

Chapter 113

ZONING

[HISTORY: Adopted by the Town Board of the Town of Pound Ridge 11-4-1959; amended in its entirety 12-11-1997 by L.L. No. 6-1997. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Historic districts — See Ch. 17.

Signs — See Ch. 88.

Animals — See Ch. 39.

Cemeteries — See Ch. A116.

Flood damage prevention — See Ch. 60.

Land development regulations — See Ch. A117.

Freshwater wetlands — See Ch. 63.

ARTICLE I
Purpose; Definitions

§ 113-1. Purpose.

There is hereby established a Comprehensive Zoning Plan for the Town of Pound Ridge, New York (hereinafter referred to as the "Town"), which plan is set forth in the text, maps and schedules which constitute this chapter. This plan is adopted for the purposes set forth in Article 16, Chapter 62, of the Consolidated Laws of the State of New York, and more particularly for the protection and promotion of the public health, safety and welfare and to:

- A. Guide the future growth and development of the Town in accordance with a comprehensive plan of land "use" and population density that represents the most beneficial and convenient relationships among the residential, commercial and public areas within the Town, considering the suitability of the various "uses" in each area, and the potentiality for such "uses" as indicated by existing conditions and trends in population, having regard for the "use" of land, building development and economic activity, with such conditions and trends being considered both within the Town and in relation to adjoining areas.
- B. Provide adequate light, air and privacy, secure safety from fire and other danger and prevent overcrowding of the land and undue congestion of population.
- C. Protect the character and the social and economic stability of all parts of the Town and ensure that all developments shall be orderly and beneficial.
- D. Protect and conserve the value of buildings in the various districts established by this chapter.
- E. Bring about the gradual conformity of the "uses" of land and buildings throughout the Town to the Comprehensive Zoning Plan set forth in this chapter and minimize conflicts among the "uses" of land and buildings.
- F. Promote the most beneficial relation between the "uses" of land and buildings and the circulation of traffic throughout the Town, having particular regard to the avoidance of congestion in the "streets" and the provision of safe and convenient traffic access appropriate to the various "uses" of land and buildings throughout the Town.
- G. Aid in providing a guide for public policy and action in the efficient provision of public facilities and services and for the private enterprise in building development, investment and other economic activity relating to "uses" of land and buildings throughout the Town.
- H. Limit development to an amount commensurate with the availability and capacity of public facilities and services.
- I. Prevent the pollution of ponds and streams and safeguard the water table and encourage the wise "use" and sound management of natural resources throughout the Town in order to preserve the integrity, stability and beauty of the community and the value of the land.

§ 113-2. Word usage; definitions.

For the purposes of this Zoning Law only, certain words and terms used herein are defined in this section. Defined terms are printed in quotation marks throughout this Zoning Law.

- A. General construction of language. All words used in the present tense include the future tense; all words in the plural number include the singular number; and all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise. The word "lot" includes the word "plot"; and the word "shall" is mandatory and not directory. The word "person" includes any legal entity, as well as an individual. The word "use" shall be deemed also to include "designed," "intended" or "arranged to be used." Unless otherwise specified, all distances shall be measured horizontally. The word "Town" means the unincorporated part of the Town of Pound Ridge; the term "Town Board" means the Town Board of said Town; the term "Board of Appeals" means the Board of Appeals of said Town; the term "Planning Board" means the Town Planning Board of said Town; the term "Zoning Map" means the Town of Pound Ridge, New York, Zoning Map, including the Planned Business A District Building Areas and Parking Areas Map as adopted and amended by the Town Board.
- B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

ADEQUATE CAPACITY[Added 8-13-1998 by L.L. No. 7-1998] —

- (1) Capacity is considered to be adequate if 98% or more of the calls made are able to connect on the first attempt to the base station of a "wireless telecommunication services facility" for at least 50% of the days in a preceding month of application as measured using direct traffic measurement of the personal wireless service facility, where call blocking is due to frequency contention at the antenna.
- (2) Where capacity must be determined prior to the installation of a proposed personal wireless services facility, "adequate capacity" shall be determined on the basis of a twenty-percent busy hour 20% of all offered traffic occurring within the busiest hour of the day using the Erlang B model), with total daily traffic based on aggregate estimates of the expected traffic in the coverage area in the Town of Pound Ridge.

ADEQUATE COVERAGE — Coverage for personal wireless service facility is considered to be adequate within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal as measured outdoors at a height of six feet above the ground is greater than -90 dBm for at least 80% of the intended coverage area in the Town of Pound Ridge. It is acceptable for there to be holes within the intended coverage area where the signal strength is less than -90 dBm, provided that the signal regains its strength further away from the base station. The outer boundary of the area of "adequate coverage," however, is that location past which the signal does not regain a strength of equal to or greater than -90 dBm. For the limited purpose of determining whether the use of a "repeater" or "secondary wireless telecommunication services facility" is necessary or desirable, there shall be deemed to be inadequate coverage within said holes and

beyond the boundary of the area of "adequate coverage" where there is a "failure of coverage" in said areas. **[Added 8-13-1998 by L.L. No. 7-1998]**

AFFORDABLE DWELLING UNIT — A dwelling unit, the rental or sales price of which does not exceed the maximum allowable level established by § 113-99E.

AFFORDABLE FAIR HOUSING DWELLING UNITS — **[Added 5-2-2013 by L.L. No. 2-2013]**

- (1) A for-purchase dwelling unit that is affordable to a household whose income, as defined by the U.S. Department of Housing and Urban Development (HUD), does not exceed 80% of the area median income (AMI) for Westchester County as defined annually by HUD and for which the annual housing cost of a unit including common charges, principal, interest, taxes and insurance (PITI) does not exceed 33% of 80% of the AMI, adjusted for family size and that is marketed in accordance with the Westchester County Fair & Affordable Housing Affirmative Marketing Plan.
- (2) A rental dwelling unit that is affordable to a household whose income, as defined by HUD, does not exceed 60% of said AMI and for which the annual housing cost of the unit, defined as rent plus any tenant paid utilities, does not exceed 30% of 60% of the AMI, adjusted for family size and that is marketed in accordance with the Westchester County Fair & Affordable Housing Affirmative Marketing Plan.

ALTER — To change, enlarge or rearrange the structural parts or the exit facilities of a "building" or "structure," including an extension on a side or increase in "height" or the moving from one location or position to another.

APARTMENT, ACCESSORY — A "dwelling unit" which is incidental and subordinate to a permitted principal "one-family dwelling" and located on the same "lot" therewith.

AREA, BUILDING — The maximum horizontal area at the main grade level of principal "buildings" and all "accessory buildings," measured from the exterior face of exterior walls, exclusive of uncovered porches, parapets, steps and terraces. In the Planned Business "Districts," "building area" is also used to designate those areas shown on the Zoning Map or the approved area development plan which delimit those portions of the affected properties in which "buildings" or "structures" may be erected.

BASEMENT — That portion of a "building" which is partly underground but which has more than half of its clear height, measured from floor to ceiling, above the average "finished grade." (See definition of "cellar" for comparison.)

BASE STATION — The primary sending and receiving site in a "wireless telecommunication services facility" network. **[Added 8-13-1998 by L.L. No. 7-1998]**

BELOW-MARKET-RATE DWELLING UNIT — A dwelling unit, the rental or sales price of which does not exceed the maximum allowable level established by § 113-99E. **[Added 5-2-2013 by L.L. No. 2-2013]**

BUILDING — Any "structure" having a roof and intended for the shelter, housing or enclosure of persons, animals or chattels.

BUILDING, ACCESSORY — A subordinate "building," the "use" of which is customarily incidental to that of a "principal building" on the same "lot." Where an "accessory building" is attached to the "principal building" in a substantial manner, as by a wall or roof, such "accessory building" shall be considered part of the "principal building."

BUILDING LENGTH — The horizontal distance between the furthestmost walls of a "building," measured along or parallel to the axis of its greatest dimension.

BUILDING, PRINCIPAL — A "building" in which is conducted the "principal use" of the "lot" on which said "building" is situated.

CELLAR — A portion of a "building" which is partly or wholly underground and which has half or more than half of its clear height below the average "finished grade." (See definition of "basement" for comparison.)

CLUB, HEALTH, EXERCISE OR FITNESS — Membership facilities designed and used for body conditioning and rehabilitation, including activities such as aerobic and related class exercises. "Health, exercise and fitness clubs" may contain equipment such as whirlpool, sauna, steam room, showers, locker facilities and the incidental retail sale of related sundries, snacks and refreshments.

CLUB, PRIVATE MEMBERSHIP — An organization not conducted primarily for gain, catering exclusively to members and their guests, including land, "buildings" and facilities for recreational, athletic, social, professional or cultural purposes. The members of the organization shall have a financial interest in, and method of control of, the assets and management of the "membership club."

COVERAGE, BUILDING — That percentage of the "lot" area covered by the "building area."

COVERAGE, LOT — That percentage of the land area covered by the combined area of all "buildings," "structures" and paved areas on the "lot."

DELICATESSEN; SANDWICH SHOP — An establishment which prepares and sells food and beverages ordered from a counter or display case where the patron selects from a variety of ingredients which are assembled as requested by the patron and/or are available separately for purchase by weight or quantity, which foods are sold primarily for consumption off the "premises," provided that the floor area devoted to customer seating is less than 20% of the "gross floor area." The term "delicatessen; sandwich shop" shall not include "fast-food restaurants."

DISH ANTENNA — A "structure" and device, also known as a satellite dish or "earth station," which normally contains three main components, including an antenna in the form of a dish, a low-noise amplifier and a receiver, and whose purpose is to receive, but not transmit, communication or other signals from orbiting satellites.

DISTRICTS —

(1) **RESIDENTIAL DISTRICT** — Any district prefixed by R.

(2) **BUSINESS DISTRICT** — Any planned business district.

DWELLING — A "building" designed or used exclusively as living quarters and shall not be deemed to include a motel, hotel, rooming housing or tourist home.

DWELLING, MULTIFAMILY — A detached "building" containing three or more "family" or housekeeping units living independently of each other with their own sleeping, sanitary and cooking facilities.**[Added 2-6-2014 by L.L. No. 2-2014]**

DWELLING, ONE-FAMILY — A detached "building" containing one "family" or housekeeping unit.

DWELLING, TWO-FAMILY — A detached "building" containing two "family" or housekeeping units living independently of each other with their own sleeping, sanitary and cooking facilities.**[Added 2-6-2014 by L.L. No. 2-2014]**

DWELLING UNIT — A "building," or portion thereof, providing complete housekeeping facilities for one "family."

FAILURE OF COVERAGE — An area within the Town of Pound Ridge where the predicted or measured median field strength of the transmitted signal falls below -100 dBm.**[Added 8-13-1998 by L.L. No. 7-1998]**

FAMILY — One or more persons occupying a "dwelling unit" and living as a single housekeeping unit in a domestic relationship based upon birth, marriage or other domestic bond.

FARM; FARM USE; CUSTOMARY FARM OCCUPATION —

- (1) FARM or FARM USE — The "use" of a parcel of land, either as a principal or "accessory use," for the purpose of producing agricultural, horticultural, floricultural, vegetable and fruit products of the soil, livestock and meats, poultry, eggs, dairy products, nuts, honey, wool and hides, but shall not include the breeding, raising or maintaining of hogs or fur-bearing animals, riding academies, "livery stables" or animal "kennels." A garden accessory to a residential "use" shall not be deemed a "farm" or "farm use."
- (2) CUSTOMARY FARM OCCUPATION — The conducting of usual "farm" activities and shall include the processing of the products of only the "farm" on which such processing is conducted.

FENCE HEIGHT — The distance measured vertically from the natural ground, prior to any grading, filling or modification, to the top of each span of a "fence" or to the top of a combination of "wall" and "fence." In determining "fence height," posts, post caps, post tops, pillars and gates are excepted.

FENCE, WALL, GATE, PILLAR AND BERM — Any "structure," including a fence, wall, gate, pillar or earthen berm, 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 a "building."

FLOOR AREA RATIO (FAR) — The ratio of the sum of the gross horizontal floor space on all stories of all "buildings" on a property to the gross land area of the property.

FRONTAGE — The continuous extent of a "building" or of land along a "street."

FRONT YARD SETBACK LINE — A line parallel to the "front lot line" and at a distance therefrom equal to the minimum "front yard" dimension for the "district" in which located.

GARAGE, PRIVATE — An "accessory building" or part of a "principal building" used only for the storage of motor vehicles belonging to residents, employees or visitors of the "premises" as an "accessory use."

GRADE, FINISHED — The "finished grade" at any point along the wall of a "building" is the elevation of the completed surfaces of lawns, walks and roads adjoining the wall at that point.

GROSS FLOOR AREA — The sum of the horizontal areas of all floors of all "buildings," measured from the exterior faces of exterior walls or, in the case of a common wall separating two "buildings," from the center line of such common wall.

HEIGHT OF BUILDING OR STRUCTURE — The vertical distance to the level of the highest point of the roof's surface if the roof is flat or inclines not more than one inch vertical for each six inches horizontal, or to the mean point between the eaves and the highest point of the roof if of any other type, or to the highest point of the "structure" if it has no roof, measured from the average level of the natural grade or the "finished grade" adjacent to the exterior walls of the "building," whichever is lower.

HOUSE TRAILER — Any portable or mobile vehicle used or designed to be used for living or sleeping purposes. The term "trailer" shall include such a vehicle if mounted on temporary or permanent foundations, with or without the wheels in place.

KENNEL — The keeping of more than four dogs over the ages of five months.

LANDSCAPE NURSERY AND GARDEN CENTER — The growing, producing, storage and sale to the public, at retail, of nursery and greenhouse stock, garden and house plants, trees and shrubs, whether grown on the "premises" or not, and the sale and display of seeds, bulbs, packaged fertilizers and soil nutrients, mulches, topsoil and similar materials used in the care and maintenance of residential lawns, gardens and plants. A "landscape nursery" may also include as an "accessory use" the sale and display of other lawn- and garden-related products such as garden ornaments, pots and pottery products, holiday and seasonal items and decorations, lawn furniture and accessories, packaged insecticides, powered garden tools and equipment and the repair and servicing of any such items sold.

LINE OF SIGHT — What can be seen when the observer's eye is four feet above the grade of the pavement edge and the object is one foot above the grade of the pavement edge.

LIVERY STABLE — The maintenance of a stable for horses for "use" by the public or private clubs or academies.

LOADING SPACE — Any off-"street" space available for the parking of one truck for the loading or unloading of goods, not less than 15 feet wide, 30 feet long and 15 feet high, if covered, and having direct usable access to a "street" or alley, except that where one such "loading space" has been provided, any additional "loading space" lying alongside, contiguous to and not separated from such first "loading space" need not be wider than 12 feet.

LOT — A recorded contiguous parcel of land not divided by "streets," occupied or to be occupied by a "building" or "buildings" and "accessory buildings" and "uses,"

together with such open spaces as are required under the provisions of this chapter, and having its principal "frontage" on a "street" or on such other means of access as may be deemed, in accordance with the provision of law, to be adequate as a condition of the issuance of a building permit for a "building" on such land.

LOT AREA — The total horizontal area included within "lot lines."

LOT, CORNER — A "lot" of which at least two adjacent sides abut on "streets" or public places.

