town exclusively for park, playground or other recreational purposes, including the acquisition of property.

**§100-66. Guarantee of site improvements.**

**A. General.** Subsequent to the granting of site plan approval, no certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been provided by the applicant for infrastructure and improvements not yet completed.

**B. Performance guarantee options.** As an alternative to the installation of required infrastructure and improvements, prior to approval by the Planning Board, a performance bond or other security sufficient to cover the full cost of the same, as estimated by the Planning Board, shall be furnished to the Town by the applicant. Such security shall be provided to the Town pursuant to the provisions of subdivision nine of section 277 of the New York State Town Law. The Planning Board may designate the Town Engineer or other representative to estimate the cost of the performance bond or security for review and consideration by the Planning Board.

**C. Conditions.**

(1) The performance guarantee shall be to the town and shall provide that the applicant, his/her heirs, successors, assigns, or his/her agent will comply with all applicable terms, conditions, provisions, and requirements of this law and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the approved site plan.

(2) Any such bond shall require the approval of the Town Board in consultation with the Town Attorney as to form, sufficiency, manner of execution and surety.

**D. Extension of time.** The construction or installation of any improvements or facilities, other than roads, for which a guarantee has been made by the applicant in the form of a bond or certified check deposit, shall be completed within one (1) year from the date of approval of the site plan. Road improvements shall be completed within two (2) years from the date of approval of the site plan. The applicant may request that the Planning Board grant an extension of time to complete such improvements, provided the applicant can show reasonable cause for inability to perform said improvements within the required time. The extension shall not exceed six (6) months, at the end of which time the town may use as much of the bond or certified check deposit to construct the improvements as necessary. The Planning Board may also grant the applicant an extension of time whenever construction or improvements is not performed in accordance with applicable standards and specifications.

- E. Schedule of improvements.** When a certified check or performance bond is issued pursuant to the preceding sections, the town and applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation. However ten percent (10%) of the check deposit or performance bond shall not be repaid to the applicant until one year following the completion and inspection by the town of all construction and installation covered by the check deposit or performance bond.
- F. Inspections.** Prior to the Planning Board Chairman signing the site plan, the applicant shall pay to the Town Clerk an inspection fee escrow established by the Pine Plains Town Board. Inspections during installation of improvements shall be made by the Town Engineer and/or Zoning Enforcement Officer to insure conformity with the approved plans and specifications as contained in the contract and this law. The applicant shall notify the Town Engineer and Zoning Enforcement Officer when each phase of improvements is ready for inspection. Upon acceptable inspection and final completion of installation and improvement, the Planning Board shall issue a letter to the applicant or his/her representative that provides sufficient evidence for the release by the town of the portion of the performance bond or certified check deposit as designated in the contract to cover the cost of such completed work.
- G. Phased development.** The Planning Board may further request, subject to Town Board approval, that the applicant deposit a separate performance bond or certified check for each phase of development proposed. In this event, five percent (5%) of the check deposit or performance bond shall be withheld from the applicant until sixty (60) days following the completion, inspection, and acceptance by the town of all construction and installation covered by such deposit. The Planning Board shall specify in its approval of a phased Site Plan development those portions of the public and private infrastructure and improvements of each phase which must be completed prior to the undertaking of development of the next phase. No new phase of development shall be commenced until the specified public and private infrastructure and improvements of such earlier phase has been approved by the Town Engineer and Zoning Enforcement Officer. Where phases overlap and/or are non-sequential, the Planning Board shall assure that bonding, where appropriate, is in place for each open phase, and that the required sequencing of infrastructure improvements takes place.
- H. Termination of approval.** In cases of site plan approvals for which no guarantee of completion of site plan improvements has been required by the Planning Board, the approval shall expire if construction is not completed within eighteen (18) months of approval.

#### **§100-67. Enforcement.**

Failure by any applicant to comply with all conditions of a site plan approval shall result, after notice and hearing, in revocation of such site plan approval and any building permit and certificate of occupancy issued as a result of such site plan approval. If the Zoning Enforcement Officer determines that the site is not being maintained in accordance with the site plan, he shall order the same to be corrected within ten (10) days of the date of his order. Should non-compliance continue, the Zoning Enforcement Officer may recommend revocation of site plan approval by the Planning Board. Upon receipt thereof the Planning Board shall notify the owner of said premises by written notice. Such notice shall specify the time, date and place of said

hearing and the ground upon which revocation has been recommended. After hearing all competent evidence, it shall render a decision.

**§100- 68, 69. Reserved.**

ARTICLE XIII  
**Non-Conforming Buildings, Structures and Uses**

**§100-70. Applicability.**

The following provisions shall apply to all buildings, structures and uses existing on the effective date of this Zoning Law which do not conform to the requirements set forth herein. The following provisions shall also apply to all buildings and uses that may become non-conforming or non-complying by reason of any subsequent amendment to this Zoning Law or Zoning Map which is a part thereof, and to all complying buildings or land occupied by non-conforming uses.

**A. Non-conforming uses.** Any lawful: (i) non-conforming building or structure; (ii) non-conforming use of any non-conforming building or structure; (iii) non-conforming use of conforming building or structure; or (iv) non-conforming use of land in existence on the effective date of this Zoning Law, may be continued indefinitely if maintained in accordance with all applicable codes, ordinances, regulations and other requirements, but:

- (1) Shall not be enlarged or extended, altered, reconstructed or restored, except as provided in this Article, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this Zoning Law, except as provided in subsection B herein. However, any proposed change to a non-conforming use, building or structure which under this Law requires special use permit and/or site plan approval shall require special use permit and/or site plan approval in accordance with subsection J herein.
- (2) Shall not be moved to another location where such use would be non-conforming.
- (3) Shall not be changed to another non-conforming use without prior approval by the Zoning Board of Appeals and then only to a use which is determined by the Board of Appeals to have the same or a more restricted nature. If the Board of Appeals approves such changes, they shall conform, to the extent practical, to current design standards and shall be subject to site plan approval by the Planning Board.
- (4) Shall not be re-established if such non-conforming use has been discontinued for any reason, whether through vacancy or cessation of use, for a period of one (1) calendar year or longer, or has been changed to, or replaced by, a conforming use for any period of time. Intent to resume a non-conforming use shall not confer the right to do so.

**B. Extension of a non-conforming use.**

- (1) A nonconforming use may be expanded within an existing structure or on an existing site, provided that the extent of such expansion, whether occurring as a single expansion, or as the aggregate of two or more smaller expansions, does not exceed twenty-five percent (25%) of the gross floor area of the structure or of the site dedicated to the non-conforming use at the time of enactment of this Zoning Law. Any such expansion shall, however, require site plan review and approval by the Planning Board in accordance with Article XII of this Zoning Law. Any proposed extension that singly or cumulatively exceeds twenty-five percent (25%) of the gross floor area of the structure, but is less than 35 percent, may be allowed upon application to and approval by the Zoning Board of Appeals of an area variance for said extension and site plan approval by the Planning Board. Any proposed extension that singly or cumulatively exceeds 35

percent of the gross floor area shall require a use variance from the Zoning Board of Appeals.

- (2) An existing building or structure, housing a nonconforming use may be extended and thereafter occupied by the nonconforming use, provided that the extent of such addition, whether occurring as a single addition, or as the aggregate of two or more smaller additions, does not exceed twenty-five percent (25%) of the gross floor area of the existing building or structure and the addition is in strict compliance with the requirements set forth for the zoning district in Table B: Schedule of Bulk Regulations, of this Zoning Law. Any such extension shall require site plan review and approval by the Planning Board in accordance with Article XII of this Zoning Law. Any proposed extension that singly or cumulatively exceeds twenty-five percent (25%) of the gross floor area of the structure, but is less than 35 percent, may be allowed upon application to and approval by the Zoning Board of Appeals of an area variance for said extension and site plan approval by the Planning Board. Any proposed extension that singly or cumulatively exceeds 35 percent of the gross floor area shall require a use variance from the Zoning Board of Appeals.
- (3) During the course of site plan review as per §100-70.B(1) and 100-70 B(2), the Planning Board shall have the power to require such changes, modifications and/or alterations in the non-conforming use, building and/or structure which it determines are necessary to mitigate environmental impacts of the use, building and/or structure identified during the SEQRA review of the application, or to mitigate any adverse impacts upon neighboring properties and the community.
- (4) Nothing herein shall prohibit the extension of a permitted use to any portion of a nonconforming building or structure which existed prior to the effective date of this Zoning Law.
- (5) No nonconforming use shall be extended to displace a presently conforming use.

**C. Repair or alteration of non-conforming buildings or structures.** Nothing contained in this Article shall be deemed to prevent normal repair and maintenance, or structural alteration or enlargement, of a non-conforming building or structure, provided such action does not increase the degree of, or create any new, nonconformity with regard to setbacks, height, lot coverage, or other regulations set forth within the Zoning Law pertaining to buildings or structures that would require an area variance from the Zoning Board of Appeals. In making its determination, the Board of Appeals shall apply the criteria for an area variance set forth in Article XV of this Zoning Law. Any non-complying building or structure declared unsafe by the Zoning Enforcement Officer or Code Enforcement Officer may be restored to a proper condition within the time period provided by same.

**D. Restoration and damage.** Nothing contained in this Article shall be deemed to prevent restoration of a lawful non-conforming use, building or structure, after damage for any reason or by any cause, provided that the bulk, height and area shall not be in excess of that which existed prior to damage; that all applicable New York State Uniform Fire Prevention and Building Code provisions be fully complied with; and that the restoration be commenced within six (6) calendar months of the damage and be fully completed within two (2) calendar years of such occurrence.

**E. Termination of certain uses and/or structures.** Each of the non-conforming uses and/or structures specified below is deemed to be sufficiently objectionable and out of character in the zoning district to which such use is located as to depreciate the value of other property and uses permitted in the district and otherwise inhibit the proper, safe and orderly development of such district. Therefore, each such non-conforming use must be, and shall be terminated on or before the expiration of the specified period of time after the effective date of this Zoning Law. Said period of time is specified herein as one that is reasonable to permit the authorization of the remaining value, if any, of such use.

(1) Any non-conforming sign or billboard which does not contain the features as provided in Article X of this Zoning Law shall be deemed to be a non-conforming sign. However, at the time the owner or lessee of property having a non-conforming sign submits an application to the Planning Board for site plan and/or special use permit approval, the non-conforming signs shall be subject to compliance with the provisions of Article X of the Zoning Law.

(2) Any accessory sign existing on or after the effective date of this Zoning Law which advertises a business no longer conducted; product no longer available; or service no longer provided on the premises, shall be removed from the premises by the owner of the sign and/or premises upon which the sign is located within ten (10) days after receipt of written notice from the Zoning Enforcement Officer to remove such obsolete sign in accordance with 100-54 of this Zoning Law.

(3) Any sign including supporting structure, unrelated to the activity on the site, except for off-premises directional signs, shall be removed not more than one (1) year from the effective date of this Zoning Law.

(4) Any non-conforming automobile wrecking yard or other junk yard shall be discontinued not later than two (2) years from the effective date of this Zoning Law.

**F. Completion of ongoing construction.** Any construction, use or occupancy of any land, building or structure which has been lawfully commenced prior to the effective date of this Zoning Law pursuant to a valid special use permit, site plan approval, subdivision approval, variance, operating permit, certificate of use (Occupancy) and/or building permit may be completed and used in accordance with the conditions of said approval and plans on file with the applicable Board, Code Enforcement Officer or Zoning Enforcement Officer, provided such construction and/or use is diligently pursued, and the building, structure or commencement of use of the land is completed within two calendar years of the adoption of this Zoning Law or within the time period specified in the applicable approval and/or building permit, whichever is earlier.

**G. Increase in volume of use.** Nothing herein shall prevent an increase in the volume of the non-conforming use provided that the increase in volume is not a result of: (i) a change in the kind of use; (ii) the addition of structures, facilities or buildings within which the use is operated; or (iii) the alteration or enlargement of such structures, facilities or buildings.

**H. Compliance with general performance standards of supplementary regulations.** Notwithstanding provisions contained in this Article, all non-conforming uses shall comply with the performance standards set forth in §100-35 of this Zoning Law, regardless as to

whether the conduct of the use or use of the building or structure was in compliance with those performance standards on the date of the enactment of this Zoning Law.

**I. Application for special use permit or site plan review.**

- (1) Any use, structure or building lawfully established prior to the enactment of the Zoning Law which is not prohibited by the provisions of this Zoning Law, but which requires the issuance of a special use permit or site plan approval, shall be deemed to be a non-conforming use pursuant to this Article. In the event any such non-conforming use, building or structure is changed in a manner which requires the approval of the Zoning Board of Appeals pursuant to this Article, or any non-conforming use, building or structure is altered, enlarged or expanded, or any site improvements are added to the site on which the non-conforming use, building or structure is operated or maintained, special use permit and/or site plan approval shall be obtained for any such expansions, alteration, enlargement and/or addition.
- (2) In the event a proposed extension or extensions of a non-conforming use pursuant to §100-70(B)(1) or (2) do not exceed the twenty-five percent (25%) threshold, the Planning Board may, in its discretion, waive the requirement of a Special Use application and review the plans pursuant to the provisions for site plan review. Any extension that singly or cumulatively exceeds the twenty-five percent (25%) threshold shall require Planning Board special use permit and site plan review and approval. During the course of such special use permit and/or site plan approval process, the Planning Board shall have the power to require such changes, modifications and/or alterations in the non-conforming use, building and/or structure which it determines are necessary to mitigate environmental impacts of the use, building and/or structure identified during the SEQRA review of the application, or to mitigate any adverse impacts upon neighboring properties and the community. Upon approval of a special use permit, the use as permitted shall be deemed to be a conforming use as per §100-55.K. of this Zoning Law.
- (3) This subsection is not intended to require all non-conforming uses, buildings or structures which are non-conforming because of their lack of a special use permit and/or site plan approval under this Zoning Law to obtain special use permit and/or site plan approval unless there is a change, alteration, enlargement, or addition to said non-conforming use, building or structure.



ARTICLE XIV  
**Administration and Enforcement**

**§100-71. Purpose and intent.**

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

**§100-72. Code Enforcement Officer and Inspectors.**

**A. Creation and duties.** The Office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code and the Energy Code. The Code Enforcement Officer shall have the following powers and duties:

- (1) To receive, review, and approve or disapprove applications for building permits, certificates of use, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;
- (2) Upon approval of such applications, to issue building permits, certificates of occupancy, temporary certificates and operating permits, and to include in building permits, certificates of occupancy, temporary certificates and operating permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
- (3) To conduct construction inspections; inspections to be made prior to the issuance of certificates of occupancy; temporary certificates and operating permits; fire safety and property maintenance inspections; inspections incidental to the investigation of complaints and all other inspections required or permitted under any provision of this Zoning Law;
- (4) To issue stop work orders and/or compliance orders;
- (5) To review and investigate complaints;
- (6) To issue orders pursuant to §100-87 ("Violations");
- (7) To maintain records;
- (8) To collect fees as set by the Town Board;
- (9) To pursue administrative enforcement actions and proceedings and/or criminal proceedings to enforce provisions of the Uniform Code and/or Energy Code;
- (10) In consultation with the Town Attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code or the Energy Code, or to abate or correct conditions not in compliance with the Uniform Code or the Energy Code; and

(11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this Zoning Law.

