

Topic: Village of Upper Nyack Board of Trustees Special Meeting
Time: December 9, 2021 07:00 PM Eastern Time (US and Canada)

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Village of Upper Nyack
Board of Trustees
SPECIAL MEETING AGENDA
December 9, 2021
7:00 PM

1. Resolution for Approval: Nyack High School Ecology Club Event hosted by Friends of River Hook
2. Set 2022 Holiday Schedule
3. **7:15 PM Public Hearing** – proposed Local Law # 11 of 2021, A Local Law repealing and replacing the Zoning Ordinance of the Village of Upper Nyack, adopted January 18, 1962, last amended on April 13, 2021 by Local Law No. 3 of 2021, commonly known as the 1962 Zoning Ordinance of the Village of Upper Nyack.
4. Employee Handbook Amendments
5. Introduction of Code Enforcement Law
6. Adjournment of Public Hearing: Yeshivath Viznitz Dkhal Torath Chaim Inc. – Application for Temporary Moratorium Variance, 350 North Highland Avenue, Village of Upper Nyack (SBL 59.16-2-3 (Upper Nyack))

Executive Session: Discussion Pending legal matters

And any other business that the Mayor or Trustees wish to bring before this Board
Any other business that comes before this Board

1. Resolution for Approval: Nyack High School Ecology Club Event hosted by Friends of River Hook

2. Set 2022 Holiday Schedule

3. 7:15 PM Public Hearing – proposed Local Law # 11 of 2021, A Local Law repealing and replacing the Zoning Ordinance of the Village of Upper Nyack, adopted January 18, 1962, last amended on April 13, 2021 by Local Law No. 3 of 2021, commonly known as the 1962 Zoning Ordinance of the Village of Upper Nyack.

**NOTICE OF PUBLIC
HEARING**

**VILLAGE OF UPPER NYACK
328 North Broadway
Upper Nyack, New York 10960**

PLEASE TAKE NOTICE, that the Board of Trustees of the Village of Upper Nyack will hold a public hearing on **December 9, 2021 at 7:15 PM**, or as soon as practical thereafter, to consider the adoption of proposed Local Law # 11 of 2021, A Local Law repealing and replacing the Zoning Ordinance of the Village of Upper Nyack, adopted January 18, 1962, last amended on April 13, 2021 by Local Law No. 3 of 2021, commonly known as the 1962 Zoning Ordinance of the Village of Upper Nyack.

Due to the COVID-19 pandemic, the Village Board of Trustees will not be meeting in person. In accordance with Chapter 417 of the Laws of 2021 signed by the New York State Governor Kathy Hochul suspending certain provisions of the New York State Open Meetings Law, the meeting will be held via videoconferencing, and a transcript will be provided at a later date. The public will have the opportunity to see and hear the meeting live and provide comments.

A meeting agenda will be posted on the Village's website- <https://www.uppernyack-ny.us/>

To access the meeting: **Please visit the Village's website for the meeting link and registration information.**

The text of the proposed Local Law is available on the Village's Website at <https://www.uppernyack-ny.us/zoning-code-update>.

Comments and questions can also be provided via email before the meeting to Heather Candella, Village Clerk at village.clerk@uppernyack-ny.us

Dated: November 26, 2021
Heather Candella
Village Clerk

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VILLAGE OF UPPER NYACK PROPOSED LOCAL LAW _____

A Local Law repealing and replacing the Zoning Ordinance of the Village of Upper Nyack, adopted January 18, 1962, last amended on April 13, 2021 by Local Law No. 3 of 2021, commonly known as the 1962 Zoning Ordinance of the Village of Upper Nyack.

BE IT ENACTED by the Board of Trustees of the Village of Upper Nyack as follows:

The 1962 Zoning Ordinance of the Village of Upper Nyack as amended is hereby repealed in its entirety and replaced with a new Zoning Law to read as follows:

2022 ZONING LAW OF THE VILLAGE OF UPPER NYACK

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1. SECTION 1: PURPOSE.

1.1. **Purpose.** This Local Law adopted pursuant to the New York State Municipal Home Rule Law and Village Law is for the purposes of:

- 1.1.1. Promoting the health, safety, and general welfare of the Village of Upper Nyack, New York by regulating and restricting the configuration of Lots; height, size and location of Buildings and other Structures; prescribing the percentage of Lot area that may be occupied and the size of Yards, Setbacks, courts, and other open spaces; fixing the density of population; and the location and Use of Buildings, structures and land for trade, industry, residence and other purposes; and dividing the Village into districts of the number, shape, and area deemed best suited to accomplish such purposes;
- 1.1.2. Encouraging the gradual conformity of Nonconforming Uses and Structures with the requirements of this Local Law;
- 1.1.3. Encouraging development , conservation and Use of land in accordance with the Village’s Comprehensive Plan as it may be from time to time amended;
- 1.1.4. Providing for the safe and effective movement of vehicular and pedestrian traffic within the Village and the provision of adequate on-site parking and loading areas to serve, Buildings, Uses and Structures within the Village.
- 1.1.5. Limiting the disturbance to Steep Slopes, Wetlands, rock outcrops, floodplains and other environmentally sensitive features on Lots within the Village;
- 1.1.6. Preserving the aesthetic qualities of the Village, most notably the views of and from Hook Mountain and the Hudson River;
- 1.1.7. Creating a Zoning Board of Appeals to determine and vary the terms hereof in harmony with the general purpose and intent of this Local Law; and
- 1.1.8. Providing the fines and penalties for violations, and providing for enforcement of this Local Law.

2. SECTION 2: DEFINITIONS.

2.1. Definitions.

2.1.1. ACCESSORY BUILDING: *See* “Building, Accessory.”

2.1.2. ACCESSORY USE: *See* “Use, Accessory.”

2.1.3. ALTERATIONS: As applied to a Building or Structure, a change or rearrangement in the structural parts or in the entrance or exit facilities, or an enlargement, whether by extending on the front, rear, or a side or by increasing in height, or the moving from one location or position to another on a Lot. Alterations shall include additions.

2.1.4. ARB: The Village Architectural Review Board.

2.1.5. ATTIC: The space between the ceiling assembly of the floor below and the underside of the roof construction.

2.1.6. BASEMENT: A floor level partly or wholly below Finished Grade.

2.1.7. BILLBOARD: A permanent off-premises outdoor advertising sign erected, maintained or used for the purpose of displaying commercial messages.

2.1.8. BOARD OF TRUSTEES: The Village Board of Trustees.

2.1.9. BUILDING: A Structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, that is intended for the shelter, housing, or enclosure of people, animals, or property.

2.1.10. BUILDING, ACCESSORY: A Building on a Lot which is used for a purpose that is considered an Accessory Use to the Principal Use of such Lot. Accessory Buildings shall be separated by air and space from the Principal Building.

2.1.11. BUILDING, HEIGHT OF: The vertical distance measured from the Grade Plane of a Building to the highest point of the roof for a flat roof or mansard roof, and to the mean height between eaves and ridge for gable, hip and gambrel roofs of the Building.

2.1.12. BUILDING, PRINCIPAL: A Building in which is conducted the Principal Use of the Lot on which said Building is situated.

2.1.13. BUILDING SETBACK: *See* “Setback, Building”

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SECTION 2: DEFINITIONS

- 2.1.14. **BULK:** The size or shape of a Lot, Building, Structure or the location or extent of a Use on a Lot that is not enclosed by a Building or Structure, and the physical relationship of their exterior walls or their location to Lot Lines and other Buildings or other walls of the same Building or Structure, and all open spaces required in connection with a Building or Structure. Bulk regulations include but are not limited to regulations dealing with Floor Area, Floor Area Ratio (F.A.R.), Net Lot Area, Frontage, Lot Width, Height of Building or Structure, Required Yards, required Setbacks, usable open space, spacing between Buildings on a single Lot, length of Buildings and other similar requirements.
- 2.1.15. **BULK TABLE:** The Table of General Bulk Regulations of this Zoning Law, Section 4.4.2.
- 2.1.16. **CLUSTER DEVELOPMENT.** A subdivision plat or plats, approved pursuant to Section 8 hereof, the Subdivision Law and Village Law §7-738, in which the Bulk provisions of this Zoning Law may be modified by the Planning Board to provide an alternative permitted method for the layout, configuration and design of Lots, Buildings and Structures, roads, utility lines and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities and environmentally sensitive features of open lands.
- 2.1.17. **CODE ENFORCEMENT OFFICIAL.** The duly appointed Code Enforcement Official of the Village authorized to administer and enforce the Uniform Code. Note: The Zoning Inspector (*see* Section 2.1.135) is the official designed to administer and enforce the provision of this Zoning Law.
- 2.1.18. **COMMERCIAL ADVERTISING SIGN:** *See* “Sign, Commercial Advertising.”
- 2.1.19. **COMPREHENSIVE PLAN:** The Village of Upper Nyack Comprehensive Plan, Comprehensive Guidelines for a Sustainable Community, dated April 20, 2021 as it may be from time to time amended.
- 2.1.20. **COVERAGE, BUILDING:** The total horizontal area of all Buildings on the Lot at the ground level, exclusive of Patios, Decks, terraces and steps.
- 2.1.21. **DAY CARE CENTER:** A facility providing care and instruction between the hours of 7AM and 7PM for 10 or more children operated in accordance with the New York State Social Services Law.
- 2.1.22. **DECK:** An uncovered platform Structure raised above the ground that has openings that allow water to pass through the Structure.
- 2.1.23. **DEER FENCE:** *See* “Fence, Deer.”

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SECTION 2: DEFINITIONS

- 2.1.24. DEVELOPMENT COVERAGE: The total horizontal area of all Buildings, Structures and surfaces other than grass, vegetative ground cover, landscaped areas or other natural areas on a Lot.
- 2.1.25. DIAMETER AT BREAST HEIGHT (DBH): The trunk diameter of a tree as measured from a point that is 4.5 feet above the ground.
- 2.1.26. DORMITORY: A Building or part of a Building containing private or semiprivate rooms which open to a common hallway, which rooms are sleeping quarters for school students, along with bathroom, dining, cooking, laundry, lounge and recreation facilities, as required. Dormitory rooms shall not contain separate cooking or dining facilities, except that one Dwelling Unit with complete housekeeping facilities may be provided for the use of a superintendent or supervising staff for every 20 dormitory rooms, or major part thereof, or one such Dwelling Unit per Dormitory if there are fewer than 20 rooms in such Dormitory. No more than 1 communal dining room shall be provided in a Building or Structure used for Dormitory purposes. One-Family Dwellings, Two-Family Dwellings and/or other multiple residential facilities, other than that described above, are not to be considered as Dormitories.
- 2.1.27. DWELLING: A Building designed or used as the living quarters for one or more Families.
- 2.1.28. DWELLING, ONE-FAMILY: A detached Building designed for or occupied exclusively by 1 Family, which may include an Owner Occupied Accessory Apartment if one is permitted in such Dwelling by a duly issued and valid Special Use Permit granted pursuant to Section 9.6.11 of this Zoning Law.
- 2.1.29. DWELLING, TWO-FAMILY: A detached Building containing 2 dwelling units. Two-Family Dwellings are not a permitted use in any district.
- 2.1.30. DWELLING, MULTIPLE: A Building containing 3 or more Dwelling Units, and further as defined by the Multiple Residence Law and the State Building Code of the State of New York.
- 2.1.31. DWELLING UNIT: A Building or portion thereof providing complete housekeeping facilities for a Family, including independent cooking, sanitary and sleeping facilities, and physically separate from any other Dwelling Unit whether or not in the same Building.
- 2.1.32. ESTATE: A Main Residence and its permitted Accessory Residences located on the same Lot as defined in and subject to the requirements of Section 9.6.3 of this Zoning Law.

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SECTION 2: DEFINITIONS

2.1.33. FAMILY:

2.1.33.1. One of the following:

2.1.33.1.1. One (1) , 2, or 3 persons occupying a Dwelling Unit; or

2.1.33.1.2. Four (4) or more persons occupying a Dwelling Unit and living together as a traditional family or the functional equivalent of a traditional family.

2.1.33.2. It shall be presumptive evidence that 4 or more persons living in a single Dwelling Unit who are not related by blood, marriage or legal adoption do not constitute the functional equivalent of a traditional family.

2.1.33.3. In determining whether individuals are living together as the functional equivalent of a traditional family, the proponent of such interpretation must demonstrate that the following criteria are present to the satisfaction of the Zoning Inspector:

2.1.33.3.1. The group is one which in theory, size, appearance, structure, and function resembles a traditional family unit;

2.1.33.3.2. The occupants must share the entire Dwelling Unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family.

2.1.33.3.3. The group shares expenses for food, rent or ownership costs, utilities and other household expenses.

2.1.33.3.4. The group is permanent and stable. Evidence of such permanency and stability may include:

2.1.33.3.4.1. The presence of minor dependent children regularly residing in the household who are enrolled in local schools.

2.1.33.3.4.2. Members of the household have the same address for purposes of voter registration, driver's license, motor vehicle registration and filing of taxes.

2.1.33.3.4.3. Members of the household are employed in the area.

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SECTION 2: DEFINITIONS

- 2.1.33.3.4.4. The household has been living together as a unit for a year or more whether in the current Dwelling Unit or in other Dwelling Units.
- 2.1.33.3.4.5. There is common ownership of furniture and appliances among the members of the household; and
- 2.1.33.3.4.6. The group is not transient or temporary in nature.
- 2.1.33.3.5. Any other factor reasonably related to whether or not the group is the functional equivalent of a traditional family.
- 2.1.34. FENCE: Any Structure, including a wall or gate, regardless of composition, except those comprised of living plants, that is erected or maintained for the purpose of enclosing, separating or screening a piece of land or to divide a piece of land into distinct portions.
- 2.1.35. FENCE, DEER: A small opening (typically 1 to 1.5 inches) mesh Fence and its supporting posts.
- 2.1.36. FINISHED GRADE: *See* “Grade, Finished.”
- 2.1.37. FITNESS CLUB. A commercial establishment providing instruction or facilities for the preservation, maintenance, or development of physical fitness or well-being, including, but not necessarily limited to, health clubs; indoor sports courts, swimming pools or similar facilities; dance, yoga, cycling, or martial arts studios; gymnasiums; or other similar facilities and their related accessory facilities.
- 2.1.38. FLAG: A piece of fabric that is typically rectangular in shape of a distinctive design that is used as a signal or symbol and is affixed to a pole on a vertical side to fly horizontally off of the vertical pole.
- 2.1.39. FLAG LOT: A Lot not meeting minimum Frontage requirements where access to the Street is by a narrow private right-of-way or driveway. The creation of new Flag Lots is prohibited.
- 2.1.40. FLOOR AREA: The sum of the gross horizontal area of each floor of a Building from the exterior face of exterior walls or from the center line of a wall separating 2 buildings, but excluding any space where no portion of the floor-to-ceiling height is greater than 7 feet. This definition shall include garages, sunrooms and any other area covered by a roof. Mezzanines, lofts and attic spaces where any portion of such spaces is greater than 7 feet in height shall be included in the calculation of Floor Area.

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SECTION 2: DEFINITIONS

- 2.1.41. FLOOR AREA RATIO (F.A.R.): The total Floor Area in square feet of all Buildings on the Lot divided by the Net Lot Area in square feet.
- 2.1.42. FRONTAGE: The length of the Front Lot Line measured at the Street Line.
- 2.1.43. GARAGE, PRIVATE: An Accessory Building or part of a Principal Building used for the permitted storage of vehicles for the occupant of the Lot's private use.
- 2.1.44. GRADE, FINISHED: The finished grade of any point along the wall of a Building or Structure shall be the elevation of the completed surfaces of yards, lawns, landscaped areas, walks, roads, or paved surfaces adjoining the wall at that point.
- 2.1.45. GRADE PLANE: A horizontal reference plane that is the median elevation of the approved Finished Grade along all exterior walls of a Building.
- 2.1.46. HEAVY EQUIPMENT: A motorized heavy unit or machinery or a non-motorized unit (attachment, trailer, container) that is not permanently affixed to the ground and therefore does not meet the definition of a Structure, including, but not limited to, cranes, excavators, construction vehicles, forklifts, boat lifts/mobile travel lifts, or other similar equipment.
- 2.1.47. HEIGHT, BUILDING: *See* "Building, Height of."
- 2.1.48. HEIGHT, STRUCTURE: *See* "Structure, Height of."
- 2.1.49. HOME OCCUPATION: Any use customarily conducted entirely within a Dwelling and carried on by the residents thereof with not more than 1 non-resident employee, using only customary home appliances, which use is clearly incidental and secondary to the use of the Dwelling for dwelling purposes and does not change the character thereof and conforms to the additional requirements set forth in Section 9.6.4 of this Zoning Law.
- 2.1.50. HOSPITAL: An institution providing health services for human inpatient or medical or surgical care for the sick or injured, and including related facilities such as Laboratories, inpatient rehabilitation facilities, outpatient departments, emergency rooms, training facilities, central service facilities, and staff offices which are integral parts of the facility. The term shall not be deemed to include a Medical Clinic.
- 2.1.51. IN-GROUND SWIMMING POOL: A swimming pool in which the sides of the pool are built into the ground as a permanent fixture.

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SECTION 2: DEFINITIONS

- 2.1.52. LABORATORY. A place within a fully-enclosed Building equipped for experimental study in a science or for testing and analysis.
- 2.1.53. LAND USE APPLICATION: Any application to the Planning Board, ZBA, or ARB, or any application to the Board of Trustees for an amendment to this Zoning Law.
- 2.1.54. LIGHT INDUSTRIAL FACILITY: The use of a Building or Structure for manufacturing, processing, fabrication, assembly, or packaging conducted in a fully enclosed Building which operations do not involve the use of machinery or processes that emit noxious fumes, gases or odors; discharge dust or particulate matter into the air; or result in noise or vibration detectable beyond the Lot Line of the Lot on which the Use is located; and its customary and incidental Accessory Uses including, but not necessarily limited to offices, Parking Areas and Loading Spaces, Signs, and indoor storage of non-hazardous goods or materials.
- 2.1.55. LOADING SPACE: An off-Street space or berth located on the same Lot as a permitted Use and used for the parking of a commercial vehicle for the purposes of loading or unloading materials for such permitted Use.
- 2.1.56. LOT: A parcel of land located within the jurisdictional boundary of the Village established by a map or subdivision plat filed in the Office of the Rockland County Clerk, or as otherwise permitted by law, not divided by a street, to be separately owned, used or developed.
- 2.1.57. LOT AREA, GROSS: The total area of a Lot within the Lot Lines.
- 2.1.58. LOT AREA, NET: The area of the Lot after the following reductions to Gross Lot Area are taken, as applicable:
- 2.1.58.1. Wetland and Waterbody Deduction:
- 2.1.58.1.1. 50% of the area of any ponds; Wetland; water bodies; watercourses; or land subject to flooding as designated on the FEMA 100-year Flood Maps.
- 2.1.58.1.2. 100% of the area of any land under the Hudson River beyond the high tide line.
- 2.1.58.2. Slope Deduction
- 2.1.58.2.1.1. 100% of the area of any land with a slope of 40% or greater.
- 2.1.58.2.1.2. 50% of the area of any land with a slope of 26-39%.

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SECTION 2: DEFINITIONS

2.1.58.2.1.3. 50% of the area of that portion of a parcel with rock outcrops in excess of fifty (50) square feet.

2.1.59. LOT, CORNER: A Lot located at the junction of and fronting on 2 or more intersecting Streets. A Corner Lot shall be considered to have 2 Front Lot Lines. The Lot Line opposite the Front Lot Line toward which the main entrance to the Principal Building on the Lot is situated shall be deemed a Rear Lot Line. The remaining Lot Line, if any, shall be deemed to be a Side Lot Line. Note: *See Section 4.5.8 (sight distance, Corner Lots).*

2.1.60. LOT, INTERIOR: A Lot other than a Corner Lot or a Through Lot.

2.1.61. LOT LINE: A boundary line of a Lot.

2.1.62. LOT LINE, FRONT: The Lot Line abutting a Street. If the owner of the Lot owns fee title to the center line of the adjacent Street, the Front Lot Line for the purposes of evaluating compliance with the Bulk requirements of this Zoning Law shall be deemed to be the line adjacent to the Street right of way.

2.1.63. LOT LINE, REAR: The Lot Line which is opposite the Front Lot Line, or for Corner Lots as provided in the definition thereof. If the Lot is adjacent to the Hudson River and the owner of the Lot owns fee title to a portion of the bed of the Hudson River, the Rear Lot Line for the purpose of evaluating compliance with the Bulk requirements of this Zoning Law shall be deemed to be the mean high-water mark.

2.1.64. LOT LINE, SIDE: The Lot Lines extending from the Front Lot Line to the Rear Lot Line, or, for Corner Lots or Through Lots, the Lot Lines designated as Side Lot Lines.

2.1.65. LOT, THROUGH: An interior Lot having Frontage on two parallel or approximately parallel streets. A Through Lot shall be considered to have two Front Lot Lines and Two Side Lot Lines.

2.1.66. LOT, WIDTH: The horizontal distance between the Side Lot Lines of a Lot measured at the point where the Lot is the most narrow. For a Corner Lot, the horizontal distance between the Side Lot Line and the Front Lot Line running parallel to the Side Lot Line measured at the point where the Lot is the most narrow.

2.1.67. MEDICAL CLINIC: A facility for the examination and treatment of patients on an outpatient basis by one or more physicians, dentists, psychologists, or other medical personnel, and where patients are not lodged overnight.

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SECTION 2: DEFINITIONS

- 2.1.68. MINOR CHANGE: *See* Section 10.4.2.1 (Minor Changes to approved Site Plans).
- 2.1.69. MOBILE HOME: A prefabricated Dwelling structure constructed on a permanent chassis.
- 2.1.70. MOTOR VEHICLE DEALERSHIP: An establishment primarily engaged in the retail sale of automobiles in a fully enclosed Building. The Principal Use shall include the showroom, interior display and storage of vehicles, offices, interior service and repair (excluding primary uses allowed for a motor vehicle body repair shop), vehicle preparation and repair work, the sale of parts and accessories for said automobiles. Accessory Uses shall include 1 or more of the following: the exterior parking of vehicle inventory, permitted Signs and Parking Areas.
- 2.1.71. MOTOR VEHICLE SERVICE FACILITY: An establishment engaged in general automotive repair and customization of motor vehicles, but not including a facility for the dispensing of motor vehicle fuel.
- 2.1.72. MOTOR VEHICLE FUEL STATION: An establishment engaged in the retail sale of motor vehicle fuel and lubricating oils and/or the sale of parts, accessories and repair services for motor vehicles, excluding body repair.
- 2.1.73. MOTOR VEHICLE RENTAL AGENCY. Establishments primarily engaged in the short-term rental of vehicles without drivers and including the on-site parking of such vehicles.
- 2.1.74. MULTI-TENANT COMMERCIAL BUILDING: A group of attached commercial Uses that are permitted in the underlying zoning district, developed, owned and/or managed as a unit on a Lot, providing common Parking Areas, vehicular or pedestrian access and other Accessory Uses and functions.
- 2.1.75. NONCONFORMING BULK: That part of a Building or nonbuilding Use which does not conform to 1 or more of the applicable Bulk regulations of this Zoning Law, either on its effective date or as a result of subsequent amendments thereof.
- 2.1.76. NONCONFORMING BUILDING OR STRUCTURE. A Building or Structure lawfully existing at the effective date of this Zoning Law or an amendment thereto affecting such Building or Structure, which contains a Use permitted in the district in which it is located but does not conform to some or all of the Bulk requirements applicable to such Lot.
- 2.1.77. NONCONFORMING LOT: A Lot lawfully existing at the effective date of this Zoning Law or an amendment thereto which conformed with the applicable Lot Area and Frontage requirements at the time the Lot was created but which does not

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conform to the Net Lot Area or Frontage requirements applicable to such Lot as set forth in this Zoning Law as amended.

- 2.1.78. **NONCONFORMING USE:** Any Use of all or any portion of a Building, Structure or Lot that was lawfully existing at the effective date of this Zoning Law or an amendment thereto which does not conform to the Use regulations of this Zoning Law for the district in which the Lot is located.
- 2.1.79. **NOT-FOR-PROFIT COMMUNITY CENTER:** A site or facility open to the public, owned or operated by a not-for-profit organization for social, educational or recreational purposes. Typical uses include, but are not limited to, museums, cultural centers, recreational facilities, botanical gardens and community services such as after-school care or tutorial services, childcare or out-patient medical services.
- 2.1.80. **OFFICIAL MAP:** An official document that indicates the location of key features of the Village, including boundaries, Village or public Streets, streams and other key drainage and infrastructure features, adopted in accordance with the requirements of Village Law §7-724.
- 2.1.81. **OWNER OCCUPIED ACCESSORY APARTMENT:** A Dwelling Unit that is incidental and subordinate to a permitted principal One Family Dwelling, which meets the requirements of Section 9.6.11 of this Zoning Law.
- 2.1.82. **PARKING AREA:** A designated area of a Lot improved with 1 or more Parking Spaces along with all related access driveways, drive aisles, walkways, sidewalks, curbing and similar improvements.
- 2.1.83. **PARKING SPACE:** An off-street space available for the parking of a vehicle or piece of Heavy Equipment subject to the requirements of Section 6.1.
- 2.1.84. **PATIO:** An uncovered paved outdoor space typically adjoining a Building that is substantially at Finished Grade.
- 2.1.85. **PERSON:** Any individual human being or group of individuals, corporation, partnership, limited liability company, association, or any other entity, including State and local governments and agencies.
- 2.1.86. **PLACE OF WORSHIP:** A site or facility owned or operated by a tax-exempt religious group and/or a group organized or qualified under the New York State Not-For-Profit Law and/or 26 United States Code §501 (C) (3) that is used primarily or exclusively for religious worship activities and related accessory uses.
- 2.1.87. **PRINCIPAL BUILDING:** *See* “Building, Principal.”

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- 2.1.88. PRIVATE MEMBERSHIP CLUB: A site or facility owned or operated by a not-for-profit private membership club for social, educational, cultural, or recreational purposes where paid membership is required. The members of the organization shall have a financial interest in, and method of control of, the assets and management of the private membership club. Typical uses include fraternal or cultural organizations, field/sports clubs, or union halls.
- 2.1.89. PORCH: An unheated area with a fixed or permanent roof, which may be screened, usually attached to or part of and with direct access to a Building. Porches, whether enclosed or unenclosed, shall be considered as part of the Principal Building and shall not project into Required Yards.
- 2.1.90. RECREATIONAL VEHICLE: A motor vehicle or trailer that includes living quarters.
- 2.1.91. RETAINING WALL: A Structure designed and constructed to retain or restrain lateral forces of soil or other materials to accomplish a change in grade elevation that exceeds the angle of repose of the soil or other materials.
- 2.1.92. SCHOOL, BOARDING: A primary or secondary school, other than a Public School, providing and giving the equivalent of instruction required in Public Schools, at which some or all of the students reside when school is in session.
- 2.1.93. SCHOOL, DAY: A kindergarten, primary or secondary school, other than a Public School, providing and giving the equivalent of instruction required in Public Schools, that does not have boarding facilities for students.
- 2.1.94. SCHOOL, NURSERY: A registered, not-for-profit nonpublic school organized for the purpose of educating a group or groups of children less than 7 years of age, meeting all standards required by the New York State Department of Education.
- 2.1.95. SCHOOL, POSTSECONDARY: An institution of higher education providing education beyond high school and leading toward an academic degree, which is authorized to operate in the State of New York by the New York State Board of Regents or equivalent authorizing body, if any, including colleges and universities, or an institution providing post-secondary religious education that is exempt from State regulatory requirements.
- 2.1.96. SCHOOL, PUBLIC: An educational institution operated by a public school district in accordance with the Education Law of the State of New York.
- 2.1.97. SELF-STORAGE FACILITY: A facility consisting of a Building or group of Buildings in a controlled-access compound that contains varying sizes of individual

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compartmentalized and controlled-access stalls or lockers for the storage of customers' goods and wares. Security residences or other types of residences are prohibited as a part of this Use.

- 2.1.98. SENIOR CARE FACILITY: A privately operated facility which provides living accommodations and common dining facilities and support facilities solely for residents, limited to people who are 62 years of age or older or for couples, at least one of whom is 62 years of age or older.
- 2.1.99. SEQRA: The New York State Environmental Quality Review Act, and its implementing regulations.
- 2.1.100. SETBACK: The physical separation between a Building, Structure, improvement or Use and a Lot Line.
- 2.1.101. SETBACK, BUILDING: At any story level, the distance between the Lot Line or its vertical projection and any portion of the wall of the Building at its point nearest to the Lot Line.
- 2.1.102. SETBACK, FRONT BUILDING: The Building Setback from the Front Lot Line.
- 2.1.103. SHED: A small accessory 1-story Building that is used solely for storage and meets the requirements of Section 6.5.
- 2.1.104. SHORT TERM RENTAL: Rental of a Dwelling Unit for short term lodging purposes for a period of less than 30 days, subject to the terms and conditions of Section 9.6.19.
- 2.1.105. SIGN: Any announcement, declaration, demonstration, display, illustration, symbol, token, figure, device, design, image or insignia used to promote or advertise the interests of any person, group of persons, company, corporation, service or product when the same is placed, erected, attached, painted or printed where it may be viewed by the public from outside of any Structure on the Lot where placed. For the purpose of this Zoning Law, any device meeting the above description that is located inside of a Building and more than 2 feet from the inside face of a window shall not be deemed to be in a place where it may be viewed by the public and therefore not subject to regulation by this Zoning Law unless any provision hereof specifically and clearly provides otherwise.
- 2.1.106. SIGN AREA Where a Sign consists of a single board or face the area which is calculated by including the outside dimensions of such Sign, not including the vertical, horizontal or diagonal supports which may affix the Sign to the ground or to a Structure or Building. If a Sign is a double-faced Sign, meaning that it has 2

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faces of equal proportions located exactly opposite each other, then the Sign Area shall include only 1 face of such Sign. Where the Sign consists of individual letters or symbols attached to or painted on a Building, the area shall be considered to be that of the smallest rectangle that encompasses all of the letters or symbols.

- 2.1.107. SIGN, BLADE (BLADE SIGN): A Sign that is attached to a Building wall where the exposed face of the Sign is perpendicular to the face of the Building wall.
- 2.1.108. SIGN, COMMERCIAL ADVERTISING: Any Sign that advertises a business, product, service, or other commercial activity.
- 2.1.109. SIGN, PERMANENT: Any Sign intended to be displayed for a period that is longer than 2 consecutive months.
- 2.1.110. SIGN, TEMPORARY: Any Sign intended to be displayed for a limited period of time not exceeding 2 months in any 6 month period.
- 2.1.111. SITE PLAN: A plan for the proposed development, redevelopment or Use of land within the Village, which shall consist of a drawing or drawings affirmatively demonstrating compliance with all of the criteria listed in the Site Plan regulations (Section 10) and all other applicable provisions of law.
- 2.1.112. STEEP SLOPE: Lot area containing a natural or artificial incline of 15% or greater, measured and determined on the basis of 2-foot contour intervals, as shown on a certified land survey. *See* Section 6.7.
- 2.1.113. SOLAR ENERGY COLLECTOR: A device or combination of devices relying upon solar radiation as an energy source that is employed for the purposes of the heating or cooling of a Building, the heating of water or the generation of electricity.
- 2.1.114. STREET: A State, County, Town or Village road, or other right-of-way that is included on the Official Map of the Village.
- 2.1.115. STREET, PRIVATE: A Street that is privately owned and maintained.
- 2.1.116. STREET, PUBLIC: A Street that is owned and maintained by New York State, Rockland County, the Town of Clarkstown or the Village.
- 2.1.117. STREET LINE: The dividing line between the right of way of a Street and a Lot.
- 2.1.118. STRUCTURE: Anything constructed or erected on or in the ground or attached to something having a location on or in the ground. Structures shall include, but are not limited to, Buildings, Parking Areas, driveways, car ports, tennis courts, swimming pools, sidewalks, retaining walls, fountains, Fences, gazebos, pergolas,

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Sheds, Decks, Patios, and any like improvement. The definition of a Structure shall include Buildings; however, all Structures are not necessarily defined as Buildings. Heavy Equipment is excluded from the definition of Structure.

- 2.1.119. STRUCTURE, HEIGHT OF: The vertical distance measured from the Finished Grade adjacent to the side of a Structure to the highest point of the Structure.
- 2.1.120. SUBDIVISION LAW. A local law of the Village regulating the division of any parcel of land into two or more lots, plots, sites or other divisions of land, with or without new streets, or any adjustment, relocation or elimination of a Lot Line.
- 2.1.121. UNIFORM CODE: The Uniform Fire Prevention and Building Code and Energy Conservation Construction Code as issued by the New York State Department of State Division of Code Standards or such other State body or agency authorized to issue or adopt building codes, as they may be from time to time amended, and any other law or regulation prescribing the minimum standards for building construction applicable to building construction in the Village.
- 2.1.122. USE: The specific purpose for which land, water or a Building or Structure is designed or arranged or for which it is occupied or maintained.
- 2.1.123. USE, ACCESSORY: A Use that is customary, incidental and subordinate to and on the same Lot as the principal Use and permitted within the subject district as set forth in Column 4 of the Table of General Use Regulations.
- 2.1.124. USE, PRINCIPAL: The primary use of a Lot.
- 2.1.125. USE, SPECIAL PERMIT: A Use allowed in a district, subject to the issuance of a Special Use Permit by the Planning Board in accordance with the provisions of Section 9 of this Zoning Law.
- 2.1.126. USE TABLE: The Table of General Use Regulations of this Zoning Law, Section 4.4.1.
- 2.1.127. VILLAGE: The Village of Upper Nyack.
- 2.1.128. VILLAGE LAW: The New York State Village Law.
- 2.1.129. WETLAND: Any state or federally designated or regulated wetland.
- 2.1.130. YARD, REQUIRED: A Required Front, Side or Rear Yard, defined below, either collectively or independently as the context requires.

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SECTION 2: DEFINITIONS

- 2.1.131. YARD, REQUIRED FRONT: An unoccupied ground area fully open to the sky between the Front Lot Line and a line drawn parallel thereto set back from the Front Lot Line a minimum distance of that provided in Column 5 of the Bulk Table for the zoning district in which the Lot is located, regardless of whether there are any improvements on the Lot.
- 2.1.132. YARD, REQUIRED REAR - An unoccupied ground area fully open to the sky between the Rear Lot Line and a line drawn parallel thereto set back from the Rear Lot Line a minimum distance of that provided in Column 7 of the Bulk Table for the zoning district in which the Lot is located, regardless of whether there are any improvements on the Lot
- 2.1.133. YARD, REQUIRED SIDE - An unoccupied ground area fully open to the sky between any Side Lot Line and a line drawn parallel thereto set back from the Side Lot Line a minimum distance of that in Column 6 of the Bulk Table for the zoning district in which the Lot is located, regardless of whether there are any improvements on the Lot
- 2.1.134. ZBA: The Village's Zoning Board of Appeals.
- 2.1.135. ZONING INSPECTOR: The Official designated by the Board of Trustees with administration and enforcement of this Zoning Law or the Zoning Inspector's designee.
- 2.1.136. ZONING MAP: *See* Section 3.2 of this Zoning Law.
- 2.2. **General Construction of Language.** Except where specifically defined herein all words used in this Zoning Law shall carry their customary and dictionary meanings. Words used in the present tense include the future, and the plural includes the singular where such construction is appropriate in context. The word "shall" is intended to be mandatory.

SECTION 3: ESTABLISHMENT OF ZONING DISTRICTS; ZONING MAP

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3. SECTION 3: ESTABLISHMENT OF ZONING DISTRICTS; ZONING MAP.

3.1. **Classification of Districts.** For the purpose of encouraging the most appropriate Use of land throughout the Village as provided in this Zoning Law, the Village is hereby divided into the following districts:

3.1.1. RESIDENTIAL DISTRICTS

Residence	R-160 Residential-Conservation
Residence	R-80 Residential-Conservation
Residence	R-40 Low Density Residential
Residence	R-30 Low-Medium Density Residential
Residence	R-20 Medium Density Residential
Residence	R-10 Medium-High Density Residential
Residence	R-7.5 High-Density Residential

3.1.2. COMMERCIAL DISTRICTS

Marine Business	MB District
Village Center	VC District
Office Business	OB District

3.1.3. OVERLAY DISTRICTS

OB Residential Overlay District	OBRO District
Hudson Riverfront Overlay District	HRO District

3.2. **Zoning Map.** The above districts are bounded and defined as shown on a map entitled “Official Zoning Map, Village of Upper Nyack, New York” which accompanies this Zoning Law and is hereby made a part of this Zoning Law, as it may be from time to time amended.

3.3. **District Boundaries.** The location of the district boundaries as shown on the Zoning Map shall be interpreted as follows:

3.3.1. Unless the Zoning Map clearly depicts otherwise, district boundary lines are intended to follow the Lot Lines as they existed at the time of the passage of this Zoning Law, or at the time of an amendment of the Zoning Map. Where so approximately indicated, the Lot Line shall be construed to be the boundary line.

3.3.2. Where so approximately indicated, district boundaries shall be construed to be the center line of the Street.

3.3.3. District boundaries shall be determined where indicated by the distances given on the Zoning Map.

SECTION 3: ESTABLISHMENT OF ZONING DISTRICTS; ZONING MAP

- 3.3.4. Where district boundaries are so indicated that they approximately follow the edge of lakes, ponds, reservoirs or other bodies of water, the mean high-water lines thereof shall be construed to be the district boundaries.

- 3.3.5. If the district classification of any land is in question, it shall be deemed to be in the most restrictive adjoining district.

- 3.3.6. Where a Lot is divided by one or more zoning district lines, each portion of said Lot and any Building or land use established thereon shall comply with the regulations of the district in which it is located.

SECTION 4: GENERAL REGULATION

4. SECTION 4: GENERAL REGULATIONS.

- 4.1. **Conformance Required.** No land, Lot, Building or Structure shall hereafter be Used or occupied, and no Building or Structure or any part thereof shall be erected, relocated, Altered, Used or occupied unless in conformity with the regulations of this Zoning Law. Lots in Residence districts used for residential purposes may only have 1 principal use and 1 Principal Building on each Lot.
- 4.2. **General Use Regulations.** All regulations affecting the Use of land, water, Buildings or Structures are mandatory and in the affirmative and no other or further Use is to be made of land, water, Buildings or Structures except that provided in this Zoning Law as applying to the district in which the land, water, Building or Structure is located.
- 4.3. **General Bulk Regulations.** No land, water, Building or Structure shall hereafter be used or occupied, and no Building or Structure or any part thereof shall be erected, relocated, altered, used or occupied unless in conformity with the Bulk regulations in this Zoning Law.
- 4.4. **Use and Bulk Tables:** The general regulations affecting the Use of Buildings, Structures and land, and the Bulk and arrangement of land, Buildings, Structures and other improvements for each of the districts established by Section 3.1 hereof shall be as set forth in this Section and the tables referenced herein:
- 4.4.1. **Use Table.** The accompanying table entitled “Section 4.4.1 Table of General Use Regulations” shall be deemed to be part of this section and is referred to herein as the “Use Table.”
- 4.4.2. **Bulk Table.** The accompanying table entitled “Section 4.4.2 Table of General Bulk Regulations” shall be deemed to be part of this section and is referred to herein as the “Bulk Table.”
- 4.4.3. **Parking and Loading Table.** The accompanying table entitled “Section 4.4.3 Table of On Lot Parking and Loading Regulations” shall be deemed to be part of this section and is referred to herein as the “Parking and Loading Table.”
- 4.5. **Additional General Use and Bulk Requirements.**
- 4.5.1. Except as otherwise expressly set forth in this Zoning Law, no Building, Structure or land Use shall be established, built, modified or Altered without approval from the Planning Board pursuant to Section 10 (Site Plan Review), and, if required, Section 9 (Special Use Permits). Additionally, no Lot Line shall be moved, altered, created or eliminated except in conformance with a plan approved by the Planning Board meeting the requirements of this Zoning Law and the Subdivision Law.

SECTION 4: GENERAL REGULATION

- 4.5.2. No part of the Frontage, Required Yard or other open space required for any Lot, Structure, Building or Use for the purpose of complying with the provisions of this Zoning Law shall be included or considered as a part of the Frontage, Required Yard, or other open space required for any other Lot, Structure, Building or Use to comply with the provisions of this Zoning Law.
- 4.5.3. No building permit for any Building or Structure shall be issued unless the Lot upon which such Structure or Building is to be built or Altered has the required Frontage on a Street which has been suitably improved in accordance with Village specifications, and such Lot derives vehicular access from such Frontage. However, if the Street is not suitably improved, a building permit may still be issued provided that a performance bond meeting the requirements of Village Law §7-736(2) is approved by the Planning Board and accepted by the Board of Trustees.
- 4.5.4. Vehicular access to a Lot shall be provided from its Frontage.
- 4.5.5. Accessory Uses, Buildings and Structures.
- 4.5.5.1. No Accessory Use, Building or Structures shall be permitted on any Lot without a Principal Use.
- 4.5.5.2. Accessory Uses shall be limited to the Uses specifically set forth in the Use Table, provided that they are customarily incidental or accessory to the Principal Use on the Lot.
- 4.5.5.3. Site Plan approval from the Planning Board shall be required prior to commencing or constructing an Accessory Use, Building or Structure on a Lot when so indicated in the Use Table.
- 4.5.5.4. Accessory Uses, Structures and Buildings are prohibited in all Required Yards unless otherwise specified in the Bulk Table or a separate provision of this Zoning Law.
- 4.5.5.5. Addition of an Accessory Use to a Lot after a Special Use Permit has been approved for such Lot shall require approval as a modification of such valid Special Use Permit in accordance with Section 9 of this Zoning Law.
- 4.5.6. Projections and encroachments into Required Yards.
- 4.5.6.1. No Building, Structure or Use may encroach into any Required Yard unless specifically permitted in this Zoning Law. Building and Structures that may not encroach into Required Yards include, but are not limited to, Principal Buildings, Decks, Porches, Patios, chicken coops, above-ground swimming

SECTION 4: GENERAL REGULATION

pools, playsets, pergolas, and gazebos. Above-ground swimming pools and playsets shall be prohibited in all Required Yards and in the Front Building Setback.

4.5.6.2. The provisions of Section 4.5.6.1 notwithstanding, the following improvements may be located in Required Yards subject to the limitations in this Section 4.5.6.2 and further provided that such improvements comply with all Setback requirements applicable to such improvements as set forth in this Zoning Law:

4.5.6.2.1. Bay windows, and other similar wall projections may not extend into any Required Yard, however, roof projections such as eaves, rakes and soffits and trim details and other ornamental roof projections may extend into a Required Yard by up to 18 inches.

4.5.6.2.2. Parking Spaces and Loading Spaces may be permitted in Required Yards, but they shall comply with the minimum Setback requirements of Column 14 of the Bulk Table.

4.5.6.2.3. Sheds that meet the requirements of Section 6.5. hereof may be permitted in Required Yards.

4.5.6.2.4. In-Ground Swimming Pools and sports courts that meet the requirements of Section 6.8 or 6.9 as appropriate may be permitted within the Required Rear or Side Yard in the R-160 District. Such improvements are prohibited in the Front Building Setback.

4.5.6.2.5. Walls or Fences that meet the requirements of Section 6.3. hereof may be permitted in Required Yards.

4.5.6.2.6. Driveways or walkways providing vehicular or pedestrian access to the Buildings, Structures or Uses on a Lot to or from a Street may be permitted in Required Yards provided that such driveways or walkways are setback at least 5 feet from any Side or Rear Lot Line (no setback from the Front Lot Line is required).

4.5.6.2.7. Signs. Unless otherwise provided in Section 6.2 hereof, Signs may be permitted in Required Yards if they are Setback at least 5 feet from the nearest Lot Line.

4.5.6.2.8. Emergency generators, air conditioning units, and other similar equipment serving One Family Dwellings and the pads or footings for such equipment may be located in a Required Side Yard or Required Rear

SECTION 4: GENERAL REGULATION

Yard provided that they are set back from the Side or Rear Lot Line by a minimum of 10 feet.

4.5.6.2.9. Unless otherwise required by this Zoning Law, trash enclosures on properties improved with a One Family Dwelling that are a maximum of 4.5 feet in height, 6 feet in width and 4 feet in depth may be located in a Required Front Yard or Required Side Yard provided that it is Setback from the Front Lot Line and Side Lot Line by a minimum of 5 feet.

4.5.7. The maximum Building or Structure Height limitations of this Zoning Law shall not apply to chimneys, skylights, Solar Energy Collectors, necessary mechanical equipment and other similar features provided that such features shall not extend more than 2 feet above the roof for One or Two Family Dwellings or 8 feet above the roof for all other uses.

4.5.8. Sight Distance on Corner Lots. On a Corner Lot, no Fence, wall, Structure, tree, shrub or other obstruction more than 3 feet in height above the grade plane of the adjacent Street shall be erected or placed on any part of the Lot located within the triangular area formed by the nearest edges of Street pavement and a straight line between two points each a minimum of 30 feet (14 feet in the VC District) back from the intersection of the nearest edges of pavement. Such obstructions may be permitted if authorized, in writing, by the Village Engineer.

4.5.9. Hudson River Overlay District. For Lots located in the Hudson River Overlay District, docks, floats, moorings, ramps, seawalls, bulkhead and similar marine-related Structures shall be permitted within Required Yards adjacent to the Hudson River, but their designs, location and layout shall be subject to the approval of the Planning Board during Site Plan review for the Lot on which they are located.

4.6. Prohibited Uses.

4.6.1. Mobile Homes.

4.6.2. Residences located in Accessory Buildings in residential zoning districts.

4.6.3. Motor Vehicle Fuel Station.

4.6.4. Automatic car washes.

4.6.5. Drive-thrus.

4.6.6. Any use not specifically listed in the Use Table as being permitted shall be deemed to be prohibited unless such prohibition would violate New York State or federal law.

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SECTION 4: GENERAL REGULATION

- 4.7. **Interpretation; Minimum Standards.** In their interpretation and application, the provisions of this Zoning Law shall be held to be the minimum requirements necessary for the promotion of the public health, safety and the general welfare of the Village as stated in Section 1. Wherever the requirements of this Zoning Law conflict or are inconsistent with the requirements of any federal, state or county law, or of any other lawfully adopted rule, regulation, law or ordinance of the Village, the more restrictive requirement or that imposing the higher standards shall govern.
- 4.8. **Validity; Severability.** Should any Section or provision of this Zoning Law be held or decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this Zoning Law as a whole or any parts of this Zoning Law other than that part which was so held or decided to be unconstitutional or invalid.

5. SECTION 5: DISTRICT REGULATIONS.

5.1. Marine Business (MB) District.

5.1.1. District Purpose. The purpose of the Marine Business (MB) district is to encourage a range of waterfront related Uses within those portions of the Village that have traditionally been oriented toward marine and related activities in a setting that will provide limited public access and which will be in harmony with the adjacent residentially-zoned properties.

5.1.2. Use and Bulk Regulation. Within the MB Zoning District, a Building, Structure or Lot shall only be used for Principal or Special Permit Uses with permitted Accessory Uses as indicated in Row 8 of the Use Table. Further, any such Building, Structure or Lot shall only be used in conformance with the provisions of Row 8 of the Bulk Table. Such Use shall also comply with all other applicable provisions of this Zoning Law.

5.2. Village Center (VC) District.

5.2.1. District Purpose. The purpose of the Village Center (VC) district is to provide for the continued Use, preservation and protection of the older Buildings near the Village Hall and permit Uses that are pedestrian oriented and for the convenience of local residents. Businesses in this district shall be characterized as able to function with a minimum amount of vehicular traffic and disturbance to adjacent residential Uses. Additionally, design review and approval will be conducted to ensure that changes to Buildings, additions, or new Buildings will be compatible with the existing setting created by the Structures in this district. Preservation of the existing Buildings within this district is encouraged.

5.2.2. Use and Bulk Regulation. Within the VC Zoning District, a Building, Structure or Lot shall only be used for Principal or Special Permit Uses with permitted Accessory Uses as indicated in Row 9 of the Use Table. Further, any such Building, Structure or Lot shall only be used in conformance with the provisions of Row 9 of the Bulk Table. Such use shall also comply with all other applicable provisions of this Zoning Law.