LOT DEPTH — The mean horizontal distance between the front and rear "lot lines," measured in the general direction of the "side lot lines."

LOT LINE, FRONT — The property line or lines separating the "lot" from the "street" or "streets."

LOT LINES — The property lines bounding a "lot," as defined herein.

LOT LINE, REAR — The "lot line" which is generally opposite and parallel to the front line. If the rear lot line is less than 10 feet in length, or if the "lot" comes to a point at the rear, the "rear lot line" shall be deemed to be a line parallel to the "front lot line," not less than 10 feet long, lying wholly within the "lot" and farthest from the "front lot line."

LOT WIDTH — The mean width of a "lot" measured at right angles to its depth, measured at the "principal building" line.

MONOPOLE — A freestanding pole having a single point of location on the ground comprising a part of a "wireless telecommunication services facility." For purposes of this chapter, the term "monopole" shall include, in addition to the pole, all other components of the "wireless telecommunication services facility." **[Added 8-13-1998 by L.L. No. 7-1998]**

MULTI-FAMILY HOUSING — A planned residential development comprised of "multi-family dwellings." "Accessory uses" which are ancillary to "multi-family housing," such as recreational facilities, community rooms and detached garages, may also be included in the development. "Multi-family housing" projects may contain or be comprised of "two-family dwellings." **[Added 2-6-2014 by L.L. No. 2-2014]**

NIER — Nonionizing electromagnetic radiation. **[Added 8-13-1998 by L.L. No. 7-1998]**

NONCONFORMING, DIMENSIONALLY — The status of a "building" or "structure" that is conforming in "use" but does not conform to the minimum "lot" dimension, "yard" dimension, "height," "building coverage," "floor area ratio," off-"street" parking, loading or similar dimensional requirements of this chapter and which conformed to such dimensional requirements in effect at the time such "building" or "structure" was established.

NONCONFORMING USE — A "use" of a "building" or of land that does not conform to the regulations as to the "use" in the "district" in which it is situated, which "use" was lawful at the time this chapter or amendments thereto became effective.

NURSERY SCHOOL — A school designed to provide daytime care and

instruction to five or more children under six years of age and operated in accordance with the Social Services Law of the State of New York.¹

OPEN CONSTRUCTION FENCING — Semiscreen "fence" construction which is not entirely closed and can be seen through, such as lattice fencing or picket fencing in which the spindles are spaced so as to provide a partial view.

PARKING AREA — An off-"street" area containing one or more "parking spaces," with passageways and driveways appurtenant thereto. In the Planned Business A "District," "parking area" is also used to designate those areas shown on the Zoning Map which are to be used solely for off-"street" parking and loading facilities.

PARKING SPACE — An off-"street" space available for the parking of one motor vehicle on a transient basis, having dimensions of not less than nine feet by 18 feet if unenclosed, and not less than 10 feet by 18 feet if enclosed or bordered by walls or columns on two or more sides, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct usable access to a "street" without requiring the backing of any vehicle across a sidewalk or into the "street" right-of-way. The minimum size of a required parking space may be reduced to dimensions of not less than eight feet by 16 feet by the Planning Board as part of an approved site development plan where said space(s) shall be reserved for compact vehicles only. Handicap accessible or barrier-free spaces shall comply with ANSI standards.

PREMISES — A tract of land with the "buildings" thereon.

PUBLIC UTILITY — Persons, firms or corporations supplying gas, electricity, water, power, transportation, cable, television or telephone service to the general public.

REPEATER — A small, supplementary and accessory bidirectional amplifier facility designed and limited in height and transmission power to provide service only where there is a "failure of coverage" and to minimize visual impacts and the need for primary "base stations." **[Added 8-13-1998 by L.L. No. 7-1998]**

RESIDENTIAL CARE FACILITY — Any facility licensed and/or supervised by an appropriate governmental agency to provide resident services and twenty-four-hour supervision to two or more persons. Such facility must be headed by an agency-approved staff and function as a single housekeeping unit.

RESTAURANT — An establishment which prepares and serves food and beverages selected by patrons from a full menu, served by a waiter or waitress and consumed on the "premises," as well as permanent seating facilities and counters or tables, adequate to accommodate all customers served. The term "restaurant" shall not be considered to include any fast-food establishment, refreshment stand, curb service or drive-in-food-type establishment.

RESTAURANT, FAST-FOOD — A business enterprise primarily engaged in the retail sale of ready-to-consume food and beverages served in disposable containers and selected by patrons from a limited number of specialized items, such as but not limited to hamburgers, chicken, fish and chips, tacos, pizza and hot dogs, which are prepared according to standardized procedures for consumption, either on or off the

1. Editor's Note: See Social Services § 1 et seq.

"premises," in a facility where a substantial portion of the sales to the public is by drive-in or stand-up service.

SECONDARY WIRELESS TELECOMMUNICATION SERVICES FACILITY — A small "wireless telecommunication services facility" that is intended, designed and limited in its implementation to provide service only in and for an area where there is a "failure of coverage." Such facility shall be limited in height and transmission power to the minimum necessary to achieve "adequate coverage" in the area where there is a "failure of coverage."**[Added 8-13-1998 by L.L. No. 7-1998]**

SENIOR CITIZEN HOUSING — A planned community of "dwelling units" which is designed and intended for and whose occupancy is limited to qualified "senior citizens." Other "uses" which are ancillary to "senior citizen housing," such as common dining facilities, meeting rooms, recreational facilities and limited first-aid treatment rooms (infirmaries), may also be included. "Senior citizen housing" shall not include nursing home facilities.

SENIOR CITIZENS — Persons who are 62 years of age or older, including members of a household in which one of the members is 62 years of age or older, provided that no household member is less than 18 years of age.

SIGHT DISTANCE — The measurement of the distance one can see with a clear "line of sight."

SIGN — Any device for visual communication which is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any governmental agency or any civic, charitable, religious, patriotic or fraternal or similar organization. For the purposes of this chapter, "signs" shall be considered to be "structures" and shall be subject to all regulations applicable to "structures." (See Chapter 88, Signs.)

STORY — That portion of a "building" included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it. A "basement" or "cellar" shall be counted as a "story" if the finished floor level directly above the "basement" or "cellar" is more than six feet above the level from which the "height" of the "building" is measured.

STORY, HALF — A "story" with at least two opposite exterior sides meeting a sloping roof not more than two feet above the floor of such "story."

STREET — A public or private thoroughfare, permanently open to common and general "use," which "street" has been established as part of a subdivision approved by the Town Planning Board or as part of a subdivision plan recorded in the Division of Land Records, Office of the County Clerk of Westchester County, prior to the adoption of the Town's Land Subdivision Regulations,² or which "street" existed prior to that date.

STRUCTURE — Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, buildings, signs, swimming pools, tennis courts,

2. Editor's Note: See Ch. A117, Land Development Regulations.

fences, walls gates, pillars, ground mounted solar arrays, and berms.[**Amended 12-8-2016 by L.L. No. 3-2016**]

TAKE-OUT FOOD ESTABLISHMENT; BAKERY — An establishment which prepares and sells food and beverages ordered by telephone or from a counter or display case where the patron selects from a limited menu consisting primarily of freshly prepared foods or baked goods, which foodstuffs are sold primarily for the consumption off the "premises" and where the floor area devoted to customer seating is less than 20% of the "gross floor area." The term "take-out food establishment; bakery" shall not include "fast-food restaurants."

USE — The specific purpose for which land or a "building" is designed, arranged or intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any "nonconforming use."

USE, ACCESSORY — A "use" which is customarily incidental and subordinate to the "principal use" of a "lot" or a "building" and located on the same "lot" therewith and limited to the "uses" specifically listed in the schedule of permitted "accessory uses" for the zoning "district" in which it is located. An "accessory use" may not be accessory to another "accessory use."

WIRELESS TELECOMMUNICATION SERVICES — The provision of wireless telecommunication services, including those more commonly referred to as "cellular telephones," which services are regulated by the Federal Communications Commission (FCC) in accordance with and as the term "personal wireless services" is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332 (c)(7)(C), or as hereafter amended. With the exception of communications for the Town of Pound Ridge police, fire, ambulance and highway department, the term "wireless telecommunication services" shall specifically exclude all other services not included in the FCC definition of "personal wireless services." [**Added 8-13-1998 by L.L. No. 7-1998**]

WIRELESS TELECOMMUNICATION SERVICES FACILITY — Any equipment "used" in connection with the commercial operation of "wireless telecommunication services," as defined herein, and as the term "personal wireless services facilities" is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332 (c)(7)(C), or as hereafter amended, to transmit and/or receive frequencies, including but not limited to antennas, "monopoles," equipment, appurtenances and "structures." [**Added 8-13-1998 by L.L. No. 7-1998**]

YARD — An open space of uniform width or depth on the same "lot" with a "building" or group of "buildings," which open space lies between the "building" or group of "buildings" and the nearest "lot line" and is unoccupied and unobstructed from the ground upward, except for certain features specified in § 113-38A. In measuring a "yard," as hereinafter provided, the line of a "building" shall be deemed to mean a line parallel to the nearest "lot line," drawn from a point of a "building" or the point of a group of "buildings" nearest to such a "lot line," exclusive of certain features specified in the aforesaid section as not to be considered in measuring "yard" dimensions or as being permitted to extend into any front, side or "rear yard," respectively, and the measurement shall be taken at right angles from the line of the "building" to the nearest "lot line."

YARD, FRONT — A "yard" extending across the full width of the "lot" and lying between the front line of the "lot" and the nearest line of the "building."

YARD, REAR — A "yard" extending across the full width of the "lot" and lying between the rear line of the "lot" and the nearest line of the "building."

YARD, SIDE — A "yard" between the side line of the "lot" and the nearest line of the "building" and extending from the "front yard" or, in the absence of either of such "yards," to the front and rear "lot line," as the case may be.

ARTICLE II
Establishment of Districts

§ 113-3. Classification of "districts."

The Town of Pound Ridge is hereby divided into the following classes of "districts":

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|------|--|
| R-3A | Three-Acre Residential District |
| R-2A | Two-Acre Residential District |
| R-1A | One-Acre Residential District |
| LNG | "Landscape Nursery and Garden Center" District |
| PB-C | Planned Business District C |
| PB-B | Planned Business District B |
| PB-A | Planned Business District A |

§ 113-4. Zoning Map.

Said "districts" are bounded and defined as shown on a map entitled the "Town of Pound Ridge, New York, Zoning Map"³ which, with all explanatory matter thereon, is adopted and made a part of this chapter, and on such supplementary Zoning Maps as may be adopted by the Town Board and made a part of this chapter by express reference.

§ 113-5. Order of restrictiveness.

Where "districts" are referred to as "more restrictive" or "less restrictive," the designation shall refer to the order in which the "districts" are named above, the first named being the most restrictive.

§ 113-6. Location of boundaries.

Where uncertainty exists as to the locations of any boundaries shown on the Zoning Map, the following rules shall apply:

- A. "District" boundary lines are intended to follow "streets," rights-of-way, watercourses or "lot lines" or to be parallel or perpendicular thereto, unless such "district" boundary lines are fixed by dimensions, as shown on the Zoning Map.
- B. Where "district" boundaries are indicated as approximately following "streets," rights-of-way or watercourses, the center lines thereof shall be construed to be such boundaries.
- C. 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, except that the regulations of the most restrictive district on the edge of such a body of water shall apply to the area within the mean high water line and the body of water thereof.
- D. Where "district" boundaries are so indicated that they approximately follow "lot

3. Editor's Note: Said map is included in the pocket at the end of this volume.

lines," such "lot lines" shall be construed to be such boundaries.

- E. In unsubdivided property or where a "district" boundary divides a "lot," the location of any such boundary, unless the same is indicated by dimensions shown on said map, shall be determined by the "use" of the map scale shown thereon.
- F. If the "district" classification of any land is in question, it shall be deemed to be in the most restrictive adjoining "district."
- G. In the Planned Business A Zoning "District," the location of the boundaries of "building areas" is shown on the supplementary Zoning Map entitled "Planned Business A Zoning District, showing Building Areas and Parking Areas," 1966, as amended. The distances shown on this map shall fix the boundaries of the "building area" in relation to the "lot lines" of the affected property as they existed on the date of the adoption of the "Planned Business A Zoning "District."

§ 113-7. "Lots" in more than one "district."

Where a "lot" lies in two or more zoning "districts," any "building" or land "uses" established thereon shall comply with the regulations of the "district" in which said "building" or "use" is located. "Uses" permitted in one "district" may not extend into another "district" where they would not otherwise be permitted. Dimensional requirements shall be measured from "lot lines" and not zoning "district" lines.

§ 113-8. Access to business "districts" across residential areas.

Access to a business area across property designated for residential "use" shall not be permitted.

ARTICLE III General Regulations

§ 113-9. Interpretation and applicability.

In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum requirements for the protection of the public health, safety, comfort, convenience and general welfare. This chapter shall not be deemed to affect, in any manner whatsoever, any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the "use" of "buildings" or land or upon the erection, construction, establishment, moving, alteration or enlargement of "buildings" than are imposed by other laws, rules, regulations, licenses, certificates or other authorizations or by easements or covenants or agreements, the provisions of this chapter shall prevail. Except as hereinafter provided, the following general regulations shall apply.

§ 113-10. Conformity required.

No "building" shall be erected, moved, altered, rebuilt or enlarged, nor shall any land or "building" be used, designed or arranged to be used, for any purpose or in any manner except in conformity with this chapter and, particularly, with the specific regulations for the "district" in which such "building" or land is located. Any "use" not specifically permitted by this chapter is prohibited.

§ 113-11. "Lot" requirements.

Every "building" shall be located on a "lot" as herein defined. There shall be not more than one "principal building" and its "accessory buildings" on each "lot," except for nonresidential "buildings" in "districts" where such "uses" are permitted. On one undivided parcel of land equal in size to or greater than twice the minimum acreage as required for the "districts" established hereunder, two "principal buildings" and their "accessory buildings" shall be permitted; provided, however, that in each such instance it shall be demonstrated to the Planning Board that the principal and "accessory buildings" will conform to all "lot" requirements established hereunder the same as if such "buildings" were placed on two separate and independent parcels of land.

§ 113-12. Applicability of open space requirements.

No "yard" or other open space provided about any "building" for the purpose of complying with the provisions of these regulations shall be included as any part of the "yard" or open space for any other "building." No "yard" or any other open space on one "lot" shall be considered as a "yard" or open space for a "building" on any other "lot."

§ 113-13. Division of "lots."

Should a "lot" hereafter be formed from the part of a "lot" already occupied by a "building," such subdivision shall be effected in such manner as not to impair conformity with any of the requirements of this chapter with respect to the existing "building" and all "yards" and other required spaces in connection therewith, and no permit shall be issued for the erection of a "building" on the new "lot" thus created unless it complies with all provisions of this chapter.

§ 113-14. Irregularly shaped "lots."

Where a question exists as to the proper application of any of the regulations of this chapter to a particular "lot" or parcel because of the peculiar or irregular shape of the "lot" or parcel, the Board of Appeals shall determine how such regulations shall be applied.

§ 113-15. Required "street" "frontage."

No permit shall be issued for any "structure" unless the "lot" upon which the "structure" is to be built has a "frontage" of at least 25 feet on a "street" or highway, as defined in § 280-a of the Town Law, which "street" or highway shall have been suitably improved to the satisfaction of the Town Board as provided in said law, or a bond posted therefor.