- B. Appointment and qualifications.** The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel. The Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- C. Acting Code Enforcement Officer.** In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this Zoning Law.
- D. Inspectors.** One or more Inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this Zoning Law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- E. Compensation.** The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board.

### **§100-73. Zoning Enforcement Officer**

- A. Creation and duties.** The Office of Zoning Enforcement Officer is hereby created. The Zoning Enforcement Officer (ZEO) shall administer and enforce all provisions of this Zoning Law. The Zoning Enforcement Officer shall have the following powers and duties:
- (1) To receive and review all applications for a special use permit, site plan review and subdivision review pursuant to the provisions of this Zoning Law. In the event that the Zoning Enforcement Officer determines that the application meets all of the requirements of the Zoning Law, the application shall be forwarded by the ZEO to the Planning Board for further review in accordance with the provisions of the Zoning Law and/or Subdivision Regulations. In the event the ZEO finds that the application does not comply in one or more respects with the provisions of the Zoning Law, the application shall be denied by the ZEO, with leave to appeal the ZEO's determination to the Zoning Board of Appeals in accordance with the provisions of Article XV of this Zoning Law.
  - (2) Upon approval of any application for a special use permit, site plan approval or for any other change in use requiring the issuance of a building permit, the ZEO shall issue a certificate of use verifying that the use complies with the provisions of the Zoning Law and the requirements and conditions imposed by the Planning Board.

- (3) To conduct inspections prior to the issuance of a certificate of use and inspections incidental to the investigation of complaints and all other inspections required or permitted under any provision of this Zoning Law.
- (4) To issue stop work orders, notices of violations and/or compliance orders.
- (5) To review and investigate complaints.
- (6) To issue orders pursuant to §100-87 ("Violations").
- (7) To maintain records.
- (8) To collect fees set by the Town Board.
- (9) To pursue administrative and criminal enforcement actions and proceedings and/or criminal proceedings to enforce the provisions of this Zoning Law.
- (10) Consultation with the Town Attorney to pursue such legal actions and proceedings as may be necessary to enforce the provisions of the Zoning law.
- (11) To exercise all other powers and fulfill all other duties conferred upon the Zoning Enforcement Officer by this Zoning Law.

**B. Appointment and qualifications.** The Zoning Enforcement Officer shall be appointed by the Town Board. The Zoning Enforcement Officer shall possess background and experience relating to the enforcement, interpretation, application and enforcement of Zoning Law which shall, within the time period prescribed by law, obtain such basic training, in service training, advanced in service training and other training as the State of New York and/or the Town shall require for Zoning Enforcement personnel.

**C. Acting Zoning Enforcement Officer.** In the event the ZEO is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Zoning Enforcement Officer. The Acting Zoning Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the ZEO by this Zoning Law.

**D. Compensation.** Compensation of the Zoning Enforcement Officer shall be fixed from time to time by the Town Board.

#### **§100-74. Building permits.**

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

**B. Exemptions.** A building permit shall not be required for work in any of the following categories:

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

**C. Exemption not deemed authorization to perform non-compliant work.** The exemption from the requirement to obtain a building permit for work in any category set forth in paragraph B of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

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

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

**E. Construction documents.** Construction documents will not be accepted as part of an application for a building permit unless they satisfy the requirements set forth in paragraph D of this section. Construction documents which are accepted as part of the application for a building permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by Code Enforcement personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued.

**F. Issuance of building permits.** An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building

Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

- G. Building permits to be displayed.** Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- H. Work to be in accordance with construction documents.** All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.
- I. Time limits.** A building permit shall become invalid unless the authorized work is commenced within six months following the date of issuance. A building permit shall expire eighteen (18) months after the date of issuance. No less than fifteen (15) days prior to expiration, a permit holder may apply for an extension(s) and no extension shall exceed six (6) months duration at any one time. The Building Inspector may extend the time limit where the applicant demonstrates good cause as to why construction could not be completed within the applicable timeframe. A building permit which has become invalid or which has expired pursuant to this Article may be renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.
- J. Revocation or suspension of building permits.** If the Code Enforcement Officer determines that a building permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a building permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the building permit or suspend the building permit until such time as the Permit Holder demonstrates that:
  - (1) All work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code; and
  - (2) All work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.
- K. Fee.** The fee specified in or determined in accordance with the provisions set forth in the Fee Schedule adopted by the Town Board must be paid at the time of submission of an application for a building permit, for an amended building permit, or for renewal of a building permit.

#### **§100-75. Construction inspections.**

- A. Work to remain accessible and exposed.** Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The permit holder shall notify the Code Enforcement Officer when any element of work described in paragraph B of this section is ready for inspection.

**B. Elements of work to be inspected.** The following elements of the construction process shall be inspected, where applicable:

- (1) Work site prior to the issuance of a building permit;
- (2) Footing and foundation;
- (3) Preparation for concrete slab;
- (4) Framing;
- (5) Building systems, including underground and rough-in;
- (6) Fire resistant construction;
- (7) Fire resistant penetrations;
- (8) Solid fuel burning heating appliances, chimneys, flues or gas vents;
- (9) Energy Code compliance; and
- (10) A final inspection after all work authorized by the building permit has been completed.

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

**D. Fee.** The fee specified in or determined in accordance with the provisions set forth in the Town Fee Schedule must be paid prior to or at the time of each inspection performed pursuant to this Article.

#### **§100-76. Stop work orders.**

**A. Authority to issue.** The Code Enforcement Officer and Zoning Enforcement Officer are authorized to issue stop work orders pursuant to this section.

- (1) Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code, or Energy Code, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
- (2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer or Zoning Enforcement Officer, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
- (3) Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.

- (4) Any work that is determined by the Zoning Enforcement Officer to be conducted in violation of the Zoning Law, including, but not limited to, work conducted on land, a building or structure for which a special use permit and/or site plan approval is required but has not been obtained.

**B. Content of stop work order.** A stop work order shall:

- (1) Be in writing;
- (2) Be dated and signed by issuing Officer;
- (3) State the reason or reasons for issuance; and
- (4) If applicable, state the conditions which must be satisfied before work will be permitted to resume.

**C. Service of stop work order.** The Code Enforcement Officer or ZEO shall cause the stop work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by registered or certified mail. The Code Enforcement Officer or ZEO shall be permitted, but not required, to cause the stop work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop work order, personally or by registered or certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop work order.

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

**E. Remedy not exclusive.** The issuance of a stop work order shall not be the exclusive remedy available to address any event described in §100-87 (Violations), and the authority to issue a stop work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under §100-87 of this Zoning Law or under any other applicable Zoning Law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop work order.

**§100-77. Certificate of occupancy.**

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

**B. Issuance of certificate of occupancy.** The Code Enforcement Officer shall issue a certificate of occupancy if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or sub-classification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building,



structure or work prior to the issuance of a certificate of occupancy. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the certificate of occupancy, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of occupancy:

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

**C. Contents of certificate of occupancy.** A certificate of occupancy shall contain the following information:

- (1) The building permit number, if any;
- (2) The date of issuance of the building permit, if any;
- (3) The name, address and tax map number of the property;
- (4) If the certificate of occupancy is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy is issued;
- (5) The use and occupancy classification of the structure;
- (6) The type of construction of the structure;
- (7) The assembly occupant load of the structure, if any;
- (8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- (9) Any special conditions imposed in connection with the issuance of the permit; and
- (10) The signature of the Code Enforcement Officer issuing the certificate of occupancy and the date of issuance.

**D. Temporary certificate.** The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Code Enforcement Officer issue a temporary certificate unless the Code Enforcement Officer determines:

- (1) That the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely;
- (2) That any fire- and smoke-detecting or fire protection equipment which has been installed is operational;
- (3) That all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a temporary certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed six (6) months, which shall be determined by the Code Enforcement Officer and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

- E. Revocation or suspension of certificate.** If the Code Enforcement Officer determines that a certificate of occupancy or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- F. Fee.** The fee specified in or determined in accordance with the provisions set forth in the Town Fee Schedule must be paid at the time of submission of an application for a certificate of occupancy or for temporary certificate.

**§100-78. Certificate of use.**

- A. Certificate of use required.** A certificate of use shall be required for any change of use or institution of new use for which a building permit is required, and for any use, building or structure for which a special use permit and/or site plan approval has been issued by the Planning Board. A certificate of use shall also be required for any structure or building, or portion thereof, for which a certificate of occupancy is required under this Chapter.
- B. Issuance of certificate of use.** The Zoning Enforcement Officer shall issue a certificate of use if he or she has determined:
- (1) All work has been completed in accordance with the building permit and the Code Enforcement Officer has issued a certificate of occupancy;
  - (2) The use of the land, building and structure and/or the building or structure complies with the provisions of the Zoning Law;
  - (3) The applicant has complied with all conditions imposed by the Planning Board;
  - (4) The applicant has completed all of the infrastructure and site improvements required by the Planning Board approval; and
  - (5) The applicant has posted the requisite security for the completion of those improvements, as required by the Planning Board and the Town Board.

The Zoning Enforcement Officer shall inspect the land, building or structure prior to the issuance of the certificate of use. Prior to the issuance of the Certificate of Use, the applicant shall provide a written statement to the Zoning Enforcement Officer of the applicant's intended use of the land, building and/or structure.

- C. Content of certificate of use.** A certificate of use shall contain the following information:
- (1) The building permit number, if any.
  - (2) The date of the issuance of the building permit and/or certificate of occupancy.
  - (3) The name, address and tax map number of the property.

- (4) If the certificate of use is not applicable to an entire building, structure or land, a description of that portion of the building, structure or land for which the certificate of use is issued.
- (5) Approved use and occupancy classification of the land, building and/or structure.
- (6) Any special conditions imposed by the ZEO with the issuance of the Certificate, which may include those set forth in a Planning Board or Zoning Board of Appeals decision.
- (7) The signature of the ZEO issuing the certificate of use and the date of issuance.

**D. Temporary certificate of use.** The Zoning Enforcement Officer is authorized to issue a temporary certificate of use allowing the temporary use of the land, building or structure, or portion thereof, prior to completion of all work and satisfaction of conditions imposed by the Planning Board. However, in no event shall the ZEO issue a temporary certificate of use unless the ZEO determines the land, building or structure, or portion thereof, covered by the temporary certificate may be used or occupied safely, and shall not cause harm to neighboring property owners.

**E. Revocation or suspension of certificate of use.** If the ZEO determines that a certificate of use or temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the ZEO within such period of time shall be specified by the ZEO, the ZEO shall revoke or suspend such certificate.

**F. Fee.** The fee specified or determined in accordance with the Town Fee Schedule must be paid at the time of the submission of an application for a certificate of use or temporary certificate.

#### **§100-79. Filing of administration decision at time of appeal.**

- A. Each building permit, certificate of occupancy, notice of violation, compliance order, operating permit, stop work order, temporary certificate, order, requirement, decision, interpretation or determination of the Code Enforcement Officer or ZEO (hereinafter referred to collectively as "Order") shall be filed in the office of such official within five (5) business days from the date it is rendered and shall be a public record.
- B. An appeal to the Zoning Board of Appeals shall be taken within sixty (60) days after the filing of any such order by filing with the official a notice of appeal specifying the grounds thereon and the relief sought. The official from whom the appeal is taken shall, forthwith, transmit to the Zoning Board of Appeals all of the papers constituting the record upon which the action appealed from was taken.
- C. An appeal shall stay all proceedings in furtherance of the action appealed from unless the official from whom the appeal is taken certifies to the ZBA, after the Notice of Appeal shall have been filed with the official, that by reason of facts stated in the Certificate, a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the ZBA or by a Court of record on application, on notice to the official from whom the appeal is taken, and on due cause shown.

**§100-80. Notification regarding fire or explosion.**

The chief of any fire department providing fire fighting services within Pine Plains shall promptly notify the Code Enforcement Officer and ZEO of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

**§100-81. Unsafe buildings and structures.**

Unsafe structures and equipment shall be identified and addressed in accordance with the following procedures:

- A. Investigation and report.** When the ZEO, in his/her own opinion, or upon receipt of information that a building: (1) is or may become dangerous or unsafe to the general public; (2) is open at the doorways and windows, making it accessible to and an object of attraction to minors under eighteen years of age, as well as to vagrants and other trespassers; (3) is or may become a place of rodent infestation; (4) presents any other danger to the health, safety, morals and general welfare of the public; or (5) is unfit for the purposes for which it may lawfully be used, he or she shall cause or make an inspection thereof and report in writing to the Town Board his/her findings and recommendations in regard to its repair or demolition and removal.
- B. Town Board.** The Town Board shall thereafter consider such report and by resolution determine if in its opinion the report so warrants that such building is unsafe and/or dangerous and order its repair if the same can be safely repaired or its demolition and removal, and further order that a notice be served upon the persons and in the manner provided herein.
- C. Notice, contents:** The notice shall contain the following:
- (1) A description of the premises;
  - (2) A statement of the particulars in which the building is unsafe or dangerous;
  - (3) An order outlining the manner in which the building is to be made safe and secure, or demolished and removed;
  - (4) A statement that the securing or removal of such building shall commence within 30 days of the service of the notice and shall be completed within 60 days thereafter, unless, for good cause shown, such time shall be extended;
  - (5) A date, time and place for a hearing before the Town Board in relation to such dangerous or unsafe building, which hearing shall be scheduled not less than five (5) business days from the date of service of the notice; and
  - (6) A statement that in the event of neglect or refusal to comply with the order to secure or demolish and remove the building, the Town Board is authorized to provide for its demolition and removal, to assess all expenses thereof against the land on which it is located, and to institute a special proceeding to collect the costs of demolition, including legal expenses.
- D. Service of notice.** The said notice shall be served (1) by personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested or contingent interest in such unsafe building as shown by the records of the Town Receiver of Taxes or Tax Collector or of the County Clerk; or if no such person can reasonably be found, by mailing such owner by registered mail a copy of such notice directed to his/her last known address as shown by the above records; and (2) by personal service of a copy of

such notice upon any adult person residing or occupying said premises if such person can be reasonably found; and (3) by securely affixing a copy of such notice upon the unsafe building. A copy of the notice served as provided herein shall be filed in the Office of the County Clerk of the County of Dutchess.

- E. Refusal to comply.** In the event of the refusal or neglect of the person so notified to comply with the said order of the Town Board and after the hearing, the Town Board shall provide for the demolition and removal of such building or structure either by Town employees or by contract. Except in emergency as provided in §100-81.G hereof, any contract for demolition and removal of a building in excess of \$10,000 shall be awarded through competitive bidding.
- F. Assessment of expenses.** All expenses incurred by the Town in connection with the proceedings to repair and secure, or demolish and remove the unsafe building, including the cost of actually removing such building, and all reasonable and necessary legal expenses incidental thereof, shall, at the option of the Town Board either: (i) be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in the Town Law for the levy and collection of a special ad valorem levy, or (ii) be collected by commencement of a special proceeding against the owner of said unsafe or dangerous building or structure pursuant to General Municipal Law §78-b.
- G. Emergency cases.** Where it reasonably appears that there is present a clear and imminent danger to life, safety or health of any person or property, unless an unsafe building is immediately repaired and secured or demolished, the Town Board may by resolution authorize the Building Inspector to immediately cause the repair or demolition of such unsafe building. The expenses of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in paragraph F of this section.

