

# TOWN OF ROCKLAND ZONING LAW



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## ARTICLE I, GENERAL PROVISIONS

### § 185-1. Repeal and Replacement.

This law, upon its effective date, shall repeal, in its entirety, the Town of Rockland Zoning Ordinance adopted in 1967, amended in 1981 and all later amendments made prior to the effective date of this law, whether enacted as local law or by ordinance. This law shall replace said Ordinance and amendments.

### § 185-2. Authority.

This law regulates, by district, the use of land, buildings and structures in the Town of Rockland in the County of Sullivan. It further provides for the administration and enforcement of these regulations and fixes penalties for this violation. It is adopted under the authority of Article 16 of the New York State Town Law as well as the Municipal Home Rule Law and shall be known as the "Town of Rockland Zoning Law". It is also, pursuant to the authority granted under Section 10 of the Municipal Home Rule Law, the intent of this local law to amend and supersede Sections 130, 274-a., 274-b., 267, 276, 277 and 278 of Town Law to permit the coordinated and comprehensive regulation of manufactured homes and manufactured home parks, campgrounds and recreational parks, multi-family dwellings, junkyards and conservation subdivisions and specifically to allow:

- A. The coordination and combination of subdivision and zoning controls as they pertain to multi-family dwellings and conservation subdivisions.
- B. The integration of junkyard and other regulations adopted pursuant to Section 130 of the Town Law with site plan and special use review criteria adopted pursuant to Sections 274-a. and 274-b. of the Town Law.
- C. The establishment of special-use and site plan review procedures which provide for SEQRA action following public hearings rather than before, the use of preliminary site plans and employment of renewable special use permits.
- D. Authorization for the Planning Board to require the use of the conservation subdivision technique and allow density bonuses for using it in supersession of Section 278.3b. of the Town Law.
- E. Establishment of a procedure for designation of alternate members on the Zoning Board of Appeals.
- F. Setting different penalties for violations, such violations to be treated as offenses rather than criminal violations as the Town Law provides.
- G. Authorization for the Planning Board to modify yard requirements for accessory buildings with site plan review, to authorize lot owners to encroach upon these yards for purposes of nonresidential building construction in the case of lots served by central

sewer/ water facilities in supersession of § 267-b of the Town Law.

- H. The Town Board shall also supersede the New York State Town Law pursuant to the Municipal Home Rule Law so as to appoint alternate members of the Planning Board to serve for terms of one (1) year each or until their successors are appointed. Such alternate members shall attend meetings and act in the capacity of full members whenever regular members cannot attend or must recuse themselves due to conflicts of interest.

### § 185-3. Purposes.

This law is intended to implement the recommendations and fulfill the goals and objectives of the Town of Rockland Comprehensive Plan, as amended. Specific purposes of this law include those contained in § 263 of the Town Law and the following:

- A. Preserving and enhancing the town's open spaces, scenic character, aesthetics and general living environment by providing for the proper relationships between man, building and open space in all site planning.
- B. Designing appropriate districts in the town for various land uses at densities which will conserve and enhance the value of property while meeting the community development needs of the town.
- C. Providing for a variety of housing units, in compatible residential environments, to address the full range of needs in terms of incomes, ages and family sizes.
- D. Encouraging compatible mixes of permitted uses within specified zoning districts.
- E. Establishing reasonable standards of development to which uses, buildings or structures shall conform so as to provide for the health, safety and general welfare of residents and reduce future costs to the community.
- F. Promoting orderly development to maintain the stability of residential, business and agricultural areas and improve the overall economic base of the Town.

### § 185-4. Conflicts and Interpretation.

In the interpretation and the application of the provisions of this law, they shall be held to be the minimum requirements for the promotion of the health, safety, morals and general welfare. It is not intended to interfere with or abrogate or annul other laws, rules, regulations, ordinances or private covenants, provided that where this law imposes greater restrictions upon the use of buildings or premises or upon the height or bulk of a building or requires larger open spaces, the provisions of this law shall apply. In the event of any internal conflict in any terms or conditions of this law, the more restrictive provisions shall apply.

### § 185-5. Amendments.

This law may be amended from time to time by the Town Board pursuant to the provisions of the New York State Town Law and the Municipal Home Rule Law. Further, the Town Board recognizes the value of periodic review of this law in order to identify components that could benefit from amendments that increase the effectiveness of this law and help carry out the goals of the comprehensive plan.

## ARTICLE II, DEFINITIONS

### § 185-6. Word use.

For purposes of this law, words used in the present tense shall include the future; the singular number shall include the plural, and the plural, the singular; the word "structure" shall include the word "building"; the word "use" shall include "activity," "project" or "development"; the word "used" shall include "arranged," "designed," "constructed," "altered," "converted," "rented," "leased," "occupied" or "intended to be used"; and the word "shall" is mandatory and not optional.

### § 185-7. Definitions.

Unless the context clearly indicates a different meaning, the following terms shall, for purposes of this Law, have the meanings indicated below:

**ACCESSORY USE OR STRUCTURE** - A use or structure generally of one (1) story or less in height which is subordinate to the principal use of a building on the same lot and serves a purpose customarily incidental to the use of the principal activity or building whether allowed as a Principal or Special Use.

**AGRICULTURAL ACTIVITIES** - Uses involving the production of food and fiber, including animal husbandry, but excluding kennels and agricultural processing facilities. The simple clearing of land, tilling of soil, planting of crops, keeping of animals and other common practices in connection with an agricultural activity shall not be regulated by this Zoning Law, but the construction of buildings and improvements or establishment of new land uses in connection therewith shall be covered to the extent provided herein.

**AGRICULTURAL PROCESSING FACILITIES** - Facilities used to process food, fiber or fur for purposes of packaging and distribution, including feed mills, slaughterhouses and tanneries, but excluding on-farm dairies or similar facilities which serve as accessories to the principal farm use.

**ANIMAL HOSPITAL** - Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases wherein the animals are limited to dogs, cats, or other comparable household pets and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal. (Also known as a veterinary clinic).

**ANIMAL HUSBANDRY** - The keeping of animals for purposes of producing food, fiber, fur, breeding stock or entertainment, including but not limited to dairy animals, poultry, livestock, equines, swine, goats, sheep, llamas, ostriches, bees, fur-bearing animals and other

comparable species which are grown for monetary gain or personal use, excluding kennels and similar enterprises and the keeping of household pets in numbers which do not meet the threshold for being classified as a kennel.

**ANIMAL SHELTER** - A facility (sometimes known as a pound) used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

**AUTOMOBILE-RELATED USE** - A building or place of business where gasoline, oil and grease, batteries, tires and automobile accessories are stored, supplied and/or dispensed directly to the motor vehicle trade or, at retail where repair service is rendered. This definition shall also apply to the use of any wholesale building, land area or other premise for the display and sale, under license by the State of New York, of new and used automobiles of presently operable under license by the State of New York, of new and used automobiles of presently operable condition; panel trucks or vans; Manufactured Homes or trailers; recreational vehicles; or farm and construction equipment; including any warranty repair work and other repair service as an accessory use. This term is meant to include auto sale lots but such lots shall be restricted to automobile and light truck sales. It shall also include other automotive uses as may be allowed in each district. None of these terms, however, shall under any circumstance, be deemed to include junkyards, collectors of itinerant vehicles or vehicle dismantling operations.

**BED AND BREAKFAST** - A single-family dwelling in which up to eight (8) guest rooms with shared or private bathroom facilities are available as lodging for persons, either individually or as families, for specific periods of time, with one or more meals offered.

**BUILDING** - A structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property.

**BUILDING HEIGHT** - The vertical distance measured from the average level of the ground surrounding the building to the highest point of the roof, but not including chimneys, spires, towers, tanks and similar projections.

**BUILDING, PRINCIPAL** - A structure in which is conducted the principal use of the site on which it is situated.

**CAMPING** - The use of a property as a site for sleeping outside or the parking of travel trailers, motor homes, recreational vehicles or similar equipment, the erection of tents or other shelters to serve as temporary residences, regardless of whether or not done for pecuniary gain.

**CATERING SERVICE** - An establishment in which the principal use is the preparation of food and meals on the premises, and where such food and meals are delivered to another location for consumption.

**CENTRAL SEWER/WATER FACILITIES** - Systems for the provision of water supply to or the treatment of sewage from three (3) or more dwellings or the equivalent, where the principal services are offered from or take place on a lot apart from the individual dwelling units being served. (See "On-Site Water/Sewer Facilities).

**CHILD CARE** - A service that provides for the care, health, safety, supervision, or guidance of a child's social, emotional, and educational growth, on a regular basis, in a place other than the child's own home.

**COMMUNITY CENTER** - A place, structure, area, or other facility used for and providing social, recreational, religious, or fraternal programs generally open to the public and designed to accommodate and serve significant segments of the community. May also be referred to as a convention center or civic center. This use shall also include a community that promotes sustainable living, recreational or tourist facility, or related operation that conducts public programming."

**COMPREHENSIVE PLAN** - A composite of the mapped and written proposals recommending the physical development of the municipality which shall have been duly adopted by the Town.

**CONDOMINIUM** - A multiple-unit residential building in which the homeowner owns an individual unit and a proportionate share of all the common elements, including the land on which the building is located. Maintenance of the common elements is administered by a Homeowners Association or similar entity. Condominiums are also subject to the provisions of applicable state laws and regulations.

**CONVENIENCE STORE** - A small retail establishment, usually located within or associated with another use, that offers for sale convenience goods, such as prepackaged food items, tobacco, periodicals, and other household goods.

**DISTURBANCE** - Land preparation, such as clearing, grading and filling, or the building of structures, including driveways.

**DRIVE-IN OR FAST-FOOD ESTABLISHMENT** - Any establishment primarily offering, for sale, take-out food and drink for consumption off-premises including commercial food stands.

**DWELLING** - Any building or portion thereof designed or used exclusively as the residence or sleeping place of one (1) or more persons.

A. **DWELLING, SINGLE-FAMILY** - A detached building, designated for or occupied exclusively by one (1) family and containing not more than one (1) dwelling unit, excepting for a temporary separate "mother-daughter" apartment of no more than one-bedroom for a relative depending partially upon the assistance of the principal dwelling



occupant(s) with the activities of daily living.

- B. DWELLING, TWO-FAMILY - A detached or semi-detached building where not more than two (2) individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common cellar.
- C. DWELLING, MULTI-FAMILY- A building or portion thereof used or designed as a residence for three (3) or more apartment or dwelling units.
- D. DWELLING, SEASONAL - A dwelling constructed for purposes of seasonal occupation and without the necessary improvements in the way of heating and or other services for permanent occupancy.

DWELLING UNIT - one (1) or more rooms, including cooking facilities and sanitary facilities, in a structure designed as a unit for occupancy by not more than one (1) family for living and sleeping purposes.

ENGINEER, TOWN - A Professional Engineer licensed as such by the State of New York and appointed or hired on a consulting basis to provide engineering advice to the Town.

ESSENTIAL SERVICES - The erection, construction, alteration or maintenance, by public utilities, cable television companies, or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety and general welfare. This shall not include, however, cellular phone or other telecommunications towers. "Essential services" shall include ambulance facilities, firehouses, first-aid and emergency-aid squads and CATV.

FAMILY - one (1) person, or two (2) or more persons related by blood, marriage or adoption, or not more than five (5) persons not related by blood, marriage or adoption, who live together in a single dwelling unit and maintain a common household.

FOOD PROCESSING ESTABLISHMENT - Manufacturing establishments under 5000 sq. ft. producing or processing foods or beverages for human consumption and certain related products. Includes: (1) bakery products, sugar and confectionery products (except facilities that produce goods only for on-site sales with no wider distribution); (2) dairy products processing; (3) fats and oil products (not including rendering plants); (4) fruit and vegetable canning, preserving, and related processing; (5) grain mill products and by-products; (6) meat, poultry, and seafood canning, curing, and byproduct processing (not including facilities that also slaughter animals); (7) breweries, distilleries, wineries, and cideries; and (8) miscellaneous food preparation from raw products, including catering services that are

independent from food stores or restaurants.”

**FOUNDATION** - A wall or pier extending at least four (4) feet below grade or an equivalent load-bearing structure certified by a licensed professional engineer or architect, having a fixed location on the ground, being capable of serving as a support for a structure or structural part of a building and meeting the relevant criteria set forth in Articles 7 and 8 of Chapter B of the New York State Uniform Fire Prevention and Building Code.

**FORESTRY ACTIVITIES** - Establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products or performing of forest services, not including milling, planing or lumber distribution facilities involving permanent construction, all of which shall be separately regulated as provided herein.

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

**GARAGE SALE** - The sale of miscellaneous used items commonly associated with residential use. Garage sales shall be limited to the sale of tangible personal property that was obtained by the person making the sale, through purchase or otherwise, for his or her own use and shall not be for the sale of primarily a single commodity. A garage sale shall be limited to a period of no more than three consecutive days, and in the course of one calendar year there shall be no more than (3) three-consecutive-day periods. The term “garage sale” includes “sidewalk sale,” “yard sale,” “basement sale,” “estate sale,” “rummage sale,” “lawn sale,” and related terms intended to convey the meaning of “garage sale” herein.

**GIFT AND ANTIQUE SALES OUTLET** - Any premises used for the sale or trading of articles and objects to include gifts, souvenirs, or antiques. An antique is defined as being work of art, piece of furniture, decorative object, or the like, of or belonging to the past and at least 50 years old.

**GOLF COURSE** - A tract of land laid out with a least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse, restrooms, driving range, and shelters as accessory uses.

**“HIGH WATER MARK** That ordinary mark on lakes and streams that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years, as to mark upon the soil a character distinct from that of the abutting upland. In any area where the high water mark cannot be found, the top of the channel or lake bank shall substitute.”

**HOME-BASED BUSINESS** - Any business activity or occupation that occurs on property or within structures where a residence is the primary land use and the business activity or occupation is clearly incidental to such residential use.

**HOME IMPROVEMENT CENTER** - The retail sale of a diverse range of hardware and related materials, or subset thereof, generally used in the maintenance, repair, or construction of buildings or other structures, including lawn and garden supplies.

HEALTH FACILITIES - Establishments primarily engaged in furnishing medical, surgical, dental and other services related to human health maintenance, including physician offices, clinics, laboratories, out-patient care facilities, medical supply companies, hospital-related services, nursing homes, physical therapy facilities and the like, not including retention facilities or other activities which are not primarily for the purpose of delivering health care.

HOTEL (See MOTELS AND HOTELS)

IMPERVIOUS SURFACE - Any surface that cannot be effectively (easily) penetrated by water, thereby resulting in runoff. Examples are pavement (asphalt, concrete, etc), buildings/structures, driveways/roadways, parking lots and sidewalks.

INN - A building, which contains a dwelling unit occupied by an owner or resident manager, in which up to 10 lodging rooms or lodging rooms and meals are offered to the general public for compensation, and in which entrance to bedrooms is made through a lobby or other common room. "Inn" includes such terms as "guest house," "lodging house," and "tourist house."

KENNEL - Any enclosure, premises, building, structure, lot or area in or on which more than four (4) dogs or other domesticated animals of at least six (6) months of age are kept, harbored or maintained for commercial or noncommercial purposes for continuous periods of twenty-four (24) hours or more.

LIGHT MANUFACTURING - The manufacturing, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, provided all manufacturing activities are contained entirely within a building and noise, odor, smoke, heat, glare, and vibration resulting from the manufacturing activity are confined entirely within the building and are will not cause impacts beyond the property line. This term includes but is not limited to a business engaged in the processing, fabrication, assembly, of crafts, toys, leather, wood, paper, plastic, or metal products, but excludes industrial processing from raw materials.

LOT - A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as are required by this law.

- A. LOT, CORNER - A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five degrees (135°). The point of intersection of the street lot lines is the corner.
- B. LOT DEPTH - The average horizontal distance between the front and rear lot lines.
- C. LOT FRONTAGE - The width of a lot at the front lot line.

D. LOT LINES - The property lines bounding a lot.

1. LOT LINE, FRONT - The line separating the lot from a street or, where no right-of-way is established, a distance of twenty-five (25) feet from the centerline.
2. LOT LINE, REAR - The lot line opposite and most distant from the front lot line. The rear lot line for a triangular-shaped lot shall be considered to be zero feet in length.
3. LOT LINE, SIDE - Any lot line other than a front or rear lot line.

LOT AREA - The land area contained within the lot lines, excluding area within highway rights-of-way and land under water except for ponds contained wholly within a lot.

LOT COVERAGE - That portion of the lot area that is covered by impervious surfaces.

LOT WIDTH - The average horizontal distance between the two (2) side lot lines.

LUMBERYARD - A facility where building materials such as lumber, plywood, drywall, paneling, cement blocks and other cement products, and other building products are stored and sold. (See also home improvement center.)

MAJOR IMPACT USE - A use of such scope and impact that it requires Special Use and Site Plan Review approval under the provisions of § 185.27 hereof.

MANUFACTURED HOME - A transportable single-family dwelling unit intended for permanent occupancy which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed on a chassis so that it might be towed, not including a modular or sectional dwelling, recreational vehicle or travel trailer. (Same as "Mobile Home.")

MANUFACTURED HOME PARK - A parcel or contiguous parcels of land which have been designated and improved for the purpose of placing three (3) or more mobile or manufactured homes for occupancy as single-family dwellings. (Same as "Mobile Home Park.")

MINI-STORAGE UNITS - Buildings or structures used for the rental of multiple spaces for the storage, principally of personal goods.

MOTELS AND HOTELS - Establishments providing transient lodging accommodations to the general public with or without additional services such as restaurants, meeting rooms and recreational facilities.

MUSEUM - A building having public significance by reason of its architecture or former use or occupancy and a building serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods to the public as gifts or for their

own use.

NOI - Notice of Intent for coverage under an SPDES General Permit for Stormwater Discharges, as required by the New York State Department of Environmental Conservation (DEC).

NURSERY - An operation for the cultivating, harvesting, and sale of plants, bushes, trees, and other nursery items grown on site or established in the ground prior to sale, and for related accessory sales and uses.

OFFICE, PROFESSIONAL - Professional or government offices including: accounting, auditing and bookkeeping services; advertising agencies; architectural, engineering, planning, and surveying services; attorneys; counseling services; court reporting services; data processing and computer services; detective agencies and similar services; educational, scientific, and research organizations; employment, stenographic, secretarial, and word processing services; government offices including agency and administrative office facilities; management, public relations, and consulting services; photography and commercial art studios; writers and artists offices outside the home. Does not include: medical offices or offices that are incidental and accessory to another business or sales activity that is the principal use. Incidental offices that are customarily accessory to another use are allowed as part of an approved principal use.

ON-SITE SEWER/WATER FACILITIES - Systems for the provision of water supply or the treatment of sewage on the same lots with the individual dwelling units being served. (SEE "Central Sewer/Water Facilities.")

OUTDOOR SALES - The placement of goods, equipment, or materials for sale or for advertisement, outside of the building or structure. Outdoor sales shall not mean garage sales as defined herein.

PLANNED UNIT DEVELOPMENT - A structure or group of structures designed to be maintained and operated as a unit in single ownership or control by an individual, partnership, corporation or cooperative group, which has certain facilities in common, such as yards and open spaces, recreation areas, garages and parking areas and includes twenty-five (25) or more dwelling units.

PLANNING BOARD - The Planning Board of the Town of Rockland.

PRINCIPAL PERMITTED USE - A principal use allowed as a matter of right in the district in which it is permitted.

RECREATION, 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. 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, and firing range. An indoor recreation use may include accessory uses, such as food service facilities, meeting rooms, serving of alcoholic beverages, video or computer game facilities, video theater facilities, a spa, sales or sport or

exercise-related equipment or clothing and other accessory uses clearly incidental to the recreation activity.

**RECREATION, OUTDOOR** – Recreational activities conducted outdoors in open or partially enclosed or screened facilities, including but not limited to playing fields, tennis and racquet courts, swimming, bike trails, hiking, orienteering, batting cages, driving ranges, mini-golf, water and amusement parks, skateboard park, paintball, and laser tag. Outdoor recreational shall not include firing ranges, motorized cart and motorcycle tracks, all-terrain vehicle facilities, and motorized model airplane flying facilities. 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. Golf courses are regulated as a separate use.

**RELIGIOUS INSTITUTION** - A building, together with its accessory buildings and use, where persons regularly assemble for religious purposes and related social events and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

**REPAIR SERVICES** - Establishments primarily engaged in the provision of repair services to individuals and households, rather than businesses, but excluding automotive and equipment repair use types. Typical uses include appliance repair shops, shoe repair, watch or jewelry repair shops, or repair of musical instruments.

**RESTAURANT** - Any establishment where food is regularly prepared and served for consumption either on or off the premises and constitutes at least 60% of sales as compared to alcoholic beverages, including eating and drinking places, food service establishments, commercial food stands and drive-in or fast-food establishments. A restaurant may be operated from any facility specifically constructed or renovated for this purpose but not from a parked vehicle or temporary structure unless otherwise specifically provided for herein.

**RETAIL SERVICES ESTABLISHMENT** - Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal service, motion pictures, amusement and recreation services, health, educational, and social services, museums, and galleries.

**“RETAIL SALES ESTABLISHMENT, LARGE SCALE** – Establishments of more than 10,000 square feet and not greater than 30,000 square feet of gross floor area engaged in the sale or rental of goods for consumer or household use; excluding, however, animal sales or service; building materials and/or supplies, sales, or rental; and food sales or markets. Typical uses include department stores and bulk retail outlets.”

**RETAIL SALES ESTABLISHMENT, SMALL SCALE** - Establishments of 10,000 square feet or fewer of gross floor area engaged in the sale or rental of goods for consumer or household use; excluding, however, animal sales or service; building materials and/or supplies, sales, or rental; and food sales or markets. Typical uses include sale of consumer goods or art or craft objects, flower shops, gift shops, and boutiques.

**RETAIL SALES ESTABLISHMENT, SPECIALTY** - Retail operations that specialize in one type or line of merchandise. Such stores may include but are not limited to apparel stores,

jewelry stores, bookstores, shoe stores, stationary stores, antique stores, craft stores, and similar establishments.

**SAWMILL** - A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

**SIGN** – See §185-30.2

**SOLAR COLLECTION SYSTEM**, - See §185-30.3

**SPECIAL USE** - A primary use allowed subject to Planning Board approval and site plan review and modification in accordance with the standards and criteria contained herein, which use may also be denied if such standards cannot be met or appropriate modifications made to safeguard the public interest.

**STABLE** - Any structure or land used, designed, or arranged for the maintenance or rental of horses, mules, ponies, or donkeys either with or without a bridle path or riding area, but excluding structures or land used, designed, or arranged for the maintenance of horses or mules used exclusively for agricultural purposes.

**STRUCTURE** - Anything constructed, the use of which requires permanent location on the ground or attachment to something having permanent location on the ground, including stationary and portable carports and storage sheds.