5.3. Office Business (OB) District.

5.3.1. District Purpose. The purpose of this commercial district is to allow a variety of business Uses with standards allowing for safe, efficient automobile access from Route 9W. Multitenant buildings for any Use otherwise permitted as a permitted Principal Use or as a Special Permit Use are permitted.

SECTION 5: DISTRICT REGULATIONS

5.3.2. Use and Bulk Regulation. Within the Office Business (OB) Zoning District a Building, Structure or Lot shall only be used for Principal or Special Permit Uses with permitted Accessory Uses as indicated in Row 10 of the Use Table. Further, any such Building, Structure or Lot shall only be used in conformance with the provisions of Row 10 of the Bulk Table. Such use shall also comply with all other applicable provisions of this Zoning Law.

5.3.3. Supplementary Regulations Applicable in the OB District.

5.3.3.1. Buffer Requirements. Whenever a Use in the OB District is located on a Lot that abuts a residential district, there shall be a minimum buffer area of 30 feet in width on the OB-zoned Lot along the common boundary line of the districts. Such buffer area shall be landscaped with evergreen plantings or other landscaping adequate for screening and maintained in harmony with the landscaping or natural growth in the neighborhood. No Buildings, Structures, Parking Areas, Signs, lighting fixtures, or solid waste receptacles, other than Fences or Retaining Walls shall be permitted in the buffer. If a Parking Area abuts a residential use or residentially zoned Lot, the perimeter screening shall effectively conceal vehicles and block headlight glare within Parking Areas from adjoining properties with the selective use of plant materials and/or Fences to provide visual separation screening. The Planning Board may reduce the required buffer provided in this Section 5.3.3.1 to not less than 15 feet in width for good cause shown provided that the Planning Board finds that improvements on the OB-zoned land are adequately screened from the residentially-zoned land.

5.3.3.2. Planting Strip Along 9W. For those areas of a Lot abutting Route 9W, a planting strip of 10 feet in width shall be maintained along the entire length of the Lot's 9W Frontage (excepting areas used for access driveways and areas designated to preserve sight lines from such driveways) with the following minimum requirements: (a) For each 100 lineal feet or major fraction thereof, there shall be 4 deciduous shade trees with a DBH of a least 2 inches each, and at least 2 evergreen trees of at least 4 feet in height when initially planted. Trees should be informally dispersed with informal plantings of shrubs, hedges, ground covers and flowers in a layout and with species as depicted on a landscape plan to be approved by the Planning Board pursuant to Section 10 (Site Plan Review) hereof. The Planning Board shall have the authority to waive the requirements of this Section 5.3.3.2 for good cause shown provided that landscaping is adequate to buffer the view of improvements from Route 9W.

5.4. **OB Residential Overlay District.** Residential developments have previously been built on parcels located along the east side of Route 9W as a special permit use pursuant to Section 15:3(c)(18) of the 1962 Zoning Ordinance of the Village of Upper Nyack as

SECTION 5: DISTRICT REGULATIONS

amended. The purpose of this OB Residential Overlay District is to acknowledge the existence of these uses and to permit the residential use of properties in this overlay district to continue subject to the provisions hereof and the terms, conditions and other requirements set forth in the special use permits allowing such Use.

5.5. Hudson Riverfront Overlay District.

5.5.1. District Purpose. Recognizing that a large part of the Village's sense of identity is its physical and visual connection to the Hudson River, and that this physical and visual connection is most significant in the properties located between North Broadway and the Hudson River, the purpose of this District is to provide supplemental regulations addressing the unique land planning concerns in this district.

5.5.2. Use and Bulk. Within the HR Overlay District, a Building, Structure or Lot shall only be used for Principal or Special Permit Uses with permitted Accessory Uses as permitted in the underlying zoning district as modified by Row 12 of the Use Table. Further, any such Building, Structure or Lot shall only be used in conformance with the provisions of the underlying zoning district as modified by Row 12 of the Bulk Table. Such use shall also comply with all other applicable provisions of this Zoning Law.

SECTION 6: SUPPLEMENTARY REGULATIONS
Parking Areas and Loading Facilities

6. SECTION 6: SUPPLEMENTARY REGULATIONS.

6.1. Parking Areas and Loading Facilities.

6.1.1. General Regulations.

6.1.1.1. The intent and purpose of these regulations is to provide all Buildings, Structures and land Uses within the Village with adequate Parking Areas and loading facilities to meet the needs of people making use of them and to ensure that such facilities are developed and maintained in harmony with the Village character and environment.

6.1.1.2. Parking Spaces and Loading Spaces shall be improved or installed on a Lot in accordance with the requirements of this Section 6.1 to serve all Buildings, Structures and land Uses hereafter established, erected, enlarged, moved, or changed in the type or intensity of Use on such Lot.

6.1.1.3. Required Parking Spaces, Parking Areas and Loading Spaces shall be maintained as long as the Use, Building or Structure which such facilities are designed to serve is in existence.

6.1.2. Parking Requirements Applicable to One-Family Dwellings.

6.1.2.1. Spaces Required: Number; Size, Location. Not less than 2 accessory Parking Spaces measuring at least 200 square feet in area each for the parking of vehicles shall be provided on each Lot on which a One-Family Dwelling is located. The location of all such Parking Spaces shall, at a minimum, comply with the Setback requirements set forth in Column 14 in the Bulk Table except that garage spaces shall be located outside of the Required Yards.

6.1.2.2. Parking of Commercial Vehicles, Recreational Vehicles and Boats on Residential Lots.

6.1.2.2.1. Commercial vehicles. On any Lot improved with a One-Family Dwelling, 1 commercial vehicle owned or used by a Person residing on the Lot may be parked on the Lot provided that such vehicle weighs no more than 8,000 pounds (unladen) and has no more than 4 wheels. No unregistered vehicles, tractor-trailer cabs or bodies, tow trucks, septic haul trucks, moving vans, hydraulic lift vehicles or any excavation or earthmoving equipment or related trailer bodies used to convey such equipment are permitted. Such vehicle may be parked in a garage or in any Parking Space on the Lot. The above shall not prohibit the parking of

SECTION 6: SUPPLEMENTARY REGULATIONS
Parking Areas and Loading Facilities

more than one commercial vehicle on a residential Lot on a temporary basis if the vehicle is in the process of making a delivery to the Lot or if the vehicle is used by a person performing a service on the Lot at the time the vehicle is parked thereon.

6.1.2.2.2. Recreational Vehicles and Boats. Not more than 1 Recreational Vehicle that is not greater than 30 feet in length and 12 feet in height as measured from the Finished Grade to the highest point of the Recreational Vehicle, or boat that is not longer than 26 feet in length nor taller than 12 feet in height as measured from the Finished Grade to the highest point of the boat, owned or used by a person residing on the Lot, may be parked or stored on any Lot improved with a One-Family Dwelling subject to the following:

6.1.2.2.2.1. Such Recreational Vehicle or boat shall not be parked in any required Parking Space on the Lot.

6.1.2.2.2.2. Such Recreational Vehicle or boat shall be parked or stored either within an enclosed Building conforming to all the Required Yards, or in a side or rear yard, setback from the Side or Rear Lot Line as required for Parking Spaces in the zoning district in which the Lot is located (*see* Bulk Table Column 14). The parking or storing of Recreational Vehicles or boats shall be prohibited in the Front Building Setback.

6.1.2.2.2.3. No parked or stored Recreational Vehicle or boat shall be occupied or used for human habitation.

6.1.2.3. Parking For Two-Family Dwellings. Two-Family Dwellings are not a permitted use in the Village, however, Two-Family Dwellings exist as a non-conforming use. The limitations and requirements applicable to the parking of commercial vehicles, Recreational Vehicles, and boats on Lots improved with a One-Family Dwelling shall apply to all Lots on which a Two-Family Dwelling is located.

6.1.3. Parking Requirements Applicable to all Uses other than One-Family and Two-Family Dwellings.

6.1.3.1. General Requirements.

6.1.3.1.1. Parking Spaces and Loading Spaces in at least the minimum number of such spaces required for each Use as set forth in the Parking and Loading Table (Section 4.4.3) shall be provided on each Lot to serve all Buildings,

SECTION 6: SUPPLEMENTARY REGULATIONS
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Structures and land Uses hereafter established, erected, enlarged, moved, or changed in the type or intensity on such Lot.

6.1.3.1.2. No certificate of occupancy or compliance shall be issued for any Building, Structure or land Use until the required Parking and Loading Spaces have been established and striped or a performance bond securing the completion of such improvements in a form and amount acceptable to the Board of Trustees has been posted with the Village.

6.1.3.1.3. Site Plans, and plans accompanying an application for a building permit, shall show the location, size and type of improvement of the Parking or Loading Areas required to comply with this Section 6.1 and the means of access to such areas from the Streets.

6.1.3.2. Location.

6.1.3.2.1. Required Parking Spaces shall be provided on the same Lot as the Building, Structure or Use that they serve and they may be open or enclosed in a Structure or Building.

6.1.3.2.2. All Parking Spaces shall comply with the minimum Setback requirements for the district in which they are located as set forth in Column 14 of the Bulk Table. However, if the Parking Spaces are located in a Building or Structure such Building or Structure shall comply with the Required Yards set forth in Columns 5, 6, and 7 of the Bulk Table.

6.1.3.2.3. The siting or planning of Parking Areas should take advantage of, and minimize disturbance to, natural features such as slope, existing woodland or vegetation, drainage courses and retention areas to the maximum extent practicable.

6.1.3.3. Improvement of Parking Areas.

6.1.3.3.1. Parking Spaces that are not located in an enclosed Building or Structure shall be graded, surfaced, drained and suitably maintained to the extent deemed necessary by the Village Engineer to avoid nuisances of dust, erosion or excessive water flow across public ways or adjacent lands. The maximum slope of a Parking Area shall not exceed 5%.

6.1.3.3.2. Each Parking Space shall be at least 9 feet wide and 18 feet long if unenclosed, or at least 10 feet wide and 20 feet long if bordered by walls or columns on 2 or more sides, and shall be striped.

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Parking Areas and Loading Facilities

- 6.1.3.3.3. Parking Spaces shall have direct access to a Street, driveway or drive aisle and shall not be inhibited by another Parking Space.
- 6.1.3.3.4. The Planning Board may require directional and wayfinding Signs to be posted and maintained in a Parking Area to guide the movement of vehicles through the Parking Area.
- 6.1.3.3.5. Backup and maneuvering aisles between rows of Parking Spaces shall be at least 24 feet wide.
- 6.1.3.3.6. In all Parking Areas containing 15 or more Parking Spaces, adequate provision shall be made for the storage of snow, with a minimal loss of parking capacity. The location of such snow storage areas shall be indicated on the Site Plan and shall be compatible with the storm drainage system.
- 6.1.3.4. Landscaping in Parking Areas.
- 6.1.3.4.1. Perimeter Screening of Parking Areas. A perimeter landscaping buffer shall be required around the outer perimeter of all unenclosed Parking Areas. Such buffer shall be a minimum of 10 feet in width. Within such buffer, 4 deciduous shade trees with a DBH of a least 2 inches each, and at least 2 evergreen trees of at least 4 feet in height when initially planted shall be planted for each 100 lineal feet or major fraction thereof. Trees should be informally dispersed with informal plantings of shrubs, hedge, ground covers and flowers. Plantings shall be arranged in a way such that they do not obstruct sight lines for drivers accessing or driving on adjacent Streets. If a Parking Area abuts a residential use or residentially zoned land, the perimeter screening shall effectively conceal vehicles and block headlight glare within Parking Areas from adjoining property with the selective use of plant, mounding or fence material for visual separation.
- 6.1.3.4.2. Parking Area Landscaping: Any open Parking Areas containing more than 6,000 square feet of area or 15 or more Parking Spaces shall be curbed and landscaped with appropriate trees, shrubs and other plant materials and ground cover, as approved by the Planning Board based upon consideration of the adequacy of the proposed landscaping, to assure the such landscaping provides a reasonable visual screening of the Parking Area from adjacent uses and Streets and provides relief from the visual monotony of large, shade less expanses of Parking Areas. Landscaping in Parking Areas shall be dispersed throughout in the form of peninsulas or islands. The minimum island or peninsula size shall be 180 square feet with a minimum 2-foot distance between all trees or

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shrubs and the edge of pavement where vehicles overhang and shall have a minimum width of 8 feet. Islands shall be located every 10 Parking Spaces.

- 6.1.3.4.3. Prohibited Tree Species: Within any Parking Area, any species of tree or shrub that produces nuts, seeds or fruit that can create a hazard to pedestrians or vehicles shall not be planted in such a manner that the natural dripline of an average adult tree of the species planted will be any closer than 3 feet to a pedestrian walkway or Parking Area.
- 6.1.3.4.4. Planning Board Waiver. The Planning Board may waive or modify the requirements of this Section 6.1.3.4 as appropriate if it finds that the Parking Area will be substantially and adequately screened from view by an intervening Building or Structure or by a buffer or landscaping otherwise required or the proposed configuration of landscaping in or near the Parking Area provides reasonable visual screening of the Parking Area from adjacent Lots and Public Streets.
- 6.1.3.5. Land Banking; Waiver. If the Planning Board finds that compliance with minimum parking requirements set forth in the Parking and Loading Table will not be necessary for the anticipated use of the Lot, the Planning Board may reduce the amount of parking required to be constructed, provided that sufficient usable land is set aside to satisfy the parking requirements in the future should the need for such additional parking arise. If the Code Enforcement Official or Zoning Inspector decides using reasonable judgement that all or a portion of such landbanked Parking Spaces are required to provide adequate on-site Parking Spaces to serve the Use on the Lot then the Code Enforcement Official or Zoning Inspector shall provide the Lot owner with a notice that such Parking Spaces must be improved. Such work must be completed within 60 days of the receipt of the notice unless the Code Enforcement Official or Zoning Inspector permits a longer time due to weather conditions or other factors affecting the Lot. No further review by the Planning Board shall be required if the landbanked Parking Area is constructed in compliance with a Site Plan approval granted by the Planning Board. The Planning Board may require that such land-banked parking area be configured in such a manner as to be accessible to vehicles to provide overflow parking on an as-needed basis.
- 6.1.3.6. Existing Structures and Land Uses: Buildings, Structures and Uses which the property owner can demonstrate by credible evidence were in compliance with all applicable parking regulations and approvals for such Lot and legally existing, or for which building permits have been issued at the time of the adoption of this Zoning Law and any amendments thereto, provided that construction pursuant to such building permit is completed within 1 year of the

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effective date hereof or, as applicable, any such amendment hereof, shall not be subject to the Parking or Loading Space requirements of this Section 6.1, provided that any parking and loading facilities then existing to serve such Buildings, Structures or Uses shall not in the future be reduced, or redesignated to serve other Buildings, Structures or Uses except where they exceed the requirements set forth herein, in which case they shall not be reduced below such requirements. Required Parking Areas and Loading Spaces for the existing portion of such Uses shall, however, be provided at the time of any enlargement of such existing Buildings, Structures or Uses, change of Use or the further development of the Lot upon which they are located.

6.1.3.7. Parking of Commercial Vehicles on Commercial Properties.

6.1.3.7.1. Commercial vehicles used in conjunction with an existing permitted commercial use on a Lot may be parked on such Lot provided that the location for the parking of such vehicles shall be designated on the Site Plan approved by the Planning Board. The parking of commercial vehicles shall be prohibited in the Front Building Setback, but may be located in Required Side or Rear Yards provided that they comply with all Setback requirements applicable to Parking Spaces (Bulk Table, Col. 14).

6.1.3.7.2. Parking of Commercial Vehicles that are not related to the Principal Use on the Lot as an Accessory Use on Lots located in the OB District may be permitted upon the grant of a Special Use Permit and Site Plan approval by the Planning Board provided that: (a) such use complies with the General Standards Applicable to Special Permit Uses (Section 9.5); (b) such vehicles are not parked in any Parking Space that is required in order for the Principal Use(s) on the Lot to comply with the minimum number of required Parking Spaces as set forth in this Zoning Law; (c) the location for the parking of such vehicles shall be designated on the Site Plan approved by the Planning Board; and (d) the parking of such commercial vehicles shall be prohibited in the Building Front Yard, but may be located in Required Side or Rear Yards provided that they comply with all Setbacks applicable to Parking Areas (Bulk Table, Col. 14).

6.1.3.8. Exemptions for Lots in the Village Center (VC) District. The parking and loading requirements of this Zoning Law shall not apply to:

6.1.3.8.1. Uses located in Buildings or Structures located in the VC Zoning District and existing as of the date of the adoption of this Local Law; and

6.1.3.8.2. A change of Use from one permitted or Special Permit Use in the VC District to another permitted or Special Permit Use in the VC District in

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an existing Building or Structure, provided that the change in Use does not involve construction of a new Building or alterations or additions to the existing Building that would increase the Floor Area to an extent greater than 5% of the existing Floor Area of such Building, involve the elimination of existing Parking or Loading Spaces, or change the Use to a Use that is more intense based on the maximum occupancy limitations set forth in the Uniform Code.

6.1.4. Loading Requirements; Service Courts and Storage Areas.

6.1.4.1. A minimum number of Loading Spaces as specified in the Parking and Loading Table shall be provided for each Use.

6.1.4.2. Size, location and access. Each required unenclosed Loading Space shall be at least 12 feet wide by 20 feet long. Each Loading Space enclosed in a Building or Structure shall be at least 12 feet wide, 33 feet long and 14 feet high. Unobstructed access at least 24 feet wide to and from a Street and the Loading Space shall be provided. Such access may be combined with access to a Parking Area. All permitted or required Loading Spaces shall be on the same Lot as the Use to which they are accessory.

6.1.4.3. Setback Requirements. Loading Spaces may be permitted in Required Side or Rear Yards, but shall comply with the Setbacks for Parking Spaces as set forth in Column 14 of the Bulk Table. Loading Spaces shall be prohibited in the Required Front Yard. All Loading Spaces in enclosed Buildings or Structures shall comply with the Required Yards set forth in Columns 5, 6, and 7 of the Bulk Table.

6.1.4.4. Screening of Service Courts, Storage Areas and Loading Spaces. During review of a Site Plan, the Planning Board shall require all areas used for service, loading and unloading activities to be sufficiently screened from view from adjacent Lots and Streets. The following minimum standards shall apply to such screening, however, the Planning Board may waive or modify such standards provided that it finds that the proposed screening provides an adequate visual buffer of such areas: (a) The width of the screening area shall be a minimum of 10 feet and shall consist of walls, hedges, fences, vegetation, or an acceptable combination of these elements to suitably screen such area, provided that any plant material used for screening must be at least 4 feet in height at the time of planting.

6.1.5. Construction trailers. The Code Enforcement Official may issue a permit for the temporary placement and use of a trailer on a Lot for which a building permit has been issued. Such permit shall be for a period of not more than 6 months but may be

SECTION 6: SUPPLEMENTARY REGULATIONS
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renewed at the discretion of the Code Enforcement Official if work on said construction is not completed but is progressing diligently.

SECTION 6: SUPPLEMENTARY REGULATIONS

Signs

6.2. **Signs.** Signs are a permitted Accessory Use in all zoning districts subject to the following:

6.2.1. **Intent and Purpose.** The purpose of this Section is to promote the public health, safety and general welfare of the Village by regulating exterior Signs. To preserve and promote the Village as a desirable community in which to live, visit, work, and do business, a visually attractive and safe environment is significant. The regulation of Signs within the Village is an important mechanism to achieve these ends and it balances the important objectives of serving Sign owners' needs to communicate against the aesthetic and safety interest of the Village which can be compromised by the unchecked proliferation of Signs. These regulations are adopted with the intent, goals, and purpose of:

6.2.1.1. Protecting property values and creating a more attractive economic climate;

6.2.1.2. Protecting and enhancing the physical and natural beauty of the Village by ensuring that Signs are consistent with the character of the Village and the goals of the Comprehensive Plan;

6.2.1.3. Providing a means by which property owners and users can identify goods, services, ideas or other messages or manners of speech, while limiting the proliferation of Signs which results in visual clutter or the promulgation of unattractive Signs which can have negative impacts on community appearance and character;

6.2.1.4. Encouraging and allowing Signs which are appropriate in design, materials, colors, lighting, manner of construction, and size for the zoning district in which it is located;

6.2.1.5. Maintaining and improving motor and electric vehicle, bicycle, and pedestrian safety through the proper location of Signs in a manner designed to minimize obstructions of views of or distraction to motorists, cyclists, and pedestrians;

6.2.1.6. Providing for the compelling government interest of allowing Signs as reasonably necessary to provide warnings and to provide guidance for the safe and effective operation of all elements of traffic on Village, public, and private property to prevent bodily injury, death, or property damage;

6.2.1.7. Reducing hazards which may be created by Signs projecting over sidewalks and Streets;

6.2.1.8. Facilitating the fair and consistent enforcement of these Sign regulations; and

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Signs

- 6.2.1.9. Providing standards for the noncommunicative aspect of Signs which are consistent with local, state, and federal law.
- 6.2.2. Permit Required. Except as otherwise provided in this Section 6.2, no person shall erect, alter or relocate any Sign without first obtaining a permit from the Code Enforcement Official following review and approval of such Sign by the Architectural Review Board.
- 6.2.3. Signs in Residence Districts. In residential districts, no Sign shall be erected or maintained, except the following:
- 6.2.3.1. Signs that do not require a permit as set forth in Section 6.2.7 hereof.
- 6.2.3.2. For Lots other than those used for One or Two Family Dwellings: Subject to the permitting requirements of Section 6.2.2, 1 or more Permanent Signs with a total aggregate Sign Area of not more than 10 square feet.
- 6.2.4. Signs in the VC District. In the VC District, no Signs shall be erected or maintained, except the following:
- 6.2.4.1. Signs that do not require a permit as set forth in Section 6.2.7 hereof.
- 6.2.4.2. Subject to the permitting requirements of Section 6.2.2: (i) 1 or more permanent Commercial Advertising Signs advertising only the business(es) or establishment(s) located on the Lot, provided that the total aggregate Sign Area of such Permanent Signs shall not exceed 10 square feet; and (ii) 1 Blade Sign measuring no greater than 30 inches by 30 inches per business or establishment on the Lot. Signs affixed to the face of a Building (other than Blade Signs) shall be parallel to the face of the Building and shall not project more than 2 inches beyond the Building face. Freestanding Permanent Signs are prohibited.
- 6.2.5. Signs in the MB District. In the MB District, no Signs shall be erected or maintained, except the following:
- 6.2.5.1. Signs that do not require a permit as set forth in Section 6.2.7 hereof.
- 6.2.5.2. Subject to the permitting requirements of Section 6.2.2: (i) 1 or more permanent Commercial Advertising Signs advertising only the business(es) or establishment(s) located on the Lot, provided that the total aggregate Sign Area of such Permanent Signs shall not exceed 12 square feet; and (ii) 1 Blade Sign measuring no greater than 30 inches by 30 inches per business or establishment on the Lot. Signs affixed to the face of a Building, Structure or piece of Heavy Equipment (other than Blade Signs) shall be parallel to the face of such

SECTION 6: SUPPLEMENTARY REGULATIONS

Signs

Building, Structure or piece of Heavy Equipment and shall not project more than 2 inches beyond such face. Freestanding Permanent Signs are prohibited.

6.2.6. Signs in the OB District. In the OB District, no Signs shall be erected or maintained, except the following:

6.2.6.1. Signs that do not require a permit as set forth in Section 6.2.7 hereof.

6.2.6.2. Subject to the permitting requirements of Section 6.2.2: (i) 1 or more permanent Commercial Advertising Signs advertising only the business(es) or establishment(s) located on the Lot, provided that the total aggregate Sign Area of such Permanent Signs shall not exceed 24 square feet; (ii) 1 Blade Sign measuring no greater than 30 inches by 30 inches per business or establishment on the Lot; and (iii) where the principal Building on the Lot is set back more than 35 feet from the Front Lot Line, 1 freestanding Sign is permitted provided that such Sign: (a) is setback at minimum of 10 feet from any Lot Line, (b) has a Sign Area of 15 square feet or less, and (c) no portion of such Sign or its supporting structure is located more than 5 feet above the Finished Grade. Signs affixed to the face of a Building shall be parallel to the face of the Building and shall not project more than 2 inches beyond the Building.

6.2.7. Permitted Signs that are Exempt from the Requirement to Obtain a Sign Permit.

6.2.7.1. Signs displayed on any Lot used as a One- or Two-Family Dwelling¹ subject to the limitations set forth in subsection 6.2.7.3 of this Section 6.2.7.

6.2.7.2. For Lots other than those used as a One- or Two-Family Dwelling, not more than 3 Temporary Signs displayed on the Lot at any one time. Temporary Signs shall be no larger than 3 square feet in Sign Area.

6.2.7.3. Flags displayed on the Lot at any one time, provided that the total aggregate area of all flags displayed on the Lot simultaneously have an area no greater than 30 square feet.

6.2.7.4. “No Trespassing” Signs, security or alarm company Signs or other similar Signs not exceeding 1 square foot in Sign Area each.

6.2.7.5. Signs that are required to be posted by law, including, but not limited to, Signs providing notice of public hearings pursuant to this Zoning Law.

6.2.7.6. Directional Signs providing information on the flow of traffic, parking, loading, fire zones, entrance and exit driveways and other similar Signs

¹ Two-Family Dwellings are not a permitted use in the Village, however some Two-Family Dwellings exist as a Nonconforming Use.

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Signs

provided that such Signs (other than pavement markings) are not larger than 6 square feet.

6.2.7.7. Signs identifying the street number of any Building or lot that are no greater than 2 square feet in area.

6.2.7.8. Non-illuminated window or door Signs that do not exceed the thresholds set forth in Section 6.2.8.7.

6.2.7.9. Signs posted by the Village on Village property.

6.2.8. Prohibited Signs. The following Signs, devices and installations are prohibited in the Village:

6.2.8.1. Flashing, moving, animated, or fluttering Signs and Signs that emit smoke, visible vapors or particles, sound or odor.

6.2.8.2. Signs affixed to the exterior of a window or glass.

6.2.8.3. Signs of such design and location that they interfere with, compete for attention with or may be mistaken for a traffic signal or traffic directional Sign.

6.2.8.4. Billboards.

6.2.8.5. Signs that are displayed in such a manner as to be hazardous to traffic or that are erected, constructed, or maintained in a manner that obstructs traffic movement, visibility, traffic directional signals or Signs, or causes any hazard to vehicle or pedestrian safety.

6.2.8.6. Signs attached to or incorporated onto a utility pole.

6.2.8.7. Window or door Signs affixed to the interior of the window or door that exceed 15% of the glass area of the window or door.

6.2.8.8. Signs that include highly reflective glass or fluorescent paint.

6.2.8.9. Any Sign erected, constructed, or maintained above the roof of a Building.

6.2.8.10. Electronic reader boards or LED Signs comprised of a flat screen display that uses an array of light-emitting diodes (LEDs) as pixels to display a message where the message or display changes more frequently than 1 time in any 60-minute period.

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- 6.2.8.11. Signs that are prohibited pursuant to New York State or Federal Law or that contain speech that is not protected by the First Amendment to the United States Constitution or Section 8 of the New York State Constitution.
- 6.2.9. Non-Conforming Signs: A Sign not complying with the provisions of this Section 6.2, but in place legally on or before the effective date of this Zoning Law or any amendment thereto, may be continued, provided, however that it shall not be replaced by another non-conforming Sign, nor shall any change in design, colors or materials be permitted unless the Sign is brought into compliance with the provisions of this Section 6.2. A nonconforming Sign may not be structurally altered to prolong the life of the Sign, nor may it be reestablished after damage or destruction if the Code Enforcement Official determines that the estimated cost of reconstruction exceeds 50% of the estimated replacement cost.
- 6.2.10. Substitution Clause. Notwithstanding anything contained in this Zoning Law to the contrary, any Sign erected pursuant to the provisions hereof may, at the option of the owner, contain a noncommercial message in lieu of a commercial message and the noncommercial copy may be substituted in whole or in part at any time in place of commercial copy. The Sign copy may be changed from a commercial message to a noncommercial message or from one noncommercial message to another noncommercial message; provided, however that there is no change in the size, height, setback, lighting, alignment, or manner in which the Sign is affixed to the Structure of the Sign without a permit, if required, as provided for herein.

SECTION 6: SUPPLEMENTARY REGULATIONS
Walls and Fences; Flag Lots

6.3. **Walls and Fences.** Except as otherwise provided herein, Fences and walls, including Retaining Walls and Deer Fences are permitted in Required Yards, provided that such Fences and walls are not located in such a manner as to obstruct traffic movement or visibility from any Street and further provided that they comply with the following height limitations regardless of where they are located on a Lot:

6.3.1. Fences, other than Deer Fences and walls, other than Retaining Walls, may be a maximum of 6 feet in height as measured from the approved Finished Grade immediately adjacent to such Fence or wall (or if there is no approved Finished Grade to the Finished Grade existing prior to the installation of the subject Fence or Wall) to the highest point of such Fence or wall;

6.3.2. Retaining Walls may be a maximum of 6 feet in height as measured vertically at any point along the wall from the lowest point of the exposed face of the wall to the highest point of such Retaining Wall. Retaining Walls shall be setback from any Lot Line to the extent necessary to allow adequate space for access to the Retaining Wall for maintenance purposes and adequate screening on the Lot on which the Retaining Wall is located.

6.3.3. A Deer Fence may be a maximum of 8 feet in height as measured in the same manner as for other Fences, unless such Fence is located within any Required Front Yard, in which case it may be a maximum of 6 feet in height.

6.4. **Flag Lots.** The creation of any new Flag Lot is prohibited.

SECTION 6: SUPPLEMENTARY REGULATIONS
Shed Not Subject to Site Plan Review; Lighting

6.5. **Sheds Not Subject to Site Plan Review.** A Shed accessory to a One Family Dwelling may be constructed upon issuance of a building permit without the need for Site Plan review from the Planning Board if it complies with the following:

6.5.1. Only 1 free standing Shed accessory to the Principal Building shall be permitted on a Lot.

6.5.2. No utility services to the Shed are provided, including but not limited to, water, electricity, telecommunication lines or other similar utilities.

6.5.3. The area of the Shed shall not exceed 120 square feet, provided that no single dimension of the Shed is greater than 12 feet.

6.5.4. The height of the Shed shall not exceed a Building Height of 12 feet.

6.5.5. The roof of the Shed shall be sloped with a minimum pitch of 4 on 12.

6.5.6. The Shed shall not be constructed within the Required Front Yard and must be Setback from Side and Rear Lot Lines a minimum of 5 feet.

6.5.7. The building permit application shall include a survey marked to indicate the location of the proposed Shed and such other forms and information as the Code Enforcement Official shall reasonably require.

6.6. **Lighting.**

6.6.1. No outdoor lighting shall produce illumination beyond the boundaries of the Lot on which it is located, and light sources shall be shielded from adjacent properties.

SECTION 6: SUPPLEMENTARY REGULATIONS
Steep Slopes

6.7. Steep Slopes.

6.7.1. Limitations on Disturbance to Steep Slopes.

6.7.1.1. Slopes of 15% - 24%. No more than a total of 35% of the total aggregate area of all slopes of 15% to 24% on any Lot shall be physically altered or disturbed.

6.7.1.2. Slopes of 25% - 39%. No more than a total of 20% of the total aggregate area of all slopes of 25% to 39% on any Lot shall be physically altered or disturbed.

6.7.1.3. Slopes of 40% and Greater. No construction, physical alteration, demolition, clearing, tree removal, grading or disturbance of any kind shall be permitted on any slope of 40% or greater.

6.7.2. Site Plan Approval Required. Site Plan Approval from the Planning Board shall be required prior to disturbing any area of Steep Slopes in excess of 1% of the total Net Lot Area of the Lot on which the Steep Slopes are located.

SECTION 6: SUPPLEMENTARY REGULATIONS
In-Ground Swimming Pools and Sports Courts

6.8. In-Ground Swimming Pools.

- 6.8.1. All In-Ground Swimming Pools must have the required enclosure as specified in the Uniform Code, and such enclosures shall be maintained in a safe and operable condition as long as the pool exists.
- 6.8.2. All In-Ground Swimming Pools shall be maintained in a manner sufficient to meet all applicable bacterial standards established by the provisions of the New York State Sanitary Code or other applicable public health and safety codes.
- 6.8.3. An In-Ground Swimming Pool and pool equipment shall not be located in the Front Building Setback, and shall be Setback from all Side or Rear Lot Lines a minimum of 30 feet.
- 6.8.4. In-Ground Swimming Pools and all accessory equipment and Structures shall be adequately screened from view from surrounding properties using fencing, landscaping or a combination thereof.
- 6.8.5. Installation of or an alteration which increases the size or changes the location of an In-Ground Swimming Pool requires Site Plan approval from the Planning Board.

6.9. Tennis Courts and Other Sports Courts.

- 6.9.1. Tennis courts or other sports courts shall not be located in the Front Building Setback, and shall be Setback from all Side and Rear Lot Lines a minimum of 30 feet. A basketball hoop erected adjacent to a driveway shall not constitute a sports court subject to review and limitations in this Section 6.9.
- 6.9.2. Tennis courts and sports courts shall be adequately screened from view from surrounding properties using fencing, landscaping or a combination thereof.
- 6.9.3. Installation or alteration which increases the size or changes the location of a tennis court or sports court requires Site Plan approval from the Planning Board.

SECTION 7: NONCONFORMING USES AND STRUCTURES

7. SECTION 7: NONCONFORMING USES AND STRUCTURES.

- 7.1. **Nonconforming Uses.** The Use of any Building, Structure or land that the property owner can demonstrate by credible evidence qualifies as a Nonconforming Use as defined in Section 2.1.78 of this Zoning Law may be continued provided, however, that no such Nonconforming Use shall be enlarged or intensified, nor shall it be extended to occupy a greater area of the Lot or any Buildings or Structures located thereon at the time such use became nonconforming, nor shall any such Nonconforming Use be moved in whole or in part to any other portion of the Lot, Building or Structure it occupies.
- 7.2. **Nonconforming Buildings and Structures.** A Building or Structure that the property owner can demonstrate by credible evidence qualifies as a Nonconforming Building or Structure as defined in Section 2.1.76 of this Zoning Law may continue subject to the terms and conditions of this Section 7. No permit shall be issued that will result in the increase of any such dimensional nonconformity, but any Building or Structure or portion thereof may be Altered to decrease its dimensional nonconformity, or may be Altered in a manner that is otherwise permitted by law that does not affect such dimensional non-conformity.
- 7.3. **Nonconforming Lots.** A Lot that the property owner can demonstrate by credible evidence qualifies as a Nonconforming Lot as defined in Section 2.1.77 of this Zoning Law may be improved with a Building or Structure provided that such Building or Structure complies with all other Bulk requirements of this Zoning Law and all requirements of the Uniform Code.
- 7.4. **Nonconforming Use Certificate.**
- 7.4.1. Applications for a Certificate of Nonconforming Use. A Lot owner may apply to the Zoning Inspector for a certificate of Nonconforming Use which, if granted, shall be conclusive proof of the nonconforming status of a Use on a Lot on the date that it is issued. Applications for Nonconforming Use certificates may be made to the Zoning Inspector on forms promulgated by the Zoning Inspector and shall include, at a minimum: (i) proof required to demonstrate that the Use qualifies as a Nonconforming Use; (ii) a Site Plan, signed and sealed by an appropriate professional showing all Buildings and Structures located on the Lot, along with the extent and location of all aspects of the Nonconforming Use on the Lot and a note describing in detail the nature and extent of the Nonconforming Use; (iii) a fee in the amount set forth in a fee schedule adopted by the Board of Trustees; and (iv) any additional information that the Zoning Inspector determines is reasonably necessary to make a decision regarding whether the use qualifies as a Nonconforming Use.
- 7.4.2. Upon receipt of a complete application, if the Zoning Inspector determines that the proof submitted in support of the application provides sufficient evidence to

SECTION 7: NONCONFORMING USES AND STRUCTURES

establish that the Use qualifies as a Nonconforming Use, the Zoning Inspector shall grant the Nonconforming Use certificate, subject to the following conditions:

- 7.4.2.1. The Use shall be limited to the Use described on the plans submitted in support of such application and the physical location of such Use shall be limited to that shown on the plan.
 - 7.4.2.2. The Nonconforming Use certificate shall provide that the Use shall remain subject to the provisions of this Section 7, including, but not limited to Section 7.6 (Discontinuance) and Section 7.7 (Reconstruction).
 - 7.4.3. Any person aggrieved by the decision of the Zoning Inspector on an application for a Nonconforming Use certificate may appeal such decision to the ZBA in the manner provided for appeals in Section 12 of this Zoning Law.
- 7.5. **Change of Use.** No Nonconforming Use may be changed to another Nonconforming Use.
- 7.6. **Discontinuance.** Whenever a Nonconforming Use has been substantially discontinued for a period of 6 consecutive months, such Use shall not thereafter be reestablished, and any future Use shall be in conformity with the provisions of this Zoning Law. It shall be the Lot owner's burden to demonstrate by credible evidence that the Use was not substantially discontinued for 6 consecutive months.
- 7.7. **Reconstruction.**
- 7.7.1. If a Building or Structure in which a Nonconforming Use is located is destroyed or damaged to an extent that is over 50% of the volume of such Building or Structure above the foundation as determined by the Code Enforcement Official, it shall not thereafter be used except in conformity with the provisions of this Zoning Law.
 - 7.7.2. If a Building or Structure in which a Nonconforming Use is located is destroyed or damaged by any means other than demolition, to an extent that is 50% of the volume of such Building or Structure above the foundation or less as determined by the Code Enforcement Official, the Building or Structure may be reconstructed and the Nonconforming Use may be continued, provided that the reconstruction is commenced within 1 year of the date of such damage and substantially completed within 2 years of said date. For good cause shown, the Code Enforcement Official may extend the time within which a building permit or certificate of occupancy must be obtained pursuant to this Section 7.7.2 by 1 year.
 - 7.7.3. If a Nonconforming Building or Structure is destroyed, demolished or damaged in full or in part, it may be reconstructed in the same footprint and built to the same dimensions in terms of Building Height, Setbacks, FAR, and other Bulk dimensions

SECTION 7: NONCONFORMING USES AND STRUCTURES

provided that a building permit for such reconstruction is obtained within 1 year of the date of the demolition, destruction or damage and a certificate of occupancy is obtained within 2 years of the issuance of the building permit. For good cause shown, the Code Enforcement Official may extend the time within which a building permit or certificate of occupancy must be obtained pursuant to this Section 7.7.3 by 1 year. Note: Site Plan Approval required, *see* Section 10.1.1.2.6.

- 7.8. **District Changes.** Whenever this Zoning Law is amended and such amendment changes the Use or Bulk requirements applicable to a Lot in a manner that renders the Use, Buildings, Structures or Lot nonconforming the provisions of this Section 7 shall also apply.
- 7.9. **Special Permit Uses.** If a Lot owner can demonstrate that a Special Use Permit was granted permitting the current Use of such owner's Lot by Special Use Permit prior to June 11, 2008, such Special Use Permit shall not need to be renewed under Section 9.4.2 of this Zoning Law, provided that such Use is operated in strict compliance with the terms and conditions of such Special Use Permit. Modification or amendment to such Special Use Permit use shall be subject to the procedures and requirements set forth in Section 9 hereof.
- 7.10. **Building Permits Approved Prior to Adoption of or Amendment to Zoning Law and Amendments.** Nothing herein contained shall require any change in plans, construction or designated Use of a Building for which a Building Permit has been heretofore issued and the construction of which shall have been diligently prosecuted provided that a Certificate of Occupancy for such Use shall be issued within 1 year from the effective date of this Zoning Law, or, in the case of an amendment to the Zoning Law that renders any aspect of the Use, Building, Structure or Lot nonconforming, such amendment. For good cause shown the Code Enforcement Official may extend the time within which a certificate of occupancy must be obtained pursuant to this Section 7.10 by 1 year.

8. SECTION 8: CLUSTER DEVELOPMENT.

8.1. **Purpose and Intent.** The Board of Trustees hereby finds that a substantial portion of the remaining vacant land in the Village includes or is likely to include sensitive environmental features, including, but not limited to, Steep Slopes, waterbodies, significant viewsheds and Wetlands. The Board of Trustees further finds that it is beneficial to the Village and its residents, wherever practicable, to promote the conservation of remaining open space, preserve environmentally sensitive areas in their natural state and preserve the existing aesthetic qualities of the Village. In light of the foregoing, the purpose of this Section 8 is to enable and encourage flexibility and diversity of design and development of land to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, to preserve the natural and scenic qualities of open lands and environmentally significant features in the Village and to reserve suitable lands for park and recreation purposes.

8.2. **Authorization to Approve Cluster Developments.** The Board of Trustees, upon application of the owner of a Lot or Lots to be subdivided, or upon the application of the Planning Board, may authorize the Planning Board simultaneously with the approval of a residential subdivision plat pursuant to the Subdivision Law, to modify applicable provisions of the Zoning Law, subject to the requirements and limitations set forth in this Section 8, the Subdivision Law, Village Law § 7-738, and the following:

8.2.1. This authorization shall be applicable only in the R-40, R-80 and R-160 Residential Zoning Districts.

8.2.2. Except as specified in this Section 8, all use regulations, development standards and controls of this Zoning Law and the Subdivision Law that are otherwise applicable in the district in which the property is located shall also be applicable within any Cluster Development.

8.2.3. The number of building lots or Dwelling Units permitted within a Cluster Development shall in no case exceed the number which could have been permitted, in the judgment of the Planning Board, if the land were subdivided into Lots which conform with all applicable requirements of this Zoning Law, the Subdivision Law, and all applicable local, county and state building and sanitary codes. If the plat falls within 2 or more contiguous districts, the Planning Board may approve a Cluster Development representing the cumulative density as derived from the sum of all units allowed in all such districts, and may authorize actual construction to take place in all or any portion of one or more of such districts. The basis for these density determinations by the Planning Board shall be a conventional preliminary subdivision plat for the subject property, plus such other information as may be required by the Planning Board. The type of residential Dwelling Units permitted

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SECTION 8: CLUSTER DEVELOPMENTS

within a Cluster Development shall be at the discretion of the Planning Board and may be in detached and/or attached buildings.

- 8.2.4. The plat showing such Cluster Development may include areas within which Structures may be located, the height and spacing of Buildings, open spaces and their landscaping, and enclosed Parking Spaces, Streets, driveways and any other features required by the Planning Board.
- 8.2.5. Subject to the limitations and conditions of this Section 8, the Subdivision Law and Village Law § 7-738, the Planning Board shall establish, on a case-by-case basis, the appropriate modifications of Lots, Bulk and parking requirements of this Zoning Law which said Board has determined are necessary or appropriate to properly accomplish the purposes and intent of this Section 8, consistent with the protection of private property values and the preservation of the character of land and Buildings on adjacent properties.
- 8.2.6. Cluster Developments shall result in the preservation of open space areas having meaningful scenic, ecological, environmental and/or recreational characteristics, with such access, shape, size and location as determined appropriate by the Planning Board to satisfy the intended purpose. The permanent preservation of such open space areas shall be legally assured to the satisfaction of the Planning Board and the Village Attorney by filing of appropriate covenants, deed restrictions, easements or other agreements in the office of the Rockland County Clerk.
- 8.2.7. Except where otherwise approved by the Planning Board, conserved land areas shall be preserved in their natural state and the Use of such areas shall be limited to appropriate conservation, open space and recreation purposes as determined by the Planning Board.
- 8.3. Board of Trustees authorization granted pursuant to this Section 8 permits, but does not require, the Planning Board to consider or approve Cluster Developments. The Planning Board shall retain all such discretion to review and approve, approve with modifications or disapprove Cluster Developments in the same manner and to the same extent as it may approve, approve with conditions or disapprove subdivision applications in general pursuant to the Subdivision Law.

SECTION 9: SPECIAL USE PERMITS

9. SECTION 9: SPECIAL USE PERMITS.

9.1. **General.** Uses requiring a Special Use Permit are specified in the Use Table, Column 3. Special Permit Uses are deemed to be permitted Uses in their respective districts, subject to the applicant's satisfaction of the requirements and standards set forth in this Section 9, in addition to all other requirements of the Zoning Law.

9.2. **Approval required.** Where Special Use Permit approval is required, no building permit or certificate of occupancy or certificate of compliance shall be issued by the Code Enforcement Official until such Special Use Permit has been approved by the Planning Board or such other board as may be specified in this Zoning Law. In addition, no Lot may be occupied or used, and no certificate of occupancy or certificate of compliance may be issued in connection with a Use allowed by Special Use Permit until all the requirements of this Section 9, and any conditions of Special Use Permit approval, have been complied with. All uses allowed by Special Use Permit are subject to the requirements for Site Plan review (*see* Section 10), which shall be conducted concurrently with the review of the Special Use Permit application.

9.3. Application Review Procedure.

9.3.1. **Approval Authority.** Unless a different approval authority is specified in this Zoning Law, the Planning Board is hereby empowered to review and approve, approve with modifications and/or conditions, or disapprove Special Use Permit applications as provided in this Section 9.

9.3.2. **Application.** All applications for Special Use Permit approval shall be submitted to the Zoning Inspector and shall include a written narrative explaining how the application meets the applicable criteria set forth in this Section 9 and shall be made on forms and in such quantity as may be prescribed by the Zoning Inspector. No application for an Unlisted or Type I Action under SEQRA shall be deemed complete until a negative declaration has been issued, or until a draft environmental impact statement has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy.

9.3.3. **Fee.** An application for a Special Use Permit shall be accompanied by an application fee as set by resolution of the Board of Trustees. All application fees are in addition to any required professional review escrow fees and environmental review fees pursuant to Section 13.2 of this Zoning Law.

9.3.4. Referrals.

9.3.4.1. The Planning Board shall refer copies of any Special Use Permit application that it receives to the Board of Trustees and Village Engineer, and to such other governmental agencies or officials as it deems appropriate. Such

SECTION 9: SPECIAL USE PERMITS

governmental agencies or officials shall report their findings to the Planning Board in writing within 30 days of the date the referral is transmitted to such agency. If such agencies fail to report their findings to the Planning Board within such 30-day period the Planning Board may conclude that such agencies do not have any comment on the application.

- 9.3.4.2. The Planning Board shall make all other referrals required by law.
- 9.3.5. Public Hearing. The Planning Board shall hold a public hearing on all Special Use Permit applications within 62 days of the date that such application is deemed complete by the Planning Board unless this time limit is waived or extended by the applicant.
- 9.3.6. Notice of Public Hearing. In addition to any other notice required by law, notice of a public hearing on a Special Use Permit application shall be given as required by Section 11.5 of this Zoning Law.
- 9.3.7. Planning Board Decision. The Planning Board shall approve, approve with modifications, or disapprove the Special Use Permit within 62 days of the close of the public hearing on the application, unless this time limit is waived or extended by the applicant. The Planning Board shall attach such additional conditions and safeguards to any Special Use Permit approval as are, in its opinion, necessary to insure initial and continual conformance to all applicable standards and requirements.
- 9.3.8. Voting requirements. Except where a greater vote is otherwise required by law, every motion or resolution of the Planning Board on a Special Use Permit application shall require for its adoption the affirmative vote of a majority of all the members of the Planning Board as fully constituted regardless of vacancies or absences. If an affirmative vote of a majority of all members of the Board is not attained on a motion or resolution the application is deemed denied.
- 9.3.9. Conditions. The Planning Board may impose such conditions and restrictions as are directly related to and incidental to the proposed Special Use Permit, including, but not limited to, conditions that would avoid or minimize traffic hazards and the impairment of the use, enjoyment, or value of property in the surrounding area, including limiting or regulating hours of operation.
- 9.3.10. Existing Violation. No Special Use Permit application shall be considered for a Use on a Lot where the Zoning Inspector has found a violation of this Zoning Law or the Code Enforcement Official has found a violation of any other applicable building or land use law or ordinance, and where such violation has not been corrected unless approval of such application is required to remedy such violation.

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SECTION 9: SPECIAL USE PERMITS

All penalties and fees associated with such violation shall be paid in full prior to consideration of the Special Use Permit application.