#### **§100-82. Operating permits.**

- A. Operating permit required.** An operating permit shall be required for conducting the activities or using the categories of buildings listed below. Any person who proposes to undertake any activity or to operate any type of building listed in this paragraph (1) shall be required to obtain an operating permit prior to commencing such activity or operation.
  - (1) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR section 1225.1;
  - (2) Hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling, however, this subsection is not intended to apply to "sound agricultural practices" as regulated by the New York State Department of Agriculture and Markets;
  - (3) Use of pyrotechnic devices in assembly occupancies;
  - (4) Buildings containing one or more areas of public assembly as regulated by Chapter 3 of the NYS Building Code with an occupant load of 100 persons or more; and
  - (5) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board.

- B. Applications for operating permit.** An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- C. Inspections.** The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an operating permit.
- D. Multiple activities.** In any circumstance in which more than one activity listed in paragraph A of this section is to be conducted at a location, the Code Enforcement Officer may require a separate operating permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single operating permit to apply to all such activities.
- E. Duration of operating permits.** Operating permits shall be issued for such period of time, not to exceed one year in the case of any operating permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each operating permit shall be specified in the operating permit. An operating permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.
- F. Revocation or suspension of operating permit.** If the Code Enforcement Officer determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.
- G. Fee.** The fee specified in or determined in accordance with the provisions set forth in the Town Fee Schedule must be paid at the time submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

#### **§100-83. Fire safety and property maintenance inspections.**

- A. Inspections required.** Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer at the following intervals:
- (1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.
  - (2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall, be performed at least once every twelve (12) months.
  - (3) Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every 36 months.

**B. Inspections permitted.** In addition to the inspections required by §100-83.A. above, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer at any time upon:

- (1) The request of the owner of the property to be in that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
- (2) Receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained,
- (3) OFPC Inspections. Nothing in this section or in any other provision of this Zoning Law shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator under Executive Law section 156-e and Education Law section 807-b.

**C. Fee.** The fee specified in or determined in accordance with the provisions set forth in the Town Fee Schedule must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

#### **§100-84. Complaints.**

A. The Code Enforcement Officer and ZEO shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this Zoning Law, or any other Law, ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the officer may deem to be appropriate:

- (1) Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- (2) If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in §100-87 (Violations) of this Zoning Law;
- (3) If appropriate, issuing a stop work order and/or compliance order;
- (4) If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

#### **§100-85. Recordkeeping.**

A. The Code Enforcement Officer and ZEO shall keep permanent official records of all transactions and activities conducted by the officer and Personnel, including records of:

- (1) All applications received, reviewed and approved or denied;
- (2) All plans, specifications and construction documents approved;

- (3) All building permits, certificates of occupancy temporary certificates, stop work orders, and operating permits and certificates of use issued;
  - (4) All inspections and tests performed;
  - (5) All statements and reports issued;
  - (6) All complaints received;
  - (7) All investigations conducted;
  - (8) All other features and activities specified in or contemplated by this Article of the Zoning Law; and
  - (9) All fees charged and collected.
- B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

**§100-86. Program review and reporting.**

- A. The Code Enforcement Officer and ZEO shall each annually submit to the Town Board a written report and summary of all business conducted by the officer, including a report and summary of all transactions and activities described in Section §100-85 (Record Keeping) of this Zoning Law and a report and summary of all appeals or litigation pending or concluded.
- B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of the Town of Pine Plains, on a form prescribed by the Secretary of State, a report of the activities of this Town relative to administration and enforcement of the Uniform Code.
- C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials Pine Plains is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Town in connection with administration and enforcement of the Uniform Code.

**§100-87. Violations.**

- A. **Compliance orders.** The Code Enforcement Officer and ZEO are authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this Zoning Law. Upon finding that any such condition or activity exists, the officer shall issue a compliance order. The compliance order shall:
  - (1) be in writing;
  - (2) be dated and signed by the Officer;
  - (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this Zoning Law;
  - (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this Zoning Law which is/are violated by the specified condition or activity;



- (5) specify the period of time which the Officer deems to be reasonably necessary for achieving compliance;
- (6) direct that compliance be achieved within the specified period of time; and
- (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.

The Officer shall cause the compliance order, or a copy thereof to be served on the owner of the affected property personally or by registered or certified mail. The Officer shall be permitted, but not required, to cause the compliance order, or a copy thereof; to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered or certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.

- B. Appearance tickets.** The Code Enforcement Officer and each Inspector and ZEO are authorized to issue appearance tickets for any violation of the Uniform Code or Zoning Law.
- C. Civil penalties.** In addition to those penalties proscribed by State law, any person who violates any provision of the Uniform Code, the Energy Code or this Zoning Law, or any term or condition of any building permit, certificate of occupancy, certificate of use, temporary certificate, stop work order, operating permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this Zoning Law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted by Pine Plains.
- D. Criminal penalties and enforcement.** Any violation of the Uniform Code, Energy Code or Zoning Law is hereby declared to be an offense punishable by a fine not exceeding \$350.00 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; upon conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350.00, nor more than \$700.00, or imprisonment for a period not to exceed six months, or both; and upon conviction of a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700.00, nor more than \$1,000.00, or imprisonment for a period not to exceed six months, or both. For the purpose of conferring jurisdiction upon the Courts and judicial officers generally, violations of the Uniform Code, Energy Code or Zoning Law shall be deemed misdemeanors and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- E. Injunctive relief.** An action or proceeding may be instituted by the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this Zoning Law, or any term or condition of any building permit, certificate of occupancy, certificate of use, temporary certificate, stop work order, operating permit, compliance order, or other notice or order issued by the Code Enforcement Officer or ZEO pursuant to any provision of this Zoning Law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this Zoning Law, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this Zoning Law, an action or proceeding may be commenced in the name of the Town, in the Supreme Court or in any other court having the requisite

jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this Article shall be commenced without the appropriate authorization from the Town Board.

- F. Remedies not exclusive.** No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in §100-76 (Stop Work Orders), in any other section of this Zoning Law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in 100-76 (Stop Work Orders) of this Zoning Law, in any other section of this Zoning Law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 381 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 381 of the Executive Law.

**§100-88. Intermunicipal agreements.**

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

**§100-89. Reserved.**

ARTICLE XV  
**Zoning Board of Appeals**

**§100-90. Creation, appointment and organization.**

A Zoning Board of Appeals shall be maintained and operate in accordance with Sections 267 and 267-a, Article 16 of the New York State Town Law. Said board shall consist of five (5) members appointed by the Town Board for staggered terms of five (5) years. The Town Board shall annually designate the Chairman of the Board of Appeals, who shall serve at the pleasure of the Town Board. The Board of Appeals shall annually designate its Secretary. Said Board may prescribe reasonable rules, in addition to those provided herein, for the conduct of its affairs, subject to the approval of the Town Board. In the absence of a Chairman, the Board of Appeals may designate a member to serve as acting chairman. No person who is a member of the Town Board or Planning Board shall be eligible for membership on such Board of Appeals. In accordance with New York State Town Law, all Board of Appeals members shall complete a minimum of four hours of training per year, as a condition to reappointment to said Board, in a manner prescribed by the Town Board and shall also complete such other training and continuing education courses as may be prescribed by State laws, rules and regulations. The provisions set forth in Section 267 of the Town Law with regard to vacancies in office, removal of members, and alternate members are incorporated herein and shall apply to the Board of Appeals.

**§100-91. Powers and duties.**

The Zoning Board of Appeals shall have all the powers and duties prescribed by Section 267, Article 16 of the Town Law and by this Zoning Law, which are more particularly specified as follows:

- A. Orders, requirements, decisions, interpretations and determinations.** The Zoning Board of Appeals may reverse or affirm, wholly or partially, or may modify the order, requirement, decision, interpretation or decision appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made by the administrative official, i.e. the Zoning Enforcement Officer or Code Enforcement Officer, charged with the administration and enforcement of this Zoning Law, and to that end shall have all the power of the administrative official from whose order, requirement or decision the appeal is taken.
- B. Use variances.** The Zoning Board of Appeals, upon appeal from the decision or determination of an administrative official, shall have the power to grant use variances, authorizing a use of land which otherwise would not be allowed or would be prohibited by the terms of this Zoning Law.

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 Law 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 Law for the particular district where the property is located:

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

- (2) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- (3) That the requested use variance, if granted, will not alter the essential character of the district or neighborhood; and
- (4) That the alleged hardship has not been self-created.

The Zoning Board of Appeals, in the granting of a use variance, shall grant the minimum variance that is deemed necessary and adequate to address the unnecessary hardship proved 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.

**C. Area variances.** The Zoning Board of Appeals, upon appeal from the decision or determination of the Code Enforcement Officer or Zoning Enforcement Officer shall have the power to grant area variances.

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

- (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
- (2) Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance.
- (3) Whether the requested area variance is substantial.
- (4) Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
- (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

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.

**D. Non-conforming uses.** To review any request for change of a non-conforming use, as required by Article XIII of this Zoning Law, and to determine whether the intended use is a similar or more restrictive use.

## **§100-92. Procedure.**

In its quasi-judicial role, the Zoning Board of Appeals shall act in strict accordance with the procedure specified by Section 267-a of the Town Law and this Zoning Law.

- A. Meetings.** Meetings shall be held at the call of the Chairman or at such other times as the Zoning Board of Appeals may determine. A quorum shall consist of a simple majority, i.e. three (3) of the members, but in order to reverse a decision of the Zoning Enforcement Officer or authorize a variance, an affirmative vote of at least three (3) members shall be required. An affirmative vote of a majority plus one, i.e. at least four (4) members, shall also be required if the action taken by the Zoning Board of Appeals is contrary to an advisory recommendation received from the Dutchess County Department of Planning and Development under the provisions of Section 239 of the General Municipal Law. The Board shall keep accurate minutes of its proceedings documenting fully all findings and showing the vote of each member upon each question and shall keep records of its examination and other official actions. All meetings of the Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law.
- B. Application and fee.** All appeals and applications made to the Zoning Board of Appeals shall be in writing, on forms prescribed by the Board, within sixty (60) days of the filing of the decision, determination or order of the official appealed from, as set forth in Article XIV of this Zoning Law, and shall be accompanied by the applicable fee in accordance with the fee schedule annually reviewed and established by the Town Board. Every appeal or application shall refer to the specific provision of the Zoning Law or Uniform Code that is involved and shall precisely set forth either the interpretation that is claimed or the details of the variance or other relief that is applied for and the ground on which it is claimed that such variance or other relief should be granted. Each application shall also be accompanied by a short or full Environmental Assessment Form as required by the Zoning Board of Appeals pursuant to SEQRA, Article 8 ECL and Title 6 Part 617 NYCRR.
- C. Stays.** An appeal shall stay all proceedings, in accordance with the provisions of Article XIV of this Zoning Law.
- D. Public notice and hearing.** The Board of Appeals shall fix a reasonable time and place for a public hearing on any such appeal or application. The appellant shall be given notice of the hearing date and of the fact that at such hearing he or she shall appear in person or be represented by attorney or other agent. Any other interested party may appear at such public hearing in person or be represented by attorney or other agent, or submit comments in writing for receipt prior to, or at the time of, the public hearing. The Board of Appeals shall additionally provide notice as follows:
- (1) By publishing at least five (5) calendar days prior to the date thereof a legal notice in the official newspaper or paper of general circulation in the Town.
  - (2) In any application or appeal for a variance, by requiring that the Secretary of the Zoning Board of Appeals provide notice at least five (5) calendar days prior to the date thereof of the substance of every appeal for a variance together with a notice of the hearing thereon by certified mail to the owners of all property abutting, or directly opposite, that of the applicant and to all other owners within two hundred-fifty (250) feet or such additional distances as the Board of Appeals may deem advisable, of the application. Compliance with this notification procedure shall be certified to by the Secretary and the Town shall charge the applicant either a flat rate or a statement amount per notice for satisfying this requirement.

- (3) The cost of any such notification shall be borne by the appealing party and paid to the Zoning Board of Appeals prior to the hearing of such appeal.
- (4) The names and addresses of owners notified shall be taken as such appeal on the last completed tax roll of the Town.
- (5) Provided that there has been substantial compliance with this provision, failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Zoning Board of Appeals in either granting or denying a variance from a specific provision of this Zoning Law.
- (6) If the land involved in the appeal lies within five hundred (500) feet of the boundary of any other municipality, the Secretary of the Zoning Board of Appeals shall also submit at least five (5) calendar days prior to the public hearing to the municipal clerk of such other municipality or municipalities a copy of the notice of the substance of every appeal, together with a copy of the official notice of such public hearing.

**E. Required referrals.** A full statement of any appeal that meets the specific referral requirements of Sections 239(l) and 239(m) of the General Municipal Law shall also be referred prior to the public hearing to the Regional State Park Commission having jurisdiction over any state park or parkway within five hundred (500) feet of the property affected by such appeal and to the Dutchess County Department of Planning and Development for its review. No action shall be taken by the Board of Appeals until an advisory recommendation has been received from said County Planning and Development Department or thirty (30) calendar days have elapsed since the Planning and Development Department received such full statement. In the event that the County Planning Board recommends disapproval of the requested variance or the attachments of conditions thereto within such time period or at a later date prior to final action by the Zoning Board of Appeals, the Board of Appeals shall not act contrary to such recommendation except by a vote of a majority plus one (1) of all the members after the adoption of a resolution fully setting forth the reasons for such contrary action. Within thirty (30) days after such final action, the Board of Appeals shall file a report of the final action it has taken with the County Planning Board.

**F. Decisions.** Every decision of the Zoning Board of Appeals on an appeal or request shall be made within sixty-two (62) calendar days of the close of the hearing by the Board, shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and contain a full record of the findings on which the decision is based including record of compliance with the applicable provisions of SEQRA, Article 8 ECL and Title 6 Part 617 NYCRR. Every decision shall be by resolution of the Board, with such decision being filed in the Office of the Town Clerk within five (5) business days thereof and a copy mailed to the applicant. The board shall also notify the Code Enforcement Officer and Zoning Enforcement Officer within five (5) business days of the decision, and shall additionally notify the Secretary of the Planning Board, and any affected municipality given notice of hearing of its decision in each case. If applicable, a report on the action taken shall also be filed within seven (7) calendar days thereof with the Dutchess County Department of Planning and Development.

**G. Attachment of conditions.** The Zoning Board of Appeals shall, in the granting of both use and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related and incidental to the proposed use of the property, or the

period of such time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this Zoning Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

- H. Expiration of approval.** Unless construction or use is diligently commenced within one (1) calendar year from the date of the granting of a variance, such variance shall become null and void without further hearing or action by the Zoning Board of Appeals.
- I. Strict construction.** All provisions of this Zoning Law pertaining to the Zoning Board of Appeals shall be strictly construed. The Zoning Board of Appeals shall act in full conformity with all provisions of law and of this Zoning Law and in strict compliance with all limitations contained therein, provided, however, that if the procedural requirements set forth in this Zoning Law have been substantially observed, no applicant or appellant shall be deemed deprived of the right of application or appeal.