§ 113-16. Area of contiguous dry land.

- A. In furtherance of the purposes of the State Freshwater Wetlands Act (Article 24 and Title 23 of Article 71 of the Environmental Conservation Law), the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law), the Pound Ridge Freshwater Wetlands Law (Local Law No. 1-1986, and the Pound Ridge Flood Damage Prevention Law (Local Law No. 1-1991),⁴ as well as the Town Plan of Development of the Town of Pound Ridge, each "lot" shall contain a contiguous area of dry land equal to at least 75% of the minimum "lot" area requirement of the zoning "district" in which it is located.
- B. The contiguous area of dry land shall be at least 25 feet in width and shall not contain any of the following:
 - (1) An area designated as a freshwater wetland under the State Freshwater Wetlands Act or as a controlled area under the Freshwater Wetlands Law of the Town of Pound Ridge (exclusive of the minimum activity setback).⁵ Where the area designated as a freshwater wetland or as a controlled area is in the form of a narrow band less than 15 feet in width and where the Planning Board has determined that including such an area as part of the contiguous area of dry land would satisfy the basic intent of this section, said area may be included as part of the contiguous area of dry land.
 - (2) Areas of special flood hazard as designated in the Flood Damage Prevention Law of the Town of Pound Ridge.⁶

§ 113-17. "Accessory uses."

All "accessory uses" shall be located on the same "lot" with the principal "uses" to which they are accessory. In case of subdivision, an existing "structure(s)" may be retained as an accessory "structure(s)," provided that it complies with all other requirements of this chapter and it is not used as such until a principal "use" is established on the subject "lot."

4. Editor's Note: See Environmental Conservation § 24-0101 et seq.; Environmental Conservation §§ 8-0101 to 8-0117; Ch. 63, Freshwater Wetlands; and Ch. 60, Flood Damage Prevention, respectively.

5. Editor's Note: See Environmental Conservation § 24-0101 et seq. and Ch. 63, Freshwater Wetlands, respectively.

6. Editor's Note: See Ch. 60, Flood Damage Prevention.

§ 113-18. Exterior lighting.

All exterior lighting in the PB-A, PB-B and PB-C Zoning "Districts" and in connection with all nonresidential "uses" in residential "districts," including the lighting of "signs," shall be of such type and location and shall have such shading as will prevent direct glare or the source of the light from being visible beyond the boundaries of the property on which it is located. All exterior lighting on business properties shall be limited to the minimum intensity determined necessary by the Planning Board for safety purposes and shall be extinguished within one hour of the closing of the business "use," but in no case later than 10:00 p.m. local time, except for such illumination as may be permitted by the Board for property protection and security purposes.

§ 113-19. Placement of utility wires and equipment.

In order to achieve greater safety and improved service and appearance, all water, sewer and gas facilities, and all electric, telephone and other wires and equipment for providing power and/or communication, shall be installed underground in the manner prescribed by regulations of the state, local and/or utility company having jurisdiction. Where compliance with this section will result in undue hardship because of the design and location of existing facilities, the Planning Board and the Building Inspector may waive this requirement in site plan review and issuance of a building permit.

§ 113-20. "Dish antennas."

Satellite "dish antennas" shall be permitted as an "accessory use" in any zoning "district," subject to the following requirements, except as may otherwise be superseded by the Federal Communications Commission:

- A. "Dish antennas" shall be located and designed so as to mitigate their visual impact on surrounding properties, when possible and practicable in light of the purchase and installation cost of the equipment, through the "use" of architectural features, it "earth berms," landscaping or other screening that will harmonize with the character of the property and the surrounding area.
- B. The materials used in the construction of an antenna shall not be bright, reflective or otherwise unnecessarily obtrusive.
- C. There shall not be more than one "dish antenna" per "lot."
- D. A "dish antenna" shall not be located in any "front yard" and shall comply with all rear and "side yard" setback requirements.
- E. In the PB-A "District," a "dish antenna" shall not be located outside the "building" area, as shown on the Zoning Map.
- F. The "height" of a "dish antenna" shall be measured vertically to the highest point of the antenna when positioned in its most vertical position.
- G. A freestanding "dish antenna" shall not exceed 15 feet in "height" above ground level.
- H. A "dish antenna" greater than two feet in diameter shall not be located on the roof of any "building."

- I. A "dish antenna" may not exceed 10 feet in diameter.
- J. Any "dish antenna" greater than three feet in diameter or greater than five feet in "height" shall be considered a "structure," as defined in § 113-2 of this chapter, and shall require a building permit issued by the Building Inspector.
- K. It is the intent of this section and the restrictions on satellite "dish antennas" to protect the public health, safety and welfare, particularly to protect and maintain property values and to avoid adverse visual impacts upon adjoining properties and along public thoroughfares, without unreasonably restricting the "use" of such devices.

§ 113-21. Identification of locations for 911 service.

- A. 911 driveway identification "signs" required in all "districts." 911 identification numbers, assigned by the Assessor's office and administered by the Building Department, are assigned to each residential and business location in the Town of Pound Ridge and must be displayed according to the rules and regulations set forth below.
- B. 911 identification in residential "districts."
 - (1) Each driveway access must be identified by a 911 number displayed on a driveway location "sign" in the following manner:
 - (a) 911 driveway location "signs" must be a minimum of 3 1/2 inches high and 7 1/2 inches long.
 - (b) "Signs" must combine numbers which are at least 2 1/2 inches high and have a minimum stroke width of 1/2 inch against a contrasting background.
 - (c) Driveway location "signs" must be mounted back-to-back on their supports so that they are legible from vehicles approaching from either direction on the road.
 - (d) All materials used in the construction of 911 identification "signs" should be impervious to outdoor weather conditions.
 - (2) Placement of driveway location "signs" in residential "districts" shall be done according to the following requirements:
 - (a) Wherever possible, 911 driveway location "signs" shall be installed on the left side of each driveway access as determined by facing the driveway from the road. In cases where it is physically impossible to comply with this requirement, alternative locations shall be approved by the Building Inspector.
 - (b) Driveway location "signs" must be placed within five feet of the edge of the pavement on the road and within five feet of the driveway surface so as to clearly identify the driveway access.
 - (c) "Signs" must be installed at right angles to the road so they can be read

from vehicles approaching from either direction on the road.

- (d) "Signs" must be a minimum of 24 inches and a maximum of 40 inches above the ground. Their visibility must be maintained in all weather conditions by the homeowner.
 - (e) Driveway location "signs," as described in Subsection B(1)(a) through (d) above, may be displayed on mailbox supports below the box or on the sides of the box itself, on "fence" posts or gateposts, etc., only when the location of the supporting "structure" is on the same side of the road as the driveway, is located to the left and within five feet of the driveway, clearly identifies the driveway access, permits the "sign" to meet the "height" requirements, is installed at right angles to the "road" and is legible from vehicles approaching from either direction on the road. Groups of mailboxes are not acceptable for driveway identification purposes. Mailboxes may be identified with numbers to facilitate mail delivery, but they are not acceptable to provide driveway identification unless they stand alone and meet the criteria listed above.
 - (f) Exceptions. Mailboxes presently located to the right of driveway access points but otherwise meeting the requirements of "sign" location, as in Subsection B(2)(a) through (e) above, may be used to post driveway identification numbers until such time as the box and/or its support needs to be replaced. It must then be moved to the left of the access point, as in Subsection B(2)(a) through (e) above.
- (3) 911 identification number for accessory "dwelling units" in residential "districts."
- (a) Where a single driveway serves a separate accessory residence/studio/office as well as a main residence, the accessory unit or units must be identified by a driveway location "sign" as required in Subsection B(1) and (2) above (example: 50A). Such accessory unit identification "signs" may be mounted on the same stake as the main residence identification or it may be included on the same "sign" (example: 50-50A).
 - (b) Each accessory unit must be identified by an additional "sign" meeting the requirements of Subsection B(1)(a), (b) and (d) above. Such a location identifying "sign" shall be displayed at the place where the unit's access meets the driveway or it may be affixed to the outer "wall" of the unit so that it can be seen from the driveway, whichever placement will best clarify its location for emergency service responders. In questionable situations, the placement of accessory "building" identification "signs" shall be approved by the Building Inspector.
- (4) Common driveway requirements in residential "districts."
- (a) Common driveway location "signs" will be provided by the Town for current residents. Future common driveway "signs" will be provided by the developer, as required in § A117-19B(2)(b) of the Land Development Regulations of the Town of Pound Ridge.

- (b) Common driveway location "signs" must be a minimum of 3 1/2 inches by a length sufficient to accommodate the required numbers, but in no case shorter than 7 1/2 inches long. Such "signs" will display the sequence of numbered properties accessed by that common driveway (example: 138-146) and must meet the requirements for driveway location "signs," as described in Subsection B(1) and (2) above.
- (c) Common driveway location "signs" must be maintained in all-weather legible condition by the owners whose property is accessed by the common driveway.
- (d) Individual driveways branching from the common driveway are to be identified by "signs" provided and installed by the homeowner, as in Subsection B(1) through (3) above, except that "signs" identifying driveways branching from a common driveway need not be double-sided and need not be installed at right angles to the common driveway. Rather, they shall be installed so that they are easily visible and clearly identify the branching driveway for emergency responders approaching on the common driveway.
- (e) Individual driveway "signs" are to be maintained in all-weather legible condition by the homeowner.

C. 911 requirements for business "districts."

- (1) 911 "building" identification "signs" and driveway location "signs" in the business "districts" shall be placed according to a "building" identification list maintained and monitored by the Building Inspector or the Fire Inspector.
 - (a) "Building" identification "signs" must meet the requirements of Subsection B(1)(a), (b) and (d) above. Where driveway location "signs" are required, they must meet the requirements of Subsection B(1) and (2) above.
 - (b) In addition to 911 "building" identification "signs," owners of locations having secondary entrances shall be required to identify those secondary entrances with the name of the occupant in letters which are at least one inch high.
 - (c) In addition to the "building" identification "signs," it shall be the responsibility of each property owner within the business "districts" to provide and display numbers identifying apartments at the exterior access to such apartment locations and at the doors of the apartments themselves.
 - (d) All apartment location numbers shall be 2 1/2 inches high with a minimum stroke width of 1/2 inch.
 - (e) In addition to the 911 "building" location "signs" placed according to the "building" identification list, "building" "signs" (listing tenants) which are installed or refurbished subsequent to the passage of this article shall display the 911 "building" number on the "sign" a clearly legible number

style.

- (f) 911 identification "signs" in the business "districts" shall not contribute to the total "sign" area allowable for business establishments in §§ 88-1 through 88-13 of the Pound Ridge Code.
 - (g) 911 identification "signs" shall be maintained in all-weather legible condition by the property owner.
 - (h) Appeals for number relocation may be addressed to the Building Inspector whose determination shall be final.
- D. Compliance. Compliance with the requirements of this section shall be mandatory after October 1, 1992.
- E. Enforcement.
 - (1) The Building Inspector of the Town of Pound Ridge shall be the enforcement officer charged with the enforcement of all regulations of this chapter.
 - (2) In the event of a violation of any of the provisions of this section, the Building Inspector shall give written or personal notice specifying the violation to the owner of the property on which the violation exists. The owner shall correct the violation within 10 days of receipt of such notice. Violations which persist after that time shall result in a noncompliant status for the property or properties involved. No applications shall be accepted and no permits or certificates of occupancy shall be issued to the owner or owners by the Building Department and no department, board or commission shall accept an application for any permit, subdivision or variance for the property or properties until the violation is corrected and approved by the Building Inspector.

§ 113-22. Protection of hilltops, ridgelines and steep slopes.

- A. For the purpose of preventing erosion, minimizing stormwater runoff and flooding, preserving the Town's character and property values and protecting areas of prominent views, it is the intent of this chapter to prevent the inappropriate development of hilltops, ridgelines and steep slopes. For purposes of this section, steep slopes shall be considered to be those areas with a slope of or greater than 25% measured over any horizontal distance of 50 feet. Individual areas of steep slopes within 25 feet of each other shall be regulated as a single steep slope area.
- B. When development in such areas is proposed, the approving agency shall assure that adequate safeguards for the protection of such areas and the minimization of impacts to their essential functions are assured. Any application for the development of such areas shall include:
 - (1) A soil erosion and sediment control plan and a stormwater management plan prepared in accordance with the Westchester County Best Management Practices Manual Series for Construction Related Activities, and including any necessary drainage calculations required by the Town Engineer. Such materials shall demonstrate that no substantial erosion or sedimentation, nor

any increase in the peak rate of runoff that would create hazard to the development or to other properties, shall result from the proposed development.

- (2) A plan for appropriate landscaping and revegetation to minimize the impacts on scenic views and vistas and to wildlife habitat as well as to assure long-term stability of areas of steep slopes.
- (3) Any additional information as may be reasonably required by the approving agency.

§ 113-23. Performance standards.

- A. Conformance required. No "use" shall hereafter be established, altered, moved or expanded unless it complies with the performance standards set forth in this section. Continued conformance with such standards shall be a requirement for the continuance of any certificate of conformance and certificate of occupancy.
- B. Purposes. Consistent with the general purposes of this chapter, performance standards shall set specific controls on potentially objectionable external aspects of "uses" so as to:
 - (1) Reduce to a reasonable minimum the dissemination of smoke, gas, dust, odor or other atmospheric pollutant.
 - (2) Prevent the discharge of untreated or insufficiently treated wastes.
 - (3) Prevent the dissemination of vibration, heat or electromagnetic interference beyond the immediate site on which the "use" is located.
 - (4) Prevent physical hazard by reason of fire, explosion, radiation or any similar cause.
 - (5) Regulate and control the generation and flow of vehicular traffic so as to prevent hazardous conditions, traffic congestion and excessive noise in the "streets."
- C. Standards for vibration. No "use" shall emit inherent and recurring generated vibration which is perceptible without instruments at any point along the property line. Vibrations from temporary construction between the hours of 8:00 a.m. and sunset are exempt from this regulation.
- D. Standards for smoke, dust and other atmospheric pollutants.
 - (1) General control. The emission of smoke and other particulate matter shall not be permitted, regardless of quantity, if it will be in any way detrimental to the public health, safety, welfare or comfort or a source of damage to or contamination of property.
 - (2) Method of measurement of smoke. For the purpose of grading the density of smoke, the Ringelmann Smoke Chart shall be used to determine the total smoke units emitted. A reading shall be taken every minute for an hour or, if less than an hour, until the smoke units emitted exceed the number allowed by

these regulations. Each reading shall be multiplied by the number of minutes during which it was observed and the product added.