9.4. Expiration; Renewal; Amendment.

9.4.1. Expiration. A Special Use Permit shall be deemed to authorize only the particular use or uses specified in the permit and shall expire:

9.4.1.1. If a building permit has not been issued within 2 years of the date the resolution granting the Special Use Permit is filed in the Village Clerk's office or if all improvements permitted or required by the Special Use Permit are not completed and a certificate of occupancy or certificate of compliance has not been issued within 2 years of the date the Building Permit is issued; or

9.4.1.2. If the Use has substantially ceased for a period of 6 consecutive months; or

9.4.1.3. If a court of competent jurisdiction finds that the Lot for which the Special Use Permit was granted has been changed or altered in a manner that is not permitted by the Special Use Permit or any conditions or standards that have been made a part of the Special Use Permit have been violated; or

9.4.1.4. As provided in Section 9.4.2.1.

9.4.2. Renewal Provision.

9.4.2.1. Durational Limitations of Special Use Permits; Renewal Required.

9.4.2.1.1. All Special Use Permits granted following the effective date of this Zoning Law, including new Special Use Permits, Special Use Permit amendments (Section 9.4.3) and Special Use Permit renewals (Section 9.4.2.2), shall expire 5 years from the date that the resolution granting such Special Use Permit, or amendment to or renewal of a Special Use Permit as appropriate, is filed in the Village Clerk's office. Such Special Use Permit may be renewed if prior to such expiration, the applicant applies to the Planning Board for a Special Use Permit renewal in the manner set forth in Section 9.4.2.2 hereof.

9.4.2.1.2. Special Use Permits granted between June 11, 2008 and June 27, 2017 shall expire on a date that is the later of: (a) 5 years from the date that such Special Use Permit was granted or last renewed, or (b) May 30, 2022. Such Special Use Permit may be renewed if, prior to such expiration, the applicant applies to the Planning Board for a renewal of such Special Use Permit in the manner set forth in Section 9.4.2.2 hereof.

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9.4.2.1.3. Special Use Permits granted on or after June 28, 2017 but prior to the effective date of this Zoning Law shall expire on a date that is the later of: (a) 3 years from the date that such Special Use Permit was granted or last renewed, or (b) May 30, 2022. Such Special Use Permit may be renewed if prior to such expiration, the applicant applies to the Planning Board for a renewal of such Special Use Permit in the manner set forth in Section 9.4.2.2 hereof.

9.4.2.1.4. Special Use Permits granted prior to June 11, 2008- *see* Section 7.9.

9.4.2.2. Renewal Applications.

9.4.2.2.1. Renewal applications made pursuant to Section 9.4.2.1 shall include the same materials and follow the same procedures as applications for new Special Use Permits which are set forth in Section 9.3.

9.4.2.2.2. An application for renewal made pursuant to Section 9.4.2.1 may only be denied if the Planning Board by a vote of a majority plus 1 of its full membership makes a finding that the applicant is operating the Use in a manner that renders the use out of compliance with the Special Use Permit criteria set forth in Sections 9.5 or, as applicable, 9.6, any provision of this Zoning Law or any condition of the Special Use Permit being renewed.

9.4.2.2.3. In approving the renewal of any Special Use Permit the Planning Board may impose any additional conditions that are designed to mitigate the impacts of such Use by a vote of a majority plus 1 of its full membership.

9.4.2.2.4. Renewal applications shall not propose any amendments to the subject Special Use Permit (*see* Section 9.4.3); however, an applicant may apply for amended Special Use Permit approval in lieu of any Special Use Permit renewal and, in such circumstance, such application may be decided by a simple majority vote of the Planning Board.

9.4.3. Amendment. Applications for an amendment of a Special Use Permit previously granted by the Planning Board shall be required if the applicant seeks to: (1) modify any condition of an existing Special Use Permit; (2) add an Accessory Use to the Lot on which the Special Use Permit Use operates; or (3) make any change to the Lot that would require Site Plan approval from the Planning Board. Amendment applications shall follow the same procedures, rules and regulations as those that apply to applications for new Special Use Permits as set forth in Section 9.3.

9.5. **General Standards Applicable to All Special Use Permit Applications.** Prior to granting a Special Use Permit, the Planning Board shall make findings that the proposed

SECTION 9: SPECIAL USE PERMITS

use complies with the standards set forth in this Section 9.5 and with any Use specific standards as set forth in Section 9.6, as applicable.

- 9.5.1. The location and size of the Special Permit Use, the nature and intensity of the operations, the size of the Lot and the location of the Lot with respect to Streets giving access to it are such that the Use will be in harmony with appropriate and orderly development of the area in which it is located.
 - 9.5.2. The location, nature and height of Structures, Buildings, walls and Fences and the nature and extent of existing or proposed plantings on the Lot are such that the Special Permit Use will not hinder or discourage the appropriate development and Use of adjacent Lots, Streets or Buildings.
 - 9.5.3. Operations in connection with any Special Permit Use shall not be more objectionable to nearby properties by reason of noise, traffic, airborne particulate matter; odors; fumes, vibration or other characteristics than would be the operations of permitted uses not requiring a Special Use Permit. The Planning Board may, as a condition of the grant of any Special Use Permit for a commercial, industrial or marine related use, require the applicant to monitor the subject Use for its continued compliance with this requirement and to make reasonable modifications to such Use if the monitoring reports demonstrate that the Use causes impacts related to noise, traffic, airborne particulate matter, odors, fumes, vibrations or other similar characteristics that are more objectionable to nearby properties than the impacts reasonably expected to be caused by Principal Uses.
 - 9.5.4. Parking Areas and Loading Spaces will be of adequate size for the proposed Use, properly located and suitably screened from adjoining residential Uses, and the entrance and exit drives shall be laid out to achieve convenience and safety for vehicles and pedestrians.
 - 9.5.5. Lighting for all Special Permit Uses shall comply with the requirements of Section 6.6 of this Zoning Law.
- 9.6. **Standards Applicable to Specific Special Use Permit Applications.** A Special Permit Use shall conform to the following individual standards and regulations, where applicable, in addition to all other regulations for the zoning district in which the Special Permit Use is located. In all cases, whichever regulations are more restrictive shall apply unless a provision of this Zoning Law provides otherwise.
- 9.6.1. Conversion of Existing One-Family Dwellings to Multiple Dwellings.
 - 9.6.1.1. Minimum Net Lot Area: Three times the minimum Net Lot Area in the district in which the Lot is located.

SECTION 9: SPECIAL USE PERMITS

9.6.1.2. Maximum Number of Dwelling Units: The maximum number of Dwelling Units allowed in a Building converted into a Multiple Dwelling shall be equal to the number of zoning-compliant Lots that could be created were the subject Lot subdivided. The number of Lots which a theoretical subdivision could yield is to be demonstrated by submission of a conventional subdivision plat that complies with the requirements of this Zoning Law in the reasonable judgment of the Planning Board.

9.6.1.3. The Planning Board may permit an expansion of or addition to, an existing Building where a conversion is proposed if the proposed expansion maintains the distinct character and architectural value of the existing Building and such expansion is no greater than 10% of the footprint of the existing Building.

9.6.2. Day Care Centers.

9.6.2.1. Such Use shall comply with all licensing, site area and dimensional requirements for such centers established by the New York State Department of Social Services, and any other governmental agency with jurisdiction over such Use.

9.6.2.2. The application shall include a description of the proposed method and procedures for drop-off and pick-up at the center, the flow and circulation of vehicles and pedestrians through the Lot, and emergency access. The drop-off and pick-up location shall be clearly posted with appropriate Signs or pavement markings. Fire lanes shall not be used for drop-off/ pick-up areas.

9.6.2.3. In addition to the requirements for Site Plan submission, a floor plan of any existing or proposed Building or Structure shall be submitted together with the maximum occupancy permitted by the Uniform Code for each Building, Structure or facility.

9.6.3. Estates.

9.6.3.1. Notwithstanding the provisions of Section 4.1, multiple residential structures may be constructed on oversized lots subject to the following:

9.6.3.2. One principal One Family Dwelling (for the purposes of this Section 9.6.3 the “Main Residence”) and up to 3 additional One Family Dwellings on the Lot (for the purposes of this Section 9.6.3 the “Accessory Residences”), provided that no Accessory Residences shall be greater than 1,250 square feet in area and each such Accessory Residence shall be located so that the site upon which it is situated could, in the opinion of the Planning Board, be subdivided in the future from the remainder of the Lot in such a way as to create a separate Lot that complies with the requirements of this Zoning Law for each Dwelling

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Unit. The number of Lots which a theoretical subdivision could yield is to be demonstrated by submission of a conventional subdivision plat that complies with the requirements of this Zoning Law in the reasonable judgment of the Planning Board.

- 9.6.3.3. Where such Structures are constructed on the theoretical lots developed in accordance with this Section 9.6.3, the approved Site Plan shall contain a condition that the Dwellings constructed under this provision are not to be separately sold or otherwise transferred until a formal subdivision is approved by the Planning Board and filed with the Rockland County Clerk's Office. The Planning Board may, as a condition of approval, require the applicant to file a covenant in a form and substance acceptable to the Village Attorney prohibiting the separate sale or conveyance of such dwellings in the office of the Rockland County Clerk.
- 9.6.3.4. The Accessory Residences shall be accessory to the Main Residence and shall not be utilized for purposes of rental income.
- 9.6.4. Home Occupations.
- 9.6.4.1. The Home Occupation shall be accessory to the residential use of the Lot and may be located in either the Principal Building or in an Accessory Building, provided, however, that the amount of Floor Area occupied by the Home Occupation shall be no more than 25% of the Floor Area of the Principal Building on the Lot regardless of whether the Home Occupation is located in the Principal Building or in an Accessory Building.
- 9.6.4.2. One non-illuminated Commercial Advertising Sign not exceeding 2.5 square feet in Sign Area shall be permitted for the Home Occupation.
- 9.6.4.3. The Home Occupation shall occur within a fully-enclosed Building and exterior storage of materials for such occupation shall be prohibited;
- 9.6.4.4. There shall be no exterior indication of the Home Occupation or variation from the residential character of the Principal Building other than the Sign permitted pursuant to Section 9.6.4.2;
- 9.6.4.5. The Home Occupation shall not cause noise, vibration, smoke, dust, odors, heat or glare beyond the Lot Lines of the Lot on which it is located.
- 9.6.4.6. There shall be no pick-ups or deliveries other than regular mail, commercial mail service, and next-day courier service as would normally occur for a One-Family Dwelling.

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- 9.6.4.7. Not more than 1 non-resident employees shall be present on the Lot at any one time.
- 9.6.4.8. No more than 1 Home Occupation may occur in any Dwelling.
- 9.6.4.9. No Special Use Permit shall be required for an occupation which does not involve any employees, customers, students, clients or other guests working on or visiting the Lot on which the Home Occupation occurs more than 4 times per month.
- 9.6.5. Light Industrial Facilities.
- 9.6.5.1. Oversized vehicles (commercial trucks, large vans or similar vehicles) reasonably necessary for facility operations may be parked on the Lot overnight in Parking Spaces indicated for such purpose on the approved Site Plan. Such Parking Spaces shall not be located in the Front Building Setback or in any Required Yard. The leasing or renting of such Parking Spaces to any other Person shall be prohibited.
- 9.6.5.2. In addition to the requirements for Site Plan submission, a floor plan of any existing or proposed Building or Structure shall be submitted together with the maximum occupancy requested for each Building, Structure or facility.
- 9.6.5.3. The proposed use will be appropriately located with respect to transportation, water supply, sewage disposal, fire and police protection and other public facilities.
- 9.6.5.4. All aspects of the Use, including storage of all goods and materials, must be conducted in a fully enclosed Building.
- 9.6.6. Marine Business Use 4: Docks, Slips, Piers, Moorings, and Wharves for Yachts and Pleasure Boats, Mooring Launch Services or for Vessels Engaged in Fishery or Shell Fishery.
- 9.6.6.1. Boat ramps shall be available for the convenience of those with boats docked or moored at the facility and shall not be open to the general public.
- 9.6.6.2. Mooring launch services shall be limited to no more than 12 passengers per trip.
- 9.6.6.3. A no-wake zone with a speed restriction of 5 miles an hour or less shall be established from 500 feet to the shoreline.

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- 9.6.6.4. Outdoor storage and use of Heavy Equipment may be permitted provided that: (i) the applicant can demonstrate that it is not reasonably practical to use or store such equipment in a fully-enclosed Building; (ii) the number and type of such equipment and the locations for its storage and use is specified on the approved Site Plan; and (iii) such equipment is not used or stored within the Required Front, Rear or Side Yards, except that the Planning Board may reduce the Required Yard adjacent to the Hudson River if it finds that such reduction is reasonably necessary for Marine Business Use 4 operations. The maximum height, as measured from the lowest point of such equipment to its highest point as fully extended, shall be as follows: Mobile travel lifts/boat lifts: 60 ft, Cranes: 110 ft; all other Heavy Equipment 20 ft. The Planning Board may limit the days and hours of operation of such Heavy Equipment if it finds that the operation of such equipment has the potential to cause a nuisance to surrounding residents.
- 9.6.6.5. Outdoor storage of equipment (other than Heavy Equipment, which is provided for in Section 9.6.6.4 of this Zoning Law) and non-hazardous materials used in Marine Use 4 operations may be permitted provided that the applicant can demonstrate that it is not reasonably practical to store such equipment or materials in a fully-enclosed Building when they are not in use, the location is outside of the Required Yards and the location of such storage is specified on an approved Site Plan. Such storage areas shall be suitably screened from neighboring residentially zoned properties.
- 9.6.6.6. Actions Prohibited As a Part of Use: Application of spray paint outdoors.
- 9.6.7. Marine Business Use 5. A yard for the building, storing, repairing, selling or servicing of boats.
- 9.6.7.1. Adequate lanes of at least 12 ft in width must be provided to allow access throughout the Lot for emergency equipment. Such lanes must remain clear and passable for emergency equipment at all times.
- 9.6.7.2. Boats, cradles and boat trailers may be stored outside provided that the location for such storage is specified on the approved Site Plan and further provided that neither boats, cradles nor boat trailers may be stored within Required Yards.
- 9.6.7.3. Outdoor storage and use of Heavy Equipment may be permitted provided that: (i) the applicant can demonstrate that it is not reasonably practical to use or store such equipment in a fully-enclosed Building; (ii) the number and type of such equipment and the locations for its storage and use is specified on the approved Site Plan; and (iii) such equipment is not used or stored within the Required Front, Rear or Side Yards, except that the Planning Board may

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reduce the Required Yard adjacent to the Hudson River if it finds that such reduction is reasonably necessary for Marine Business Use 5 operations. The maximum height, as measured from the lowest point of such equipment to its highest point as fully extended, shall be as follows: Mobile travel lifts/boat lifts: 60 ft, Cranes: 110 ft; all other Heavy Equipment 20 ft. The Planning Board may limit the days and hours of operation of such Heavy Equipment if it finds that the operation of such equipment has the potential to cause a nuisance to surrounding residents.

- 9.6.7.4. Outdoor storage of equipment (other than Heavy Equipment, which is provided for in Section 9.6.7.3 of this Zoning Law) and non-hazardous materials used in Marine Use 5 operations may be permitted provided that the applicant can demonstrate that it is not reasonably practical to store such equipment or materials in a fully-enclosed Building when they are not in use, the location is outside of the Required Yards and the location of such storage is specified on an approved Site Plan. Such storage areas shall be suitably screened from neighboring residentially zoned properties.
- 9.6.7.5. To the greatest extent possible, buffers shall be provided to screen noise and improve aesthetic views from adjacent residential properties.
- 9.6.7.6. Actions Prohibited As a Part of Use: Application of spray paint outdoors.
- 9.6.8. Marine Business Use 6: Yacht clubs and marinas.
 - 9.6.8.1. A marina must have a waste pump-out facility.
 - 9.6.8.2. Boat ramps shall be available for the convenience of those with boats docked or moored at the facility and shall not be open to the general public.
 - 9.6.8.3. A no-wake zone with a speed restriction of 5 miles an hour or less shall be established from 500 feet to the shoreline.
 - 9.6.8.4. Boats, cradles and boat trailers may be stored outside provided that the location for such storage is specified on the approved Site Plan and further provided that they are not stored within any Required Yard.
 - 9.6.8.5. Outdoor storage and use of Heavy Equipment may be permitted provided that: (i) the applicant can demonstrate that it is not reasonably practical to use or store such equipment in a fully-enclosed Building; (ii) the number and type of such equipment and the locations for its storage and use is specified on the approved Site Plan; and (iii) such equipment is not used or stored within the Required Front, Rear or Side Yards, except that the Planning Board may reduce the Required Yard adjacent to the Hudson River if it finds that such

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reduction is reasonably necessary for Marine Business Use 6 operations. The maximum height, as measured from the lowest point of such equipment to its highest point as fully extended, shall be as follows: Mobile travel lifts/boat lifts: 60 ft, Cranes: 110 ft; all other Heavy Equipment 20 ft. The Planning Board may limit the days and hours of operation of such Heavy Equipment if it finds that the operation of such equipment has the potential to cause a nuisance to surrounding residents.

- 9.6.8.6. Outdoor storage of equipment (other than Heavy Equipment, which is provided for in Section 9.6.8.5 of this Zoning Law) and non-hazardous materials used in Marine Use 6 operations may be permitted provided that the applicant can demonstrate that it is not reasonably practical to store such equipment or materials in a fully-enclosed Building when they are not in use, the location is outside of the Required Yards and the location of such storage is specified on an approved Site Plan. Such storage areas shall be suitably screened from neighboring residentially zoned properties.
- 9.6.8.7. To the greatest extent possible, buffers shall be provided to screen noise and improve aesthetic views from adjacent residential properties.
- 9.6.8.8. Actions Prohibited As a Part of Use: Application of spray paint outdoors.
- 9.6.9. Motor Vehicle Service Facilities; Motor Vehicle Dealership; and Motor Vehicle Rental Agency.
 - 9.6.9.1. Minimum Lot Area: 1 acre.
 - 9.6.9.2. Minimum Building Setbacks: All Principal and Accessory Buildings shall be Setback at least 40 feet from all Lot Lines. Parking Areas and the parking of vehicles is prohibited within such Setbacks.
 - 9.6.9.3. Unless otherwise required by law, all bulk petroleum products or similar substances shall be stored underground, and all applicable laws and rules governing the storage of petroleum in underground tanks shall apply.
 - 9.6.9.4. No inoperative or partially dismantled automobile shall be parked or stored on the Lot for more than 30 days. All parking and storage of all such vehicles shall be screened from view and shall be prohibited in the Front Building Setback.
 - 9.6.9.5. All repair and service work shall be performed in a fully enclosed Building.
 - 9.6.9.6. Vehicle inventory and vehicles being parked on-site awaiting service or awaiting customer retrieval may be parked outdoors in specifically striped and

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designated Parking Spaces as indicated on an approved Site Plan. The Site Plan shall designate the location and number of Parking Spaces for vehicles parked on the Lot for sales or service. Parking for such vehicles shall not be located within the Front Building Setback on the Lot. The Planning Board may in its discretion require the applicant to submit a parking utilization study in support of its application to demonstrate that the parking to be provided will be adequate for the proposed Use.

9.6.9.7. Tow truck and other similar vehicles may be parked on the Lot in Parking Spaces designated for such vehicles on the approved Site Plan. Parking for all such vehicles shall be screened from view and shall be prohibited in the Front Building Setback.

9.6.9.8. Actions Prohibited As a Part of Use:

9.6.9.8.1. Application of spray paint outdoors.

9.6.9.8.2. Outdoor storage of tools, equipment, materials and merchandise (other than cars parked outdoors) shall be prohibited.

9.6.10. Not-For Profit Community Center.

9.6.10.1. Required Frontage: At least 100 feet of Frontage on and primary access from Route 9W (Highland Avenue) and at least 2 points of vehicular ingress and egress on such Frontage.

9.6.10.2. No more than 2 large vehicles owned or used by the Not-For-Profit Community Center (for example, commercial vans or buses) may be parked overnight on the Lot at any time. Parking Spaces for such vehicles shall be specified on the approved Site Plan. Such Parking Spaces shall not be located in the Front Building Setback or in the Required Rear and Side Yards. .

9.6.10.3. Dwellings or overnight accommodations are prohibited.

9.6.11. Owner Occupied Accessory Apartments in a One-Family Dwelling.

9.6.11.1. The owner of the Lot on which the accessory apartment is located shall occupy either of the Dwelling Units on the Lot. Owner occupancy shall continue for the duration of the Special Use Permit.

9.6.11.2. The Lot on which the accessory apartment is located shall have a minimum Net Lot Area that is the greater of the minimum Net Lot Area for the district in which the Lot is located or 15,000 square feet, and shall have, at a minimum,

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the minimum Frontage applicable to Lots in the district in which the Lot is located.

- 9.6.11.3. The Building in which the accessory apartment is located and the Lot on which the accessory apartment is located shall comply with all applicable Bulk requirements for the district in which the Lot is located.
 - 9.6.11.4. Accessory apartments are only permitted as an Accessory Use to One-Family Dwellings.
 - 9.6.11.5. There shall be no more than 1 accessory apartment per Lot.
 - 9.6.11.6. The accessory apartment shall be in the Principal Building on the Lot.
 - 9.6.11.7. An accessory apartment shall be a minimum of 300 square feet and a maximum of 900 square feet in Floor Area and shall not occupy more than 15 percent of the Floor Area of the Building in which it is located as demonstrated on a floor plan of the principal building in which it is located.
 - 9.6.11.8. The entrance to the accessory apartment and its design shall be such that the appearance of the Principal Building shall remain as a One-Family Dwelling.
 - 9.6.11.9. If a limited liability company owns fee title to the Lot on which the accessory apartment is located, then occupancy of either the principal Dwelling Unit or the accessory apartment by any member of such limited liability company having at least a 10% membership interest in such limited liability company shall be deemed to be owner occupancy for the purposes of this Section 9.6.11.
- 9.6.12. Places of Worship.
- 9.6.12.1. Supplemental Bulk Requirements. All Bulk requirements in the underlying zoning district apply as supplemented as follows:
 - 9.6.12.1.1. Required Frontage. At least 150 feet of Frontage on and primary access from North Broadway, Midland Avenue or Route 9W (Highland Avenue) and at least 2 points of vehicular ingress and egress on such Frontage.
 - 9.6.12.1.2. Required Yards.
 - 9.6.12.1.2.1. Residence Districts: The greater of the Yards required in the underlying district or Required Front Yard- 50 feet; Required Side Yards and Rear Yards 35 feet.

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9.6.12.1.2.2. Commercial Districts: Places of Worship shall comply with the Yard requirements in the underlying zoning district.

9.6.12.1.3. Minimum Net Lot Area. The greater of the minimum Net Lot Area in the district in which the Lot is located or 3 acres.

9.6.12.2. Large vehicles owned or used by the Place of Worship (for example, commercial vans or buses) may be parked overnight on the Lot at any time. Parking Spaces for such vehicles shall be specified on the approved Site Plan. Such Parking Spaces shall not be located in the Front Building Setback or in the Required Rear and Side Yards. In Residence Districts, no more than 2 such vehicles may be parked on the Lot overnight.

9.6.12.3. Maximum Height: Belfries, steeples, bell towers or other symbolic or emblematic religious or institutional icons on the Principal Building on the Lot shall be exempt from the height requirement, but in no case shall any part of any Structure exceed 50 feet in height as measured from the Finished Grade to the highest point of the Structure.

9.6.12.4. Accessory Uses: The following Uses shall be permitted Accessory Uses to Places of Worship, provided that an amendment to a Place of Worship's Special Use Permit shall be obtained prior to commencing a new Accessory Use or changing an existing Accessory Use in a manner that would increase the intensity of the Use on the Lot so that the Planning Board can evaluate the impacts of such Use and impose any conditions to mitigate any such impacts in accordance with the requirements of this Section 9:

9.6.12.4.1. Child care centers;

9.6.12.4.2. Nursery schools, and use of nursery school facilities for summer programing for children;

9.6.12.4.3. After-school, school break or summer programs for children;

9.6.12.4.4. Administrative offices;

9.6.12.4.5. Enrichment or support programs for children or adults;

9.6.12.4.6. One (1) accessory Dwelling Unit for use by clergy members, caretaker or other similar staff. In addition, in Residence Districts, not more than 4 Additional Dwelling Units accessory to the Place of Worship for use by clergy members, caretaker or other similar staff may also be permitted provided that each such Dwelling Unit is to be located so that the site

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upon which it is situated could, in the opinion of the Planning Board, be subdivided in the future from the remainder of the Lot in such a way as to create a separate Lot that complies with the requirements of this Zoning Law for each Dwelling Unit. The number of Lots which a theoretical subdivision could yield is to be demonstrated by submission of a conventional subdivision plat that complies with the requirements of this Zoning Law in the judgment of the Planning Board. Where such additional accessory Dwelling Units are constructed on the theoretical lots developed in accordance with this Section 9.6.12, the approved Site Plan shall contain a condition that the Dwellings constructed under this provision are not to be separately sold or otherwise transferred until a formal subdivision is approved by the Planning Board and filed with the Rockland County Clerk's Office. The Planning Board may, as a condition of approval, require the applicant to file a covenant in a form and substance acceptable to the Village Attorney prohibiting the separate sale or conveyance of such dwellings in the office of the Rockland County Clerk.

9.6.13. Private Membership Clubs.

9.6.13.1. Required Frontage: At least 150 feet of Frontage on and primary access from North Broadway, Midland Avenue or Route 9W (Highland Avenue) and at least 2 points of vehicular ingress and egress on such Frontage.

9.6.13.2. Minimum Net Lot Area: The greater of the Minimum Net Lot Area in the district in which the Lot is located or 3 acres.

9.6.13.3. Required Yards: The greater of the Required Yards in the district in which the Lot is located or 50 feet, Required Front Yard, and 35 feet, Required Side and Rear Yards.

9.6.13.4. No more than 2 large vehicles owned or used by the Private Membership Club (for example, commercial vans or buses) may be parked overnight on the Lot at any time. Parking Spaces for such vehicles shall be specified on the approved Site Plan. Such Parking Spaces shall not be located in the Front Building Setback or in the Required Rear or Side Yards.

9.6.13.5. Dwellings or overnight accommodations are prohibited.

9.6.13.6. No use of a club house or club site shall involve the discharge of firearms, bow and arrow, or any other dangerous weapons.

9.6.13.7. Rental of the Private Membership Club facilities for use by non-members is prohibited.

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9.6.13.8. Swimming Pools, tennis courts and other outdoor sports courts and facilities shall comply with the requirements of Sections 6.8 and 6.9.

9.6.13.9. Indoor dining or bar facilities (including kitchen facilities and Patios adjacent to indoor dining facilities), and an area for retail sale of goods for members only (i.e. a pro shop) shall be permitted, however such facilities shall not exceed 20% of the Floor Area of the Principal Buildings on the Lot. Outdoor, seasonal, unenclosed dining facilities where table service is not provided, such as snack bars and picnic areas, shall not be included in calculating the percentage of dining and retail sales facilities.

9.6.13.10. Upon renewal of the Special Use Permit pursuant Section 9.4.2 the applicant shall confirm its valid not-for profit status with evidence reasonably satisfactory to the Planning Board

9.6.14. Schools, Boarding.

9.6.14.1. Boarding Schools may include all of the following as a part of such Use: A Building or group of Buildings or other facilities on a Lot used for the following educational purposes: administrative and faculty offices; classrooms; laboratories; auditoriums; lecture halls; libraries, gymnasiums; museums and art galleries; infirmaries; student, faculty and alumni centers; athletic facilities and student/faculty dining facilities. Accessory uses to the above-permitted uses shall include Dormitories, employee housing, Parking Areas for passenger automobiles for use by students, employees and persons visiting or attending activities on the Lot, and such other Accessory Uses as are customary and incidental to the Principal Use.

9.6.14.2. Supplemental Bulk Requirements. All Bulk requirements in the underlying zoning district apply as supplemented as follows:

9.6.14.2.1. Required Frontage. At least 150 feet of Frontage on and primary access from North Broadway, Midland Avenue or Route 9W (Highland Avenue) and at least 2 points of vehicular ingress and egress on such Frontage.

9.6.14.2.2. Required Yards. In residence districts, the greater of the Yards required in such district or Front Yard- 50 feet; Side Yards and Rear Yard 35 feet.

9.6.14.2.3. Minimum Net Lot Area. Five (5) acres for the first 100 students, plus 1 acre for each additional 100 students. The number of students shall be

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based on the maximum occupancy permitted by the Uniform Code for all classrooms and lecture halls.

9.6.14.3. Supplemental Requirements in all zoning districts.

9.6.14.3.1. Outdoor recreational facilities or other similar facilities that are illuminated shall be located at least 100 feet from any Lot Line.

9.6.14.3.2. Illumination for outdoor recreational or other similar facilities shall be turned off no later than 10 p.m.

9.6.14.3.3. No outdoor public address systems shall be permitted except those which are required by State law.

9.6.14.3.4. Oversized vehicles (busses, large vans or similar vehicles) reasonably necessary for school operations may be parked on the Lot overnight in Parking Spaces indicated for such use on the approved Site Plan. Such Parking Spaces shall not be located in the Front Building Setback or in any Required Yard.

9.6.14.4. Dormitories and Employee Housing.

9.6.14.4.1. Dormitories are a permitted accessory use. Dormitory rooms shall be a minimum of 200 square feet in area and may be a maximum of 600 square feet in area; however, not less than 100 square feet of area per Dormitory room shall be provided for each occupant. Dormitory rooms shall be limited to a maximum occupancy of 4 persons per room.

9.6.14.4.2. In addition to employee housing permitted in a Dormitory, 2 additional Dwelling Units for use by School employees, whether located within a Dormitory or within a separate structure, are permitted. Such Dwelling Units shall be no less than 600 square feet and no greater than 1,000 square feet in Floor Area.

9.6.14.4.3. Dormitories shall be used and occupied only when school is in session.

9.6.14.4.4. The total aggregate Floor Area for all Dormitory rooms and Dwelling Units for students and school employees shall not exceed 5,000 square feet of floor area for each acre of Net Lot Area. For the purposes of clarity, the 5,000 square-foot limitation applies to the cumulative area of Dormitory rooms and Dwelling Units, and does not include common areas in the Dormitory Building.

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9.6.14.4.5. The total aggregate Floor Area of all Dormitories and employee housing facilities shall not exceed 35% of the total Floor Area of all buildings on the Lot. Where only a portion of a Building is used as a Dormitory, for the purposes of calculating the Dormitory's Floor Area, all Dormitory rooms, and associated common facilities, including but not limited to bathrooms, common rooms, hallways, and lobbies shall be included in the Dormitory's Floor Area. For the purpose of clarity, the 35% includes all facilities related to the Dormitory, including Dormitory rooms or other dwelling facilities, hallways, common bathroom or kitchen facilities, common rooms and other similar facilities.

9.6.14.4.6. All Dormitories and employee housing facilities shall comply with all requirements and regulations set forth in the Uniform Code, the New York State Department of Education Regulations and all other applicable governmental regulations and building and safety codes.

9.6.14.4.7. No Dormitory room may be leased or otherwise occupied by a Person who is not a student at the School.

9.6.14.5. The applicant's submission shall include a written statement which shall include, in addition to other information which may be required, information regarding student residency restrictions and policies, security (i.e., fencing, lighting, supervision, etc.), means of access for emergency services, minimum Floor Area of living area per student, and resident student and staff transportation.

9.6.14.6. In addition to the requirements for Site Plan submission, a floor plan of any existing or proposed Building or Structure shall be submitted together with the maximum occupancy pursuant to the Uniform Code for each Building, Structure or facility. Maximum occupancy pursuant to the Uniform Code for all classrooms and lecture halls shall be provided on such plans.

9.6.14.7. Such school shall comply with all licensing and other requirements of the New York State Department of Education, and shall comply with all other applicable federal, state and local laws.

9.6.15. Schools, Day.

9.6.15.1. Day Schools may include all of the following as a part of such Use: A Building or group of Buildings or other facilities on a Lot used for the following educational purposes: administrative and faculty offices; classrooms; laboratories; auditoriums; lecture halls; libraries, gymnasiums; museums and art galleries; infirmaries; student, faculty and alumni centers; athletic facilities; and student/faculty dining facilities. Accessory uses to the above-permitted

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uses shall include Parking Areas for passenger vehicles for use by students, employees and persons visiting or attending activities on the Lot and such other Accessory Uses as are customary and incidental to the Principal Use. Dormitories, employee housing and other on-site housing facilities are prohibited.

9.6.15.2. Supplemental Bulk Requirements. All Bulk requirements in the underlying zoning district apply as supplemented as follows:

9.6.15.2.1. Required Frontage. At least 150 feet of Frontage on and primary access from North Broadway, Midland Avenue or Route 9W (Highland Avenue) and at least 2 points of vehicular ingress and egress on such Frontage.

9.6.15.2.2. Required Yards. In residence districts, the greater of the Yards required in such district or Front Yard- 50 feet; Side Yards and Rear Yard 35 feet.

9.6.15.2.3. Minimum Net Lot Area. Three (3) acres for the first 100 students, plus 1 acre for each additional 100 students. The number of students shall be based on the maximum occupancy permitted by the Uniform Code for all classrooms and lecture halls.

9.6.15.3. Supplemental Requirements in all zoning districts.

9.6.15.3.1. Outdoor recreational facilities or other similar facilities that are illuminated shall be located at least 100 feet from any Lot Line.

9.6.15.3.2. Illumination for outdoor recreational or other similar facilities shall be turned off no later than 10 p.m.

9.6.15.3.3. No outdoor public address systems shall be permitted except those which are required by State law.

9.6.15.3.4. Oversized vehicles (busses, large vans or similar vehicles) reasonably necessary for school operations may be parked on the Lot overnight in Parking Spaces indicated for such use on the approved Site Plan. Such Parking Spaces shall not be located in the Front Building Setback or in any Required Yard.

9.6.15.4. In addition to the requirements for Site Plan submission, the applicant shall submit the following to the Planning Board:

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9.6.15.4.1. A written statement which shall include, in addition to other information which may be required, information regarding security (i.e., fencing, lighting, supervision, etc.), means of access for emergency services, and student and staff transportation.

9.6.15.4.2. A floor plan of all existing or proposed Buildings or Structures together with the maximum occupancy pursuant to the Uniform Code for each Building, Structure or facility. Maximum occupancy pursuant to the Uniform Code for all classrooms and lecture halls shall be provided on such plans; and

9.6.15.4.3. A plan for vehicular circulation of buses and other vehicles during school arrival and dismissal.

9.6.15.5. Such school shall comply with all licensing and other requirements of the New York State Department of Education, and shall comply with all other applicable federal, state and local laws, the Uniform Code and all applicable building and safety codes.

9.6.16. School, Post-Secondary.

9.6.16.1. Post-Secondary Schools may include all of the following as a part of such Use: A Building or group of Buildings or other facilities on a Lot used for the following educational purposes: administrative and faculty offices; classrooms; laboratories; auditoriums; lecture halls; libraries, gymnasiums; museums and art galleries; infirmaries; student, faculty and alumni centers; athletic facilities and student/faculty dining facilities. Accessory Uses to the above-permitted uses shall include Dormitories, student housing, employee housing, Parking Areas for passenger vehicles for use by students, employees and persons visiting or attending activities on the Lot and such other Accessory Uses that are customary and incidental to the Principal Use.

9.6.16.2. Supplemental Bulk Requirements. All Bulk requirements in the underlying zoning district apply as supplemented as follows:

9.6.16.2.1. Required Frontage. At least 150 feet of Frontage on and primary access from North Broadway, Midland Avenue or Route 9W (Highland Avenue) and at least 2 points of vehicular ingress and egress on such Frontage.

9.6.16.2.2. Required Yards. In residence districts, the greater of the Yards required in such district or Front Yard- 50 feet; Side Yards and Rear Yard 35 feet.

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9.6.16.2.3. Minimum Net Lot Area. Five (5) acres for the first 100 students, plus 1 acre for each additional 100 students. The number of students shall be based on the maximum occupancy permitted by the Uniform Code for all classrooms and lecture halls.

9.6.16.3. Supplemental Requirements in all zoning districts.

9.6.16.3.1. Outdoor recreational facilities or other similar facilities that are illuminated shall be located at least 100 feet from any Lot Line.

9.6.16.3.2. Illumination for outdoor recreational or other similar facilities shall be turned off no later than 10 p.m.

9.6.16.3.3. No outdoor public address systems shall be permitted except those which are required by State law.

9.6.16.3.4. Oversized vehicles (busses, large vans or similar vehicles) reasonably necessary for school operations may be parked on the Lot overnight in Parking Spaces indicated for such use on the approved Site Plan. Such Parking Spaces shall not be located in the Front Building Setback or in any Required Yard.

9.6.16.4. Dormitories and other student and employee housings.

9.6.16.4.1. Policy. The Board of Trustees recognizes the value of Post-Secondary Schools as a part of a community and recognizes that such institutions often require on-campus housing for students and some limited employees. The purpose of this Section 9.6.16.4 is to accommodate the needs of such institutions to provide housing as balanced against the stated goals and development objectives set forth in the Comprehensive Plan that the Village is predominantly a quiet, scenic, small-town community of single-family homes. This section is intended to permit a residential density for on-campus student and employee housing that is substantially consistent with the prevailing density in the Village as a whole, but provides the institution with the flexibility to locate such units on its Lot, consistent with the Bulk requirements for the School as a whole, to best meet its needs.

9.6.16.4.2. Dormitories for students and other Dwelling Units for students and school employees (collectively for the purposes of this Section 9.6.16 “School Housing Facilities”) shall be permitted Accessory Uses to a Post-Secondary School.

9.6.16.4.3. Dormitories shall meet the requirements of Section 9.6.14.4.

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- 9.6.16.4.4. Dwelling Units for students and School employees shall have a minimum floor area of 600 square feet per unit and a maximum floor area of 1,200 square feet per unit. Each Dwelling Unit shall provide a minimum of 200 square feet of area per occupant.
- 9.6.16.4.5. The total aggregate floor area for all Dormitory Rooms and Dwelling Units for students and school employees shall not exceed 5,000 square feet of Floor Area for each acre of Net Lot Area. For the purposes of clarity, the 5,000 square-foot limitation applies to the cumulative area of Dormitory Rooms and Dwelling Units and does not include common areas in the Dormitory or housing facility.
- 9.6.16.4.6. The total aggregate Floor Area of all School Housing Facilities shall not exceed 35% of the total Floor Area of all Buildings on the Lot. Where only a portion of a Building is used as a School Housing Facility, for the purposes of calculating the School Housing Facility's Floor Area, all Dormitory rooms or Dwelling Units, and associated common facilities, including but not limited to bathrooms, common rooms, hallways, and lobbies shall be included in the School Housing Facilities' Floor Area. For the purpose of clarity, the 35% includes all facilities related to the School Housing Facilities, including Dormitory rooms or other dwelling facilities, hallways, common bathroom or kitchen facilities, common rooms and other similar facilities.
- 9.6.16.4.7. Not more than 10% of the School Housing Facilities may be occupied by school employees.
- 9.6.16.4.8. The School Housing Facilities shall comply with all requirements and regulations set forth in the Uniform Code, the New York State Department of Education Regulations and all other applicable governmental regulations and building and safety codes.
- 9.6.16.4.9. No portion of a School Housing Facility may be leased to a Person who is not a full-time student at the School or an employee of the School.
- 9.6.16.5. The applicant's submission shall include a written statement which shall include, in addition to other information which may be required, information regarding student residency restrictions and policies, security (i.e., fencing, lighting, supervision, etc.), minimum floor area of living area per student, emergency services, student health care, quiet hours, visitation policies, refuse collection, storage and removal and resident student and staff transportation.

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9.6.16.6. In addition to the requirements for Site Plan submission, a floor plan of all existing or proposed Buildings or Structures shall be submitted together with the maximum occupancy pursuant to the Uniform Code for each Building, Structure or facility. Maximum occupancy pursuant to the Uniform Code for all classrooms and lecture halls shall be provided on such plans.

9.6.16.7. Such school shall comply with all licensing and other applicable requirements of the New York State Department of Education.

9.6.17. Schools, Nursery.

9.6.17.1. Supplemental Bulk Requirements in Residence Districts. All Bulk requirements in the underlying zoning district apply as supplemented as follows:

9.6.17.1.1. Required Frontage. At least 100 feet of Frontage on and primary access from North Broadway, Midland Avenue or Route 9W (Highland Avenue).

9.6.17.1.2. Required Yards. Front Yard- 50 feet. Side and Rear Yards 35 feet.

9.6.17.1.3. Minimum Net Lot Area. The greater of the minimum Net Lot Area in the District in which the Lot is located or 1 acre.

9.6.17.2. Supplemental Bulk Requirements in Commercial Districts. All bulk requirements in the underlying zoning district apply as supplemented as follows:

9.6.17.2.1. Required Frontage. In the OB or VC District, at least 100 feet of Frontage on and primary access from North Broadway or Route 9W (Highland Avenue).

9.6.17.2.2. Minimum Net Lot Area. 25,000 sf.

9.6.17.2.3. Such use shall comply with all licensing, site area and dimensional requirements for such establishments of the New York State Departments of Social Services or Education, and any other governmental agency with jurisdiction over such use. Further such use shall comply with all requirements and regulations set forth in the Uniform Code, and all other applicable governmental regulations and building and safety codes.

9.6.17.3. In addition to the requirements for Site Plan submission, a floor plan of all existing or proposed Buildings or Structures shall be submitted together with the maximum occupancy pursuant to the Uniform Code for each Building,

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Structure or facility. Maximum occupancy pursuant to the Uniform Code for all classrooms shall be provided on such plans.

9.6.18. Senior Care Facilities.

9.6.18.1. Minimum Net Lot Area: 5 acres.

9.6.18.2. Maximum Floor Area Ratio. 0.35.

9.6.18.3. All Buildings and Structures (other than Signs, driveways and Parking Areas that comply with Bulk requirements generally applicable to such Structures) shall be set back 50 feet from all Lot Lines.

9.6.18.4. Such use shall have at least 300 feet of Frontage on and primary access from Route 9W (Highland Avenue) and at least 2 points of vehicular ingress and egress on such Frontage.

9.6.18.5. Oversized vehicles (busses, large vans or similar vehicles) reasonably necessary for facility operations may be parked on the Lot overnight in Parking Spaces indicated for such Use on the approved Site Plan. Such Parking Spaces shall not be located in the Front Building Setback or in any Required Yard.

9.6.18.6. Senior Care Facilities shall comply with all licensing and other requirements of the New York State Department of Health or other agency of the State of New York with jurisdiction over such facilities, if applicable.

9.6.19. Short Term Rentals.

9.6.19.1. Short Term Rental of a Dwelling without the issuance of a Special Use Permit permitting such use shall be prohibited.

9.6.19.2. Prior to the grant or renewal of a Special Use Permit and annually each year during the term of the Special Use Permit the Lot and all Buildings and Structures thereon must be inspected by the Code Enforcement Official or such official's designee to ensure that the premises are in compliance with the Uniform Code and all other building codes applicable to the Lot and Buildings thereon.

9.6.19.3. No fewer than 2 Parking Spaces, plus 1 additional Parking Space for each bedroom within said rental exceeding 4 bedrooms, shall be provided on the same Lot as the Short Term Rental.

9.6.19.4. The name, address, phone number and email address of the Lot owner and the primary contact person who shall be available during the entire time the

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Short Term Rental property is being rented shall be provided to the Building Department. The Lot owner shall be required to keep such information current.

9.6.19.5. Occupancy of such Short Term Rental shall not exceed the permitted occupancy of the Building allowed by the Uniform Code and all other applicable building and safety laws and regulations.

9.6.19.6. Short Term Rental Special Use Permits shall be renewed pursuant to the Section 9.4.2 of this Zoning Law within 6 months of the transfer of title to the Lot on which it is located to a new owner.

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10.1. Approval Required; Exceptions.

10.1.1. Site Plan Approval Required.

10.1.1.1. Except as otherwise specifically provided in this Zoning Law, no building permit shall be issued, no new Use shall be established or commenced, and no Structure (including, but not limited to Patios, driveways, paved surfaces or other similar Structures) or Building shall be constructed, expanded or Altered in a manner that increases its footprint, Impervious Surface Coverage or Floor Area except in conformity with a Site Plan approved and endorsed by the Planning Board, and no final certificate of occupancy or certificate of compliance for any Building, Structure or Use shall be issued until all the requirements of such Site Plan and any conditions attached thereto have been met.

10.1.1.2. Site Plan approval from the Planning Board shall also be required;

10.1.1.2.1. Prior to disturbing any area of Steep Slopes in excess of 1% of the total Net Lot Area of the Lot on which the Steep Slopes are located, regardless of whether a building permit is required in connection with such disturbance (*see* Section 6.7.2);

10.1.1.2.2. Prior to the intensification of any existing Use on a Lot. For the purposes of this Section 10.1.1.2.2, intensification shall mean any modification to the Use, Building or Structure that would: (i) increase the minimum required number of Parking Spaces to be provided on the Lot, or (ii) change the occupancy class of the Use under the Uniform Code.

10.1.1.2.3. Prior to commencing any construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance equal to or greater than 5,000 square feet in the R-20 Medium Density Residential, R-10 Medium-High Density Residential, 7.5 High-Density Residential, or VC Village Center Zoning Districts or 10,000 square feet in all other zoning districts.

10.1.1.2.4. Prior to the issuance of any demolition permit for all Buildings other than a Shed meeting the requirements of Section 6.5.

10.1.1.2.5. Prior to locating or using any piece of Heavy Equipment on a Lot where such Heavy Equipment will be located or stored on the Lot for a period exceeding 3 months.

10.1.1.2.6. Prior to the reconstruction of a Nonconforming Building or Structure pursuant to Section 7.7.3.

10.1.2. Continued Compliance Required. The continued validity of any certificate of occupancy or certificate of compliance shall be subject to continued conformance with such approved Site Plan and conditions.

10.1.3. Exceptions. Site Plan approval is not required for the following:

10.1.3.1. Colocation of Wireless Telecommunication Facilities as provided in Section 15.

10.1.3.2. Construction of a Shed meeting the requirements of Section 6.5 or a Fence meeting the requirements of Section 6.3.

10.1.3.3. Construction or alteration of a Deck that is 200 square feet in area or less, unless the addition of such Deck would increase Lot Coverage beyond the maximum permitted Lot Coverage for the Lot in which case Site Plan approval from the Planning Board and a variance from the ZBA shall be required prior to the issuance of a building permit for the construction of such Deck.

10.2. Application Review Procedure.

10.2.1. Approval Authority. Pursuant to Village Law §7-725-a, and such other enabling laws as may be enacted, the Planning Board is hereby authorized to review and approve, approve with modifications or disapprove Site Plans showing the arrangement, layout and design of Buildings, Structures and the Use of land shown on such plan.

10.2.2. Application. All applications for Site Plan approval shall be submitted to the Zoning Inspector in a form and number of copies, and shall include such supporting information, as prescribed by the Zoning Inspector. The Zoning Inspector shall refer all Site Plan applications to the Planning Board when such Inspector determines that all required information has been provided by the applicant in manner sufficient to allow meaningful review by the Planning Board. If the Site Plan proposes a development that is a Type I or Unlisted Action under SEQRA, such application shall not be deemed to be complete until a negative declaration has been issued, or until a draft environmental impact statement has been accepted by the lead agency as satisfactory with respect to scope and content.

10.2.3. Fee. An application for Site Plan approval shall be accompanied by an application fee as set by resolution of the Board of Trustees. All application fees are in addition to any required professional review escrow fees and environmental review fees pursuant to Section 13.2 of this Zoning Law.

10.2.4. Referrals.

10.2.4.1. The Planning Board shall refer copies of any Site Plan approval application that it receives to the Village Engineer and the ARB if such referral is required pursuant to Village of Upper Nyack Local Law 7 of 2021 as it may from time to time be amended, and may refer such application to other governmental agencies or officials as it deems appropriate.