**§100-93. Relief from decisions.**

Any person or persons jointly or severally aggrieved by any decision of the Zoning Board of Appeals may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Laws and Regulations of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78, except that the action must be initiated as therein provided within thirty (30) calendar days after the filing of the Board's decision in the Office of the Town Clerk.

**§100-94. Rehearing.**

A motion for the Zoning Board of Appeals to hold a hearing to review any order, decision or determination of the Board not previously reviewed may be made by any member of the Board. A unanimous vote of all members of the Board is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing, the Zoning Board of Appeals may reverse, modify or annul its original order, decision or determination upon the unanimous vote, provided that the Board finds that the rights vested in persons acting in good faith in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.

**§100-95. Other provisions of Town Law Section 267-a.**

All other provisions of Section 267-a of the Town Law with regard to Zoning Board of Appeals procedure, not set forth herein, are incorporated herein by reference and shall apply to the Zoning Board of Appeals.

ARTICLE XVI  
**Professional Fees**

**§100-96. Professional fees.**

- A. Authority. The Pine Plains Planning Board, Zoning Board of Appeals, Town Board, Code Enforcement Officer, or Zoning Enforcement Officer, in the review of any applications pending before said boards, may retain such engineering, planning, legal, technical and environmental consultants, or professionals ("consultant services") as such Boards or officials shall deem reasonably necessary to assist same in the review of such applications in the inspection and approval of any installations, infrastructure or improvements after final approval of such applications.
- B. The applicant shall reimburse the Town of Pine Plains for the cost of such consultant services.
- C. The Town Board shall review and audit all vouchers submitted by such consultants and shall approve payment only if such consulting fees and disbursements as are reasonable in amount and necessarily incurred by the Town in connection with the review, consideration and approval of the proposed project or in the inspection and approval of any installations, infrastructure or improvements after final approval of such applications. For purposes of the foregoing, a fee, or part thereof, shall be deemed a reasonable amount if it bears a reasonable relationship to the average charge by consultants to the Town for services performed in connection with the review and approval of similar projects in the Town, and if there are no similar projects in the Town, then for similar projects located in Dutchess and the surrounding area, to the extent that such similar projects may exist. The Town Board may take into consideration the size, type and nature of the project, together with such special features including, but not limited to, topography, soil conditions, water, drainage conditions and any special conditions or considerations as the Town Board may consider relevant.
- D. A fee or expense, or part thereof, is necessarily incurred if it is charged by the engineer, attorney, planner, or other professional consultant for a service which was rendered in order to assist in the protection or promotion of the health, safety or welfare of the Town to its residents; to assist in the protection of public or private property or the environment from potential damage which otherwise may be caused by the proposed land use or development; to ensure or assist in compliance with laws, regulations, standards or codes which govern land use and development; to ensure or assist in the orderly development and sound planning of a land use or development; to ensure the proper and timely construction of public improvements, parks, and other facilities which affect the public welfare; to protect the legal interests of the Town; to avoid claims against, and liability of, the Town; or to promote such other interest that the Town Board may specify as relevant.
- E. At such time as the application is approved or denied by the Planning Board, Zoning Board of Appeals, or Town Board, or in the event inspections are to be made by consultants after approval is granted and the work is performed, such final inspections are made and the work is determined to be satisfactory, the Town shall refund to the applicant the deposit required pursuant §100-97 (Escrow accounts) less any sums expended by the Town for such consultant services relating to said project after final audit of the consultant vouchers by the Town Board and payment of such consultant fees. A copy of the computation of said



sums so expended shall be provided to the applicant at the time that the Town shall calculate the refund, if any, due the applicant.

**§100-97. Escrow accounts.**

- A. As soon as possible after submission of any application, an escrow account shall be established, for which withdrawals shall be made to reimburse the Town for the costs of consultant services. The applicant shall then provide funds to the Town for deposit into such account in an amount to be determined by the reviewing board with the advice and recommendation of the Town's engineer, attorney or planner based on their evaluation of the nature and complexity of the application and their estimation of the project's total value, using the following schedule as a general guideline, with the decision of the reviewing board to be final and conclusive on the applicant:
- (1) For residential projects, the total project value shall be calculated based on the actual purchase price of the land or the fair market value of the land, whichever is higher, plus the cost of all required improvements. In the case of such projects, the initial escrow deposit shall be no more than two percent (2%) of the total project value.
  - (2) For nonresidential projects, including commercial and industrial projects, the total project value shall be calculated based on the actual purchase price of the land or the fair market value of the land, whichever is higher, plus the cost of all supplying utility service to the project, the cost of site preparation and the cost of labor and materials as determined with reference to a current cost data publication in common use. In the case of such projects, the initial escrow deposit shall be no more than two percent (2%) of the total project value.
  - (3) For projects involving the extraction of minerals, the total project value shall be calculated on the cost of site preparation for mining. Site preparation cost means the cost of clearing and grubbing and removal of overburden for the entire area to be maintained plus the cost of utility services and construction of access roads. Such costs are determined with reference to a current cost data publication in common use. The escrow deposit shall be no more than two percent (2%) of the total project value. For those costs to be incurred for phases occurring three or more years after issuance of a permit, the project value shall be determined using a present value calculation.
- B. At the time of submission of any application, the applicant shall, in addition to the application fee, submit an initial escrow account funding fee in accordance with the fee scheduled adopted by the Town Board by resolution and an estimate of the total project value prepared by an engineer, architect, surveyor or other qualified professional. The initial escrow account funding fee shall be in an amount sufficient to cover the consultant services costs necessary to review the application and plans upon submission, and to offer recommendations to the reviewing board as to the amount of the initial escrow deposit.
- C. After the amount of the initial escrow deposit is determined by the reviewing board, the applicant shall be notified of the amount of the initial escrow deposit and how that amount was calculated. In the event the applicant disagrees with the amount of the initial escrow deposit, the applicant shall have the right to file written objections with the reviewing board specifying the applicant's objection to the amount of the initial escrow deposit. The reviewing board shall, within a period of thirty (30) days after receipt of the objections, make a final determination as to the amount of the initial escrow deposit. The applicant shall then

be required to sign a written Escrow Agreement with the Town specifying, in relevant part, the amount of the initial escrow deposit and the protocol for payment of consultants fees, and the auditing of same and the requirement of additional funds to be deposited in the escrow account as specified by this chapter. The application shall not be deemed complete for purposes of commencement of review of the same by the reviewing board until such time as the Escrow Agreement is signed by the applicant and the initial escrow amount is deposited by the applicant with the Town.

- D. The applicant shall be provided with copies of vouchers submitted for payment by the consultants for such services as they are submitted to the Town for payment.
- E. All sums paid by the applicant shall be deposited in a separate account by the Town from which withdrawals as provided in this Zoning Law shall be made.
- F. When the balance in such escrow account is reduced to one-third (1/3) of its initial amount, the Town shall advise the applicant and the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such account is not replenished within ten (10) business days after the applicant is notified in writing of the requirement for such additional deposit, the reviewing board may suspend its review of the application.
- G. A building permit, certificate of occupancy, or other permit, approval or action being sought shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the Town by the applicant.
- H. All fees required pursuant to this Zoning Law shall be collected by the Town through its bookkeeper or Town Clerk.
- I. This Zoning Law shall be applicable to all applications pending at the time this chapter becomes effective unless a prior agreement concerning such fees between the applicant and the Town is executed.

**§100-98. SEQRA review.**

In the event that a Positive Declaration is made in accordance with the New York State Environmental Quality Review Act, all subsequent consultant review fees that are necessary for the preparation or review of an EIS shall be reimbursed to the Town in accordance with the procedures established under SEQRA. The applicant shall maintain the basic escrow account for the continued review of the application that is not directly related to the preparation or review of an EIS. The Town may require the applicant to establish a separate escrow account for the consultant services costs necessary for the preparation or review of an EIS. All deposits, reimbursements and refunds shall be made in accordance with the provisions of this Article XVI.

**§100-99. Reserved.**

ARTICLE XVII  
**Amendments**

**§100-100. Amendments.**

- A. Zoning law amendment.** This Zoning Law, or any part thereof, may be amended, supplemented, changed, modified or repealed by the Town Board by Local Law pursuant to the provisions of Article 3 of the Municipal Home Rule Law.
- B. Action by Planning Board.** The Planning Board may initiate amendments to this Zoning Law, including the Zoning Map and/or accompanying Bulk Tables.
- C. Public.** Members of the public may initiate amendments to this Zoning Law through petition. The procedure for petitioning the Town to amend this Zoning Law is as follows:
- (1) The petition shall be in writing.
  - (2) If the petition affects a particular property, the petition shall contain a description and a map of the property affected.
  - (3) The petition shall include the names and addresses of all owners on the Tax Map of the Town who own property within 500 feet of the property affected or any other contiguous property of the applicant in the same ownership.
- D. Fees.** Upon the filing of a petition for an amendment to this chapter, a fee shall be payable to the Town of Pine Plains in accordance with the Town Fee Schedule.
- E. Referral to Planning Board.** The Town Board may, in its discretion, refer to the Planning Board for report thereon any proposed amendment, and the Planning Board shall file its report with the Town Board within 60 days after the proposed amendment is delivered or mailed to the Chairman of the Planning Board. Should the Planning Board fail to file such report within said 60 days, the Town Board may, at its discretion, hold a public hearing on the proposed amendment without the report of the Planning Board, and absence of such a report shall not be due cause for adjournment of the public hearing. In undertaking such review, the Planning Board shall make inquiry and provide recommendation concerning the matters specified below:
- (1) Whether such change is consistent with the purposes embodied in this Zoning Law as applied to the particular zoning districts concerned.
  - (2) Which areas and establishments in the Town will be directly affected by such change and in what way will they be affected.
  - (3) Whether adequate public school facilities and other public services and other support facilities exist or can be created to serve the needs of any additional development that may occur as a result of such change.
  - (4) The indirect implications of such change in its effect on other regulations.
  - (5) Whether such proposed amendment is consistent with the underlying objectives of this Zoning Law.

- (6) Whether such proposed amendment is consistent with and furthers the goals and objectives, of the Town of Pine Plains Comprehensive Plan.
- (7) Whether the use(s) permitted by the proposed change would be appropriate in the area concerned.
- (8) The effect of the proposed amendment upon the growth of the town as envisaged by the Town of Pine Plains Comprehensive Plan.

**F. Town Board procedure.**

- (1) Public Notice and Hearing. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given as follows:
  - (a) By publishing a notice at least ten (10) calendar days prior to the time of such hearing in the official newspaper of the Town, specifying:
    - (i) the nature of the proposed amendment;
    - (ii) the specific land or land use district affected; and
    - (iii) the date, time and place where the public hearing shall occur.
  - (b) By providing a copy of such notice of any proposed change or amendment affecting property within five hundred (500) feet of any other municipality personally or by mail to the Clerk of such municipality at least ten (10) calendar days prior to the date of such public hearing.
  - (c) By providing a copy of such notice of any proposed change or amendment affecting property within five hundred (500) feet of the boundary of a county personally or by mail to the Clerk of the Board of Supervisors or clerk or secretary of the County Executive or other person performing like duties at least ten (10) calendar days prior to the date of such public hearing.
- (2) Required referral. The Town Board shall transmit a full statement of any proposed amendment to the Dutchess County Department of Planning in accordance with Sections 239 (l) and 239 (m) of the General Municipal Law. No action shall be taken by the Town Board until a review has been received from the Dutchess County Department of Planning and Development or thirty (30) calendar days have elapsed since said Department received such full statement.
- (3) Compliance with SEQRA. The Town Board, in its adoption of the amendment to the Zoning Law, shall be required to comply with the provisions of SEQRA.
- (4) Town Board decision. The Town Board may approve a zone amendment or zone petition by a majority vote of said Board. In the event that the Dutchess County Department of Planning and Development recommends modification or denial thereof within such time period or at a later date prior to final action by the Town Board, the Town Board shall not act contrary to such determination except by the vote of a majority

plus one (1) of all the members after the adoption of a resolution fully setting forth the reasons for such contrary action. Within thirty (30) calendar days after such final action, the Town Board shall file a report of its final action with the County Department of Planning and Development.

- (5) Protests. The provisions of Section 265(1) of the Town Law regarding written protests to proposed map or text amendments to the Zoning Law shall not apply to the Town of Pine Plains.

## ARTICLE XVIII Definitions

### **§100-101. Definitions.**

#### **A. General.**

Except as defined herein, all words used in this chapter shall carry their everyday dictionary definitions.

#### **B. Word usage.**

- (1) Words used in the present tense include the future tense.
- (2) Words used in the singular include the plural, and words used in the plural include the singular.
- (3) The word "person" includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.
- (4) The word "lot" includes the word "plot" or "parcel" or "tract."
- (5) The word "shall" is always mandatory and not merely directory.
- (6) The word "structure" shall include the word "building."
- (6) The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

#### **C. Terms defined.**

When used in this chapter, unless otherwise expressly stated, the following definitions shall apply:

**ACCESSORY USE, BUILDING, OR STRUCTURE:** A freestanding structure or use which is clearly incidental and subordinate to a principal use located on the same lot and in the same ownership as the principal use or structure. Where an accessory structure is attached to the main building in a substantial manner, as by a wall or a roof, such accessory structure shall be considered part of the principal structure.

**AFFORDABLE HOUSING FEE** – A fee paid to the Pine Plains Housing Trust Fund which may be paid by applicants in lieu of the construction of affordable dwellings.

**AGRICULTURAL STRUCTURE** – A structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure shall not be a place of human habitation but used in the raising, growing or storage of agricultural products by a farmer engaged in a farming operation including but not limited to barns, sheds, poultry houses and other buildings and equipment on the premises used directly and solely for agricultural purposes.

**AGRICULTURAL OPERATIONS** – Land and on-farm buildings, equipment, uses, activities, and practices which contribute to the production, preparation, and sale of crops, livestock and livestock products as a commercial enterprise, as those terms are defined in Article 25-AA of the Agricultural and Markets Law, including a horse boarding operation as defined herein. Agritourism uses, as defined in this Zoning Law, shall be allowed accessory and incidental to a farm operation. On-farm events and accessory uses, such as catering, tasting rooms, special

events including charitable events, shall be allowed in conjunction with an agricultural operation to the extent that the NYS Department of Agriculture and Markets determines that said ancillary uses are part of the agricultural operation.

**AGRITOURISM** – Activities conducted on a farm and offered to the public including the sale of agricultural products, education, recreation or active involvement in the farm operation. An agritourism activity is secondary to the principal agricultural operation. Agritourism activities may be conducted in an accessory building or structure. Agritourism activities include, but are not limited to farm stay programs, u-pick operations, and pumpkin patches.

**AGRONOMIC RATE** - The rate of nitrogen addition designed to provide the amount of plant nutrients needed by the crop or vegetation grown on the land, and to minimize the amount of plant nutrients that passes below the root zone of the crop or vegetation grown on the land to ground water.

**AIRSTRIP** - An area owned or operated by an individual or group of individuals and licensed by the federal government or an appropriate state agency and approved for the loading, landing, and takeoff of single engine and smaller twin-engine aircraft and that, according to the U.S. Department of Transportation's National Plan of Integrated Airport Systems (PL 97-248) is defined as a BU (Basic Utility) airport. An airstrip shall not include a heliport.