- (3) Maximum permitted emission of smoke. There shall be no measurable emission of smoke, gas or other atmospheric pollutant. The emission of one smoke unit per hour and smoke with discernible density of Number 1 on the Ringelmann Smoke Chart shall be prohibited.
- (4) Maximum permitted emission of dust.
 - (a) The emission of dust related to combustion for indirect heating from any source shall not exceed 0.30 pounds of dust per 1,000 pounds of flue gas adjusted to 50% excess air for combustion.
 - (b) There shall be no measurable emission of dust or other particulate matter not related to combustion for indirect heating.
 - (c) All properties shall be suitably improved and maintained with appropriate landscaping and paving, or other type of improvement, so that there will be no measurable windblown dust or other similar types of air pollution created.
- E. Standards for toxic or noxious matter. No "use" shall be permitted which will cause any dissemination whatsoever of toxic or noxious matter outside the "building" in which the "use" is conducted.
- F. Standards for radiation and electromagnetic interference.
 - (1) Radiation. The handling, storage or disposal of radioactive materials or waste by-products, whether or not licensed by the Nuclear Regulatory Commission, shall be conducted only in accordance with the standards established in Title 10, Chapter 1, Part 20, Code of Federal Regulations, Standards for Protection Against Radiation, as amended, in accordance with any applicable laws or regulations.
 - (2) Electromagnetic interference. No operation shall be permitted which produces any perceptible electromagnetic interference with normal radio or television reception in any area within or without the Town.
- G. Standards for fire, explosive hazard and heat.
 - (1) Fire and explosive hazard. No storage or manufacture of explosives or solid materials or solid products which burn actively or which have a low ignition temperature, a high rate of burning or create great heat, under ordinary temperature conditions, shall be permitted.
 - (2) Heat. There shall be no emission of heat which would cause a temperature increase in excess of 1° F. along any adjoining "lot line," whether such change be in the air, in the ground or in any watercourse or water body.
- H. Standards for liquid or solid wastes. The discharge of any or all wastes shall be permitted only if in complete accordance with all standards, laws and regulations of the Westchester County Health Department, New York State Department of

Environmental Conservation or any other regulatory agency having jurisdiction. Facilities for the storage of solid waste shall be so located and designed as to be screened from the "street" or from any adjoining property and so as to discourage the breeding of rodents or insects.

- I. Standards for vehicular traffic. No business or industrial "use," home occupation or special permit "use" shall be permitted where it is determined by the approving agency that the type and number of vehicle trips it is estimated to generate would be expected to produce unusual traffic hazards or congestion, or cause or induce emissions which may be expected to interfere with the maintenance of air quality standards established by the United States Environmental Protection Administration, the New York State Department of Environmental Conservation or other regulatory agency having jurisdiction, due to the design or capacity of the highway system, the relationship of such proposed "use" to surrounding or nearby industrial, commercial, or residential "uses" or other factors affecting air pollution arising from mobile source activity.
- J. Standards for glare. No "use" shall produce glare so as to cause illumination or shall permit the source of light to be visible beyond the boundaries of the property on which it is located in excess of 0.5 footcandles. Flashing or intrinsically bright sources of illumination shall be prohibited. Lighting within the Planned Business Districts is also subject to § 113-18 of this chapter.
- K. Procedure for application of performance standards.
 - (1) In the case of any application for the establishment of a "use" subject to the performance standards, the approving agency may require the applicant, at his own expense, to provide such evidence as it deems necessary to determine whether the proposed "use" will conform to said standards.
 - (2) If the approving agency deems it necessary, expert advice may be obtained, with the cost of such advice paid for in advance by the applicant as a condition of further consideration of his application. The report of any expert consultants shall be promptly furnished to the applicant.
 - (3) During the course of special permit and/or site plan review, the applicant shall have the burden of proof to demonstrate to the approving agency that the applicant's proposal will conform to the performance standards.
- L. Enforcement. If, in the judgment of the Building Inspector or of the Town Board, there is a violation of the performance standards:
 - (1) The Building Inspector shall give written notice, by registered or certified mail, to the owner and tenants of the property upon which the alleged violation occurs, describing the particulars of the alleged violation and the reasons why it is believed that there is a violation in fact and shall require an answer or correction of the alleged violation to the satisfaction of the Building Inspector within a reasonable time limit set by said Inspector. The notice shall state, and is hereby declared, that failure to reply, or to correct the alleged violation to the satisfaction of the Building Inspector within the time limit, constitutes admission of a violation of this chapter. The notice shall further state that, upon request of those to whom it is directed, technical determinations of the

nature and extent of the violation as alleged will be made, and that, if the violation as alleged is found, costs of the determinations will be charged against those responsible, in addition to such other penalties as may be appropriate, and that, if it is determined that no violation exists, costs of determination will be borne by the Town.

- (2) If, within the time limit set, there is no reply, but the alleged violation is corrected to the satisfaction of the Building Inspector, the Building Inspector shall note "violation corrected" on the Building Inspector's copy of the notice and shall retain it among the Building Department's records.
- (3) If there is no reply within the time limit set (thus establishing admission of a violation of this chapter) and the alleged violation is not corrected to the satisfaction of the Building Inspector within the time limit set, the Building Inspector shall proceed to take action in accordance with Article XII, § 113-96 of this chapter.

§ 113-24. Maintenance required.

- A. All plantings required by provisions of this chapter shall be of nursery stock, be robust when planted and be maintained in a vigorous growing condition, free of debris and litter. Plants not so maintained shall be replaced with new plants no later than the beginning of the next growing season.
- B. All "fences" and other screening materials required by provisions of this chapter shall be maintained or replaced to the same quality required of said items at the time of initial installation.
- C. In the event that maintenance or replacement is not conducted in accordance with these provisions, the Building Inspector shall give written notice of nonconformance to the owner of record of such property. The notice shall order conformance within 30 days. If the property remains in nonconformance at the end of 30 days, the Town Board may authorize the appropriate agencies or departments to make such maintenance or replacement. The Town Board may authorize additional time to comply with the above requirements to coincide with the planting season.
- D. The Town Board may provide for the assessment of all costs and expenses incurred by the Town in connection with any action taken as provided in this section against a property found to be in nonconformance after the thirty-day notice. The costs and expenses so incurred shall be certified to the Tax Assessor and shall become a municipal lien against the property.

§ 113-24.1. Ground-mounted solar installations. [Added 12-8-2016 by L.L. No. 3-2016]

- A. Site plan approval by the Planning Board is mandatory for the installation or modification of any ground mounted solar array.
- B. Where site plan approval is required, no permit or certificate shall be issued by the Building Inspector in connection therewith until and unless a plan shall have been reviewed and approved by the Planning Board. All site development and use of the

property shall be fully in conformance with the approved site plan and such additional standards and safeguards as are imposed on such property as a condition of site plan approval. Continued conformance with the approved site development plan shall be required as a condition of the continuance of the certificate of conformance and certificate of occupancy. Failure to so maintain or continue conformance shall be cause for the revocation or removal of any such certificate of conformance and certificate of occupancy and the immediate discontinuance of the approved use.

- C. Site plan review by the Planning Board shall be in accordance with the procedures, standards and requirements of Article IX of this chapter.

ARTICLE IV
Nonconforming Uses, Buildings and Structures

§ 113-25. Continuing existing uses.

Except as otherwise provided in this article, the lawfully permitted "use" of land or "buildings" and the lawfully permitted existence of "structures" at the time of the adoption of, or any amendment to, this chapter may be continued, although such "use," "building" or "structure" does not conform to the regulations specified by this chapter for the "district" in which such land, "building" or "structure" is located. Said "uses" shall be deemed "nonconforming uses," and said "buildings" and "structures" shall be deemed "dimensionally nonconforming."

§ 113-26. "Nonconforming use" of land.

The "nonconforming use" of land may be continued; provided, however, that no such "nonconforming use" shall be enlarged, increased, intensified or expanded, nor shall it be extended to occupy a greater area of land than that occupied by such "use" at the time of the adoption of this chapter, unless specifically allowed by other provisions in this chapter, nor shall any such "nonconforming use" be moved in whole or in part to any other portion of the "lot" or parcel of land occupied by such "nonconforming use" at the time of the adoption of this chapter; provided, further, that if such "nonconforming use" of land, or any portion thereof, ceases for any reason for any continuous period of more than 180 days or is changed to a conforming "use," any future "use" of the land shall be in conformity with the provisions of this chapter. No "nonconforming use" of land shall be changed to another "nonconforming use."

§ 113-27. "Nonconforming use" of "buildings" and "structures."

- A. A "building" or "structure," the "use" of which does not conform to the "use" regulations for the "district" in which it is situated, shall not be enlarged, extended or altered unless the "use" therein is changed to a conforming "use" or except to conform to an order of the Building Inspector to either correct an unsafe condition or to conform to the requirements of applicable laws or regulations.
- B. Such nonconforming "building" shall not be structurally altered unless such alterations are required by law; provided, however, that such maintenance and repair work as is required to keep a nonconforming "building" or "structure" in sound condition shall be permitted; and provided, further, that any such "nonconforming use" may be extended throughout any parts of the "building" or "structure" which were lawfully and manifestly arranged or designed only for such "use" at the time of the adoption of the provision of this chapter that made said "use" nonconforming.
- C. A "nonconforming use" of a "building" or "structure" may be changed only to a conforming "use."
- D. If any "nonconforming use" of a "building" or "structure" ceases for any reason for a continuous period of more than 180 days or is changed to a conforming "use" or if the "building" or "structure" in or on which such "use" is conducted or maintained is moved for any reason, then any future "use" of such "building" or "structure"

shall be in conformity with regulations specified by this chapter for the "district" in which such "building" or "structure" is located, except where an application is made to the Town Board pursuant to § 113-32 within said one-hundred-eighty-day period.

- E. If any "building" or "structure" in or on which any "nonconforming use" is conducted or maintained is hereafter removed, the subsequent "use" of the "lot" on which such "building" or "structure" was located and the subsequent "use" of any "building" or "structure" thereon shall be in conformity with the regulations specified by this chapter for the "district" in which such land, "building" or "structure" is located.

§ 113-28. Improvement of "nonconforming uses."

- A. In order that "nonconforming uses" may be gradually brought into greater conformity with the requirements of this chapter and that the adverse external effects of such "uses" may be reduced, the Town Board may, upon application made in accordance with the procedures and standards as set forth in Article VIII, issue a special permit for the relocation and/or design of any activities and facilities involved in such "nonconforming use."
- B. The special permit for such changes shall be issued only upon a finding by the Town Board, in addition to all other required determinations of Article VIII, that the proposed plan, through the "use" of landscaping, screening and buffer areas, increased setbacks, the control of noise, smoke, odors, lighting and other external characteristics, architectural changes, the location and layout of "parking areas" and access drives or by other appropriate means, will serve to reduce the adverse external effects of the "nonconforming use" and improve its relationship to neighboring properties and the community.
- C. If such special permit would allow the relocation and/or expansion of the "nonconforming use," the Town Board will consider the following prior to making its decision:
 - (1) Whether the relocation and/or expansion would result in a significant improvement in the public welfare, health, safety and applicable environmental concerns which could not be achieved to the same degree without such action.
 - (2) Whether it has been demonstrated that unique and compelling circumstances exist which support the need for relocation and/or expansion of the "nonconforming use" as opposed to other possibilities.
 - (3) With respect to relocation of the "nonconforming use," whether such action will result in a greater separation between any "structure" or operation associated with the "nonconforming use" and other neighboring "uses" and properties.
- D. Application for such a special permit shall be made to the Town Board. Based upon an initial review of the merits of the application, the Board may refuse to further consider the application or may refer it to the Planning Board for review in accordance with the provisions of Article IX. Assuming a positive recommendation

by the Planning Board, a duly advertised public hearing shall be held by the Town Board. If the proposed action is to be approved, the Town Board shall prepare a written statement indicating the rationale supporting its decision and shall approve a specific plan for its implementation. Within a period of not more than one year from the date the Town Board approves such plan, unless otherwise extended, the owner of the property where the "nonconforming use" is located shall bring such "use" into conformance with such plan as a condition of continuing its legal nonconforming status under this chapter. The Town Board may, as a condition of approval, require that all improvements be completed simultaneously or in accordance with a schedule established as part of any approval.

§ 113-29. Existing special permit "uses" deemed conforming.

Any "use" lawfully existing on the effective date of this amended chapter or on the date of any subsequent amendment to this chapter in the "district" in which such "use" is or was at that time classified in the chapter as one requiring a special permit shall, without further action, be deemed to have a special permit for such "use" as it lawfully exists. Any extension of or addition to such "use" shall meet all requirements of this chapter.

§ 113-30. "Dimensionally nonconforming."

A "building" or "structure" that is conforming in "use" but does not conform to the "height," "yard," "lot" area, "lot" dimensions, floor area, parking, loading, land "coverage" or similar dimensional requirements of this chapter shall be deemed to be "dimensionally nonconforming." No permit shall be issued that will result in the increase of any such nonconformity. Any "building" or "structure" or portion thereof may be altered to reduce its "dimensional nonconformity." In the Planned Business A "District," a "building" which is nonconforming because of its projection into a "parking area" shall also be subject to the provisions of said "district" regarding the elimination of such nonconforming portion.

§ 113-31. Completion of "buildings" under construction.

Any "building" for which a permit has been duly granted prior to the effective date of an amendment to this chapter making such "building" nonconforming may nevertheless be completed, provided that construction has been started before the effective date of such amendment and the ground-"story" framework of which, including the second tier of beams, has been completed within six months of the date of the permit.

§ 113-32. Reconstruction of damaged "buildings."

- A. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any wall declared unsafe by the Building Inspector.
- B. All applications for a building permit or certificate of occupancy involving the reconstruction of damaged nonconforming "buildings" or "structures" and/or the continuation of "nonconforming uses" within said "structures" shall be referred to the Town Board for its review, comment and determination in accordance with the following standards.
- C. The Town Board shall be guided by the following standards for the reconstruction

of damaged nonconforming "buildings" or "structures" and the continuation of "nonconforming uses" within said "structures." The following standards may be waived or modified by the Town Board for good cause shown where it determines that the nonconforming "structure," "building," "use" or premises, and its proposed reconstruction and/or continuation, is of historic value, special character or other Town-wide importance.

- (1) If any nonconforming "building" or "structure" shall be destroyed by any means to an extent equal to or greater than 75% of its fair market value, as determined by the Town Assessor after any necessary consultation with the Building Inspector and the Town Engineer, no repairs or reconstruction shall be made unless every portion of such "building" is made to conform to all the regulations of this chapter for the "district" in which it is located.
- (2) If any nonconforming "building" or "structure" shall be destroyed by any means to an extent equal to or greater than 50% but less than 75% of its fair market value, as determined by the Town Assessor after any necessary consultation with the Building Inspector and the Town Engineer, the Town Board may, after application by the owner of the "building," determine whether, and to what degree, reconstruction shall conform to the provisions of Subsection C(1) or (3), or of any combination thereof. The Board shall consider the extent of the nonconformity, the value of the original "structure," the relationship of neighboring properties, conformity with the Town Development Plan, the proposed reconstruction and any other consideration it deems appropriate.
- (3) If any nonconforming "building" or "structure" shall be destroyed by any means to an extent less than 50% of its fair market value, as determined by the Town Assessor after any necessary consultation with the Building Inspector or Town Engineer, it may be restored and any accompanying "nonconforming use" continued.
- (4) The Town Board may permit the restoration and reconstruction of a damaged nonconforming "building" or "structure" and the continuation and restoration of a "nonconforming use" within said "structure" in accordance with the above standards, provided that:
 - (a) The dimensions of such restoration or reconstruction do not exceed the dimensions of the destroyed portion of the "building" or "structure" at the time of its destruction.
 - (b) The resumption of an accompanying "nonconforming use" takes place within 18 months of the time of its interruption, which period may be extended by the Building Inspector for a maximum of six months.
 - (c) The restoration or reconstruction is commenced within six months of the date of such damage and completed within 18 months of said date, which periods may each be extended by the Building Inspector for a maximum of six months.
 - (d) Where such restoration or reconstruction can reasonably be accomplished so as to result in greater conformity with this chapter, then it shall be so

done.