**SWPPP** - Stormwater Pollution Prevention Plan, as required by the New York State Department of Environmental Conservation (DEC) in conformance with DEC technical standards and SPDES Stormwater Permit requirements. A Basic SWPPP consists of a plan for erosion and sediment control. A Full SWPPP consists of a plan for erosion and sediment control plus a post-construction stormwater control plan. All terms defined in the Department's Stormwater Management Design Manual are hereby incorporated herein by reference.

**TAVERN** - Any establishment where food and drink are regularly prepared and served for consumption on the premises, but food constitutes less than 60% of sales as compared to alcoholic beverages.

**TELECOMMUNICATIONS FACILITY** – Any site containing equipment used in connection with the commercial operation of Wireless Communications Services, as defined herein, and as the term “personal wireless services facility” is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332(c)(7)(C), or as hereafter amended to transmit and/or receive frequencies, including, but not limited to, antennas, monopoles, equipment, appurtenances and structures. Also known as Wireless Communication (Telecommunication) Facility.

**THEATER** - A building used for theatrical or other cultural activities, open to the public or designated part of a public, nonprofit group or agency.

TOWNHOUSE - A building on its own separate lot containing one dwelling unit that occupies space from the ground to the roof, and is attached to one or more other townhouse dwelling units by at least one common wall.

USE - The specific purpose for which a parcel of land or a building is designed, arranged, 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 dimensional or physical requirements of the applicable zoning regulations.

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 the applicable zoning regulations.

WHOLESALE ESTABLISHMENT - An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

YARD - An open space which lies between the principal building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward except as herein permitted.

- A. YARD, FRONT - An open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward.
- B. YARD, REAR - An open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward.
- C. YARD, SIDE - An open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward.

ZONING MAP - The Zoning Map or Maps for the Town of Rockland, New York, together with all amendments subsequently adopted.

Where a term used in this Law is not specifically defined above or in the context of its use herein, it shall have the generally accepted meaning that would be taken in the course of ordinary conversation, as defined in Webster's International Dictionary

## ARTICLE III, BASIC DISTRICT REGULATIONS

### § 185-8. Enumeration of districts.

A. The Town of Rockland is hereby divided into the following types of districts:

RC Rural Conservation District



- R1 Low-Density Residential District
- R2 Moderate to High-Density Residential District
- GB General Business District
- NB Neighborhood Business District

B. Overlay Zones. There are three types of overlay zones in the town of Rockland, as shown on the Official Zoning Map. Regulations of the overlay zones apply in addition to those of the underlying district(s).

- 1. Downtown Overlay
- 2. Aquifer Protection Overlay (§185-28)
- 3. Watershed Protection Overlay (§185-28)

## § 185-8.1. Purpose of districts.

### A. Rural Conservation (RC):

This district is intended to protect the rural character of that portion of Rockland which is subject to natural limitations or in public or semi-public use as open space and to provide for wildlife, recreation, forestry and conservation uses in general.

### B. Low Density Residential (R1)

This district is intended to provide for single-family and two-family dwellings in areas without public sewer services and free from negative impacts associated with incompatible commercial or similar uses.

### C. Moderate to High Density Residential (R2)

This district is intended to provide areas for moderate to high density residential development and compatible activities in areas with public sewer capacity.

### D. Neighborhood Business (NB)

This district is intended to provide for commercial and mixed-use development within key neighborhoods and at relatively high density for the purpose of meeting the needs of residents for goods and services.

### E. General Business (GB)

This district is intended to provide areas within the Town for the general development of business and industry requiring significant land areas and attracting business from within both the region and the Town.

### F. Downtown Overlay

The purpose of this zone is to encourage business in the core areas of the hamlets of Roscoe and Livingston Manor by waiving parking requirements for the parcels within the overlay zone. Such parking requirements of the underlying district remain in effect for any parcels outside the overlay zone.

#### G. Aquifer Protection Overlay

The purpose of this zone is to assist in the preservation of public health, general welfare, and safety of residents and to facilitate the adequate provision of water through the elimination or prevention of groundwater contamination in the vicinity of the well(s) which supply public water.

#### H. Watershed Protection Overlay

The purpose of this zone is to assist in the preservation of public health, general welfare, and safety of residents and to facilitate the adequate provision of water through the elimination or prevention of groundwater contamination in the vicinity of the well(s) which supply public water.

### § 185-9. Zoning Map.

The location and boundaries of said districts are hereby established as shown on the Official Zoning Map of the Town of Rockland, as amended this date or hereafter, which is attached hereto and made a part of this law. This Map is supplemented by depictions of said boundaries on tax assessment maps of the Town of Rockland maintained in the Town Clerk's offices, said depictions having been prepared simultaneously with the Official Zoning Map and intended to be a part thereof for purposes of providing a more precise rendering of the location of district boundaries. Said maps and all notations, references and designations shown thereon shall be a part of this law as if the same were fully described and set forth herein.

### § 185-10. Interpretation of district boundaries.

- A. Zoning district boundary lines are intended generally to follow or connect the center lines of rights-of-way; existing lot lines; the mean water level of rivers, streams and other waterways; or town boundary lines, all as shown on the Zoning Map; but where a district boundary line does not follow such a line, its position is shown on said Zoning Map by a specific dimension or relationship to such a line.
- B. Where a district boundary line divides a lot of record at the time such line is established, the Planning Board may allow the extension of activities permitted in one district to the other as a Special Use.
- C. When the specific location of a zoning district boundary line cannot be ascertained, the Code Enforcement Officer shall request the Planning Board to render an interpretation which shall then be used as the basis for applying zoning standards.

### § 185-11. Schedule of District Regulations.

The restrictions and controls intended to regulate development in each district are set forth in the Schedule of District Regulations in Appendix A which is then supplemented by other sections of this Law and other laws of the Town of Rockland. Any use identified as a Principal Permitted Use shall be permitted as a matter of right upon application to the Code Enforcement Officer, provided the proposed use is in compliance with these regulations. Special Uses are subject to site plan review and, specifically, Planning Board approval as

prerequisites to the Code Enforcement Officer issuing a permit for their establishment. Accessory Uses are permitted to accompany or precede Principal Permitted and Special Uses and permits for these uses shall be issued directly by the Code Enforcement Officer. Any use not listed in the Schedule of District Regulations is prohibited.

#### § 185-12. Applicability of regulations.

- A. Whenever any owner or occupant of any property in the Town of Rockland shall, for any purpose or in any manner; establish a new use; clear, excavate or grade land in advance of expanding an existing use or establishing a new use, (except for construction of a driveway onto a property, lawn or pasture); change an existing use; make permanent improvements; erect a new building; or move, alter, add to or enlarge any existing land use or building; such owner or occupant shall first comply with the requirements of this Law and obtain a zoning permit, unless specifically exempted from such requirements by this Law. A zoning permit shall be required whenever a change in land use occurs, regardless of whether any new construction is involved or not; excepting that agricultural harvesting, grazing, tilling and crop rotation shall be exempt from all permit requirements.

#### § 185-13. Lot development standards.

- A. Minimum development standards. The development standards contained herein are minimums and shall apply to each dwelling unit unless otherwise specifically provided. A two-family dwelling shall, for example, ordinarily require the equivalent of two minimum sized lots insofar as lot area, as will any two dwelling units on the same property. Conversions of existing structures or redevelopments of existing uses for two-family or multi-family dwelling use, regardless of whether or not such conversions involve structural alterations, shall be subject to the multi-family dwelling standards of this Law with the following exceptions:
1. The minimum lot area per dwelling unit shall be reduced to 7,500 square feet per bedroom and 5,000 square feet for a studio or efficiency apartment.
  2. No minimum shall apply to the overall acreage required for such a project.
  3. The Town Planning Board shall be authorized to waive any procedural standards as to their applicability to existing structures or the redevelopment of existing uses and shall instead rely upon the non-conforming use and Special Use provisions of this Law.
  4. Non-residential uses within a multi-family dwelling project shall only be limited to those uses provided for in the relevant zoning district and where such uses including dwellings above, only the minimum lot areas applicable to the dwellings shall apply.
- B. Corner lots. No obstruction to vision (other than an existing building, post, column or tree) exceeding thirty (30) inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between points along such street lot lines

seventy-five (75) feet distant from their points of intersection.

- C. Through lot requirements. A through lot shall be considered as having two (2) street frontages, both of which shall be subject to the front yard requirements of this law.
- D. Minimum lot frontage. All residential lots shall have a front lot line with a minimum length of fifty (50) feet.
- E. Flag lots. Development of new interior lots with limited lot frontage consisting of only an access right-of-way shall be permitted pursuant to the Town of Rockland Subdivision Regulations provided:
  - 1. The right-of-way of an access to a single flag lot may be reduced to twenty-five (25) feet in width.
  - 2. The lot area shall be exclusive of that portion used as a right-of-way for purposes of meeting minimum lot area and all other development standards for the District. No right-of-way shall be established over an existing parcel of land to reach a new lot to the rear which would reduce the length of the front lot line of the existing parcel to less than one-hundred (100) feet.
  - 3. All flag lot access right-of-ways shall be titled in fee-simple ownership to the flag lot property owner.

#### § 185-14. Height restrictions.

- A. General application. No building or structure shall exceed in building height the number of feet permitted as a maximum on the Schedule of District Regulations for the district where such building or structure is located.
- B. Permitted exceptions. Height limitations stipulated elsewhere in this law shall not apply to church spires, belfries, cupolas, domes, monuments, water towers, chimneys, smokestacks, flagpoles, radio and transmission towers, farm buildings or similar non-inhabited structures under 120 feet in height. Structures over 120 feet in height may be permitted as special uses provided they are sufficiently setback from adjoining properties to avoid any safety hazard connected therewith and meet all State and Federal air safety and electronic communications standards.

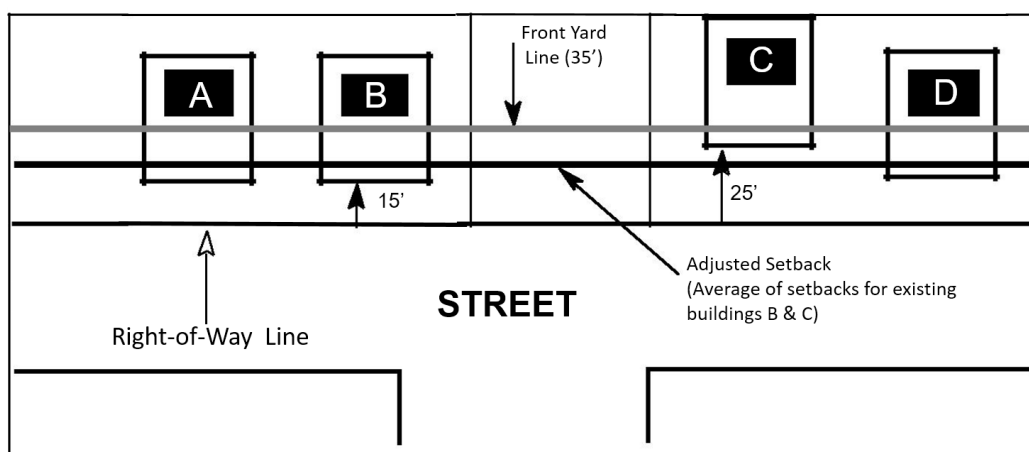
#### § 185-15. Yard regulations.

- A. Rear and side yard exceptions. Where the side wall of a building is not parallel with the side lot line or is irregular, the side yard may be varied. In such case, the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such yard shall not be narrower at any point than one-half (1/2) the otherwise required minimum width. The Town of Rockland Planning Board shall also have the discretion, in cases of "main street" businesses in Livingston Manor or Roscoe where no side yards are provided and/or buildings will directly adjoin, to permit zero lot line development. Additionally, the Planning Board shall have the authority, for good

cause in relationship to the particular nature of the property, to modify any yard requirements as applied to accessory buildings and with site plan review, to authorize lot owners to encroach upon these yards for purposes of nonresidential building construction in the case of lots served by central sewer/water facilities.

- B. Front yard exception. When an unimproved lot is situated adjacent to or between improved lots already having a principal building within the required front yard, the front yard for the unimproved lot may be reduced to the average depth of the front yards for the two (2) nearest adjoining improved lots. Also, when such circumstances exist, no principal structure shall be setback further than this average depth plus ten (10) feet. The Planning Board shall also have the discretion in cases of "main street" businesses in Livingston Manor or Roscoe to permit zero lot line development, where no front yards are typically provided. The following illustration depicts how the front yard exception shall apply.

Illustration of Front Yard Exception



- C. Provision of yard or other open space. No yard or other open space provided about any buildings for the purpose of complying with the provisions of the law shall be considered as providing a yard or open space for any other building, and no yard or other open space on another lot shall be considered as providing a yard or open space for a building on any other lot.
- D. Waterfront yards. Any yard which borders on a lake, stream or body of water shall be not less than fifty feet (50) in depth from the high water mark, excluding boathouses and docks. All lots in new subdivisions approved after the adoption of this section shall be not less than one-hundred feet (100) in depth from the high water mark.

#### § 185-16. Accessory structure and use standards.

The location, limitation and coverage of accessory buildings shall be as follows:

- A. No accessory building permitted by this law shall be placed in any required side or front yard except as provided in this Article.
- B. Accessory buildings shall not cover more than fifty percent (50%) of any rear yard.

- C. Accessory structures not attached to a principal structure shall:
1. Be setback from any side or rear lot line a minimum of five (5) feet provided that this distance shall be increased to ten (10) feet for any garage structure absent Special Use review and approval.
  2. Be no closer to the street than a principal structure, except in the case of farm buildings. Residential garages may be located in front of residences but not in the required front yard areas.
  3. Be no more than 1 story in height unless approved as a Special Use.
- D. Accessory structures attached to principal buildings shall comply with principal building requirements.
- E. Storage trailers, railroad cars, bulk containers or retired manufactured housing units and recreational vehicles shall not be used for purposes of accessory structures in connection with any use.
- F. Private stables shall be limited to one horse per acre of land.
- G. Accessory buildings shall only be permitted in connection with established principal structures and uses.

## ARTICLE IV, SPECIAL USES AND SITE PLAN REVIEW

### § 185-17. Special use and site plan review procedures.

The Town of Rockland Planning Board is authorized, in accordance with Sections 274-a and 274-b of the New York State Town Law, to review and approve, approve with modifications or disapprove special uses and site plans connected therewith.

Site plan review shall be required for:

- All special uses
- Major impact uses
- Any change of use (to another principally permitted use) or an increase in intensity of the same use or conversion of a site or building that is likely to result, as determined by the code enforcement officer, in changes or impacts to the site and/ or surrounding neighborhood, such as, but not limited to, an increase in parking or traffic.

The following procedures shall apply:

- A. Conceptual site plan. An applicant for a Special Use permit shall submit a conceptual site plan for review and advice by the Planning Board. Such a conceptual site plan shall provide locations and dimensions of the proposed use in relation to the property

boundaries and adjacent uses. It shall also indicate all accesses, rights-of-way and improvements both existing and proposed and any site features which could have a bearing on the project including the general topography and existing ground cover.

This conceptual plan shall be used by the Planning Board as a basis for advising the applicant regarding information it shall require on the site plan before it conducts a public hearing or takes any action with respect to the plan. It shall also be used for arranging and conducting a site inspection of the property if warranted and determining if a Basic or Full SWPPP will be required. The Planning Board shall give no formal final approval or disapproval regarding any conceptual site plan but may use it to schedule a public hearing, determine if any provisions of this article should be waived or begin its review of the application under the New York State Environmental Quality Review Act ("SEQR"). This shall not preclude the Planning Board from holding an additional hearing on a site plan if major changes are involved. No advisory opinions given regarding a conceptual site plan shall be considered valid beyond one-year from the time given or used to claim any vested rights hereunder at any time.

- B. Application and site plan required. The Planning Board shall be under no obligation to schedule a public hearing or take any action with respect to a Special Use permit application until formal application has been made on forms approved by the Board and a detailed site plan providing the following information has been submitted:
1. The location of all existing watercourses, wooded areas, rights-of-way, roads, structures or any other man-made or natural feature(s).
  2. The location, use and floor or ground area of each proposed building, structure or any other land use, including sewage disposal and water supply systems.
  3. The location of all landscaping and ground cover features, both existing and proposed, including detailed planting plans and a visual depiction or rendering of the final appearance of the property after all landscaping and other physical improvements are completed.
  4. The location, dimensions and capacity of any proposed roads, off-street parking areas or loading berths, including typical cross-sections for all paving or regrading involved.
  5. The location and treatment of proposed entrances and exits to public rights-of-way, including traffic signals, channelizations, acceleration and deceleration lanes, widenings or any other measure having an impact on traffic safety conditions.
  6. The location and identification of existing and proposed open spaces, parks or other recreation areas.
  7. The location and design of buffer areas and screening devices to be maintained.

8. The location of trails, walkways and all other areas proposed to be devoted to pedestrian use.
  9. The location of public and private utilities, including maintenance facilities.
  10. The specific locations of all signs existing and proposed, including a visual depiction of the latter.
  11. Preliminary architectural plans for the proposed buildings or structures, indicating typical floor plans, elevations, height and general design or architectural styling.
  12. A completed SEQR Environmental Assessment Form.
  13. Any other information required by the Planning Board which is reasonably necessary to ascertain compliance with the provisions of this law.
  14. A description and calculation of the proposed disturbance area for determination of SWPPP requirements. Proposed areas of disturbance shall be drawn to scale and quantified in support of applicable SWPPP requirements. If a SWPPP is required, the applicant shall submit the following to the Planning Board for review:
    - a. A Full or Basic SWPPP as required by New York State DEC or §185-33 of this law.
    - b. A certified copy of a completed NOI, signed by the applicant and certified by the applicant's professional representative.
    - c. A copy of the New York State DEC reply to the NOI (the notice to proceed) if issued.
- C. Waivers. The Town of Rockland Planning Board shall, pursuant to Sections 274-a (5) and 274-b (5) of the Town Law, have the right to waive, when reasonable, any of the requirements of this article for the approval, approval with modifications or disapproval of Special Use permits and site plans submitted for approval. This waiver authority 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 are inappropriate to a particular site plan. Any such waiver shall be subject to the following conditions:
1. No waiver shall result in allowing a use not permitted within the applicable Zoning District.
  2. No waiver shall be given with respect to standards outside the scope of this article which would otherwise require a variance from the Zoning Board of Appeals.
  3. Waivers shall be limited to those situations where the full application of the requirements contained herein would generate unnecessary data and create



unnecessary costs with regard to deciding the matter at hand, due to the scope or nature of the project involved. The proposed enclosure of a deck or a simple change of use with no significant structural modifications in the case of a commercial property, for example, might not require typical cross-sections for proposed regrading or water supply data.

4. An applicant for site plan approval who desires to seek a waiver of certain of the above-referenced requirements pertaining to such applications shall submit a conceptual site plan as provided above. The Planning Board shall review the conceptual site plan, advise the applicant as to potential problems and concerns and determine if any additional site plan information is required. The Planning Board shall consider such site plan as adequate when, in its judgment, the information submitted is sufficient to make a determination of compliance with the development standards contained herein and the intent of site plan review criteria found below.
  5. Nothing herein shall authorize the Planning Board to waive State Environmental Quality Review requirements.
- D. Hearing and decision. The Planning Board shall fix a time, within sixty-two (62) days from the day a complete application for a special use permit or site plan approval is received, for the hearing of any matter referred to under this section. It shall give public notice of such hearing at least five (5) days prior to it in a newspaper of general circulation in the Town and decide upon the application within sixty-two (62) days after the close of such hearing. It shall not, however, do so before a decision has been made with respect to environmental impacts pursuant to SEQR. The Planning Board shall be the lead SEQR agency on all Special Use applications. The decision of the Planning Board shall be filed in the office of the Town Clerk and a copy thereof mailed to the applicant within five (5) business days after such decision is rendered.
- E. Conditions. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit or site plan. Upon approval of said permit and/or site plan any such conditions shall be met prior to the actual issuance of permits by the Town. These conditions may include requirements of the applicant to provide parkland or to provide fees in lieu thereof pursuant to Section 274-a(6) of the New York State Town Law.
- F. Referrals. The Planning Board is authorized to refer special use permit applications and site plans to other agencies, groups or professionals employed or used by the Town for review and comment and to charge the applicant fees for any reasonable expenses connected therewith. The Board shall, in particular, ensure that the requirements of Section 239-m of the General Municipal Law regarding review by the Sullivan County Planning Department and Section 283-a of the New York State Town Law regarding Agricultural Data Statements are met. It shall also comply with all requirements of the New York State Environmental Quality Review Act.

- G. Appeals. Any person aggrieved by any decision of the Planning Board may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules.
- H. Effect of site plan approval. The site plan as approved by the Planning Board shall be binding upon the applicant. Any changes from the approved plan shall require resubmission and reapproval by the Planning Board. The site plan shall remain effective for a period of two (2) years from the date of approval.

#### § 185-18. Site plan review criteria.

- A. The Planning Board, in reviewing the site plan, shall consider its conformity to the Town of Rockland Comprehensive Plan and the various other plans, laws and ordinances of the Town. Conservation features, aesthetics, landscaping and impact on surrounding development as well as on the entire town shall be part of the Planning Board review. Traffic flow, circulation and parking shall be reviewed to ensure the safety of the public and of the users of the facility and to ensure that there is no unreasonable interference with traffic on surrounding streets. The Planning Board shall further consider the following:
  - 1. Building design, lighting, location and signs insofar as suitability for the use intended and impact on and compatibility with the natural and man-made surroundings.
  - 2. Storm drainage, flooding and erosion and sedimentation control.
  - 3. Adequacy of community services and utilities including police protection, emergency services and the educational system.
  - 4. Environmental impacts in any form.
  - 5. Impacts on housing availability.
  - 6. The potential for nuisance impacts such as noise, odors, vibrations or glare.
  - 7. The adequacy of the trees, shrubs and other landscaping to buffer or soften a use in terms of visual or other impacts on adjoining property owners, Town residents and those visitors on whom the local economy often depends.
  - 8. Impacts on nearby property values.
  - 9. Any other factors which reasonably relate to the health, safety and general welfare of present or future residents of the Town of Rockland.
- B. The Planning Board, in acting upon the site plan, shall also be approving, approving with modifications or disapproving the accompanying special use permit application

taking into consideration not only the criteria contained above but also the following:

1. Whether the proposed use will have a detrimental or positive impact on adjacent properties or the health, safety and welfare of the residents of the Town of Rockland.
2. If the proposed use is one judged to present detrimental impacts, whether an approval could be conditioned in such a manner as to eliminate or substantially reduce those impacts.
3. Whether the use will have a positive or negative effect on the environment, job creation, the economy, housing availability or open space preservation.
4. Whether the granting of an approval will cause an economic burden on community facilities or services, including but not limited to highways, sewage treatment facilities, water supplies and fire-fighting capabilities. The applicant shall be responsible for providing such improvements or additional services as may be required to adequately serve the proposed use and any approval shall be so conditioned. The Town Planning Board shall be authorized to demand fees in support of such services where they cannot be directly provided by the applicant. This shall specifically apply to, but not be limited to, additional fire-district expenses.
5. Whether the site plan indicates the property will be developed and improved in a way which is consistent with that character which this law and the Town's Comprehensive Plan are intended to produce or protect, including appropriate landscaping and attention to aesthetics and natural feature preservation.