**ALTERATION, STRUCTURAL** - To change or rearrange the walls, roof, ceiling, floors, supporting beams, columns or other structural parts; interior plan or layout, the exterior architectural features; the exit facilities of a structure; or the relocation of a building from one location to another.

**APPLICANT** - An owner, or his authorized representative, seeking a determination or decision from the Zoning Enforcement Officer, Code Enforcement Officer, Planning Board, Town Board, or Zoning Board of Appeals with regard to this Zoning Law.

**AQUIFER** - An underground geologic formation that contains and transmits significant quantities of groundwater.

**AUTOMOTIVE REPAIR** – A commercial use involving the repair of motor vehicles, their mechanical systems and their body structure, including painting.

**AUTOMOTIVE SALES** - A commercial use involving the rental, lease, sale and/or resale of motor vehicles, new or used.

**AUTOMOTIVE SERVICE STATION** – A commercial use involving the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle minor accessories, and which may or may not include facilities for lubricating or otherwise servicing motor vehicles, but not including the painting thereof by any means.

**BASE RESIDENTIAL YIELD** – The number of residential lots or dwelling units that may be achieved in accordance with the regulations set forth in this Zoning Law prior to any increase in lots or dwelling units that may be allowed through application of a residential density bonus (e.g., affordable housing bonus), incentive zoning or other regulation that permits an increase in the residential density that exceeds the yield that can be achieved through application of the minimum bulk requirements, the provisions of §100-16, the special use requirements or §100-31.C regulating conservation subdivisions.

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

**BED AND BREAKFAST** – Overnight accommodations in an owner-occupied single-family detached dwelling, involving the rental of bedrooms in the dwelling, with breakfast served to guests but with no full-service restaurant facilities, and with no more than one nonresident employee.

**BILLBOARD** - See “Sign, Advertising”.

**BUFFER AREA** - A part of a property designed and specifically intended to separate and minimize the effects of a use (e.g. noise, dust, visibility, glare, etc) on adjacent properties.

**BUILDING** Any structure having a roof supported by columns or by walls.

**BUILDING AREA** - The total area on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps.

**BUILDING COVERAGE** - The total building area on a lot divided by the lot area, expressed as a percentage.

**BUILDING ENVELOPE** – That area of a lot, exclusive of required yards, within which the principal building or principal use shall be located.

**BUILDING FOOTPRINT** – The total building area of the principal building or buildings on a lot.

**BUILDING HEIGHT** - The vertical distance measured from the mean elevation of the proposed finished grade at the front entrance of a building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the median height between eaves and ridge for gable, hip and gambrel roofs.

**BUILDING, PRINCIPAL** – A structure within which is conducted the principal use of the lot.

**CAMP, DAY** – A nonresidential facility providing daytime supervision and activities for children during the summer. Said term shall not be construed to include a rooming house, tourist home, hotel, motel, summer colony, hospital, place of detention, school of general instruction or nursery school. A day camp operated accessory to another principal use otherwise allowed in the applicable zoning district shall not require separate approval and shall be regulated in accordance with standards regulating the principal use to which it is accessory.

**CAMP, SEASONAL** – One or more temporary or permanent shelters, campsites, tents, recreation vehicles, building or structures, together with the lot or tract of land appertaining thereto, established or maintained as living quarters for temporary occupancy and not arranged or intended for such occupancy except during the period, or part of the period, from May 15 to October 15 in any year. Said camp may be organized for recreation, education, or vacation purposes.

**CAR WASH** – A structure or area that provides facilities for washing and cleaning motor vehicles which may use production-line methods with a conveyor, blower or other mechanical devices or which may employ hand labor and waxing.



**CEMETERY** - Land and buildings, whether privately or publicly owned or operated, used for the disposal or burial of deceased human beings, by cremation or in a grave, mausoleum, vault, columbarium or other receptacle. Such term shall also include land and buildings actually used and essential to the providing of cemetery purposes including, but not limited to storage facilities, necessary tools and equipment.

**CHANGE OF USE** - The change of use or occupancy of land, or buildings, structures, or other improvements on land, from either residential or nonresidential to one of the other uses, or change in the nature, substance or intensity of the same use including, but not limited to, changes in use which require the issuance of a Certification of Occupancy pursuant to the New York State Building and Fire Code.

**CHANNEL** -a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

**CHILD DAY CARE CENTER** - A program or facility caring for children for more than three hours per day per child in which child day care is provided by a child day care provider except those programs operating as a “group family day care home”, a “family day care home”, and a “school-age child care program”, as such terms are defined in Section 390 of the New York Social Services Law. Said center shall be registered or licensed with the New York State Office of Children and Family Services.

**CLEARING** -any activity that removes the vegetative surface cover.

**CODE ENFORCEMENT OFFICER** - The officer appointed pursuant to Article XIV of this Zoning Law.

**COMMERCIAL LOGGING** - The harvesting of timber for commercial gain in quantities greater than 50 standard cords of wood or 50,000 board feet of timber as measured by international ¼” log rule in any one year in the Town of Pine Plains.

**COMMON FACILITIES** - All areas of a property owned and/or maintained in common use. Common facilities may include but are not limited to: land on which common buildings are located; yards, gardens, recreational or community facilities, parking areas and storage spaces; all other parts of a development necessary or convenient to its existence, maintenance and safety, and in common use.

**COMMUNICATIONS FACILITY, MAJOR WIRELESS** – Any wireless communications facility that is not a minor wireless communications facility, including but not limited to any facilities including wireless communications towers, as herein defined.

**COMMUNICATIONS FACILITY, MINOR WIRELESS** – Any wireless communications facility situated on the same property as an existing wireless communications facility designed for collocation and previously approved by the Pine Plains Planning Board or on or in an existing building or other structure; and where the equipment consists of a combination of antennas, or other receiving device, necessary in number to facilitate the provision of wireless communication services from such location.

**COMMUNICATIONS FACILITY, WIRELESS** – Any site containing equipment used in connection with the commercial operation of wireless communications services, as defined

herein, and as the term personal wireless service facility is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, or as hereafter amended, to transmit and/or receive frequencies, including but not limited to antennas, monopoles, equipment, appurtenances and structures.

**COMMUNICATIONS TOWER, WIRELESS** – Any freestanding structure, including lattice structures or framework and freestanding self-supported vertical pole (commonly known as a “monopole”), on which any equipment is located in connection with the provision of wireless communication services.

**COMPREHENSIVE PLAN** – The Comprehensive Plan of the Town of Pine Plains, as may be amended from time to time.

**CONDOMINIUM** - The individual ownership in fee simple of a building or a portion of a building, either residential or nonresidential, with indivisible joint interest with other such owners in all common facilities.

**CONSERVATION EASEMENT** - An easement, covenant, restriction or other interest in real property which limits or restricts development, management or use of such real property for the purpose of preserving or maintaining the scenic, open, historic, archaeological, architectural, or natural condition, character, significance or amenities of the real property.

**CONSERVATION SUBDIVISION** – A residential subdivision wherein the number and arrangement of dwellings that would result under a given conventional subdivision plan are allowed to be situated on the same parcel in a flexible manner, where lot size, street frontage, and other bulk dimensions are allowed to be varied in order to preserve in perpetuity a significant amount of the land in its natural or agricultural state. Conservation development results in a flexibility of design and development to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural, scenic and other qualities of open lands. For purposes of this Zoning Law, the following types of conservation subdivisions have been established:

- a. Rural cluster. A loose collection of dwellings, located on the landscape in a manner that meets the siting design standards set forth in Appendix B of this Zoning Law.
- b. Rural hamlet. An informal residential neighborhood designed in a manner set forth in Appendix B of this Zoning Law.
- c. Traditional neighborhood hamlet. A formal residential pattern of development characterized by a gridded street pattern, a designated pedestrian circulation system, and other design standards set forth in Appendix B of this Zoning Law.

**CONTAMINATION** - The degradation of natural water quality as a result of human activities to the extent that its usefulness is impaired.

**CONVENIENCE STORE** - A retail business allowed no more than 4,000 square feet of gross floor area selling nondurable consumer products, including but not limited to groceries, prepared and packaged foods and gasoline, and providing no services. A convenience store shall be deemed to be a retail use, except that a convenience store operated in conjunction with an automotive service station shall require a special use permit.

**CONVENTIONAL SUBDIVISION** - A subdivision in which each lot conforms to the minimum lot area and lot dimension requirements set forth in the Schedule of Bulk Regulations.

**CRAFT WORKSHOP** – A commercial establishment used by an artist or artisan for the development, display, and sale of art and the instruction in a personal artistic skill such as fine arts, crafts, dance and music.

**CUL-DE-SAC** - A designated turn-around area for vehicles at the end of a street or road.

**DEICING COMPOUNDS** - Any bulk quantities of chloride compounds and/or other deicing compounds (e.g., urea or calcium magnesium acetate) intended for application to roads, including mixtures of sand and chloride compounds in any proportion where the chloride compounds constitute over eight percent of the mixture. Bulk quantity of deicing compounds means any quantity, but does not include any chloride compounds in a solid form which are packaged in waterproof bags or containers which do not exceed one hundred pounds each.

**DISPOSAL** - The abandonment, discharge, deposit, injection, dumping, spilling, leaking, or placing by any other means of any solid waste, petroleum, radioactive material, hazardous substance, hazardous waste, or aqueous carried waste into or onto land or a surface water body.

**DRIVE-THROUGH** - An establishment with physical facilities, service or by packaging procedures, that allows customers to receive services and obtain goods while remaining in their motor vehicles. Where permitted herein, drive-through facilities shall require a special use permit.

**DRIVEWAY** – A surface suitable for vehicular traffic connecting buildings, parking areas, and other facilities and uses to a public road.

**DWELLING, ACCESSORY** – A self-contained, independent dwelling unit, clearly incidental and secondary to an existing single-family detached dwelling on the same lot, having a separate entrance for the exclusive use of the occupant. For purposes of this Zoning Law, a single-family detached dwelling with an approved accessory dwelling shall not be deemed to be a “two-family dwelling”. Accessory dwellings are not permitted in a NND.

**DWELLING, ECHO (Elder Cottage Housing Opportunity):** A separate, temporary, movable dwelling designed for use by a senior citizen (age 55 and over) accessory to and on the same lot as a single family detached dwelling. An ECHO dwelling shall not be a manufactured home or a permanent dwelling.

**DWELLING, GUEST OR CARETAKER COTTAGE** – A detached dwelling unit, clearly incidental and secondary to a single-family detached dwelling on a conservancy lot for exclusive use and occupancy of a person, deemed the “caretaker”, and his or her family, who is responsible for the upkeep and maintenance of the on-site principal dwelling or for a guest(s) visiting the property owners. A caretaker cottage shall not exceed the permissible size of an accessory dwelling (see §100-56.D). Any dwelling located on a lot with a principal single-family detached dwelling not inhabited by a caretaker or guest shall be deemed an accessory dwelling subject to all requirements for said use set forth in this Zoning Law.

**DWELLING, MANUFACTURED HOME** - A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in

length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term shall include any structure that meets all of the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under Title 42 of the United States code; and except that such term shall not include any self-propelled recreational vehicle.

**DWELLING, MIXED USE** - A dwelling or dwellings located in a building that contains nonresidential uses.

**DWELLING, MULTIPLE FAMILY** - A building containing three (3) or more dwelling units and designed or used for occupancy by three (3) or more families living independently of each other.

**DWELLING, MULTIPLE FAMILY SENIOR CITIZEN** – Multiple family dwellings intended for individuals generally 55 years and older, which may be organized by various levels of care including independent living, assistive living, and continuing care retirement living.

**DWELLING, SINGLE FAMILY** - A building on a lot designed for and occupied by one (1 family) only.

**DWELLING, SINGLE-FAMILY ATTACHED** - A building with a minimum of three dwellings consisting of a single family dwelling which is attached or connected to another single family dwelling(s) at a common property line by means of a party wall or is otherwise an end unit which is unattached to another dwelling. Each dwelling unit must be on its own lot. Also referred to as a “townhome”.

**DWELLING, SINGLE FAMILY DETACHED** – A single family dwelling located on a lot which is separated from other buildings by required yards.

**DWELLING, SINGLE FAMILY SEMI-DETACHED** – A single family dwelling located on a lot and separated from any other dwelling by required yards on three sides, but which is attached to and shares a common wall with another single-family dwelling on an adjoining lot along a shared side lot line.

**DWELLING, TWO-FAMILY** - A building on a lot consisting of two dwelling units.

**DWELLING, TWO-FAMILY CONVERSION** – The conversion of a single family detached dwelling into two separate dwelling units.

**DWELLING UNIT** – One or more rooms providing permanent provisions for living, sleeping, eating, cooking and sanitation arranged for the use of one family only. Also referred to as a “dwelling”.

**EDUCATIONAL/TRAINING FACILITY** - A building or part thereof which is designed, constructed, or used for education, training, or instruction in any branch of knowledge and includes, but is not limited to elementary, parochial, private, secondary or vocational schools.

**ENERGY CODE** - New York State Energy Conservation Construction Code.

**EQUIPMENT STORAGE** - The principal or accessory storage of equipment (machinery and related hardware, etc.).

**FAMILY** - One or more persons living together as a single housekeeping unit with common use and access to all living and eating and living areas and maintaining a common household.

**FARM MARKET** – A building and premises for the indoor or outdoor year-round sale of agricultural products grown within the Hudson Valley region.

**FARMERS MARKET** – An outdoor event held on public property at which farmers and often other vendors sell produce and agricultural products directly to consumers. Said uses are permitted subject to Town Board approval.

**FARM STAND** — An accessory structure or vehicle used for the seasonal display and sale of agricultural products grown on the premises and which uses its proximity to a roadway to attract potential customers as permitted by §100-10 of this Law.

**FEMA** – Acronym for “Federal Emergency Management Agency”.

**FERTILIZER** - Any commercially produced mixture generally containing phosphorous, nitrogen, and potassium which is applied to the ground to provide nutrients to plants.

**FLOOD, 100-YEAR** - The highest level of flood that, on the average, is likely to occur once every 100 years (i.e., that has a 1% chance of occurring each year).

**FLOOD HAZARD AREA** - Land within a community subject to a one percent (1%) or greater chance of flooding in any given year as shown on the Flood Insurance Rate Maps developed by the Federal Emergency Management Agency. Also commonly referred to as base floodplain or 100 year floodplain.

**FLOOD PLAIN** - A land area adjoining a river, stream, watercourse, or lake, which is likely to be flooded.

**FLOOR AREA** – The total interior floor space of a structure measured in square feet.

**FLOOR AREA, GROSS** - The total area of a building multiplied by the number of floors as measured from the exterior walls.

**FLOOR AREA, NET** - The total usable interior floor area of a structure (excludes such elements as walls, stairwells, elevators, etc.)