§ 113-33. New "structures" on nonconforming "lots."

- A. A permit may be issued, subject to § 113-97C, for the erection of a "building" housing a permitted "use" on any "lot" which has been made nonconforming with respect to area, depth, width or "frontage" requirements by the adoption of, or any amendment to, this chapter or the Zoning Map, provided that all other "district" and chapter regulations other than minimum "lot area," depth, width and "frontage" are complied with, provided that the "lot" met the zoning requirements at the time the deed to the "lot" was recorded and provided that a valid conveyance or contract of sale for said "lot" has been executed and delivered prior to the date of the adoption of the provision of this chapter that made the "lot" nonconforming, except that where the owner of any such "lot" also owned adjoining land on said date, such other land, or so much thereof as may be necessary, shall be combined with the original "lot" to make a single conforming "lot" if possible; otherwise, a "lot" that is conforming to the fullest extent possible.
- B. A permit may be issued, subject to conformity with all other requirements of this chapter, for the erection of a "building" housing a permitted "use" on any "lot" shown as a separate parcel upon a subdivision map or plat duly approved by the Planning Board of the Town of Pound Ridge and recorded in the Office of the County Clerk, Division of Land Records, prior to the date of the adoption of this chapter; provided, however, that the owner or subdivider has filed a bond with the Town for the completion of the "street" improvement and utilities as required by the Planning Board under the provisions of §§ 277 and 278 of the Town Law, or, in the alternative, such "street" and utilities have been completed as required by the Planning Board.
- C. In the case of a "lot" having nonconforming dimensions in a residential -"district," the minimum required front and "rear yards" shall be those of the residential "district" in which said "lot's depth" would meet the current requirements, and the minimum required "side yards" shall be those of the residential "district" in which said "lot's width" would meet the current requirements.

§ 113-34. Town boundary lines; effect on Tax Map.

- A. Where a "building" "lot" heretofore created and adjoining the boundary line of the Town of Bedford meets the acreage, width and depth requirements of this chapter computed by reference to the Town boundary as fixed on the Pound Ridge Tax Map, or where such a "lot" is a "lot" in a subdivision approved by the Pound Ridge Planning Board in reliance upon the location of said boundary line as shown on said Tax Map, such "building" "lot" shall hereafter be deemed and considered a lawful and conforming "lot" within the Town of Pound Ridge for the purpose of administering this chapter and shall not be deemed nonconforming by reason of any subsequent relocation or reestablishment of the Bedford-Pound Ridge boundary line. In the event of a future judicial or legislative determination fixing, adjusting or establishing said boundary in such manner as to reduce the acreage of a "lot" within Pound Ridge or otherwise render it nonconforming to this chapter, the owner of such "lot" and his successors, grantees and assigns shall continue to enjoy all the

rights and privileges of this chapter applicable in the case of a "lot" lying entirely within the Town of Pound Ridge, and this chapter shall be applied to such "lot" and such owner by reference to the existing Town boundary as fixed on the Pound Ridge Tax Map and not by reference to a relocated boundary.

- B. In the case of a "lot" already nonconforming to this chapter by reason of its creation prior to the effective date hereof (November 4, 1959) and adjoining the Bedford-Pound Ridge boundary as shown on the Pound Ridge Tax Map, such nonconformity shall not be deemed increased for the purpose of administering this chapter in the event of relocation of said boundary line. Such nonconforming "lot" and the owner thereof and his successors, grantees and assigns shall continue to have the extent of nonconformity determined by the existing Pound Ridge Tax Map and not by reference to a relocated boundary.
- C. From and after the date upon which a final legislative or judicial determination fixing, modifying or adjusting the aforesaid boundary line shall be rendered, the line so fixed, modified or adjusted shall thereafter be used to determine conformance with the provisions of this chapter for "building" "lots" not covered by Subsections A and B above.

ARTICLE V
Residential District Regulations

§ 113-35. Applicability.

The following regulations apply to the residential "districts" established under this chapter.

§ 113-36. Schedule of "use" regulations; site plan approval.

- A. The accompanying schedule entitled "Schedule of Use Regulations, Residential Districts, § 113-36," shall be deemed part of this article and is referred to herein as "Use Schedule."⁷
- B. Site plan approval. Site plan approval by the Planning Board shall be required for (i) any new permit-required "structure," or (ii) "teardown" as defined under the New York State Building Code, (iii) special permit "uses" (1) through (16) listed in the Use Schedule in accordance with all standards and requirements of Article IX of this chapter. For the purpose of protecting the health, safety and general welfare of the Town of Pound Ridge, and specifically to mitigate the potential impact of the above-referenced nonresidential "uses" on adjacent residential properties, a fifty-foot buffer screening area shall be maintained along all perimeter boundaries of properties containing such "uses." Such buffer screening area may be modified by the Planning Board where the topography and/or other factors make it unnecessary to maintain the required 50 feet. Within the buffer area, existing vegetation and natural features shall be preserved and protected unless modified as part of a landscape plan approved by the Planning Board. Routine maintenance, including fertilization, the removal of dead or diseased vegetation, brush clearing, etc., and the planting of supplemental and/or seasonal vegetation shall be permitted. Any other construction or alteration within such buffer area shall be subject to site plan approval by the Planning Board as provided herein. [Amended 5-4-2006 by L.L. No. 5-2006]

§ 113-37. Schedule of bulk regulations; supplementary setback requirements.

- A. For convenience in administration and for the better understanding of this chapter and in order to assure that all development in the Residential, the "Landscape Nursery and Garden Center" and the Planned Business "Districts" is appropriately located on individual "lots" so as to achieve the purposes established in Article I of this chapter, the accompanying schedule entitled "Schedule of Bulk Regulations, § 113-37," shall be deemed part of this article and is referred to herein as "Bulk Schedule."⁸ The requirements listed for each "district" as designated are subject to all other provisions of this chapter and, unless otherwise indicated, shall be deemed to be the minimum requirements in every instance of their application.
- B. Supplementary setback requirements.
 - (1) Purpose of supplementary setbacks. The setback requirements listed in the

7. Editor's Note: Said Schedule of Use Regulations, Residential Districts, is located at the end of this chapter.

8. Editor's Note: Said Schedule of Bulk Regulations is located at the end of this chapter.

Bulk Schedule of this chapter are considered to be the minimum standards necessary to assure the appropriate development and "use" of land consistent with the purposes of this chapter. In order to assure that development on newly created "lots" in residential "districts" is appropriately located so as to achieve the purposes established in Article I of this chapter, the Planning Board is hereby authorized to establish supplementary setback requirements for all "structures" in residential "districts." Such setback requirements shall in no case be less than the existing setback requirements for the specified "district" in which such "lot" is located.

- (2) Criteria for determination. In determining whether such supplementary setback requirements should be required, the Planning Board shall utilize the following criteria:
 - (a) The presence on the site of unique natural resources, including but not limited to controlled areas and the minimum activity setback as defined in the Town Freshwater Wetlands Law,⁹ steep slopes and rock formations, unique vegetation and areas of wildlife habitat.
 - (b) The presence on the site of unique cultural resources, including but not limited to "buildings," "structures," stone walls or artifacts of archaeological value.
 - (c) The existence of unique aesthetic features, including but not limited to views and vistas.
 - (d) The relationship of the property to adjoining and nearby properties, "buildings" and "structures."
- (3) Procedures. For new subdivisions, supplementary setbacks shall be shown on the final plat to be filed with the County Clerk. Application for modification of supplementary setback requirements shall be made to the Planning Board and shall include such information as would normally be required by the Planning Board. The Planning Board shall render its decision at a regularly scheduled meeting of the Board in a timely fashion, and the results of that decision shall be kept on file with the Building Inspector and the Planning Board Secretary. If the proposed activity is regulated under the Pound Ridge Freshwater Wetlands Law,¹⁰ then approval by the Water Control Commission shall also be obtained. Relief from the minimum setback requirements or other requirements listed in the Bulk Schedule shall require action by the Zoning Board of Appeals in accordance with Article XI of this chapter.

§ 113-38. Supplementary regulations.

The provisions of this article shall be subject to such exceptions, additions or modifications as herein provided by the following general supplementary regulations:

- A. "Yards" and setbacks.

9. Editor's Note: See Ch. 63, Freshwater Wetlands.

10. Editor's Note: See Ch. 63, Freshwater Wetlands.

- (1) Terraces and porches. A paved terrace shall not be considered in determination of "yard" size or "lot coverage"; provided, however, that such terrace is unroofed and without walls, parapets or other forms of enclosure. Such terrace, however, may have an open guard railing not over three feet high and shall not project into any "yard" to a point closer than 25 feet from any "lot line." Any two-"story" or any enclosed porch, or one having a roof and capable of being enclosed, shall be considered a part of the "building" in the determination of the size of the "yard" or amount of "lot coverage."
- (2) Projecting architectural features. Cornices, eaves, chimneys, bay windows, windowsills, belt courses and other architectural features may project not more than two feet into any required "yard" or into any "parking area" in a PB-A, PB-B or PB-C "District."
- (3) Except for "dry" stone walls, open horizontal board farm fencing or post and rail fence, fencing may not enclose more than 50% or a maximum of two acres, whichever is less, on any property that is zoned R-2A or higher. **[Added 5-1-2003 by L.L. No. 5-2003¹¹]**
- (4) Nonelectric "fences, walls, gates, pillars and berms."
 - (a) "Fences, walls, gates, pillars and berms" within 30 feet of a property line. It is the intent of this subsection to balance the need for maintaining open vistas from area roadways, for facilitating emergency access to "structures," for providing safe "sight distances" and for maintaining the open space character of the Town of Pound Ridge with the need to screen or buffer unreasonable invasions of privacy which are beyond the control of the property owner, including but not limited to traffic noise, air pollution, unsightly views and proximity of house or outdoor living areas to a heavily traveled "street" and disparate "uses" (such as residential "lots" adjacent to nonresidential "lots," residential "lots" adjacent to nonconforming "lots" and residential "lots" adjacent to unusual "uses" in a residential "district"). All nonelectric "fences" greater than four feet in "height" within the minimum vegetated buffers which are not shown on a construction drawing or site plan approved by the Planning Board shall require Planning Board approval.
 - (b) The requirement of this article shall not be deemed to prohibit any necessary retaining "wall" nor to prohibit any "earthen berm," "fence" or "wall," provided that in any residential "district" such "berm," "fence" or "wall" shall not exceed the "height" restrictions outlined in this section.
 - (c) "Height" of "fences, walls and berms."
 - [1] Berms throughout the Town in any "yard" shall not exceed four feet in "height."
 - [2] "Fences" and "walls" in the "front (or streetside) yard" shall not exceed four feet in "height," except for those roads listed on the

11. Editor's Note: This local law also provided for the renumbering of former Subsection A(3) through (10) as Subsection A(4) through (11), respectively.

Heavy Traffic Road List filed in the Building Department office. An additional two feet of open construction or semiscreen fencing for a total of six feet in "height" for "front (or streetside) yards," installed at least 10 feet inside the front property line, is permitted on roads listed on the Heavy Traffic Road List, except where such roads have a posted speed limit of 30 miles per hour or under.

- [3] Open, horizontal board fencing or post and rail fencing may have a maximum height of five feet. **[Added 5-1-2003 by L.L. No. 5-2003¹²]**
 - [4] Any "fence" or "wall" for a landmark-designated property or for a property in an historic "district" is required to receive a certificate of appropriateness under Chapter 17, Historic "Districts," of this Code from the Landmarks and Historic District Commission of the Town of Pound Ridge before construction begins.
 - [5] "Fences" and "walls" in side and "rear yards" shall not exceed six feet in "height" and may consist entirely of closed construction fencing and be located next to a property line. It is recommended that abutting neighbors agree on a mutually acceptable fence style if a fence is to be erected next to a shared property line. **[Amended 5-1-2003 by L.L. No. 5-2003]**
 - [6] In determining "fence height," posts, post caps, post tops, "pillars" and "gates" are excepted.
- (d) Pillars and gates, "fences" and wall openings. Pillars up to two feet wide, whether supporting gates or standing alone, and extending to a maximum "height" of six feet, shall be permitted. The overall "height" of a gate in conjunction with a nonelectric "fence" may be no higher than five feet on a "street" not listed on the Heavy Traffic Road List, and may be no higher than six feet on "streets" that are listed on the Heavy Traffic Road List. Gates shall be set back from the edge of the "street" pavement a minimum of 20 feet to allow a vehicle confronted by a closed gate to stop out of the lane of traffic. Pillars, gates or other barriers shall not be placed any closer than 16 feet apart to allow easy access of emergency service apparatus to the premises. In all cases, the Building Inspector of the Town of Pound Ridge may use his discretion in requiring an access width of more than 16 feet when specific site conditions require same. In no case shall pillars or gates be installed on public property. **[Amended 5-17-2007 by L.L. No. 3-2007]**
 - (e) Orientation of "fences, walls and berms." If any "fence, wall or berm" located within a "yard" has a finished or more attractive side, such side shall face the neighboring property or the "street."
 - (f) "Fences, walls, gates, pillars and berms" in nonresidential "districts." "Fences, walls, gates, pillars and berms" in nonresidential "districts" shall

12. Editor's Note: This local law also provided for the renumbering of former Subsection A(4)(c)[3] through [5] as Subsection A(4)(c)[4] through [6], respectively.

be subject to site plan review in accordance with Article IX, Site Plan Requirements, of this chapter.

- (g) Existing "fences," walls, gates, pillars and berms of all types which are made "dimensionally nonconforming" by this legislation are to be immediately registered with the Building Department. They will be required to conform to the extent reasonable and practicable as determined by the Building Inspector within a period of time determined by the Building Inspector based on the required modifications, but in no case less than two years. The Building Inspector may request such cases to be reviewed by the Planning Board to mitigate any adverse conditions. When requiring conformance and/or mitigation measures, the Building Inspector and/or the Planning Board shall take into consideration the degree of nonconformance, whether the fence was constructed in accordance with the zoning in effect at the time and the impact and the age of the improvements relative to the public benefit practicality and cost of appropriate mitigation and conformance measures.
- (5) Electric and open wire "fences." Electric and open wire "fences" up to seven feet in "height" are permitted under the following conditions: **[Amended 5-1-2003 by L.L. No. 5-2003]**
 - (a) A permit must be obtained from the Building Inspector.
 - (b) Electric and open wire "fences" shall be set back a minimum of 10 feet from all property lines and buffered by trees and/or shrub planting as required by the Building Inspector to soften the effect of the fence in areas where there is insufficient natural vegetation. The Building Inspector may call on the Conservation Board for recommendations and assistance in creating buffered area planting requirements.
 - (c) Open wire fences must be thin gage and black or dark green vinyl coated. Posts supporting open wire fences are to be black or dark green metal posts or natural cedar posts.
 - (d) Unless otherwise approved by the Building Inspector, electric "fence" specifications shall be:
 - [1] Wire to be 12.5-gauge Class 3 galvanized high-tensile steel with a life expectancy of 30 to 40 years, painted black.
 - [2] Posts of either 0.4 CCA pressure-treated pine (ends, corners, gates) or fiberglass and/or steel T-posts (line posts) painted black and set on fifteen-foot to twenty-foot centers, with occasional use of trees as posts using galvanized insulated J-bolts.
 - (e) Electric "fence" materials and installation procedures must meet Underwriters' Laboratories, Inc., standards as well as the standards of construction as set forth by the Pound Ridge Building Department.
 - (f) Electric "fence" construction must be inspected and approved by the Building Inspector for compliance with Underwriters' Laboratories, Inc.,

safety standards and must receive a certificate of compliance for all aspects of the installation from the Building Department before becoming operational. Failure to comply with this or any other subsection of this law shall be punishable by an initial penalty not to exceed \$750, and thereafter a penalty of \$100 per day until a certificate of compliance is issued.