## ARTICLE V, SUPPLEMENTARY REGULATIONS

### § 185-19. Landscaping standards for special uses.

- A. The Planning Board shall, to assure an acceptable buffer between adjacent residential and non-residential uses and create a healthy, safe and aesthetically pleasing environment in the Town, require a landscape plan be prepared as part of any Special Use application. Such a plan shall also be required whenever any non-residential use is proposed in any district so as to buffer parking areas and buildings from the highway, each other and other uses. Where it is determined that a proposed Special Use would not because of its size or nature have a significant impact on the natural environment, adjoining landowners or the view from a public highway, these requirements may be appropriately modified and provide exceptions for small or minor uses.
- B. The landscape plan shall specify locations of all mature shade trees or other species of six (6) inch caliper or greater and indicate existing vegetation to be removed or preserved. It shall demonstrate how building materials, colors, and textures will be blended with the natural and man-made landscape. It shall also include visual depictions of the proposed landscape from the perspective of persons who will view the site from the highway or adjoining properties. Specific locations, varieties, sizes, winter hardiness, and schedules for all proposed plantings shall also be provided as part of the plan.

- C. Landscape plans shall be prepared by a licensed landscape architect or other design professional qualified to perform such services and include consideration of all man-made and natural features, including signs.
- D. The Planning Board, in reviewing a landscape plan, may employ the assistance of design professionals and seek the non-binding advice of interested civic organizations concerned with community beautification. The Board shall also specifically consider the following before approving, approving with modifications or disapproving the Special Use:
  - 1. The plan should promote attractive development, preserve existing vegetation to the maximum extent possible, enhance the appearance of the property and complement the character of the surrounding area.
  - 2. The plan should use landscaping to delineate or define vehicular and pedestrian ways and open space.
  - 3. The plant material selected should be of complementary character to buildings, structures and native plant species and be of sufficient size and quality to accomplish its intended purposes.
  - 4. The plan should effectively buffer the activity from adjoining land uses as may be necessary and soften the impact of other site development as contrasted with the natural environment.
  - 5. The plan should be realistic in terms of maintenance and use materials which, as a minimum, are winter hardy to Zone 4.

Consideration and determination of the adequacy of the above plan requirements are at the Planning Board's discretion.

- E. All new landscaping required shall meet the following minimum specifications:
  - 1. The minimum branching height for all shade trees shall be six (6) feet.
  - 2. Shade trees shall have a minimum caliper of three (3) inches (measured 4 feet above grade) and be at least twelve (12) feet in height when planted.
  - 3. Evergreen trees shall be a minimum of six (6) feet in height when planted.
  - 4. Shrubs shall be a minimum of 24" in height when planted. Hedges shall form a continuous visual screen within two (2) years after planting.
  - 5. A buffer screen at least fifteen (15) feet in width along any residential lot line shall be provided. It shall include, at a minimum, an opaque wooden stockade fence six (6) feet in height and one (1) evergreen tree for every fifteen (15) linear feet of

property line. An additional row of evergreens meeting these standards and off-set such that each row serves to place trees between the gaps of the other, shall be permitted as a substitute for the stockade fence.

6. A landscape strip at least fifteen (15) feet in width, that includes at least one (1) deciduous tree for every 35 linear feet of perimeter lot line shall be required for any non-residential use. Such deciduous trees shall also be accompanied by smaller shrubs and ground cover as may be required to effectively separate and buffer the activity from the highway but still allow for visibility of the use.
  7. All lot area (except where existing vegetation is preserved) shall be landscaped with grass, ground cover, shrubs, or other appropriate cover.
  8. The preservation of mature shade trees shall be required unless there is no alternative but to remove them. These may be used to meet requirements of this section provided the Code Enforcement Officer or Planning Board, as the case may be, determines the purpose of this section is achieved.
  9. Trees shall not be deliberately planted in locations where they would directly and substantially shade and block the view from a neighboring residential property owner's window, an existing electronic reception or an existing solar energy device.
- F. A performance guarantee in a form acceptable to the Town Attorney in the amount of one-hundred-twenty-five percent (125%) of the cost of materials and installation may be required to assure that all landscaping survives in a healthy condition one (1) full year. The Code Enforcement Officer or Planning Board, as the case may be, shall determine the amount of the guarantee and consider financial impacts of this requirement on the project. The Code Enforcement Officer shall have the right to enter upon the property to inspect the landscaping and, after notifying the owner of any deficiencies, to require that the guarantee be used to pay for the replacement of any dead, dying, diseased, stunted or infested plant materials.
- G. All applicable requirements of these landscaping regulations shall be fully met prior to the Code Enforcement Officer granting a Certificate of Occupancy for a new building or use subject to these regulations.

## § 185-20. Parking, loading, access and traffic standards.

- A. Off-street parking, loading and unloading facilities shall be provided as necessary in connection with every use. Single-family and two-family residential uses shall be provided with two (2) off-street parking spaces per dwelling unit. Parking needs with respect to all other uses shall be determined in conjunction with site plan review. The amount of parking required shall be based on the following factors:
1. Industry studies of parking needs for the type of use proposed or actual case-study comparisons for projects of similar character. The Planning Board may require the developer or applicant to gather and submit such data in support of its proposed

parking provisions. The National Parking Association and the Urban Land Institute are examples of such industry sources.

2. The characteristics of the proposed customers, residents, occupants or visitors to a given facility. Housing for the elderly would, for example, require fewer spaces per dwelling unit than time-shared recreational units, though the number of dwelling units might be the same.
  3. The expected occupancy rates, traffic levels and numbers of employees in connection with any enterprise and the degree to which these directly relate to parking requirements.
  4. Recommendations, if any, from other public agencies or information sources which suggest, based on experience, the appropriate amount of parking in connection with a given use.
  5. The likelihood that parking will be shared with adjoining facilities, the availability of sufficient on-street parking, the impact of daily peak visitation or use periods on demand and the hours of operation as compared to other neighborhood activities.
  6. Where industry standards are inadequate for the particular use or site involved or such standards are unavailable, the following standards may be applied by the Planning Board or Code Enforcement Officer, as the case may be:
    - a. Home-Based Businesses 1 space per 100 sq. ft. of floor area devoted to use
    - b. Hotels/motels 1 space per rental room
    - c. Industrial uses 1 space per 400 sq. ft. floor area
    - d. Commercial uses 1 space per 200 sq. ft. floor area
    - e. Places of public assembly 1 space per 5 seats
    - f. Offices 1 space per 300 sq. ft. floor area
    - g. Restaurants 1 space per 50 sq. ft. floor area
    - h. Auto service stations 4 spaces plus 1 per employee
- B. Each parking space shall consist of not less than an average of two hundred seventy (270) square feet of usable area for each motor vehicle, including interior driveways, driveways connecting the garage, or parking space, with a street or alley. Garages, carports, and driveways not in the public right-of-way may be considered parking spaces.

- C. Any lighting used to illuminate any off-street parking shall be so arranged as to reflect the light away from adjoining premises and public rights-of-way.
- D. All parking areas which are designed to accommodate twelve (12) or more vehicles shall be landscaped using materials of sufficient growth and height to aesthetically balance the impact of the open paved area and provide effective stormwater control. The following minimum layout standards shall apply unless the Planning Board, for demonstrated and recorded good cause, shall (and it is hereby authorized to do so) modify the same to produce a site plan more beneficial to the public health, safety and welfare :
1. No more than twelve (12) parking spaces shall be allowed in a continuous row uninterrupted by landscaping. Raised planting beds shall be located at intervals of twelve (12) spaces and at the end of each row. Such beds shall be a minimum of five (5) feet in width and each planted with at least one (1) shade tree of 1 - 1/2 inch caliper. The remainder of the bed shall be surfaced with flowers, grass, groundcover, low maintenance shrubs and/or mulches (no crushed stone or chips).
  2. Planting beds meeting the above standards shall also be required along the perimeter of all parking areas and between parking areas and buildings. The area between a parking area and any building shall be a minimum of ten (10) feet in width, however.
  3. No parking areas shall be designed such that a vehicle might directly back out onto a public highway or through road within the development. Traffic flows through a parking area shall be minimized and limited to connections from one lot to another and to the public highway or through road.
  4. All parking spaces associated with commercial uses shall be located not more than three-hundred (300) feet distant from the nearest entrance to the inside of the structure wherein the enterprise is situated.
  5. Parking areas shall generally be located in the rear yard of any use, with the principal building situated near the front lot line as permitted by Schedule of District Regulations. This is for the purpose of maintaining the continuity of the building line along any highway and avoiding the effective merger of parking areas along a highway into one mass of pavement where entrances and exits become difficult to identify.
- E. Any building erected, converted or enlarged for commercial, office, manufacturing, wholesale, institutional or similar uses shall, in addition to the off-street parking space required above, provide adequate off-street areas for loading and unloading of vehicles. Public rights-of-way shall, under no circumstance, be used for loading or unloading of materials where new uses are proposed unless such uses take place within existing non-conforming structures where no other alteration is possible. The minimum size loading space shall be sixty (60) feet in depth and twelve (12) feet in width, with an overhead clearance of fourteen (14) feet.

- F. Access to and from all non-residential off-street parking, loading and vehicle service areas along public rights-of-way shall consist of well defined separate or common entrances and exits and shall comply with the following provisions:
1. Access drives shall not open upon any public right-of-way within eighty (80) feet of the nearest right-of-way line of any intersecting public street or highway or where the sight distance in either direction would be less than two-hundred (200) feet. Access drives onto County or State highways shall be subject to Sullivan County or New York Department of Transportation standards, as the case may be.
  2. There shall be no more than one entrance and one exit to any business or commercial use parking area on any one highway unless safety considerations should demand it. Each entrance and exit shall be clearly defined with curbing, fencing or vegetative screening so as to prevent access to the area from other than the defined entrance and exits. In no case shall one entrance and exit be located within 80 feet of any other on the same property or adjoining property along the same public right-of-way. Non-conforming lots, however, may be exempted from this requirement.
  3. All access drives shall be subject to the requirement of obtaining a road occupancy or street encroachment permit from the Town of Rockland Highway Superintendent, the Sullivan County Department of Public Works or the New York State Department of Transportation, as the case may be, and approval of any permits hereunder may be conditioned upon the application for and/or receipt of such permits from these authorities.
  4. No use shall be permitted that requires year-round access from a Town highway that has been designated by the Town of Rockland Town Board as a low volume or minimum maintenance seasonal highway pursuant to Section 205-a of the New York State Highway Law, unless the applicant assumes the cost associated with upgrade to year-round status.
- G. All non-residential parking and loading areas and parallel circulation and service lanes shall be separated from the paving edge of a public thoroughfare or adjoining property lines by a planting strip at least twenty (20) feet in depth landscaped according to § 185.21.E.
- H. The Planning Board, at its discretion, may require a traffic impact study with any Special Use application involving an activity likely to generate more than five-hundred (500) trip-ends per day based on the following daily rates:

Residential uses	9.6 trip-ends per dwelling unit
Industrial uses	3.3 trip-ends per employee
Restaurants	7.9 trip-ends per seat
Fast-food restaurant	23.9 trip-ends per seat
Convenience market	605.6 trip-ends per 1,000 sq. ft. gross floor area
Supermarket	177.6 trip-ends per 1,000 sq. ft. gross floor area



Car wash	108.0 trip-ends per car stall
Offices	6.0 trip-end per employee
Other commercial uses	50.0 trip-ends per 1,000 sq. ft. gross floor area
Institutional uses	4.0 trip-ends per employee
Other uses	See "Trip Generation" - Institute of Transportation Engineers

NOTE: Each trip has two trip-ends, one at the point of origin and the other at the point of destination.

The study shall examine existing and projected traffic flows before and after development and generally follow the guidelines set forth for such studies by the Institute of Transportation Engineers. Its purpose shall be to ensure that proposed developments do not adversely affect the transportation network and to identify any traffic problems associated with access to the site from the network. It shall identify solutions to potential problems and any improvements needed. The scope of the study shall be approved in advance by the Planning Board with the final product incorporated in the SEQR submission.

#### § 185-21. Floodplain development standards.

The Town of Rockland has adopted the Flood Damage Prevention Law (Chapter 93 of the Town of Rockland Code) which sets forth floodplain development standards in addition to requirements of this zoning law. Such additional requirements are based on Areas of Special Flood Hazards, as delineated on the Flood Insurance Rate Map panels (F.I.R.M.) established by the Federal Emergency Management Agency, delineated on the town's Flood Insurance Rate Maps, and listed within said chapter. Determinations on the locations of proposed projects in relation to Areas of Special Flood Hazards are made by the Local Administrator of the Floodplain Damage Prevention Law.

#### § 185-22. Home-based business regulations.

- A. Home-based businesses, including businesses which rely upon attraction of the general public (e.g. flea market sales conducted as businesses) and homeowners providing elder care for unrelated individuals within their residences, are permitted as Accessory Uses in all districts, provided they do not detract from the residential character, appearance (handicapped access notwithstanding), or make-up of the neighborhood in which the business is located. Because of the need these types of businesses may have for advertising and display, and the unpredictability of traffic generation, owners of such businesses must be very cautious about how they operate their business to ensure they do not adversely impact the surrounding neighborhood. The following factors shall be used to determine if a home-based business will comply with or is in violation of this ordinance. The determination can be made on any one, or a combination, of these factors and shall be made by the Code Enforcement Officer, who may in his or her discretion, consult with the Town Planning Board for advice and recommendations.

1. Extent of the business - whether or not the residential use is still the primary use of the property. Factors that shall be used to determine the primary use of the property shall include, but are not limited to, the area of the property used for the business and the amount of time the business is operated on a daily basis. Employees on-site shall be limited to two (2) other than immediate family members.
2. Appearance from an adjacent street - whether or not the use of the property as a business is distinguishable from an adjacent street. Except for a non-illuminated, permanent identification sign no larger than six (6) square feet in size attached to the principle structure and occasional deliveries, there shall be nothing that occurs on the property that can be observed from adjacent streets that make it readily apparent that a business is being operated on the premises. In cases where the principal structure is obscured from the street, or the structure is setback more than fifty (50) feet from the property line, a non-illuminated ground sign not to exceed twelve (12) square feet may be used. Factors for evaluating this standard shall be that the residential dwelling not be altered to change its residential appearance, and no activity related to the conduct of the home-based business shall be permitted to occur in such a manner as to be obtrusive to the neighborhood, attract attention to the business or adversely impact the residential character of the neighborhood.
3. Impact on the neighborhood - whether or not the business activity is causing a nuisance to surrounding property owners; is adversely impacting the peace, health, or safety of neighborhood residents; and/or is causing a deviation from the residential character of the neighborhood. Factors for evaluating this standard shall be:
  - a. Traffic - whether or not the business is generating traffic that is excessive and/or detrimental to the neighborhood. A home-based business will be allowed to generate no greater than twenty-five (25) vehicle trips per day, based on estimates provided by the Institute of Transportation Engineers. However, based on the characteristics of a specific neighborhood, these amounts may be lowered or raised, at the discretion of the Planning Board. The factors which shall be used for such a determination include, but are not limited to, pertinent characteristics of the neighborhood such as width of properties, width of the streets, hills, curves, and the number of children present.
  - b. Parking - whether or not parking problems could result from the business use. Factors which shall be used to evaluate this criteria include, but are not limited to the following: 1) parking required for the business shall be provided on-site; 2) parking on the property shall be on a surface equal in quality to the paving surface of any existing driveway unless there is no surface other than

the ground, in which case a gravel surface shall be provided at a minimum; and 3) no home-based business shall be permitted which requires parking of tractor-trailer combinations along the street on a continuing basis.

- c. Nuisance - whether or not the business activity is causing a nuisance to surrounding property owners or is deviating from the residential character or appearance of the neighborhood.
- B. No home-based business, having once been permitted or established, shall be added to, expanded, enlarged or otherwise increased or changed substantially in character without complying with this law and such permission or establishment shall not be a basis for a later application to establish a principal commercial use. Moreover, the conversion of a residence with a home-based business to a commercial use by the abandonment of the residence or sale, rent or transfer of the business to a party which does not reside on-site is strictly prohibited unless the business is then moved off-site.

### § 185-23. General commercial and industrial standards.

Wherever a new commercial or manufacturing or other non-residential use, with the exception of agricultural activities and home-based business, is proposed, the following performance standards shall apply. The Code Enforcement Officer shall ensure these standards are met prior to issuing a Certificate of Occupancy for the use and may require the applicant(s) to provide documentation of compliance.

- A. Where a commercial or manufacturing use is contiguous to an existing residential use in any District (including those situated on the opposite side of a highway) or any approved residential lot in an R1 or R2 District, the Planning Board may require that the minimum front, side and rear yards be increased by up to fifty percent (50%). The Board may also require, for purposes of separating incompatible activities or shielding the residence from negative impacts, that a buffer consisting of a solid fence of wood and/or a twenty (20) feet wide dense evergreen planting not less than six (6) feet high be maintained, unless the properties are in the same ownership or the full width of the yard is already wooded. See also § 185.21 regarding Landscaping.
- B. All activities involving the manufacturing, production, storage, transfer or disposal of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion. Fire-fighting and fire suppression equipment and devices shall be provided pursuant to National Fire Protection Association guidelines. Burning of waste materials in open fires is prohibited. Details of the potential hazards and planned safety and accident response actions shall be provided by the applicant and the Planning Board may require greater front, side and rear yards and/or fencing.
- C. No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.
- D. The Planning Board, in reviewing a Special Use application, may also apply such noise

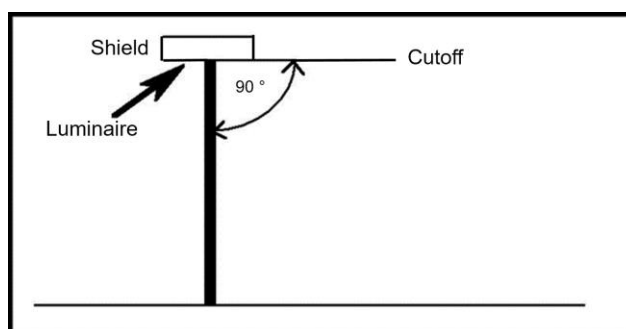
standards as are recommended for the proposed use by State or Federal authorities or industry sources. Agricultural and construction activities shall be exempt from these requirements.

E. No vibration shall be permitted on a regular or continuing basis which is detectable without instruments at the property line.

F. Lighting

(1) All lighting shall be designed so as to avoid unnecessary or unsafe spillover of light and glare onto operators of motor vehicles, pedestrians and land uses in proximity to the light source. Light sources shall comply with the following standards:

Type of Light Source	Maximum Illumination Permitted at Property Line	Maximum Permitted Height of Light
Globe light	0.20 Footcandles	15 Feet
>90% Cutoff	0.75 Footcandles	25 Feet
<90% Cutoff	2.00 Footcandles	30 Feet



(2) No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or other sources, so as to be visible at the property line on a regular or continuing basis, shall be permitted.

G. No emission shall be permitted on a regular or continuing basis from any chimney or otherwise, of visible blue, gray or otherwise dark smoke and all emissions shall comply with State and Federal environmental standards. The Planning Board and Code Enforcement Officer may rely upon such governmental and/or industry investigations or standards for purposes of evaluating this factor.

H. No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted on a regular or continuing basis which can cause any damage to health, to animals, vegetation, or other forms of property, or which can cause any excessive soiling.

I. All activities involving the possible contamination of surface or ground water shall be provided with adequate safety devices to prevent such contamination. Details of the

potential hazards (including the groundwater characteristics of the area in which the use is proposed) and planned safety devices and contamination response actions shall be provided by the developer.

- J. Whenever a vehicle and equipment sales, mechanical and body repair use is proposed as a Special Use, or as an expansion of an existing non-conforming use, the following additional performance standards shall apply:
1. All mechanical and body repair work other than minor repairs such as changing belts and tires shall be performed within buildings.
  2. All automobile or vehicle parts, new or used, shall be stored within buildings.
  3. Vehicles which are temporarily on the property awaiting to be repaired, shall be stored in an area which meets the minimum yard and buffer requirements applicable for the district and the use.

#### § 185-24. Conservation subdivisions.

The Town of Rockland Planning Board shall be authorized, pursuant to § 278 of the Town Law and simultaneously with the approval of plats under the Town of Rockland Subdivision Regulations, to modify applicable provisions of this Zoning Law so as to accommodate conservation subdivision projects and, in certain instances, provide density bonuses for this type of development. Also known as "cluster development", conservation subdivisions offer flexibility in design, facilitate the economical provision of streets and utilities and preserve open space. They shall be allowed anywhere within the Town of Rockland and be processed pursuant to the Town of Rockland Subdivision Regulations.

#### § 185-25. Multifamily residential uses.

Multi-family dwelling projects (also known as "multiple dwellings") shall be considered major subdivisions. This "major subdivision" classification shall apply to all subdivisions of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision. Application for preliminary approval of multi-family dwelling projects, accordingly, will be made to the Town in the manner provided under the Town of Rockland Subdivision Regulations. The subdivider shall also submit all information required by and comply with the Special Use procedures of this Zoning Law.

#### § 185-26. Manufactured homes and parks.

Manufactured (a/k/a "mobile") homes and manufactured home parks shall be subject to the requirements of Chapter 35 of the Town of Rockland Code, the Manufactured Home Law and the following standards and review criteria.

- A. Individual manufactured homes shall be subject to all the regulations applicable to other single-family detached dwellings. They may be installed on any lot not in a manufactured home park, provided they meet the following specific standards."

B. Standards Applicable to Individual Manufactured Homes.

1. Every manufactured home, whether sited individually or situated in a manufactured home park shall be not less than twelve (12) feet in width. This standard shall not be met by including any living area later added to the basic manufactured unit.
2. All manufactured homes shall be sited on a reinforced slab or a masonry foundation, which foundation and the area up to the floor level of the manufactured home shall be screened from view from the highway and from adjoining properties by skirting acceptable to the Planning Board. The Planning Board may individually approve such skirting and associated landscaping plans or adopt appropriate standards for use of the Code Enforcement Officer in administering this provision.
3. Any manufactured home or associated structure shall comply with the New York State Uniform Fire Prevention and Building Code to the extent that such Code is applicable.