10.2.4.2. The Planning Board shall make all other additional referrals required by law.

10.2.5. Public Hearing. The Planning Board shall hold a public hearing on all Site Plan applications within 62 days of the date that such application is deemed complete by the Planning Board, unless this time limit is waived or extended by the applicant.

10.2.6. Notice of Public Hearing. In addition to any other notice required by law, notice of a public hearing on a Site Plan application shall be given as required by Section 11.5 of this Zoning Law.

10.2.7. Planning Board Decision. The Planning Board shall approve, approve with modifications, or disapprove the Site Plan application within 62 days of the close of the public hearing on the application unless this time limit is waived or extended by the applicant.

10.2.8. Voting requirements. Except where a greater vote is otherwise required by law, every motion or resolution of the Planning Board on a Site Plan approval application shall require for its adoption the affirmative vote of a majority of all the members of the Planning Board as fully constituted regardless of vacancies or absences. If an affirmative vote of a majority of all members of the Board is not attained on a motion or resolution the application is deemed denied.

10.2.9. Conditions. The Planning Board may impose such conditions and restrictions on a Site Plan approval, including, but not limited to, conditions limiting or regulating the hours of operation of a use, as would avoid or minimize the adverse impacts of the proposed use.

10.2.10. Endorsement of Final Site Plan. Within 90 days of the date of approval or approval with modifications, the applicant shall present to the Zoning Inspector a

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corrected final Site Plan including any modifications required by the Planning Board as a condition of its approval. Upon verification by the Planning Board Chairman that the Site Plan complies with the requirements of the Board's approval, the Site Plan shall be endorsed by the Planning Board Chairman.

10.2.11. Existing Violation. No Site Plan approval application shall be considered where the Zoning Inspector has found a violation of this Local Law or the Code Enforcement Official has found a violation of the Uniform Code or other applicable building or safety code, and where such violation has not been corrected. However, the Planning Board may, upon written recommendation of the Zoning Inspector or Code Enforcement Official, review and act on an application involving any Lot for which there is a pending violation where such application is a part of a plan to cure the violation and bring the Lot into compliance with applicable law.

10.3. **As-Built Plans.** Upon completion of construction, and unless waived by the Planning Board or the Zoning Inspector, 2 copies of an as-built survey shall be submitted to the Zoning Inspector, which plan shall show all elements of the Lot as actually constructed. No certificate of occupancy or certificate of compliance may be issued until the as-built plan has been reviewed by the Zoning Inspector and found to be in compliance with the approved Site Plan unless the requirement to submit an as-built survey has been waived pursuant to this Section 10.3.

10.4. **Expiration; Amendment.**

10.4.1. Expiration. A Site Plan approval shall expire if:

10.4.1.1. The applicant fails to present to the Zoning Inspector a corrected Site Plan including any modifications required by the Planning Board as a condition of its approval and obtain the Planning Board Chairman's signature on the Site Plan as required pursuant to 10.2.10 (Planning Board Chairman signature within 90 days of the date of approval). Prior to its expiration pursuant to this Section 10.4.1.1, the Site Plan approval may be extended by the Planning Board upon written request of the applicant to the Planning Board for one additional 90-day period. No public hearing shall be required in connection with such request; or

10.4.1.2. A building permit has not been issued for construction in accordance with an approved Site Plan within 3 years of the date that the Site Plan was signed by the Planning Board Chairman or if all improvements permitted or required by the Site Plan approval are not completed and a certificate of occupancy and/or certificate of compliance has not been issued within 2 years of the date that the building permit is issued. Prior to its expiration pursuant to this Section 10.4.1.2, the Site Plan approval may be extended by written request of

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the applicant to the Planning Board for up to 2 additional 6-month periods. No public hearing shall be required in connection with such request; or

10.4.1.3. For all principal permitted commercial, industrial or marine uses, the Use for which Site Plan approval was granted has substantially ceased for a period of 12 consecutive months. For Uses permitted pursuant to Special Use Permit approval, the Site Plan approval for such use shall expire upon the expiration of the Special Use Permit pursuant to Section 9.4 of this Zoning Law; or

10.4.1.4. If a court of competent jurisdiction determines that the Lot for which the Site Plan approval was granted has been changed or altered in a manner that is not permitted by such approval or any conditions or standards that have been made a part of the Site Plan approval are violated.

10.4.2. Amendment.

10.4.2.1. Minor Changes. Minor changes in an approved Site Plan may be approved administratively by the Village Engineer, Code Enforcement Official or Zoning Inspector, provided that the Village Engineer, Code Enforcement Official or Zoning Inspector finds that such Minor Change is consistent with the intent of the approved Site Plan and will not cause any additional adverse impacts to the surrounding community compared with the approved Site Plan. Minor changes which are approved by the Village Engineer, Code Enforcement Official or Zoning Inspector shall be reported in writing to the Planning Board at its next meeting. The report shall describe the changes and the justification for making the same and shall be made part of the formal record on file in the Building Department. Notwithstanding the above, the Village Engineer, Code Enforcement Official or Zoning Inspector is not required to approve any Minor Change to a Site Plan, but rather may refer any proposed change to a Site Plan to the Planning Board for review pursuant to Section 10.4.2.2 of this Zoning Law. For the purposes of this Section 10.4.2.1 a “Minor Change” to an approved Site Plan shall mean modifications of striping of Parking Spaces (provided that such striping does not affect the total number of spaces), relocation of handicap Parking Spaces, adjustment to curbing, modification of sidewalks and walkways, construction/modification of bollards, minor adjustments in the location of utilities, generators, and propane tanks, and minor modifications to site grading. A Minor Change is not anything that would change: (i) the approved stormwater management plan, (ii) the location of any Structure or Building, (iii) the architectural design or materials approved by the ARB, or (iv) increase Impervious Surface Coverage to an extent greater than 5%.

10.4.2.2. Amendment. All Amendments to previously approved Site Plans that are not approved as a Minor Change pursuant to Section 10.4.2.1 of this Zoning

Law shall follow the same procedure, rules and regulations as those that apply for applications for new Site Plan applications.

10.5. **Site Plan Requirements.** All Site Plans shall contain, at a minimum, the following information:

10.5.1. A set of multiple sheets of plans shall include a title page depicting an area map at a scale not exceeding 1" = 1000', the title of the application, identification of the design professional(s) preparing plans that make up the plan set, and a list of the names, preparer, original date and last revision date of all plans in the plan set.

10.5.2. The stamp and signature of the professional engineer, registered architect, licensed land surveyor or landscape architect or other qualified professional responsible for the preparation of the Site Plan.

10.5.3. Title of the project.

10.5.4. The property address, tax identification number, applicant name and owner name.

10.5.5. North arrow, scale, which shall be no smaller than 1"=20', and date.

10.5.6. Location map at a scale not exceeding 1" = 1000'.

10.5.7. Dimensions with metes and bounds of the Lot.

10.5.8. Landscaping meeting the requirements of Section 10.6.14.

10.5.9. Existing and proposed Building Height.

10.5.10. Ingress and egress, required and proposed, including, but not limited to the location, grade and width of the proposed Streets and driveways.

10.5.11. Location, dimension, and number of Parking Areas and Loading Spaces, fire lanes and traffic aisles

10.5.12. Dimensions, locations and setbacks from all Lot Lines of all Buildings and Structures, existing and proposed.

10.5.13. Location of all outdoor storage of goods or materials.

10.5.14. Total Floor Area and square footage of each floor of all existing and proposed Buildings.

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- 10.5.15. Where Buildings are proposed to be divided into units of separate occupancy, detailed breakdowns of all proposed floor space by type of Use and floor level;
- 10.5.16. Zoning designation of the parcel and the zoning designation of all adjacent parcels.
- 10.5.17. A zoning compliance table listing, at a minimum, the proposed Use of the Lot and the permitted/required and proposed: Lot Area, Net Lot Area, Required Yards, Setbacks of Buildings and Structures, Building Height, median elevation of the approved Finished Grade, Building Coverage, Impervious Surface Coverage, Floor Area of all Buildings, Floor Area Ratio, number of Parking Spaces and Loading Spaces and any other dimensional or Bulk requirements that apply to the subject Lot. If variances from the Bulk requirements were previously granted by the ZBA the date, case number and extent of such variances shall be included in the zoning compliance table.
- 10.5.18. Names of all abutting streets and names of all abutting landowners.
- 10.5.19. Location of existing and proposed utilities (including but not limited to method of water supply and sewage disposal, electric, gas and telecommunications), drainage, lighting, and erosion control.
- 10.5.20. Location and dimension of existing and proposed Retaining Walls, Fences, location and sizes of Signs.
- 10.5.21. Existing and proposed contours of the Lot at two-foot intervals.
- 10.5.22. Where a new driveway is proposed, sight distance analysis from such driveway which is compliant with American Association of State Highway and Transportation Association (AASHTO) Standards or other similar equivalent industry standard.
- 10.5.23. Elevations of all sides of any proposed Building, Structure or Retaining Wall that is over 3 feet in height.
- 10.5.24. Proposed location of all open spaces, including parks, playgrounds and open recreation areas.
- 10.5.25. If a Tree Removal Permit is being sought, a Tree Replacement Plan as required by the Village's Tree Preservation Law (Local Law 4 of 2021 as it may be from time to time amended).
- 10.5.26. The size and species of all Significant Trees within the area of disturbance, whether such Trees are proposed to be removed or not.

10.5.27. Any other information requested by the Planning Board that is reasonably necessary to allow the Planning Board to evaluate the Site Plan standards in Section 10.6.

10.6. **Site Plan Standards; Considerations for Approval.** The Planning Board shall not approve a Site Plan unless it finds that such plan conforms to the requirements of this Section 10. In reviewing the Site Plan, the Planning Board shall also take into consideration the public health, safety and general welfare and shall set appropriate conditions and safeguards or require plan modifications which are in harmony with the general purpose and intent of these regulations, including, without limitation, in regard to achieving the following:

10.6.1. An adequate, convenient and safe vehicular and pedestrian circulation system, so that traffic generated by the development will be properly handled both within the site and in relation to the adjoining street system.

10.6.2. A site layout that will have the minimum adverse effect upon the established character or potential use of any adjoining properties.

10.6.3. The reasonable screening at all seasons of the year from the view of adjacent residential properties and Streets of all Parking Areas and Loading Spaces, site operations, or other features that, in the opinion of the Planning Board, require such screening.

10.6.4. The reasonable screening at all seasons of the year of all exterior components of plumbing, processing, heating, cooling, and ventilating systems (including but not limited to piping, tanks, stacks, collectors, heating, cooling, and ventilating-equipment fans, blowers, ductwork, vents, louvers, meters, compressors, motors), which shall not be directly visible at the ground level. Any structural means employed to screen exterior components of plumbing, processing, heating, cooling and ventilating systems from direct view shall be constructed of complementary and durable materials and finished in a texture and color scheme complementary to the overall architectural design of the Building. Any exterior components of plumbing, processing, heating, cooling and ventilating systems and their screening devices which will be visible from upper floors and from adjacent Buildings shall be kept to a minimum, installed in a neat and compact fashion and be painted to allow them to blend with their visual backgrounds.

10.6.5. For all uses other than One Family Dwellings, trash containers shall be screened on all sides by walls, Fences, or natural vegetation or an acceptable combination of these elements. Vegetation used for screening shall provide a solid visual screen at all times of the year within 2 years of planting and be a minimum of 6 feet in height and a maximum of 10 feet in height; and Fencing or walls shall comply with the requirements of Section 6.3 of this Zoning Law.

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- 10.6.6. A drainage system designed to the satisfaction of the Village Engineer and meeting the requirements of the Village's Stormwater Management Law.
- 10.6.7. The underground installation of all utilities and services, including lines and equipment, for providing power and/or communication, to achieve greater safety and improved appearance. To the maximum extent possible all utilities shall be installed underground.
- 10.6.8. Conformance of the Site Plan with the Comprehensive Plan.
- 10.6.9. Consideration of the project's impact on the natural and man-made environment, with emphasis on minimizing the adverse effects thereon.
- 10.6.10. Reasonable provisions are made for sight and sound buffers, the preservation of views, light and air, and those aspects of Structure, Buildings, improvement and land design not otherwise regulated that may have substantial effects on neighboring land Uses.
- 10.6.11. New designs of Structures, Buildings, improvements, and land area and the location of Heavy Equipment consistent and harmonious in relationship to existing streetscapes, significant view sightlines, and the predominant architecture of the area.
- 10.6.12. Preservation of views of the Hudson River and Hook Mountain to minimize to the maximum extent practical obstruction of the views of the Hudson River or Hook Mountain from Buildings on neighboring properties and from Public Streets and publicly-owned land.
- 10.6.13. Land clearing, regrading and site disturbance is minimized to the maximum extent practicable in the context of the applicant's objective and such work does not cause significant negative impacts, particularly related to stormwater management, tree removal, visual impacts to surrounding properties and negative visual impact of views of the Village from the Hudson River or Hook Mountain.
- 10.6.14. Landscaping Requirements.
- 10.6.14.1. Landscape Plans Required. All applications for Site Plan approval shall include a landscape plan. Landscape plans shall specify the location, number, DBH (deciduous), height (evergreen), and species of all trees, shrubs and ground cover to be planted.
- 10.6.14.2. All landscaping shall be designed, planted and maintained in a manner that does not substantially obstruct sight lines for vehicles traveling on or accessing

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the Street. The Planning Board may waive or modify any landscaping requirements to ensure the preservation of adequate sight lines.

10.6.14.3. For Commercial and Special Permit Uses other than Home Occupations, Owner-Occupied Accessory Apartments and Short-Term Rentals.

10.6.14.3.1. Buffer: A buffer screening area at least 10 feet in width along any Lot Line abutting a public street or 20 feet in width along any Lot Line adjacent to property located in a residential zoning district shall be provided on all Lots improved with a commercial, industrial or Special Permit Use. Such buffer shall include for each 100 lineal feet or major fraction thereof, at least 4 deciduous shade trees with a DBH of at least 2 inches each, and at least 2 evergreen trees of at least 4 feet in height when initially planted. Tree should be informally dispersed with the planting of shrubs, hedge, ground cover and flowers. The above notwithstanding, where the buffer requirement of Section 5.3.3.1 applies it shall be controlling. Buffer landscaping is permitted in Required Yards.

10.6.14.3.2. Perimeter landscaping: A landscape strip at least 5 feet in width shall be provided on all Lots improved with a commercial or Special Permit Use. Such landscaping shall include appropriate trees, shrubs and other plant materials and ground cover, as approved by the Planning Board, to enhance the character of the neighborhood and buffer the view of site improvements from adjacent Lots. Such landscaping may be installed in any Required Yard. The preservation of existing vegetation is strongly encouraged. Perimeter landscaping is permitted in Required Yards.

10.6.14.3.3. Interior Landscaping. The preservation of existing vegetation is strongly encouraged. Additionally, interior landscape area shall be landscaped with appropriate trees, shrubs and other plant materials and ground cover, as approved by the Planning Board, to enhance the character of the neighborhood and buffer the view of site improvements from adjacent lots.

10.6.14.4. For Residential Uses. All improvements on Lots used for residential purposes shall be reasonably screened from view from adjacent lots and Public Streets at all seasons, and shall be landscaped with appropriate trees, shrubs and other plant materials and ground cover, as approved by the Planning Board, to enhance the character of the neighborhood. The preservation of existing vegetation and mature trees is strongly encouraged.

10.6.14.5. Maintenance Requirements.

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10.6.14.5.1. All trees planted as shown on a landscape plan approved by the Planning Board which fail to survive 2 growing seasons shall be replaced by the Lot owner. Said replacement shall be within the longer of 60 days following written notice from the Zoning Inspector or Village Engineer advising that such replacement is required or the period of time as may be specified in such notice.

10.6.14.5.2. Maintenance Bond. A maintenance bond in the amount of 125% of the cost of materials and installation of landscaping may be required by the Planning Board to assure that all landscaping shall conform with an approved landscaping plan and that the landscaping survives in a healthy condition. The maintenance bond may be held for a maximum of five full years, beginning at the date of the issuance of the certificate of occupancy or certificate of compliance.

10.6.14.6. Planning Board Waiver. The requirements of this Section 10.6.14 may be waived by the Planning Board in situations where the Board determines that adjoining land uses, topographic features or existing vegetation provide adequate screening or landscaping. The Planning Board may allow the substitution of a wall or Fence of location, height, design and materials to be determined in the reasonable discretion of the Planning Board (but subject to the height limitations set forth in Section 6.3) to meet the screening and buffering objectives of this section in lieu of or in conjunction with landscape planting.

10.6.14.7. Prohibited Species: Within any required landscaping buffer area, the planting of any species listed on the NYS DEC's Prohibited and Regulated Invasive Plant list shall be prohibited.

10.7. **Stormwater Pollution Prevention Plan.** A stormwater pollution prevention plan (SWPPP) consistent with the requirements of the Village's Stormwater Management Law shall be required for Site Plan approval. The SWPPP shall meet the performance and design criteria and standards in the Village's Stormwater Management Law to the satisfaction of the Village Engineer. The approved Site Plan shall be consistent with the provisions of the Stormwater Management Law and shall incorporate all measures specified in the SWPPP.

10.8. **Reservation of Parkland; Residential Site Plans.** Before the Planning Board may approve a Site Plan containing 4 or more Dwelling Units, where such Use is otherwise permitted pursuant to this Local Law, such Site Plan shall also show, when required by the Planning Board in accordance with Village Law§7-725-a(6) a park or parks suitably located for playground or other recreational purposes.

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- 10.8.1. Land reserved. Land for park, playground or other recreational purposes may not be required until the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Village. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the Village based on projected population growth to which the particular Site Plan will contribute. Any lands reserved for such purposes shall be appropriately located and shall be of suitable size, dimensions, topography and general character and shall have adequate street access for the particular purpose or purposes envisioned. The area shall be shown and marked on the Site Plan as reserved for park or playground purposes.
- 10.8.2. Required Area. When such lands are required to be reserved for park, playground or recreational purposes, they shall have an area that is not less than 10% of the Net Lot Area shown on the site plan.
- 10.8.3. Location. The Planning Board may require that such areas be located at a suitable place on the edge of the property for which Site Plan approval is being granted, so that additional land may be added at such time as adjacent land is developed.
- 10.8.4. Ownership and Maintenance. A legal instrument, satisfactory to the Village Attorney shall be recorded in the office of the Rockland County Clerk which clearly indicates the size, configuration, location and ownership of such reserved lands and ensures the continuation of responsibility for ownership and maintenance of such lands.
- 10.8.5. Fee in lieu of reservation.
- 10.8.5.1. If the Planning Board makes a finding pursuant to Section 10.8.1 of this Zoning Law that the proposed Site Plan presents a proper case for requiring park or parks suitably located for playgrounds or other recreational purposes, but determines that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such Site Plan, the Planning Board may require the applicant to pay a sum of money in lieu thereof in the amount that has been established and included in the schedule of fees adopted by the Board of Trustees. In making such determination of suitability, the Planning Board shall assess the size and suitability of lands shown on the Site Plan which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood of the land encompassed by the Site Plan.
- 10.8.5.2. Any moneys required by the Planning Board under Section 10.8.5.1 shall be deposited into a trust fund to be used by the Village exclusively for park,

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playground and other recreational purposes, including the acquisition of property.

10.8.6. Notwithstanding the foregoing provisions, if the land included in a Site Plan under review is a portion of a subdivision plat which has been reviewed and approved pursuant to the Subdivision Law, the Planning Board shall credit the applicant for any land set aside or money paid in lieu thereof under such subdivision plat approval.

10.8.7. Additional Park Reservations. None of the subsections above shall be construed as prohibiting a developer from reserving land for recreational purposes in addition to the requirements of this section.

10.9. **Planning Board Rules and Regulations.** The Planning Board may adopt additional rules and regulations not inconsistent with this law and Village Law §7-725-a regarding the requirements for Site Plan applications.

SECTION 11: ADMINISTRATION OF ZONING; ENFORCEMENT

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11. SECTION 11: ADMINISTRATION OF ZONING; ENFORCEMENT.

11.1. Administration and Enforcement.

11.1.1. This Zoning Law shall be administered and enforced by the Zoning Inspector who shall be appointed annually for a term of 1 year by the Board of Trustees. This Zoning Law may also be enforced by direct action of the Board of Trustees.

11.1.2. Minimum qualifications for the Zoning Inspector. The Zoning Inspector shall: (1) have obtained an Associate's Degree or higher in building technology, architecture, engineering, or a closely related field; and (2) have a minimum of 2 years of work experience which substantially involved inspection and/or investigation for compliance with codes and/or ordinances.

11.1.3. The Board of Trustees may designate the same person to serve as the Code Enforcement Official or other authorized enforcement officer under the Uniform Code and Zoning Inspector.

11.2. Duties and Powers of the Zoning Inspector.

11.2.1. Enforcement.

11.2.1.1. Except as otherwise specifically provided by law, ordinance or regulation, or except as herein otherwise provided, the Zoning Inspector is hereby authorized to administer and enforce all of the provisions of this Zoning Law, and any authorization or approval issued pursuant to this Zoning Law.

11.2.1.2. The Zoning Inspector shall be authorized to make inspections of Lots and the Buildings and Structures located thereon that are necessary and proper for carrying out the duties of the Zoning Inspector. However, notwithstanding the above, nothing in this Zoning Law shall be construed as permitting an inspection under any circumstances under which a warrant permitting such inspection is required by law, unless such warrant shall have been obtained.

11.2.2. Notice of Violation/Order to Remedy.

11.2.2.1. The Zoning Inspector is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any Building, Structure, or Lot which violates this Zoning Law or any approval or authorization issued pursuant to this Zoning Law.

SECTION 11: ADMINISTRATION OF ZONING; ENFORCEMENT

- 11.2.2.2. A Notice of Violation/Order to Remedy shall be in writing; shall be dated and signed by the Zoning Inspector; shall specify the condition or activity that violates this Zoning Law; shall specify the provision or provisions of this Zoning Law which is/are violated by the specified condition or activity; and shall include a statement substantially similar to the following: “The person or entity served with this Notice of Violation/Order to Remedy must completely remedy each violation described herein by _____ [specify date], which is [specify time period] after the date of this Order to Remedy.”
- 11.2.2.3. The Notice of Violation/Order to Remedy may include provisions ordering the person or entity served with it: (1) to begin to remedy the violations described in the Notice of Violation/Order to Remedy immediately, or within some other specified period of time which may be 30 days or less; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within 30 days of the date of such Notice of Violation/Order to Remedy; and/or (2) to take such other protective actions (such as vacating the Building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law or ordinance, and which the Zoning Inspector may deem appropriate, during the period while such violations are being remedied.
- 11.2.2.4. The Zoning Inspector shall cause a Notice of Violation/Order to Remedy, or a copy thereof, to be served on the owner of the affected Lot personally or by registered mail or certified mail to the address reflected on the current Village assessment roll within 5 days after the date of the Notice of Violation/Order to Remedy. If served by registered or certified mail, the Zoning Inspector shall also post the Notice of Violation/Order to Remedy on the Lot that is the subject of the Order. The Zoning Inspector may be permitted, but not required, to cause the Notice of Violation/Order to Remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered mail or certified mail within 5 days after the date of the Notice of Violation/Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy or validity of the Notice of Violation/Order to Remedy.
- 11.2.3. Stop Work Orders. Whenever the Zoning Inspector has reasonable grounds to believe that work on any Building, Structure or Use is being prosecuted in violation of the provisions of this Zoning Law or any approval granted hereunder, the Zoning Inspector or any other authorized code enforcement officer of the Village shall notify the owner of the property or the owner’s agent, or the person performing the work, to suspend all work and any such persons shall forthwith stop such work and

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suspend all building activities until the stop work order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed, either by delivering it personally to such person, or by posting the same on a conspicuous portion of the building or property under construction and sending a copy of the same by registered mail to the owner of the property at the address reflected on the Village's current assessment roll.

- 11.2.4. Appearance Tickets. The Zoning Inspector, Code Enforcement Official or any code enforcement officer of the Village is authorized to issue appearance tickets for any violation of this Local Law or any approval or authorization issued pursuant to this Local Law.
- 11.2.5. Building Permits. Except as otherwise provided in this Zoning Law, upon receipt of an application for a Building, demolition, Use or any other type of permit, the Code Enforcement Official shall promptly refer such application to the Zoning Inspector for review. The Zoning Inspector shall promptly review such application and advise the Code Enforcement Official and the applicant, in writing, whether the proposed actions comply with the provisions of this Zoning Law, or that the proposal does not comply with the provisions of this Law, or that approvals are required before the subject permit may be issued by the Code Enforcement Official. If the Zoning Inspector determines that any aspect of a proposed application does not comply with this Zoning Law or requires approvals under this Zoning Law before a permit from the Code Enforcement Official may be issued, the applicant shall obtain such approvals or otherwise address the identified noncompliance issues before the Code Enforcement Official may issue a building permit.
- 11.2.6. Certificates of Occupancy and Certificates of Compliance. Prior to issuing a certificate of occupancy or certificate of compliance for any Building, Structure or Use or modification thereof, the Code Enforcement Official shall refer the application for a certificate of occupancy or certificate of compliance, along with an as-built survey, where required, to the Zoning Inspector for review for compliance with the terms of this Zoning Law. The Zoning Inspector shall promptly review such application and shall advise the applicant and the Code Enforcement Official, in writing, whether the as-built condition complies with this Zoning Law and any approvals issued hereunder. No certificate of occupancy or certificate of compliance shall be issued until the Zoning Inspector confirms in writing that the Building, Structure or Use to which the certificate applies complies with this Zoning Law and all approvals issued thereunder.

11.3. Zoning Inspector Records and Reports.

- 11.3.1. The Zoning Inspector shall keep permanent official records of all transactions and activities conducted by such Inspector, including all applications received, permits

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and certificates issued or denied, fees charged and collected, inspection reports and notices and orders issued.

11.3.2. The Zoning Inspector shall submit to the Board of Trustees a written report and summary of all business conducted by the Zoning Inspector's office, including permits and certificates issued or denied, fees collected, orders and notices promulgated, inspections and tests made on a monthly basis.

11.4. Penalties for Violations.

11.4.1. It shall be unlawful for any Person, firm or corporation to Use or occupy land or to construct, Alter, repair, move, remove, demolish, equip, use, occupy or maintain any Building, Structure or piece of Heavy Equipment or portion thereof in violation of any provision of this Zoning Law or any approval issued pursuant hereto, or to fail in any manner to comply with a notice, directive or order of the Zoning Inspector, Code Enforcement Official or code enforcement officer of the Village, or to construct, Alter, use or occupy any Building, Structure or piece of Heavy Equipment or part thereof in a manner not permitted by an approved building permit, certificate of occupancy or certificate of compliance.

11.4.2. A violation of this Zoning Law or any permit or approval issued hereunder is hereby declared to be an offense, punishable by a fine not exceeding \$350.00 or imprisonment for a period not to exceed 6 months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of 5 years, punishable by a fine not less than \$350.00 nor more than \$700.00 or imprisonment for a period not to exceed 6 months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of 5 years, punishable by a fine not less than \$700.00 nor more than \$1,000.00 or imprisonment for a period not to exceed 6 months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Zoning Law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

11.4.3. Civil Penalties. In addition to those penalties prescribed herein, any Person who violates any provision of this Zoning Law or any term or condition of any approval issued hereunder or other notice or order issued by any officer or Board of the Village hereunder, shall be liable for a civil penalty of not more than \$200 for each day during which such violation continues. The civil penalties provided by this section shall be recoverable in an action instituted in the name of the Village.

11.4.4. Abatement of Violation: Appropriate actions and proceedings, including but not necessarily limited to actions pursuant to Village Law §7-714, may be taken at law or in equity to prevent unlawful construction or to restrain, correct or abate a

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violation or to prevent illegal use and/or occupancy of a Building, Structure, or Lot or to prevent illegal acts, conduct, or business in or about any premises or Lot; and these remedies shall be in addition to the penalties prescribed in the preceding sections of this Zoning Law. The cost of any action or proceeding taken at law or in equity, as above provided, may be assessed against the owner of the Lot against which action is taken.

11.5. Notice of Public Hearings Before the Zoning Board of Appeals or Planning Board.

11.5.1. Notice of Public Hearing. In addition to any other notice required by law, notice of a public hearing to be held by the Zoning Board of Appeals or Planning Board pursuant to this Zoning Law shall be given as follows:

11.5.1.1. Newspaper: The Planning Board or Zoning Board of Appeals, as appropriate, shall cause notice of a public hearing on an application and a summary of the substance of such application to be published in the official newspaper of the Village at least 5 days before the date of such hearing.

11.5.1.2. Mailing: The applicant shall cause notice of a public hearing and a summary of the substance of the Application to be sent to all owners of property located within 200 feet of the subject Property as set forth on the most recent Village final assessment roll (or if such adjoining property is located in the Village of Nyack, the assessment roll of the Town of Orangetown or, if located in the Town of Clarkstown on the official assessment roll of the Town of Clarkstown), and to such other persons as the Zoning Inspector may direct in writing. Such notice shall be sent by U.S. First Class Mail with Certificate of Mailing at least 5 days before the first session of any public hearing on such application (no additional notice mailing is required for the continuation of a public hearing on an application). At least 2 business days prior to the commencement of the public hearing, the Applicant shall file proof of mailing of such notice with the clerk of the appropriate board, which shall consist of: (i) a completed United States Postal Service Certificate of Mailing; (ii) an affidavit of mailing stating the date the notice was mailed and the names and addresses of the persons served with the notice; and (iii) all envelopes that were returned to the Applicant as undeliverable prior to the hearing.

11.5.1.3. Notice Signs: The Applicant shall post 1 or more notice Signs provided by the board clerk on the Lot(s) which is the subject of said application at least 5 days prior to the public hearing and must maintain the posted Sign(s) in place until the board has rendered its final decision on the application. The Sign(s) shall be erected not more than 10 feet from each boundary of the Lot that abuts a Public Street and must be conspicuous to the public. The bottom edge of each Sign so erected shall be positioned no less than approximately 14 inches and

SECTION 11: ADMINISTRATION OF ZONING; ENFORCEMENT

no more than approximately 36 inches above the ground. If the subject property abuts more than 1 road, additional Signs shall be posted facing each Public Street on which the property abuts. If the Lot does not abut a Public Street, 1 or more Signs shall be posted in a location or locations determined by the Zoning Inspector that can readily be seen by the public. Any Sign erected under this provision must be removed within 10 days after the board renders the final disposition of the application.

12. SECTION 12: ZONING BOARD OF APPEALS.

12.1. **Zoning Board of Appeals.** There is hereby continued the ZBA consisting of 5 members each of whom shall be appointed by the Mayor subject to the approval of the Board of Trustees for a term of 5 years, with the power of removal and of filling vacancies, as provided by the Village Law. The Mayor subject to the approval of the Board of Trustees shall appoint a chairman. Such ZBA shall determine its own rules of conduct and procedure consistent with the applicable provisions of the Village Law and this Zoning Law.

12.2. **Alternate Members.** The Mayor subject to the approval of the Board of Trustees may appoint 1 alternate member to the ZBA to serve as provided for in this section. Such alternate member shall be appointed for a 2-year term of office. The ZBA Chairman shall assign such alternate member to sit on the ZBA in a case where a conflict of interest of 1 of the ZBA's regular members would otherwise prevent 5 members of the ZBA from considering any pending matter. Once designated to serve on a matter, the alternate member shall have the same powers and duties as a regular ZBA member with respect to such matter until that matter is concluded. Any determination of the ZBA made with the participation of the alternate member shall have the same weight and be entitled to the same authority as the act or deed of the regular ZBA and all laws, statutes and regulations shall apply and be applied with equal force and effect.

12.3. **Power and Duties of the Zoning Board of Appeals.** The ZBA shall have all the powers and duties prescribed by the Village Law and by this Zoning Law, which are more particularly specified as follows:

12.3.1. **Interpretation.** Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this Zoning Law, including the determination of the exact location of any district boundary if there is uncertainty with respect thereto.

12.3.2. **Review of Administrative Decisions.** The ZBA may reverse or affirm wholly or partly, or may modify any order, requirement, decision, interpretation or determination of the Zoning Inspector or any other Village official authorized to administer, interpret or enforce this Zoning Law appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter and, to that end, shall have all the powers of the Zoning Inspector or administrative official from whose order, requirement, decision, interpretation or determination the appeal was taken.

SECTION 12: ZONING BOARD OF APPEALS

12.3.3. Variances.

12.3.3.1. Use Variances: Use variance shall mean the authorization by the ZBA for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations. The ZBA, on appeal from the decision or determination of the Zoning Inspector or other Village officer charged with the enforcement of this Zoning Law, shall have the power to grant use variances. No such use variance shall be granted unless the applicant can demonstrate that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the ZBA, that for each and every permitted use under the zoning regulations for the particular district where the property is located: (1) the applicant cannot realize a reasonable return provided that lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created. The ZBA, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

12.3.3.2. Area Variances. Area variance shall mean the authorization by the ZBA for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations. The ZBA, on appeal from the decision or determination of the Zoning Inspector or other Village officer charged with the enforcement of this Zoning Law or as otherwise authorized in the Village Law, shall have the power to grant area variances. In making its determination, the ZBA 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 ZBA shall consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse affect or impact on the physical or environmental conditions of the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance. The ZBA, in the granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate

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and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

12.3.3.3. Conditions: The ZBA may impose such conditions and restrictions as are directly related to and incidental to the proposed variance, including, but not limited to, conditions that would avoid or minimize traffic hazards and the impairment of the use, enjoyment, or value of property in the surrounding area, including limiting or regulating hours of operation.

12.4. Procedure.

12.4.1. Time to Appeal; Form of Appeal. Any person who is aggrieved by a decision of the Zoning Inspector or any other Village official in the application or interpretation of this Zoning Law may appeal such decision to the ZBA or may apply for any required variances (appeals and variance applications may be made in the alternative in one submission to the ZBA). Appeals and variance applications are referred to in this Section 12 as “Applications.” An Application for an appeal or for a variance shall be made within 60 days after the filing of any order, requirement, decision, interpretation or determination of the Zoning Inspector or other authorized administrative official in the Village’s Building Department by filing with the Zoning Inspector an application on forms as prescribed by the Zoning Inspector and supporting plans and documentation as required by such forms, specifying the grounds thereof and the relief sought. The Zoning Inspector shall promptly transmit to the ZBA all papers constituting the record upon which the action appealed from was taken. Each Application shall fully set forth the circumstances of the case; shall refer to the specific provision of this Zoning Law involved; and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the adjustment that is applied for and the ground for which it is claimed that the same should be granted.

12.4.2. Fee. An Application to the ZBA shall be accompanied by a fee as set by resolution of the Board of Trustees. All application fees are in addition to any required professional review escrow fees and environmental review fees pursuant to 13.2 of this Zoning Law.

12.4.3. Referrals. The ZBA shall make all referrals of any application made to such board as required by law. Additionally, the ZBA may refer any application it receives to the Zoning Inspector, Village Engineer, Planning Board or other governmental agency or official as it deems appropriate. Such government official or agency shall report their findings to the ZBA in writing within 30 days of the date the referral is transmitted to such agency or official. If such agencies fail to report their findings to the ZBA within such 30-day period the ZBA may conclude that such agencies do not have any comment on the application.

SECTION 12: ZONING BOARD OF APPEALS

- 12.4.4. Public Hearing. The ZBA shall hold a public hearing on all Applications within 62 days of the date that it deems the Application complete, unless this time limit is waived or extended by the applicant.
- 12.4.5. Notice of Public Hearing. In addition to any other notice required by law, notice of a public hearing on all Applications before the ZBA shall be given as required by Section 11.5 of this Zoning Law.
- 12.4.6. Time for Decision: The ZBA shall decide an Application within 62 days of the close of the public hearing on the Application, unless this time limit is waived or extended by the applicant.
- 12.4.7. Voting requirements. Except where a greater vote is otherwise required by law, every motion or resolution of the ZBA on an Application shall require for its adoption the affirmative vote of a majority of all the members of the ZBA as fully constituted regardless of vacancies or absences. If an affirmative vote of a majority of all members of the ZBA is not attained on a motion or resolution the Application for a variance is deemed denied, however, in such case the decision or interpretation appealed from is deemed affirmed.
- 12.4.8. Minutes. The ZBA shall keep minutes of its proceedings. Every decision shall be by resolution which may be recorded in the minutes or prepared as a separate document.
- 12.4.9. Expiration; Amendment.
- 12.4.9.1. Expiration: A use or area variance granted by the ZBA shall expire if:
- 12.4.9.1.1. For a variance granted where no contemporaneous Site Plan approval is required by the Planning Board, a building permit has not been issued for construction of the Use, Building or Structure authorized by such variance within 1 year of the date the resolution approving the variance is filed in the Office of the Village Clerk or if a certificate of occupancy or certificate of compliance has not been issued within 2 years of the date of such filing. Prior to its expiration pursuant to this Section 12.4.9.1, the variance may be extended by the ZBA by written request of the applicant for up to 2 additional 6-month periods. No public hearing shall be required in connection with approval extensions requested pursuant to this Section 12.4.9.1; or
- 12.4.9.1.2. For variances granted where contemporaneous Site Plan approval is required by the Planning Board, the Site Plan approval expires; or

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- 12.4.9.1.3. In the case of a use variance, the Use for which the variance was granted has substantially ceased for a period of 6 consecutive months. In the case of an area variance, the Structure, Building or other improvement for which an area variance was granted has been substantially demolished or removed from the Lot.
- 12.4.9.2. Amendment: Applications for an amendment or modification of a variance previously granted by the ZBA shall follow the same procedure, rules and regulations as those that apply to Applications pursuant to this Section 12.

13. SECTION 13: FEES.

13.1. **Adoption of Fee Schedule.** The Board of Trustees shall from time to time adopt a schedule of fees permitted or required to be charged under this Zoning Law.

13.2. **Payment for Village Technical Consultant Services.**

13.2.1. The Board of Trustees, the Planning Board, the ZBA and/or the ARB, in the review of any Land Use Application presented to it, may refer such application to such engineering, planning, legal, technical or environmental consultant, or professional(s) employed by the Village (collectively or individually as the context requires the “Technical Consultants”) as such board shall deem reasonable and necessary to enable it to review such Land Use Application as required by law.

13.2.2. If one of the above-referenced boards determines that referral of a Land Use Application to a Technical Consultant as described in Section 13.2.1 above is required, the reviewing board or boards may require the establishment of an escrow account to be maintained by the Village for the custody of funds from which withdrawals shall be made to reimburse the Village for the reasonable and necessary costs of the review of such application(s) by one or more Technical Consultants. The applicant shall provide funds to the Village for deposit into such account in an amount to be determined by the reviewing board based upon its evaluation of the nature and complexity of the application.

13.2.3. When the balance in such escrow account is reduced to 1/3 of its initial amount, the applicant shall deposit additional funds into such account to restore the balance in such account to the amount of the initial deposit. If such additional funds are not provided to the Village as required by this Zoning Law, any review of the Land Use Applications or action on the part of the Village or any of its boards may be suspended until said funds are provided.

13.2.4. If a Land Use Application is withdrawn prior to decision on such application, the applicant is nevertheless responsible for any reasonable and necessary expenses actually incurred by the Village regarding said application prior to such withdrawal.

13.2.5. Each Technical Consultant who renders services to review any Land Use Application as provided for herein shall submit monthly itemized vouchers to the Village describing with reasonable particularity the services performed and amounts charged for such services. The Village shall cause such vouchers to be audited as required by law to ensure that all fees paid from escrow funds deposited by an applicant are reasonable and necessary in the review of such Land Use Application. All reasonable and necessary charges incurred for consulting services shall be deducted from the appropriate escrow account.

- 13.2.6. After all such charges have been paid in full, the Village shall refund the applicant any balance of its escrow funds remaining in the escrow account.
- 13.2.7. Upon request, the Village shall provide the applicant with a statement indicating all expenses incurred and debited from the escrow fees deposited by the applicant with regard to its Land Use Application along with copies of all vouchers submitted to and paid by the Village out of funds deposited by the requesting applicant as of the date of such request.
- 13.2.8. The Technical Consultants' fees shall be in accord with charges usually made for such services in the New York metropolitan area.
- 13.2.9. If an applicant is aggrieved by the payment of any Technical Consultant fees out of the escrow funds that it has deposited with the Village pursuant to this Section 13.2 then it may appeal such payment, in writing, to the Board of Trustees for a reduction in the required reimbursement amount. Such appeal shall be filed with the Board of Trustees no later than 20 days after mailing or other delivery to the applicant of the contested voucher and shall describe with particularity how and in what manner such payment was not reasonable and necessary in the review of the applicant's Land Use Application. Upon review of such appeal, the Board of Trustees may affirm, reduce or reverse the disputed payment and may order a refund of any funds paid that the Board of Trustees finds were not reasonable and necessary in the review of the applicant's Land Use Application. The Board of Trustee's determination shall be in writing and shall be made no later than 60 days after receipt of the applicant's appeal. Any applicant that is aggrieved by the Board of Trustees' decision may apply to the New York State Supreme Court, Rockland County for review by a proceeding under article seventy-eight of the civil practice law and rules. Such proceeding shall be instituted within 30 days after the filing of a decision of the board in the office of the Village Clerk.

SECTION 14: AMENDMENT TO ZONING LAW

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14. SECTION 14: AMENDMENT TO ZONING LAW.

14.1. **Amendment of Zoning Law.** This Zoning Law may be amended, supplemented, changed or repealed by a majority vote of the Board of Trustees in accordance with the procedures set forth in the Village Law and Municipal Home Rule Law.

SECTION 15: WIRELESS TELECOMMUNICATION FACILITIES

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15. SECTION 15: WIRELESS TELECOMMUNICATION FACILITIES.

15.1. **Purpose.** The purpose of this Section is to establish uniform standards, procedures and requirements for the siting, design, permitting, maintenance, and use of Wireless Telecommunication Facilities in the Village that are consistent and compliant with the provisions of the Telecommunication Act of 1996 and its implementing regulations as adopted by the Federal Communications Commission. While the Village recognizes the importance of Wireless Telecommunication Facilities in providing high-quality communications service to its residents and businesses, and its role in protecting public safety it also recognizes the need to minimize the adverse effects of such facilities.

15.2. **Wireless Telecommunication Facilities; Definitions.** As used in this Section 15, the following terms shall have the meanings indicated below. Any term not defined herein shall have the meaning ascribed to it in Section 2 of this Zoning Law. If there is a conflict between the provisions of Section 2 and this Section 15.2, for the purposes of this Section 15, the definitions in this Section 15.2 shall control. All references to state or federal laws in any definition shall refer to such laws as they currently exist and as they may be amended from time to time.

15.2.1. **ACCESSORY OR ANTENNA EQUIPMENT** – Any equipment serving or being used in conjunction with a Wireless Telecommunication Facility and located on the same Lot as such facility, including, but not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, buildings and similar Structures, and, when co-located on a Structure, which is mounted or installed at the same time as an Antenna.

15.2.2. **ANTENNA** – An apparatus designed for the purpose of emitting radio frequency (RF) radiation, to be operated or operating from a fixed location, for the provision of Personal Wireless Service (whether on its own or with other types of services). For purposes of this definition, the term "Antenna" does not include an unintentional radiator, mobile station, or device authorized under Part 15 of Title 47 of the United States Code.

15.2.3. **ANTENNA FACILITY** – Means an Antenna and associated Antenna Equipment and Accessory Structures and uses.

15.2.4. **BASE STATION** – A Structure or equipment at a fixed location that enables FCC-licensed or FCC-authorized wireless communications between user equipment and a communications network.

15.2.5. **COLLOCATION** – Consistent with 47 CFR 1.6002 (g): (1) Mounting or installing an Antenna Facility on a pre-existing Structure; and/or (2) modifying a

SECTION 15: WIRELESS TELECOMMUNICATION FACILITIES

Structure for the purpose of mounting or installing an Antenna Facility on that Structure.

- 15.2.6. COMPLETE APPLICATION DATE – The date that the Code Enforcement Official receives an application to deploy a Small or Large Wireless Facility plus the number of days in the tolling period as calculated in accordance with 47 CFR 1.6003(d) and (e).
- 15.2.7. FAA – The Federal Aviation Administration, or its duly designated and authorized successor agency.
- 15.2.8. FCC – The Federal Communications Commission, or its duly designated and authorized successor agency.
- 15.2.9. HEIGHT – When referring to a Structure, the distance measured from the approved Finished Grade, or, if there is no approved Finished Grade the preexisting grade to the highest point on the Structure, including the Antenna Facility.
- 15.2.10. INCOMPLETE APPLICATION NOTICE – A notice given by the Code Enforcement Official to an applicant notifying the applicant that a submission or resubmission of an application is deficient and incomplete, which notice shall clearly and specifically identify the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information.
- 15.2.11. INITIAL APPLICATION DATE – The date that an application for approval of a Wireless Telecommunication Facility is received by the Code Enforcement Official.
- 15.2.12. LARGE WIRELESS FACILITY – Any Wireless Telecommunication Facility that is not a Small Wireless Facility as that term is defined herein.
- 15.2.13. MODIFICATION – The improvement, upgrade or expansion of an existing Wireless Telecommunication Facility or the improvement, upgrade or expansion of the Wireless Telecommunication Facility located within an existing equipment compound, if the improvement, upgrade, expansion or replacement does not make a Substantial Change to the physical dimensions of the Wireless Telecommunication Facility.
- 15.2.14. MONOPOLE – A wireless communications support Structure which consists of a single pole, designed and erected on the ground or on top of a Structure, to support an Antenna or Antenna Facility.
- 15.2.15. NIER – Nonionizing electromagnetic radiation.

SECTION 15: WIRELESS TELECOMMUNICATION FACILITIES

- 15.2.16. **PERSONAL WIRELESS SERVICE** – Commercial mobile service, unlicensed wireless services, and common carrier wireless exchange access services as those terms are defined by FCC regulations or federal law.
- 15.2.17. **PUBLIC RIGHT-OF-WAY** – Any way over which the public possesses the right to travel, which heretofore has been duly laid out, adopted and established by law, whether publicly owned or not.
- 15.2.18. **REPLACEMENT** – The replacement of an existing Antenna Facility on any existing Structure for maintenance, repair or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight, color and height as the existing Antenna Facility and which does not effect a Substantial Change in the physical dimensions of any existing support Structure.
- 15.2.19. **SMALL WIRELESS FACILITY** – A Wireless Telecommunication Facility that meets each of the following conditions: (1) The facility (i) is mounted on a structure 50 feet or less in height including its antennas as defined in 47 CFR § 1.1320(d); or (ii) is mounted on a structure no more than 10 percent taller than other adjacent structures; or (iii) does not extend the existing Structure on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater; and (2) each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 CFR § 1.1320(d)), is no more than 3 cubic feet in volume; and (3) all other wireless equipment associated with the Structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume; and (4) the facility does not require antenna structure registration under part 17 of the FCC’s regulations; and (5) the facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and (6) the facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR § 1.1307(b).
- 15.2.20. **SUBSTANTIAL CHANGE** – A modification to a Wireless Telecommunication Facility that meets the criteria for a Substantial Change as that term is defined in 47 CFR 1.6100.
- 15.2.21. **TELECOMMUNICATION STRUCTURE** – A pole, tower, base station, or other Building or Structure, whether or not it has an existing Antenna Facility, that is used or to be used for the provision of Personal Wireless Service (whether on its own or commingled with other types of services).
- 15.2.22. **TOWER** – Any Structure built for the sole or primary purpose of supporting any FCC-licensed or FCC-authorized Antenna Facility that is constructed for wireless communications services including, but not limited to, private, broadcast, and public

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safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

15.2.23. TRANSMISSION EQUIPMENT – Equipment that facilitates transmission for any FCC-licensed or FCC-authorized wireless communications service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services, including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

15.2.24. UTILITY POLE – A pole or similar Structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control, Signs, or a similar function, regardless of ownership, including poles owned by the Village or utility companies.

15.2.25. WIRELESS TELECOMMUNICATION FACILITY – An Antenna Facility or a Structure that is used for the provision of Personal Wireless Service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services. The term Wireless Telecommunication Facility shall include, collectively, Small Wireless Facilities and Large Wireless Facilities, as the context reasonably requires.