- (g) Owners of electric "fences" located within 20 feet of any property line are required to post warning "signs" on the "fence," one "sign" for each 40 to 50 linear feet of "fence." One such "sign" must also be placed at the driveway entrance(s).
- (h) Gates for vehicular access in conjunction with electric "fences" shall be set back a minimum of 20 feet from the edge of the road to allow a vehicle confronted by a closed gate to stop out of the lane of traffic. The minimum unobstructed access width shall be no less than 16 feet. In all cases, the Building Inspector of the Town of Pound Ridge may use his discretion in requiring an access width of more than 16 feet when specific site conditions require same. In no case shall a gate be installed on public property. If the property owner elects to have an automated or motorized gate operator, the property owner must also have a manual override located on the road side of the gate for emergency service access or an approved lock box system. **[Amended 5-17-2007 by L.L. No. 3-2007]**
- (i) A property owner may elect to install an electrified gate and/or various other types of gates for vehicular or pedestrian access. In no case shall a gate be higher than six feet.
- (j) If a property owner elects to install an electrified gate, rather than a cattle guard or a gate operated by an electric eye, the electrified gate must have insulated latch handles and must be painted black.
- (k) If an owner elects to install a solid wooden or fiberglass gate, such gate must be of open construction for any portion above a "height" of 4.5 feet.
- (l) If an owner elects to install a cattleguard, either a precast reinforced concrete cattleguard insert or a unit of metal piping in concrete may be used. With any cattleguard the space under the insert or piping shall be no less than 12 inches in depth. A pedestrian gate shall be installed adjacent to any cattleguard.
- (m) No electric "fence" shall be constructed which will preclude effective access to the subject property by emergency service responders.
- (n) The Building Department shall maintain a list of all electric "fence" locations for circulation to emergency service personnel.
- (o) All existing electric "fences" not previously registered with the Building Department must be registered immediately and modified to conform to the requirements of the Zoning Law as is reasonable and practicable in the judgment of the Building Inspector. The Building Inspector shall, in writing, identify the required time period to implement such

improvements. When requiring conformance and/or mitigation measures, the Building Inspector shall take into consideration the degree of nonconformance, whether the fence was constructed in accordance with the zoning in effect at the time and the impact and the age of the improvements relative to the public benefit, practicality and cost of appropriate mitigation and conformance measures. All existing electric "fences" predating the enactment of this subsection must be registered with the Building Department so that emergency services may be notified of their locations.

- (6) Pool "fences." All swimming pools are required to be fenced. Swimming pools constructed after January 3, 2003, must comply with the Residential Code of the State of New York, Title 19 NYCRR, Section AG105. Swimming pools constructed between October 24, 1985, and January 2, 2003, must comply with Title 9 NYCRR Section 720.1. Swimming pools constructed before October 25, 1985, must comply with Title 9 NYCRR, Section 1243.7, and Title 19 NYCRR, and Section 203.7.2.1 of the Property Maintenance Code of the State of New York. **[Amended 5-1-2003 by L.L. No. 5-2003]**
- (7) Construction of any "fence" under this subsection shall be in compliance with Chapter 63, Freshwater Wetlands.
- (8) Prohibited "fences." The following "fences" and fencing materials are specifically prohibited:
 - (a) Barbed, razor or ribbon wire or broken glass as part of any "fence," unless specifically permitted.
 - (b) Pointed metal "fences."
 - (c) Poultry wire, turkey wire, chain link or other wire "fences" (except as specifically permitted under § 113-38A(5) above), within 30 feet of any property lines. **[Amended 5-1-2003 by L.L. No. 5-2003]**
 - (d) Temporary "fences," such as snow "fences," unless on sites under construction or for snow control.
 - (e) Chain link "fences" erected with the open loop at the top of the "fence."
- (9) Existing "fences." All existing "fences" which do not conform to the provisions of this chapter continue to be in violation. Existing electric "fences" must be registered with the Building Department. Existing "fences" shall not be "altered," extended, replaced or modified except in accordance with the provisions of this chapter.
- (10) "Sight distances" at intersections. At any "street" intersection in any residential "district," no "fence, wall, gate, pillar, berm" or other "structure" or planting more than three feet in "height" shall be erected, placed or maintained within the triangular area formed by the intersecting "street" lines and a straight line joining said "street" lines at points which are 75 feet distant from the point of intersection, measured along said "street" lines. The "height" of three feet shall be measured above the road surface at the nearest edge of the road. This

subsection shall not apply to existing trees, provided that no branches are closer than eight feet to the ground.

- (11) "Corner lots." On a "corner lot" in any residential "district," there shall be provided a "yard" on each "street" equal in depth to the required "front yard" on such "streets." A "rear yard" shall be provided on each "corner lot," and the owner shall elect which "yard" is the "rear yard."
- (12) In no case shall a private individual install fencing, walls, gates, pillars or berms on public property. **[Added 5-1-2003 by L.L. No. 5-2003]**
- (13) All proposed fences, walls, gates, pillars and berms require a permit from the Building Department. **[Added 5-1-2003 by L.L. No. 5-2003]**
- (14) Penalties for failure to comply with all requirements that relate to fencing are outlined in § 113-96 of this chapter. **[Added 5-1-2003 by L.L. No. 5-2003]**

B. "Height" exceptions.

- (1) The "height" limitations of this article shall not apply to spires, cupolas and domes of churches or other places of worship, nor to chimneys, ventilators, skylights, water tanks, bulkheads or similar features and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such "height" as is necessary to accomplish the purposes they are intended to serve, but in no case exceeding eight feet above the roof line, and the total area covered by such features shall not exceed 10% of the area of the roof on which they are located.
- (2) The provisions of this article shall not prevent the erection above the "building height" limit of a parapet wall or cornice, for ornament and without windows, extending above such "height" limit no more than five feet.
- (3) The "height" limitations of this article shall not apply to transmission towers and cables, radio, television or "wireless telecommunications services facilities" when such "structures" are otherwise permitted by this chapter. **[Added 8-13-1998 by L.L. No. 7-1998]**

C. "Dwellings" in "accessory buildings." Any "accessory building" on the same "lot" with a principal residence shall not be used for residential purposes, except as provided in § 113-39.

§ 113-39. "Accessory apartments." [Amended 5-2-2002 by L.L. No. 1-2002]

- A. In an effort to increase housing options in the Town of Pound Ridge, the Town has concluded that enactment of legislation designed for this purpose is desirable and necessary. It is the specific purpose and intent of allowing "accessory apartments" in the R-2A and R-3A one-family residential "districts" to provide the opportunity and encouragement to owners of "one-family dwellings" within those "districts" to develop small, rental housing units designed to meet the special housing needs of single persons and couples. It is also the purpose and intent of this provision to promote the more efficient use of the Town's existing inventory of "dwellings" and "accessory buildings," thereby protecting and preserving property values; providing

economic support for present property owners and promoting the other objectives of this section. The following specific standards and requirements are set forth for the permitted establishment and use of such "accessory apartments."

- (1) "Accessory apartments" may be located in R-2A and R-3A Residential Districts.
- (2) The owner of the lot on which the "accessory apartment" is located must occupy either the principal residence or the "accessory apartment."
- (3) There shall be no more than one "accessory apartment" per "lot" regardless of the amount of excess acreage.
- (4) All new "accessory apartments," whether located within a principal residence "building" or in a conforming "accessory building," shall be subject to site plan review by the Planning Board.
- (5) The minimum size of an "accessory apartment," whether located within a principal residence or in an "accessory building," shall be 300 square feet. In no case shall it exceed 1,200 square feet.
- (6) The size of an "accessory apartment" must not exceed 30% of the "gross floor area," exclusive of unfinished "basement," attic and garage, of the principal residence.
- (7) Whether located in a principal residence "building" or in an "accessory building," there shall be no more than two bedrooms in an "accessory apartment."
- (8) Prior to the issuance of a building permit for the establishment of an "accessory apartment" either in a "principal building" or an "accessory building," approval of the proposed plan for septic disposal and water supply, prepared and signed by a sanitary engineer licensed by the State of New York, shall be obtained from the Westchester County Department of Health and confirmed by the Planning Board.
- (9) Whether in a principal residence or located in an "accessory building," where any proposed "accessory apartment" (including any septic, water or other systems and services used for such "accessory apartment") is proposed to be located in whole or in part within the Town minimum one-hundred-fifty-foot wetlands activity setback area, the applicant must demonstrate to the satisfaction of the Water Control Commission that the proposed use will have no negative impact upon the surrounding wetlands. Indications of negative impact will result in the automatic denial of the "accessory apartment" application.
- (10) During its site plan review, the Planning Board shall determine the adequate on-site vehicle parking requirements for any proposed "accessory apartment" and such parking requirements shall be clearly shown on the approved site plan. A minimum of two parking spaces is required. Under no circumstances may the Planning Board approve on-street vehicle parking for the occupants of the principal residence or any approved "accessory apartment."

- (11) One curb cut shall access both the principal and the accessory residence. No "double cut" driveways will be permitted.
 - (12) Within 30 days of receipt of a completed application which conforms to all standards as set forth above, the Building Inspector shall conduct an on-site inspection of the proposed "accessory apartment" location to confirm the physical details of the site as it relates to the proposed application.
- B. "Accessory apartments" located in principal residence "buildings."
- (1) "Accessory apartments" may be located within existing space of a conforming principal residence "building," provided both the apartment and the principal building are in conformance with all applicable health codes, building codes, zoning codes, fire codes and this chapter.
 - (2) In the case of an "accessory apartment" located within existing space of a conforming principal residence "building," minimal footprint increases shall be permitted to accommodate a separate entrance and/or the addition of a staircase, where appropriate. Such minimal footprint increases must be approved by the Building Inspector and be included as part of the site plan review by the Planning Board.
 - (3) "Accessory apartments" within a principal residence "building" shall not exceed a maximum of 1,200 square feet or 30% of the "principal building," whichever is less. The minimum size of an "accessory apartment" within a principal residence is 300 square feet.
 - (4) If an "accessory apartment" is located in a principal residence "building," the entry to the "accessory apartment" unit and its design shall be such that the appearance of the principal residence "building" shall remain as a single-family residence.
 - (5) "Accessory apartments" may also be added to a principal residence "building," provided both the "principal building" and the apartment are in conformance with all applicable health codes, building codes, zoning codes, fire codes and this chapter.
 - (6) "Accessory apartments" added to a principal residence shall not exceed a maximum of 1,200 square feet or 30% of the "principal building," whichever is less. The minimum size of an "accessory apartment" added to a principal residence is 300 square feet.
 - (7) If an "accessory apartment" is added to a principal residence "building," the entry to the "accessory apartment" unit and its design shall be such that the appearance of the principal residence "building" shall remain as a single-family residence.
- C. "Accessory apartments" located in conforming "accessory buildings."
- (1) Any "accessory building," which is proposed for use as an "accessory apartment," shall comply in all respects with all applicable building codes and setback standards for the "district" in which it is located.

- (2) "Accessory apartments" are permitted in accessory structures existing as of January 1, 2023, providing the accessory use is maintained within the "accessory building" with the apartment and providing both the apartment and the "accessory building" are in conformance with all applicable health codes, building codes, zoning codes, fire codes and this chapter. **[Amended 12-14-2017 by L.L. No. 4-2017]**
- (3) To provide an "accessory apartment" in a conforming "accessory building" the accessory building may be increased in area by no more than 115% and increased in footprint by no more than 15%. Alternatively, the "accessory apartment" may increase the footprint of the "accessory building" by no more than 100% and increase the area by no more than 100%. In either case, the resulting apartment is not to exceed 1,200 square feet and in no case to exceed 30% of the size of the principal residence "building," whichever is less. As part of the required site plan review, the Planning Board will decide whether the proposed "accessory apartment" will comprise a vertical or horizontal addition in order to maintain the existing character of the site.
- (4) The minimum size of 300 square feet and the maximum size of 1,200 square feet applies to apartments in, or added to, "accessory buildings."

D. Registration, application circulation, conformance.

- (1) All "accessory apartments" must be registered with the Building Department under this chapter.
- (2) Site plan approval by the Planning Board is required for all "accessory apartment" applications.
- (3) Violations: See § 113-95.

ARTICLE VI
Landscape Nursery and Garden Center District

§ 113-40. Legislative intent.

This "district" is established for the purpose of allowing an appropriate location in Pound Ridge for the permitted conduct of a "landscape nursery and garden center," which is determined to be a convenience business function closely related to the Town's primary residential land "use" pattern and harmonious with its character.

§ 113-41. Schedules of "use" and bulk regulations.

For convenience in administration and for the better understanding of this chapter and in order to assure that all development is appropriately located on individual lots" so as to achieve the purposes established in Article I of this chapter, the permitted "uses" and bulk requirements for the "Landscape Nursery and Garden Center" "District" have been incorporated into the accompanying schedules entitled "Schedule of Use Regulations, Nonresidential Districts, § 113-41" and "Schedule of Bulk Regulations, § 113-37" and are referred to herein as "Use Schedule" and "Bulk Schedule," respectively.¹³

§ 113-42. Required open space.

- A. Setbacks. All "buildings," "structures," storage areas and parking facilities shall be set back at least 100 feet from all "street" property lines.
- B. Buffer areas. Where determined necessary or appropriate by the Planning Board as a part of the site plan review process, evergreen-landscaped buffer areas may be required to screen the nonresidential "uses" on the property from neighboring "streets" or residences. Where a landscape buffer is required by the Board, it may consist of nursery stock for sale or display.
- C. Distance between "buildings." Enclosed "buildings" shall be separated by a distance equal to at least 1/2 the average "height" of the "buildings" at their point of closest proximity, but in no case less than 10 feet.

§ 113-43. Site plan approval.

- A. Site plan approval by the Planning Board is mandatory for any expansion or change in a "landscape nursery and garden center" which would result in an increased intensity of "use," as measured by the amount of off-"street" "parking space" required and for the construction of any new or expanded "buildings" or any significant change in the traffic and parking pattern or any relocation or increase in the area of any outdoor storage, sales or display areas or any other modification of a site plan previously approved by the Planning Board.
- B. Where site plan approval is required, no permit or certificate shall be issued by the Building Inspector in connection therewith until and unless a plan shall have been reviewed and approved by the Planning Board. All site development and "use" of the property shall be fully in conformance with the approved site plan and such

13. Editor's Note: Said Schedule of Use Regulations, Nonresidential Districts, and Schedule of Bulk Regulations are located at the end of this chapter.

additional standards and safeguards as are imposed on such property as a condition of site plan approval. Continued conformance with the approved site development plan shall be required as a condition of the continuance of the certificate of conformance and certificate of occupancy. Failure to so maintain or continue conformance shall be cause for the revocation or removal of any such certificate of conformance and certificate of occupancy and the immediate discontinuance of the approved "use."