C. Manufactured Home Park Special Use and Site Plan Review Criteria

The Planning Board shall, in reviewing and acting upon Special Use applications for manufactured home parks, apply the requirements of the Town of Rockland Manufactured Home Law and the following standards and review criteria:

1. The location of the park shall be one demonstrably suitable for such use, with proper drainage and provisions for stormwater control such that the amount of water leaving drainage and provisions for stormwater control such that the amount of water leaving the site after development shall not be greater than prior to development.
2. There shall be documentation of the availability and adequate capacity of all utility providers to service the park. Off-site or centralized water facilities shall be provided.
3. The park shall be designed to provide maximum open space consistent with the minimum Manufactured Home lot size requirements of the Manufactured Home Law and offer buffering of individual Manufactured Homes from each other and from other adjoining lot owners. It shall be landscaped so as to develop and maintain a high quality aesthetic environment and neighborhood character for prospective new and existing residents.
4. Adequate provisions shall be made for outside storage space and these shall not in any way interfere with emergency access.
5. Adequate provisions shall be made to control potential nuisance situations such as accumulation of unused materials or vehicles.
6. Recreational facilities sufficient to accommodate the number of dwellings proposed shall be provided.

7. There shall be adequate groundwater supplies to support the proposed water system without causing a detrimental impact on adjoining water supplies and evidence of this shall be provided and professionally reviewed. Similar evidence shall be supplied to document the adequacy of proposed sewage treatment facilities.
8. The management and operations plan for the park shall provide for maintenance of all common facilities and ensure the purposes and requirements of this law are met. It shall also provide for limitation of occupancy to manufactured homes meeting U.S. Department of Housing Urban Development regulations under the Manufactured Housing Act.
9. Mixed-use residential developments wherein Manufactured Homes and other single family detached dwellings are both provided shall be encouraged where the other criteria contained herein can be met. All other single-family detached development, however, shall comply with the requirements of this law and the Town of Rockland Subdivision Regulations.
10. The manufactured home park shall not result in an over-concentration of such uses in a particular area of the Town such that two-hundred (200) or more manufactured homes are placed on contiguous properties, for example.
11. The manufactured home park shall not have a detrimental or negative impact on adjacent properties or the general welfare of the residents of the Town of Rockland.
12. If a proposed park is one judged to present detrimental impacts, the Planning Board shall consider whether an approval could be conditioned in such a manner as to eliminate or substantially reduce those impacts.
13. The Planning Board shall also consider whether the park will have a positive or negative effect on the environment, job creation, the economy, housing availability or open space preservation and the application shall comply fully with the requirements of the State Environmental Quality Review Act.

#### § 185-27. Major impact uses.

Major Impact Uses within RC, GB and NB Districts shall be processed as Special Uses, notwithstanding their classification as Principal Permitted Uses on the Schedule of District Regulations. The following factors shall require that any new activity or expansion of an existing conforming use be treated as a Major Impact Use, this determination to be made by the Town of Rockland Code Enforcement Officer, who may consult with the Town Planning Board in arriving at a classification;

- A. The proposed activity uses more than 5,000 square feet of building floor area.
- B. The proposed use involves the outside storage of materials or supplies (excepting minor incidentals) and a maximum of three (3) vehicles used in everyday service on behalf of

the business.

- C. The use involves any activity which could be construed as a junkyard within the meaning of Chapter 18 (second) of the Town of Rockland Code, the Junkyard Law.
- D. The activity has the potential to cause a nuisance to surrounding property owners; adversely impact the peace, health, or safety of neighborhood residents; or cause a deviation from the character of the neighborhood. Factors for evaluating this standard shall be:
  - 1. Traffic - whether or not the business is generating traffic that is excessive and/or could be detrimental to the neighborhood. A use which will generate greater than one-hundred (100) vehicle trips per day, based on estimates provided by the Institute of Transportation Engineers, shall be considered a Major Impact Use. However, based on the characteristics of a specific neighborhood, these amounts may be lowered or raised, at the discretion of the Planning Board. The factors which shall be used for such a determination include, but are not limited to, pertinent characteristics of the neighborhood such as width of properties, width of the streets, hills, curves, the number of children present and the ability to secure a highway occupancy permit.
  - 2. Parking - whether or not parking problems could result from the use and the extent to which parking will be provided on-site or will be limited to the area along the frontage of the property on the street.
  - 3. Nuisance - whether or not the use could cause a nuisance to surrounding property owners or would deviate from the character or appearance of the neighborhood.

Except for existing conforming uses, no major impact use, having once been permitted or established, shall be added to, expanded, enlarged or otherwise increased or changed substantially in character, except for adding customary accessory uses, without complying with Special Use procedures. Also, no activity shall be permitted as a Major Impact Use which is not already permitted in a particular zoning district.

#### § 185-28. Water supply protection overlay zones.

- A. Purpose and intent. The purpose and intent of establishing water supply protection overlay zones is to assist in the preservation of public health, general welfare, and safety of the residents of the Town of Rockland and to facilitate the adequate provision of water through the elimination or prevention of groundwater contamination in the vicinity of the well(s) which supply public water.
- B. Scope and applicability. Water supply protection overlay zones shall be considered as overlaying other existing zones as shown on the zoning map and separate maps thereof (see Sub-Section C). Any uses not permitted in the underlying zone shall not be permitted in the water supply protection overlay zones. Any uses permitted in the underlying zone shall be permitted in the water supply protection overlay zones, except where the water supply protection overlay zones prohibit or impose greater or additional restrictions and requirements. In any cases where conflicts arise between these



requirements and any other existing regulations, the more restrictive regulations shall apply. Any proposed use or any alteration, reconstruction, or structural change of a nonconforming use or activity wholly or partially within the Aquifer Protection Overlay District, which is required to comply with any additional requirements and standards as contained herein for stormwater runoff, underground petroleum storage, aboveground petroleum storage, indoor petroleum storage, hazardous substance storage, floor drains, hazardous waste storage, and/or pesticide/fertilizer storage and application shall be required to secure Special Use approval by the Planning Board prior to the issuance of a zoning permit or a certificate of occupancy by the Code Enforcement Officer. Special Use approval must also be obtained from the Planning Board for any proposed use or activity which removes 1,000 gallons per day or more from the aquifer within the Aquifer Protection Overlay District. Applicants proposing a use in the Aquifer Protection Overlay District which requires Special Use approval shall include the following in a site plan:

1. Map(s), plan(s), and a narrative report completed by an engineer licensed to practice in the State of New York which details the location of the premises and all features of the system necessary for the satisfactory conveyance, storage, distribution, use and disposal of stormwater, process wastes, wastewater, petroleum, hazardous substances and wastes, solid waste, and incidental wastes.
2. A description of the means of water supply. For uses involving withdrawal of groundwater, an estimate of the total daily withdrawal rate.
3. A complete list, including an estimate of the volume in pounds dry weight and liquid gallons, of all petroleum, chemicals, pesticides, fuels and other hazardous substances/wastes to be used, generated, and stored on the premises.
4. A description of proposed measures as required herein to protect all storage containers, or facilities associated with such materials, from vandalism, accidental damage, corrosion and leakage.
5. A description of the procedures for containing and cleaning up a spill of hazardous substances/waste and notifying the Town of Rockland and other appropriate local and state officials of a spill, leak, or other discharge.
6. A description of proposed storage facilities for hazardous wastes and provisions for the disposal of these wastes by licensed waste haulers.

The Planning Board, in reviewing the proposed Special Use application, shall ensure, as an additional review criterion, that it affords adequate protection to prevent contamination and depletion of the groundwater resources within the Aquifer Protection Overlay District providing drinking water for private residential wells and municipal wells operated by the Town of Rockland. In making such determination, the Planning Board shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to water quality and quantity which would result if the control measures failed. In addition, the proposed use must comply with all requirements and standards as set for the use in the Aquifer Protection Overlay District.

The Planning Board may also require changes or additions to the site plan as a condition of approval to safeguard groundwater resources. No building permit and no certificate of occupancy shall be issued unless and until such conditions have been fully met or performed. All improvements to the site shall be completed in strict conformance with the site plan as approved.

- C. Water supply protection overlay zones. There are hereby established within the Town of Rockland, two water supply protection overlay zones. These zones are delineated on a map entitled Water Supply Protection Overlay Zones Map filed with the Town Clerk and considered a supplement to the Official Zoning Map of the Town of Rockland. These zones are described as follows:

1. Aquifer Protection Overlay District (W-1 Overlay): This zone generally consists of the unconsolidated groundwater aquifer and the immediate, contiguous areas that drain directly into the aquifer area.
2. Watershed Protection Overlay Zone (W-2 Overlay): This zone generally consists of the remaining land that contributes surface water runoff to the unconsolidated aquifer and the W-1 Overlay Zone.

If a lot or combination of parcels for which a single development is proposed is wholly or partially within the Aquifer Protection Overlay District and Watershed Protection Overlay Zone, the provisions of the Aquifer Protection Overlay District and Watershed Protection Overlay District shall apply to all property within such lot or combination of parcels.

- D. Definitions. The following special definitions shall apply to activities in the Aquifer Protection Overlay and Watershed Protection Overlay Districts.

Animal Unit - Defined as one (1) slaughter or feeder cow, 1.43 dairy cows, or 0.4 swine.

Aquifer - A geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield adequate quantities of groundwater to wells.

Bulk Storage - Materials stored in large quantities which are usually dispensed in smaller units for use or consumption.

Concentrated Animal Feeding Operation - A feeding operation in which animals are kept for more than forty-five (45) days in a year and there is no vegetation.

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

Deicing Chloride Salt - Any bulk quantities of chloride compounds and other deicing compounds 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 chloride 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 discharge, deposit, injection, dumping, spilling, leaking, or release by any other means of a substance to the surface or subsurface of the ground, surface waters, or groundwater.

Fertilizers - Any commercially produced mixture generally containing phosphorous, nitrogen, and potassium which is applied to the ground to increase nutrients from plants.

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 toxicity.

Herbicides - Any substance or mixture of substances intended for prevention, destroying, repelling, or mitigating any weed, and those substances defined pursuant to Environmental Conservation Law Section 33-0101.

Impervious Surface - Any man-made material, such as pavement used in parking lots or driveways or any building or other structure on a lot, that does not allow surface water to penetrate into the soil.

Infiltration Basin - An impoundment made by excavation or embankment construction to contain water and allow the downward movement of water into the soil.

On-site Consumption - The use of petroleum to heat or cool a residential or non-residential structure, to operate machinery necessary for agricultural activities, or for processing or manufacturing activities. On-site consumption does not include the sale or distribution of petroleum for or into vehicles, except vehicles used only on-site.

Pesticide - Any substance or mixture of substances intended for preventing, destroying,

repelling, or mitigating any pest, any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and those substances defined pursuant to Environmental Conservation Law Section 17-0105.

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.

Secondary Containment - A structure which prevents any materials that have spilled or leaked from primary containment structures, such as piping, tanks or other containers, from reaching the land surface, subsurface, or a water body.

Septage - The contents of a septic tank, cesspool, or other individual wastewater treatment works which receives domestic sewage wastes.

Sludge - The solid, semi-solid, or liquid waste generated from a waste processing facility, but does not include the liquid stream of effluent.

Solid Waste - 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.

Spill - Any discharge of a substance from the containers employed in storage, transfer, processing, or use.

Surface Water Body - Those water bodies which are identified as drainage features (perennial stream or river, intermittent stream, canals, ditches, etc.) lakes, ponds reservoirs, springs, or wetlands on United States Geological Survey or New York State Department of Transportation 7.5 -minute topographic maps, United States Department of Agriculture soil survey maps, or wetlands maps by the New York State Department of Environmental Conservation.

Tributary Watershed Zone - The area outside of an aquifer which supplies surface water recharge to the Zone of Contribution and Zone of Influence in the form of overland flow and/or streamflow.

Underground Storage - Storage within a tank or other container which is completely covered with earth or other backfill material.

Wastewater - Aqueous carried waste including, but not limited to, dredge spoil, solid waste, hazardous waste, incinerator ash and residue, septage, garbage, refuse, sludge, chemical waste, infectious waste, biological material, radioactive materials, heat and commercial, industrial, municipal, and agricultural waste.

Zone of Contribution - The area of an aquifer containing ground water that flows toward a pumping well, thus providing recharge to the well.

Zone of Influence - The area of an aquifer where water levels are affected by pumping of a well.

- E. Prohibited uses. All uses currently permitted within the respective underlying zoning districts shall be permitted within the water supply protection overlay zones, except that the following activities shall all be prohibited within the Aquifer Protection Overlay District (W-1) so as to safeguard groundwater resources which serve as the Town's drinking water supply:

1. Aquifer Protection Overlay District.

- a. Establishment and/or operation of any solid waste management facility or hazardous waste treatment, storage, or disposal facility, including but not limited to: solid waste storage area or facility; transfer station; rail-haul or barge-haul facility; raw waste landfill; sanitary landfill; solid waste landfill; ash landfill; construction and demolition debris landfill; disposal facility; solid waste incinerator; refuse-derived fuel processing facility; pyrolysis facility; construction and debris processing facility; land application facility; composting facility; surface impoundment; used oil storage, reprocessing, and refining facility; recyclables handling and recovery facility; waste tire storage facility; junkyard; salvage yard; impoundment yard; dump; radiological waste facility; pathological or medical waste facility; or hazardous waste treatment, storage or disposal facility.
- b. Surface land application of septage, sludge, or human excreta.
- c. Disposal of any solid waste, petroleum, radioactive material, hazardous substance, hazardous waste, or non-sewage wastewater into or onto land or a surface water body. Uses which commonly dispose of solid waste, petroleum, hazardous substances, hazardous waste, or non-sewage wastewater into or onto land or a surface water body include but are not limited to: appliance/small engine repair shops; auto repair and body shops; boat service; repair, and washing establishments; chemical/biological laboratories; chemical processing/manufacturing plants; cleaning services (dry cleaning, laundromat, commercial laundry); electric/electronic/communications equipment manufacturers; furniture manufacturers/strippers/painters; jewelry and metal platers; machine shops; metal manufacturers/fabricators/finishers; petroleum product refiners and manufacturers; photo processors and printers; and wood preserving/treating establishments.
- d. Establishment of any of the following: airport; asphalt/concrete/coal tar plant; cemetery; concentrated animal feeding operation with more than 1,000 animal units; fuel oil distributor; gasoline station; golf course; lawn care business; oil and gas drilling and production; pesticide stores; pest control business; road and maintenance depot; and trucking or bus terminal.

- e. Outdoor uncovered stockpiling or bulk storage of manure, coal, deicing chloride salts, or artificial fertilizers.
  - f. Commercial or agricultural use, storage and application of pesticides, herbicides, fungicides, and fertilizers for commercial agricultural purposes without authorization from the New York State Department of Environmental Conservation.
  - g. Disposal of snow containing deicing salts/chemicals removed from streets, roads, and parking areas and that has been transported from areas outside of the Aquifer Protection Overlay District.
  - h. Construction of commercial pipelines or piping systems that carry petroleum or liquid hazardous substances or waste.
  - i. Construction of on-site wastewater disposal systems capable of surface or sub-surface discharges of 1,000 gallons or more per day or other wastewater treatment facilities with disposal of primary or secondary effluent within the Aquifer Protection Overlay District.
  - j. Underground storage of petroleum products, hazardous substances, hazardous waste, pesticides and fertilizers.
  - k. Outdoor, above ground storage of petroleum products, hazardous substances, hazardous waste and pesticides.
  - l. New mining operations from which earth materials are removed for sale, exchange, or other use except for excavation and grading operations which are conducted solely in aid of on-site construction or farming.
2. Watershed Protection Overlay Zone.
- a. Disposal of snow containing deicing salts/chemicals removed from streets, roads, and parking areas to the area within 100 feet of streams and water courses.
  - b. Disposal of any solid waste, petroleum, radioactive material, hazardous substance, hazardous waste, or non-sewage wastewater into or onto land or a surface water body. Uses which commonly dispose of solid waste, petroleum, hazardous substances, hazardous waste, or non-sewage wastewater into or onto land or a surface water body include but are not limited to: appliance/small engine repair shops; auto repair and body shops; boat service; repair, and washing establishments; chemical/biological laboratories; chemical processing/manufacturing plants; cleaning services (dry cleaning, laundromat, commercial laundry); electric/electronic/communications equipment manufacturers; furniture manufacturers/strippers/painters; jewelry and metal platers; machine shops; metal manufacturers/fabricators/finishers; petroleum product refiners and manufacturers; photo processors and printers; and wood

preserving/treating establishments.

- c. Surface land application of septage, sludge, or human excreta.
- d. Disposal of any solid waste, petroleum, radioactive material, hazardous substance, hazardous waste, or non-sewage wastewater into or onto land or a surface water body.
- e. Establishment of a concentrated animal feeding operation with more than 1,000 animal units.
- f. Outdoor uncovered stockpiling or bulk storage of coal, deicing chloride compounds (unless bagged), or artificial fertilizers.
- g. Outdoor uncovered stockpiling or bulk storage of manure within 100 feet of a surface water body.
- h. Construction of wastewater treatment facilities with disposal of primary or secondary effluent within the Aquifer Protection Overlay District.

F. Lot coverage.

For each use proposed within the Aquifer Protection Overlay District, the stricter requirement for maximum allowable lot coverage, whether it be specified within the underlying zone or within the requirements for the Aquifer Protection Overlay District, shall apply.

- 1. In the Aquifer Protection Overlay District, the minimum size for on-site wastewater treatment systems (septic systems) shall be 80,000 square feet.
- 2. In the Aquifer Protection Overlay District, the total impervious surface area of each lot shall not exceed the following percentages:

Lot Size (sq. feet)	Lot Size (acres)	Maximum Impervious Surface Area of Lot
7,500 - 14,999	0.15 - 0.34	50%
15,000 - 29,999	0.34 - 0.69	45%
30,000 - 79,999	0.69 - 1.84	40%
> 79,999	> 1.84	35%

G. Stormwater runoff. Proposed uses in the Aquifer Protection Overlay District must meet the following standards for stormwater runoff:

- 1. There shall be no more stormwater runoff into streams or storm sewers than before development.

2. The off-site impacts of erosion and sedimentation from the proposed use shall not be any greater during and following land disturbance activities under predevelopment conditions.
3. All stormwater runoff from new impervious surface areas shall be recharged to groundwater on-site using infiltration basins, pits, trenches or impoundments in accordance with the design criteria for these stormwater management techniques as described in Chapter 6 of the NYSDEC manual "Reducing the Impacts of Stormwater Runoff from New Development." For commercial/industrial parking lots which produce significant loads of grit and oil, oil/grit separators (water quality inlets) are required to remove sediment and hydrocarbons which would clog soils and lead to failure of the infiltration structure.
4. The applicant shall prepare or have prepared a Stormwater Management and Erosion Control Plan using the outline presented in Chapter 4 of the NYS DEC manual "Reducing the Impacts of Stormwater Runoff from New Development."
5. Dry wells, infiltration trenches, and infiltration basins shall be used to dispose of stormwater only where other methods may not be feasible, as determined by the Planning Board, due to physical constraints of the site. No such infiltration systems for disposal of stormwater shall be located within 400 feet of a public water supply well.
6. Surface infiltration trenches must have grass buffers and dry wells and subsurface infiltration trenches must have oil, grease and sediment traps (water quality inlets) to capture excess loads of sediment, grease, oils, and settleable solids and other objectionable materials including floatable organic materials before stormwater is allowed to enter the infiltration system.
7. Dry wells shall be equipped with an accessible cap and underground infiltration trenches shall be equipped with observation well(s). All caps to dry wells and observation wells shall be locked or constructed to prevent vandalism.
8. There must be a vertical separation distance of at least four (4) feet between the bottom of the infiltration system and the season high water table or bedrock. The required separation distance must be verified by test pits/soil borings under the direction of a professional engineer licensed to practice in the State of New York.
9. The following activities shall be exempt from the Stormwater Management and Erosion Control Plan requirements: agricultural activities (including household gardening and timber harvesting) that is not part of a development project; development of less than five single-family or duplex residential dwelling units and their accessory structures in an existing subdivision; development of one single-family or duplex residential dwelling unit not in an existing subdivision; industrial and/or commercial development projects which result in an impervious surface of less than 10,000 square feet; and any maintenance, alteration, use, or improvement of an existing structure which will not change the quality, rate, volume, or location of stormwater discharge or contribute to erosion and



sedimentation.

- H. Underground petroleum storage. New facilities for the underground storage of petroleum products, including those for on-site consumption, shall be prohibited in the Aquifer Protection Overlay District. Replacement underground petroleum storage facilities shall be permitted if the new storage facilities are of equal or lesser capacity and are installed in accordance with the standards of the New York State Department of Environmental Conservation.
- I. Aboveground petroleum storage. New facilities for the outdoor, above ground storage of petroleum products, except for petroleum used for on-site consumption, shall be prohibited in the Aquifer Protection Overlay District. Replacement of above ground petroleum storage facilities for other than on-site consumption/use shall be permitted if the new storage facilities are of equal or lesser capacity and are installed in accordance with the standards of the New York State Department of Environmental Conservation. All facilities shall be equipped with the following:
  - 1. Double-walled piping or other form of piping secondary containment and a piping leak detection system;
  - 2. Cathodic protection for any steel/iron underground piping;
  - 3. A dike, berm or other secondary containment structure composed of impermeable material which is designed to contain at least 120% of the volume of the largest tank enclosed by the containment structure;
  - 4. Visual gauges to monitor fluid levels and/or high level alarms to warn of an imminent overfill;
  - 5. Spill prevention valves;
  - 6. Tank labels; and
  - 7. Security against unauthorized entry into storage areas.
- J. Indoor petroleum storage. Indoor storage facilities for petroleum, except for on-site consumption in residences, household uses (operating lawn care equipment, recreational vehicles, etc.) and storage in original, sealed containers for purposes of resale, shall meet all applicable New York State Department of Environmental Conservation Rules and Regulations for Petroleum Bulk Storage and the following design requirements:
  - 1. Petroleum shall be stored in product-tight closed containers, containers equipped with a lid, or still tanks;
  - 2. All storage areas shall be equipped with a secondary containment structure built of impervious material which is designed to contain at least 120% of the volume of the largest container enclosed by the containment structure;

3. no storage areas shall be located in proximity to floor drains;
  4. storage areas shall be secured against unauthorized entry;
  5. the tank or containers shall be mounted/stored on a concrete floor or pad;
  6. for tanks, visual gauges installed to monitor fluid levels and/or high level alarms to warn of an imminent overflow;
  7. for tanks, spill prevention valves; and
  8. tank/container labels.
- K. Hazardous substance storage. Proposed uses in the Aquifer Protection Overlay District must meet the following standards for hazardous substance, pesticide, herbicide, and fertilizer storage:
1. Outdoor, above ground storage of hazardous substances is prohibited in the Aquifer Protection Overlay District.
  2. Indoor storage areas for quantities of hazardous substances, pesticides, herbicides, and fertilizers that total more than two hundred fifty (250) dry weight or fifty (50) gallons liquid shall meet all applicable federal and state requirements and the following requirements and standards (storage in original, sealed containers for the purpose of resale shall be exempt from items c and d): a. all products shall be stored in product-tight containers with a lid; b. each container shall be clearly labeled; c. drip pans shall be located under the spigots of drums or containers stored in a horizontal position; d. all storage areas shall be equipped with a pad and a dike, berm or other secondary containment structure built of impervious material which is designed to contain at least 120% of the volume of the largest container enclosed by the containment structure; e. no storage areas shall be located adjacent to floor drains; f. absorbent material shall be kept on hand for emergency cleanups and containments; and g. storage areas shall be secured against unauthorized entry.
  3. An accurate log or inventory of hazardous substances on-site shall be maintained.
  4. A Spill Control Plan shall be prepared and posted in a conspicuous location. The plans shall contain: a description of operational procedures, a description of potential spill sources, the names and telephone numbers of persons responsible for responding to the spill, the procedures for containing and cleaning up the spill, the procedure for notifying the Town and other appropriate local and state officials.
- L. Floor drains. All floor drains for a proposed use within the Aquifer Protection Overlay

District shall be connected to an oil and grit separating tank that is connected to the municipal sewer system. Floor drains which are connected to the sanitary sewer must meet discharge limits and permit requirements established by the Wastewater Treatment Plant. Discharge of floor drains to the ground surface, subsurface, or water course, is prohibited.