15.2.26. WIRELESS TELECOMMUNICATION PROVIDER – A Person which is licensed by the FCC to operate Wireless Telecommunication Facilities.

15.3. **Wireless Telecommunication Facilities; Permitted Use.** Small Wireless Facilities and Large Wireless Facilities shall be permitted Uses in all zoning districts in the Village subject to the terms, conditions, limitations and permitting requirements of this Section 15.

15.4. **Permits for Small Wireless Facilities.**

15.4.1. Collocation of Small Wireless Facilities on Existing Structures; Permits Required.

15.4.1.1. Except as otherwise expressly provided herein, no person shall be permitted to site, place, build, construct, make a Substantial Change to or prepare any site for the collocation of any Small Wireless Facility on an existing Structure without having first obtained a building permit from the Code Enforcement Official, along with all other permits required by any state, local or federal law or building code.

15.4.1.2. Building Permit Application; Determination of Completeness.

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15.4.1.2.1. Upon receipt of a building permit application to collocate a Small Wireless Facility on an existing Structure, the Code Enforcement Official shall mark the Initial Application Date in a conspicuous place on the application and shall review such application for completeness in accordance with the submission criteria set forth in Section 15.7.1 and the design and location criteria in Section 15.8. If the Code Enforcement Official determines that the application is incomplete, the Code Enforcement Official shall send the applicant an Incomplete Application Notice by first class mail and electronic mail to the addresses indicated for such purpose on the application. Such notice shall be given on or before the 10th day after the submission is received by the Code Enforcement Official.

15.4.1.2.2. Upon receipt of a submission in response to an Incomplete Application Notice, the Code Enforcement Official shall review such submission to determine if it provides the information specifically requested in the Incomplete Application Notice. If the Code Enforcement Official determines that the application is still incomplete, the Code Enforcement Official shall send the applicant another Incomplete Application Notice by first class mail and electronic mail to the addresses indicated for such purpose on the application. Such notice shall clearly and specifically identify the missing documents or information that need to be submitted based on the Code Enforcement Official's original request for a resubmission and shall be given on or before the 10th day after the date when the Code Enforcement Official receives the supplemental submission in response to the Incomplete Application Notice. This process shall repeat until the Code Enforcement Official determines that the application is complete.

15.4.1.2.3. Upon a determination by the Code Enforcement Official that an application is complete, the Code Enforcement Official shall mark the Complete Application Date in a conspicuous location on the application form.

15.4.1.3. ARB Referral; Action on Application; Conditions.

15.4.1.3.1. Within 7 days of the Complete Application Date, the Code Enforcement Official shall refer such permit application to the ARB for review.

15.4.1.3.2. Within 35 days of receipt of such application from the Code Enforcement Official, the ARB shall review such application according to the aesthetic criteria set forth in Section 15.9 and transmit a written report

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to the Code Enforcement Official and the applicant advising whether the proposed application complies with such criteria, or whether any conditions to the building permit for such facilities are required to ensure such compliance. If the ARB fails to transmit a written report to the Code Enforcement Official within 35 days of its receipt of a building permit application for the Collocation of a Small Wireless Facility, such application shall be deemed to comply with the aesthetic requirements of Section 15.9 without condition unless the applicant agrees to an extension of time in writing.

15.4.1.3.3. The Code Enforcement Official shall act on any application seeking authorization for a building permit to collocate a Small Wireless Facility using an existing structure promptly after the receipt of the ARB's report but not later than within 60 days of the Complete Application Date. If the ARB's report recommends the imposition of conditions, the Code Enforcement Official shall incorporate such conditions as conditions of the building permit.

15.4.1.3.4. The Code Enforcement Official may attach such conditions and safeguards to any building permit or certificate of occupancy/compliance to collocate a Small Wireless Facility as are, in the Code Enforcement Official's opinion, necessary to ensure initial and continued conformance to all applicable standards and requirements.

15.4.1.4. As-Built Plan. Within 60 days after the collocated Small Wireless Facility is installed, an as-built plan of such facility shall be submitted to the Code Enforcement Official.

15.4.1.5. Certificate of Occupancy/Compliance. The Code Enforcement Official shall issue a certificate of occupancy/certificate of compliance if the work which was the subject of the building permit was completed in accordance with the terms of such permit and with all applicable provisions of local, state and federal codes that regulate the construction of the Small Wireless Facility, including a certification by the applicant affirming that the Small Wireless Facility complies with all FCC and other governmental regulations in connection with human exposure to radio frequency emissions for every frequency at which the Small Wireless Facilities will operate. The Code Enforcement Official or such official's authorized designee shall inspect the Building, Structure or work prior to the issuance of a certificate of occupancy/certificate of compliance. The certificate of occupancy/certificate of compliance shall be subject to continued compliance with any conditions imposed by the ARB or the Code Enforcement Official to ensure the Small Wireless Facility's compliance with the provisions of Section 15.9.

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15.4.2. Small Wireless Facilities on New Structures; Site Plan Approval and Building Permit Required.

15.4.2.1. Except as otherwise expressly provided herein, no person shall be permitted to site, place, build, construct, make a Substantial Change to or prepare any site for the placement or use of a Small Wireless Facility on a new structure without having first obtained Site Plan approval from the Planning Board and a building permit from the Code Enforcement Official, along with all other permits required by any state, local or federal law or building code.

15.4.2.2. Site Plan and Building Permit Applications; Determination of Completeness.

15.4.2.2.1. Upon receipt of a building permit application to install a Small Wireless Facility on a new structure, the Code Enforcement Official shall mark the Initial Application Date in a conspicuous place on the application and shall review such application for completeness in accordance with the submission criteria set forth in subsection 15.7. If the Code Enforcement Official determines that the application is incomplete, the Code Enforcement Official shall send the applicant an Incomplete Application Notice by first class mail and electronic mail to the addresses indicated for such purpose on the application. Such notice shall be given on or before the 10th day after the submission is received by the Code Enforcement Official.

15.4.2.2.2. Upon receipt of a submission in response to an Incomplete Application Notice, the Code Enforcement Official shall review such submission to determine if it provides the information specifically requested in the Incomplete Application Notice. If the Code Enforcement Official determines that the application is still incomplete, the Code Enforcement Official shall send the applicant another Incomplete Application Notice by first class mail and electronic mail to the addresses indicated for such purpose on the application. Such notice shall clearly and specifically identify the missing documents or information that need to be submitted based on the Code Enforcement Official's original request for a resubmission and shall be given on or before the 10th day after the date when the Code Enforcement Official receives the supplemental submission in response to the Incomplete Application Notice. This process shall repeat until the Code Enforcement Official determines that the application is complete.

15.4.2.2.3. Upon a determination by the Code Enforcement Official that an application is complete, the Code Enforcement Official shall mark the

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Complete Application Date in a conspicuous location on the application form.

15.4.2.3. Planning Board Referral; Action on Application; Conditions

15.4.2.3.1. Within 7 days of the Complete Application Date, the Code Enforcement Official shall refer such permit application to the Planning Board for Site Plan review pursuant to Section 10 of this Zoning Law, and to all other governmental agencies as required by law. Neither the Planning Board nor the Code Enforcement Official shall be required to refer such application to the ARB; and the Planning Board shall determine the application's compliance with the design, location and aesthetic criteria set forth in Sections 15.8 and 15.9.

15.4.2.3.2. The Planning Board shall review such application in accordance with Section 10 of this Zoning Law and Sections 15.8 and 15.9 and shall, within 65 days of receipt of such application from the Code Enforcement Official, approve, deny or approve with modifications or conditions the applicant's Site Plan application, and transmit a written resolution of such determination to the Code Enforcement Official and the applicant. The failure of the Planning Board to render a decision on the applicant's Site Plan application within 65 days of the date such application is received by the Planning Board shall constitute a default approval of such Site Plan as submitted unless the applicant agrees to an extension of time in writing.

15.4.2.3.3. The Code Enforcement Official shall take action on any application seeking authorization for a building permit to construct a Small Wireless Facility on a new structure promptly after the grant of Site Plan approval or Site Plan approval with modifications or conditions from the Planning Board, but not later than within 90 days of the Complete Application Date.

15.4.2.3.4. The Code Enforcement Official may attach such conditions and safeguards to any building permit or certificate of occupancy/compliance to construct a new Small Wireless Facility as are, in the Code Enforcement Official's opinion, necessary to ensure initial and continued conformance to all applicable standards and requirements.

15.4.2.4. As-Built Plan. Within 60 days after the Small Wireless Facility is installed, the applicant shall submit an as-built plan of such facility to the Code Enforcement Official.

15.4.2.5. Certificate of Occupancy/Compliance. The Code Enforcement Official shall issue a certificate of occupancy/certificate of compliance if the work

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which was the subject of the building permit was completed in accordance with the terms of such permit and with all applicable provisions of local, state and federal codes that regulate the construction of the Small Wireless Facility, including a certification by the applicant affirming that the Small Wireless Facility complies with all FCC and other governmental regulations in connection with human exposure to radio frequency emissions for every frequency at which the Small Wireless Facility will operate. The Code Enforcement Official or such official's authorized designee shall inspect the Building, Structure or work prior to the issuance of a certificate of occupancy/certificate of compliance. The certificate of occupancy/certificate of compliance shall be subject to continued compliance with any conditions imposed by the Planning Board or the Code Enforcement Official to ensure the Small Wireless Facility's compliance with the provisions of Sections 15.8 and 15.9.

15.5. Permits for Large Wireless Facilities.

15.5.1. Collocation of Large Wireless Facilities on Existing Structures; Building Permit Required.

15.5.1.1. As of the effective date hereof, and except as otherwise expressly provided herein, no person shall be permitted to site, place, build, construct, make a Substantial Change to or prepare any site for the Collocation of any Large Wireless Facility on an existing structure without having first obtained a building permit from the Code Enforcement Official, along with all other permits required by any state, local or federal law or building code.

15.5.1.2. Building Permit Application; Determination of Completeness.

15.5.1.2.1. Upon receipt of a building permit application to collocate a Large Wireless Facility on an existing structure, the Code Enforcement Official shall mark the Initial Application Date in a conspicuous place on the application and shall review such application for completeness in accordance with the submission criteria set forth in 15.7.1 and 15.8. If the Code Enforcement Official determines that the application is incomplete, the Code Enforcement Official shall send the applicant an Incomplete Application Notice by first class mail and electronic mail to the addresses indicated for such purpose on the application. Such notice shall be given on or before the 10th day after the submission is received by the Code Enforcement Official.

15.5.1.2.2. Upon receipt of a submission in response to an Incomplete Application Notice, the Code Enforcement Official shall review such submission to determine if it provides the information specifically requested in the

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Incomplete Application Notice. If the Code Enforcement Official determines that the application is still incomplete, the Code Enforcement Official shall send the applicant another Incomplete Application Notice by first class mail and electronic mail to the addresses indicated for such purpose on the application. Such notice shall clearly and specifically identify the missing documents or information that need to be submitted based on the Code Enforcement Official's original request for a resubmission and shall be given on or before the 10th day after the date when the Code Enforcement Official receives the supplemental submission in response to the Incomplete Application Notice. This process shall repeat until the Code Enforcement Official determines that the application is complete.

15.5.1.2.3. Upon a determination by the Code Enforcement Official that an application is complete, the Code Enforcement Official shall mark the Complete Application Date in a conspicuous location on the application form.

15.5.1.3. ARB Referral; Action on Application; Conditions.

15.5.1.3.1. Within 7 days of the Complete Application Date, the Code Enforcement Official shall refer such permit application to the ARB for review.

15.5.1.3.2. Within 65 days of receipt of such application from the Code Enforcement Official, the ARB shall review such application according to the aesthetic criteria set forth in subsection 15.9 and transmit a written report to the Code Enforcement Official and the applicant advising whether the proposed application complies with such criteria, or whether any conditions to the building permit for such facility is required to ensure compliance with such criteria. If the ARB fails to transmit a written report to the Code Enforcement Official within 65 days of its receipt of a building permit application for the Collocation of a Large Wireless Facility, such application shall be deemed to comply with the aesthetic requirements of Section 15.9 without condition unless the applicant agrees to an extension of time in writing.

15.5.1.3.3. The Code Enforcement Official shall act on any application seeking authorization for a building permit to collocate a Large Wireless Facility using an existing structure promptly after the receipt of the ARB's report but not later than within 90 days of the Complete Application Date. If the ARB's report recommends the imposition of conditions, the Code Enforcement Official shall incorporate such conditions as conditions of the building permit.

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15.5.1.3.4. The Code Enforcement Official may attach such conditions and safeguards to any building permit or certificate of occupancy/compliance to collocate a Large Wireless Facility as are, in the Code Enforcement Official's opinion, necessary to ensure initial and continued conformance to all applicable standards and requirements.

15.5.1.4. As-Built Plan. Within 60 days after the Large Wireless Facility is installed, the applicant shall submit an as-built plan of such facility to the Code Enforcement Official.

15.5.1.5. Certificate of Occupancy/Compliance. The Code Enforcement Official shall issue a certificate of occupancy/certificate of compliance if the work which was the subject of the building permit was completed in accordance with the terms of such permit and with all applicable provisions of local, state and federal codes that regulate the construction of the Large Wireless Facility. The Code Enforcement Official or an inspector authorized by the Code Enforcement Official shall inspect the Building, Structure or work prior to the issuance of a certificate of occupancy/certificate of compliance. The certificate of occupancy/certificate of compliance shall be subject to continued compliance with any conditions imposed by the ARB or the Code Enforcement Official to ensure the Large Wireless Facility's compliance with the provisions of Sections 15.8 and 15.9.

15.5.2. Large Wireless Facilities on New Structures; Site Plan Approval and Building Permit Required.

15.5.2.1. As of the effective date hereof, and except as otherwise expressly provided herein, no person shall be permitted to site, place, build, construct, make a Substantial Change to or prepare any site for the placement or use of a Large Wireless Facility on a new Structure without having first obtained Site Plan approval from the Planning Board and a building permit from the Code Enforcement Official, along with all other permits required by any state, local or federal law or building code.

15.5.2.2. Site Plan and Building Permit Applications; Determination of Completeness.

15.5.2.2.1. Upon receipt of a building permit application to install a Large Wireless Facility on a new Structure, the Code Enforcement Official shall mark the Initial Application Date in a conspicuous place on the application and shall review such application for completeness in accordance with the submission criteria set forth in Section 15.7. If the Code Enforcement Official determines that the application is incomplete,

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the Code Enforcement Official shall send the applicant an Incomplete Application Notice by first class mail and electronic mail to the addresses indicated for such purpose on the application. Such notice shall be given on or before the 30th day after the submission is received by the Code Enforcement Official.

15.5.2.2. Upon receipt of a submission in response to an Incomplete Application Notice, the Code Enforcement Official shall review such submission to determine if it provides the information specifically requested in the Incomplete Application Notice. If the Code Enforcement Official determines that the application is still incomplete, the Code Enforcement Official shall send the applicant another Incomplete Application Notice by first class mail and electronic mail to the addresses indicated for such purpose on the application. Such notice shall clearly and specifically identify the missing documents or information that need to be submitted based on the Code Enforcement Official's original request for a resubmission and shall be given on or before the 10th day after the date when the Code Enforcement Official receives the supplemental submission in response to the Incomplete Application Notice. This process shall repeat until the Code Enforcement Official determines that the application is complete.

15.5.2.3. Upon a determination by the Code Enforcement Official that an application is complete, the Code Enforcement Official shall mark the Complete Application Date in a conspicuous location on the application form.

15.5.3. Planning Board Referral; Action on Application; Conditions.

15.5.3.1. Within 7 days of the Complete Application Date, the Code Enforcement Official shall refer such permit application to the Planning Board for Site Plan review pursuant to Section 10 and Sections 15.8 and 15.9. The Planning Board shall, within 90 days of receipt of such application from the Code Enforcement Official, approve, deny or approve with modifications or conditions the applicant's Site Plan application, and transmit a resolution of such determination to the Code Enforcement Official and the applicant. The failure of the Planning Board to render a decision on the applicant's Site Plan application within 90 days of the date such application is received by the Planning Board shall constitute a default approval of such application unless the applicant agrees to an extension of time in writing.

15.5.3.2. The Code Enforcement Official shall take action on any application for a building permit to construct a Large Wireless Facility on a new structure promptly after the grant of Site Plan approval or Site Plan approval with

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modifications or conditions from the Planning Board, but not later than within 150 days of the Complete Application Date.

15.5.3.3. The Code Enforcement Official may attach such conditions and safeguards to any building permit to construct a Large Wireless Facility on a new structure as are, in the Code Enforcement Official's opinion, necessary to ensure initial and continued conformance to all applicable standards and requirements.

15.5.4. As-Built Plan. Within 60 days after the Large Wireless Facility is installed, the applicant shall submit an as-built plan of such facility to the Code Enforcement Official.

15.5.5. Certificate of Occupancy/Compliance. The Code Enforcement Official shall issue a certificate of occupancy/certificate of compliance if the work which was the subject of the building permit was completed in accordance with the terms of such permit and with all applicable provisions of all local, state and federal codes that regulate the construction of the Large Wireless Facility. The Code Enforcement Official or an inspector authorized by the Code Enforcement Official shall inspect the building, structure or work prior to the issuance of a certificate of occupancy/certificate of compliance. The certificate of occupancy/certificate of compliance shall be subject to continued compliance with any conditions imposed by the Planning Board or the Code Enforcement Official to ensure the Large Wireless Facility's compliance with the provisions of 15.8 and 15.9.

15.6. **Modifications to Wireless Telecommunication Facilities.** Notwithstanding anything to the contrary in this Section 15, any application related to an existing Wireless Telecommunication Facility that does not make a Substantial Change to the dimensions of such facility, including repairs or maintenance of such facilities, shall require a building permit from the Code Enforcement Official without the need for a referral of such application to the ARB or Planning Board, in addition to all other permits required by local, state or federal law or building codes, including, but not limited to, as applicable, street opening permits, plumbing permits, electrical permits and other similar permits.

15.7. **Provisions Common to All Wireless Telecommunication Facility Applications.**

15.7.1. Complete Application Submission Requirements. All applications for new or modified Wireless Telecommunication Facilities shall include the following:

15.7.1.1. A building permit application on forms promulgated by the Code Enforcement Official, which shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein, and attesting to the truth and completeness of the

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information, and by the landowner if different than the applicant (at least 2 copies);

- 15.7.1.2. Documentation verifying that the applicant is a Wireless Telecommunication Provider and that it has a legal right to install a Wireless Telecommunication Facility on the subject property (for example, a license agreement with the Village for facilities in Village rights-of-way or on Village-owned land; a deed; a contract (in the case of a contract vendee); an easement agreement or a license agreement with the property owner) (at least 2 copies);
- 15.7.1.3. The required application fee as set forth on a fee schedule adopted by the Board of Trustees; and to the extent permissible under federal law, a review escrow fee pursuant to Section 13.2 of this Zoning Law to be held in an account by the Village to allow the Code Enforcement Official, ARB or Planning Board to retain such technical experts and other consultants as may be necessary to review the proposal, including, but not limited to, the review of financial and technical aspects of the proposal and of the financial, legal and technical practicability of alternatives which may be available to the applicant;
- 15.7.1.4. A written statement, certified by the applicant, containing the following representations and information (at least 11 copies):
 - 15.7.1.4.1. That the applicant has all state and federal authorizations and licenses necessary to own and/or operate the proposed Wireless Telecommunication Facility on the subject Lot;
 - 15.7.1.4.2. The objective(s) and need for the new or modified facility to close gaps in service and/or address capacity needs;
 - 15.7.1.4.3. The number, type, model and anticipated useful life of the Antenna(s) proposed. A copy of the specification sheet for the proposed Antenna(s) shall be attached to the statement;
 - 15.7.1.4.4. The make, model, type, manufacturer, and anticipated useful life of the Utility Pole, Monopole or other Structure on which any Antenna or accessory equipment for a wireless facility is to be located and a design plan stating the Structure's capacity to accommodate multiple users;
 - 15.7.1.4.5. The priority of location of the Wireless Telecommunication Facility pursuant to Section 15.8.9. If the proposed site is not proposed for the highest priority listed in such section, then a written explanation must be provided as to why a site of a higher priority was not selected, or such a site would not be a reasonably feasible alternative, and why the applicant cannot provide substantially similar service using less intrusive means;

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- 15.7.1.4.6. That the proposed installation will not cause physical or RF interference with other telecommunications devices;
 - 15.7.1.4.7. Confirming that the Wireless Telecommunication Facility will be maintained in a safe manner and in compliance with all applicable and permissible federal, state and local laws, statutes, codes, rules and regulations and conditions of approval, if any; and
 - 15.7.1.4.8. Confirming and certifying that NIER levels at the proposed site will be and remain within the current threshold levels adopted by the FCC.
 - 15.7.1.5. A plan showing the existing condition of the subject property (at least 11 copies, signed and sealed; one copy submitted in an electronic format);
 - 15.7.1.6. A scaled Site Plan and a scaled elevation view and other supporting drawings, calculations and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radiofrequency coverage, tower height requirements, setbacks, drives, Parking Spaces, fencing, landscaping, adjacent uses and location of adjacent structures, utilities and other information deemed by the Code Enforcement Official to be necessary to assess compliance with this Section 15 (at least 11 copies, signed and sealed; one copy submitted in electronic format);
 - 15.7.1.7. A copy of the FCC license applicable for the intended use of the Wireless Telecommunication Facilities (at least 2 copies);
 - 15.7.1.8. Construction details for the proposed Tower, supporting Structure, and base, including specifications for the maximum height of the Tower or Structure the proposed base could support (at least 6 copies);
 - 15.7.1.9. For applications to collocate Small Wireless Facilities and Large Wireless Facilities, a short EAF, or, for applications to install Small Wireless Facilities and Large Wireless Facilities on a new structure, a long EAF (at least 11 copies); and
 - 15.7.1.10. General Municipal Law §809 Disclosure form (at least 2 copies).
- 15.7.2. The Code Enforcement Official may waive or modify any of the above submission items if such official determines that any such items are not necessary to fully evaluate the application in accordance with the standards of this Section 15.

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15.8. Design Standards.

- 15.8.1. All Wireless Telecommunication Facilities shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most-recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. All Wireless Telecommunication Facilities shall be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Village.
- 15.8.2. Wind and ice. All Wireless Telecommunication Facilities shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association (ANSI/EIA/TIA-222, as amended).
- 15.8.3. Aviation safety. Wireless Telecommunication Facilities shall comply with all federal and state laws and regulations concerning aviation safety.
- 15.8.4. Public safety communications. Wireless Telecommunication Facilities shall not interfere with public safety communications or the reception of broadband, television, radio or other communications services enjoyed by occupants of nearby properties.
- 15.8.5. Radio frequency emissions. Wireless Telecommunication Facilities shall not, by itself or in conjunction with other Wireless Telecommunication Facilities, generate radio frequency emissions in excess of the standards and regulations of the FCC. The applicant shall submit an affidavit signed by a radio frequency engineer with knowledge of the proposed project affirming that its Wireless Telecommunication Facility is compliant with all applicable FCC and other governmental regulations in connection with human exposure to radio frequency emissions for every frequency at which the facility will operate.
- 15.8.6. Bulk Requirements: Except as otherwise provided for in this Section 15, Wireless Telecommunication Facilities are subject to the Bulk regulations set forth in Section 4.4.2.
- 15.8.7. Maximum Height: Wireless Telecommunication Facilities shall be exempt from maximum height limitations applicable to other Structures and Buildings under the Zoning Law but shall be no higher than the minimum height necessary to adequately provide Personal Wireless Service by the least intrusive means practicable.

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15.8.8. Minimum Setback. New Structures for Wireless Telecommunication Facilities located outside of the Public Right-of-Way shall be set back from each Lot Line a distance of at least the total height of the facility, including the support structure, as measured from the highest point of such support structure to the Finished Grade. However, the Planning Board may reduce such setback requirements based upon considerations of lot size, topography conditions, adjoining land uses, landscaping, other forms of screening and/or other structural characteristics of the facility that lessen its impact on surrounding properties.

15.8.9. Location. Wireless Telecommunication Facilities shall be located, sited and erected in accordance with the following priorities, (15.8.9.1 being the highest priority and 15.8.9.7 being the lowest priority), in a manner that avoids disturbance to environmentally constrained lands, such as Wetlands and Steep Slopes, to the maximum extent possible.

15.8.9.1. Collocated on existing Utility Poles, Monopoles or other Wireless Telecommunication Facility support Structures on lands owned or controlled by the Village, including the Public Rights-of-Way owned by the Village;

15.8.9.2. Collocated on existing Utility Poles, Monopoles or other Wireless Telecommunication Facility support Structures on lands owned or controlled by other governmental entities, including, but not limited to, the State of New York, Rockland County or the Town of Clarkstown, with the consent of such other governmental entity;

15.8.9.3. Collocated on a site with existing Wireless Telecommunication Facilities or other Wireless Telecommunication Facility Structures;

15.8.9.4. On a new structure to be located on lands owned or controlled by the Village, including, but not limited to, Public Rights-of-Way owned by the Village;

15.8.9.5. On a new structure to be located on lands owned or controlled by other governmental entities, including, but not limited to New York State, Rockland County or the Town of Clarkstown, to the extent permitted by such other governmental agencies;

15.8.9.6. On a new structure to be located on a non-residentially zoned property; or

15.8.9.7. On a new structure to be located on a residentially zoned property.

15.9. **Aesthetic Criteria.** All Wireless Telecommunication Facilities shall comply with the following aesthetic criteria to the maximum extent that they are technically feasible and

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reasonably directed to avoiding or remedying the intangible public harm of unsightly out of character deployments:

- 15.9.1. All Wireless Telecommunication Facilities shall be sited to have the least-adverse visual effect on the environment and its character, on existing vegetation and on the residents in the area of the Wireless Telecommunication Facilities sites;
 - 15.9.2. Wireless Telecommunication Facilities and any and all accessory equipment shall use building materials, colors and textures designed to blend with the Structure to which it may be affixed and/or to harmonize with the natural surroundings;
 - 15.9.3. Wireless Telecommunication Facilities shall not be artificially lighted or marked, except as required by law. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under federal, state and local laws, statutes, codes, rules or regulations;
 - 15.9.4. Any utilities (electric, telephone, gas, or similar utilities) extended to serve a Wireless Telecommunication Facility site shall be installed underground to the maximum extent practicable;
 - 15.9.5. Wiring and cabling shall be neat and concealed within or flush to the support structure, ensuring concealment of these components to the greatest extent possible;
 - 15.9.6. Wireless Telecommunication Facilities shall be located so that they do not interfere with or impede pedestrian or vehicular traffic in a public right-of-way; and
 - 15.9.7. Landscaping screening shall be provided, if appropriate.
- 15.10. **Authority to Inspect.** In order to verify that a Wireless Telecommunication Provider places and constructs such facilities, including the wireless telecommunications support Structure, Accessory Equipment and Antennas, in accordance with all applicable technical, safety, fire, building, and zoning laws, statutes, codes, rules, regulations and other applicable requirements and permits, the Code Enforcement Official or such official's designee may inspect at any time, upon providing reasonable notice, all facets of said provider's placement, construction, modification and maintenance of such facilities, including, but not limited to, wireless telecommunications support Structures, Antennas, accessory equipment, electromagnetic output and buildings.
- 15.11. **Additional Information.** Following a determination that an application is complete, the applicant shall provide the Code Enforcement Official, Planning Board or ARB, as circumstances require, with such additional plans, information and studies as may reasonably be required in order for such agencies to review a proposed application.

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15.12. Applications to Permit the Construction or Collocation of Wireless Telecommunication Facilities in a Village Right-of-Way or on Village-owned Land.

15.12.1. In addition to the permitting requirements for Wireless Telecommunication Facilities set forth herein, prior to any Wireless Telecommunication Facility being located in a Public Right-of-Way owned by the Village, any Wireless Telecommunication Provider seeking to place such Wireless Telecommunication Facility in the Public Right-of-Way shall also obtain approval for such placement from the Board of Trustees and shall enter into a license agreement with the Village setting forth the terms and conditions of such license. Such license agreement shall be in a form acceptable to the Board of Trustees and the Village Attorney and shall include provisions addressing, at a minimum, the following:

15.12.1.1. A description of the proposed location of the facility;

15.12.1.2. License fees, and responsibility for other fees under license the agreement;

15.12.1.3. The rights and responsibilities of the Wireless Telecommunications Provider and the Village under the agreement, including obligations for maintenance, repairs, access, insurance, indemnification of the Village and other similar provisions;

15.12.1.4. Removal and relocation of the Wireless Telecommunications Facilities; specifically including an undertaking by the Wireless Telecommunication Provider to remove, relocate or alter the Wireless Telecommunication Facility at its sole cost and expense, if the Village Board of Trustees determines that such removal, relocation, change or alteration is reasonably necessary to: (i) Construct, repair, maintain or install any Village or other public improvement located in the public right- of- way (including widening the travel lanes of the right-of way); or (ii) prevent interference with the operations of the Village or other governmental entity in the public right-of-way; or (iii) allow abandonment of a street or road or the release of a utility easement, if reasonably necessary in the Village's interest.

15.12.1.5. Duration, termination and renewal of license;

15.12.1.6. Method of giving and receiving notices under the license; and

15.12.1.7. Other similar provisions as are required in the reasonable judgment of the Board of Trustees or Village attorney.

15.12.2. Prior to any Wireless Telecommunication Facility being located on Village-owned property, any Wireless Telecommunication Provider seeking to place such

SECTION 15: WIRELESS TELECOMMUNICATION FACILITIES

Wireless Telecommunications Facility on such property shall obtain the approval of the Board of Trustees and shall enter into an agreement with the Village in a form and substance approved by the Board of Trustees and the Village attorney setting forth the terms, conditions and restrictions of such right. No Wireless Telecommunications Provider shall have a complete application for the deployment of a Wireless Telecommunication Facility on Village-owned property until such agreement has been executed on behalf of the Village and the Wireless Telecommunications Provider.

15.13. Removal of Wireless Telecommunication Facilities.

15.13.1. The Village may require the removal of a Wireless Telecommunication Facility under the following circumstances:

15.13.1.1. The facility has been abandoned (i.e., not used as a Wireless Communication Facility) for a period exceeding 90 consecutive days or a total of 180 days in any 365-day period;

15.13.1.2. The Wireless Telecommunication Facility falls into such a state of disrepair that it creates a safety hazard; or

15.13.1.3. The Wireless Telecommunication Provider has been convicted of a violation of this Zoning Law or any permit, certificate of occupancy or certificate of compliance or condition thereof that it is subject to, and such violation remains unabated within a reasonable period of time following such conviction; or

15.13.1.4. The Wireless Telecommunication Facility has been located, constructed, or modified without first obtaining, or in a manner not authorized by, all required permits, including the conditions thereto, or any other necessary authorization.

15.13.2. If the Code Enforcement Official finds that the Wireless Telecommunication Facility meets one of the criteria set forth in Section 15.13.1, then the Code Enforcement Official shall notify, in writing, the Wireless Telecommunication Provider and the owner of the property on which the Wireless Telecommunications Facility is located, that such facility is to be restored to a compliant condition or removed.

15.13.3. Within 40 days of the date of the Code Enforcement Official's notice given in accordance with Section 15.13.2 above, the Wireless Telecommunication Provider or the property owner shall restore the subject Wireless Telecommunication Facility to a compliant condition, or it shall dismantle and remove the Wireless Telecommunication Facilities, and all Accessory Equipment, Antennas, Antenna Facilities, support Structures and other associated Structures and facilities, from the

SECTION 15: WIRELESS TELECOMMUNICATION FACILITIES

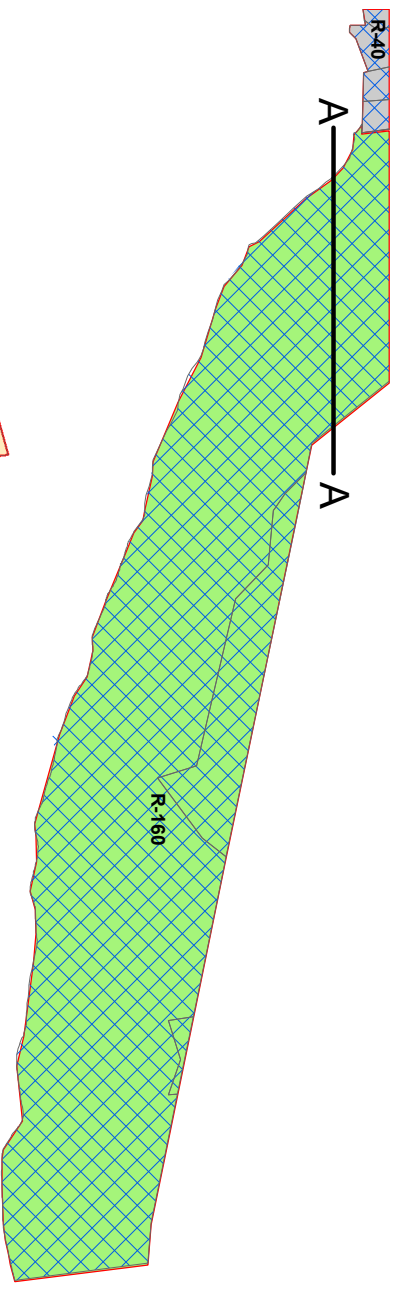
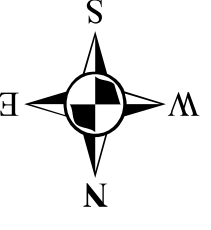
site and return the site to its original condition. If it is physically or commercially impracticable to complete such restoration or removal within such 40-day period, then the Code Enforcement Official may extend the time for compliance as required, provided that the Wireless Telecommunication Provider has demonstrated its commitment to diligently complete such restoration or removal of the Wireless Telecommunication Facility and restoration of the site to the reasonable satisfaction of the Code Enforcement Official.

15.13.4. If the Wireless Telecommunication Provider fails to restore or remove a Wireless Telecommunication Facility and restore the site in accordance with the terms and conditions of Section 15.13.3 then the Code Enforcement Official may cause the Wireless Telecommunication Facility to be removed at the sole expense of the property owner and/or responsible Wireless Telecommunication Provider. If the Village removes or causes to be removed the Wireless Telecommunication Facility and the owner of the Wireless Telecommunication Facility does not claim and physically take possession of any equipment or materials from the Village or its designee within 10 days, then the Village may take steps to declare such equipment or materials abandoned and sell them and their components and retain the proceeds therefrom. The Village may also cause the costs associated with the removal and disposal of the wireless facilities to be assessed on the property in the same manner as a tax or assessment.









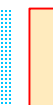
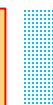


16. SECTION 16: EFFECTIVE DATE AND REPEAL.

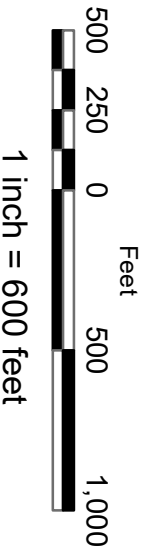
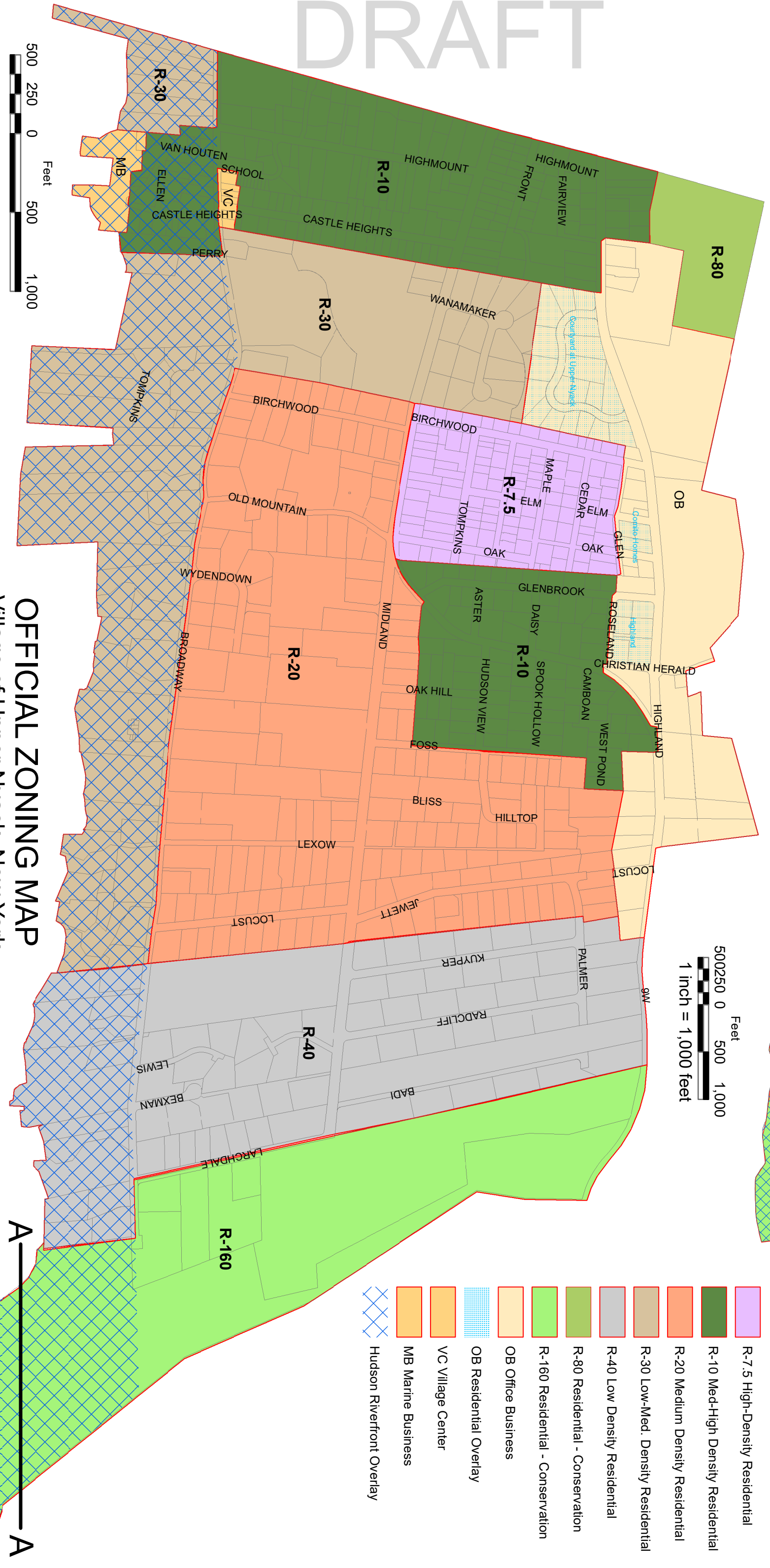
16.1. This Local Law shall take effect immediately upon filing in the Office of the Secretary of State. Upon such effective date, the 1962 Zoning Ordinance of the Village of Upper Nyack and all amendments thereto shall be repealed.

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Legend

-  R-7.5 High-Density Residential
-  R-10 Med-High Density Residential
-  R-20 Medium Density Residential
-  R-30 Low-Med. Density Residential
-  R-40 Low Density Residential
-  R-80 Residential - Conservation
-  R-160 Residential - Conservation
-  OB Office Business
-  OB Residential Overlay
-  VC Village Center
-  MB Marine Business
-  Hudson Riverfront Overlay



OFFICIAL ZONING MAP

Village of Upper Nyack, New York

Upper Nyack Zoning Local Law XX-2021, Section 3.2

Date: January XX, 2022

Village of Upper Nyack Zoning 2022 Zoning Law
Section 4.4.3 Table of On Lot Parking and Loading Regulations

Column 1 USE	Column 2 MINIMUM NUMBER OF PARKING SPACES <i>See Section 6.1</i>	Column 3 MINIMUM NUMBER OF LOADING SPACES <i>See Section 6.1.4</i>
RESIDENTIAL USES		
Accessory Apartments	1 Parking Space in addition to Parking Spaces provided for the principal Dwelling Unit.	N/A
Dwelling, One-Family	2 Parking Spaces	N/A
Dwelling, Two-Family	2 Parking Spaces per Dwelling Unit	N/A
Dwelling, Multiple <i>(see Section 9.6.1)</i> Or Dwellings located over non-residential uses	1 Parking Space per studio or one bedroom Dwelling Unit 1.5 Parking Spaces per 2-bedroom Dwelling Unit 2 Parking Spaces per Dwelling Unit with 3 or more bedrooms	
Estates <i>(see Section 9.6.3)</i>	2 Parking Spaces per Dwelling Unit	N/A
Home Occupation <i>(see Section 9.6.4)</i>	At least 1 but not more than 3 Parking Space in addition to the Parking Spaces required for the Dwelling Unit.	N/A
Short Term Rental	<i>See 9.6.19.3</i>	N/A
COMMERCIAL/INDUSTRIAL USES		
Bank	1 parking space per 250 square feet ("sf") of Floor Area	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sf or fraction thereof
Day Care Center <i>(see Section 9.6.2)</i>	1 Parking Space per 350 sf of Floor Area.	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sf or fraction thereof
Fitness Club	1 Parking Space per 200 sf of Floor Area	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sf or fraction thereof

Village of Upper Nyack Zoning 2022 Zoning Law
Section 4.4.3 Table of On Lot Parking and Loading Regulations

	Column 1 USE	Column 2 MINIMUM NUMBER OF PARKING SPACES	Column 3 MINIMUM NUMBER OF LOADING SPACES
	Light Industrial Facility	1 Parking Space per 1,000 sf of Floor Area	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sf or fraction thereof
	Medical Clinics, Veterinary Clinics, Laboratories	1 Parking Space per 200 sf of Floor Area	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sf or fraction thereof
	Motor Vehicle Dealership	1 Parking Space per 300 sf of Floor Area, not including garage space for vehicle service or repair, PLUS 3 Parking Spaces per service bay, PLUS A number of Parking Spaces to be determined by the Planning Board for parking of vehicle inventory.	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sf or fraction thereof
	Motor Vehicle Rental Agency	1 Parking Space per 250 sf of Floor Area, but not fewer than 3 Parking Spaces, PLUS A number of Parking Spaces to be determined by the Planning Board for parking of vehicle inventory.	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sf or fraction thereof
	Motor Vehicle Service Facilities	5 Parking Spaces for the first service bay plus 3 Parking Spaces for each additional service bay.	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sf or fraction thereof
	Multi-tenant Commercial Building	1 Parking Space per 250 sf of Floor Area	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sf or fraction thereof
	Personal Service Establishments	1 Parking Space per 250 sf of Floor Area	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sq. ft. of Floor Area or fraction thereof

Village of Upper Nyack Zoning 2022 Zoning Law
Section 4.4.3 Table of On Lot Parking and Loading Regulations

	Column 1 USE	Column 2 MINIMUM NUMBER OF PARKING SPACES	Column 3 MINIMUM NUMBER OF LOADING SPACES
	Professional, administrative, and business offices	1 Parking Space per 250 sf of Floor Area	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sf or fraction thereof
	Restaurants	1 Parking Space per 100 sf of Floor Area	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sf or fraction thereof
	Retail Establishments	1 parking space per 250 sf of Floor Area	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sf or fraction thereof
	Self-Storage Facility	0.5 Parking Space per 1,000 sf of Floor Area	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sf or fraction thereof
	Senior Care Facilities	0.5 Parking Space per Dwelling Unit or unit used for occupancy purposes consisting of a bedroom and restroom facilities, even if such unit does not include kitchen facilities	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sf or fraction thereof
	Small Wireless or Large Wireless Facilities outside of public rights of way	1 Parking Space per facility	N/A
	Warehouse	0.5 Parking Space per 1,000 sf of Floor Area	1 Loading Space for the first 5,000 sf of floor area, plus 1 additional Loading Space for each additional 10,000 sf of Floor Area or fraction thereof

Village of Upper Nyack Zoning 2022 Zoning Law
Section 4.4.3 Table of On Lot Parking and Loading Regulations

	Column 1 USE	Column 2 MINIMUM NUMBER OF PARKING SPACES	Column 3 MINIMUM NUMBER OF LOADING SPACES
MARINE USES			
	All Uses in the MB District other than Wireless Facilities	<p>1 Parking Space per 250 sf of Floor Area for Office, Retail, or Personal Service Uses, PLUS</p> <p>1 Parking Space for each boat slip or mooring; PLUS</p> <p>1 Parking Space per 1,000 sf of Floor Area devoted to storage, repair, or all other marine business-related activities; PLUS</p> <p>If a significant portion of the Use is to occur outside of an enclosed Building, a number of Parking Spaces to be determined by the Planning Board to ensure that adequate on-site parking to serve the Use will be provided.</p>	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sf of Floor Area or fraction thereof
COMMUNITY/INSTITUTIONAL/EDUCATIONAL USES			
	Museums	1 Parking Space per 500 sf of Floor Area	1 Loading Space
	Not For Profit Community Center	1 Parking Space per 200 sf of Floor Area	1 Loading Space
	Places of Worship	<p>0.5 Parking Spaces per occupant based on the maximum occupancy of the worship space permitted under the Uniform Code; PLUS</p> <p>1 Parking Space per Dwelling Unit</p>	1 Loading Space
	Private Membership Club	1 parking space per 200 sf of Floor Area	1 Loading Space
	Schools, Day. Schools, Nursery School, Boarding	<p>For schools providing classes for nursery through 8th grade: 1 Parking Space per 5 occupants based on the maximum occupancy of all classrooms and lecture halls permitted under the Uniform Code.</p> <p>For schools providing classes for grades 9th through 12th grade: 1 Parking Space per 4 occupants based on the maximum occupancy of all classrooms and lecture halls permitted under the Uniform Code.</p>	1 Loading Space for the initial 10,000 sf of Floor Area or fraction thereof, plus 1 additional Loading Space for each additional 25,000 sf or fraction thereof

Village of Upper Nyack Zoning 2022 Zoning Law
Section 4.4.3 Table of On Lot Parking and Loading Regulations

	Column 1 USE	Column 2 MINIMUM NUMBER OF PARKING SPACES	Column 3 MINIMUM NUMBER OF LOADING SPACES
	Schools, Post-Secondary	To be determined by the Planning Board. In evaluating the required number of Parking Spaces required, the Planning Board shall consider the size and location of the proposed Use and empirical data, such as data from the Institute of Transportation Engineers or other similar information, along with the maximum number of students, faculty, staff, and utilization of places of assembly including, but not limited to auditoriums, lecture halls, and athletic facilities, and parking policies for students, faculty and staff.	To be determined by the Planning Board
PARKING FOR ALL USES IN THE VC DISTRICT			
	Parking for All Uses in the VC District	See Section 6.1.3.8	To be determined by the Planning Board

NOTES:

1. The minimum number of required Parking Spaces for any Use not specified herein shall be established by the Planning Board during Site Plan review. In evaluating the required number of Parking Spaces for such Uses, the Planning Board shall consider the size and location of the proposed Use and empirical data, including data from the Institute of Transportation Engineers or other similar information, to determine the minimum required number of Parking Spaces.

2. “FLOOR AREA” is defined as “The sum of the gross horizontal area of each floor of a Building from the exterior face of exterior walls or from the center line of a wall separating 2 buildings, but excluding any space where no portion of the floor-to-ceiling height is greater than 7 feet. This definition shall include garages, sunrooms and any other area covered by a roof. Mezzanines, lofts and attic spaces where any portion of such spaces is greater than 7 feet in height shall be included in the calculation of Floor Area.” See Section 2.1.40. However, for the purposes of calculating the required minimum number of parking spaces only, all portions of the Floor Area of a Building attributable to an enclosed garage shall be deducted from the total Floor Area of the Building.

3. Parking requirements set forth in this table are the *minimum* number of Parking Spaces required; Parking Spaces in excess of the minimums provided herein will be required by the Planning Board if the Planning Board determines that such additional Parking Spaces are needed to accommodate the needs of the proposed Use.

4. In addition to providing the required minimum number of Parking Spaces as set forth in this table, any entity or Use that regularly provides curbside pickup services shall provide a minimum of 1 parking spaces in addition to the required minimum number of Parking Spaces set forth on the table above to be dedicated to curbside pickup.

5. Where a calculation results in a fraction of a Parking Space being required the property owner/applicant shall round up to the nearest whole space.