- C. Site plan review by the Planning Board shall be in accordance with the procedures, standards and requirements of Article IX of this chapter.

ARTICLE VII Business District Regulations

§ 113-44. Applicability.

The following regulations apply to the business "districts" established under this chapter.

§ 113-45. Schedules of "use" and bulk regulations.

For convenience in administration and for the better understanding of this chapter and in order to assure that all development is appropriately located on individual "lots" so as to achieve the purposes established in Article I of this chapter, the permitted "uses" and bulk requirements for the Planned Business "Districts" have been incorporated into the accompanying schedules entitled "Schedule of Use Regulations, Nonresidential 'Districts,' § 113-41" and "Schedule of Bulk Regulations, § 113-37," are referred to herein as "Use Schedule" and "Bulk Schedule," respectively, and are deemed to be part of this article.¹⁴

§ 113-46. Planned Business A (PB-A) "District."

- A. Statement of intent. The Planned Business A "District" is established for the convenience of persons residing in a major residential area of the Town and is intended to be limited primarily to businesses serving the ordinary shopping needs of the residents. "Uses" in this "district" may include a coordinated group of stores designed as a unit. In order to achieve a practicable balance between the existing and future business and commercial facilities and the off-"street" parking to serve these facilities, "building" areas and "parking areas" are established in this "district." These areas are delineated on the supplemented Zoning Map of the Town of Pound Ridge.¹⁵ The "uses" permitted in these areas shall be regulated as prescribed herein. Site plan approval by the Planning Board, and conformance to the approved site plan, are mandatory requirements of this "district."
- B. "Use" of "building" areas. In a "building" area of a PB-A "District," no "building" or "premises" shall be used and no "building" or group of "buildings," or part of any "building" or "structure," shall be erected, constructed, enlarged, "altered," arranged, used or designed to be used, in whole or in part, except for one or more of the "uses" set forth in the Use Schedule. Only those "uses" specifically listed shall be permitted. Such "structure" or "use" must be located within the "building" area designated for the affected property, as provided in this section, except that the Planning Board may, in its discretion, permit covered walks or canopies to extend or project outside the "building" area where such walk, passageway or canopy is designed and intended to protect shoppers and pedestrians from inclement weather. Such covered walks may be attached to a "building" by the "use" of roof overhanging or cantilever construction or may be supported by columns outside the "building" area, but the covered area, regardless of design, shall not interfere with the movement and circulation of vehicles in the "parking areas" or access drives and shall not decrease the number of "parking spaces" in the parking "district"; and

14. Editor's Note: Said Schedule of Use Regulations, Nonresidential Districts, and Schedule of Bulk Regulations are located at the end of this chapter.

15. Editor's Note: Said map is included in the pocket at the end of this volume.

the curbs, columns (if any), grade, paving and lighting of the covered area must be designed to afford safe "use" of the "parking areas" and access drives by vehicles and pedestrians. No part of any such overhang, passageway or canopy shall be used for the sale or display of merchandise or for the storage of goods or refuse material, and any such permitted covered walk shall be maintained, repaired, lighted and kept clean by the owner of the "structure" or "structures" served by such walk. Where permitted by the Planning Board as herein provided, such walks or canopies shall be included and shown on plans submitted for "building" permits and shall be deemed to be in conformance with the provisions of Subsections C and D of this section.

- C. Permitted "uses" in "parking areas." No "building" or "structure" shall be erected or "altered" within a "parking area," and no "use" shall be permitted other than the ground-level parking, loading, unloading and movement of automobiles and other vehicles, as accessory to the permitted "uses" and "buildings" in the adjoining "building" areas. The "parking areas" are intended for transient parking of private motor vehicles of persons employed at, residing within or doing business within the PB-A "District." The storage of vehicles, or the parking of vehicles for sale, lease, rent or hire, or the servicing or dismantling of vehicles shall be expressly prohibited within the designated "parking areas."

(1) Exceptions.

- (a) "Structures" or "uses" operated by or on behalf of the public parking "district" having jurisdiction over the improved "parking areas" shall be permitted as a permitted "use" in a "parking area" as, for example, "structures" for the storage of "parking area" maintenance equipment and materials.
 - (b) In addition, temporary or seasonal "uses," the duration of which shall not be longer than one year, which are accessory to principal "uses" that are permitted and exist within mapped "building" areas may be permitted within appropriate portions of the mapped "parking areas," subject to the issuance of a special permit by the Town Board in accordance with the standards and procedures as set forth in Article VIII hereof and provided that said Board determines, in addition to the required determinations of Article VIII, that such "use" is appropriate and compatible with the proper functioning and appearance of the PB-A "District," that it will be consistent with the purposes and intent of that "district" and that it will not interfere with the safe and convenient movement, parking, loading and unloading of vehicles, the circulation of pedestrians and ease of access to "buildings" in case of emergency.
- (2) Temporary "buildings." The Zoning Board of Appeals may grant a variance permitting the erection of a temporary "building" in any "parking area" established in accordance with this section if such "parking area" has not been improved for public parking. Such variance shall limit the "use" of such temporary "building" to a period of no more than one year and shall further specify that the "building" must be removed upon written notification to the owner by the agency having authority to improve such parking facilities that such improvement is about to be made. At least 30 days' notice must be given to the owner of such temporary "building," but the Board of Appeals may

require, as a condition of granting a "building" permit for such temporary "building," that the owner file a performance bond satisfactory to the Town Board as to form, sufficiency and manner of execution, to cover the full cost of removing such "building" and restoring the site to its original condition. Such temporary variances may be renewed for additional one-year periods, provided that application is made to the Board of Appeals prior to the expiration date of the current authorization. All such temporary "buildings" shall be subject to all other provisions of this section and this chapter, including site plan review by the Planning Board.

- D. Required open spaces. The areas to be provided as front, side and "rear yards" on each property have been shown on the Zoning Map¹⁶ as lying outside the "building" area. No setbacks from the limits of the "building" areas are required, with the following exception. If, within any one "building" area, two separate "buildings" are constructed, the minimum distance between "buildings" shall not be less than six feet or 1/2 the "height" of the taller "building," whichever distance is the greater.
- E. Off-"street" parking and loading.
- (1) Parking requirements deemed served. In the PB-A "District," the individual requirements to provide off-"street" "parking spaces" for any existing or proposed "buildings" or "structures" shall be deemed to have been satisfied, and no additional "parking spaces" shall be required for the issuance of a "building" permit for any "use" permitted under Subsection B or in the Use Schedule,¹⁷ provided that the designated "parking area" portion of such property has been suitably improved for such purposes and made available for public "use" through participation in the parking "district." Otherwise, off-"street" parking and loading shall be required to comply with the standards of Article X and shall be subject to site plan approval by the Planning Board. However, in order to fulfill the requirements of Article VIII regarding special permit "uses," the Town Board shall assure that safe and adequate ingress and egress are provided for any proposed special permit "use." The Town Board may, therefore, require additional parking within the "building" area of a particular "lot" on which a special permit use is proposed to accommodate the needs of such a "use" for parking, loading, access and adequate buffering and screening.
 - (2) Additional parking permitted. The establishment of "parking areas" in accordance with this section shall not be interpreted to prevent the voluntary creation of or continuation of existing parking and loading facilities within the "building" areas hereby established, provided that such facilities are compatible with the design of the parking facilities established in the "parking areas" with respect to traffic and pedestrian safety, do not require separate driveway access and are approved by the Planning Board in accordance with the procedures of Article IX of this chapter. Such parking facilities may be restricted for "use" by the patrons and employees of the "building" or "structure" they are intended to serve and shall be maintained privately. No such private parking facilities shall be permitted in the "front yard" of any

16. Editor's Note: Said map is included in the pocket at the end of this volume.

17. Editor's Note: The Schedule of Use Regulations, Nonresidential Districts, is located at the end of this chapter.

"building" or "structure," except in those cases, such as gasoline filling stations, where such "front yard" parking is clearly for the temporary "use" of patrons and is essential to the conduct of principal permitted "use."

- (3) Off-"street" loading. One off-"street" "loading space" shall be provided for the first 4,000 square feet of "building" floor area used for nonresidential purposes, and one additional "loading space" for each additional 10,000 square feet of "building" floor area or major part thereof over 4,000 square feet. Such loading space" shall be so located that, when in "use," it will not interfere with the safe movement of pedestrians and vehicles to, from or within the "parking area."

F. Site plan approval.

- (1) Before the issuance of any "building" permit or certificate of conformance and certificate of occupancy in a "building" area of a PB-A "District" for the construction of a new "building," for an alteration which increases in any direction or dimension the ground plan or floor area of an existing "building," for any change in the "use" of a "building" or property which results in an increased intensity of "use" as measured by the amount of water usage, sewage generation, traffic generation or off-street parking or loading requirements, as determined by the Planning Board, or for any work upon a "lot" on which a "structure" or part thereof extends into a "parking area," a detailed site plan of the entire "lot" shall be approved by the Town Planning Board in accordance with Article IX.
 - (2) Landscaping. Those open spaces on the property which are not required for pedestrian or vehicular access or for off-"street" parking and loading shall be entirely landscaped and permanently maintained with grass and hedges, trees, shrubs or other suitable plantings. The type and location of such planting shall be shown on the site plan and maintained in accordance with the provisions of § 113-24.
 - (3) Performance bond for removal of "buildings." In acting on a site plan relating to a property on which a "structure" or part thereof extends into a "parking area" established by this section, the Planning Board may require, as a condition to the issuance of a "building" permit, the posting of a performance bond in an amount sufficient to ensure the removal of the nonconforming "building" or nonconforming part thereof. Such bond shall be posted with the Town Board, which shall approve the form, sufficiency and manner of execution of such bond.
- G. Underground entrance of service wires. All power, telephone or other utility or communication service wires shall be placed underground within the boundaries of any "lot" in the PB-A "District."
- H. "District" boundaries. The area included in the PB-A "District" is shown on the amended and supplemented Zoning Map dated June 9, 1966,¹⁸ incorporated herein and made a part hereof by reference.

18. Editor's Note: Said map is included in the pocket at the end of this volume.

§ 113-47. Planned Business B (PB-B) "District."

- A. Statement of intent. The Planned Business B "District" is established for the convenience of persons residing in a major residential area of the Town and is intended to be limited primarily to businesses serving the ordinary shopping needs of the residents, as more specifically set forth in the Use Schedule.¹⁹ The nature and intensity of all new development in this "district" is to be limited to a scale and character consistent with that of the balance of the community.
- B. Required open spaces. "Building" locations shall comply with at least the following minimum conditions, except that where, in the judgment of the Planning Board, greater setback distances are necessary or appropriate for the orderly and harmonious development of the PB-B "District" and adjoining area, such greater requirements shall be complied with.
- C. Minimum distance between "buildings" shall be at least 1/2 the average "height" of the "buildings" as measured at the point of closest proximity, but in no case less than 10 feet.
- D. Landscaping and buffer areas. In addition to the following specific landscaping and buffer requirements, all portions of the site not covered by "buildings," driveways, walks, "parking areas" or other permanent site improvements shall be appropriately planted so that the site development will present an attractive appearance, provide cooling shade, preserve and enhance property values and harmoniously relate to surrounding land "uses" and the low-density residential character of the community. All plantings required by the provisions of this article shall be maintained in accordance with the provisions of § 113-24 of this chapter.
 - (1) Buffer area. A landscaped buffer area, planted with dense evergreen plantings of a size, type, "height" and arrangement approved by the Planning Board as adequate for the intended purpose shall be required to screen and protect neighboring residential properties from the view of "buildings," "uses" and "parking areas" on the site. Such buffer area shall be at least 15 feet in width along any "lot line" or portion thereof abutting or directly "across the "street" from a "lot" in a residential "district." Non-evergreen planting may be included to seasonally supplement evergreen planting but not to take its place. A "wall" or "fence," of location, "height," design and materials approved by the Planning Board as providing equivalent screen protection, may be substituted for part or all of the required planting. Where existing landscaping or other natural features or large setbacks from property boundaries or combinations of these or other special factors provide effective screening, as determined by the Planning Board, the buffer area requirement may be waived or modified.
 - (2) Internal landscaping within "parking areas." In all off-"street" "parking areas" containing 25 or more "parking spaces," at least 10% of the total area within the perimeter of the parking facility shall be curbed and landscaped with trees, shrubs and other plant material, and there shall be at least one tree with a minimum caliper of three inches at a "height" of four feet above ground level for each 10 "parking spaces." Such trees and landscaped parking islands shall

19. Editor's Note: The Schedule of Use Regulations, Nonresidential Districts, is located at the end of this chapter.

be arranged and designed in such a way as to provide vertical definition to major traffic circulation aisles, particularly where entrances and exits exist, and shall be of such type and location as will provide the maximum of shade without interfering with "sight lines" or impeding the safe flow of traffic. The type and location of all such landscaping shall be subject to Planning Board approval. Parked vehicles shall be permitted to overhang landscaped islands within "parking areas," provided that such overhang allowance does not exceed two feet, does not interfere with any pedestrian walkway and will not result in damage to trees or other landscaping material. The overhang area may be counted as part of the depth of the "parking space."

- (3) "Street" trees. Where it is determined by the Planning Board that the lack of existing trees along property lines bordering "streets" requires the addition of such trees to conform to the Town's planned improvement program or where existing "street" trees need supplementation or replacement, such trees, each of which shall be at least four inches in caliper at a "height" of four feet above ground level, shall be planted by the applicant in an amount and location and of a type as approved by said Board.
- E. Off-"street" parking and loading. Controlled and coordinated traffic access and adequate amounts of off-"street" parking and "loading space" are characteristics of this "district." Parking and loading areas shall comply with all requirements of Article X of this chapter.
- F. Site plan approval. Site plan approval by the Planning Board, in accordance with the procedures and requirements of Article IX hereof, shall be mandatory for any new, expanded or changed "building" development or any new, expanded or changed land or "building" "use" in the PB-B "District" which results in an increased intensity of "use" as measured by the amount of water usage, sewage, traffic generation or off-"street" parking or loading required, as determined by the Planning Board.
- G. "District" boundaries. The area included in the PB-B "District" is shown on the amended and supplemental Zoning Map adopted by the Town Board on June 9, 1966, as amended, which map is incorporated herein and made a part hereof by reference.²⁰

§ 113-48. Planned Business C (PB-C) "District."

- A. Statement of intent. The Planned Business C "District" is established for the same purposes as set forth for the Planned Business B "District," except that, because of the topographic character of the land in this "district," its close relationship to neighboring residential areas and its physical separation from the center of the Scotts Corners Business Area, a lesser permitted intensity of "use" is determined to be appropriate.
- B. Green spaces. **[Amended 1-12-2006 by L.L. No. 1-2006]**
 - (1) The areas included within the PB-C "District" which are shown on the Zoning

20. Editor's Note: Said map is included in a pocket at the end of this chapter.

Map as "green space area" shall be reserved as a buffer strip or zone within which no "buildings," "structures," improvements, "parking areas" or other "uses" permitted within the PB-C "District" shall be maintained or erected. Said areas as shown on said map shall be maintained in a natural state, except that the Planning Board of the Town of Pound Ridge shall be authorized, in acting upon site plan approval for any new "structures," or alterations of existing "structures" to require additional landscaping or planting in the aforesaid green space buffer areas, or where use of the property is limited to residential "use," not more than 20% of the green area may be used to meet the area requirements for a subsurface septic system.