M. Hazardous waste storage and disposal. Proposed uses in the Aquifer Protection Overlay District must meet the following standards for temporary storage and proper disposal of hazardous waste:

1. The owner or applicant of a facility generating hazardous waste shall demonstrate the availability and feasibility of temporary indoor storage methods which are in accordance with all applicable local, state, federal laws, and the requirements of this Article for hazardous waste to be produced in quantities greater than those associated with normal household or agricultural use.
2. The owner or applicant shall demonstrate that wastes will be properly handled and stored until disposed of at a licensed hazardous waste treatment, storage, or disposal facility by a licensed waste hauler.
3. Temporarily accumulated hazardous waste will be in accordance with all applicable local, state, federal regulations.
4. An accurate log or inventory of hazardous wastes stored on-site shall be maintained, including a description of the waste contained in container, the date of waste generation, the date of removal by a licensed waste hauler, and the name and address of the licensed waste hauler.
5. A Spill Control Plan shall be prepared and posted in a conspicuous location. The plans shall contain: a description of operational procedures, a description of potential spill sources, the names and telephone numbers of persons responsible for responding to the spill, the procedures for containing and cleaning up the spill, the procedure for notifying the Town and other appropriate local and state officials.

N. Pesticide/fertilizer storage and application. The outdoor uncovered stockpiling or bulk storage of manure is prohibited within 100 feet of a surface water body or within 500 feet of a public water supply well in the Aquifer Protection Overlay District. In addition, the underground or outdoor, above ground storage of pesticides and/or fertilizers is also prohibited within the Aquifer Protection Overlay District. In the Aquifer Protection Overlay District, the following standards shall apply to proposed uses regarding the storage, application, and disposal of pesticides and/or fertilizers:

1. Areas utilized for the stockpiling or bulk storage of manure and associated agricultural waste from commercial agricultural establishments shall be constructed and maintained in accordance with best management practices such that seepage, leachate, or runoff from stockpiling or storage of animal waste does

not cause or contribute to the contravention of a water quality standard.

2. Commercial agricultural storage and use of fertilizers and the land application of manure shall be in conformance to the degree practicable with best management practices as recommended by the Sullivan County Soil and Water Conservation District.
  3. Storage, use, and/or application of pesticides must be in accordance with proper certification from the New York State Department of Environmental Conservation.
- O. Site inspections. The Town Code Enforcement Officer is authorized to perform periodic inspections of facilities to ensure that these facilities are in compliance with the requirements and standards of this Article. The owner or the owner's designee shall grant the Code Enforcement Officer access to the site at a mutually agreeable time within seventy-two (72) hours of notice of inspection.
- P. Nonconforming uses and activities. A nonconforming use or activity within the Aquifer Protection Overlay District shall not be enlarged in size so as to occupy a greater area of land or floor area than was committed to the nonconforming use at the time of enactment of this Article. A nonconforming use or activity within the Aquifer Protection Overlay District shall also not be altered, reconstructed, or structurally changed in a way which increases its nonconformity at the time of enactment of this section. Except for residential uses, Special Use approval must be obtained from the Planning Board for any alteration, reconstruction, or structural change of a nonconforming use or activity within the Aquifer Protection Overlay District.

## § 185-29. Adult oriented businesses.

- A. Purposes. The primary purposes of this section are as follows:
1. To preserve the character and quality of life in the Town neighborhoods and business areas.
  2. To control such documented harmful and adverse secondary effects of adult oriented business on the surrounding areas such as: decrease in property value; attraction of transients; parking and traffic problems; increased crime (including prostitution, rape and assaults) in the vicinity of such businesses; loss of business for surrounding non-adult businesses; and deterioration of a neighborhood.
  3. To maintain property values.
  4. To prevent crime.
  5. To protect retail trade.
  6. To restrict minors access to adult oriented businesses.

7. To maintain the general welfare, safety and morals for the Town of Rockland residents.

B. Definitions.

ADULT ORIENTED BUSINESS - Use of a building, structure or property for a business that has adult materials in a section or segment devoted to such materials or as a substantial or significant portion of its stock in trade for the purposes of sale, lease, trade, gift or display of such adult materials. For the purposes of this law adult oriented businesses shall also mean and include any nightclub, bar, tavern, restaurant, eating and drinking establishment, arcade, theater, motel, hotel, or any other establishment that regularly features, for economic gain or other consideration, entertainment in any form which is characterized by nudity or the depiction or display of sexual activities.

ADULT MATERIALS - Adult materials shall include but not be limited to any literature, books, magazines, pamphlets, newspapers, papers, comic books, drawings, articles, computer or other images, motion pictures, videos, mechanical devices, instruments, clothing or any other writings, materials or accessories which are distinguished or characterized by their emphasis on matter depicted, described or related to "special sexual acts" or "specified anatomical areas" as defined herein, or an establishment with a segment or section exclusively devoted to the sale, lease, gift, trade, display of such materials or of any drug paraphernalia.

SPECIFIED SEXUAL ACTIVITIES:

1. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus [or] female breast.
2. Sex acts, normal or deviant, actual or simulated, including intercourse, oral copulation or sodomy.
3. Acts of human masturbation, actual or simulated;
4. Excretory function as part of or in connection with any of the activities set forth in 1., 2. or 3. above.

SPECIFIED ANATOMICAL AREAS:

1. Less than completely and opaquely covered:
  - a. Human genitals, pubic region;
  - b. Buttock; and
  - c. Female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely

covered.

NUDITY - Nudity means the showing of the human male or female genitals, pubic area, buttocks, or anus, any part of the nipple or any part of a female breast below a point immediately above the top of the areola with less than a fully opaque covering.

- C. Permit required. No adult oriented business shall be commenced or continued without a special use permit being obtained from the Town of Rockland pursuant to this chapter.
- D. Zone in which permitted. Adult oriented business shall be permitted only in the RC Rural Conservation District of the Town of Rockland.
- E. Geographical limitations. No adult oriented business shall be located within 1,000 feet of any residence, residential facility, institution, health facility, church, synagogue, school, public or semi-public parks or recreational facility, any establishment which serves alcoholic beverages or any other existing adult oriented business.
- F. Alcoholic beverages prohibited. Sale of alcoholic beverages at an adult oriented business shall not be permitted unless the business is being operated as a bona-fide restaurant or eating and drinking establishment.
- G. Signs and displays. No exterior display or interior display which is visible from outside the business shall be made to identify or portray the type of activity which occurs at an adult oriented business excepting for one (1) approved ground sign not to exceed a surface area of thirty-six (36) square feet for both sides combined. Such sign shall be subject to all other limitations applicable to signs. It shall not incorporate any obscene material but shall be otherwise unlimited as to message.
- H. Non-conforming buildings or lots. No non-conforming building or lot shall be used for an adult oriented business. No other existing building, lot or use shall be added to, enlarged, expanded in size or program or converted for purposes of conducting an adult oriented business unless application to do so has been made pursuant to this section and Planning Board approval has been given.
- I. Prohibited activities. The following activities shall not be permitted on the premises of any adult oriented or other public place within the Town of Rockland:
  - 1. Public appearance by a person knowingly or intentionally engaged in sexual intercourse, deviate sexual conduct or the fondling of the genitals of himself or another person, or the fondling of female breasts.
  - 2. The knowing and intentional public appearance of a person in a state of nudity.

#### § 185-30. Communication structures.

- A. Purpose. This section of the Town of Rockland Zoning Law concerning telecommunications towers is intended to supplement the balance of the Town of

Rockland Zoning Law. It shall supersede only those provisions of the Town of Rockland Zoning Law which are inconsistent herewith. All other provisions of the Town of Rockland Zoning Law, those consistent herewith, are incorporated by reference and the use and activities regulated hereby are subject to the Town of Rockland Zoning Law unless specifically provided otherwise by this section. The town seeks to maintain concealed or reduced tower height with groups of towers within close proximity to one another rather than isolated, taller towers with many users at greater tower heights at random locations throughout the Town of Rockland.

B. Application.

1. No telecommunications facility, except those approved prior to the effective date of this section, shall be used unless in conformity with the Town of Rockland Zoning Law. No telecommunications facility shall hereafter be erected, moved, reconstructed, changed or altered unless in conformity with these regulations. No existing structure shall be modified to serve as a telecommunications facility unless in conformity with these regulations.
2. No Special Use Permit or renewal thereof or modification of a current Special Use Permit relating to a telecommunications facility shall be authorized by the Planning Board unless it finds that such telecommunications facility:
  - a. is necessary to meet current or expected demands for service;
  - b. conforms with all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration and other federal agencies;
  - c. is considered a public utility in the State of New York;
  - d. is designed and constructed in a manner which minimizes visual impact to the extent practical;
  - e. complies with all other requirements of this local law unless expressly superseded herein; and
  - f. is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility.
3. Applicants proposing new telecommunications facilities, physical expansions of existing telecommunications facilities or the location of telecommunications facilities within or on other existing structures shall require a Special Use permit and Site Plan Review hereunder.
4. Applicants proposing to co-locate new telecommunications arrays on a previously approved telecommunications facility without extending the height thereof or otherwise physically expanding the facility except for additional equipment buildings within

previously designated fenced-in areas shall not require a Special Use Permit or Site Plan Review but shall require Accessory Use permits.

5. Application Filing Requirements: Special Use Permit. Applicants for a Special Use Permit for a wireless communications facility shall fulfill the requirements of a Type 1 action under SEQR, and shall, in addition, provide the following:
  - a. The applicant shall bear the burden of demonstrating by substantial evidence that a bona fide need exists for the facility and that no reasonable combination of locations, techniques or technologies will obviate the need for or mitigate the height or visual impact of the proposed telecommunications tower.
  - b. A survey of all existing structures, buildings and utility structures within the Town outlining the opportunities for the use of these existing structures and buildings as an alternative to the proposed site. The applicant must demonstrate that the proposed wireless communications facility cannot be accommodated on an existing structure, building or utility structure. In the event that location on an existing structure, building or utility structure is not feasible, a written statement of the reasons for the unfeasibility shall be submitted to the Planning Board. The Planning Board may hire an independent technical expert in the field of radio frequency engineering, to verify if location on an existing structure, building or utility structure is not feasible and to evaluate the need for the proposed facility. The cost for such a technical expert shall be at the expense of the applicant and shall be fair and in line with similar costs in other communities. The failure of an applicant to demonstrate a good faith effort to co-locate may be grounds for denial of the special use permit.
  - c. A map showing the locations of all existing and future wireless communications facilities in the Town and within a five-mile radius of the proposed tower site for the carrier. The applicant must demonstrate the need for the proposed facility showing the impracticality of upgrading or expanding an existing site, and must project long-range facility expansion needs within the Town based on a market demand. The Planning Board may hire an independent technical expert in the field of RF engineering, to evaluate the impracticability of upgrading or expanding an existing site. The cost for such a technical expert shall be at the expense of the applicant and shall be fair and in line with similar costs in other communities. The failure of an applicant to demonstrate a good faith effort to demonstrate the impracticality of upgrading or expanding an independent site may be grounds for denial of a special use permit.
  - d. Proposed location of antenna, mount and equipment shelter(s), with total elevation dimensions and AGL of the highest point.
  - e. Proposed security barrier, indicating type and extent as well as point of controlled entry.
  - f. Drawings, dimensioned and to scale, which show the ultimate appearance and operation



of the wireless communications facility at full buildout, including representations of the proposed mount, antennas, equipment shelters, cable runs, driveways, parking areas and any other construction or development attendant to the wireless communications facility. If the security barrier will block views of the wireless communications facility, the barrier drawing shall be cut away to show the view behind the barrier.

- g. Materials of the proposed facility specified by generic type and specific treatment. These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier.
- h. Colors of the proposed facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cable as well as cable runs, and security barrier.
- i. Landscape plan including existing trees and shrubs, by dominant species and current height and those proposed to be added, identified by size of specimen at installation and species.
- j. The following material shall be provided to allow the Planning Board to determine the level of visual impact and the appropriateness of the facility:
  - (1) Existing (before condition) color photographs of views of the site from key view points both inside and outside of the Town including but not limited to: state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, scenic roads and scenic viewsheds identified in the Town Comprehensive Plan and from any other location where the site is visible to a large number of residents or visitors. The Planning Board shall determine the appropriate key viewpoints from which the site shall be photographed.
  - (2) Proposed (after condition) simulations. Each of the existing condition photographs shall have the proposed wireless communications facility superimposed on to it to show what would be seen from the key viewpoints if the proposed facility is built.
- k. The name(s), address(es), and qualifications of the person(s) preparing the application and his or her signature(s) attesting to the truth and completeness of the information contained therein as well as their professional license number as an engineer with expertise in radio communications facilities or architect licensed to do business within the State of New York; the name(s) and address(es) of the property owner, proposed operator and applicant; the postal address and section, block and lot number of the property on the Town of Rockland Tax Map; the Zoning District in which the property is situated; a listing of all required, existing and proposed setbacks; if an installation is pursuant to a Lease Agreement, the parties, the duration in terms of renewal and provide a copy of the Lease; certification that the proposed antenna(s) will not cause interference with existing communication devices.

- l. A photometric plan of all lighting on the site, including tower lighting if required.
- m. A Professional Engineer's report certifying that the any proposed shared use will not diminish the structural integrity and safety of any existing structure, and explaining what modifications, if any, will be required in order to so certify. A soils report prepared by such Professional Engineer with expertise in radio communications facilities shall also be submitted to support the design specifications of the foundation for any new tower, and anchors for the guy wires, if used.
- n. A completed Visual Environmental Assessment Form addendum. This addendum shall be accompanied by a visual impact assessment which shall include:
  - (1) A Zone of Visibility Map, which shall be provided in order to determine locations where the tower may be seen.
  - (2) Visual representations of "before and after" views from key viewpoints both inside and outside of the town, including but not limited to state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The Board shall determine the appropriate key sites at a pre-submission conference with the applicant.
  - (3) Assessment of alternative tower designs and color schemes (see below).
  - (4) Assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.
  - (5) Review of those alternative sites determined to be feasible from an engineering perspective (see requirements below) to determine which would be in the best interest of preserving the aesthetic and natural character of the neighborhood.
- o. A certified copy of the Federal Communications Commission (FCC) license to operate the telecommunications facility.
- p. If land is leased, documentation of intent from the owner to allow use and affirming intent to remove the tower if abandoned, obsolete or unused for more than twelve (12) months.
- q. A letter of intent committing the owner of any proposed new tower and successors in interest to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. Failure to abide by the conditions outlined in the letter may be grounds for revocation of any Special Use Permit granted. The letter shall commit the new tower owner and his/her successors in interest to:
  - (1) Respond 90 days to a request for information from a potential shared-use applicant.

- (2) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers.
  - (3) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a pro-rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity and depreciation, and all the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
- r. Documentation that the proposed tower adequately addresses all aspects of aviation safety in view of known local aviation traffic as well as Federal Aviation Regulations (Law of Federal Regulations - Part 77).
  - s. All property owners and adjacent municipalities within five-hundred (500) feet of the outside perimeter of the communications structure, including guy wires, shall be notified by certified mail at least ten (10) days prior to the Planning Board meeting expected to consider granting Special Use approval for such a structure. This responsibility shall be the applicant's and such applicant shall provide proof of notification as part of their final application.
  - t. A site location alternative analysis, including an analysis of the location priorities set forth herein, describing the locations of other sites considered, the availability of those sites, the extent to which other sites do or do not meet the provider's service or engineering needs and the reason why the subject site was chosen. The analysis shall address the following issues:
    - (1) How the proposed location of the wireless telecommunication tower or antennas relates to the objective of providing full wireless communication services within the Town of Rockland.
    - (2) How the proposed location of the wireless telecommunications tower/facility relates to the location of any existing antennas or towers within or near the Town of Rockland area.
    - (3) How the proposed location of the wireless telecommunications tower/facility relates to the anticipated need for additional antennas or towers within and near the Town of Rockland by the applicant, and by other providers of wireless telecommunications services within the area.
    - (4) How the proposed location of the wireless telecommunications tower/facility relates to the Town's goal of maintaining concealed or reduced tower height with groups of towers within close proximity to one another rather than isolated, taller towers with many users at greater tower heights at random locations throughout the Town of Rockland.

- (5) The Planning Board may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed wireless communications facility, based upon a specific request by the applicant.
- u. Within 21 days of filing an application for a Special Use Permit, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in an official newspaper designated by the Town at least 10 days, but no more than 30 days prior to the test.
- v. An applicant for approval of a communications structure shall include with the application evidence of written contact with all wireless service providers who supply service within the Town for the purpose of assessing the feasibility of co-located facilities.

#### C. LOCATION

- 1. Wireless communications facilities shall only be located upon the grant of site plan approval and a special use permit. Applicants seeking approval for wireless communications facilities shall comply with the following:
  - a. If feasible, new wireless communications facilities shall be located on existing structures, including but not limited to buildings, water towers, existing communications facilities, silos, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more wireless communications facilities. The applicant shall have the burden of proving that there are no feasible existing structures on which to locate.
  - b. If the applicant demonstrates that it is not feasible to locate on an existing structure, wireless communications facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: the use of compatible building materials and colors, screening, landscaping, placement within trees, and the use of stealth technology to disguise the facility as specified hereinafter and as determined by the Planning Board.
  - c. The clustering of towers and structures on the same site should be considered if co-location cannot be facilitated.
  - d. The applicant must submit documentation of the legal right to install and use the proposed facility mount at the time of applications for Site Plan approval and for a Special Use Permit.
  - e. Scenic Landscapes and Vistas: New free-standing wireless communications

facilities shall not be located within open areas that are visible from public roads, recreational areas or residential development. All ground-mounted wireless communications facilities shall be surrounded by a buffer of dense tree growth or shall be camouflaged by design to minimize adverse visual and aesthetic impacts.

- f. The use of repeaters and other alternative technologies is strongly encouraged to reduce or minimize the height and aesthetic intrusion of towers in the Town.
  - 2. Towers shall be setback from all property lines the greater of a distance that is equal to the height of the tower or the required setback or buffering distance set forth in the Town of Rockland Municipal Code.
  - 3. All structures, buffers, setbacks, fences and other appurtenances shall be located on one lot and shall not extend over lot lines.
  - 4. The location of the tower and equipment building shall comply with all natural resource protection standards of this Law.
  - 5. A telecommunications facility shall be permitted on a property with an existing use subject to the following conditions:
    - a. The telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.
    - b. Minimum lot area. The minimum lot area required above shall apply, provided the land remaining for accommodation of the principal use on the lot shall also continue to comply with the minimum lot area for the district.
    - c. Minimum setbacks. The minimum yards required above shall apply, provided the land remaining for accommodation of the principal use on the lot shall also continue to comply with the minimum yards for the district.
    - d. Access. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
- D. Construction standards.
- 1. Collocation requirements.
    - (a) Shared use of existing structures (for example, municipal water towers, multistory buildings, church steeples and farm silos) and existing or approved towers shall be given preference over construction of new towers. Where shared use of all existing tall structures and existing or approved

towers is found to be impractical, the applicant shall investigate shared usage of an existing tower site for its ability to accommodate a new tower and accessory uses.

- (b) No telecommunications tower shall have constructed thereon or attached thereto any platform, catwalk, crow's nest, or like structures except during periods of construction or repair.
- 2. Antennas and their supporting structures shall be securely mounted to withstand the wind loads for the place of installation in accordance with the New York State Building Law.
- 3. Antennas and their supporting structures shall be constructed and maintained in conformance with all building, electrical, fire prevention and other applicable Laws adopted by the Town Board, be in conformity with all construction or performance standards (including but not limited to approved fastening devices and techniques that insure proper mounting, approved materials and methods for electrical connections, adequate structural support, etc.), be in conformance with the rules and regulations of any governmental entity having jurisdiction over such antennas or support structure including, without limitation, the Federal Communications Commission.
- 4. Notwithstanding anything contained herein to the contrary, no permit shall be issued for any transmitting antenna which interferes with the reception or transmission of any FCC approved communication device or antenna. If interference does result from the operation of a transmitting antenna, the owner of the most recently installed antenna shall immediately eliminate the interference or cease operations of the facility.

## E. DIMENSIONAL REQUIREMENTS

- 1. Wireless communications facilities shall comply with the following requirements:
  - a. Height and fall zone.
    - (1) The total height of any mount or accessory elements attached to any structure shall be measured from the ground level to the top of the mount or the top of the uppermost accessory affixed to the mount, whichever is higher. Maximum height of a wireless communications facility is limited to one hundred fifty (150) feet above ground level (AGL).
    - (2) A fall zone around any tower constructed as part of a telecommunications facility must have a radius at least equal to the height of the tower and any antenna(s) upon its zenith. The entire fall

zone may not include public roads and must be located on property either owned or leased by the applicant or for which the applicant has obtained an easement, and may not contain any structure other than those associated with the telecommunications facility. If the facility is attached to an existing structure, release may be granted by specific permission of the Zoning Board of Appeals on a case-by-case basis.