**FUNERAL HOME** - A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation. A funeral home may include a crematory.

**GOLF COURSE** – Premises having not fewer than nine holes improved with tees, greens, fairways, and hazards for playing the game of golf, including driving ranges but excluding miniature golf. Accessory structures and buildings may include but are not limited to a clubhouse, locker room, food stand, restaurant, banquet or conference rooms, except that overnight accommodations are not permitted. A single dwelling for a groundskeeper is also

permitted subject to the regulations set forth in this Zoning Law. Golf courses, whether private or public, shall be regulated as set forth herein.

**GRADING** - The leveling of land for site development purposes including construction of roads, building construction, drainage areas and parking.

**GROUNDWATER** - Water below the land surface in a saturated zone of soil or rock. This includes perched water separated from the main body of groundwater by an unsaturated zone.

**HAZARDOUS SUBSTANCE** - Any substance listed as a hazardous substance in 6 NYCRR Part 597, Hazardous Substance List, or a mixture thereof. In general, a hazardous substance means any substance which: (1) because of its quantity, concentration, or physical, chemical, or infectious characteristics poses a significant hazard to human health or safety if improperly treated, stored, transported, disposed of, or otherwise managed; (2) poses a present or potential hazard to the environment when improperly treated, stored, transported, disposed of, or otherwise managed; (3) because of its toxicity or concentration within biological chains, presents a demonstrated threat to biological life cycles when released into the environment.

**HAZARDOUS WASTE** - A waste, or combination of wastes, which are identified or listed as hazardous pursuant to 6 NYCRR Part 371, Identification and Listing of Hazardous Wastes. Hazardous wastes include but are not limited to petroleum products, organic chemical solvents, heavy metal sludges, acids with a pH less than or equal to 2.0, alkalies with a pH greater than or equal to 12.5, radioactive substances, pathological or infectious wastes, or any material exhibiting the characteristics of ignitability, corrosivity, reactivity, or fails the Toxicity Characteristic Leaching Procedure (TCLP).

**HELIPORT** - A place for helicopters to land and take off. Also includes the term "helipad". A heliport is a prohibited use in the Town of Pine Plains.

**HOME OCCUPATION, MAJOR** – Any nonresidential use conducted wholly or partly in a dwelling unit or accessory structure thereto by the owner of same, which is clearly incidental to the use of the dwelling for living purposes and does not change the residential character of the dwelling unit or vicinity or have any exterior evidence of such secondary use other than a sign and where customers, clients or sales representatives enter the premises and in which not more than three nonresidents are employed.

**HOME OCCUPATION, MINOR**– Any nonresidential use that is incidental and clearly subordinate to an existing residential use, conducted within a dwelling unit or in an existing accessory structure by the owner of same, which does not change the residential character of the dwelling unit or vicinity and where no non-resident employees, customers or clients enter the premises and where no signage, exterior storage of products or equipment are required.

**HORSE BOARDING OPERATION** – A commercial horse boarding operation provides care, housing, health, related services and training to animals kept on the premises or on other properties owned or leased by the farm operator. Riding and training activities, not open to the general public, that are directly related to and incidental to the boarding and raising of horses, including riding lessons for persons who own or have a long-term lease from the farm owner for the horse that is boarded at the farm and uses for such activities, are part of the farm operation. Riding academies and horse racing operations are not deemed to be a horse boarding operation.

**HOUSING TRUST FUND** – A fund administered by the Pine Plains Town Board into which shall be deposited Affordable Housing Fees, as provided herein, to be used for the purchase, rehabilitation, support and /or development of affordable housing at locations within the Town.

**IMPERVIOUS SURFACE** - Manmade surfaces, improvements and structures that cannot effectively infiltrate rainfall, snowmelt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

**INCENTIVE** - Adjustments to the permissible population density, area, height, open space, use, or other provisions of this Zoning Law for a specific purpose authorized by the Town Board.

**INDUSTRIAL STORMWATER PERMIT** - A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**INFILTRATION** - The process of percolating stormwater into the subsoil.

**INPATIENT HEALTH CARE FACILITY** - A licensed facility or institution, whether public or private, principally engaged in providing services primarily to inpatients for health maintenance and the treatment of mental or physical conditions, including a nursing home but excluding a hospital.

**JUNK YARD** - A building, structure or premises where junk, waste, discarded or salvaged materials are bought or sold, exchanged, stored, collected, dismantled, or otherwise processed, including automobile wrecking yards, and yards for house wrecking, structural steel materials and equipment, but not including premises used for the purchase or storage of used furniture and household equipment or used cars in operable condition or home recycling.

**JUNK YARD, AUTOMOBILE WRECKING** - An area of land, with or without buildings, used for or occupied by a deposit, collection or storage, outside a completely enclosed building, of used or discarded motor vehicles or parts thereof, with or without the dismantling, wrecking, salvage, sale or other use or disposition of the same. A deposit, collection or storage on a lot of two or more motor vehicles no longer in condition for legal use on the public highways, or parts thereof, for one week or more in a residential district or for three weeks or more in a nonresidential district shall constitute a motor vehicle junkyard.

**KENNEL** - Any place at which there are kept four (4) or more dogs more than four (4) months of age or any number of dogs that are kept for the primary purpose of sale or for the boarding, care or breeding for which a fee is charged or paid.

**LAND DEVELOPMENT ACTIVITY** –For purposes of stormwater management, a construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

**LAND OWNER** (also “property owner”) - The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**LIVESTOCK** - Animals, including but not limited to, domestic animals such as sheep, horses, cattle and goats.

**LODGING** – Commercial overnight sleeping accommodations, consisting of a building or group of buildings for no more than 25 sleeping rooms. The term includes motel, tourist courts, motor lodges, auto courts and similar appellations, but does not include boardinghouses or rooming houses.

**LOT** - A parcel of land whose boundaries are established by legal instrument, such as recorded deed or map, and which is recognized as a separate, legal entity for the purposes of transfer of title.

**LOT AREA** - The total area contained within the property lines of a lot excluding any area within a private or paper street.

**LOT AREA, NET** – The area of a lot to be used for residential purposes after exclusion of the features set forth in §100-16 of this Zoning Law.

**LOT, CONSERVANCY** – A lot in a conservation subdivision or NND zone which has a minimum size of five (5) acres, of which no less than 80 percent of the lot is designated required protected open space. Said open space shall be protected in accordance with the provisions of §100-32 of the Zoning Law. Any lot of twenty-five (25) acres or more, where at least 80 percent of the land is protected by a perpetual conservation easement pursuant to Article 49 of the Environmental Conservation Law, shall also be deemed to be a conservancy lot.

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

**LOT COVERAGE** - The percentage of the area of a lot covered by buildings, structures, parking areas, or other impervious surfaces on the lot.

**LOT DEPTH** - The distance between front lot line of a lot to the rear lot line of such lot measured perpendicular to the front lot line.

**LOT, FLAG** - A lot that does not meet the minimum lot width requirement when measured at the required front yard setback but which widens or extends to a point where the distance between the side lot lines is equal to or greater than the required lot width. Generally, a flag-lot arrangement exists where one lot and the dwelling to be located thereon would be located behind another dwelling as viewed from the street rather than side-by-side as is typical in a conventional subdivision. The flag-lot has a long narrow portion of property (i.e. the “pole” of the flag lot) that extends to the street to meet the minimum lot frontage requirements of the zoning local law.

**LOT FRONTAGE** - The horizontal distance measured along the full length of the front lot line.

**LOT LINE** – A boundary line of a lot.



**LOT LINE, FRONT** – The line of a street on which a lot fronts or abuts. Where a lot extends into a street, the front lot line shall be the line setback a minimum distance of 25 feet from the centerline of the street.

**LOT LINE, REAR** – Any lot line, other than a street line, which is parallel to the front lot line or within 45 degrees of being parallel to the front lot line.

**LOT LINE, SIDE** – An lot line not a front lot line or a rear lot line, including a lot line of an offset portion of a lot.

**LOT OF RECORD** – A legally existing lot at the time of the adoption of this Law, duly filed and recorded in the Dutchess County Clerk's Office either as an individual parcel of land or part of an approved subdivision in accordance with the Town's Land Subdivision Regulations, and applicable provisions of the Town Law.

**LOT, THROUGH** – A lot, other than a corner lot, having frontages on two streets.

**LOT WIDTH** – A distance measured along a horizontal line drawn parallel to the front lot line at a distance equal to the required minimum front yard.

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

**MANURE** - Shall mean animal feces and urine.

**MAXIMUM RESIDENTIAL YIELD** – The number of residential lots or dwelling units that may be achieved in accordance with the regulations set forth herein, including all lots or dwelling units that may be allowed through application of a residential density bonus (e.g., affordable housing bonus), incentive zoning or approval of pre-existing lots of record.

**MEMBERSHIP CLUB** – A facility catering exclusively to members and their guests, which may be conducted on a lot with buildings used for social or recreation purposes. Said organization is not operated for commercial gain. Typical membership clubs include the Girls Scouts of America, the Boy Scouts of America, Veterans of Foreign War, and similar organizations.

**MEMBERSHIP CLUB, MULTIPLE USE SOCIAL AND RECREATION** - A type of membership club with overnight accommodations and food and beverage service that caters exclusively to members and their guests, which may be conducted on a lot with multiple social and recreational uses, including but not limited to indoor and outdoor activities such as tennis, swimming, fishing, boating, hunting, horseback riding and equine-related sports activities. Said organization is not operated for commercial gain. Membership clubs are regulated as a nonresidential use.

**MINERAL** - Any naturally formed, usually inorganic, solid material located on or below the surface of the earth including but not limited to architectural stone, gem stones, limestone, granite, ore, bluestone, clay, gravel and sand. Peat and topsoil are also considered to be minerals.

**MINING** - The excavation or extraction of earth, sand, gravel, stone, quarry material, clay, loam, humus, top soil or other earth material from a lot and removal thereof from that lot; or any temporary storage of such materials by stock piling, if permitted; or any processing of excavated

or stock piled materials, if permitted; or any of the related land use activities engaged in during the above activities such as construction of buildings, barriers and other structures, clearing of property., removal or placement of trees, vegetation and earth material. The regrading or movement of earth material within the boundaries of a single lot or subdivision, provided that no earth material is removed from the lot or subdivision, and no stockpiling (beyond any permitted period) or processing of earth material takes place shall be permitted provided that any such activity meets all applicable regulations set forth in this Zoning Law. Mining is further regulated in accordance with the following definitions:

Mine, Large: Any excavation from which more than 1,000 tons or 750 cubic yards, whichever is less of ore, sand, gravel, clay, stone, loam, humus or topsoil within a period of twelve (12) successive calendar months produced for sale or exchange or for commercial, industrial or municipal use or for use other than on the property from which the material is extracted.

Mine, Small: Any excavation from which less than 1,000 tons or 750 cubic yards, whichever is less of ore, sand, gravel, clay, stone, loam, humus or topsoil within a period of twelve (12) successive calendar months produced for sale or exchange or for commercial, industrial or municipal use or for use other than on the property from which the material is extracted. (Soil mining shall also include any activity requiring a permit from DEC pursuant to Article 23 of the Environmental Conservation Law.)

MODULAR HOME - A dwelling unit constructed and composed of components substantially assembled in a manufacturing plant and transported to a building site for final assembly on a permanent foundation.

MUNICIPAL SUPPORT - Structures or parcels of land used to house, store, or support local, county, state, or federal governments including, but not limited to storage sheds, garages, equipment yards, parking lots, and repair facilities.

NON CONSTRAINED LANDS – Lands located within the Non-Constrained District as shown on the Pine Plains Future Land Use Concept map attached to the Town of Pine Plains Comprehensive Plan (April 2004, Volume 1). The Comprehensive Plan describes the non-constrained district as locations that have minimal environmental constraints.

NONPOINT SOURCE POLLUTION - Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

NURSING HOME – A state-licensed facility, other than a hospital, providing therein nursing care to sick, invalid, infirm, disabled or convalescent persons in addition to lodging and board or health-related service, or any combination of the foregoing, and in addition thereto, providing nursing care and health-related service, or either of them, to persons who are not occupants of the facility.

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

(1) Business: A place or establishment used for the organizational or administrative aspects of a trade or used in the conduct of a business and not involving the manufacture, storage, display or direct retail sale of goods. This may include, but is not limited to, offices of

salesmen, sales representatives, insurance brokers, real estate brokers and persons with similar occupations.

(2) Profession: An office devoted to a professional service occupation, in which knowledge in some department of science or learning is applied to the affairs of others, either advising or guiding them, or otherwise serving their interest or welfare through the practice of a profession founded on such knowledge. A professional office may include but not be limited to the office of an accountant, architect, consultant, engineer, or attorney.

OFFICE, MEDICAL – An establishment where medical or dental care is dispensed to persons on an outpatient basis by physicians, either singly or as a group, which may also offer laboratory and diagnostic facilities to patients on an outpatient basis and not just in conjunction with normal professional services.

OPEN SPACE – Land set aside for conservation or agricultural uses or for scenic or recreational uses, as set forth in this Zoning Law.

OVERBURDEN - All of the earth, vegetation and other materials which lie above or alongside a mineral deposit.

OVERLAY ZONING DISTRICT – A zoning district that imposes an additional layer of regulation for a specific area that is laid over an underlying, i.e., a base zoning district.

PARKING SPACE - An area reserved for the parking of a motor vehicle.

PERFORMING ARTS/CULTURAL USES – Any use or combination of uses involving the performance of live or artistic displays, including but not limited to theatrical plays, music concerts, lectures, movie screenings, art galleries, and similar artistic expressions. Said use may also include classroom and studio space for practice and educational training, offices and other uses accessory to the principal performing arts/cultural use. Special events may be held from time to time, in conjunction with the use, such as festivals and charitable events.

PERSON - Any individual, group of individuals, partnership, firm, corporation, association, or other legal entity.

PESTICIDE - Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other form of plant or animal life or viruses, except viruses on or in living man/or other animal; and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. These substances include but are not limited to: herbicides, fungicides, insecticides, and rodenticides.

PETROLEUM - Any petroleum-based oil of any kind which is liquid at 20 degrees Celsius under atmospheric pressure and has been refined, re-refined, or otherwise processed for the purpose of: 1) being burned to produce heat or energy; 2) as a motor fuel or lubricant; or 3) in the operation of hydraulic equipment.

PITI - Principal, interest, taxes and insurance.

PRIMARY CONSERVATION AREA or FEATURE - The area delineated in a conservation subdivision to have priority resource areas to be conserved including, but not limited to streams,

floodplains, wetlands, critical habitats, steep slopes, areas with rocky outcrops, and groundwater recharge areas.

**PRIME FARMLAND SOILS** - Soils that have the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and are also available for these uses (the soil's use could be cropland, pastureland, forest land, or other land, but not urban built-up or water). It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods. In general, prime farmland soils have adequate and dependable precipitation, a favorable temperature and growing season, acceptable acidity or alkalinity, and few or no surface stones. They are permeable to water and air. Prime farmland soils are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding. Prime farmland soils are identified and mapped by the US Department of Agriculture Natural Resources Conservation Service.

**PROCESS WASTE** - Waste generated by industrial, commercial, or mining operation that by virtue of some use, process, or procedure no longer meets the manufacturer's original product specifications.

**PUBLIC UTILITY** - A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary to the public health, safety, and welfare including all uses deemed to be a public utility by New York State. Other uses may be a public utility if it provides a service that is essential to the public health, safety and general welfare, is regulated by a government agency, is granted an exclusive or near exclusive franchise for a specific geographic area, and is required to provide service to all who apply within their franchised area. Cellular and other communication towers shall be regulated separately as defined herein.