6. If the Planning Board permits a portion of the minimum required number of Parking Spaces to be land banked pursuant to Section 6.1.3.5, it may require that such land-banked parking area be configured in such a manner as to be accessible to vehicles to provide overflow parking on an as-needed basis.

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Village of Upper Nyack 2022 Zoning Law
Section 4.4.2 Table of General Bulk Regulations

	Column 1 District	Column 2 Minimum Net Lot Area (square feet) <i>See Section 2.1.58</i> <i>See Note 3</i>	Column 3 Minimum Lot Width (feet) <i>See Section 2.1.66</i> <i>See Note 3</i>	Column 4 Minimum Frontage (feet) <i>See Section 2.1.42</i> <i>See Section 4.5.4</i> <i>See Note 3</i>	Column 5 Minimum Required Front Yard (feet) <i>See Section 2.1.131</i> <i>See Note 3</i>	Column 6 Minimum Required Side Yard (each side) (feet) <i>See Section 2.1.133</i> <i>See Note 3</i>	Column 7 Minimum Required Rear Yard (feet) <i>See Section 2.1.132</i> <i>See Note 3</i>	Column 8 Maximum Building Height <i>See Section 2.1.11</i> <i>See 4.5.7</i> <i>See Note 3</i>	Column 9 Maximum Development Coverage <i>See Section 2.1.24</i> <i>See Note 3</i>	Column 10 Maximum Building Coverage <i>See Section 2.1.20</i> <i>See Note 3</i>	Column 11 Maximum F.A.R. <i>See Section 2.1.41</i> <i>See Note 3</i>	Column 12 Minimum Distance Between Buildings on the Same Lot <i>See Note 3</i>	Column 13 Supplemental Bulk Requirements for Certain Buildings, Structures or Uses <i>See Note 3</i>	Column 14 Minimum Setback for Parking Areas and Access Driveways and Walkways From Any Lot Line <i>See Section 6.1- Setbacks provided in this Column 14 and Section 6.1 are controlling unless a greater Setback is required by a separate section of this Zoning Law</i> <i>See Note 3</i>	Column 15 Min. Parking and Loading Requirements
Row 1	R-160	160,000 square feet ("sf")	175 feet ("ft")	175 ft	50 ft	100 ft	100 ft	Principal Building: 35 ft Accessory Building: 15 ft	10%	5%	0.10	10 ft	<i>See Section 4.5.6 generally</i> <i>See Section 6.2 (Signs)</i> <i>See Section 6.3 (walls and Fences)</i> <i>See Section 6.5 (Sheds)</i> <i>See Section 6.8 (pools)</i> <i>See Section 6.9 (sports courts)</i>	5 ft	<i>See Parking and Loading Table</i>
Row 2	R-80	80,000 sf	175 ft	175 ft	50 ft	30 ft	30 ft	Principal Building: 35 ft Accessory Building: 15 ft	10%	5%	0.10	10 ft	Same as R-160	5 ft	<i>See Parking and Loading Table</i>
Row 3	R-40	40,000 sf	150 ft	150 ft	35 ft	30 ft	30 ft	Principal Building: 28 ft ² Accessory Building: 15 ft	20%	10%	0.15	10 ft	Same as R-160	5 ft	<i>See Parking and Loading Table</i>
Row 4	R-30	30,000 sf	100 ft	100 ft	35 ft	25 ft	25 ft	Principal Building: 28 ft ² Accessory Building: 15 ft	25%	12%	0.20	10 ft	Same as R-160	5 ft	<i>See Parking and Loading Table</i>
Row 5	R-20	20,000 sf	100 ft	100 ft	35 ft	25 ft	25 ft	Principal Building: 28 ft ² Accessory Building: 15 ft	25%	12%	0.20	10 ft	Same as R-160	5 ft	<i>See Parking and Loading Table</i>
Row 6	R-10	10,000 sf	90 ft	90 ft	35 ft	25 ft	25 ft	Principal Building: 28 ft Accessory Building: 15 ft	40%	20%	0.25	10 ft	Same as R-160	5 ft	<i>See Parking and Loading Table</i>
Row 7	R-7.5	7,500 sf	75 ft	75 ft	15 ft	10 ft	25 ft	Principal Building: 25 ft Accessory Building: 15 ft	40%	20%	0.25	10 ft	Same as R-160	5 ft	<i>See Parking and Loading Table</i>

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Village of Upper Nyack 2022 Zoning Law
Section 4.4.2 Table of General Bulk Regulations

s	Column 1 District	Column 2 Minimum Net Lot Area (square feet) <i>See Section 2.1.58</i> <i>See Note 3</i>	Column 3 Minimum Lot Width (feet) <i>See Section 2.1.66</i> <i>See Note 3</i>	Column 4 Minimum Frontage (feet) <i>See Section 2.1.42</i> <i>See Section 4.5.4</i> <i>See Note 3</i>	Column 5 Minimum Required Front Yard (feet) <i>See Section 2.1.131</i> <i>See Note 3</i>	Column 6 Minimum Required Side Yard (each side) (feet) <i>See Section 2.1.133</i> <i>See Note 3</i>	Column 7 Minimum Required Rear Yard (feet) <i>See Section 2.1.132</i> <i>See Note 3</i>	Column 8 Maximum Building Height <i>See Section 2.1.11</i> <i>See 4.5.7</i> <i>See Note 3</i>	Column 9 Maximum Development Coverage <i>See Section 2.1.24</i> <i>See Note 3</i>	Column 10 Maximum Building Coverage <i>See Section 2.1.20</i> <i>See Note 3</i>	Column 11 Maximum F.A.R. <i>See Section 2.1.41</i> <i>See Note 3</i>	Column 12 Minimum Distance Between Buildings on the Same Lot <i>See Note 3</i>	Column 13 Supplemental Bulk Requirements for Certain Buildings, Structures or Uses <i>See Note 3</i>	Column 14 Minimum Setback for Parking Areas and Access Driveways and Walkways From Any Lot Line <i>See Section 6.1- Setbacks provided in this Column 14 and Section 6.1 are controlling unless a greater Setback is required by a separate section of this Zoning Law</i> <i>See Note 3</i>	Column 15 Min. Parking and Loading Requirements
Row 8	MB	40,000 sf	50 ft	50 ft	35 ft	25 ft	15 ft	35 ft	80%	30%	0.5	10 ft	<i>See Section 4.5.6 generally</i> <i>See Section 6.2 (Signs)</i> <i>See Section 6.3 (walls and Fences)</i>	5 ft	<i>See Parking and Loading Table</i>
Row 9	VC	4,000 sf	30 ft	30 ft	From Lot Line Adjacent to North Broadway: 10 ft From Lot Line Adjacent to Castle Heights Avenue or School Street: 5 ft	5 ft	10 ft	35 ft	80%	30%	0.5	10 ft	<i>See Section 4.5.6 generally</i> <i>See Section 6.2 (Signs)</i> <i>See Section 6.3 (walls and Fences)</i>	5 ft	<i>See Parking and Loading Table</i>
Row 10	OB	25,000 sf	100 ft	100 ft	20 ft	15 ft	15 ft	35 ft	80%	30%	0.5	35 ft	<i>See Section 4.5.6 generally</i> <i>See 5.3.3 (supplementary regulations applicable in OB District)</i> <i>See Section 6.2 (Signs)</i> <i>See Section 6.3 (walls and Fences)</i>	10 ft	<i>See Parking and Loading Table</i>
Row 11	OBRO	14,000 sf	90 ft	90 ft	20 ft	15 ft	25 ft	35 ft	40%	20%	0.25	10 ft	Same as R-160	5 ft	<i>See Parking and Loading Table</i>
Row 12	HRO	Same as underlying District	Same as underlying District	Same as underlying District	Same as underlying District	Same as underlying District	Same as underlying District <i>See Section 2.1.63 for definition of Rear Lot Line</i>	Same as underlying District	Same as underlying District	Same as underlying District	Same as underlying District	Same as underlying District	Same as underlying District <i>See Section 4.5.9</i>	Same as underlying district	<i>See Parking and Loading Table</i>

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Village of Upper Nyack 2022 Zoning Law
Section 4.4.2 Table of General Bulk Regulations

NOTES:

1. Accessory Uses and Structures shall comply with all Required Yards and other Bulk requirements unless a specific provision of this Zoning Law provides otherwise.
2. In the R-20, R-30, and R-40 Zoning Districts, if the Principal Building is set back from the Front Lot Line by 45 feet or greater and from the Side or Rear Lot Lines by 35 feet or greater, then the maximum Building Height for Principal Buildings may be increased to 35 feet.
3. See Article 9 for supplement Bulk requirements for certain Uses permitted by Special Use Permit.

ADDITIONAL NOTES:

- A. For additional provision related to Sight Distances on Corner Lots, *see* Section 4.5.8.
- B. For regulations applicable to Wireless Telecommunication Facilities, *see* Section 15.
- C. For limitations on disturbance to Steep Slopes, *see* Section 6.7.
- D. For provision relating to Nonconforming Buildings, Structures and Lots, *see* Section 7.
- E. For landscaping requirements generally, *see* Section 10.6.14
- F. For provisions related to Stormwater Management and Erosion and Sediment Control, *see* Stormwater Management Law.
- G. Where there is a conflict between this Bulk Table and any other provision of this Zoning Law, the more restrictive provision shall control unless specifically provided otherwise.

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Village of Upper Nyack 2022 Zoning Law
Section 4.4.1 Table of General Use Regulations

Column 1	Column 2	Column 3	Column 4
<p style="text-align: center;">District</p>	<p style="text-align: center;">Principal Permitted Uses</p> <p style="text-align: center;"><i>All Principal Permitted Uses other than Wireless Facilities are subject to Site Plan Approval from the Planning Board (Section 10) and may only be conducted in a fully-enclosed Building.</i></p> <p style="text-align: center;"><i>Wireless Facilities are subject to administrative review, including in some instances Site Plan Approval, as required by Section 15</i></p>	<p style="text-align: center;">Uses Permitted With A Special Use Permit <i>See Section 9.</i></p> <p style="text-align: center;"><i>All Special Permit Uses Require Site Plan Approval</i></p>	<p style="text-align: center;">Permitted Accessory Uses <i>(*) indicates Site Plan Approval Required (see Section 10).</i></p> <p style="text-align: center;"><i>See 4.5.5</i></p>
<p>Row 1</p> <p>R-160:</p> <p>Residential-Conservation District</p>	<p>“Dwelling, One-Family”</p> <p>“Small Wireless Facilities” subject to Section 15.</p> <p>“Large Wireless Facilities” subject to Section 15.</p>	<p>Conversion of Existing Dwellings to Multiple Dwellings, subject to Section 9.6.1.</p> <p>“Estates” subject to Section 9.6.3.</p> <p>“Home Occupation” subject to Section 9.6.4.</p> <p>“Owner-Occupied Accessory Apartment” subject to Section 9.6.11.</p> <p>“Places of Worship” subject to Section 9.6.12.</p> <p>“Private Membership Clubs” subject to Section 9.6.13.</p> <p>“Schools, Boarding” subject to Section 9.6.14.</p> <p>“Schools, Day” subject to Section 9.6.15.</p> <p>“School, Post-Secondary” subject to Section 9.6.16.</p> <p>“School, Nursery” subject to Section 9.6.17.</p> <p>“Short Term Rental” subject to Section 9.6.19.</p>	<p>Sheds that meet the requirement of Section 6.5.</p> <p>Private Accessory Buildings or Structures not over 15 feet in height and limited to 800 square feet in area. Dwelling Units are prohibited in Accessory Structures or Accessory Buildings.*</p> <p>Private tennis courts, sports courts, or swimming pools subject to Sections 6.8 or 6.9 as appropriate.*</p> <p>Parking for 1 commercial vehicle or Recreational Vehicle, or storage of 1 boat subject to the requirements and limitations of Section 6.1.2.2.</p> <p>Off-street parking subject to Section 6.1.</p> <p>Keeping, harboring or breeding certain animals subject to Village of Upper Nyack General Ordinance 5.13 (ZBA Approval Required).</p> <p>Roof-mounted Solar Energy Collectors installed for the primary purpose of providing electricity to the Lot on which they are installed subject to review and approval by the ARB.</p> <p>Ground-mounted Solar Energy Collectors installed for the primary purpose of providing electricity to the Lot on which they are installed provided that they may not be installed in the Building Front Yard or in any Required Side or Rear Yard and shall comply with all other applicable Bulk restrictions.*</p> <p>Signs subject to section 6.2.</p>
<p>Row 2</p> <p>R-80</p> <p>Residential-Conservation District</p>	<p>Same as R-160</p>	<p>Same as R-160</p>	<p>Same as R-160</p>

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Village of Upper Nyack 2022 Zoning Law
Section 4.4.1 Table of General Use Regulations

Column 1	Column 2	Column 3	Column 4
District	Principal Permitted Uses <i>All Principal Permitted Uses other than Wireless Facilities are subject to Site Plan Approval from the Planning Board (Section 10) and may only be conducted in a fully-enclosed Building.</i> <i>Wireless Facilities are subject to administrative review, including in some instances Site Plan Approval, as required by Section 15</i>	Uses Permitted With A Special Use Permit <i>See Section 9.</i> <i>All Special Permit Uses Require Site Plan Approval</i>	Permitted Accessory Uses <i>(*) indicates Site Plan Approval Required (see Section 10).</i> <i>See 4.5.5</i>
Row 3 R-40 Low Density Residential District	Same as R-160	Same as R-160	Same as R-160
Row 4 R-30 Low-Medium Density Residential District	Same as R-160	Conversion of Existing Dwellings to Multiple Dwellings, subject to Section 9.6.1. “Home Occupation” subject to Section 9.6.4. “Owner-Occupied Accessory Apartment” subject to Section 9.6.11. “Places of Worship” subject to Section 9.6.12. “Private Membership Clubs” subject to Section 9.6.13. “Schools, Boarding” subject to Section 9.6.14. “Schools, Day” subject to Section 9.6.15. “School, Post-Secondary” subject to Section 9.6.16. “School, Nursery” subject to Section 9.6.17. “Short Term Rental” subject to Section 9.6.19.	Same as R-160
Row 5 R-20 Medium Density Residential District	Same as R-30	Same as R-30	Same as R-160

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Village of Upper Nyack 2022 Zoning Law
Section 4.4.1 Table of General Use Regulations

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District	Principal Permitted Uses <i>All Principal Permitted Uses other than Wireless Facilities are subject to Site Plan Approval from the Planning Board (Section 10) and may only be conducted in a fully-enclosed Building.</i> <i>Wireless Facilities are subject to administrative review, including in some instances Site Plan Approval, as required by Section 15</i>	Uses Permitted With A Special Use Permit <i>See Section 9.</i> <i>All Special Permit Uses Require Site Plan Approval</i>	Permitted Accessory Uses <i>(* indicates Site Plan Approval Required (see Section 10).</i> <i>See 4.5.5</i>
Row 6 R-10 Medium-High Density Residential District	Same as R-30	Same as R-30	Same as R-160
Row 7 R-7.5 High Density Residential District	Same as R-30	Same as R-30	Same as R-160

Village of Upper Nyack 2022 Zoning Law
Section 4.4.1 Table of General Use Regulations

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Row 8 MB Marine Business District	<p>“Small Wireless Facilities” subject to Section 15.</p> <p>“Large Wireless Facilities” subject to Section 15.</p> <p>MARINE BUSINESS USE #1:Facilities for recreational water sports that are wind and/or human powered, such as kayak and canoe rental, sailing schools and similar uses.</p>	<p>MARINE BUSINESS USE #2: Boat and marine engine and equipment sales and display.</p> <p>MARINE BUSINESS USE #3: Business for the rental and charter of boats provided that boats for charter shall not exceed the capacity of more than 12 passengers.</p> <p>MARINE BUSINESS USE #4: Docks, slips, piers, moorings, and wharves for yachts and pleasure boats, mooring launch services or for vessels engaged in fishery or shell fishery subject to Section 9.6.6.</p> <p>MARINE BUSINESS USE #5: A yard for building, storing, repairing, selling or servicing boats subject to Section 9.6.7.</p> <p>MARINE BUSINESS USE #6 “Yacht clubs and marinas”, subject to Section 9.6.8.</p> <p>Professional, administrative and business offices</p>	<p>Private Accessory Buildings or Structures not over 15 feet in height and limited to 800 square feet in area. Dwelling Units are prohibited in Accessory Structures or Accessory Buildings.*</p> <p>Offices, storage, work area, restrooms facilities and other similar facilities that are customary and incidental to the principal use on the Lot. *</p> <p>Facilities for dispensing fuel suitable for boat motors. *</p> <p>Off-street parking subject to Section 6.1. *</p> <p>Retail sale or rental of boating, fishing, diving, bathing, and marine supplies and equipment in a fully-enclosed building. *</p> <p>Signs subject to Section 6.2.</p> <p>Roof-mounted Solar Energy Collectors installed for the primary purpose of providing electricity to the Lot on which they are installed subject to review and approval by the ARB.</p>
Row 9 VC Village Center District	<p>“Dwelling, One-Family”</p> <p>Municipal Uses including fire houses.</p> <p>“Small Wireless Facilities” subject to Section 15.</p> <p>“Large Wireless Facilities” subject to Section 15.</p>	<p>The sale of goods at retail in a fully-enclosed Building.</p> <p>Tailors, shoe repair establishment in a fully-enclosed Building.</p> <p>Professional, administrative, and business offices in a fully-enclosed Building.</p> <p>Dwelling Units located within the same Building as any other non-residential permitted use, provided that such Dwelling Unit: (i) is located above the first floor of the Building; and (ii) has a separate entrance from the other permitted uses. Such Dwelling Units shall be permitted at a density of one Dwelling Unit per each 7,500 square feet of Net Lot Area of the Lot on which the Building is located.</p> <p>“Places of Worship” subject to Section 9.6.12.</p> <p>“Schools, Boarding” subject to Section 9.6.14.</p> <p>“Schools, Day” subject to Section 9.6.15.</p> <p>“School, Postsecondary” subject to Section 9.6.16.</p> <p>“School, Nursery” subject to Section 9.6.17.</p> <p>“Short Term Rental” subject to 9.6.19.</p>	<p>Off-street parking subject to Section 6.1*</p> <p>Signs subject to Section 6.2.</p> <p>Seating for customers in establishments selling food items provided that the area for such seating shall not exceed 20% percent of the total Floor Area of the principal Use. Such seating may be located inside the Principal Building or outside of the Building but on the same Lot as the Use to which it is accessory. *</p> <p>Roof-mounted Solar Energy Collectors installed for the primary purpose of providing electricity to the Lot on which they are installed subject to review and approval by the ARB.</p> <p>Private Accessory Buildings or Structures not over 15 feet in height and limited to 800 square feet in area. Dwelling Units are prohibited in Accessory Structures or Accessory Buildings.*</p>

Village of Upper Nyack 2022 Zoning Law
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<p>Row 10</p> <p>OB</p> <p>Office Business District</p>	<p>Sale of goods at retail.</p> <p>Establishments for the performance of personal services.</p> <p>Banks.</p> <p>“Fitness Clubs.”</p> <p>Professional, administrative, and business offices.</p> <p>Restaurants.</p> <p>Retail cannabis dispensaries and on-site consumption establishments licensed under Article 4 of the New York Cannabis Law.</p> <p>“Self-Storage Facilities.”</p> <p>Warehouses.</p> <p>Medical Clinics</p> <p>Veterinary Clinics</p> <p>Laboratory</p> <p>“Small Wireless Facilities” subject to Section 15.</p> <p>“Large Wireless Facilities” subject to Section 15.</p>	<p>“Day Care Centers” subject to Section 9.6.2.</p> <p>“Light Industrial Facilities” subject to Section 9.6.5.</p> <p>“Motor Vehicle Dealership” subject to Section 9.6.9.</p> <p>“Motor Vehicle Rental Agency” subject to Section 9.6.9.</p> <p>“Motor Vehicle Service Facility” subject to Section 9.6.9.</p> <p>“Not-for-Profit Community Centers” subject to of Section 9.6.10.</p> <p>“Places of Worship” subject to Section 9.6.12.</p> <p>“Schools, Boarding” subject to Section 9.6.14.</p> <p>“Schools, Day” subject to Section 9.6.15.</p> <p>“School, Post-Secondary” subject to Section 9.6.16.</p> <p>“School, Nursery” subject to Section 9.6.17.</p> <p>“Senior Care Facilities” subject to Section 9.6.18.</p> <p>Parking for Commercial Vehicles subject to the additional requirements of Section 6.1.3.7.2</p>	<p>Accessory production, fabrication, and servicing of goods provided that all such goods shall be sold or delivered to customers on the premises; the Floor Area used for such production, fabrication or servicing shall be limited to the lesser of 10% of the Floor Area of the establishment or 3,000 sq. ft., and such production, fabrication and servicing of goods shall not be detrimental to adjacent property owners by reason of vibrations, dust, smoke, fumes, noise or odors.*</p> <p>Off-street parking subject to Section 6.1*</p> <p>Signs subject to Section 6.2.</p> <p>Seating for customers in establishments selling food items provided that the area for such seating shall not exceed 20% percent of the total Floor Area of the principal use. Such seating may be located inside the Principal Building or outside of the Building but on the same Lot as the use to which it is accessory. *</p> <p>Roof-mounted Solar Energy Collectors installed for the primary purpose of providing electricity to the Lot on which they are installed subject to review and approval by the ARB.</p> <p>Private Accessory Buildings or Structures not over 15 feet in height and limited to 800 square feet in area. Dwelling Units are prohibited in Accessory Structures or Accessory Buildings.*</p> <p>Parking of Commercial Vehicles pursuant to Section 6.1.3.7.1.*</p> <p>Parking for Commercial Vehicles subject to the additional requirements of Section 6.1.3.7.2* (Special Use Permit required).</p>
<p>Row 11</p> <p>OBRO</p> <p>OB Residential Overlay</p>	<p>“Dwelling, One Family”</p> <p>“Small Wireless Facilities” subject to Section 15.</p> <p>“Large Wireless Facilities” subject to Section 15.</p>	<p>None</p>	<p>Same as R-160</p>
<p>Row 12</p> <p>HRO</p> <p>Hudson River Overlay District</p>	<p>Same as Principal Permitted Uses in Underlying Zoning District.</p>	<p>Same as Uses Permitted by Special Use Permit in Underlying Zoning District.</p> <p>Museums</p>	<p>In the MB District Same as Accessory Uses in MB District.</p> <p>In Residence Districts Same as R-160 Docks, floats, moorings, ramps, seawalls, and similar marine-related Structures.</p>

Submitted public comments



Meave M. Toher, Partner
John L. Barone, Partner
William F. Demarest III, Associate
Helene G. Goldberger, Of Counsel

ROBINSON SQUARE, 313 HAMILTON STREET, ALBANY, NY 12210
TEL (518) 432-4100 • FAX (518) 432-4200

December 8, 2021

Via Email Only

Hon. Karen A. Tarapata, Mayor
Village of Upper Nyack Board of Trustees
Michael Esmay, Deputy Mayor / Trustee
Laurie Dodge, Trustee
Jeffrey M. Epstein, Trustee
Kennon Rothchild, III, Trustee
328 N. Broadway
Upper Nyack, NY 10960

Re: Public Comments proposed Local Law No. 3 of 2021 repealing and replacing the Zoning Ordinance of the Village of Upper Nyack

Dear Mayor Tarapata and Village of Upper Nyack Board of Trustees:

This office represents Goosetown Environmental Action (“GEA”), an association of Village of Upper Nyack residents in and around the Van Houten’s Landing Historic District. We write to provide public comment on the *Local Law No. 3 of 2021 repealing and replacing the Zoning Ordinance of the Village of Upper Nyack* and the consequent zoning changes, specifically as to activities in the Marine Business district adjoining the R-4 residential area of the Historic District. We are also taking this opportunity to re-submit the June 23, 2020 comments of J. Theodore Fink, AICP of Greenplan, originally made in reference to the Village Comprehensive Plan (Fink Letter), and renew these comments as applicable to the Zoning changes, as set forth below. Mr. Fink has been a professional planner in New York State for over 40 years, representing government and private clients, and training and assisting municipal boards in environmental and land use responsibilities. His curriculum vitae is attached to his correspondence as Attachment D. We ask that that these comments and the Fink letter be made a part of the hearing record in this matter.

GEA’s comments are focused upon the Shipyard and its impacts upon the community and specifically the Historic R-4 residential district adjoining it. Although we do not address all of the changes proposed, a general review of Local Law 3 raises the following comments on the areas set forth below:

The Marine Business District

Section 5.1.1 defines the district purpose and adds the following language: **and which will be in harmony with the adjacent residentially-zoned properties.**

Comment: This language is an important addition to the Code and recognizes the impact of the activities in the Marine Business District on adjoining residential properties. It is a welcome addition.

9.6.8. Marine Business Use 6: Yacht clubs and marinas

Section 15:1(b) Special Permit Use 1 was changed to 9.6.8. Marine Business Use 6: Yacht clubs and marinas. The text remains unchanged with the following additions:

9.6.8.4. Boats, cradles and boat trailers may be stored outside provided that the location for such storage is specified on the approved Site Plan and further provided that they are not stored within any Required Yard.

Comment: Although the term “boat” is used over 50 times in the language of Local Law 3, “boat” is still not defined within the Code, an oversight that will continue to plague enforcement in the Marine Business District. As discussed at length in the Fink Letter, there is a fundamental difference between the activities and services accompanying boats – a term utilized throughout the Code and Comprehensive Plan in describing the activities in the MB district, and the current activities at the Shipyard which involve what are more commonly referred to as ships, which greatly increases the size and magnitude of both the vessels and activities in the MB district. Fink Letter, p.5-6. “The reality is that the MB Zoning District directly affects an historical residential neighborhood and the quality of life of that neighborhood is closely linked with the scale and magnitude of the current Shipyard’s operation.” Fink Letter, p.7. Storage of smaller crafts clearly have a different and distinct magnitude of impact than those of larger ships and the magnitude of impact upon adjacent residentially owned properties also differ. We ask the board to consider including defining language regarding the vessels at the Marine Business district.

9.6.8.5. Outdoor storage and use of Heavy Equipment may be permitted provided that: (i) the applicant can demonstrate that it is not reasonably practical to use or store such equipment in a fully-enclosed Building; (ii) the number and type of such equipment and the locations for its storage and use is specified on the approved Site Plan; and (iii) such equipment is not used or stored within the Required Front, Rear or Side Yards, except that the Planning Board may reduce the Required Yard adjacent to the Hudson River *if it finds that such reduction is reasonably*

necessary for Marine Business Use 6 operations. The maximum height, as measured from the lowest point of such equipment to its highest point as fully extended, shall be as follows: Mobile travel lifts/boat lifts: 60 ft, Cranes: 110 ft; all other Heavy Equipment 20 ft. ***The Planning Board may limit the days and hours of operation of such Heavy Equipment if it finds that the operation of such equipment has the potential to cause a nuisance to surrounding residents.***

Comment: This language provides some welcome parameters on the use of heavy equipment in the Marine Business District but the italicized language is unduly vague for enforcement purposes. It is virtually impossible to know what equipment would fall within this language and how a finding of “potential to cause nuisance” would be established. It is suggested that clearer definitional language be provided. It is further suggested that all heavy equipment be required to be stored where it will not impact the viewshed of neighboring residential properties when not in use.

9.6.8.6. Outdoor storage of equipment (other than Heavy Equipment, which is provided for in Section 9.6.8.5 of this Zoning Law) and non-hazardous materials used in Marine Use 6 operations may be permitted provided that the applicant can demonstrate that it is not reasonably practical to store such equipment or materials in a fully-enclosed Building when they are not in use, the location is outside of the Required Yards and the location of such storage is specified on an approved Site Plan. ***Such storage areas shall be suitably screened from neighboring residentially zoned properties.***

Comment: As discussed below, the issue of “suitable screening” is unduly vague and makes enforcement virtually impossible. The clarification that site plan identification of placement as required is a welcome addition. A definition of what constitutes suitable screening would assist in enforcement.

9.6.8.7. To the greatest extent possible, buffers shall be provided to screen noise and improve aesthetic views from adjacent residential properties.

Comment: The issue of screening for noise and aesthetics is a pressing issue for the public and particularly for the neighboring residential properties. As shown in the photographs attached hereto as part of this submission, the current screening efforts by the Shipyard essentially destroy the aesthetics of the Hudson River views for which the Village is known. While it is acceptable for aesthetics to be part of zoning, and the Village is applauded for recognizing the value of the aesthetics for many properties in the Village, it must be made clear in the Code specifically that Hudson River views are a part of that aesthetic. Particular for screening in the Marine Business District, effectively eliminating those views destroys the aesthetic for many properties. Definitions and parameters for appropriate screening methods should be included in the definitional

section of the Code. Additionally, while screening may be a necessary and valuable tool during certain activities (see 9.6.8.6 above) it must also be clarified that any screening may only be in place during the actual impactful activities and must be removed during off hours and weekends.

9.6.8.8. Actions Prohibited As a Part of Use: Application of spray paint outdoors.

Comment: While the prohibition on spray painting is appreciated, any activity which involves noxious odors or noise should be required to be conducted indoors.

Special Permit Use Section 9.6.7 – Marine Business Use 5

9.6.7.1. Adequate lanes of at least 12 ft in width must be provided to allow access throughout the Lot for emergency equipment. Such lanes must remain clear and passable for emergency equipment at all times.

Comment: The Shipyard has not had requisite fire lanes throughout the property on many occasions due to the size of equipment and ships being worked on (yet another reason to define and limit the size of vessels in the yard). The language should be clarified to require that there be 12' between each ship and that there needs to be both an east/west fire lane and a north/south fire lane. There are also two Butler buildings on the south end of the Shipyard property that should also be required to maintain adequate fire lanes. The work performed in those structures and the diesel equipment stored therein create a heightened possibility of fire. Adequate fire lanes also need to be maintained at all times at the north end of the property to protect surrounding residential buildings. As the Board is aware, there are a number of historic older wood homes neighboring the Marine Business district that may be particularly vulnerable to fire.

9.6.7.2. Boats, cradles and boat trailers may be stored outside provided that the location for such storage is specified on the approved Site Plan and further provided that neither boats, cradles nor boat trailers may be stored within Required Yards.

Comment: The requirement for inclusion in the site plan is a welcome addition.

Creation of the Hudson River Overlay District:

5.5.1. District Purpose. Recognizing that a large part of the Village's sense of identity is its physical and visual connection to the Hudson River, and that this physical and visual connection is most significant in the properties located between North Broadway and the

Hudson River, the purpose of this District is to provide supplemental regulations addressing the unique land planning concerns in this district.

Comment: The Village is applauded for recognizing the value and importance of the physical and visual connection to the Hudson River to the Village's identity. The Rockland County GML § 239 review of the Comprehensive Plan repeatedly stressed the need to protect the community resource of Hudson River views noting: "Promoting harmony [of the Marine Business district] with the adjacent residential use is essential. Adequate residential buffers shall be considered to mitigate noise and view of the commercial facility. The buffers must not block views to the Hudson River." Although the Code language acknowledges the importance of the Hudson River viewshed, stronger language for actual protection of this unique resource needs to be included to ensure vagaries do not limit enforcement. The Overlay District appears relatively toothless at this time as the special use and bulk regulations almost all revert to the underlying district. Thus, the MB district and adjacent residential zone are essentially unaffected by being in the Overlay District. Supplemental regulations should be carefully developed to put meat on the bones of the protection this designation is meant to afford.

The Village should also look to creating a Local Waterfront Revitalization Plan (LWRP) as well as a Harbor Management Plan (HMP). The LWRP and HMP which would "extend the Village's authority to regulate uses where jurisdiction is overlapping between state and federal agencies, and give the Village a new tool in its ability to control what happens along its shoreline and further out in the Hudson River." Fink Letter, p.6. The creation of the LWRP and HMP are discussed in the Comprehensive Plan and should be pursued for the benefit of improving and preserving the Village connection with the River.

We ask that these comments and the submissions contained herewith are incorporated into and made part of the public hearing record. We further specifically request the opportunity to provide further remarks at the public hearing on December 9, 2021. Thank you for your time and attention to this matter.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Meave M. Tooher".

Meave M. Tooher

Cc: Noelle Wolfsen, Esq. (via email)
Village Clerk (via email)







**PRIVATE
PROPERTY**
AUTHORIZED PERSONNEL
ONLY
NORTH RIVER SHIPYARD

**ALL VISITORS
MUST
CHECK IN AT
MAIN OFFICE**
NORTH RIVER SHIPYARD

**PARK AT
YOUR OWN
RISK!**
THIS IS AN ACTIVE REPAIR FACILITY
NORTH RIVER SHIPYARD
IS NOT RESPONSIBLE
FOR VEHICLES OR
PERSONAL PROPERTY

4. Employee Handbook Amendments

Overview of proposed changes to the Employee Handbook for 2022

Section 6: Page 14: Allow employees to accept gifts/gratuities valued up to \$20

Section 7: Page 21: Vacation Day Limitations for DPW Employees: With rain events increasing in violence, does this restriction still make sense? Bad weather is year round.

Section 8: (see attached proposal for a Vacation/PTO/ Sick days log)

Page 19: Change when personal days are accrued to the calendar year (will require a one time adjustment for 2022).

Change when a new hire gets personal days so that a person hired before June 1 will receive two personal days at the end of their probation period, typically six months.

Page 20: Simplify accrual of vacation time so all of one's vacation time is available at the beginning of the year, not accrued throughout the year (will require a one time adjustment for 2022).

Page 21: Add Juneteenth as a holiday

Election day question – With elections now held in the OSMH starting after Village Hall closes, do we still want to make it a holiday?

Align the Holiday policy with Federal policy of the US Office of Personnel Mgt: Saturday holidays are given on the preceding Friday and Sunday holidays are given on the following Monday.

Page 26: Retiree Health Insurance – the Public Employee Liaison Unit of the civil service rejected our retiree health plan of 80% reimbursement for individuals who have 20 years of employment (see attached letter) from retirement until Medicare kicks in.

If we offer insurance to retirees, it must be for both individual and family coverage. We can choose our rate of contribution, as long as it is at least 50% of individual and 35% of family coverage.

Our long term DPW employees are used the Village paying 100% of their insurance and our newer employees are used to having the Village pay 80 % of individual and 73 % of family coverage. Offering 80/73 to retirees requires all to pay some for coverage.

Currently we say you must work 20 years to get NYSHIP retiree health insurance coverage. We can set the number of years that an employee must work to get retiree coverage (minimum allowed is 5). Do we want to reduce it from 20 to 10, which is how long an employee must work to get full pension benefits?

Also Page 26 : Medicare Part B, item 5 -Remove "for a minimum of 10 consecutive years." Civil Service says that we must reimburse for Medicare Part B premium regardless of when it is taken (age disability or other reason).

FYI - If a retiree eligible for Medicare chooses to keep NYSHIP coverage, there is no Medicare reimbursement payment.

Village of Upper Nyack Employee Handbook

Date Issued: _____

Amended April 8, 2021

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Introduction/ Welcome Statement

We are pleased to provide you with this version of the Employee Handbook for the Village of Upper Nyack ("the Village"). Whether you are newly joining us or have been working with us for a while, you have a unique opportunity to serve our community. The Village is run with public funds for the direct benefit of Village residents and businesses. As the guardians and administrators of these public funds and services, our responsibility is to provide for general health and safety of those who live in, work in, and visit our Village in the most fiscally prudent and efficient manner possible, while making those we service feel welcome and respected.

This handbook has been prepared to set forth the Village's policies that apply to your employment and should answer many of the questions you may have regarding your employment. This Handbook generally describes what we expect of you and outlines the programs and benefits currently available to eligible employees. It is intended to compliment, and not alter or replace, any benefits and rights employees have under the New York State Civil Service Laws, or Rockland County Civil Service Rules. All such benefits and rights are retained by our employees, as appropriate for each given classification.

We encourage you to familiarize yourself with these policies and to ask questions so that you will have a comprehensive understanding of what is expected of you during your employment. Upon completing your review of the Handbook, please sign and submit the acknowledgement form at the end of the document, along with the signature pages for the various appendices. These forms will become part of your personnel file and are attest that you have read and understood the contents of these policies and that you understand that you are required to abide by them. In most circumstances, we expect these pages to be returned within a week of receiving this Handbook.

This Employee Handbook is not a contract of employment for any specified duration of time, nor does it guarantee the continuation of any benefit provided or rate of pay. These terms of your employment are governed by applicable law. Changes may be made to these policies as permitted by law and as adopted by the Village Trustees. When the Board of Trustees deems appropriate, updates will be made to this Employee Handbook and you will be advised of those changes.

This Handbook is effective upon adoption by the Board of Trustees. Policies in place prior to that adoption are null and void as of the adoption date and are replaced by the policies described in this Handbook, unless otherwise required by applicable law

We hope that your experience here will be rewarding. We look forward to your contributions in serving the residents and businesses of our Village.

THE VILLAGE AS EMPLOYER

Aside from elected village officers, a position in village government is either an appointive office, a position of employment, or a volunteer position. Except for volunteer positions, all positions are subject to the civil service process, which is outlined in Appendix 6 to this Handbook.

All individuals who provide services to the Village are required to abide by the behavior-related policies contained in this Handbook (such as those policies requiring individuals to refrain from engaging in discrimination, harassment, workplace violence etc.).

The following are the different categories of individuals who provide services to the Village:

Elected Officials: The Mayor and Trustees on the Village Board are elected by the residents and are deemed to be part of the Civil Service “Unclassified Service” category. They are not considered “employees” for the purposes of this Handbook. Their tenure and potential removal from their positions is governed by applicable NY law.

Appointees to Other Boards and Committees: Individuals serving on Village Boards, such as the Planning Board, Zoning Board of Appeals and Architectural Review Board, as well as the various committees as the Board of Trustees may convene from time to time, are not “employees” for the purposes of this Handbook. They are expected to abide by any Village codes of conduct regarding respect, collegiality, professionalism and otherwise.

Appointed Officials: Certain Village positions are filled by appointment by the Mayor, which appointment is then ratified by the Village Board. Specifically, the Village Clerk, Deputy Village Clerk, Treasurer, Building Inspector, Code Enforcement Official, and Fire Inspector are appointed positions. These individuals are considered “employees” for the purposes of this Handbook.

Civil Service Employees: The New York State Department of Civil Service oversees the creation of certain positions and how they are administered. These positions are locally established and filled through coordination between the County Department of Personnel and the Village Board of Trustees. Individuals employed in these positions are entitled to the protections of the various Civil Service laws associated with classified service (see Appendix 6).

Temporary or Seasonal Employees: Temporary or seasonal employees may be hired to perform office work, or to assist the Department of Public Works, as further described in this Handbook. These employees are subject to the behavior-related policies contained in this Handbook (such as those policies requiring individuals to refrain from engaging in discrimination, harassment, workplace violence etc.), but are not entitled to any employee benefits unless required by law (such as workers’ compensation coverage). Summer interns fall into the category of “temporary” employee.

Consultants: Certain individuals are retained by the Village to provide services on an independent contractor/consultant basis. These individuals are not employees of the Village. They are not entitled to any employee benefits. They are expected, however, to comport themselves in a professional and respectful manner in their dealings with the Village and the public.

DISCRIMINATION AND HARASSMENT

Equal Employment Opportunity

Equal Employment Opportunity has been, and will continue to be, a fundamental principle at the Village, where employment is based upon personal capabilities and qualifications without discrimination because of an employee's characteristic protected by the law of the locality in which the employee works, such as his or her race, color, religion, age, creed, sex, national origin, citizenship status, mental or physical disability, gender, pregnancy, marital status, familial status, sexual orientation (including gender identity and expression, and transgender status), military status, status as a victim of domestic violence, genetic information, prior arrest or conviction record or any other protected characteristic as established by applicable federal, state or local law.

This policy of Equal Employment Opportunity applies to all policies and procedures relating to recruitment and hiring, compensation, training, benefits, advancement, leaves of absence, termination and all other terms and conditions of employment and is to be followed in all personnel actions taken by the Village. No one is authorized to act contrary to this policy.

Harassment Prohibited

The Village is committed to providing a work environment free from unlawful harassment of any kind. Harassment committed against anyone at the Village on any basis protected by applicable federal, state or local law, including the protected characteristics described above, is strictly prohibited. Such conduct can be demeaning and degrading and can create a hostile working environment for our employees, so has no place in our workplace. Unlawful harassment is conduct that may include, but is not limited to, the following:

- verbal conduct such as racial or ethnic epithets, derogatory jokes, comments, slurs, threats or unwanted sexual advances, invitations or comments related to a protected characteristic
- visual conduct such as racially derogatory and/or sexually-oriented posters, photography, e-mail, cartoons, drawings or gestures that are degrading because of ethnicity, religion, sex or another characteristic
- physical conduct such as assault, unwanted touching, blocking of normal movement or interference with one's work, where such conduct is directed at a person because of a protected characteristic

Sexual Harassment

Sexual Harassment is a particular form of harassment, which is described in more detail in Appendix 2. The Village is committed to providing a working environment from sexual harassment as well.

If you believe that you are being subjected to discrimination or harassment as prohibited by these policies, or that you are being or have been retaliated against for reporting such conduct or for participating in an internal investigation regarding such conduct, you must immediately advise the Village Clerk or Mayor. Anyone who becomes aware of any suspected or perceived discrimination, unlawful harassment, retaliation or other unlawful conduct regarding another employee or other individual connected with our Village, must immediately advise the Village Clerk or Mayor. Falsely reporting conduct or failing to participate in Village investigations of discrimination, harassment or retaliation are also violations of this policy. Please see Appendix 2: *Discrimination, Harassment and/or Retaliation Reporting and Investigation Procedure* for detailed information regarding this policy. All employees are required to read this policy appendix, and sign and return the attached acknowledgement form.

Reasonable Accommodation for Disabilities (including Pregnancy)

The Village is committed to complying with the provisions of federal, state and local laws applicable to employees with disabilities, including pregnancy. It is our policy not to discriminate against any qualified employee or applicant with regard to any terms or conditions of employment because of such individual's disability or any perceived disability so long as the employee is otherwise qualified for the position and can perform the essential functions and/or requisites of the job. Consistent with this policy of non-discrimination, the Village will provide reasonable accommodations to a qualified individual with a disability, as defined by applicable law, who has made the Village aware of his or her disability, as long as such accommodation does not constitute an undue hardship on the Village. In general, an undue hardship is an action that would require unreasonable difficulty or expense, or would unreasonably disrupt our operations. Reasonable accommodations are also available for employees to address the needs of their pregnancy.

To be eligible for an accommodation, including a modification of a policy in this Handbook, you must notify the Mayor or Village Clerk of the disability or pregnancy and explain the way(s) in which it affects your ability to do the job. The Village also asks that you affirmatively suggest to the Village specific accommodations that it might make, which would allow you to better perform the job. Once an employee has identified him/herself as a person who needs a reasonable accommodation, the Village will engage in a dialogue with that employee to determine what is needed and what can be provided. When appropriate, that employee may be asked to provide medical documentation or to submit to a medical examination. While the Village will consider each specific accommodation suggested by the employee, it is ultimately the Village that will determine, on a case-by-case basis, which accommodation, if any, will be provided.

All medical and disability-related information will be treated as confidential and will be shared with management and relevant staff only to the extent necessary. Complaints regarding this policy, or its failure to be applied, should be directed to the Mayor or Village Clerk.

Reasonable Accommodations for Religious Observance and Other Reasons

Reasonable accommodations that do not create an undue hardship on the functioning of the Village may also be available with respect to other legally-protected issues, such as to accommodate the religious practices or beliefs of an employee, including, for example, time off for the observance of holy days or prayer, or modifications of a dress code. Employees who take time off as an accommodation may be asked to make up the time or use accrued paid time off days. Otherwise, time off will be unpaid. Accommodations may be available in other situations. Please let us know if you believe you need this type of assistance. Questions and/or requests for such accommodations should be directed to the Mayor or Village Clerk. Please submit such requests as soon as possible after you become aware of the need for an accommodation.

Retaliation Prohibited

Retaliation against an employee for complaining about workplace issues, including complaints of discrimination and/or harassment, legally protected whistleblowing activities or other workplace concerns will not be tolerated, neither will retaliation against employees who seek an accommodation, who participate in any Village investigation, or who engage in other types of protected activity. Any person engaged in retaliatory conduct may be in violation of this policy. Employees who violate this policy will be subject to discipline pursuant to Section 75 of the Civil Service Law, as applicable, including but not limited to being placed on disciplinary suspension or discharged.

If you feel you are being or have been retaliated against for complaining about any conduct prohibited by these policies, contact the Mayor, Village Clerk, or the County Department of Personnel immediately.

SUMMARY OF APPENDICES

Code of Ethics

The Village maintains an official Code of Ethics, included in the Appendix 1.

Discrimination, Harassment And/Or Retaliation Reporting And Investigation Procedure

For information regarding the reporting and investigation of discrimination, harassment and/or retaliation claims, see Appendix 2.

Workplace Violence Prevention Policy Statement

The Village has an official policy on Workplace Violence Prevention, included in the Appendix 3.

Municipal Ban on Weapons in the Workplace

The Village has an official policy on a Municipal Ban of Weapons in the Workplace, included in the Appendix 4.

Social Media

The Village has a policy covering appropriate and inappropriate use of social media while in the employ of the Village of Upper Nyack, included in Appendix 5.

Civil Service Laws And Procedures

Information regarding Civil Service Laws and Procedures is included in Appendix 6.

Family and Medical Leave Act

The Village complies with the requirements of the federal Family and Medical Leave Act. Full information regarding leaves under this Act is contained in Appendix 7.

Employment of Relatives

The Village permits the employment of qualified relatives of employees, as long as such employment does not, in the opinion of the Board of Trustees, create an actual or perceived conflict of interest, the appearance that preferential treatment was granted, or the appearance that a related individual was hired instead of another applicant who is more qualified. The Village will only place related employees in the same department so long as doing so does not place one relative in a position to manage, supervise, report to, or otherwise influence the work responsibilities, or salary of the other relative. "Relatives" include those individuals related by blood or by marriage, as well as relationships akin to a relative, such as a long-term partner.

Work Environment

The Village is committed to providing a safe and healthy working environment. While the occupational health and safety laws of the federal Occupational Safety and Health Administration ("OSHA") do not apply to public employees, the New York Public Employees Safety and Health (PESH) Bureau has generally adopted all OSHA standards applicable to state and local government employment. Every effort is made to comply with all applicable safety standards and to develop the best operations, procedures and programs conducive to maintaining such a safe and healthful environment. It is the Village's intention to minimize employees' exposure to any health or safety risk. Therefore, all employees are expected to maintain safe working conditions and to adhere to specific department operating procedures designed to prevent injuries and illness.

GENERAL SAFETY RULES

The following are some general safety rules and precautions that all Village employees are expected to follow:

- If an employee has not been trained on how to perform a task safely and properly, or is not familiar with the equipment or the materials involved, the employee should advise the the Village Clerk or Mayor and not perform the task or handle the equipment or material until he or she is trained properly.
- Employees should know all safety and emergency procedures, and the location of all emergency exits and fire extinguishers.
- Employees are not expected to handle fires and other emergencies themselves. Instead, employees must know the location of emergency contacts, and should get themselves and others to safety first and then call the appropriate emergency contact.
- When reaching for high objects, an employee should use an appropriate ladder or stool. Employees should not stand on a chair, carton, or other substitute.
- Accidents may be caused by falling objects, carelessly placed in elevated locations. All items should be properly stored and/or strapped down.
- Electrical devices and connecting cords should be regularly inspected for safety prior to use. If an employee sees that an electrical cord is worn or damaged, he/she must advise the Village Clerk so that it may be repaired or replaced.
- Employees should take care that electrical cords are routed in such a way that they do not cross aisles or walkways.
- Employees must report defective or worn tools and equipment to the Village Clerk.
- A machine or tool should be used only for its intended purpose.
- Guards and other protective devices should never be removed or deactivated.
- Employees should never lift or move anything that may be too heavy for them.
- Employees should read and know all relevant safety procedures for any hazardous substances with which they may come into contact while performing their work duties.
- Employees should know the location of the Village's safety procedures for their positions and become familiar with them.