- b. Setbacks. All wireless communications facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:

- (1) To ensure public safety, the minimum distance from the base of any ground-mounted wireless communications facility to any property line, road, habitable dwelling, business or institutional use, accessory structure, or public recreation area shall be the height of the facility/mount, including any antennas or other appurtenances. This setback is considered the “fall zone”. Additional setbacks may be required by the Planning Board to provide for the public safety.
- (2) In the event that an existing structure or building is proposed as a mount for a wireless communications facility, a fall zone shall not be required unless the Planning Board finds that a substantially better design will result from an increased setback. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed use.

- c. The maximum area permitted to be cleared shall be no more than 50 feet in extent from the outer edge of the primary structure’s footprint. During construction and installation of facilities and structures, only the minimum amount of existing vegetation shall be cleared.

- F. Performance standards. All wireless communications facilities shall comply with the Performance Schedule set forth in this section.

- 1. Camouflage. Wireless communications facilities shall be the least obtrusive and the most appropriate to the proposed site, as determined by the Planning Board.
- 2. All wireless communications facilities shall be designed to blend into the surrounding environment through the use of design and color except in such instances where color is dictated by federal or state authorities such as the Federal Aviation Administration.
- 3. A wireless communications facility which is roof-mounted on a building shall be concealed within or behind existing architectural features to limit its visibility from public ways, and shall be stepped back from the front façade in order to limit its impact on the building’s silhouette.

4. A wireless communications facility which is side-mounted on a building shall be painted or constructed of materials to match the color of the building material directly behind it.
5. The Planning Board may require the use of stealth technology to camouflage ground-mounts.
  - a. Camouflage by Vegetation. If wireless communications facilities are not camouflaged from public viewing by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted wireless communications facilities shall provide a vegetative buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The Planning Board shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions. Such buffer shall be maintained in a healthy state or replaced as necessary to provide continuing camouflaging.
  - b. Camouflage by Design. To the extent that any wireless communications facility extends above the height of the vegetation immediately surrounding it, the facility shall be camouflaged by design to minimize the adverse visual and aesthetic impact unless otherwise required by the Planning Board.
6. An evergreen screen consisting of a row of eight (8) feet high evergreen trees planted ten (10) feet on center maximum, shall be located around the perimeter of the security fence. The Planning Board may, however, modify or waive screening requirements if the site is entirely or partially wooded so as to provide existing screening. Existing on-site vegetation shall be preserved to the maximum extent possible.
7. An eight (8) foot high security fence shall completely surround the tower (and guy wires if used) and equipment building.
8. The tower and antenna shall be designed and constructed to all applicable standards of the American National Standards Institute, TAI/EIA-222-F manual, as amended, and withstand wind gusts of up to 100 miles per hour.
9. A new antenna may not be located on a building or structure that is listed or eligible for listing on the State or National Register of Historic Places or within one thousand (1000) feet of such a structure.
10. Within forty-five (45) days of initial operation or modification of a telecommunications tower, the owner or operator shall submit to the Code Enforcement Officer a written certification by a professional engineer with expertise in radio communications facilities or architect that the operating facility is in compliance with the application submitted, any



conditions imposed and all other provisions of this legislation. The Town may confirm and periodically re-confirm compliance as necessary to insure that the tower continues to comply with its applications and all conditions imposed and if found not to be in compliance, the use of the facility shall immediately be required to cease and the provisions provided in Section 18 pertaining to abandonment or discontinuance of use shall be invoked.

11. All equipment proposed for a wireless telecommunications facility shall be authorized under the FCC Guidelines for evaluating the environmental effects of radio-frequency radiation (FCC Guidelines). If new, more restrictive standards are adopted by any appropriate Federal or State Agency, the facility shall be made to comply within a reasonable time as determined by the Code Enforcement Officer or continued operations may be restricted or prohibited by the Planning Board. The cost of verification of compliance shall be borne by the owner and/or operator of the facility.

G. Lighting and noise.

1. Wireless communications facilities shall not be artificially lighted or display strobe lights unless required by the Federal Aviation Administration (FAA) or other applicable authority. Security lighting of equipment structures and other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed, and foot-candle measurements at the property line shall be 0.0 initial foot-candles when measured at grade.
2. Notwithstanding the preceding paragraph, an applicant may be compelled to add FAA-style lighting and marking or security lighting if in the judgment of the Planning Board such a requirement would be of direct benefit to public safety.
3. When a facility has power equipment on site, including both temporary equipment such as tools and generators or permanent equipment including but not limited to HVAC and emergency generators, steps shall be taken to minimize, to the maximum extent feasible, the amount of noise heard off site.
4. The facility and its appurtenant structures and equipment shall not generate noise in excess of 50dB at the property line.

- H. Signs. No signs shall be permitted on either the tower or equipment building, except for those signs required by law or containing such information as owner contact information, warnings and no trespassing signs. These signs shall not exceed 2 square feet in total area. Absolutely no commercial advertising shall be permitted on any wireless telecommunications tower or equipment building. All signs shall comply with the Town's sign regulations.

I. Equipment shelters and accessory structures.

1. Equipment shelters for wireless communications facilities shall be designed consistent with one of the following standards:

- a. Equipment shelters shall be designed to be architecturally compatible, both in style and materials, with principal structures on the site, as determined by the Planning Board, OR
  - b. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer equal to the height of the proposed building. The Planning Board shall determine the types of plant materials and depth of the needed buffer based on site conditions. Such buffer shall be maintained in a healthy state or replaced as necessary to provide continuing camouflaging.
- 2. Accessory structures for wireless communications facilities shall be permitted if the structures are constructed for the sole and exclusive use and operation of the communications facility, are the minimum size necessary to meet the needs of the specific site, and meet the following requirements:
  - a. Accessory structures may not include office, long-term vehicle storage, other outdoor storage or other uses that are not needed to send or receive wireless communications transmissions.
  - b. Accessory structures must be less than 500 square feet and 15 feet in height or 700 square feet and 12 feet in height.
  - c. Accessory structures must be camouflaged behind an effective year-round landscape buffer equal in height to the proposed structure. Such buffer shall be maintained in a healthy state or replaced as necessary to provide continuing camouflaging.
  - d. In residential zones, the use of compatible building materials such as wood, brick or stucco is required for all accessory structures, which shall be designed to match architecturally the exterior of residential structures in the neighborhood, as determined by the Planning Board. In no case will metal exteriors be allowed for accessory structures.
  - e. All equipment shelters and accessory structures on one lot shall be architecturally uniform.

J. Access and parking.

- 1. A road and parking plan shall be provided to ensure adequate emergency and service access and shall meet the requirements of the Planning Board. Any driveway shall meet the requirements of the Planning Board and the highway authority of the road on which the driveway fronts.
- 2. Maximum use of existing public and private roads shall be made, consistent with safety and aesthetic considerations.

3. Road construction shall minimize ground and vegetation disturbance. Road grades shall follow natural contours to reduce soil erosion potential and to ensure that roads are aesthetically compatible with the character of the surrounding area.
4. The Planning Board may require an erosion and sedimentation control plan and may refer the site plan to the County Soil and Water Conservation District, Town Engineer, and/or Town Planner for review.
5. Unpaved roads shall be considered unless conditions require paving, as determined by the Planning Board, in consultation with the appropriate authorities or consultants.
6. Access roads, driveways or parking areas shall provide adequate interior turn-arounds such that service vehicles will not have to back out onto a public thoroughfare.

K. Environmental standards.

1. Wireless communications facilities shall not be located in wetlands or in regulated wetland buffer areas, in endangered or threatened species habitats, water bodies, historic or archaeological sites.
2. No hazardous waste shall be discharged on the site of any wireless communications facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
3. If applicable, additional stormwater run-off generated by the use shall be contained on-site.
4. Ground-mounted equipment for wireless communications facilities shall not generate noise in excess of 50 dB at the property line.

L. Safety standards.

1. Radio Frequency Radiation (RFR) Standards. All equipment proposed for a wireless communications facility shall be authorized per the FCC Guidelines. The owner of the facility shall submit evidence of compliance with the FCC Guidelines on a yearly basis to the Planning Board. If new, more restrictive standards are adopted by any appropriate federal or state agency, the facility shall be made to comply or continued operations may be restricted by the Planning Board. The cost of verification of compliance shall be borne by the owner and operator of the facility.
2. Security Barrier. All wireless communications facilities shall be provided with security measures such as fencing, anti-climbing devices, electronic monitoring, or other methods sufficient to prevent unauthorized entry and vandalism. Fencing

shall have a locking security gate. Electrified fence, barbed or razor wire shall be prohibited.

3. Structural Soundness and Fall Zone. Wireless communications facilities shall be designed by a licensed professional engineer with expertise in radio communications facilities to withstand overturning and failure. In the event of failure, facilities shall be designed so that they will fall within the setback area of the site and/or away from adjacent residential properties. The Planning Board shall require a foundation design and certificate of safety from the carrier to document structural soundness.

M. Application fee. The applicant shall pay an application fee established periodically by the Town Board and shall reimburse the Town the cost of expert consultants the Planning Board hires to assist it to evaluate the application and its impact on the community, as set forth below.

N. Consultant fees. The Planning Board and/or Zoning Board of Appeals may retain consultants to assist in reviewing the application, its renewal, or an application for a variance related to a pending application, with consultant fees to be paid by the applicant. These consultants may include the Town Engineer, Town Planner, the Town's Attorney, one or more commercial communication facility consultants, or other consultants as determined by the Planning Board and/or the Zoning Board of Appeals. At the beginning of the review process the applicable board may require the applicant to fund an escrow account from which the Town may draw to ensure reimbursement of consultant fees. During review of the application, the applicable board may require the applicant to add funds to the escrow account as the applicable board deems necessary. If the required funds are not added to the escrow account, review of the application by the applicable board shall be suspended until such time, if any, as payment of said funds is made. Any remaining funds in the escrow account after payment of all consultant fees will be returned to the applicant.

O. Application for site plan approval.

1. Application Filing Requirements, Site Plan Approval. All applicants for a wireless communications facility shall fulfill the Site Plan requirements of the Zoning Law and shall, in addition, provide the following:
  - a. Proof that the applicant or co-applicant is an FCC licensed carrier.
  - b. A statement justifying the need for the tower including drive test data, a coverage analysis from existing tower sites and from a test transmitter located at the proposed site.
  - c. A statement, certified by a professional engineer with expertise in radio communications facilities and approved by the Planning Board, that the installation of the proposed antenna, including reception and transmission functions, will not interfere with the radio or television service enjoyed by adjacent residential and non-residential properties or with public safety

communications.

- d. A statement, certified by a professional engineer with expertise in radio communications facilities and approved by the Planning Board, documenting the structural soundness of the wireless communications facility.
- e. Proof that the wireless communications facility shall be fully automated and requiring only occasional maintenance of the facility and site.

2. All wireless communications facilities requiring a Special Use Permit shall comply with the following requirements:

- a. Location of Other Facilities. Applicant shall provide a map of the Township and a five-mile radius of the proposed facility showing the location of other existing, approved, and proposed wireless communications facilities within the Town and all bordering municipalities outlining opportunities for co-location use as an alternative to the proposed site. The applicant must demonstrate that the proposed wireless communications facility cannot be accommodated on an existing, approved, or proposed communications tower, structure or facility due to one or more of the following reasons:
  - (1) The antenna would exceed the structural capacity of the existing, approved, or proposed wireless communications facility, as documented by a qualified professional engineer with expertise in radio communications facilities, and the existing, approved, or proposed facility cannot be reinforced, modified, or replaced to accommodate the planned or equivalent antenna at a reasonable cost.
  - (2) The antenna would cause interference materially impacting the usability of other existing, approved or proposed antenna at the facility as documented by a qualified professional engineer with expertise in radio communications facilities and the interference cannot be prevented at a reasonable cost.
  - (3) Existing, approved, or proposed wireless communications facilities cannot accommodate the antenna at a height necessary to function as documented by a qualified professional engineer with expertise in radio communications facilities.
- b. The applicant shall sign an instrument which shall be maintained by the Code Enforcement Officer, agreeing to encourage and promote the joint use of telecommunications towers within the Town and committing to encourage and not to obstruct, exclude or delay the joint use of any tower where such use is technologically feasible and fair and just market compensation is offered for such use.
  - (1) Guyed towers are prohibited. Commercial wireless telecommunications towers shall be of a monopole design unless the Planning Board determines that an alternative design would better blend in to the surrounding environment.

- (2) Use of duplex antennas (also known as dual function antennas) which electronically combined the functions of transmit and receive antennas (rather than spatial diversity antenna arrays which rely on antennas being physically separated) and dual-band/multi-band antennas (allowing two or more providers of different types of commercial wireless services to share a common antenna) is encouraged.
  - (3) Antennas shall be mounted on towers so as to present the smallest possible silhouette, profile or cross-section.
3. When the Code Enforcement Officer determines that the application is complete, the Planning Board shall meet to consider the application and shall issue its determination as to whether or not to grant a Site Plan Approval and a Special Use Permit within sixty (60) days after their meeting. All determinations shall be in writing, supported by substantial reasons based on evidence, on the record, and mailed to the applicant. If an applicant feels that a Special Use Permit or site plan approval has been unfairly denied, he may follow the procedures for appeals set forth in the Town of Rockland Municipal Code.
- P. Special use permit review criteria. Communications facilities shall be subject to all the ordinary review criteria applicable to Special Uses plus the following:
1. The Planning Board shall be satisfied that the tower for the communications facility is the minimum height necessary for the service area and that the site chosen is the one that will afford the opportunity to construct the lowest height communications tower possible, taking into consideration all lands available within a reasonable distance including those which may lie within adjoining municipalities.
  2. The need for additional buffer yard treatment shall be evaluated. Proximity of the communications structure to existing or platted residential properties shall be considered in applying such requirements. Existing trees on the site which serve to provide a natural buffer shall be preserved unless absolutely required to be removed for purposes of access or safety.
  3. Visual assessment data shall be used to determine how the communications facility will appear once constructed in relation to the surrounding natural environment and from the perspective of adjacent or nearby residents as well as travelers. Camouflaging or relocation of the structure may be required. The Planning Board shall also consider alternative sites in assessing visual impacts and the imposing of conditions as may be required to minimize such impacts including requirements that any tower be of a shape, contour and finish (either painted or unpainted) that minimizes its visual impact. The Planning Board may also require a tower to be in the shape of a tree, flagpole, church steeple or other similar tall structures. Accessory structures shall similarly maximize the use of building materials, colors and textures designed to blend with natural surroundings.
  4. All communications structures shall be lighted for safety in a manner consistent

with industry best practices and where lighted additional setbacks may be imposed to shield adjacent properties from the effects of such lighting.

5. Should any tower cease to be used as a communications facility, the owner or operator or then owner of the land on which the tower is located, shall be required to remove the same within one (1) year from the abandonment of use. Failure to do so shall authorize the Town of Rockland to remove the facility and charge back the cost of removal to the foregoing parties. The Town of Rockland may also file a municipal lien against the land to recover the costs of removal and attorney's fees.
  6. The Planning Board, in addition to any other authority conferred under Town Law and Local Ordinance is authorized to attach the following conditions on the granting of a Special Use Permit/Site Plan Approval for a telecommunications facility:
    - a. Increase setback, sideline and rearline requirements.
    - b. Utilization of "stealth" or "camouflage" techniques to minimize the visual impact of the facility.
    - c. Measures to secure the facility from intruders including fences and chained entry ways.
    - d. Bonding.
    - e. Co-location.
    - f. Clustering of towers and structures on a common site.
    - g. Landscaping utilizing mature plantings.
- Q. Modifications. A modification of a wireless communications facility may be considered equivalent to an application for a new facility and will require a Special Use Permit when the following events apply:
1. The applicant intends to alter the terms of the Special Use Permit by changing the number of facilities permitted on site or by changing the technology used for the facility.
  2. The applicant intends to add any equipment or additional height not specified in the original special use permit.
- R. Monitoring and maintenance. The applicant shall maintain the wireless communications facility in good condition, including, but not limited to: structural integrity of the mount and security barrier, painting, maintenance of stealth technology camouflaging, and maintenance of the buffer areas and landscaping. Communications facilities over one

hundred feet (100') in height shall be inspected annually by a professional engineer with expertise in radio communications facilities approved by the Planning Board, and a copy of the inspection report submitted to the Town of Rockland Code Enforcement Officer.

S. Annual inspections.

1. Telecommunications facilities shall be inspected annually at the applicant's expense for structural integrity and a copy of the inspection report shall be promptly transmitted to the Code Enforcement Officer. The structural inspection shall be performed by a New York State licensed professional engineer.
2. The annual inspection report shall describe the structural integrity, maintenance issues and repairs needed or made, if any.
3. In the event that the structural inspection indicates structural deficiencies, the deficiencies must be remedied by the applicant at the applicant's expense within a time period reasonably set by the Code Enforcement Officer.
4. Telecommunications facilities shall be annually inspected at the applicant's expense for radio emissions and a copy of the inspection report shall be promptly transmitted to the Code Enforcement Officer. Radio emission inspections shall be performed by a New York State licensed professional engineer specializing in electrical engineering with expertise in radio communications facilities.
5. The radio emission inspection report shall describe the power density levels of the electromagnetic energy generated from the facility including the cumulative effects of co-located antennas.
6. In the event that the radio emission inspection indicates that the electromagnetic energy generated from the facility is above the allowable limits of the applicable state or federal regulations.

T. Abandonment or discontinuation of use.

1. Any wireless communications facility that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of the facility shall physically remove it within 90 days of receipt of a notice to remove. "Physically remove" shall include, but not be limited to:
  - a. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
  - b. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  - c. Restoring the location of the facility to its natural condition, with the



exception of landscaping and grading.

2. Towers and antennas shall be removed if the owner's or user's special use permit for these facilities has expired or been terminated or if the facilities are no longer being used by the FCC licensee. Towers and antennas shall be removed if there is not at least one operator with a valid special permit using the tower. Potential or planned future use of any facility for commercial communication service is not sufficient to avoid the requirement for removal.
3. If the removal of towers and antennas is required, accessory buildings and other structures shall also be removed unless:
  - a. the landowner wishes to retain these structures and communicates this in writing to the Planning Board and
  - b. the retention of these structures will comply with the Zoning Law and
  - c. the Planning Board agrees that removal of these structures is not required.
4. Each applicant seeking a special use permit for a wireless communications facility shall provide a written contract with the Town agreeing to be fully responsible for removal, and indemnifying the Town for the costs of removal of antennas, accessory buildings and supporting structures such as towers when removal is required.
5. If a proposed wireless communications facility will be owned by an entity other than an FCC licensed carrier which will use that facility, the carrier shall provide to the Planning Board a copy of a contract between the facility owner and the FCC licensed carrier in which the owner agrees to remove the facility including any tower, antennas and accessory structures, and indemnify the Town for the costs of such removal, when these facilities are no longer being used by an FCC licensed operator with a valid Special Use Permit.
6. A decision to require removal shall be the responsibility of the Planning Board after consulting with the Code Enforcement Officer and the Town Attorney. Removal shall occur within 90 days of the Planning Board's decision to require removal unless the Planning Board has agreed to an extension of that time. If not removed within the designated period, the Town shall have the right to compel removal, with all costs to be borne by the Special Permit holder who owns and/or previously used the facilities. Removal costs may also be recovered from the owner of the tax parcel on which the facilities are located.
7. When towers are removed, site reclamation shall be completed to the satisfaction of the Planning Board within 90 days of structure removal. Reclamation shall include landscaping, removal of structures, utility lines and accessory structures, and shall encompass the building site and buffer area controlled by the facility owner.
8. If the carrier fails to remove the facility, the Town will have the authority to enter the property and remove the facility with the costs of removal assessed against the property.

U. Bonding.

1. Before obtaining or renewing a special use permit, the applicant shall provide financial surety in an amount and form acceptable to the Town Board (in consultation with the Planning Board and the Attorney for the Town) to ensure full and complete performance of all conditions imposed by the Planning Board as a requirement of the special use permit, including but not limited to adequate construction of the facility and its access road, the proper maintenance and continued vitality of the plantings and landscaping, the removal of the tower and ancillary facilities upon the abandonment or de-commissioning by the applicant and reclamation of the site.
2. Such bond is to be renewed annually.

V. Duration of special use permit.

1. Every Special Use Permit shall be limited to the applicant and any assignment or transfer of the Special Use Permit or any of the rights thereunder shall be made only with the approval of the Planning Board except in the case of an assignment or transfer to a corporate affiliate or successor of the applicant.
2. The Special Use Permit shall expire after two (2) years from date of approval by the Planning Board.
  - a. Renewal must not be unreasonably withheld if the applicant is in conformance with the original approval and all conditions attached thereto.
  - b. Not less than sixty (60) days prior to the expiration of a Special Use Permit, the holder of the Permit must submit to the Planning Board a renewal application. If the holder fails to submit a renewal application within the sixty (60) days the Special Use Permit will expire.
  - c. The renewal application will contain the following:
    - (1) A current updated build-out plan,
    - (2) A Special Use Permit renewal form,
    - (3) Statement of need that a structure is still in use and is still necessary to provide satisfactory service to its customers,
    - (4) The most recent structural and safety inspection reports for all structures on site,
    - (5) Color photographs of the structure from all directions, and
    - (6) Other materials or information deemed necessary by the Planning

Board.

- d. Within forty-five (45) days of the submission of a completed application for a Special Use Permit renewal and determination by the Code Enforcement Officer that the application is technically sufficient, the Planning Board shall act on the application. A copy of their decision shall be mailed to the applicant.
3. The applicant has one (1) calendar year from date of approval of the Special Use Permit to commence construction and fourteen (14) months from date of approval of the Special Use Permit to complete construction. If construction is neither begun nor completed within these time frames, the Special Use Permit shall expire.

#### W. JURISDICTION

This legislation shall regulate the placement, construction and modification of wireless telecommunications facilities on private and public lands throughout the Town of Rockland except that the following types of installations are excluded from the scope of this legislation:

1. Amateur radio facilities with antennas mounted on supporting structures less than 100 feet in height.
2. Residential antennas for receiving television, AM radio and FM Radio broadcast signals.
3. Customer-premise antennas for receiving microwave or satellite signals providing such antennas are less than one meter (39.4 inches) in height or diameter and are mounted on a support structure less than twelve feet in height or protrude less than one and a half meters above the top of the building on which it is mounted, whichever is less.

#### X. NEIGHBOR and INTERMUNICIPAL NOTIFICATION:

In order to keep adjoining property owners and neighboring municipalities informed and to facilitate the possibility of directing that existing structures in neighboring municipalities be considered for shared use, the Board shall require that:

1. An applicant who proposes a new telecommunications tower shall notify the legislative body of each municipality that borders the Town of Rockland in writing, the Sullivan County Planning Board and the Director of the Sullivan County Emergency Services. Notification shall include the exact location of the proposed tower, a general description of the project including, but not limited to, the height of the tower and its capacity for future shared use. Proof of said notification shall be provided to the Planning Board at the time of application.