**RADIOACTIVE MATERIAL** - Any material in any form that emits radiation spontaneously, excluding those radioactive materials or devices containing radioactive materials which are exempt from licensing and regulatory control pursuant to regulations of the New York State Department of Labor or the United States Nuclear Regulatory Commission.

**RECHARGE** - The replenishment of underground water reserves.

**RECREATION, COMMERCIAL** - A commercial use designed and equipped principally for the conduct of sports and leisure time activities, whether or not membership to said activity is required. Video parlors, computer gaming facilities, movie theaters, and bars, as principal uses, are not commercial recreation uses. Commercial recreation is further defined as follows:

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

2. Outdoor – Recreational activities including but not limited to ball fields, tennis and racquet courts, swimming, bike trails, hiking and similar outdoor activities conducted on a commercial or fee basis. An outdoor recreational use may also include accessory uses and buildings, such as a clubhouse, food stand, offices, and other uses accessory and incidental to the outdoor commercial use. Outdoor recreation includes playing fields, batting cages, driving ranges, Golf courses are regulated as a separate use.

RELIGIOUS INSTITUTION – A building, area of land, or portion thereof, used for religious public assembly including a church, synagogue, or other place of religious worship. Schools, dormitories and other uses that may be affiliated with a religious institution shall be regulated separately and in accordance with the standards set forth in this Zoning Law for those specific uses.

RESEARCH AND LABORATORY FACILITIES -- A building or group of buildings, in which are located facilities for scientific research, investigation, experimentation or testing wherein products are not manufactured for wholesale or retail sale, wherein commercial servicing or repair of commercial products is not performed and wherein there is no display of any material or products.

RESORT – Overnight accommodations, within a building or group of buildings, that incorporate indoor and/or outdoor recreational amenities into the overall design of the use. A resort may also include meeting and conference rooms, dining facilities, and other areas for social gatherings.

RESTAURANT - Any structure having as a principal use the preparation and dispensing of foods and beverages for consumption on the premises, whether food is served upon order or taken by self-service and where there are no facilities for drive-through service. Where there is no on-premise consumption, bakeries, pizzerias, delicatessens and similar food establishments shall be regulated as retail uses for purposes of this Zoning Law.

RETAIL USE – A commercial use where merchandise is sold to the general public for personal or household use or consumption, including but not limited to florists, lumber and hardware stores, pharmacies, grocery stores, convenience stores, stationary stores, book stores, video-rental stores, clothing stores, department stores, shoe stores, and antiques.

RIDGELINE - The long, narrow crest or horizontal line of hills, usually at the highest elevation.

RIDING STABLE OR ACADEMY – A commercial establishment that offers riding lessons to the general public and to individuals that do not own or have a long-term lease for the horse that is boarded and used at the facility for such riding.

ROAD, PRIVATE - A road, privately owned and maintained.

ROAD RIGHT-OF-WAY - An area defined by a boundary which provides for road construction, maintenance, improvement, and/or widening.

ROADWAY EDGE: The edge of the paved portion of a road.

RUNOFF - Surface water that flows onto, within, and/or off of the site.

**SCREENING** – A method of shielding or obscuring one abutting or nearby use from another use, using vegetation, fencing, or earthen materials.

**SECONDARY CONSERVATION AREA OR FEATURE** - The area delineated in a conservation cluster subdivision to have secondary resource areas to be conserved including, but not limited to healthy woodlands holding important ecological functions such as soil stabilization and protection of streams, hedgerows and other vegetation features representing the site's rural past, historic structures or sites, and visually prominent features such as knolls, or hilltops.

**SEDIMENT** - Soils or other surficial materials transported by surface water as a product of erosion.

**SEDIMENTATION (Siltation)** - The deposition of sediment and silt in drainage-ways, watercourses and water bodies which may result in pollution, murkiness, accumulation, and blockage.

**SELF-STORAGE FACILITY** - A building consisting of individual, small, self-contained units that are leased or owned for the storage of business or household goods.

**SERVICE BUSINESS** - An establishment primarily engaged in providing assistance to individuals, including but not limited to beauty salons, shoe repair, photographic studio, or businesses, including but not limited to advertising, photocopying, computer maintenance and repair. Such definition shall specifically exclude automotive-related services. A "service business" is further defined as follows:

1. Service Business, no customers on site: This is a service business where there are no customers visiting the location to conduct business. Examples of this include, but are not limited to plumbers and electricians.
2. Service Business, with customers on site: This is a service business where customers visit the location in order to conduct their business. Examples of this include, but are not limited to beauty salons.

**SHOOTING PRESERVE** - A wholly enclosed parcel of land on which domestic game birds, legally possessed or acquired, are released and taken by shooting pursuant to a license issued to the owner or lessee of said parcel by the New York State Department of Environmental Conservation pursuant to Article 11 of the Environmental Conservation Law and/or on which sporting clay activities are conducted. A "shooting preserve" shall not include the operation of a rod and gun club or a game or wildlife preserve unless separate special use permits are issued for those uses. For purposes of this section, the term 'wholly enclosed parcel of land' shall mean lands, the boundaries of which are indicated by wire, ditch, hedge, fence, road, highway or water or in any visible or distinctive manner including written posting which indicates a separation from the surrounding contiguous territory.

**SIGN** - A name, identification, description, display, or illustration, or any other visual display which is affixed to or painted or represented directly or indirectly upon a building, structure, or piece of land which directs attention to an object, product, place, activity, person, institution, organization or business. However, a sign shall not include any display of official court or public office notices nor any official traffic control devices nor shall it include the flag emblem or insignia of a nation, state, municipality, school, or religious group.

**SIGN, ADVERTISING** - A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is located. Advertising signs may also be referred to as "billboards".

**SIGN, BUSINESS** - A sign which directs attention to a business, service, profession, organization or industry located on the premises where the sign is displayed to the type of products sold, manufactured, or assembled and/or to service or entertainment offered on said premises. A "for sale" or "to let" sign relating to the property on which it is displayed shall be deemed a business sign.

**SIGN, DIRECTLY ILLUMINATED** - Any sign designed to give forth any artificial light directly (or through any transparent or translucent material) from a source of light connected with such sign.

**SIGN, FREESTANDING** - A sign that is attached to, erected on or supported by some structure such as a pole, mast, frame, or other structure that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of the sign.

**SIGN, HEIGHT OF** - The distance from the ground level, measured from the mid-point of the base of the sign, to the top of the sign.

**SIGN, INDIRECTLY ILLUMINATED** - A sign illuminated with a light so shielded that no direct rays therefrom are visible elsewhere than on a plot where such illumination occurs. If such illumination is thus visible, such sign shall be deemed to be a directly illuminated sign.

**SIGN, PORTABLE** - Any device on wheels or stand that is designed to be easily moved, the purpose of which is to display a sign.

**SIGN, SANDWICH** - A temporary self-standing sign or advertising display made of plywood or other solid material and designed or intended to be displayed only for the period of time the business is open or event taking place.

**SIGN, TEMPORARY** - A sign that advertises or gives direction to a business or activity and restricted in the number of days it may be displayed in accordance with Article X of this Zoning Law.

**SIGNIFICANT ECOLOGICAL HABITAT** - Any habitat identified by the New York State Department of Environmental Conservation Natural Heritage Program as critical habitat associated with any species included on the New York State or Federal listings of rare, threatened, endangered or special concern species or identified by the program as a rare ecological community.

**SITE PLAN** - A plan which shows the proposed development and use of land situated within the Town of Pine Plains and which shall consist of a map affirmatively demonstrating compliance with and adequate provision for all of the criteria, matters and items listed in Article XII herein.

**SKETCH PLAN** - a map, renderings, and supportive data describing the project proposed by the applicant for informal review by the Planning Board prior to submission of a site plan.

**SLUDGE** - The solid, semi-solid, or liquid waste generated from a waste processing facility, but does not include the liquid stream of effluent.

SOIL MINING - See "MINING".

SOILS OF STATEWIDE IMPORTANCE - Soils, in addition to prime farmland soils, that are of statewide importance for the production of food, feed, fiber, forage, and oil seed crops. Generally, soils of statewide importance include those that are nearly prime farmland soils and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable. Soils of statewide importance are identified and mapped by the US Department of Agriculture Natural Resources Conservation Service.

SOLID WASTE - Material as defined in 6 NYCRR Part 360, including any garbage, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials including solid, liquid, semi-solid, or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but not including solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit. Discarded materials that are being beneficially used pursuant to 6 NYCRR Part 360-1.15 are not considered solid waste.

SPECIAL USE PERMIT - An authorization of a particular land use which is permitted in this Zoning Law, subject to requirements set forth herein, to assure that the proposed use is in harmony with the Zoning Law and will not adversely affect the neighborhood if such requirements are met.

STACKING LANES - Off- street temporary parking space specifically provided for vehicles to park behind one another while waiting for drive-up customer assistance.

START OF CONSTRUCTION - The initiation of any physical alteration of the property, excluding planning and design, during any phase of a project and shall include land preparation, such as clearing, grading and filling, installation of roads, excavation for a basement, footings, foundations, or the erection of temporary forms. Start of construction also includes any work for which a valid building permit is required.

STORMWATER - Rainwater, surface runoff, snowmelt and drainage.

STORMWATER HOTSPOT - A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT PRACTICES (SMPs) Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) -a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF -flow on the surface of the ground, resulting from precipitation.



**STREAM** – For purposes of regulating streams in accordance with §100-41 of this Zoning Law, a stream is an identifiable natural channel or bed that contains and carries flowing water, whether perennial or intermittent.

**STREET** – A highway, road, alley, or thoroughfare used by vehicles.

**STREET LINE** – The dividing line between a street right-of-way and a lot. Where there is no right-of-way and the lot line extends into the street, the street line shall be deemed to be the line located no less than 25 feet from the centerline of the street.

**STRUCTURE** - Anything constructed or built, any edifice or building of any kind, which requires location on the ground or is attached to something having a location on the ground, including, but without limitation, swimming pools, covered patios, towers, poles, sheds, signs, tanks, etc., excepting outdoor areas such as paved areas and walkways. The term structure shall include “building” as well as receiving and transmitting commercial, radio, television, cellular and other utility communication towers, manufactured homes, and modular homes.

**SUBDIVISION, MAJOR** - A subdivision not classified as a minor subdivision, including but not limited to subdivisions of more than four (4) lots, or any size subdivision requiring any new street or extension of utilities, or the creation of any public improvements.

**SUBDIVISION, MINOR** – The subdivision of land into two (2), three (3) or four (4) lots fronting on an existing road, not including any new street or road, or the extension of utilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Comprehensive Plan, Official Map, or Town of Pine Plains Zoning Law.

**SWIMMING POOL** - A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool, having a depth of more than 30 inches, designed, used, and maintained for swimming and bathing.

**TOWN** – The Town of Pine Plains.

**TRADITIONAL NEIGHBORHOOD DESIGN** – Design of a residential development using traditional town planning principles. The development includes a range of housing types, a network of well-connected streets and blocks, public spaces and civic amenities or sites for amenities including schools, libraries or other governmental, educational or cultural public gathering places within walking distance of residences.

**UNIFORM CODE** - the New York State Uniform Fire Prevention and Building Code.

**USE, NONCONFORMING** – A legal existing use which does not conform to the applicable use regulations for the zoning district in which such use is located after the adoption or subsequent amendment of this Zoning Law.

**USE, PRINCIPAL** - The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.

**VARIANCE, AREA** – The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the bulk or dimensional requirements of this Zoning Law.

**VARIANCE, USE** - The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by this Zoning Law.

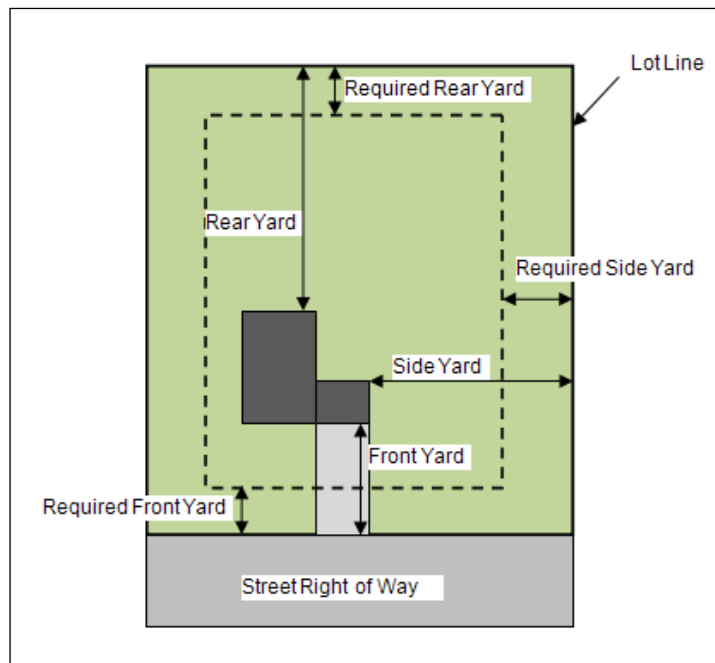
**VETERINARY HOSPITAL** – An establishment accredited by the American Animal Hospital Association or similar national accreditation where animals are provided medical care and where the boarding of animals is short-term and clearly incidental to its medical care.

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

**WATER BODY** - Any natural or man-made body of water, such as a pond or lake which does not necessarily flow in a definite direction or course.

**WATERCOURSE** – A permanent or intermittent channel or stream or other body of water, either natural or man-made, which gathers or carries surface water. “Stream” is defined elsewhere in this section of the Zoning Law.

**WETLANDS** - Lands and submerged lands commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic or semi-aquatic vegetation.



**YARD** – An open and unobstructed ground area located between a principal use or principal building and the nearest lot line. Accessory uses, buildings or structures may be permitted within a yard, subject to the regulations set forth in this Zoning Law.

**YARD, REQUIRED** – Open and unobstructed ground area of the lot extending inward from a lot line for the distance specified in the regulations for the district in which the lot is located.

**YARD, REQUIRED FRONT** – A required yard extending the full length of the front lot line between the side lot lines. Where a property extends to the centerline of a public or private road,

the required front yard shall be measured along a line on the property measured 25 feet from the centerline of the road.

**YARD, REQUIRED REAR** – A required yard extending along the full length of the rear lot line between the side lot lines.

**YARD, REQUIRED SIDE** – A required yard extending along a side lot line from the required front yard (or from the front lot line if there is no required front yard) to the required rear yard (or to the rear lot line if there is no required rear yard).

**ZONING ENFORCEMENT OFFICER** - The administrative officer designated to administer this Zoning Law and issue zoning related permits.

**ZOO** - A use accredited by the Association of Zoos and Aquariums or similar national accreditation where animals are kept in a combination of indoor and outdoor spaces, and are viewed by the public.