In addition, employees are expected to:

- Abide by the smoking restrictions established by Village policy, New York State statute, and the Rockland County code;
- Keep the display of personal affects to a minimum.;

- Clean and store all tools and equipment and properly store any items, papers or confidential information.

Use of Village Safety Equipment / Personal Protective Equipment

Where appropriate, the Village provides necessary safety equipment such as safety glasses or other personal protective equipment (PPE), or provides funds for their purchase. When provided, this equipment must be used. There are no exceptions to this policy.

HIRING AND TERMINATION PROCEDURES

Hiring

The Village relies upon the accuracy of information contained in the employment application completed by potential employees, as well as the accuracy of other data presented throughout the hiring process. Any misrepresentations, falsifications, or material omissions in any of this information or data may result in the Village's exclusion of the individual from further consideration for employment or termination if the conduct is discovered after employment commences.

Probationary Period

All new employees will be required to successfully complete a probationary period, commencing on the first day of employment. The Probationary Period for all employees will be not less than eight nor more than 26 weeks.

During the Probationary Period, an employee is eligible for those benefits for which the position qualifies.

The Mayor shall meet with each new employee during the Probationary Period to review the employee's performance. Where appropriate, the Mayor will offer remedial suggestions for improvement and will identify strengths that have been demonstrated. Upon satisfactory completion of the Probationary Period, the employee will be considered permanent for the position.

For further information on probation see Appendix 6 on Civil Service Law.

Temporary Office Help

The Village Board may authorize and approve the hiring of temporary help to be paid at a rate set by the Village Board at the annual organizational meeting, and for no more than 20 hours per week. Temporary help are not eligible for employee benefits unless mandated by applicable law, and may not work overtime hours unless expressly permitted to do so in writing prior to such time being worked.

Temporary DPW Help

The Village Board may authorize the hiring of temporary help for the DPW (Department of Public Works). There must be a written offer letter outlining the responsibilities of the position, the rate of pay, and the term of this temporary employment. Temporary employment shall be paid at the rate set at the Village annual organizational meeting and shall not extend beyond 130 days a year

Temporary DPW help are not eligible for employee benefits unless mandated by applicable law and may not work overtime hours unless expressly permitted to do so in writing prior to such time being worked.

Outside Employment

Village employees may engage in outside work as long as such outside work does not interfere with the employee's performance standards, pose an actual or potential conflict of interest, or compromise the interests of the Village. For full-time employees, Village work takes precedence.

Performance Review

Performance Review is a process that is intended to serve both the employee and the Village by ensuring the employee is advised as to whether his or her performance meets the Village's expectations and needs, or improvement is required.

Although "performance review" is a continuing process of feedback and commentary provided by the Mayor throughout the course of employment, the performance of employees will usually be formally reviewed twice a year, at approximately six-month intervals, by the Mayor or his/her designee. An employee may meet with the Mayor to discuss performance more frequently, in the Mayor's discretion, or at the employee's request.

At each formal review the employee will be provided a written review, which will then be discussed, providing an opportunity to review the expectations of the position, and to examine the strengths, as well as areas needing improvement. The employee will have the opportunity to comment on and sign the review. A signature on the performance appraisal form indicates only that the employee has seen the review; it does not indicate agreement or disagreement with the content of the review.

A performance review is not a contract or a commitment to provide a compensation adjustment, a promotion, a bonus, or continued employment.

Corrective Discipline

Employees are expected to follow the policies and procedures outlined in this Handbook, as well as any procedure memos or other documentation related to their jobs, and to perform their jobs at a standard that is satisfactory to the Village. Any Civil Service Employee who, after investigation is found to have violated the policies, procedures, rules, or regulations outlined in this Employee Handbook or is found to have engaged in incompetency or misconduct will be subject to disciplinary action in accordance with Civil Service Law Section 75 if appropriate for the employee's position, or as is otherwise appropriate under applicable New York State law, rule or regulation.

Open Door Policy Dispute Resolution Procedure

The Mayor maintains an Open-Door Policy to provide for the orderly resolution of disputes at the earliest possible stage in order to promote a harmonious and cooperative relationship between employees and the Village. This policy in no way restricts an employee's right to the full exercise of their legal rights under applicable law.

Definition of Dispute – For the purpose of this dispute resolution procedure, a “dispute” will mean an employee's belief that a policy in this handbook has been applied unfairly, or inappropriately, or that an employee has been treated in a manner not comporting with the spirit of this Handbook. However, certain employee concerns fall outside this procedure, and will be handled as required by applicable law, including, but not limited to, any claims or concerns regarding discrimination, harassment or retaliation, claims regarding requests for or denials of reasonable accommodations, claims regarding an employee's compensation, or claims for which procedures exist under the Civil Service laws. This policy also does not apply to any matter as to which the Village is without authority to act (for example a dispute regarding a Village insurance policy, which must be addressed according to the policies provisions, or a disagreement regarding a civil service exam, promotion, probationary decision, etc., which will be addressed according to the appropriate civil service laws, rules and regulations).

Examples of matters that may be considered appropriate disputes under this policy include:

- A belief that Village policies, practices, rules, regulations, or procedures have been applied in a manner unfair to an employee (where the alleged “unfairness” is not based on a discriminatory reason);
- Improper or unfair administration of conditions of employment such as scheduling, vacations, fringe benefits, holidays, seniority, or allotment of overtime opportunities.

If the employee feels that the resolution offered by the Mayor is insufficient, he or she may take the matter to the County Personnel Office.

Personnel Files

It is the policy of the Village to balance its need to obtain, use, and retain employment information with a concern for each employee's privacy. Personnel records will be maintained for current and past employees. The contents of a personnel file are the property of and subject to the discretion of the Village.

The personnel records maintained by the Village include, but are not limited to, Employment Applications, Report of Personnel Change Forms, copies of job-required licenses and certificates, Federal and New York State Withholding Tax Forms, Retirement Enrollment/Waiver Forms, Health Insurance Enrollment/Waiver Forms, disciplinary records, counseling memos, evaluations, complaint letters, letters of acclamation, and probationary reports.

All original personnel records for current employees will be kept in the Village office and will be the responsibility of the Village Clerk, who will ensure the confidentiality of these records and that access is only available to those with a legitimate business reason to access them.

Immigration (I-9) Forms – All immigration (I-9) Forms are to be kept in a separate file apart from the employee's personnel file.

Medical Records – All employee medical records are to be kept in a separate file apart from the employee's personnel file in the Village office and will be maintained and controlled by the Village Clerk. **For security purposes, these files will be maintained in a locked file cabinet.**

Change in Status – An employee must immediately notify the Village Clerk of a change of name, address, home telephone number, cell phone number, personal email address, marital status, number and age of dependents, beneficiary designations, and individuals to notify in case of emergency.

Personnel files and their contents are the property of the Village. However, employees may provide the Village Clerk with a written document and request that it be included in the employee's file.

Voluntary Separation from Employment

Notice of Resignation - An employee who intends to resign from employment must submit a written resignation to the Village Clerk at least two weeks before the date the resignation is to be effective.

Notice of Resignation (Village Clerk) – The Village Clerk who intends to resign must submit a written resignation to the Secretary of State at least thirty calendar days before the date of resignation is to be effective.

Notice of Resignation (Retirement) – All employees must notify the Village three (3) months prior to their official New York State retirement date.

Exit Interview – Exit interviews may be conducted with departing employees by the Mayor. The exit interview provides an opportunity to discuss a number of items including employee benefits, COBRA eligibility, changing of computer passwords, and return of Village property. During the exit interview, employees are encouraged to give suggestions, concerns and constructive recommendations. Exit interviews are not formally conducted for part-time, seasonal, or temporary employees.

Involuntary Termination of Employment

Those employees covered by Civil Service Law Section 75 who are involuntarily terminated due to incompetence or misconduct are eligible for a hearing as provided by the Rockland County Department of Personnel. Employees in other Civil Service classifications (see Appendix 6) may be terminated as provided by applicable law.

Benefits Following Employment Termination

Only accrued and unused vacation will be paid upon departure. Unused personal and sick days are not paid out and are forfeited.

Employees covered by the Village health insurance group plan (currently Empire Plan for Government Employees AKA NYSHIP) are eligible to continue said health insurance benefits under COBRA and/or applicable NY law, as permitted by law.

WORK RULES AND RESPONSIBILITIES

GENERAL INFORMATION

Standard Work Day

Village Hall - 7 hours

Department of Public Works - 8 hours

Building Inspector - 2 hours

Village Hall Hours

The Village Hall is open to the public from 9:00 a.m. to 12:00 p.m. Monday - Friday, except for holidays in conformity with federal and New York State laws.

Timesheets

The work week begins on 12:00 a.m. Monday and goes until 11:59 p.m. the following Sunday. All Department of Public Works employees are required to provide timesheets to the Village Clerk which are to specify all time worked, including overtime, as well as vacation time, sick time, personal time, holidays, bereavement time, and jury duty hours. All other employees are required to log vacation time, sick time, personal time, holidays, bereavement time, and jury duty hours. Each month at the regular Village Board meeting, the Village Clerk will provide the employee timesheets to the Village Board of Trustees for approval.

Workplace Injuries

All employee injuries, regardless of severity, should be immediately reported to the Village Clerk. The injured employee must fill out an accident report and file it with the Village Clerk within 72 hours of the accident or injury, or as soon thereafter as possible. The accident report must be filled out completely and should include the location, time and place of the incident and the cause and nature of the injury.

Communications from the Public

It is critical that any communication from the public to the Village be received by the Village Clerk. This is particularly true in the event of negative commentary or complaint, either written or verbal. Written communication is any written form, including but not limited to, a memo, fax message, letter, telegram, legal notice, e-mail summons, or other form. Verbal communication is any complaint or expression stated either in person or over direct electronic devices, such as telephones.

All communications from the public – particularly if they are negative in nature – are to be conveyed immediately to the Village Clerk. In the case of a written communication, the received document must also be immediately forwarded to the Village Clerk.

Purchasing

No employee shall make purchases for the Village, or use the Village's name to make purchases, unless so authorized by the Mayor or Village Clerk. When purchases are authorized, receipts for the purchase must be given to the Village Clerk immediately following the purchase (i.e., within 3 business days of the purchase).

Information Distribution

It is the role of the Mayor and Board of Trustees to distribute information to the press and public. No one else is permitted to distribute information to the press or public without the expressed consent of the Mayor. This includes but is not limited to, written, verbal, and/or visual messages communicated via Village resources or via personal devices, such as cell phones, tablets, etc., and/or social media platforms. Any written, verbal, and/or visual messages communicated by a so-designated representative of the Village in reference to the business of the Village are the sole property of the Village.

If you are contacted by the press or public seeking information you are not authorized to relay, please refer the individual to the Mayor.

Computers, Telephones, Network And Other Electronic Devices

The computers, computer networks, telephones, cell phones and other similar electronic devices provided to employees by the Village are owned by the Village. Employees can have no expectation of privacy with regard to any documents, information or messages that they send or receive utilizing the Village's electronic equipment. All data and files contained in or downloaded to any Village owned computer, network, cell phone or other information system also belong to the Village. The Village may monitor electronic mail messages (including personal/private/instant messaging systems) and their content, as well as any and all use of the internet and of computer equipment used to create, view, or access e-mail and internet content. Your use of this equipment is your consent to such monitoring.

Please also be mindful that any information and documents sent and received on Village-owned equipment are government records and are subject to disclosure under New York State's Freedom of Information Law.

Employees must maintain the confidentiality of any passwords or log-ins that provide access to Village computers, and must not password protect any documents or files without permission. Employees may never use passwords or log-ins that have not been assigned to them.

Employees may not download screensavers or other files from the internet or place any software on the Village's computers without express permission.

Village computer equipment is to be used for Village/department business purposes only and should be used in a professional and businesslike manner. Messages should be composed respectfully and clearly. Employees must be aware that the electronic messages sent and received using Village equipment are not private and are subject to viewing, downloading, inspection, release, and archiving. The Village may inspect any and all files stored in private areas of the network or on individual computers or storage media.

Personal Property

An employee is expected to exercise reasonable care to safeguard personal items brought to work. The Village will not reimburse an employee for the damage or loss of the employee's personal property nor will such property be repaired or replaced by the Village. An employee who brings personal property to the workplace does so at his or her own risk. The Village, in its discretion, may inspect personal property brought onto Village grounds to enforce its Drug Free Workplace Policy, discourage theft, or for other business reasons. Employees should take care to ensure that personal property brought to the workplace does not disrupt work or pose a safety risk to other employees.

Inspections of Village Furniture and Property

Desks, lockers and other storage devices may be provided by the Village for the convenience of employees. but these remain the sole property of the Village. Accordingly, such storage devices and furniture, as well as any articles found within them, can be inspected by any agent or representative of the Village at any time, with or without notice to the employee. As such, no employee has an expectation of privacy with regard to any such desk, locker or other storage device, nor any other area in or on Village property or in a Village vehicle. Any inspection may, but will not necessarily, be made in the presence of the employee. The Village is not responsible for loss or damage to personal property placed in such storage devices.

Responsibility for Village Property and Equipment

Employees are responsible for items issued to them by the Village for use on the job, such as, but not limited to the items listed below. All issued property remains the property of the Village:

- Equipment, including protective equipment
- Identification badges

- Keys
- Uniforms
- Books or other reference materials, including this Employee Handbook
- Cell phones, lap top computers

All Village property must be returned to the Village Clerk before the employee's last day of work or at any time as directed by the Village Clerk and is expected to be returned in good condition, recognizing normal wear and tear. Damage to Village property must be reported to the Village Clerk immediately. The Village may charge employees for damage due to negligence or misuse of the item.

GENERAL WORK RULES

Absenteeism and Tardiness

All Village employees are expected to arrive to work before their scheduled start time, so that they are ready to begin work at their scheduled time. They are also expected to promptly return following meal or other breaks.

If an employee is unable to work because of illness or any other reason, the employee must call the Village Clerk as soon as the employee is aware that he/she will not be able to work, and if possible, prior to the normal starting time for the employee's position. Non-notification will be considered an unexcused absence. The employee, or his or her agent, must speak with the Village Clerk. Leaving a message with a co-worker is not acceptable notice.

Absenteeism or tardiness that is not excused or excessive, in the opinion of the Village Board, can become grounds for disciplinary action up to and including termination.

Unauthorized Work

An employee may not perform work for any entity other than the Village during the employee's tour of duty for the Village, or claim that Village work was done when such is not the case.

Inappropriate Conduct

Conduct not conducive to a productive work environment, or not appropriate in advancing the work of the Village, is prohibited. Employees are expected to use good sense in carrying out the Village's mission. However, for avoidance of doubt, some types of behavior the Village considers inappropriate include, but are not limited to, the following:

- Making a false statement on any Village record.
- Violating Village policies as described in Section 1, including but not limited to Village nondiscrimination and/or sexual harassment policy, or any other policy in this Handbook.
- Excessive absenteeism or tardiness.
- Reporting to work or performing work under the influence of alcohol and/or drugs.
- Unnecessary or unauthorized use of Village supplies, tools, materials, or any other Village property when that use is not for the benefit of all Village residents.
- Use of Village computers for personal internet or computing activities.
- Excessive personal telephone calls during working time.
- Insubordination or refusal to perform a duty as prescribed by the Mayor.
- Disposing of or removal from site of any Village property without permission of the Village Clerk.
- Accepting or giving gifts or gratuities from or to residents, businesses or other government officials valued in excess of \$20.
- Committing illegal acts.
- Possession of unauthorized weapons (see Municipal Ban on Weapons in the Workplace - Appendix 4)

If an employee's performance, work habits, overall attitude, conduct or demeanor becomes unsatisfactory in the judgment of the Village Board of Trustees, that employee could be subject to disciplinary action, up to and including dismissal, in accordance with the Civil Service laws and rules or other laws, rules and regulations applicable to that employee.

Personal Appearance

As a representative of the Village, an employee must present a good public image while on duty. Each employee's dress, grooming and person hygiene should be appropriate to their work situation; appropriate personal appearance is an ongoing requirement of employment. Radical departures from conventional standards of dress, personal grooming and hygiene – as determined at the sole discretion of the Mayor and/or Board of Trustees – are not permitted. Clothing with slogans, political statements, or other signifiers of personal opinion are not permitted while on the job, as this clothing does not present a businesslike appearance. Upon an occurrence of inappropriate appearance, the Village may require an

employee to leave the work space to adjust their appearance as necessary before returning. Such absence will be uncompensated for employees paid by the hour.

Employees are expected to be well-groomed.

Anyone needing an accommodation with regard to the Village's dress-code policy due to a religious practice, disability, or other reason is to speak with the Mayor or Village Clerk.

Drug-Free Workplace Policy

To help ensure a safe, healthy, and productive work environment for our employees and others, to protect Village property and to ensure efficient operations, the Village has adopted a policy of maintaining a workplace free of drugs and alcohol. This means that the Village does not condone, nor permit, the manufacture, use, sale, distribution, transfer, display or possession of alcohol, illegal drugs, inhalants or other controlled substances, or drug paraphernalia on Village property, in a Village facility or in a Village vehicle. Furthermore, the Village does not condone, nor permit, any employee to be on Village property or in a Village vehicle while under the influence of illegal drugs, alcohol, or other controlled substance (including medical marijuana), nor to conduct the Village's business while in such a condition. Drug and alcohol use in the workplace can pose dangers both to the user and to other employees. "Under the influence" includes but is not limited to being in an altered mental state due to smoking, injecting, inhaling or otherwise using a substance that alters, or appears to alter, the employee's cognitive abilities, including mental clarity, perception and judgment. Abusing substances not intended for human consumption (such as sniffing glue or aerosol inhalants) that alter awareness and cognitive function are also covered by this policy.

This policy does not prohibit employees from properly using prescription medication on the orders of a physician. But, as noted above, employees are not permitted to work while under the influence of any controlled substance (including medical marijuana). If, however, you have been advised not to drive or operate machinery or to otherwise limit your activities while taking a particular prescription medication, and such activities are part of your regular job duties, you must inform the Mayor or a member of the Village Board of the situation and provide a doctor's note describing your limitations, prior to starting work. Similarly, if your cognitive functions, judgment or other faculties necessary to perform your job are affected, please advise the Mayor or Village Clerk so accommodations can be discussed.

Violation of this policy may be grounds for employee discipline, including but not limited to disciplinary suspension or discharge, in accordance with the appropriate law. Although the Village encourages employees with drug or alcohol abuse problems to seek assistance and treatment, doing so may not lessen discipline determined to be warranted based on a violation of this policy. By accepting employment with the Village, you agree to abide by this Drug Free Workplace Policy.

Drug Testing

The Village may, at its discretion, require any employee to submit to a drug or alcohol test, which may require the taking of blood, urine or breath samples, if the Village reasonably suspects that an employee has violated the Drug Free Work place policy (e.g., if it suspects that an employee is under the influence of alcohol or illegal drugs or other controlled substances, or that the employee used these substances while at work or otherwise on the Village's premises, or while conducting business on the Village's behalf). The Village may also require any employee to submit to a drug or alcohol test immediately after a workplace accident or injury, or as soon thereafter as practical. Refusal to submit to a drug and/or alcohol test may be grounds for discipline, including but not limited to being placed on a disciplinary suspension or having employment terminated, as permitted by applicable law.

Drug & Alcohol Testing for CDL Drivers

In addition to the policies discussed above, the Village complies with all applicable law, rules and regulations concerning drug testing of employees who operate commercial motor vehicles with a commercial driver's license ("CDL"). This includes regulations issued by the Department of Transportation ("DOT"), applicable to commercial motor vehicle operators who hold a commercial driver's license.

CDL drivers will be subject to pre-hire drug or alcohol testing, random drug or alcohol testing, and testing upon reasonable suspicion that the employee has been under the influence at work. In addition, in the event of an accident involving a CDL driver, the employee involved in the accident will be subject to post-accident testing, as required by applicable law.

In the event that an employee tests positive after a screening, the employee will immediately be disqualified from performing his or her duties and will be subject to immediate suspension, pending disciplinary action for misconduct.

Employees required to be tested pursuant to this policy must remain available for and cooperate with the testing and collection procedures. Any employee who refuses to submit to drug or alcohol testing under this policy or who is found, in any way, to have adulterated, tampered with or substituted a sample will be immediately removed from their job function and will be subject to immediate suspension, pending disciplinary action for misconduct.

Any questions about this policy, including whether you are subject to this policy, should be directed to the Mayor.

Event Exception: The Village may, from time to time, in its discretion, host or direct employees to attend events or parties, either on its premises or elsewhere, where alcohol is available. There may be other situations where you choose to drink, for example at a business-related dinner. The Village expects any employees who choose to drink alcohol at these events to do so responsibly and not to overindulge. Your actions reflect on the Village. If you do not feel you can get home safely after drinking at one of these events, please let the Mayor or a member of the Board know so that we can make arrangements for you.

Smoking

The Village maintains a smoke-free working environment in keeping with the Village's desire to provide a safe and healthful work environment, and consistent with state and local law. Employees who wish to smoke may do so outside during breaks, meal periods, or before or after work.

Solicitations

Employees are prohibited from soliciting money from other employees, visitors, elected officials, board or committee members, or others on Village property for raffle tickets, donations, subscriptions or purchases of any kind, whether the solicitation is for a political, social, religious, school-related, or other type of activity. Exceptions may be made for charitable, non-profit community organizations, with prior approval of the Mayor.

Visitors

Personal visitors are not allowed to visit those working on Village property during working hours unless otherwise approved by the Village Clerk (except in emergency situations). Personal visitors are allowed for brief visits during an employee's meal break as long as such visit does not interfere with Village operations or interrupt other employees who are still working.

EMPLOYMENT POLICIES SPECIFIC TO THE DEPARTMENT OF PUBLIC WORKS

The following policies apply only to the Department of Public Works employees. Where these policies differ from those in other sections of this Handbook, the policies below apply. Where the policies below are silent as to an issue or requirement discussed in other policies, that silence should not be interpreted to mean that the issue or requirement does not apply to the DPW employees. It may. Generally, common sense should dictate whether it does. When in doubt, speak with the Mayor.

Normal Hours of Operation

7:00 a.m. - 3:30 p.m. - half hour for lunch

Employees are expected to arrive with sufficient time to be ready to start at the beginning of the day. The non-paid one-half hour lunch hour may be staggered to ensure coverage.

Maintenance of Physical Fitness

The nature and job requirements for the DPW demand that each employee maintain a level of physical fitness to the point that the employee can perform all the required tasks of the job without jeopardizing their safety or well-being or the safety and well-being of others. Each DPW employee may be periodically evaluated by a physician to ensure the employee remains fully able to fulfill the performance requirement of the job. Where such is not the case, reasonable accommodations may be discussed and provided as long as they will not pose an undue hardship on the Village. Maintaining the required level of physical ability is a requirement of the job.

Driver's License Requirements

Employees must maintain the correct class driver's license for the vehicles they may be required to operate. Employees whose personal driver's license is suspended and who are required to drive for the Village, may not drive Village vehicles while their license is suspended. Violation of this rule is grounds for termination of employment. Employees must provide a current copy of his or her driver's license to be placed on file at the Village Hall.

See the Drug and Alcohol Free Workplace policy for information regarding DOT drug testing for those with a Commercial Driver's License (CDL).

Personal Use of Village Vehicles

Personal use of Village-owned vehicles is prohibited. An employee who uses a Village vehicle for personal use will be liable for any damage to the vehicle or for damage of property or injury to others. The unauthorized use of a Village vehicle is grounds for termination of employment.

Vehicle Misuse

Any employee who intentionally or negligently misuses, damages, or abuses any Village vehicle will be liable for the repairs or replacement of that vehicle and subject to termination of employment.

Emergency Call Out

A "call out" is defined as an after-regular-working-hours emergency that if postponed to the next regular working day would constitute a hazard to life and/or property in the Village and thus requires a Village employee to respond to the situation immediately. The police, fire department, Mayor or member of the Board of Trustees, Village Clerk or other authority can determine that a "call out" situation exists that requires immediate attention by the Department of Public Works.

One employee will be assigned to respond to a “call out” and will assess the situation and mitigate the emergency as effectively and efficiently as possible under the circumstances, bringing it to a condition where there is no longer a hazard to life and/or property. If possible, the solution should be completed during the next regular work day. If the situation requires additional Department of Public Works personnel during the after-hours call-out, assistance should be requested by contacting the Mayor or Village Clerk.

Compensation for the time spent responding to a “call out” will be paid at two times the normal hourly rate for the hours worked, or for three (3) hours, whichever is greater.

Overtime Pay Calculations for DPW Employees

DPW employees who are normally scheduled to work at least a 40-hour week and who work beyond 40 hours in the week shall be compensated at the rate of 1.5 times the employee’s normal hourly rate of pay for the first eight (8) hours of overtime worked. When the initial hours putting a DPW employee over 40 hours in a work-week is because of a “call-out” as discussed above, the actual hours worked will be paid at two times the employee’s hourly rate, as specified in the “call-out” policy.

All additional overtime hours worked in the week beyond the first 8 overtime hours will be compensated at two times the employee’s normal hourly rate. In situations where the “call-out” was less than three hours, and the employee received three hours pay, the hours paid but not worked do not count as working time for the calculation of overtime pay.

Hours worked on a holiday are paid at two times the employee’s normal hourly rate.

Safety Attire

All Department of Public Works employees are required to wear proper safety attire: fluorescent color (NYS DOT approved) shirts and jackets or safety vests with reflective stripping while working in the Village. Steel-toed boots are required to be worn at all times while on the job. The Village will allocate \$500 per year for each employee to purchase needed work attire.

BENEFITS

Employee Benefits Generally

A number of state-mandated benefits programs (such as workers' compensation insurance and unemployment compensation) cover all eligible employees in the manner prescribed by law. In addition to the state-required and/or funded programs, the Village offers eligible employees (as defined below or in plan documents) participation in certain additional employee benefits plans.

The following descriptions are intended only as a general overview of available benefits and not as a substitute for a summary plan description or other plan documents specifically addressing a particular benefit plan, which may need to meet certain legal requirements. The following overviews are not binding agreements and address the employee benefits being offered at the time this Handbook is issued. The Village Board may eliminate, modify or amend all benefits plans, at its discretion, to the extent permitted by federal or state law. If there are any variations between the following overviews and the summary plan descriptions or the plan documents themselves, the plan documents govern the benefits provided. Please make sure to examine all group benefits materials carefully in order to make informed decisions regarding participation.

Please direct questions regarding benefits to the Mayor.

Regular and Temporary Employees:

“Regular” employees are those non-temporary, non-seasonal employees who are regularly scheduled to work some number of hours for the Village each week. There is no particular end-date anticipated to their employment. These employees have been permanently or provisionally appointed to their position, or have been given a conditional permanent appointment.

“Temporary” employees are those employees hired on a project-basis or otherwise for an expected limited time, such as employees with a seasonal or temporary appointment or interns. Temporary employees generally know that their employment is of limited duration, and will last no longer than the end of a particular assignment. Temporary employees are not eligible for employee benefits, except for those required by applicable law.

Exempt and Non-Exempt Employees:

Employees are further classified with regard to their entitlement to overtime wages.

“Exempt employees” are classified as such if their job duties and responsibilities are identified as being exempt from the overtime wage provisions of the Federal Wage and Hour Laws. Exempt employees are not eligible for overtime pay. They are paid on a salaried basis or otherwise in accordance with applicable law.

“Non-Exempt employees” are those whose positions and job duties require that they receive overtime pay for certain additional hours worked in accordance with applicable Federal Wage and Hour Laws. Their compensation is generally calculated on an hourly basis, although it may be paid as a salary.

Personal Days

All regular employees shall receive four personal days per year, added each year on January 1, to use for any reason. A person hired before June 1 will receive two personal days at the end of their probation period, typically six months.

Employees are requested to advise their supervisor of the need to use a paid personal day as much in advance of the requested day off as possible when the need for such time off is foreseeable. When not foreseeable, Employees must contact their supervisor as soon as possible to advise they will be out and

using a personal day. Employees' personal days may be exhausted in half day increments at the Village's discretion.

Unused paid personal days not used in a calendar year may not be carried over to the next year and are forfeited. They do not accumulate. Unused paid personal days are not paid out at the end of employment.

Personal days used should be indicated as such on timesheets.

Vacation Time

All regular employees will accrue vacation time from the original date of hire as per the schedule below. Vacation time may not be taken until it is accrued. Vacation time must be taken in the twelve months in which it is accrued. However, up to five days of earned vacation not taken by the employee's anniversary of hire, may be rolled over into the next anniversary year but shall not accrue beyond the following anniversary date and will be forfeited if not used.

<u>Years of Service</u>	<u>Vacation Days Accrued</u>
Years 1 - 2	5 days
Years 3 - 4	10 days
Years 5 - 14	15 days
Years 15 - 19	20 days
Years 20 and beyond	25 days

A "day" is the amount of time the employee normally would be scheduled to work (i.e., an employee who is normally scheduled to work 8 hours per day would be paid for a eight-hour vacation day).

Unused and accrued vacation days are paid out upon termination of employment.

If a paid holiday falls during an employee's vacation or other scheduled paid time off, the time off will be counted and paid as a holiday, and will not be deducted from the employee's vacation days.

Employee vacations need to be staggered to ensure sufficient coverage. Vacation requests must be submitted to the Village Clerk providing sufficient time prior to the planned vacation to allow for coverage to be arranged. The Village may deny vacation requests as it deems appropriate to ensure sufficient coverage.

Holidays

The Village Office is closed, and all normal operations are suspended, for the holidays listed below. The only exceptions are for “Emergency Call-Outs” as described in the DPW Employee Policy section, or other unexpected and dire emergencies requiring the presence of Village personnel. Need for the latter shall be in the determination of the Mayor. Should an employee be called in to work on a Holiday that the employee would otherwise have off, that employee will be paid his or her normal rate of pay for the day (plus any overtime hours if applicable),

Employees who are normally scheduled to work on a day on which one of the following holidays fall, will have the day off and will be compensated at their regular daily or hourly rate for the day. The Holidays observed by the Village are:

- New Year's Day
- Martin Luther King Day
- Presidents' Day
- Memorial Day
- Juneteenth National Independence Day
- Independence Day
- Labor Day
- Columbus Day
- Election Day
- Veteran's Day
- Thanksgiving
- Day after Thanksgiving
- Christmas
- Day after Christmas

When a holiday falls on a Saturday, the preceding Friday will be treated as a holiday. When a holiday falls on a Sunday, the holiday will be observed on the following Monday,

Employees whose employment is terminated prior to a holiday will not be paid for a holiday not taken.

Inclement Weather

Employees generally are expected to report to work during inclement weather, but should use their judgement to ensure their safety in traveling to work. However, there may be occasions when the Village Hall will be closed due to severe weather. Employees will be paid their regular hours at regular pay for the day if the Village Hall closes. Such time that is paid but not worked does not count towards hours worked when determining overtime for that week.

DPW employees are expected to work during snow emergencies, including during nights, weekends, and holidays, if called out to do so by the Mayor.

Overtime

All non-exempt employees will be paid an overtime premium at 1 ½ their regular hourly rate for all hours worked over 40 in one work week. Employees are not permitted to work overtime hours without prior permission, however, on occasion, overtime hours may be required.

DPW employees please see the Overtime Pay policy in the DPW Employee Policy section.

Sick Leave

All non-temporary employees are eligible for sick leave. Sick days will accrue one and a half (1 1/2) days for each month of employment from the date of hire. The maximum amount of accumulated sick days will be one hundred and twenty (120) days. Accumulated sick days roll over to the subsequent calendar year during the length of each employee's employment. Any time the accumulated days fall below one hundred and twenty (120), the Village will credit the employee with one and a half (1 1/2) sick days for each succeeding month of employment until the accumulation has been restored to one hundred twenty (120) sick days, at which point accumulation again ceases. All days accrued for sick leave will be forfeited upon termination, resignation, or retirement. The Village does not pay out unused and accrued sick leave days.

Sick days may be taken in either ½-day or full-day increments. Any absence of less than 3 hours will be charged as a ½-day; and absence over 3 hours will be charged as a full-day.

An employee may utilize up to five consecutive days of sick time without a doctor's authorization. If an employee requires six or more consecutive sick days, the employee will be required to provide a doctor's note indicating the need for sick leave as well as providing an estimate return to work date. All sick leave will be reduced by any Workers' Compensation insurance received.

Workers' Compensation

The Village maintains a Workers' Compensation insurance policy to provide for payment of employees' medical expenses and for partial continuation of employee's pay in the event of a work-related accident or illness.

The provision of workers' compensation benefits does not guarantee that the employee will receive any specific amount of leave time from work. Entitlement to insurance benefits under this policy and entitlement to leave away from work are considered separately and certain Civil Service provisions may apply.

All injuries and job-related illnesses must be reported immediately to the Village Clerk. Work-related accidents are required to be reported to the Workman's Compensation insurance carrier within five days of the incident. Failure to promptly report may result in the denial of the claim. All benefits and payments will be at the direction of the Workman's Compensation insurance carrier or hearing officer.

Health Insurance

The Village participates in the Empire Plan for Government Employees AKA NYSHIP.

The Village will pay 100% of the health insurance premiums for individual and family coverage for employees hired prior to January 1, 2017.

Effective January 1, 2017, health insurance for newly hired full-time regular employees will be available after completion of three months of employment from date of hire. The employee must be a member of the New York State and Local Retirement System to be eligible for coverage.

The Village will pay 80% of the premium for individual coverage and 73% of the premium for family coverage. The monthly premium will be divided in half and deducted directly from each of the two payroll periods per month. Premiums for each month covered are paid in advance. Premiums paid in January are for February coverage. Premiums generally change in January but are subject to change at any time during the year. The employee will be notified by the Village of any changes in coverage or premiums as soon as the Village is notified by the Plan Administrator. Any increase in premium deducted will automatically take effect in the next regular payroll, or at another time as determined by the Village Board.

Compensation in Lieu of Village-Provided Health Insurance

If an employee is already adequately covered by health insurance through other than the Village policy, they may be eligible, and may apply, for additional compensation in lieu of the Village contribution to its Health Insurance policy. Such compensation will be determined by the Village Treasurer in consultation with the Village Board of Trustees and set at the annual organizational meeting.

In order to be eligible, the employee must provide proof of health insurance coverage by another policy, or proof of renewal thereof, annually.

Extended Leaves of Absence Due to Personal Illness, Injury or Pregnancy

The Village complies with all Civil Service Laws regarding requests for extended time off due to personal illness or injury. Civil Service laws and rules also provide procedures that allow the Village to request a fitness-for-duty medical examination for an active employee should the Village believe that the individual is unable to perform his or her duties by reason of a disability. As with most Civil Service procedures, there are rights of hearings and appeals. This policy is not intended to spell out the details of those procedures.

Family and Medical Leave of Absence (FMLA)

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to:

Twelve workweeks of leave in a 12-month period for:

- the birth of a child and to care for the newborn child within one year of birth;
- the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- to care for the employee's spouse, child, or parent who has a serious health condition;
- a serious health condition that makes the employee unable to perform the essential functions of his or her job;
- any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty," or

Twenty-six workweeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember's spouse, son, daughter, parent, or next of kin (military caregiver leave).

The employee must have been employed for at least twelve months prior to the time the leave is to start, and to have worked 1250 hours in the twelve months prior to the leave. Eligible employees who seek leave for a qualifying situation will usually be granted a leave of up to 12 weeks with the guarantee that they will be returned to the same or a similar position upon their return to active duty. Requests for an extension of the original 12 weeks leave can be made to the Board of Trustees and any decision rendered is at the Board's sole discretion. Any leave beyond the statutorily protected FMLA leave is Village-provided leave to which the FMLA rules and regulations do not apply.

FMLA leave time not covered by available time off is unpaid. Employees are required to exhaust all accrued paid time off. Using paid time off does not extend FMLA leave time. FMLA leave runs concurrently with any other Family and Medical Leave Act policy, which is Appendix 7 to this Handbook, and contact the Mayor should you require more information.

Bereavement Leave

The Village shall grant bereavement leave with pay to regular full-time employees for up to three days for the death of a member of the employee's immediate family. Immediate family is defined as parents, spouse, domestic partner, sibling, sibling-in-law, child, stepchild, stepparents, grandfather, grandmother,

mother-in-law, father-in-law. The Mayor, in his or her discretion, may allow bereavement leave for other appropriate circumstances or additional time.

Jury Duty

Employees have a legal and civic responsibility to serve on a jury or to appear as a witness, if summoned or subpoenaed, and will be excused from work for as long as they are needed for such duty. Employees must show the jury duty summons or subpoena to the Village Clerk as soon as possible, and they are expected to keep in touch with the Village Clerk on a daily basis to advise of their required absence. Employees are also expected to report to work on days that they are not required to be in court. If they are excused from jury duty because of not being chosen for a trial, or if they are on a trial and are dismissed before the end of the day, they are required to report for work provided it is early enough to make such action practical.

Employees will be paid their salary while serving on a jury. An employee can collect and keep any compensation and mileage expense reimbursement that may be issued by the court system for performing jury duty. No personal, sick or vacation days will be charged for serving as a juror.

Military Duty

Military Leave (New York State Law) – This section refers only to a paid leave for military service under New York State Law and does not affect an employee's entitlement to leave needed for military service under federal statute. The Village recognizes the importance of the Military Reserve and National Guard, and will permit any employee the use of military leave to perform ordered military duty or required training. The Village will grant such leave with pay for up to twenty-two workdays or thirty calendar days in a calendar year, whichever is greater. Such military leave beyond the twenty-two workdays or thirty calendar days in a calendar year will be permitted but is unpaid, however accumulated vacation leave may, at the employee's option, be used at any time during the leave. In accordance with applicable New York State law, the employee may keep all pay received for military service.

Military Leave of Absence (Federal Law) – An unpaid leave of absence for a period of up to the federal statutory limits will be granted to an employee to serve in any of the Armed Forces of the United States. The employee's accumulated vacation leave may, at the employee's option, be used at any time during such leave of absence.

Any employee taking a leave of absence to serve military duty will be considered to be on state and federal military leave concurrently, and will have the benefits of both laws. Employees returning from military duty must comply with the requirements of The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) to enjoy the re-employment protections of that Act.

Please see the Mayor for further information regarding military leaves.

New York State & Local Retirement System (NYSLRS)

All full time non-exempt and exempt employees must participate in the New York State Retirement System (NYSLRS). Part time employees are eligible to participate on a voluntary basis. The primary purpose of the retirement system is to provide secure and fully funded retirement benefits that members have earned as state and local government employees. The Village's participation is managed through the Office of the State Comptroller.

Information about Tiers and their corresponding level of benefits maybe found on the New York Retirement System's website.

Expense Reimbursement

Upon proper authorization, an employee may be reimbursed for expenses associated with carrying out Village business, including, but not limited to, meals, lodging, mileage, parking, highway tolls, and training. All required documentation and corresponding receipts must be submitted to the Village Clerk in order for the reimbursement to be processed. In most cases, where feasible, advance authorization should be obtained before an expense is incurred.

Mileage

An employee who, with the approval of the Mayor, uses the employee's own vehicle to conduct Village business will be reimbursed at the IRS standard mileage rate for that year. To obtain reimbursement, an employee must submit an expense reimbursement request indicating the date and purpose of the travel and the miles driven.

Education and Training

Upon proper authorization by the Village Board, an employee may be reimbursed for training courses that are directly related to the employee's present job. Should an employee desire reimbursement, information regarding the nature of the training course, its expense, proof of payment for the course, and proof of satisfactory completion of the course should be submitted within thirty days of the completion of the course (or thirty days after the receipt of a grade, whichever is later), to the Board in writing, along with the request for reimbursement.

Required Membership Fees

The Village shall pay for memberships which an employee is required to hold in a professional organization as part of the employee's job. A request for membership shall be made to the Village Clerk and approved by the Mayor.

Unemployment Insurance Benefits

Certain Village employees separated from their jobs under certain conditions may be eligible for unemployment insurance benefits. If eligible, you receive weekly income benefits, to be determined by the amount of wages you have received. The State Department of Labor typically administers this program and is solely responsible for making determinations regarding eligibility and benefit amount. The Village pays for the entire cost of this insurance. Unemployment insurance benefits may not be available to Officials in major non-tenured, policy-making, or advisory positions, or to individuals in policy making or advisory positions whose official duties do not require more than 8 hours a week to perform.

Continuation of Medical Coverage (COBRA)

The federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), as well as New York State insurance continuation law, provide employees and their qualified beneficiaries with rights to continued health insurance coverage under the employer's health plan when a "qualifying event" event occurs that would otherwise result in the loss of coverage. Qualifying events might include: resignation, discharge (for other than gross misconduct), transfer to a part-time position not eligible for benefits, a leave of absence, death of the insured, divorce or legal separation, or a dependent child who no longer meets eligibility requirements. Employees or other qualified beneficiaries must notify the Village Clerk of a divorce, legal separation or loss of dependent status. Following a qualifying event, you will be provided with information regarding the steps you must take should you elect to continue your health insurance coverage.

Under continuation coverage, you and/or your beneficiaries pay the full percentage of the insurance premium, and, potentially, an administrative fee as permitted under applicable law. If continuation coverage is not chosen within the time required following the occurrence of a qualifying event, the group medical insurance coverage will terminate. Please notify the Village Clerk if you have any questions regarding whether you are entitled to continuing health coverage under COBRA.

All required premiums and administrative fees must be paid in a timely manner in order for coverage to continue. Failure to make timely premium payments will result in loss of coverage.

Retiree Health Insurance

The Village participates in the Empire Plan for Government Employees AKA NYSHIP.

The Village will pay 80% of the premium for individual coverage and 73% of family coverage under NYSHIP for a qualifying retiring employee. The retiring employee must meet the following minimum requirements:

- 1) have been a full-time employee of the Village on or after January 1, 1994,
- 2) must have been employed with the Village for a minimum of twenty (20) consecutive years and entitled to both the Village's health plan and been part of the NYS and local retirement system.
- 3) Must be at least 55 years old.

Any eligible retiree will be notified by the Village of any changes in coverage or premiums as soon as the Village is notified by the Plan Administrator.

Medicare Part B Reimbursement – The Village will reimburse an eligible retiree for the cost of the Medicare Part B premium. For an employee to qualify, the retiring employee must have met the following minimum requirements:

- 4) have been a full-time employee of the Village on or after January 1, 1994,
- 5) must have been employed with the Village and entitled to both the Village's health plan and been part of the NYS and local retirement system.

Any eligible retiree must provide proof of eligibility for Part B coverage to the Village Clerk at which time reimbursement will commence.

Medicare Supplemental Insurance Reimbursement – The Village will reimburse an eligible retiree for the cost of their single Supplemental Medicare insurance premium. For an employee to qualify, the retiring employee must have met the following minimum requirements:

- 1) must have been employed with the Village for a minimum of ten (10) consecutive years and entitled to both the Village's health plan and been part of the NYS and local retirement system.
- 2) must have retired from the Village on or before June 1, 2021.

Eligible retirees who were offered family coverage at the time of their retirement will continue as before.

Any eligible retiree must provide proof of Medicare Supplemental coverage to the Village Clerk at which time reimbursement will commence.

All required premiums and administrative fees must be paid in a timely manner in order for coverage to continue. Failure to make timely premium payments will result in loss of coverage.

APPENDIX 1 – CODE OF ETHICS

Adopted: 8/20/1970; Amended: 11/23/1990; 10/15/1998; 7/1/2002; revised 4/2018

1) Ordinance 10.1. Purpose

Pursuant to the provisions of Section eight hundred six of the General Municipal Law, the Board of Trustees of the Village of Upper Nyack, New York recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be maintained in government. Our officers and employees hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Village of Upper Nyack recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. It is the purpose of this Ordinance to promulgate these standards of ethical conduct for the officers and employees of the Village of Upper Nyack, and to serve as a guide for official conduct for such officers and employees.

2) Ordinance 10.2. Definitions

- a) "Village" means the Village of Upper Nyack.
- b) "Village Officer or Employee" means the Mayor, Trustees of the Village Board, paid employees, and members of the Land Use Boards.
- c) "Board" means the Village governing board and any Village administrative board (e.g. planning board, land use board), commission, or other agency or body comprised of two or more Village officers or employees.
- d) "Code" means this code of ethics.
- e) "Interest" means a direct or indirect financial or material benefit but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the Village or an area of the Village, or a lawful class of such residents or taxpayers. A Village officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse, or a member of his or her household, is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization's outstanding stock.
- f) "Relative" means a spouse, parent, step-parent, sibling, step-sibling, sibling's spouse, child, step-child, uncle, aunt, nephew, niece, first cousin, or household member of a Village officer or employee, and individuals having any of these relationships to the spouse of the officer or employee.

3) Ordinance 10.3. Applicability

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

4) Ordinance 10.4. Standards of Conduct

Every Village Officer and Employee of the Village shall be subject to and abide by the following standards of conduct:

- a) **Prohibition on use of Village position for personal or private gain.** No Village officer or employee shall use his or her Village position or official powers and duties to secure a financial or material benefit for himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

Gifts.

- i) No Village officer or employee shall solicit, accept or receive a gift in violation of section 805-a(1)(a) of the General Municipal Law as interpreted in this section.
- ii) No Village officer or employee may directly or indirectly solicit any gift.
- iii) No Village officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of seventy-five dollars or more when
 - (1) the gift reasonably appears to be intended to influence the officer or employee in the exercise or performance of his or her official powers or duties;
 - (2) the gift could reasonably be expected to influence the officer or employee in the exercise or performance of his or her official powers or duties; or
 - (3) the gift is intended as a reward for any official action on the part of the officer or employee.
- iv) For purposes of this section, a "gift" includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form. The value of a gift is the gift's fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceed seventy-five dollars must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.
- v) A gift to a Village officer or employee is presumed to be intended to influence the exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks Village action involving the exercise of discretion by or with the participation of the officer or employee.
- vi) A gift to a Village officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained Village action involving the exercise of discretion by or with the participation of the officer or employee during the preceding twelve months.
- vii) This section does not prohibit any other gift, including:
 - (1) gifts made to the Village;
 - (2) gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a Village officer or employee, is the primary motivating factor for the gift;
 - (3) gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;
 - (4) unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;
 - (5) awards and plaques having a value of seventy-five dollars or less which are publicly presented in recognition of service as a Village officer or employee, or other service to the community; or
 - (6) meals and refreshments provided when a Village officer or employee is a speaker or participant at a job-related professional or educational conference or program and the meals and refreshments are made available to all participants.