2. The applicant shall be required to mail notice of the Public Hearing pertaining to a Site Plan Approval and Special Use Permit directly to all landowners whose property is located within five hundred (500) feet of the boundary lines of the parcel on which a new tower is proposed. Said mailing shall be by certified mail, return receipt requested and proof of mailing shall be submitted to the Board at the time of Hearing. Such mailing shall be made at least fourteen (14) days prior to the Public Hearing.
3. Notice of Public Hearing shall also be mailed to the Administrator of any Federal or State Parklands from which the proposed tower would be visible if constructed. Notification shall be by certified mail, return receipt requested and made at least fourteen (14) days before the Hearing. Documentation of this mailing shall be submitted to the Board prior to the Public Hearing.
4. All the requirement of General Municipal Law §239 shall be complied with and verification thereof shall be provided to the Planning Board at the commencement of the Public Hearing.

#### § 185-30.1. Stormwater management.

Every application for a new or substantially modified Special Use shall include provisions for stormwater management in accordance with the standards of this section. Additionally, should any person intend to make land changes by grading, filling, excavating or the removal or destruction of the natural topsoil or vegetative covering thereon in accordance with a site plan submitted to the Town, the same shall only be approved and accomplished after the developer has submitted to the Town a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the performance standards of the NYS Stormwater Design Manual published by DEC. Applicants shall, when required by the Town Planning Board, submit the following for review and approval by the Town:

A. An Erosion and Sedimentation Control Plan (Basic SWPPP) prepared in accordance with the performance standards of the NYS Stormwater Management Design Manual. The plans shall illustrate those measures to be employed during construction and as may be necessary to prevent loss of soil from erosion and to prevent resulting property damage, siltation and contamination of water courses or impoundments.

B. A Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the NYS Stormwater Management Design Manual. Such plan shall be subject to review by both the Town of Rockland and New York State DEC and meet both sets of standards. Where such standards conflict the higher standard shall apply. The SWPPP shall identify those practices employed after construction and as may be necessary to prevent property damage by and pollution of associated water courses or impoundments.

(1) Proposed areas of disturbance shall be drawn to scale and quantified in support of applicable SWPPP requirements (including a Basic SWPPP).

- (2) Post construction stormwater practices shall reduce peak stormwater runoff to 75% of the preconstruction peak runoff for the 10-year event. The Planning Board shall be authorized to modify these criteria if immediate discharge is appropriate.
- (3) Post construction stormwater practices shall reduce stormwater peak runoff to 65% of the preconstruction peak runoff for the 100-year event. The Planning Board shall be authorized to modify these criteria if immediate discharge is appropriate.
- (4) A certified copy of a completed NOI, signed by the applicant and certified by the applicant's professional representative. A copy of the New York State DEC reply to the NOI (the notice to proceed) shall also be supplied if issued.
- (5) Storm drainage facilities shall be designed to handle the anticipated peak discharge from the applicable catchment for a 10-year event with one foot of freeboard remaining at peak flow.
- (6) All drainage structures required to accommodate stream flows with a cross sectional area less than 25 square feet during a 10-year rainfall event, shall be designed and constructed to provide one foot of freeboard during the 10-year rainfall event.
- (7) All drainage structures required to accommodate stream flows with a cross sectional area greater than 25 square feet during a 10-year rainfall event, shall be designed to provide two feet of freeboard during a 50-year rainfall event, and safely pass a 100-year rainfall event. Drainage structures in this category shall have a design life of at least 50 years, be designed by a Licensed Engineer and be approved by the Highway Superintendent
- (8) Applicants shall use infiltration practices whenever acceptable under DEC guidelines. Applicants shall provide deep test pits and percolation tests in support of this or demonstrate infiltration is not a viable practice for the site in question. Dry grass swales and other similar measures shall also be encouraged wherever practical.
- (9) All stormwater management improvements shall be properly maintained so as to continue to perform in their intended manner. Sediment shall, at a minimum, be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent. The Town Building Department, upon observing that such improvements are not being so maintained, may direct a property owner to undertake such maintenance. Failure to comply after a minimum of 30 days' notice shall constitute a violation of this law.
- (10) No person shall allow, or cause to allow, stormwater discharges into the Town's separate storm sewer system that are not composed entirely of stormwater, discharges from firefighting, water from foundation drains, flows from natural sources and flows from other similar uncontaminated sources. No drain or conveyance, whether on the surface or subsurface, that allows any non-stormwater discharge or wastewater (including floor drains and the like) to enter the separate storm sewer system shall be permitted.

## § 185-30.2. Signs

A. The purpose of this sign regulation is to promote and protect the public health, welfare and safety by regulating several types of signs. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty, and provide a more enjoyable and pleasing community.

### B. Definitions

**AWNING** - A roof-like covering consisting of any pliable material attached to a metal or other frame and supported entirely from a building or other structure and projecting over a sidewalk, entrance, or other traveled way.

**BUSINESS COMPLEX** – A structure or structures in which two or more businesses, establishments, or activities are located together, either on the same property or adjacent properties, e.g. a shopping plaza.

**SIGN** - A name, identification, display, announcement, declaration, device, demonstration or illustration which is affixed to or painted or represented directly or indirectly upon a building, structure or parcel of property and which directs attention to an object, product, place, person, activity, institution, organization or business and is intended to attract attention or propose a commercial transaction.

**SIGN, AWNING** - Any visual message on an awning.

**SIGN, CHANGEABLE COPY** - A sign constructed or designed to allow for periodic changes of copy, and for which the copy is changed not more than once each twenty-four-hour period.

**SIGN, DIGITAL OR ELECTRONIC** - Signs whose alphabetic, pictographic or symbolic informational content can be changed or altered on a fixed display surface composed of electrically illuminated or mechanically driven changeable segments. Includes the following two types:

**FIXED MESSAGE ELECTRONIC SIGNS** - Signs whose basic informational content has been pre-programmed to include only certain types of information projections, such as time, temperature, predictable traffic conditions or other events subject to prior programming.

**COMPUTER-CONTROLLED VARIABLE MESSAGE ELECTRONIC SIGNS** - Signs whose informational content can be changed or altered by means of computer-driven electronic impulses.

**SIGN, DOUBLE-FACED** - A sign designed to be viewed from two directions and which at no point is thicker than 24 inches measured from the exterior surface of each face, and the two faces of the sign are either parallel or the angle between them is 30° or less.

**SIGN, FLASHING** - An illuminated sign in which the artificial lighting is not maintained in a stationary or constant intensity.

**SIGN, FREESTANDING** - A sign not attached to any building, but permanently affixed, by any means, in or upon the ground. A freestanding sign shall include a monument sign which is placed on or at ground level and not attached to any building wall, fence or other structure.

**SIGN, HUMAN** - A human sign is a sign held by or attached to a human for the purposes of advertising or otherwise drawing attention to an individual, business, commodity, service, activity or product. A person dressed in costume for the purpose of advertising or otherwise drawing attention to an individual, business, commodity, service, activity or product shall also be construed as a human sign.

**SIGN, ILLUMINATED** - Any sign illuminated by electricity, gas or any other artificial lighting.

**SIGN, OFF-PREMISE** – A sign advertising which advertises goods or services not located on the premises upon which the sign is located.

**SIGN, OFF-PREMISE DIRECTIONAL** - Any off-premise sign indicating the location of or direction to a business, office or other activity. The sign may provide the name of the business or activity and directions or symbols indicating directions.

**SIGN, ON-PREMISE DIRECTIONAL** - A sign located within the boundaries of a property, business, or activity which provides instruction for the convenience and safety of the general public, and includes signs identifying public parking areas, loading zones, entrances and exits, self-service areas and similar signs.

**SIGN, PORTABLE** - A sign (whether on its own trailer, wheels or otherwise) designed to be movable and not structurally attached to the ground, a building, structure or any other sign.

**SIGN, PROJECTING** - A sign which is attached to the building wall and which extends more than 15 inches from the surface of such wall, or a sign which is perpendicular to the surface of such wall.

**SIGN, ROOF** - A sign erected upon a roof or parapet of a building or structure.

**SIGN SURFACE OR AREA** - The entire area within a single, continuous perimeter enclosing all elements of the sign which form an integral part of the display. The structure supporting a sign shall not be included unless the structure is designed in a way to form an integral background for the display. Only one face of a double-faced sign shall be included as surface or area of such a sign.

**SIGN, TEMPORARY** - A sign used for the purpose of short-term advertising limited to 60 days.

**SIGN, TOWN-APPROVED DIRECTORY** - As a matter of policy, the Town may permit directory signs as a method of identifying businesses in the Town. Said directory signs may be located in the vicinity of major access points into the Town. Directory signs shall be permitted upon approval by the Town Board, which shall approve the design and content. The lettering, color scheme, depiction and emblem of each identification sign contained on the directory shall be uniform. General directory signs shall be no larger than

100 square feet. The name of the establishment on a general directory sign shall be no higher than six inches.

**SIGN, WALL** - A sign which is attached to the wall of a building, with the face in the plane parallel to such wall and not extending more than 15 inches from the face of such wall.

**SIGN, WINDOW** - A sign maintained in or painted upon a window or which is inside a structure not in or on a window but visible from a parking lot or roadway.

### C. Exempt Signs

No permit is required for the following classes of signs:

1. 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.
2. Signs incidental to the legal process.
3. Signs necessary for the identification, operation or production of a public utility.
4. 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.
5. On-premises directional and/or instructional signs for the convenience of the general public, identifying public parking areas, loading zones, entrances and exits, self-service areas and similar signs, non-illuminated and not to exceed four square feet; except where a portion of a sign is text required by law or regulation, the total area may be increased to a maximum of six square feet per face.
6. 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.
7. Signs and decals pertaining to the tenant's registration with, or membership in, a professional organization/affiliation or civic association.
8. Temporary signs in any zoning district pertaining to and displayed during campaigns, drives, or events of civic, philanthropic, educational or religious institutions, provided such signs are erected not more than three weeks prior to the event and are removed not later than two weeks after the event.
9. Memorial plaques, cornerstones, historical tablets and the like.
10. Signs required to be maintained or posted by law or governmental order, rule or regulation, unless specifically prohibited, limited or restricted.
11. Signs indicating the name or address of the residential occupant.



12. A single sign (single- or double-faced) per dwelling unit or office for a permitted home occupation or professional office (physician, dentist, architect, engineer, surveyor or lawyer), provided that it shall not be larger than four square feet in area. Only one such sign per dwelling unit shall be permitted
13. Sale or rental signs. Temporary, nonilluminated signs advertising the sale or rental of the premises upon which they are erected by the owner or broker or any person interested in the sale or rental of such premises may be erected or maintained, provided that the size of any such sign does not exceed six square feet and not more than two signs are placed upon any property unless such property fronts upon more than one street, in which event two more signs may be erected on each additional frontage. Signs shall be removed by three days after the sale, lease or rental of the premises.
14. Temporary construction signs, one per site, not exceeding 20 square feet in area, either affixed to the wall of the building to which they pertain or to a post, identifying the project under construction, participating designers, contractors or developers, etc. Said sign shall be permitted only during the construction period of the project and shall be removed immediately upon completion of the construction or improvement. Said sign shall conform in all respects to the provisions of these regulations.
15. Signs calling attention to a change in the status of a business, which signs are customarily painted on a window or constructed of paper, cloth or other light material and attached to or located within six feet of the interior side of the window. Said sign shall not be displayed for more than 90 days. Banners and streamers advertising the opening of a new business may be permitted up to 30 days after the date on which the business commences operation and is open to the public, provided the applicant has first provided a cash deposit posted with the Town Clerk for purposes of covering the cost of removing the banners, streamers and temporary sign in the event the applicant fails to do the same within the designated time period. The cash deposit shall be refunded upon the applicant's compliance with these provisions within the time period specified above.
16. Signs displayed in a window indicating the availability of a public telephone or notary public and/or the possession of any licenses normally required to conduct a given business.
17. Holiday decorations displayed in season only.
18. Temporary signs for tag or garage sales, provided such signs contain the name of the seller and date of the sale, are displayed only seven days prior to the sale, and are removed the day after the sale.
19. "No trespassing" signs to include similar signs including "Warning," "Private Drive," or "Posted" signs, not to exceed two square feet in surface area.
20. Signs setting forth matters of public information and convenience (i.e., statements of personal opinion), including statements of protest.
21. Political signs and political advertising.

22. Price signs required on gasoline pumps by New York State or federal law, not to exceed the minimum requirements established by said state or federal laws.

#### D. Prohibited Signs

The use, erection or installation of the following sign types is prohibited:

1. Off premise signs. Signs or billboards advertising items sold or produced elsewhere than on the lot where such sign is located are prohibited. Signs advertising services or resorts not located on the lot where such sign is located are prohibited, unless part of an overall Town-approved directory sign.
2. Signs on any roof or extending over any portion of the roof or parapet to which they are attached.
3. Flashing or intermittently illuminated signs. A sign which exhibits changing light or color effects, even though the intensity of light may be relatively constant, shall be deemed a flashing sign.
4. Signs where the source of illumination is visible, including neon-type electric signs, (except for neon window signs in the GB and NB districts) and externally illuminated signs where the light is not primarily directed toward the sign and the light is visible elsewhere on the lot where the illumination occurs.
5. Searchlights to attract attention to a sign or permitted use.
6. Strings of incandescent lights.
7. Flashing, moving or rotating signs.
8. Pennants, streamers, banners or other eye-catching devices (with the exception of town-approved banners for upcoming public events).
9. Portable signs, with or without wheels, easel-type, "A" frame or other; any sign not permanently affixed to a building or the ground.
10. Inflatable signs and tethered balloons.
11. Signs which compete for attention with or may be mistaken for a traffic signal.
12. Human signs.
13. Digital or Electronic Signs.
14. Signs or advertising matter of an indecent or obscene nature shall be prohibited.
15. Any advertising which uses a series of two or more signs placed along a street or highway, carrying a single advertising message or theme, part of which is contained on each sign, shall be prohibited.

16. Signs using wording such as "stop," "look," "danger" or words of a similar nature which may tend to confuse, mislead or resemble any governmental or duly authorized sign shall be prohibited.
17. Portable signs shall not be allowed. Vehicles and/or trailers parked on the street or in locations on private property which have attached thereto or suspended therefrom any advertising sign shall where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property not be allowed. This subsection shall not apply to permanent business identification on vehicles.
18. Signs which project above any roof ridgeline or parapet line shall not be permitted. Signs, other than permitted projecting signs, which change the profile of the building shall not be permitted.

#### E. Permitted Sign Requirements

1. Permit required. Excepting exempt signs (described in Subsection C above), no sign shall be erected or installed upon any structure or upon any land, nor shall existing signs be changed, until a sign permit has been obtained from the Code Enforcement Officer.
2. An application for a permit to install or relocate a sign shall be submitted on a form obtained from the Code Enforcement Officer, together with the fee required. Every application shall include a graphic presentation of the placement and appearance of the proposed sign. This presentation shall depict the location of the sign in relation to buildings and property features, any method of illumination, the graphic design (including symbols, letter, materials and colors) and the visual message, text copy or content. Written consent of the property owner shall also be provided, if the applicant is not the property owner.

#### F. General Provisions

1. No exempted or permitted sign shall be placed at a location which endangers the public health, safety and welfare.
2. Signs must be constructed of durable materials, maintained in good condition and not allowed to become dilapidated.
3. Illumination. In districts where illuminated signs are permitted, the source of illumination shall be shielded so that it is not visible beyond the boundaries of the lot on which it is located.
4. 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.
5. 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.
6. The sign content shall must clearly provide only information necessary to identify the use upon the lot.

7. Garish colors, such as day-glo and fluorescent, and garish materials, including those that are highly reflective, should be avoided.
8. All signs, together with their supporting braces, guys, anchors, etc., shall be kept in repair and in a proper state of preservation. The display surfaces of all signs shall be kept neatly painted or maintained at all times.
9. All signs and parts thereof shall be stationary and shall not be allowed to move or simulate movement.

## G. Specific Provisions

### 1. Sign Measurement

- a. The size (area) of each sign shall be computed as follows. For individual signs, the area of a sign shall be computed by delineating the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets the regulations of this chapter and is clearly incidental to the display itself. In the case of a facade or freestanding sign, the entire face shall be measured in computing the sign area.
- b. For multifaced signs, the sign area shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any one point at the same time, and, when such sign faces are part of the same sign structure, the sign area shall be computed by the measurement of one of the faces.
- c. The height of signs shall be measured from the original grade level in the immediate area of the sign and shall include supporting structures.

### 2. Number of signs

- a. A business (excepting a home occupation) located on a parcel of property shall be granted a permit for two signs: one freestanding, double-faced sign and one sign attached to a building (wall sign or projecting sign) or two signs attached to a building. A building on a street corner lot or contiguous to two streets shall be allowed two building signs and one freestanding sign. Where a building is situated on a corner lot, one wall sign will be allowed on each side of the building facing a public street. Only one freestanding sign will be permitted in these circumstances.
- b. If an establishment fronts on a public parking lot, an additional sign area equal to 50% of the sign area that would be permitted for a wall sign shall be allowed provided that the additional sign area appears on that side of the building visible from the parking lot. The sign shall be a facade sign meeting all other dimensional requirements for said type of sign; provided, however, that no sign shall exceed a maximum dimension of 10 feet in length and two feet in height.

### 3. Freestanding Signs

- a. Districts Permitted: All
- b. Maximum Size: RC, R1: 15 sq. ft. per side ; GB, NB, R2: 12 sq. ft. per side
- c. Maximum Height - all districts: 6' above finished grade
- d. Additional Standards: minimum distance of 15' from the property line

### 4. Wall Signs

- a. Districts Permitted: GB, NB, R2
- b. Size: Whichever is less: Building Frontage Formula (per facade) 1 sq. ft./2 lineal ft. or Maximum sign area (per facade) 50 sq. ft.
- c. Additional Standards: Buildings located at least 100 linear feet from the front property line are permitted to have a maximum sign area of 100 sq. ft.

### 5. Projecting Signs

- Districts Permitted: GB, NB, R2
- Size: Maximum sign area per face: 16 sq. ft.
- Additional Standards: Maximum projection from building face: 5 ft.

### 6. Window Signs

- Districts Permitted: All
- Size: Not to exceed 20% of the area of window
- Additional Standards: Neon signs prohibited in R1, RC, R2

### 7. On-Premise Directional Signs

- a. Districts Permitted: All
- b. Size: Not to exceed 6 square feet
- c. Additional Standards: Not to exceed 10' in height

### 8. Off-Premise Directional Signs.

- a. Districts Permitted: All provided that such
- b. Size: signs do not exceed 10 square feet of area per location, not to exceed a total of 40 square feet.
- c. Additional Standards: Text shall be limited to name or identification; arrow or direction; and distance. Advertising messages shall be prohibited. Requirements for Off-Premise Directional Signs do not apply if superseded by any requirements of the County of Sullivan, the NYS DOT, or the sign regulations of the Catskill Park.

### 9. Business Complex Signs. The following regulations shall apply specifically to a business complex. These regulations supersede other provisions of this chapter.

- a. No signs other than the following types of signs shall be allowed within a business complex:
  - i. Freestanding signs.
  - ii. Wall signs.
  - iii. On-premises directional signs

- b. Signs allowed within a business complex shall comply with the following size and dimensions:
  - i. Double-sided, freestanding signs shall be limited to 45 square feet in area at a setback of 15 linear feet and 60 square feet in area at a setback of 25 feet. Maximum height shall not exceed 8' above finished grade
  - ii. Wall signs shall be regulated by the distance of the wall on which the sign is to be placed to the front property line. At a distance of up to 80 linear feet from the front property line, the wall or roof sign area shall be limited to 100 square feet. Linear setback distances of greater than 80 linear feet from the front property line shall be permitted an additional 10 square feet of sign area for each 10 additional feet of setback distance, up to a maximum limit of 200 square feet.
  - iii. Directional signs shall be limited to four square feet in area. When a portion of a sign is text required by law or regulation, the total area may be increased to a maximum of six square feet. The maximum height shall be limited to 10 feet.
- c. Placement of signs within a business complex shall be regulated as follows:
  - i. A freestanding sign may be placed at each entrance accessing a different public right-of-way. Freestanding signs shall be placed a minimum of 15 feet from any property line.
  - ii. The number of business complex signs shall not exceed the following criteria:
    - [a] One freestanding sign per entrance accessing a different public right-of-way.
    - [b] One wall sign per occupant of the business complex.

#### H. Nonconforming signs

Upon the adoption of this section, any sign which does not conform to the provisions herein in terms of location, area, illumination, type, or height shall be considered a nonconforming sign. Any sign made nonconforming by these regulations may be permitted to continue; however, all nonconforming signs shall cease and desist at the time when there is any one or more of the following:

- A. A change in use;
- B. Destruction, damage, abandonment, or disrepair of said sign to the extent that 51% of its replacement cost must be expended in its repair; or
- C. Creation of a hazard or disturbance to the health, safety and welfare of the general public as determined by the Code Enforcement Officer.

#### I. Enforcement

- 1. The erection of a sign not in accordance with the permitting requirements and regulations herein constitutes a violation.
  - a. The Code Enforcement Officer, by written notice, shall notify a property owner of a sign which has been erected in contravention of these regulations Said notice shall be sent by certified mail to the owner of the sign.
  - b. The sign owner shall take down the sign or obtain a sign permit immediately in accordance with these regulations. If the owner of the sign has not met the

requirements of the notice, the Code Enforcement Officer shall be authorized to issue a violation against said owner.

2. Removal of certain signs. 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 10 days after written notification from the Building Inspector. Upon failure to comply with such notice within the time specified in such order, the Building Inspector shall issue a violation to said owner.
3. Unsafe signs. Should a sign be or become insecure or in danger of falling or otherwise unsafe in the opinion of the Code Enforcement Officer, the owner thereof or person maintaining the same shall, upon receipt of written notice from the Building Inspector and in any case within five days thereafter, secure the same in a manner to be approved by the Building Inspector. If such order is not complied with, the Building Inspector 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 Building Inspector 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.

### § 185-30.3. Solar Collection Systems

A. Solar collection systems enable the use of a renewable and non-polluting energy source and are encouraged, provided the construction and use of such systems are designed and operated to protect and promote the health, safety, and welfare of the citizens of the town.

#### B. Definitions

**QUALIFIED SOLAR INSTALLER** - A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on either the NYSERDA or NABCEP list should have received adequate training to include the use of proper personal protective equipment, the ability to determine the degree and extent of any hazard, and the job planning necessary to perform the installation safely.

**SOLAR COLLECTION SYSTEM, COMMERCIAL** - A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat, either as the primary use of the parcel or as an accessory to the use of the premises for other lawful purposes. Includes roof- or building-mounted solar collectors on any code-compliant structure, and ground-mounted solar collectors with the total surface area greater than 2,000 square feet, and with a power generation capacity not exceeding 2 megawatts (AC capacity). Electricity generated by

commercial solar collection systems is intended for distribution beyond the parcel(s) on which the collection system is located.