ARTICLE XIX  
**Severability**

**§100-102. Severability.**

If any section or specific part or provision or standard of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons or circumstances, and the Town Board hereby declares that it would have enacted this chapter or the remainder thereof had the invalidity of such provision or application thereof been apparent. If any zoning district boundary that may exist in the future is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

ARTICLE XX  
**Repealer**

**§100-103. Repealer.**

A. The following regulations are hereby repealed:

- (1) The provision of this law shall supersede the provisions of Local Law No. 2 of the year 1989, which law is hereby repealed and, to the extent inconsistent therewith, shall supersede the provisions of Town Law 274-a.
- (2) The provision of this law shall supersede the provisions of Local Law No 1 of the year 1993.
- (3) The provision of this law shall supersede the provisions of Local Law No 3 of the year 2003.
- (4) The provision of this law shall supersede the provisions of Local Law No 2 of the year 2004.

B. Supersession of inconsistent laws, if any. The Town Board hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation or provision of the Town Law inconsistent with this Zoning Law. The Town Law provisions intended to be superseded include all of Article 16 of Town Law, §261 to 285 inclusive and any other provision of law that the Town may supersede pursuant to Municipal Home Rule Law and the Constitution of the State of New York. The courts are directed to take notice of this legislative intent and apply it in the event the Town has failed to specify any provision of law that may require supersession. The Town Board hereby declares that it would have enacted this Zoning Law and superseded such inconsistent provision had it been apparent.

ARTICLE XXI  
**Effective Date**

**§100-104. Effective date.**

This local law and every amendment thereto shall take effect immediately upon filing with the Secretary of State.

## INDEX

Note: Words with letters all capitalized are definitions.

- Accessory dwelling; guest dwelling, caretaker dwelling, 106
- ACCESSORY USE, BUILDING, OR STRUCTURE, 184
- Accessory uses and structures**, 17
- Administration and Enforcement**, 155
- Affordability restrictions, 32
- Affordable housing**, 28
- Affordable housing fee**, 30
- AFFORDABLE HOUSING FEE, 184
- Agricultural buffers**, 22
- Agricultural data statement**, 21
- AGRICULTURAL OPERATIONS, 184
- Agricultural overlay district**, 39
- AGRICULTURAL STRUCTURE, 184
- Agricultural uses**, 21
- AGRITOURISM, 185
- AGRONOMIC RATE, 185
- Airstrip**, 109
- AIRSTRIP, 185
- ALTERATION, STRUCTURAL, 185
- Amendments**, 181
- APPLICANT, 185
- AQUIFER, 185
- Area and Bulk Regulations**, 12
- Area variances**, 174
- Atmospheric effluence, 72
- Authority; purpose**, 1
- Automotive repair, 109
- AUTOMOTIVE REPAIR, 185
- Automotive sales**, 109
- AUTOMOTIVE SALES, 185
- Automotive service station, 110
- AUTOMOTIVE SERVICE STATION, 185
- Bank with drive-through**, 111
- BASE RESIDENTIAL YIELD, 185
- BASE ZONING DISTRICT, 186
- Bed and breakfast, 112
- BED AND BREAKFAST, 186
- BILLBOARD, 186
- BUFFER AREA, 186
- BUILDING, 186
- BUILDING AREA, 186
- BUILDING COVERAGE, 186
- BUILDING ENVELOPE, 186
- BUILDING FOOTPRINT, 186
- BUILDING HEIGHT, 186
- Building permits**, 157
- BUILDING, PRINCIPAL, 186
- CAMP, DAY, 186
- Camp, day and seasonal**, 112
- CAMP, SEASONAL, 186
- Car wash, 113
- CAR WASH, 186
- Cemetery**, 113
- CEMETERY, 187
- Certificate of occupancy, 162
- Certificate of use, 164
- CHANGE OF USE, 187
- CHANNEL, 187
- CHILD DAY CARE CENTER, 187
- CLEARING, 187
- CODE ENFORCEMENT OFFICER, 187
- Code Enforcement Officer and Inspectors**, 155
- COMMERCIAL LOGGING, 187
- Commercial logging/timber harvesting, 114
- COMMON FACILITIES, 187
- COMMUNICATIONS FACILITY, MAJOR WIRELESS, 187
- COMMUNICATIONS FACILITY, MINOR WIRELESS, 187
- Communications facility, personal wireless service facility and/or tower**, 116
- COMMUNICATIONS FACILITY, WIRELESS, 187
- COMMUNICATIONS TOWER, WIRELESS, 188
- COMPREHENSIVE PLAN, 188
- CONDOMINIUM, 188
- CONSERVATION EASEMENT, 188
- Conservation resources map, 64
- CONSERVATION SUBDIVISION, 188
- Conservation subdivisions**, 61
- Construction inspections**, 160
- CONTAMINATION, 188
- CONVENIENCE STORE, 188
- Convenience store associated with gasoline service station, 122
- CONVENTIONAL SUBDIVISION, 189

**Corner lots**, 16

CRAFT WORKSHOP, 189

CUL-DE-SAC, 189

**Daycare center**, 123

Definitions, 184

DEICING COMPOUNDS, 189

**Density Credit for Re-Subdivision**, 69

DISPOSAL, 189

**District design standards**, 84

District purposes, 3

DRIVE-THROUGH, 189

DRIVEWAY, 189

**Dwelling in a mixed use building**, 102

DWELLING UNIT, 190

DWELLING, ACCESSORY, 189

DWELLING, ECHO, 189

DWELLING, GUEST OR CARETAKER  
COTTAGE, 189

DWELLING, MANUFACTURED HOME,  
189

DWELLING, MIXED USE, 190

DWELLING, MULTIPLE FAMILY, 190

DWELLING, MULTIPLE FAMILY SENIOR  
CITIZEN, 190

Dwelling, multiple family; Dwelling, senior  
citizen, 103

DWELLING, SINGLE FAMILY, 190

DWELLING, SINGLE FAMILY DETACHED,  
190

DWELLING, SINGLE FAMILY SEMI-  
DETACHED, 190

DWELLING, SINGLE-FAMILY ATTACHED,  
190

DWELLING, TWO-FAMILY, 190

DWELLING, TWO-FAMILY CONVERSION,  
190

**Dwellings, single-family attached  
(townhomes); dwelling, single-family  
semi-detached**, 104

**Educational facility**, 124

EDUCATIONAL/TRAINING FACILITY, 190

Elder cottage, 107

ENERGY CODE, 190

Equipment storage, 125

**Exempt signs**, 93

Existing lots of record, 6

**Existing mining activities**, 44

FAMILY, 191

**Farm market**, 125

FARM MARKET, 191

**FARM STAND**, 191

FARMERS MARKET, 191

FEMA, 191

Fences and walls, 17

FERTILIZER, 191

Fire and explosion hazards, 72

**Fire escapes**, 19

Fire safety and property maintenance  
inspections, 168

**Flag lots**, 14

FLOOD HAZARD AREA, 191

Flood hazard areas, 75

FLOOD PLAIN, 191

FLOOD, 100-YEAR, 191

FLOOR AREA, 191

FLOOR AREA, GROSS, 191

FLOOR AREA, NET, 191

Freshwater wetlands, 75

FUNERAL HOME, 191

**General performance standards**, 72

Glare, 72

**Golf course**, 126

GOLF COURSE, 191

GRADING, 192

**Greenway compact**, 73

GROUNDWATER, 192

**Handicapped parking**, 90

HAZARDOUS SUBSTANCE, 192

HAZARDOUS WASTE, 192

Heat, 72

**Height exceptions**, 16

HELIPORT, 192

HOME OCCUPATION, MAJOR, 192

HOME OCCUPATION, MINOR, 192

HORSE BOARDING OPERATION, 192

HOUSING TRUST FUND, 193

IMPERVIOUS SURFACE, 193

INCENTIVE, 193

**Incentive Zoning**, 24

INDUSTRIAL STORMWATER PERMIT,  
193

Industrial wastes, 72

INFILTRATION, 193

**Inpatient health care facility**, 128

INPATIENT HEALTH CARE FACILITY, 193

JUNK YARD, 193  
JUNK YARD, AUTOMOBILE WRECKING,  
193

KENNEL, 193  
Kennels and veterinary hospitals, 129

LAND DEVELOPMENT ACTIVITY, 193  
LAND OWNER, 193

**Landscaping and Screening**, 73

**Lighting**, 74

LIVESTOCK, 194

Local protection of streams, 76

**Lodging**, 129

LODGING, 194

LOT, 194

LOT AREA, 194

LOT AREA, NET, 194

LOT COVERAGE, 194

LOT DEPTH, 194

**Lot frontage**, 14

LOT FRONTAGE, 194

LOT LINE, 194

LOT LINE, FRONT, 195

LOT LINE, REAR, 195

LOT LINE, SIDE, 195

LOT OF RECORD, 195

LOT WIDTH, 195

LOT, CONSERVANCY, 194

LOT, CORNER, 194

LOT, FLAG, 194

LOT, THROUGH, 195

Major home occupation, 108

Major telecommunication facility, 117

Manufactured home (single or double-wide),  
23

**Manufacturing**, 130

MANUFACTURING, 195

MANURE, 195

MAXIMUM RESIDENTIAL YIELD, 195

MEMBERSHIP CLUB, 195

**Membership Club, Multiple Use Social  
and Recreation**, 130

MEMBERSHIP CLUB, MULTIPLE USE  
SOCIAL AND RECREATION, 195

MINERAL, 195

**Minimum lot area; density**, 14

**Minimum NND Standards**, 47

MINING, 195

Mining material restriction, 73

Mining overlay district, 40

Minor telecommunication facility, 116

**MLRL permit**, 41

MODULAR HOME, 196

MUNICIPAL SUPPORT, 196

**New Neighborhood Development**, 45

Noise, 72

NON CONSTRAINED LANDS, 196

**Non-Conforming Buildings, Structures  
and Uses**, 151

**Nonconforming signs**, 97

**Non-conforming uses**, 151

NONPOINT SOURCE POLLUTION, 196

NURSING HOME, 196

OFFICE, 196

**Office use in the R District**, 132

OFFICE, MEDICAL, 197

Off-street loading, 92

OPEN SPACE, 197

Operating permits, 167

OVERBURDEN, 197

OVERLAY ZONING DISTRICT, 197

**Parking design**, 90

PARKING SPACE, 197

**Parking standards**, 86

**Permitted signs**, 95

PERSON, 197

PESTICIDE, 197

PETROLEUM, 197

**Phased development**, 149

PITI, 197

PRIMARY CONSERVATION AREA or  
FEATURE, 197

PRIME FARMLAND SOILS, 198

**Principal buildings**, 15

PROCESS WASTE, 198

**Professional fees**, 178

**Prohibited signs**, 94

**Public utilities**, 132

PUBLIC UTILITY, 198

RADIOACTIVE MATERIAL, 198

Radioactivity or electromagnetic  
disturbance, 72

RECHARGE, 198

RECREATION, COMMERCIAL, 198



**Recreation, commercial indoor and commercial outdoor**, 132  
 RELIGIOUS INSTITUTION, 199  
**Repealer**, 206  
**Required protected open space**, 66  
 RESEARCH AND LABORATORY FACILITIES, 199  
**Research and laboratory use**, 133  
**Reservation of parkland on site plans containing residential units**, 147  
 Resort, 134  
 RESORT, 199  
**Restaurant**, 135  
 RESTAURANT, 199  
 RETAIL USE, 199  
 RIDGELINE, 199  
**Riding stable or academy**, 135  
 RIDING STABLE OR ACADEMY, 199  
 ROAD RIGHT-OF-WAY, 199  
 ROAD, PRIVATE, 199  
 ROADWAY EDGE, 199  
 RUNOFF, 199  
 Rural cluster, 188  
 Rural hamlet, 188  
  
**Scope**, 1  
**Screening**, 74  
 SCREENING, 200  
 SECONDARY CONSERVATION AREA OR FEATURE, 200  
 SEDIMENT, 200  
 SEDIMENTATION, 200  
 Self storage facility, 136  
 SELF-STORAGE FACILITY, 200  
 SERVICE BUSINESS, 200  
 Service business with or without customers on site, 136  
**Severability**, 206  
**Shared parking**, 89  
 Shooting preserve, 137  
 SHOOTING PRESERVE, 200  
**Sight distance at intersections**, 16  
 SIGN, 200  
 SIGN, ADVERTISING, 201  
 SIGN, BUSINESS, 201  
 SIGN, DIRECTLY ILLUMINATED, 201  
 SIGN, FREESTANDING, 201  
 SIGN, HEIGHT OF, 201  
 SIGN, INDIRECTLY ILLUMINATED, 201  
 SIGN, PORTABLE, 201  
 SIGN, SANDWICH, 201  
 SIGN, TEMPORARY, 201  
 SIGNIFICANT ECOLOGICAL HABITAT, 201  
 Signs, 93  
 SITE PLAN, 201  
**Site Plan Review**, 140  
 SKETCH PLAN, 201  
**Sketch plan submission and review**, 141  
 SLUDGE, 201  
 SOIL MINING, 202  
 SOILS OF STATEWIDE IMPORTANCE, 202  
 SOLID WASTE, 202  
 Solid waste disposal, 84  
 SPECIAL USE PERMIT, 202  
**Special Use Permits**, 99  
 STACKING LANES, 202  
 START OF CONSTRUCTION, 202  
 Stop work orders, 161  
 STORMWATER, 202  
 STORMWATER HOTSPOT, 202  
 Stormwater management, 76  
 STORMWATER MANAGEMENT PRACTICES, 202  
**Stormwater pollution prevention plan**, 78  
 STORMWATER POLLUTION PREVENTION PLAN, 202  
 STORMWATER RUNOFF, 202  
 STREAM, 203  
 STREET, 203  
 STREET LINE, 203  
 STRUCTURE, 203  
**Subdivision design**, 60  
**Subdivision of pre-existing lots**, 69  
 SUBDIVISION, MAJOR, 203  
 SUBDIVISION, MINOR, 203  
 SWIMMING POOL, 203  
 Swimming pools, 18  
  
 Table A, Schedule of Use Regulations, 8  
**Table B:**, 13  
**Table B:**, 13  
 Table C, Schedule of Minimum Parking Space Requirements, 86  
**Temporary buildings**, 18  
**through lots**, 16  
**Title**, 1  
 TOWN, 203  
 TRADITIONAL NEIGHBORHOOD DESIGN, 203  
 Traditional neighborhood hamlet, 188

**Two-family dwelling conversion**, 24

**Underground storage tanks**, 73

UNIFORM CODE, 203

**Unsafe buildings and structures**, 166

**Use variances**, 173

USE, NONCONFORMING, 203

USE, PRINCIPAL, 203

**Utility lines**, 16

VARIANCE, AREA, 203

VARIANCE, USE, 204

VETERINARY HOSPITAL, 204

Vibration, 72

Violations, 170

**Warehouse**, 138

WAREHOUSE, 204

WATER BODY, 204

WATERCOURSE, 204

**Wellhead protection district**, 37

WETLANDS, 204

YARD, REQUIRED, 204

YARD, REQUIRED FRONT, 204

YARD, REQUIRED REAR, 204

YARD, REQUIRED SIDE, 204

**Zoning Board of Appeals**, 173

Zoning district designations, 3

**zoning districts**, 3

**Zoning Enforcement Officer**, 156

ZONING ENFORCEMENT OFFICER, 205

**Zoning map**, 5

**Zoo**, 138

ZOO, 205