- b) **Confidential Information.** No Village officer or employee who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers and duties.
- c) **Use of Village resources.**
- i) Village resources shall be used for lawful Village purposes. Village resources include, but are not limited to, Village personnel, and the Village's money, vehicles, equipment, materials, supplies or other property.
 - ii) No Village officer or employee may use or permit the use of Village resources for personal or private purposes, but this provision shall not be construed as prohibiting:
 - (1) any use of Village resources authorized by law or Village policy;
 - (2) the use of Village resources for personal or private purposes when provided to a Village officer or employee as part of his or her compensation; or
 - (3) the occasional and incidental use during the business day of Village telephones and computers for necessary personal matters such as family care and changes in work schedule.
 - iii) No Village officer or employee shall cause the Village to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.
- d) **Interests in Contracts.**
- i) No Village officer or employee may have an interest in a contract that is prohibited by section 801 of the General Municipal Law.
 - ii) Every Village officer and employee shall disclose interests in contracts with the Village at the time and in the manner required by section 803 of the General Municipal Law.
- e) **Representation Before One's Own Agency.** Village Officers and employees shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered on behalf of any person or entity other than the Village of Upper Nyack in relation to any matter before any Village of Upper Nyack Board or Agency of which the individual is an officer, member or employee of any Village Agency over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer or employee. If any Village officer or employee has a conflict of interest because of the requirements of this paragraph, he or she must immediately disclose this conflict of interest and recuse him or herself from participating in all discussions, deliberations and voting on the subject matter wherein there is believed to be a conflict of interest. If the officer or employee recuses him or herself and does not participate in any discussions, deliberations and voting concerning the matter in which the individual has a conflict of interest, then the officer or employee will not have violated the Code.
- f) **Representation Before Any Agency for a Contingency Fee.** Village Officers and employees shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any Village Board, Agency or Village Officer or Employee, whereby his or her compensation is to be dependent or contingent upon any action to be taken or not taken by such agency with respect to such matter, provided that this paragraph shall not prohibit fees based upon the reasonable value of the services rendered.
- g) **Disclosure of Interest in Legislation and other matters.**
- i) Whenever a matter requiring the exercise of discretion comes before a Village officer or employee, either individually or as a member of a board, and disposition of the matter could result in a direct or indirect financial or material benefit to himself or herself, a relative, or any

- private organization in which he or she is deemed to have an interest, the Village officer or employee shall disclose in writing the nature of the interest.
- ii) The disclosure shall be made when the matter requiring disclosure first comes before the Village officer or employee, or when the Village officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.
 - iii) In the case of a person serving in an elective office, the disclosure shall be filed with the Village Board. In all other cases, the disclosure shall be filed with the person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the Village officer, employee or board having the power to appoint to the person's position.
 - iv) In addition, in the case of a person serving on a Village board, a copy of the disclosure shall be filed with the board. Any disclosure made to a board shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.
- h) **Investments in conflict with official duties.** No Village officer or employee may acquire the following investments:
- i) investments that can be reasonably expected to require more than sporadic recusal and abstention under section 6 of this Code; or
 - ii) investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties.
 - iii) This section does not prohibit a Village officer or employee from acquiring any other investments or the following assets:
 - (1) real property located within the Village and used as his or her personal residence;
 - (2) less than five percent of the stock of a publicly traded corporation; or
 - (3) bonds or notes issued by the Village and acquired more than one year after the date on which the bonds or notes were originally issued.
- i) **Recusal and abstention.**
- i) No Village officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.
 - ii) In the event that this section prohibits a Village officer or employee from exercising or performing a power or duty:
 - (1) if the power or duty is vested in a Village officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or
 - (2) if the power or duty that is vested in a Village officer individually, then the power or duty shall be exercised or performed by his or her deputy or, if the officer does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function.
 - (3) if the power or duty is vested in a Village employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.
- j) **Private Employment.** Village Officers and employees shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such

employment or service creates a conflict with or impairs the proper discharge of the individual's official duties. If an officer or employee of the Village discovers that he or she has a conflict of interest as a result of the requirements of this paragraph, the individual must immediately disclose this conflict of interest and recuse him or herself from participating in all discussions, deliberations and voting where it concerns the conflict of interest. If the officer or employee recuses him or herself and does not participate in any discussions, deliberations and voting concerning the conflict of interest, then the officer or employee will not have violated the Code.

k) Future Employment.

- i) No Village officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the Village officer or employee, either individually or as a member of a board, while the matter is pending or within the 30 days following final disposition of the matter.
- ii) No Village officer or employee, for the two-year period after serving as a Village officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the Village office, board, department or comparable organizational unit for which he or she serves.
- iii) No Village officer or employee, at any time after serving as a Village officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a Village officer or employee.

l) Nepotism. Except as otherwise required by law:

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

m) Political Solicitations.

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

5) Ordinance 10.5. Prohibition inapplicable; disclosure, recusal and abstention not required.

- a) This Code's prohibition on use of a Village position for personal gain (section 4a), disclosure of interests requirements (section 4h), and requirements relating to recusal and abstention (section 4j), shall not apply with respect to the following matters:
 - i) adoption of the Village's annual budget;
 - ii) any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:
 - (1) all Village officers or employees;
 - (2) all residents or taxpayers of the Village or an area of the Village or the general public; or

iii) any matter that does not require the exercise of discretion.

b) Recusal and abstention shall not be required with respect to any matter:

i) which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by the Recusal section of this Code;

ii) which comes before a Village officer when the officer would be prohibited from acting by the Recusal section of this Code and the matter cannot be lawfully delegated to another person.

6) Ordinance 10.6. Suit or Claim Against the Village, Personal Representations And Claims Permitted. This Code shall not be construed as prohibiting a Village officer or employee from:

i) representing himself or herself, or his or her spouse or minor children before the Village; or

ii) asserting a claim against the Village on his or her own behalf, or on behalf of his or her spouse or minor children.

7) Ordinance 10.7. Distribution/Posting of Code of Ethics

a) The mayor of the Village must promptly cause a copy of this Code, and a copy of any amendment to this Code, to be posted publicly and conspicuously in each building under the Village's control. The Code must be posted within ten days following the date on which the Code takes effect. An amendment to the Code must be posted within ten days following the date on which the amendment takes effect.

b) The mayor of the Village shall cause a copy of this Code to be distributed to any Officer or Employee of the Village within 30 days after the effective date of this Ordinance. Each officer and employee elected or appointed thereafter shall be furnished with a copy before entering upon the duties of his or her office or employment. Each Officer and Employee must acknowledge receipt of the Code in writing.

c) Failure to post or distribute this Code as required, above, does not affect the applicability or enforceability of the Code.

8) Ordinance 10.8. Penalties

Any person who shall knowingly and intentionally violate any of the provisions of this Code may be suspended or removed from office or employment, as the case may be, in the manner provided by law.

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this Code may be fined, suspended or removed from office or employment, as the case may be in the manner provided by law.

9) Ordinance 10.9. Board of Ethics

The Village Board may, in its discretion, establish a Board of Ethics to render opinions regarding the applicability of this Code or, in lieu of such a Board, seek legal counsel from the Village Attorney, or other appropriate legal representative, regarding matters dealing with the applicability, enforcement and interpretation of this Code.

10) Ordinance 10.10. Effective Date

This Code of Ethics, as amended, shall be effective as of April 1, 2018 as resolved at the annual meeting of April 2, 2018.

11) Ordinance 10.11. Eligibility of Appointed Village Officers [Local Law # 6 of 1990]

Notwithstanding the provisions of any general law to the contrary and in accordance with Section 3-300 of the Village Law, the Village Clerk, the Deputy Village Clerk, the Assessor, the Village Treasurer and the

Deputy Village Treasurer of the Village of Upper Nyack need not be residents of the Village of Upper Nyack, but may reside within the County of Rockland.

CODE OF ETHICS, VILLAGE ORDINANCES

ACKNOWLEDGEMENT OF RECEIPT

I HAVE READ AND UNDERSTOOD THE ABOVE CODE IN ITS ENTIRETY, UNDERSTAND MY OBLIGATIONS UNDER IT, AND AGREE TO ABIDE BY ITS TERMS.

Signature: _____

Date: _____

Print Name: _____

APPENDIX 2 - DISCRIMINATION, HARASSMENT AND/OR RETALIATION REPORTING AND INVESTIGATION PROCEDURE

POLICY

It has been and will continue to be the Village's policy to ensure equal employment opportunity without discrimination on the basis of any characteristic protected by the location in which an employee works, such as their race, color, creed, religion, sex, age, national origin, nationality, ancestry, citizenship status, actual or perceived mental or physical disability, pregnancy, marital status, familial status, sexual orientation (including gender identity and expression, and transgender status), military status, status as a victim of domestic violence, genetic information, prior arrest or conviction record, or any other characteristic protected by federal, state or local law (collectively referred to as "protected characteristics"). All employees should be able to enjoy a work environment free from all forms of discrimination, including unlawful harassment. The Village similarly prohibits retaliation against employees who file complaints under this policy or who participate in complaint investigations. We take claims of discrimination, harassment, and retaliation very seriously. The procedures outlined below will be strictly enforced. We will not tolerate discrimination or unlawful harassment in any form by any of our Village Officials, employees, visitors, residents or others who may interact with our employees, nor will we tolerate any form of retaliation or abuse of this policy. This policy applies to both employees and applicants for employment.

Discrimination is any action taken against an employee which affects the terms and/or conditions of his or her employment, because of a protected characteristic of that person, or because that person associates with another person with a protected characteristic. Forms of discrimination can include improper discipline, discriminatory hiring or promotion decisions, derogatory comments, harassment, as well as any other action or inaction by another which adversely affects the terms or conditions of employment, when such actions are based on an employee's protected category.

Unlawful Harassment is a form of illegal discrimination in which an employee's work environment is made hostile by, for example, racial or ethnic epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; or display or circulation in the workplace of written or graphic material, including cartoons, photographs or drawings, that denigrates or shows hostility or aversion toward an individual or group (including through e-mail), because of a protected characteristic of that employee.

Sexual Harassment is a specific type of harassment which can take many forms – what may constitute such harassment depends on the specific facts of each situation. In general terms, unlawful sexual harassment is unwanted sexual attention or conduct of a persistent or offensive nature made by a person who knows, or reasonably should know, that such attention or conduct is unwelcome or sexually offensive. Such conduct is either of a sexual nature, or directed to a person because of his or her sex. Examples of sexual harassment may include, but are not limited to, the following:

- conversations about your own or someone else's sex life
- obscene or sexually explicit or suggestive language or gestures
- sexual or lewd remarks, jokes or comments
- displaying pornographic or sexually-oriented posters, photography, cartoons or drawings
- unwanted hugs, touches, or kisses
- comments about, or repeated compliments regarding, a person's physical appearance or body
- sexual advances or requests for sexual favors

Retaliation includes any adverse employment action, or other action taken against an employee, because of protected activity in which the employee engaged, including but not limited to making a complaint under this policy or participating in the investigation of such a complaint.

The Village will not tolerate any actions of discrimination, harassment or retaliation against our employees.

If you have any questions as to whether specific conduct is discrimination, harassment or retaliation that violates this policy, please contact the Village Clerk or the Mayor.

REPORTING AND INVESTIGATION PROCEDURE

The Village has enacted the following procedure to provide a manner for employees to report and for the Village to investigate any discrimination, harassment and/or retaliation complaints.

Report the Incident/Problem Immediately: The Village requires the reporting of all incidents of discrimination, harassment or retaliation, regardless of the offender's identity or position with the Village. Individuals who feel they have experienced or observed conduct that is contrary to this policy or who have concerns about such matters must immediately notify the Village Clerk or the Mayor. Such complaints may also be brought to any Village Trustee. Anyone who becomes aware of any conduct that possibly violates this policy must immediately notify their immediate supervisor or the Village Clerk, or the Mayor. Of course, the availability of this complaint procedure does not preclude individuals who believe they are being subjected to harassing conduct from promptly advising the offender that his/her behavior is unwelcome and requesting that it be discontinued. Initial complaints regarding conduct believed to violate this policy can initially be made verbally, but must be memorialized in writing.

It is the employee's responsibility to disclose any and all information relevant to possible incidents of discrimination, harassment or retaliation. All documents or other physical evidence either the complainant or other employees may possess supporting the complaint of harassment, discrimination or retaliation must also be provided to Village investigators as soon as possible after the employee reports the alleged incident or the investigator requests such information. Additionally, the employee must identify all known witnesses who may have information relating to his/her complaint. Failure to do so will adversely affect the investigative process.

Investigation: Reported allegations of harassment, discrimination or retaliation will be investigated promptly and thoroughly. The investigation may include individual interviews with the parties involved and, where necessary, with any witnesses who may have knowledge relevant to the complaint. All decisions regarding the scope and duration of the investigation, who is interviewed, what materials are reviewed, etc., are in the sole discretion of the Village. Confidentiality will be maintained throughout the investigatory process to the extent feasible, consistent with an adequate investigation and appropriate corrective action and applicable law. All employees are expected to cooperate fully with any investigation or inquiry into these matters.

Determination: After a complaint is investigated, the investigator(s) will make a determination and suggest a resolution to the complaint. A determination may suggest discipline, job reassignment, or other solutions to resolve the grievance or complaint. There are certain situations where the actions taken as a result of the determination must be kept confidential. The Village will implement appropriate disciplinary actions under the Civil Service laws, if applicable, and this Handbook should it be found to be warranted.

Responsive Action: Misconduct constituting harassment, discrimination or retaliation will be dealt with appropriately. Responsive action may include, for example, training, referral to counseling and/or requesting disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary disciplinary suspension without pay, termination, or other such action as the Village believes may be appropriate under the circumstances through the Civil Service disciplinary process, where appropriate. To protect the privacy of everyone involved, the Village has a policy of

generally not disclosing the specific nature of any disciplinary action taken as a result of an investigation, but may do so in appropriate circumstances.

Retaliation Not Tolerated: The Village will not tolerate retaliation of any kind against any employee who, in good faith, reports or complains about any perceived violation of this policy or participates in any investigation of any such report or complaint. Employees may raise such concerns and make such reports without fear of reprisal or retaliation. Employees who believe they have been retaliated against in violation of this policy should utilize the complaint reporting mechanism discussed, above. The Village will not tolerate any actions of discrimination, harassment or retaliation against our employees. However, any complaints determined by the Village to have been raised other than in good faith will also be dealt with accordingly.

Any person engaged in retaliatory conduct will be subject to discipline determined by the Village, including, where appropriate, discipline pursuant to Section 75 of the Civil Service Law, including but not limited to being placed on disciplinary suspension or discharged.

An employee's failure to promptly take advantage of this reporting procedure could adversely affect his or her legal rights in the future.

DISCRIMINATION, HARASSMENT AND/OR RETALIATION
REPORTING AND INVESTIGATION PROCEDURE

ACKNOWLEDGEMENT OF RECEIPT

I HAVE READ AND UNDERSTOOD THE ABOVE POLICY IN ITS ENTIRETY AND AGREE TO ABIDE BY ITS TERMS.

Signature: _____

Date: _____

Print Name: _____

PLEASE RETURN THIS FORM TO THE VILLAGE CLERK.

APPENDIX 3 - WORKPLACE VIOLENCE PREVENTION POLICY STATEMENT

Workplace Violence Prevention Policy

The Village is committed to the safety and security of our employees. Employees must have a workplace free of fear, intimidation and threats, and feel safe in their working environment in order to do their jobs. To this end, acts or threats of violence, either verbal or physical, will not be tolerated.

Employees are required to report immediately to their immediate supervisor or to the Village Clerk any acts or threats of violence of any kind against any persons or property. In addition, abusive or hostile words or actions must also be reported immediately.

Acts of workplace violence include but are not limited to:

- An act, attempt or threat, whether verbal or physical, to inflict physical injury upon an employee;
- Any intentional display of force which would give an employee reason to fear or expect bodily harm;
- An act, attempt or threat, whether verbal or physical, to inflict physical harm to Village property
- Intentional and wrongful physical contact with a person without his or her consent that entails some injury;
- Stalking an employee with the intent of causing fear of material harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment.

Anyone witnessing actual acts of workplace violence should take steps to protect themselves and others, and should call 911. The incident should be reported to the Village Clerk as soon as possible. Threats or other concerning actions should be promptly reported to the Village Clerk. All incidents of violence or threatening behavior will be responded to immediately following notification.

Employees who violate the Village's workplace violence policy will be subject to discipline, including, where appropriate, pursuant to Section 75 of the Civil Service Law, including but not limited to being placed on disciplinary suspension or discharged.

All employees are responsible for helping to create an environment of mutual respect for each other as well as for the residents and visitors we serve, following all policies, procedures and program requirements, and for assisting in maintaining a safe and secure work environment.

This policy is designed to meet the requirements of NYS Labor Law 27b which addresses the duty of public employers to develop and implement programs to prevent workplace violence, and highlights some of the elements that are found within our Workplace Violence Prevention Program. The process involved in complying with this law included a workplace evaluation that is designed to identify the workplace violence hazards our employees could be exposed to. Authorized Employee Representative(s) will, at a minimum, be involved in:

- The evaluation of the physical environment;
- The development of the Workplace Violence Prevention Program and;
- The review of workplace violence incident reports at least annually to identify trends in the types of incidents in the workplace and review of the effectiveness of the mitigating actions taken.

All employees will participate in the annual Workplace Violence Prevention Training Program. The goal of this policy is to promote the safety and well-being of all people in our workplace. Employees with concerns, or witnessing or experiencing violations of this policy, should contact the Village Clerk.

APPENDIX 4 – MUNICIPAL BAN ON WEAPONS IN THE WORKPLACE

Municipal Ban on Weapons in the Workplace

The Village is committed to providing its employees with a work environment that is safe, secure, and free of violence or threats of violence. We also consider the safety of our residents, vendors, contractors, clients, and the general public we serve to be of paramount importance. We wish to provide everyone, employees and citizens alike, with as much safety and security as possible.

Therefore, it is the policy of the Village that employees shall not carry weapons in the workplace or while conducting work operations on behalf of the Village, even if the employee is licensed to carry that weapon, except as noted below. No member of the public is permitted to carry a weapon when on or in a municipal property or facility.

The only individuals allowed to carry weapons are law enforcement officers, court officers, and peace officers as defined by the NYS Criminal Procedure Law when acting within the scope of their employment or in furtherance of their duties and responsibilities under the laws of New York State and this Village. Any employees authorized to carry a weapon shall be subject to DCJS regulations for Initial and Annual Use of Force and firearms requalification. Additionally, any Village Official or employee having a proper firearms permit shall not be deemed to be in violation of this policy if they have a firearm (including hunting rifles) properly secured and stowed out of sight in a vehicle parked in the Village parking lot.

Any employee having knowledge of anyone carrying a weapon who is not authorized to do so should immediately report this to the Mayor or Village Clerk.

The workplace is defined as any location away from an employee's home, either permanent or temporary, where any Village employee performs any work-related duty in the course of his or her employment for the Village. This includes, but may not be limited to, Village owned or leased buildings and perimeters, parking lots, work sites, resident's homes or businesses, as well as Village owned vehicles.

APPENDIX 5 – SOCIAL MEDIA

Social Media

Purpose

The Village acknowledges that use of technology by Village employees provides several useful benefits including training and the acquisition of useful information for the betterment of the Village and its residents. It also allows for the dissemination of information to the public. As such, the Village embraces the usage of instant technology and social media to that end. This policy establishes the Village social media and instant technology use protocols which are intended to clarify expected behavior and mitigate associated risks from the use of this technology where possible.

Definition of Social Media

For the purposes of this policy, social media is defined as content created by individuals using technology which is then dispersed through the internet or mobile phone networks. This content includes but is not limited to instant messaging, texting, blogging, paging; and social media networking sites. All official Village social media pages shall be approved by the Mayor. All social media content shall adhere to all applicable laws, regulations and policies including the records management and retention requirements set by law and regulation, keeping in mind that any Village-related social media communications may be subject to FOIL requests.

The Internet and other information sharing devices are global entities with no control of users or content. Therefore, available resources may contain material of a controversial nature. The Village is not responsible for material found on these sources.

The Village appreciates the value of such technology, however we prohibit any dissemination of Village information that violates personal privacy or portrays the Village to the public in an illegal or negative manner (intentional or unintentional). Therefore, no information, videos or pictures gathered while on Village business (this includes meetings, details, trainings or anything occurring on Village property or at Village functions) may be shared or posted in any format official or personal without the approval of the Mayor.

Although members of the media and general public may openly take and share photos via social media, the Village insists that employees refrain from sharing any information or photos acquired while performing official Village business without consent of the Mayor, and potentially the consent of those visibly identifiable in the photos. Under this restriction, employees are prohibited from disseminating or transmitting in any fashion photographs or images of individuals conducting Village business. The same applies to audio recordings of such events. Any such transmission may violate New York State or other Laws regarding privacy and may open employees to criminal and/or civil proceeding being commenced against the employees violating this provision of the policy.

Under this restriction, employees are prohibited from disseminating or transmitting in any fashion photographs or images of individuals involved in emergency services situations such as vehicle accidents or fires. Any such transmission may violate New York State Laws and/or the HIPPA privacy rights of such individuals and may result in a criminal and/or civil proceeding being commenced against employees violating this provision of the policy.

This policy is not intended to limit an employee's right of freedom of speech or expression; but because we are a public entity, it has been put in place to protect the Village, the Mayor and Board of Trustees, employees, and the public we are sworn to serve.

All employees are advised that their speech directly or by means of instant technology, either on or off duty, and in the course of their official duties, may not be protected speech under the First Amendment.

Any speech that impairs or impedes the performance of the Village, undermines discipline and harmony among co-workers, or negatively affects the public perception of the Village may be sanctioned.

As a basic constitutional concept of law, a public employee may comment on a matter of public concern. However, please be mindful that airing personal workplace grievances may not raise to a matter of public concern and so may not be protected speech, depending on the circumstances. We expect employees to use judgement regarding public comments, recognizing that it reflects of the Village and themselves.

Conduct of Employees

Employees must follow the following guidelines when discussing the Village on any social media:

- Make clear that you are expressing your personal opinion and not that of the Village.
- Do not make any disparaging or false statements or use profane language.
- Do not make any statements or other forms of speech that ridicule, malign, disparage or otherwise express bias against any race, religion or protected class of individual.
- Do not share confidential or proprietary information.
- Do not violate Village policies including the Code of Ethics.
- Do not publish any materials that could reasonably be considered to represent the views or positions of the Village without authorization.
- Do not publish sexual content or links to sexual content.
- Do not engage in or encourage illegal activity.
- Do not publish information that may tend to compromise the safety or security of the public or public systems.
- Do not publish content that violates a legal ownership interest of any other party, including but not limited to violating copyright laws.
- Do not publish images and/or video of residents and graphic images that are defamatory, obscene, slanderous or unlawful; and/or tend to interfere with the maintenance of proper discipline; and/or damages or impair the reputation and/or efficiency of the Village or employees.

Use of Social Media While on Duty

Employees may not use or post to personal social media sites from Village-owned computers and cellphones

Photography and Videography

The use of cameras (still and video) shall not interfere with your role as an employee.

Photographs on Village computers and phones are the property of the Village and are not to be copied, mailed, emailed, or printed without prior authorization from the Mayor or the Board of Trustees.

Law firms and/or civilian agencies requesting photographs of any nature shall be required to make a formal request via the Village Clerk. Anyone receiving such a request should refer it to the Village Clerk.

Any Village Officer or Employee engaging in social media or social networking activities on behalf of the Village is expected to maintain a level of professionalism that is consistent with the honorable mission of the Village.

APPENDIX 6 - CIVIL SERVICE LAWS AND PROCEDURES

What is Civil Service?

All public service jobs (that is, those jobs working in the government to serve the population of a particular area) are divided into two categories: (1) military service or (2) civil service.

The Civil Service covers all employees in each of the three branches of government: legislative, executive and judicial, except for those that fall under the military. As a governmental entity, employment with the Village is considered “civil service” and is covered by the Civil Service Laws, Rules and Regulations.

Civil Service Categories and Jurisdictional Classes

The Civil Service law provides certain rights and protections for individuals who hold government jobs. For example, there are certain procedures that must be followed to fill a Civil Service position. And there are certain procedures to follow before letting certain Civil Service employees go. The rights and protections to which Civil Service employees are entitled depend on a number of factors, including the service category and jurisdictional class to which an employee belongs. Other factors include such things as length of employment and whether the employee is probationary.

Civil Service is divided into two service categories:

- unclassified service and
- classified service

Unclassified service includes elective officers; legislative officers and employees; department heads; certain governmental appointees, officers, or members of Boards. The Mayor and Village Board Trustees, who receive no compensation for their services to the Village, are within the category denominated as Unclassified Service. Members of the *unclassified service* do not enjoy what are typically thought of as civil service protections: their positions are not obtained through the civil service system and they have no civil service rights or protections with regard to their positions. The Unclassified Service is not further divided into any jurisdictional classes.

Classified Service includes all other Village positions not in the unclassified service (i.e., everyone who is not an elected official or member of a Board or Committee). Employees in the Classified Service are subject to the rules and regulations of Civil Service in Rockland County. The Classified Service is further divided into four jurisdictional classes. Each of these classes is treated differently with regard to the types of Civil Service protections it might enjoy. Following is general information on this area of Civil Service Law.

Positions in the Classified Service are assigned to their particular class by the New York State Civil Service Commission, and the class of a particular position may be identified in the Rockland County Civil Service Rules. The division of positions into these classes is based principally on the extent to which it is practical to determine the merit and fitness of applicants by a competitive examination. The four classes of the Classified Service are as follows:

1. Competitive Class: The competitive class includes all positions for which it is practical to assess the merit and fitness of employees by competitive examination.
2. Non-Competitive Class: The non-competitive class consists of those positions for which it is practicable to examine applicants as to their qualifications, but not practicable to conduct examinations on a competitive basis. For the most part, this class consists of skilled trades positions, such as maintenance mechanic and courier, but also includes such positions as a

Confidential Secretary. Merit and fitness are determined by examining the applicant's qualifications, training and experience.

3. Labor Class: The labor class positions involve unskilled labor. Qualifying tests may be required for appointment to labor class positions, but generally there are minimal job qualifications (such as physical ability to perform the required functions of the job).
4. Exempt Class: The exempt class includes certain positions for which competitive or non-competitive examinations are deemed impractical. Positions in this class are usually at the policy making level. Positions in this class serve at the pleasure of an appointing authority (which, here, is the Village Board). Exempt class employees are not covered by certain Civil Service rights and protections.

Appointments

There are several types of appointments to the classified service, or ways a person may be appointed to a position. The type of appointment made can also affect a Civil Service employee's rights and obligations under the law. Appointments to the classified service can be one of the following: permanent, contingent permanent, provisional, temporary, or seasonal.

Permanent Appointments can be made to all four classes of the classified service subject to successful completion of a probationary period. A permanent appointment can only be terminated, interrupted or discontinued in accordance with the laws, rules and regulations governing the position's class of service, including the provisions of this Handbook.

Contingent Permanent Appointments may be made to positions in the competitive, non-competitive or labor class which is temporarily vacant by reason of the leave of absence of the incumbent, where the incumbent has been promoted and has rights to return to the prior position, or other similar situations. An employee appointed on a contingent permanent basis has the rights and benefits of a permanent appointment. However, should the permanent incumbent (or prior incumbent) be restored to the position, the contingent permanent employee's rights will be governed by the Civil Service law, rules and regulations. Although the contingent permanent appointee serves a probationary period in the same manner as a permanent employee, full permanency cannot be guaranteed unless and until the position becomes truly vacant (meaning, no one has a right to return to that position).

Provisional Appointments may be made should a vacancy occur in a competitive class job for which no eligible list exists from which to appoint a successor. In that case, the position may be filled by a qualified applicant on a provisional basis until such time as an appropriate eligible list can be established. As soon as practical after a provisional appointment is made, the Department of Personnel will hold a competitive examination for the position. The provisional employee will be required to compete against all other qualified applicants. A permanent appointment will then be made from the resulting eligible list.

Temporary appointments may be made when there is a need for emergency work, a position is scheduled to terminate within a short period of time, to fill in for a permanent employee who is on a leave of absence or the position is pending "jurisdictional classification approval" by the New York State Civil Service Commission.

Seasonal appointments are made to positions intended to last a specific period of time, with a designated starting and ending date. Seasonal appointments cannot exceed three months in duration and cannot occur more than once a year. Such positions are generally classified in the non-competitive class. Appointments may be made from among applicants who meet the standards of fitness prescribed by the County Department of Personnel.

Probationary Period

Every permanent appointment to a new position, whether newly appointed or through transfer or promotion, whether to a competitive, non-competitive, exempt or labor class position, begins with a probationary period. During the probationary period, the appointee's supervisor observes and evaluates the conduct, quality, quantity and value of the work performed by the appointee. The probationary period is a minimum of eight (8) weeks to a maximum of twenty-six (26) weeks for most job titles.

Such appointments may not become permanent prior to the satisfactory completion of at least the minimum probationary period and many require satisfactory completion of the maximum period of probation for the appointment to become permanent. If a probationary employee is retained after completing the maximum period of probation, that employee automatically becomes a permanent employee. The Village may advise an employee in writing following the satisfactory completion of the minimum probationary period, but prior to the maximum period being served, that the appointment has become permanent. In that case, the balance of the probationary period is considered waived. Similarly, the Village may also waive any probationary period for an employee who transfers to a new position, in its discretion.

If an employee's probationary performance is not satisfactory, his or her employment may be terminated following a minimal process under the Civil Service requirements at any time following the minimum probationary period being completed, but prior to the completion of the maximum probationary period. In certain circumstances, the employee may be offered the opportunity to serve a second probationary period. The quality of your job performance is a key factor in achieving and maintaining permanent status.

Reductions in Staff/Reorganizations

While we hope that our Village continues to provide necessary services to the municipalities and public we service, and that we expand our services and our staff, it is possible that, for reasons of economy or otherwise, staff need to be reallocated, demoted, or laid off. Positions and functions may be eliminated and/or consolidated. Such actions as determined to be taken by Village management to reorganize and restructure do not reflect on the character or performance of the affected employees.

During layoffs or other restructurings, employees will be affected based on the nature of their appointment, and potentially their length of employment. The first to be affected in a given job classification by a lay-off or restructuring are provisional employees, followed by temporary employees, then probationary employees, contingent permanent employees, and finally permanently appointed employees. Layoffs are also made in order of seniority, which is defined as the date of your first permanent appointment in the classified service. Civil Service Laws and Rules set forth particular procedures to follow in these situations.

Disciplinary Action

In most Civil Service employment settings, permanent Competitive Employees and Non-Competitive Employees with more than five (5) years of service (except those non-competitive employees deemed confidential or policy influencing), as well as certain honorably discharged war veterans and others such as volunteer firefighters that are not applicable to the Village, have certain protections under Civil Service Law Sections 75 and 76 when it comes to disciplinary actions, and appeals of those actions. These employees may only be removed or subjected to any discipline provided in Section 75 for incompetency or misconduct shown after a hearing conducted according to Section 75, with appeals governed by Section 76.

APPENDIX 7 - FAMILY AND MEDICAL LEAVE ACT (FMLA) LEAVE

There are certain situations when employees of the Village of Upper Nyack (the “Village”) may be eligible to take unpaid job-protected leaves under a federal law called the Family and Medical Leave Act (“FMLA”). This unpaid job-protected leave may be taken for certain family-related or personal medical reasons, as discussed below. FMLA leave runs concurrently with any other similar leave to which the employee may be entitled based on the same reason.

This policy is intended to be an overview of your rights and obligations under this law. This policy is not intended to cover all the issues that may arise in individual situations. The FMLA and its accompanying regulations detail how this leave is to be administered.

Generally, when you return from a qualifying FMLA leave you will be entitled to be reinstated to your old job, or to an equivalent position. Should you feel you are entitled to a family or medical leave, please see the Mayor to discuss how these leaves apply to you. The Village complies with all applicable laws and regulations regarding Family and Medical Leave.

Medical Leave

Medical Leave is leave taken due to an employee’s *personal serious health condition*.

Family Leave

Family Leave is leave taken for certain situations regarding an employee’s need to provide *care for certain family members*.

Who is Eligible?

An employee is eligible for leave under the FMLA if:

- the employee has been employed at the Village for at least 12 months prior to the date leave starts; AND
- the employee has worked 1,250 hours during the 12-month period preceding the first day of leave; AND
- the employee is employed at a worksite where 50 or more employees are employed by the employer within 75 miles of that worksite when the employee gives notice of the need for leave.

Employees who do not meet these legal eligibility requirements may be granted unpaid leave in the sole discretion of the Village and should discuss any request for leave with the Mayor.

How much leave is provided?

The FMLA provides eligible employees with:

- Up to 12 workweeks of unpaid leave for certain family and medical reasons (including military exigency leave described, below) during a 12-month period computed on a rolling year basis measured backward from the first day of leave (for example, if your leave begins on April 1, 2018, your available FMLA leave amount is computed based on the amount of FMLA leave you have taken since April 1, 2017); and

- Up to 26 weeks during a single 12-month period to care for a covered service member family member who incurred a serious injury or illness in the line of duty while on active duty (Military Caregiver Leave).
- During the single 12-month period that an employee takes Military Caregiver Leave, the eligible employee is entitled to a *combined total of 26 weeks* of FMLA leave. In other words, the employee is not entitled to 26 weeks of Military Caregiver Leave, and then another 12 weeks of medical leave for his or her own health condition, during that 12-month period. Rather, during that single 12-month period, the employee may take up to 26 weeks of leave, *total*, under the FMLA for any qualifying purpose. For the purpose of Military Caregiver Leave, only, the “12-month period” starts on the day the employee takes leave and is measured forward for 12 months.

In most cases, if an employee is also eligible for leave under a similar state law, the state and federal leaves will run concurrently. Under certain circumstances, however, an employee may be entitled to separate leaves under each statute.

For What Reasons Can Leave Be Taken?

Eligible employees may take leave under the FMLA for the following reasons:

- 1) for your own serious health condition that makes you unable to perform the essential functions of your job, (referred to as "Medical Leave");
- 2) to care for your new-born child, for the adoption of a child, or the foster care placement of a child with you (such leave must conclude within twelve months of the birth or adoption or placement); to care for your spouse, parent, or minor or disabled child with a serious illness (collectively referred to as "Family Leave");
- 3) to care for a family member or next-of-kin who is a service member injured while on active duty in the line of duty or a covered veteran (“Military Caregiver Leave”);
- 4) because of a “qualifying exigency¹” arising out of the fact that an employee’s spouse, son, daughter, or parent is a covered “military member” (which is defined to include active duty members of the Regular Armed Forces, members of the Reserves members of the National Guard, and certain retired members of the Regular Armed Forces and retired Reserves) who has been notified of an impending call or order to active duty, or who is on covered active duty, in a foreign country or in support of a contingency operation (“Military Exigency Leave”). Qualifying exigencies include:
 - a. Short-notice deployment, and a necessity to address issues that may arise;
 - b. Attendance at military events and related activities;
 - c. Arranging for or addressing child care and school activities;
 - d. Making financial and legal arrangements;

¹ An “exigency” is an “emergency.”

- e. Attending counseling (other than that provided by a Health Care Provider for oneself);
 - f. Rest and recuperation with a military member who is on short-term, temporary, rest and recuperation leave during the period of deployment;
 - g. Arranging/attending to care for a parent who is incapable of self-care; and
 - h. Attending to post deployment activities.
- 5) due to the serious injury or illness for a covered veteran, which includes an injury or illness incurred or aggravated in the line of duty on active duty in the Armed Forces (“Medial Leave for Covered Veteran”)

What Is a Serious Health Condition?

A “serious health condition” is an injury, illness, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a Health Care Provider. The period of incapacity must be more than three consecutive full calendar days and involve treatment by a health care provider. If the employee or family member is under treatment by a health care provider, the first (or only) in-person visit must take place within seven days of the first day of incapacity.

A “serious health condition” includes any period of incapacity due to pregnancy, or for prenatal care.

Substance abuse may be a serious health condition, however employee leave under this policy must be an absence to obtain treatment, and not an absence necessitated because of the employee’s own substance use.

A “serious injury or illness” related to Military Caregiver Leave means an injury or illness incurred in the line of duty on active duty in the armed forces (or existed before the beginning of the service member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces) that may render the service member medically unfit to perform his or her duties, and/or which results in the service member being otherwise listed on the temporary disability retired list.

Potential Compensation While On Leave

If you require medical leave as a result of your own illness or pregnancy, you may be eligible to receive Short Term Disability insurance benefits during that period for which you are medically unable to work, if such insurance is available to you such as through our optional AFLAC coverage. If you are disabled as a result of a job-related illness or injury, you may be eligible for salary continuation under the Workers’ Compensation Statute. You may also be able to use accumulated sick vacation and/or vacation days, as discussed below.

Use of paid time off or receipt of short-term disability insurance benefits or Workers’ Compensation Benefits does not serve to extend or otherwise affect your 12-weeks of FMLA leave. Entitlement to insurance benefits and FMLA leave is determined separately.

If you require family leave, this leave is unpaid unless accumulated paid PTO days are used, as discussed below.

Use of Accrued Paid Time Off

When you are taking unpaid FMLA Leave, you must first exhaust all accrued and unused sick and vacation days. The paid days will run concurrently with any FMLA leave for which you are entitled and the use of paid time will not serve to extend the FMLA leave period. You may not use any vacation or sick days you are not yet entitled to take.

Employees on unpaid Family/Medical leave may not be permitted to accrue any additional benefits (including but not limited to paid time off) during their leave. Such leave accruals will follow the procedures set under the Village's Other Leave of Absence Policy. Such leave will not constitute a break in service. The period of leave will be counted in the calculation of an employee's seniority.

Notice and Procedures

When planning a foreseeable family or medical leave, you must make all reasonable efforts to minimize the disruption of the Village's operations. For this reason, employees seeking leave for situations that are predictable are required to provide advance notice to the Mayor by submitting a completed Family/Medical Leave Request form 30 days prior to your leave, for foreseeable leave, and as soon as possible if leave is not foreseeable. These forms are available from the Mayor. In the case of an emergency, either you, a family member, or someone else so designated, needs to call the Mayor to provide notice of your need for leave. The Mayor will notify you as to whether you are eligible for FMLA leave and whether your leave will be designated as FMLA leave. The Mayor will also provide you with written notice detailing your specific rights and responsibilities under the FMLA, your obligations while on leave, and the consequences should you fail to meet those obligations.

Certification

Employees requesting leave to care for a seriously ill family member, or for their own serious health condition, or for a qualifying exigency, must provide the Village with a Certification from a health care provider or military issued documentation to support their need for leave. Health Care Provider Certification Forms for different types of leave, and Certification for Qualifying Exigency, are available from the Mayor, and in the case of Medical Certification may also be available from your health care provider. Failure to provide the certification required by the Village, or providing incomplete or insufficient information on the form, may result in the delay of leave, or in some circumstances, denial of reinstatement.

How Can Leaves be Taken?

Leaves can be taken:

- Consecutively;
- Intermittently (leave taken in separate blocks of time);
- Or on a reduced schedule (leave taken by the employee working fewer hours in a day or days in a week)

Intermittent and reduced scheduled leave may require that they be medically necessary.

Intermittent or Reduced Schedule Leave

If an employee requires intermittent or reduced schedule leave for the purpose of receiving personal medical treatment or providing care related to medical treatment for a seriously ill family member or service member, employees are expected to consult with the Mayor prior to scheduling medical treatment where possible in order to work out a treatment schedule (subject to the approval of the health care provider) that best suits the needs of both the Village and the employee.

The Village may require the employee to transfer temporarily to an available alternative position with equivalent pay and benefits for which the employee is qualified, or to have some of the employee's assignments reassigned, in order to better accommodate recurring leave or reduced periods of working time. This leave may be unpaid, in which case the employee's compensation will be reduced based on the amount of time actually worked.

When leave is taken after the birth or placement of a child with you for adoption or foster care, leave may be taken intermittently or on a reduced schedule only if the Village agrees. Please speak with the Mayor should you wish to take such leave.

Maintenance of Health Benefits

The Village will continue to maintain coverage under its health benefits plan for eligible employees on leave under the FMLA for up to their 12 or 26 weeks of leave entitlement. Coverage will be continued under the same conditions as if the employee had continued to work. Employees on leave are responsible for their contribution for health coverage. If any portion of leave under this policy is paid, the employee's contribution will continue to be made through the usual payroll deduction. For any portion of leave under this policy that is unpaid, the employee is responsible for making arrangements to pay his or her usual contribution amount. If an employee's payment of health insurance premiums is more than 30 days late, the Village may discontinue health insurance coverage upon notice to the employee. Should an employee require, and be granted, additional leave beyond the 12 or 26-week FMLA leave entitlement, the Village may not continue health benefit coverage. Any leave beyond the statutory leave entitlement is Village-provided leave, and not FMLA leave. In such situations, employees may be provided with the opportunity to continue their benefits on a self-pay basis.

Husband and Wife working for the Village

If a husband and wife both work for the Village, under the FMLA they may take a combined total of 12 weeks of leave for the birth of a child, or placement with you of a child for adoption or foster care, or to care for the employee's parent with a serious health condition.

They may also take a combined 26 workweeks of leave during the relevant 12-month period to care for a covered service member. If a husband and wife both working for the Village also need leave for the birth of a child, or placement of a child for adoption or foster care, or to care for the employee's parent with a serious health condition, their combined leave total during this 12-month period is 26 weeks.

Holidays

Holidays occurring during a leave period will be counted against the employee's leave entitlement. Employees on leave are not entitled to Holiday Pay.

Designation of Leave

The Village will notify the employee that leave has been designated as FMLA leave within five days of obtaining sufficient information to make a determination. If the employee takes a leave which might qualify as FMLA leave, and has not put the Village on notice of the reason for the leave but desires that the leave be counted as FMLA leave, the employee must notify the Mayor that the employee desires the leave to be so counted, and must submit a Leave Request Form as soon as possible.

Notice on Return/Fitness to Return

You may be required to present a certification of fitness to return to work prior to your return to work date, when the absence is due to your own serious health condition.

Reinstatement

Upon expiration of leave, the Village will reinstate eligible employees, except those who would have been affected by a reduction in force or layoff had they not taken leave, to the same or an equivalent position, with no loss in salary, benefits, or other terms and conditions of employment.

Limitations on Leave and Reinstatement

Certain high-salaried employees under some circumstances may be denied reinstatement from leave.

Return to Work

If you do not return to work from a leave of absence on the agreed-upon date or do not contact your Manager or the Mayor advising that you need to extend your leave and provide any supporting documentation regarding extending the leave prior to the end of your approved leave, you will be considered to have voluntarily resigned your employment.

If the Village grants additional leave time beyond the FMLA entitlement provided by law, this leave is no longer statutorily protected FMLA leave. The Village's ability to provide reinstatement to the same or a similar position upon return from the additional leave will depend on the nature of the extended leave and any applicable Civil Service Laws or Rules.

Please contact the Mayor for further information about FMLA leave.

5. Introduction of Code Enforcement Law

VILLAGE OF UPPER NYACK
Local Law __ of ~~2021~~2022

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Be it enacted by the Board of Trustees of the Village of Upper Nyack as follows:

SECTION 1. TITLE

A Local Law authorizing certtain public servants of the Village of Upper Nyack to issue appearance tickets.

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SECTION 2. PURPOSE

The purpose of this Local Law is to authorize certtain public servants of the Village of Upper Nyack to issue and serve appearance tickets in connection with violations of state statutes, local laws, ordinances or rules and regulations of the Village which the public servants are authorized or required to enforce.

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SECTION 3. DEFINITIONS

APPEARANCE TICKET. An appearance ticket is a written notice issued and subscribed by a police officer or other Village official or employee set forth in Section 4 of this Local Law, directing a designated person to appear in a designated local criminal court at a designated future time in connection with his alleged commission of a designated offense. A notice conforming to such definition constitutes an appearance ticket regardless of whether it is referred to in some other provision of law as a summons or by any other name or title.

SECTION 4. PERSONS AUTHORIZED TO ISSUE APPEARANCE TICKETS

The following public servants of the Village of Upper Nyack are hereby authorized to issue and serve an ~~appearance ticket~~ Appearance Ticket with respect to violation of a state statute, a local law, ordinance, rule or regulation of the Village of Upper Nyack that such public servants are, respectively, required or authorized to enforce:

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1. The Code Enforcement Official, the Building Inspector, Code Enforcement Officer, or any assistant or deputy code enforcement official, code enforcement officer or building inspector;

2. The Village's Zoning Inspector;

~~2-3.~~ The Village Engineer; or

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~~3-4.~~ The Clarkstown Police Department.

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SECTION 5: METHOD OF SERVICE OF APPEARANCE TICKET

An ~~appearance ticket~~ Appearance Ticket, other than one issued for a traffic infraction relating to parking, must be served personally, except that an ~~appearance ticket~~ Appearance Ticket issued for the violation of a local zoning ordinance or local zoning law, or of a building or sanitation code may be served in any manner authorized for service under section ~~three hundred eight~~ 308 of the civil practice law and rules

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SECTION 6. FILING OF ACCUSATORY INSTRUMENT

Any person authorized by SECTION 4 of this Local Law to issue appearance tickets shall, at or before the time such appearance ticket is returnable, file or cause to be filed with the local criminal court in which it is returnable a local criminal court accusatory instrument charging the person named in such appearance ticket with the offense specified therein.

SECTION 7. AUTHORITY

This Local Law is enacted pursuant to the authority of Section 10 of the Municipal Home Rule Law and Article 150 of the Criminal Procedure Law. .

SECTION 8. SEPARABILITY

Should any section, sentence or provision of this Local Law be determined by any court of competent jurisdiction to be unconstitutional or invalid in any way, such determination shall not affect the validity of this Local Law as a whole or any part thereof other than the part expressly so determined to be unconstitutional or invalid.

SECTION 9. EFFECT ON OTHER LAWS

Nothing in this Local Law shall be construed to vary or modify the provisions of any other general or Local Law or to authorize the violation thereof; ~~however, where there is a conflict between this Local Law and another Local Law the more restrictive provision shall control.~~

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SECTION 10. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the Office of the Secretary of State.

VILLAGE OF UPPER NYACK
Local Law __ of 2022

Be it enacted by the Board of Trustees of the Village of Upper Nyack as follows:

SECTION 1. TITLE

A Local Law authorizing certain public servants of the Village of Upper Nyack to issue appearance tickets.

SECTION 2. PURPOSE

The purpose of this Local Law is to authorize certain public servants of the Village of Upper Nyack to issue and serve appearance tickets in connection with violations of state statutes, local laws, ordinances or rules and regulations of the Village which the public servants are authorized or required to enforce.

SECTION 3. DEFINITIONS

APPEARANCE TICKET. An appearance ticket is a written notice issued and subscribed by a police officer or other Village official or employee set forth in Section 4 of this Local Law, directing a designated person to appear in a designated local criminal court at a designated future time in connection with his alleged commission of a designated offense. A notice conforming to such definition constitutes an appearance ticket regardless of whether it is referred to in some other provision of law as a summons or by any other name or title.

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The following public servants of the Village of Upper Nyack are hereby authorized to issue and serve an Appearance Ticket with respect to violation of a state statute, a local law, ordinance, rule or regulation of the Village of Upper Nyack that such public servants are, respectively, required or authorized to enforce:

1. The Code Enforcement Official, the Building Inspector, Code Enforcement Officer, or any assistant or deputy code enforcement official, code enforcement officer or building inspector;
2. The Village's Zoning Inspector;
3. The Village Engineer; or
4. The Clarkstown Police Department.

SECTION 5: METHOD OF SERVICE OF APPEARANCE TICKET

An Appearance Ticket, other than one issued for a traffic infraction relating to parking, must be served personally, except that an Appearance Ticket issued for the violation of a local zoning ordinance or local zoning law, or of a building or sanitation code may be served in any manner authorized for service under section 308 of the civil practice law and rules

SECTION 6. FILING OF ACCUSATORY INSTRUMENT

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Nothing in this Local Law shall be construed to vary or modify the provisions of any other general or Local Law or to authorize the violation thereof.

SECTION 10. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the Office of the Secretary of State.

6. Adjournment of Public Hearing: Yeshivath Viznitz Dkhal Torath Chaim Inc. –Application for Temporary Moratorium Variance, 350 North Highland Avenue, Village of Upper Nyack (SBL 59.16-2-3 (Upper Nyack))

SAVAD CHURGIN
ATTORNEYS AT LAW

Paul Savad (1941-2020)
Joseph A. Churgin

Of Counsel
Susan Cooper
Donna Sobel

55 OLD TURNPIKE ROAD – SUITE 209
(Rt. 59 & THRUWAY EXIT 14)
NANUET, NEW YORK 10954

(845) 624-3820
Fax: (845) 624-3821

December 6, 2021

By Email: village.clerk@uppernyack-ny.us

Heather Candella, Village Clerk
Village of Upper Nyack
328 North Broadway
Upper Nyack, New York 10960

RE: Yeshivath Viznitz Dkhal Torath Chaim Inc. – Special Use Permit Application
350 North Highland Avenue, Village of Upper Nyack, Town of Clarkstown
SBL 59.16-2-3 and 59.16-1-11

Dear Ms. Candella:

As you are aware, we represent Yeshivath Viznitz Dkhal Torath Chaim Inc., the new owner of the above referenced property.

In connection with our client's Special Permit Application and request that the moratorium not apply, we respectfully request an adjournment of our appearance on the December 9, 2021 public hearing agenda to the Board of Trustees' January 20, 2022 meeting.

Please advise at your earliest convenience.

Very truly yours,



JOSEPH A. CHURGIN
JAC/mc

cc: Noelle C. Wolfson, Esq. (by email: n.wolfson@htwlegal.com)
Yeshivath Viznitz Dkhal Torath Chaim Inc.