**SOLAR COLLECTION SYSTEM, MINOR** - A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat, accessory to the use of the premises for other lawful purposes and intended to provide electricity solely to the parcel, including any structures, on which the solar collection system is located. Includes roof- or building-mounted solar collectors on any code-compliant structure, and ground-mounted solar collectors with the total surface area not to exceed 2,000 square feet.

- C. Minor solar collection systems are permitted in all zoning districts as of right and shall meet the following criteria, except as otherwise noted. Commercial solar collection systems are permitted by Special Use Permit in all zoning districts and, in addition to meeting the following criteria, are subject to the provisions of Article IV of this zoning law, as applicable, and any other applicable regulations of the Town of Rockland.
1. Setbacks. All solar collection systems must meet the setbacks of the district(s) in which such systems are located.
  2. Height. All solar collection system structures shall be erected only to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve, and that such structures do not obstruct solar access to neighboring properties.
  3. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and standards, and all solar collector installations shall be performed by a qualified solar installer.
  4. Rooftop and building-mounted solar collectors shall meet New York's Uniform Fire Prevention and Building Code standards.
  5. Placement of solar collectors on flat roofs shall not extend above the roofline.
  6. Building permits are required for the installation of all ground-mounted solar collectors.
  7. Solar energy equipment shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for collectors.
  8. Freestanding solar energy collectors shall be screened when possible and practicable through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.
  9. If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure.
  10. For commercial solar array systems, any connection to the public utility grid requires approval from the applicable public utility company and such approval shall be supplied to the planning board as part of the special use permit review. Connections to the public utility grid must be inspected by the applicable public utility.



## ARTICLE VI, NONCONFORMING USES AND STRUCTURES

### § 185-31. Rights to continue nonconforming uses.

- A. A use, building, lot or structure lawfully in existence as of the effective date this law and non-conforming with it or any subsequent amendment may be continued, except as otherwise provided herein with respect to specific uses. Upon request, the Code Enforcement Officer may issue Certificates of Non-Conformance to owners or operators of bona fide non-conforming uses, buildings or structures who desire confirmation of their rights hereunder.
- B. It is the purpose of this Article to limit the injurious impact of non-conforming uses, buildings, lots and structures on other adjacent properties within a particular district and the community as a whole, while recognizing that alterations, continuations and extensions of non-conforming uses, buildings or structures may not be contrary to the public interest or the general purpose of this Zoning Law, when failure to allow such alteration, continuation or extension would itself lead to neighborhood or district deterioration.
- C. It is further the purpose of this Article to set forth those standards which are to be applied by the Town in determining the reasonableness of proposals to alter, continue or extend a non-conforming use and to establish when Town review and approval shall be required for such actions.
- D. The protections extended by this Article to existing non-conforming uses, buildings, lots or structures, commonly known as "grandfathering", shall not extend to any non-conforming activity occurring subsequent to the effective date of this law, as amended.

### § 185-32. Normal maintenance and repairs.

- A. Normal maintenance and repair activities, such as painting, replacing a roof or fixing gutters, shall be permitted. Also permitted are alterations, such as adding or removing windows, and interior renovations that do not structurally alter buildings, add living areas or result in extended or increased non-conforming use of a building, lot or structure.
- B. Increases in outside storage or display of retail or wholesale inventory, which in the ordinary course of business would be sold within one year, shall be permitted, junkyards excepted, provided they do not eliminate parking spaces, unoccupied open spaces or accesses required by this law. Notwithstanding this provision, however, the Planning Board, in reviewing any Special Use application for expansion or upon determining, with respect to any present use, that a condition exists which requires remedies, may establish limits on such storage or display or require removal of inventory (altogether or to another location on the site) to preserve adequate sight distances and residential buffers or otherwise protect public health, safety and welfare.

### § 185-33. Restoration, reconstructions or re-establishment.

- A. If less than 75% of the floor area of any non-conforming use, building or structure is

damaged, it may be restored or reconstructed within eighteen (18) months of the date of the damage, with an extension in time allowable where proven necessary to the Planning Board. If more than 75% is affected, then the replacement or reconstruction shall be permitted by Special Use permit.

- B. A non-conforming use, building or structure may be re-established within a period of twelve (12) months after it has been discontinued or vacated, with an extension in time allowable where proven necessary to the Planning Board.
- C. A non-conforming use, building or structure shall be considered abandoned under the following circumstances:
  - 1. The intent of the owner to discontinue the use is made obvious by the posting of signs, boarding up of windows, failure to pay taxes or assessments or other measures which demonstrate the enterprise is going out of business or the use is otherwise ending; or
  - 2. The building has not been occupied for twelve (12) months or more; or
  - 3. The non-conforming use has been replaced by a conforming use or changed to another use under permit from the Town; or
  - 4. The equipment and furnishings used in furtherance of the non-conforming use have been removed from the premises.
- D. The Code Enforcement Officer, on determining these circumstances exist, shall, by certified mail, so notify the property owner of record, informing the owner the use is considered abandoned and may not be re-established once a period of twelve (12) additional months has expired. If an owner cannot be reached through the mail, the Code Enforcement Officer shall publish the notice once in a newspaper of general circulation in the Town and/or post the property and the owner shall be presumed to have been notified.

#### § 185-34. Changes and additions.

Excepting for activities provided for in § 185-36 and § 185-37 above and accessory uses, all changes and additions to non-conforming uses shall be considered Special Uses, and permits for alterations, changes in use or additions shall be granted only after a determination by the Planning Board that the following conditions have been, or will be, satisfied.

- A. There shall be no expansion in the amount of land area outside a non-conforming facility which is used for storage of materials, supplies and/or products, excepting with respect to those types of uses outlined in § 185.36 B above and § 185-38 B below.
- B. Where the non-conforming activity is one which necessarily results in the storage of large quantities of material, supplies or products outside (such as a lumberyard), the Planning Board may require dense evergreen screening sufficient to shield all such

materials from the view of adjacent landowners and/or the traveling public.

- C. No addition, change or expansion of a non-conforming use shall further violate setback and/or height regulations of the district in which it is located in any material way. Moreover, no change of use shall be to one of less restrictive classification, as determined by the Planning Board. A non-conforming retail enterprise could be converted to a barber shop, for example, but not to an industrial use.
- D. There shall be no increase in the amount of stormwater runoff for the site over what was existing as of the date of the enactment of this law. The U.S.D.A. Soil Conservation Service, a Professional Engineer or other appropriate professional may be relied upon to recommend appropriate measures to control stormwater runoff. Such measures shall be attached as conditions of approval by the Planning Board.
- E. In no case will a change, addition or extension of a non-conforming use be allowed which would result in a traffic increase of 50% or more, the diversion of traffic closer to a nearby residence or a violation of any of the parking and unloading requirements of this law. If the total number of parking spaces for the site is to be increased more than 25% over those available as of the date of this law, the Planning Board may require vegetative screening of the parking area from nearby residential areas.
- F. The use may only be expanded or extended onto another property of record if; that property is immediately adjacent to the lot on which the original structure or use was located as of the effective date of this law or amendments hereto and the use is not one which has been altogether prohibited as a new use under this law.
- G. Should the use proposed for expansion or extension be one which is specifically prohibited as a new use in the Town or is determined by the Planning Board to be one similar to such a use or of such a nature as to impose health, safety or welfare concerns which cannot be satisfied by the imposition of the conditions permitted under this law, the requested expansion or extension shall be denied.

#### § 185-35. Use of existing lots of record.

A structure may be erected on any existing non-conforming lot of record, providing the owner does not own adjoining property; no yard is reduced to less than fifty (50) percent of the requirement for the district in which it is located and a sewage disposal system meeting New York State standards can be placed on the lot should public facilities be unavailable. As an example, an owner of an existing lot of record of 200 feet by 200 feet in size in RC District could build on that lot provided the owner possesses no adjoining property that could be used to enlarge the lot, the front and side yards are at least 12.5 feet in width, the rear yard is at least 25 feet in width and an on-lot sewage disposal system can be installed.

## ARTICLE VII, ADMINISTRATION AND ENFORCEMENT

### § 185-36. Code enforcement officer.

The Town Board shall provide for the services of a Code Enforcement Officer to enforce the provisions of this Law. Such Code Enforcement Officer shall examine all applications for permits, issue permits and/or certificates of occupancy for construction and uses which are in accordance with the requirements of this Law, record and file all applications for permits with accompanying plans and documents and make such reports as may be required. Permits requiring Site Plan Review and Special Use approval, however, shall only be issued with approval of the Town of Rockland Planning Board. Likewise, permits requiring variances of this Law shall only be issued with approval of the Town of Rockland Zoning Board of Appeals.

### § 185-37. Permit requirements.

- A. No person shall construct, erect, alter, convert or use any building or structure, or part thereof, nor change the use of any land or clear any land for building or other non-agricultural or non-forestry purposes, subsequent to the adoption of this Law, until a building permit and/or Certificate of Occupancy has been issued by the Code Enforcement Officer. Moreover, no site shall be cleared for agricultural or forestry purposes except in conjunction with an active on-going farming or forestry operation that continues post-clearing. Applications for such permits shall be made to the Code Enforcement Officer prior to any construction activity and/or change in the use of land. The Officer shall review such applications and act upon them according to the requirements of this Law, taking no action, however, until the Planning Board and/or Zoning Board of Appeals has first taken action, should the approval of either Board be required. A building permit shall authorize the applicant to proceed with construction proposed.
- B. The Code Enforcement Officer, with approval of the Town Board, may issue a temporary permit for an otherwise non-conforming structure or use which will promote public health, safety or welfare, provided such permit shall be of limited duration and the use or structure shall be completely removed within ninety (90) days of expiration of the activity for which it was granted. A temporary permit shall not be valid beyond this period or three (3) years from the date of issuance, whichever is shorter.
- C. The Code Enforcement Officer shall ensure that all water supply and sewage disposal facilities proposed in connection with any building permit or Certificate of Occupancy application shall conform with New York State Department of Health guidelines.
- D. It shall be the duty of the Code Enforcement Officer to issue a building permit, provided that he is satisfied that the structure, building, sign and the proposed use conform with all requirements of this Law, and that all other reviews and actions, if any, called for in this Law have been complied with and all necessary approvals secured therefor.
- E. When the Code Enforcement Officer is not satisfied that the applicant's proposed

development will meet the requirements of this Law, he shall refuse to issue a building permit or Certificate of Occupancy, as the case may be, and the applicant may appeal to the Zoning Board of Appeals.

- F. A building permit or Certificate of Occupancy may be revoked by the Code Enforcement Officer upon a finding that information provided in the application was inaccurate or invalid or that the construction or use has proceeded in a manner not consistent with the permit(s) granted.
- G. No change of use shall be made in any building, structure or premises now or hereafter erected or altered that is not consistent with the requirements of this Law. Any person desiring to change the use of his premises shall apply to the Code Enforcement Officer for a Certificate of Occupancy. No owner, tenant or other person shall use or occupy any building or structure thereafter erected or altered, the use of which shall be changed after the passage of this Law, without first procuring a Certificate of Occupancy; provided, however, that a Certificate of Occupancy, once granted, shall continue in effect so long as there is no change of use, regardless of change in tenants or occupants.
- H. Though compliance with the development and use standards of this Law will still be required, the following activities shall not demand permits, except as may be required by the New York State Uniform Fire Prevention and Building Code:
  - 1. Above-ground swimming pools of two (2) feet or less in depth.
  - 2. Portable structures of less than one-hundred (100) square feet in size which are unoccupied and intended for storage.
  - 3. Signs exempted from permit requirements by present or future regulations.
  - 4. Patios, fences and landscape improvements, provided that decks and other structural extensions of buildings shall require permits.
  - 5. All non-structural accessory uses.
- I. All applications shall be made on forms as shall be developed and periodically updated by the Code Enforcement Officer. Applications shall include plot plans and such other information as is required to determine compliance with the requirements of this Law.
- J. A zoning permit shall expire after eighteen (18) months if the applicant fails to complete the improvements as approved. An extension may be approved by the Code Enforcement Officer for good cause provided that any extension of more than twelve (12) months or subsequent extension of any length shall require approval of the Town Board.

#### [§ 185-38. State Environmental Quality Review Act compliance.](#)

All actions taken with respect to this Law shall comply with the New York State Environmental Quality Review Act ("SEQRA") and applicants shall be responsible for providing such data as

may be required to determine the significance of any environmental impacts associated with such actions.

#### § 185-39. Violations and penalties.

- A. Whenever a violation of this Law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Code Enforcement Officer, who shall properly record such complaint and immediately investigate and report thereon to the Town Board. The Town Board shall be responsible for directing further enforcement.
- B. Should any building or structure be erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land be used in violation of this Law, the Town Board or the Code Enforcement Officer, in addition to other remedies, may institute an appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.
- C. A violation of this Law is hereby declared to be an offense punishable by a fine not exceeding three hundred fifty dollars (\$350); for conviction of a second offense, punishable by a fine of not less than three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$700); and, upon conviction for a third or subsequent offense, punishable by a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000). Each day's continued violation shall constitute a separate additional violation.

#### § 185-40. Fees.

The Town Board shall, by resolution, establish and periodically update a schedule of uniform fees, charges and expenses associated with the administration and enforcement of this Law. Such schedule may provide for the assessment to applicants of professional costs incurred in the processing and/or review of the applications made pursuant to this Law.

### ARTICLE VIII, ZONING BOARD OF APPEALS

#### § 185-41. Establishment and membership.

- A. There is hereby established a Zoning Board of Appeals having the powers authorized under the New York State Town Law. Said Board shall consist of five (5) members, including a chairperson, appointed by the Town Board. Appointments shall be in accordance with the New York State Town Law and an appointment to a vacancy occurring prior to the expiration of a term shall be for the remainder of the unexpired term. In the absence of a Town Board appointment of a chairperson the Board of Appeals may designate a member to serve as acting chairperson. The Town Board may also provide for compensation to be paid to experts, clerks and a secretary and provide

for such other expenses as may be necessary and proper. In making such appointments, the Town Board may further require Board of Appeals members to complete training and continuing education courses.

- B. The Town Board shall also supersede the New York State Town Law pursuant to the Municipal Home Rule Law and may appoint alternate members of the Zoning Board of Appeals to serve for terms of one (1) year each or until their successors are appointed. Such alternate members shall attend meetings and act in the capacity of full members whenever regular members cannot attend or must recuse themselves due to conflicts of interest. Alternate members shall not participate in the Board's deliberation of any matter in which they are not called upon to act in replacement of a full member.

#### § 185-42. Powers and duties.

- A. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official(s) charged with the enforcement of this law and to that end shall have all powers of the administrative official(s) from whose order, requirement, decision, interpretation or determination the appeal is taken.
- B. Use variances.
  - 1. The Board of Appeals, on appeal from the decision or determination of the administrative officials charged with the enforcement of this law, shall have the power to grant use variances, as defined herein.
  - 2. No such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable regulations and restrictions of this law have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that;
    - a. under this zoning law the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
    - b. the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
    - c. the requested use variance, if granted, will not alter the essential character of the neighborhood; and
    - d. the alleged hardship has not been self-created.
  - 3. The Board of Appeals, in the granting of use variances, shall grant the minimum



variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

C. Area variances.

1. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative officials charged with the enforcement of this law, to grant area variances as defined herein.
2. In making its determination, the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board of Appeals shall also consider:
  - a. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  - b. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - c. whether the requested area variance is substantial;
  - d. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - e. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
3. The Board of Appeals, in the granting of area variances, 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. The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

§ 185-43. Procedures.

- A. All meetings of the Board of Appeals shall be held at the call of the Chairperson and at such other times as such Board may determine. Such Chairperson, or in his or her



absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses.

- B. Meeting of the Zoning Board of Appeals shall be open to the public to the extent provided in Article Seven of the Public Officers Law. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
- C. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the office of the Town Clerk within five (5) business days and shall be a public record. Every decision of the Board of Appeals shall be made by resolution and include findings establishing the basis of the decision.
- D. The Board of Appeals shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. It shall also have authority to refer matters to the Town Planning Board for review and recommendation prior to making a decision.
- E. Except as otherwise provided herein, the jurisdiction of the Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative officials charged with the enforcement of this law. The concurring vote of three (3) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Town.
- F. Such appeal shall be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the administrative officials charged with the enforcement of this law by filing with such administrative official and with the Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- G. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such ordinance or local law, from whom the appeal is taken, certifies to the Board of Appeals, after the notice of appeal shall have been filed with the administrative office, 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 Board of Appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.
- H. The Board of Appeals shall fix a reasonable time, no more than sixty-two (62) days

following application, for the hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the Town at least five (5) days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal shall be borne by the appealing party and shall be paid to the Board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney. The hearing shall be conducted in accordance with rules of the Board of Appeals. Such rules shall permit cross-examination by parties, provide for evidentiary procedures and allow for rehearings on the unanimous vote of the members present.

- I. The Board of Appeals shall decide upon the appeal within sixty-two (62) days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may, however, be extended by mutual consent of the applicant and the Board.
- J. The decision of the Board of Appeals on the appeal shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- K. The Board of Appeals shall, at least five (5) days before such hearing, mail notices thereof to;
  - 1. the affected parties;
  - 2. 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
  - 3. the adjacent municipality as may be required by NYS General Municipal Law §239-nn.
  - 4. the Sullivan County Division of Planning and Environmental Management, as required by NYS Town Law § 267-a. 10 and NYS General Municipal Law §239-m.
- L. No Board of Appeals decision shall be made except in conformance with NYS General Municipal Law §239-m. This shall include the requirement for an affirmative vote of no less than four (4) members of the Board, if the Board of Appeals shall determine to approve an application which the County has recommended it disapprove, or if the Board appeals shall determine to approve an application which the County has recommended it modify, without incorporating the County's recommendation for modification.

## APPENDIX 1 Town of Rockland Zoning Law – Schedule of District Regulations

(For district purposes, see §185-8.1.) (Any use not listed is prohibited.)

District	Principal Permitted Uses	Special Uses	Accessory Uses	Development Standards
Rural Conservation District (RC)	Agricultural activities Bed and breakfasts Cemeteries Essential services Forestry activities (not including sawmills) Hunting and fishing clubs Nurseries Outdoor recreation Parks (public and private) One- and two-family dwellings Stables (commercial)	Campgrounds and RV parks Golf courses Inns ( $\leq 10$ sleeping units) Light Manufacturing Major impact uses Mining and excavation uses Mobile home parks Multi-family dwellings Museums Religious institutions Retail sales, small and specialty Sawmills Solar collection systems, commercial Telecommunication facilities Veterinary uses, Animal Hospitals, Shelters and Kennels	Home-based businesses Parking area Private garages Private stables Signs (complying with §185-30.2.) Solar collection Systems, minor Storage shed Other activities or structures customarily accessory to permitted principal or special use	Minimum lot area: 2 acres Min. average lot width: 200 feet Minimum yards Front: 25 feet Side: 25 feet Rear: 50 feet Maximum building height: 35 feet Maximum lot coverage: 40%
Low Density Residential (R1)	Agricultural activities Bed and breakfasts Essential services Forestry activities Golf courses Nurseries Parks (public and private) One- and two-family dwellings	Cemeteries Child care Community center Forestry activities (not including sawmills) Funeral homes Health facilities generating less than 250 trip-ends daily	Garages Home-based businesses Parking areas Private stables Signs (complying with §185 30.2.) Solar collection systems, minor	Minimum lot area: 1 acre Minimum average lot width: 100' Minimum yards Front: 20 feet Side: 25 feet Rear: 40 feet Maximum building height: 30 feet

		Indoor recreation Outdoor recreation Religious institutions Retail sales, small and specialty Solar collection systems, commercial	Storage shed Other activities or structures customarily accessory to permitted principal or special uses.	Maximum lot coverage: 50%
Moderate to High Density Residential (R2)	Agricultural activities Bed and breakfasts Essential services Forestry activities (not including sawmills) Parks (non-commercial) One- and two-family dwellings	Cemeteries Religious institutions Child care Community centers Funeral homes Health facilities generating less than 250 trip-ends daily Hotels/ motels Multi-family dwellings Nurseries Retail sales, small and specialty Solar collection systems, commercial Telecommunication facilities	Home-based businesses Parking areas Private garages Signs (complying with §185-30.2.) Solar collection systems, minor Storage sheds Other activities or structures customarily accessory to permitted principal or special uses.	Minimum lot area: 0.25 acres Minimum average lot width: 75' Minimum yards: Front: 20 feet Side: 15 feet Rear: 30 feet Maximum building height: 35 feet Maximum lot coverage: 60%
NB Neighborhood Business	Agricultural activities Bed and breakfasts Business/ professional office Catering services Cemeteries Essential services Forestry activities (not including sawmills) Funeral homes Gift & antique sales outlet Golf courses Garage sales	Auto-related uses Food processing under 5000 sq. ft. Convenience stores Health facilities Hotel/ motel ≤16 sleeping units) Lumberyards and home improvement centers Major impact uses Mini-storage uses Parks (public and private)	Home-based businesses Parking areas Private garages Signs (complying with 185-30.2.) Solar collection systems, minor Storage sheds Other activities or structures	Minimum lot area: 10,000 sq. ft. Minimum average lot width: 75 feet Minimum yards: Front: 30 feet Side: 20 feet Rear: 30 feet Maximum building height: 35 feet Maximum lot coverage: 60%

	Multi-family dwellings Repair services Single and two family dwellings Outdoor sales Studio activities Teaching facilities	Public utilities Restaurants Retail sales, large, small, and specialty Retail services Taverns Solar collection systems, commercial Warehouses Veterinary offices; animal hospitals, shelters and kennels	customarily accessory to permitted principal or special uses.	
GB General Business	Agricultural activities Beauty parlors Business & professional offices Cemeteries Religious institutions Child care centers Community centers Essential services Forestry activities (not including sawmills) Convenience stores Health facilities Multi-family dwellings Museums Nurseries Parks Public and semi-public uses Indoor and outdoor recreation Restaurants Retail services Single and two family dwellings	Agricultural processing activities Auto-related uses Banks Bowling alleys Drive-in or fast-food establishment Health facilities Hotel/motels Light manufacturing Lumberyards and Home improvement centers Major impact principal uses Mini-storage uses Petroleum distributors Places of assembly Retail sales, large, small, and specialty Sawmills Solar collection systems, commercial Taverns Theaters	Garages Home-based businesses Parking areas Private stable Signs (complying with 185-30.2.) Solar collection systems, minor Storage sheds Other activities or structures customarily accessory to permitted principal or special uses.	Minimum lot area: None Minimum average lot width: 30 feet Minimum yards: Front: 10 feet Side: 5 feet Rear: None Maximum building height: 40 feet Maximum lot coverage: 90%

		Warehouses Wholesale uses		
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