- (2) The green space areas shall at all times be available and remain open for use and continuous passage over the length of said buffer strips by the inhabitants of the Town of Pound Ridge for pedestrian or horse trails.

ARTICLE VIII
Special Permit Standards

§ 113-49. Purpose.

The special "uses" for which conformance to additional standards is required by this chapter shall be deemed to be permitted "uses" in their respective "districts," provided that the special "use" is constructed, operated and maintained in conformance with the requirements and standards set forth herein in addition to all other requirements of this chapter. All such "uses" are declared to possess characteristics of such unique and special forms that each specific "use" shall be considered as an individual case.

§ 113-50. Procedure and general standards for special permit applications.

Application for required special permits shall be made to the Town Board. Within 45 days from receipt of the application, each such application shall be referred to the Planning Board and any other board(s) deemed appropriate for a report, which report shall be rendered prior to the date of public hearing on the application. The Planning Board's report shall specify whether and to what extent the application complies with the general standards of § 113-60 and the requirements of § 113-61 of this chapter. The Town Board shall forward a notice of public hearing on all applications affecting a change in the use of the property to the Westchester County Planning Board, and to the adjacent municipality where it affects land within 500 feet of said municipal boundary, at least 10 days prior to a public hearing in accordance with § 277.61 and § 277.71 of the Westchester County Administrative Code. The application shall also be referred to the County Planning Board 30 days prior to final action where such development abuts a state or County highway, park, drainage channel or "building" site in accordance with § 239-m of General Municipal Law. An act contrary to the recommendations of the County Planning Board shall require a vote of a majority plus one of all the members of the Town Board. Within 30 days after final action, the Town Board shall file a report of the final action it has taken with the County Planning Board. The Town Board, after public notice and hearing in the same manner as is required by law for zoning amendments, shall authorize the issuance of a permit, provided that it shall find that all of the following conditions and standards have been met:

- A. The location and size of the "use," the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to "streets" giving access to it are such that it will be in harmony with the appropriate and orderly development of the "district" in which is located.
- B. The location, nature and "height" of "buildings," "walls" and "fences" and the nature and extent of the landscaping on the site are such that the "use" will not hinder or discourage the appropriate development and "use" of adjacent land and "buildings."
- C. Operations in connection with any special "use" will not be more objectionable to nearby properties by reason of noise, fumes, vibration, glare or flashing of lights than would be the operations of any permitted "use" not requiring a special permit.
- D. "Parking areas" will be of a size sufficient to provide an adequate number of spaces

to serve the particular "use" and shall be properly located. The entrance and exit drives shall be located so as to achieve maximum safety. Landscaping and other forms of screening shall also be provided as determined to be necessary by the Town Board to protect adjoining and nearby properties.

- E. The proposed "use" will be constructed, operated and maintained in conformance with the Town Freshwater Wetlands Law, the Town Flood Damage Prevention Law²¹ and all other applicable Town, County, state and federal laws and regulations.

§ 113-51. Submission of plan.

The applicant shall submit 10 copies of a complete application, including the following:

- A. A complete site plan with the application materials required in § 113-61 of this chapter.
- B. A written statement describing the nature of the proposed special "use" and how it will serve to implement the intent and purposes of this chapter and the Town of Pound Ridge Plan of Development.
- C. An application fee shall accompany each such application in an amount set forth in a fee schedule as may be amended from time to time by resolution of the Town Board. The Town Board may require the establishment of an escrow account deposit required in accordance with § 113-94C herein to reimburse the Town for the costs of professional review fees charged in connection with the review of the application. If the approving agency shall not deem it necessary to establish an escrow account, the applicant shall still be responsible for reimbursing the Town for charges incurred for professional review services in accordance with § 113-94B.

§ 113-52. Conditions and safeguards. [Amended 4-11-2003 by L.L. No. 4-2003]

The Town Board shall attach such conditions and safeguards to the special permit as are necessary to assure continuous conformance to all applicable standards and requirements. All required improvements, and compliance with all applicable laws and regulations of the Town Code, shall be guaranteed by a performance and restoration bond, or other suitable form of financial security deemed acceptable by the Town Attorney, in accordance with the provisions of § 113-92.1.

§ 113-53. Scope of permit; expiration.

A special permit shall be deemed to authorize only the particular "use" or "uses" specified in the permit and shall expire if said "use" or "uses" shall cease for more than six months for any reason. Any change in an approved "use" will require reapplication for a revised special use permit.

§ 113-54. Existing violations.

No permit shall be issued for a special "use" for a property where there is an existing violation of this chapter, except as provided in Article IV.

21. Editor's Note: See Ch. 63, Freshwater Wetlands, and Ch. 60, Flood Damage Prevention, respectively.

§ 113-55. Standards for automotive service stations.

No special permit shall be issued for an automotive service station, either as a separate "use" or in connection with an automotive garage, automobile repair shop or other "use," unless the Town Board shall find that, in addition to all other requirements of this section, the proposed "use" does not adversely affect the public health, safety or general welfare and the proposed "use" meets the following standards:

- A. Distance from public and semipublic "uses." No special permit shall be issued for the establishment or enlargement of an automotive service station if any part of the "lot" in question is within a radius of 200 feet of a "lot" in "use" for any church or other place of worship, hospital, public library, public or private school or community house.
- B. Minimum size of "lot." The site in question shall have a "frontage" of at least 100 feet on a public road and shall have a depth of at least 100 feet.
- C. Required setbacks.
 - (1) Pumps and pump islands: a minimum of 25 feet from all property boundaries.
 - (2) All "buildings" and "structures," except "signs": a minimum of 25 feet from the road right-of-way and 25 feet from any other property line abutting a residential zoning "district."
- D. Tanks for gasoline and/or other motor vehicle fuel must be installed underground. The location of same shall be in conformance with the provisions set forth in the Official Compilation, Codes, Rules and Regulations of the State of New York and any other regulatory agency having jurisdiction. Storage tank inlets shall be at least 15 feet from the road right-of-way.
- E. "Use" of the service apron. All repair and service work, including car washing, but excluding emergency service, and the sale of fuels and lubricants, shall be conducted entirely within a "building." The outside storage or sale of wrecked vehicles or vehicles without a valid registration, license or vehicle emissions inspection sticker shall not be permitted, except as follows. Where wrecked vehicles are impounded on the automotive service station property at the direction of a duly authorized law enforcement agency, such wrecked vehicles shall be removed from the property within 30 days of being impounded. Such wrecked vehicles may be stored in an outside area, provided that such area is screened with an opaque "fence" in accordance with the provisions of § 113-38A(3) so as to conceal the vehicles from ground level view from the public highway or from adjacent properties.

§ 113-56. Standards for "residential care facilities."

No special permit shall be issued for a "residential care facility" unless the Town Board shall find that, in addition to all other requirements of this article, the proposed "use" meets all of the following standards and conditions:

- A. Contents of application. Every application for a special use permit to operate a "residential care facility" shall contain the following information:

- (1) The location of the proposed facility by block and "lot" number.
- (2) The legal, statutory or governmental authorization to operate the facility.
- (3) The name, address and telephone number of the operating and/or supervising agency.
- (4) A copy of the operating and/or supervising agency's rules and regulations.
- (5) A copy of the license authorizing the agency to operate the facility.
- (6) The source and amount of the funds available for the purchase, staffing and maintenance of the property.
- (7) The maximum number of persons who will live fulltime at the facility, including both residents and staff.
- (8) The ages and physical and mental condition of the persons who will be served by the facility and information describing how, by whom and for what reason each of said persons has been given into the custody of or committed to the facility.
- (9) A full description of the nature of the services to be rendered to the proposed residents.
- (10) The names, home addresses and telephone numbers and qualifications of all resident supervisors of the facility and all other staff members, resident and nonresident.
- (11) Copies of all insurance policies covering the facility or its residents.
- (12) Copies of all written agreements between the facility (or its supervisory or operating agency) and medical groups, hospitals, ambulance services, state and County health and hospital facilities, social service departments and any other agencies rendering services germane to the purposes of this facility.
- (13) The number of cars to be parked at the facility by resident staff members and residents and the number of cars to be parked each day by nonresident staff and visitors.
- (14) A certificate of conformance from the Westchester County Department of Health certifying that the septic system in place is adequate for the proposed number of all live-in residents and daytime staff. In the event that the septic system is not adequate, the applicant shall submit a construction permit approved by the Department of Health for the construction of an adequate system.
- (15) Such other information as the Board may, from time to time, require.

B. Inspections.

- (1) Prior to the granting of the special use permit, the Building Inspector shall be granted reasonable access to the proposed facility so that he may determine whether all of the applicable provisions of the New York State Uniform Fire

Prevention and Building Code have been met. In addition, the Building Inspector may make such other comments as he deems appropriate concerning all matters of health and safety, keeping in mind the number, ages and physical and mental condition of the proposed residents. The Building Inspector shall render a written report of all of his findings and recommendations to the Town Board and the applicant within 30 days after he has completed his inspection. **[Amended 4-9-1998 by L.L. No. 3-1998]**

- (2) The Town Board shall inspect the proposed site to determine the location of the proposed facility with relation to public roads, access by emergency vehicles, potentially dangerous natural features, the amount of recreational space available to the proposed residents, the impact upon neighboring property owners, the proximity of any other similar facilities, the nature and character of the neighborhood and the facility's impact upon it and such other conditions as may be pertinent.

C. New construction.

- (1) Should the applicant wish to construct a new "building" to house the facility, it shall submit with its original application a complete set of plans for the proposed facility. All new construction must conform in all respects to the New York State Uniform Fire Prevention and Building Code, all local "building" and zoning codes and any applicable Planning Board regulations. The same requirements shall apply to any and all renovations and/or additions to existing "buildings." **[Amended 4-9-1998 by L.L. No. 3-1998]**
- (2) No certificate of occupancy and certificate of conformance shall be issued until the Building Inspector has determined that all conditions of this section and all applicable codes and regulations have been met.
- (3) All new construction, renovations and/or alterations shall be compatible in appearance and quality with the "buildings" in the surrounding neighborhood.
- (4) No new "building" shall be constructed and no existing "building" shall be extended to include an area in excess of 3,500 square feet of habitable space.

D. Findings. After conformance with all of the provisions of this article, the Town Board shall issue a special use permit for the operation of a "residential care facility" only upon finding that all of the following conditions have been met:

- (1) Legal authority requires the operation of the facility.
- (2) The facility complies with all of the applicable provisions of the New York State Uniform Fire Prevention and Building Code and such other requirements by the Building Inspector as may be necessary to ensure the safety, health and welfare of the proposed residents. **[Amended 4-9-1998 by L.L. No. 3-1998]**
- (3) The septic system is adequate to provide for the total number of residents, staff members and visitors.
- (4) An adequate number of off-"street" "parking spaces" are available for residents, staff and visitors. If such spaces are not already in place, the Planning Board shall have approved a plan for their construction.

- (5) The "lot" on which the "building" housing the facility is located or is to be constructed meets the minimum acreage and all other bulk requirements of the zoning "district" in which it is located.
 - (6) The location of the site and its features are suitable for the intended purposes of the facility.
 - (7) The proposed facility complies in all respects with all the rules, regulations, guidelines, etc., issued by the licensing, supervisory and/or operating agency.
 - (8) The supervision to be provided to the proposed residents conforms to the requirements of all applicable New York State laws and regulations issued thereunder.
 - (9) The operator has filed with the Town Clerk a consent form permitting a yearly inspection of the "premises" by the Building Inspector.
 - (10) The operation of the facility will not change the nature or character of the neighborhood.
 - (11) The proposed facility shall not be closer than 7,500 feet, measured in a straight line, from any other "residential care facility" or similar facility, and not more than three such facilities shall be located within the Town of Pound Ridge.
 - (12) The operating and/or supervising agency shall have agreed, in writing, to "use" the facility only for the purposes specified in the application and the special use permit and not to sell, lease or otherwise transfer the property for any "use" other than a private one-"family" residence.
- E. All special use permits issued pursuant to the provisions of this section shall be subject to the following conditions:
- (1) "Premises."
 - (a) The "premises" must, at all times, be maintained in conformity with the provisions of the New York State Uniform Fire Prevention and Building Code, this chapter, all of the rules and regulations of the licensing, supervisory and/or operating agency and such other conditions as the Town Board may have required in its original permit. **[Amended 4-9-1998 by L.L. No. 3-1998]**
 - (b) The Building Inspector shall have the right to inspect the "premises" each year to determine such compliance. In addition, the Building Inspector may inspect the "premises" at any time that he has sufficient reason to believe that any of the above-mentioned conditions are not being met. If he determines that any of the above-mentioned conditions are not being complied with, he shall, within 10 days, so notify the operator of the facility, setting forth the nature of the noncompliance and the remedial action necessary.
 - (c) Failure to remedy the noncompliance within 30 days shall result in the cancellation of the special use permit.

- (2) The operators of the facility must, at all times, maintain the nature and level of supervision specified in their application and required by the terms of the special use permit.
- (3) No increase in the number of occupants or changes in the nature or character of the occupants or program or decrease in resident supervisors and all other staff members, live-in or daily, shall be permitted without the written consent of the Town Board. Failure to comply with this provision shall result in cancellation of the special use permit.
- (4) The operators of the facility shall furnish to the Town Board, in writing, the names, home addresses and telephone numbers and qualifications of each and every new staff member, together with the name of the member, if any, being replaced. They shall also furnish, in writing, the same information as required in Subsection A(7) for all new residents. Such notification shall be given not more than five days after the changes have been made.
- (5) Should the facility cease to operate, the property shall be placed on the market for sale or lease as a one-"family" residence within 90 days after the last resident leaves.
- (6) The "premises" shall, at all times, be maintained in such manner as to conform to neighborhood standards and not become a public nuisance.
- (7) The Building Inspector shall not issue any certificate of occupancy and certificate of conformance until a special use permit has been issued by the Town Board.

F. Neighborhood advisory committee.

- (1) Each "residential care facility" operating under a special use permit shall be assisted by a neighborhood advisory committee. Such committee shall be appointed by the Town Board and shall consist of not more than 12 nor fewer than five local residents. Each appointee shall serve for a period of one year.
- (2) The committee shall visit the facility at least eight times a year to observe conditions within the facility, to check on compliance with the provisions of the special use permit, to make known the cares of the community to the operators of the facility, to advise the community regarding programs of the facility, to advise the operating agency with respect to the operation of the facility, to assist the facility in adapting to the community, to assist in the integration of the residents into the life of the community to an extent consonant with their condition and to make such other suggestions as may be mutually beneficial.
- (3) The neighborhood advisory committee shall keep minutes of each meeting and submit a copy to the operating and/or supervising agency. It shall also report immediately to the Town Board any changes described in Subsection E(3) above.
- (4) Every 12 months, the committee shall submit to the Town Board and the operating agency a written report summarizing the operations of the facility

during the past year, together with such recommendations and suggestions as it may deem appropriate.

- G. Cancellation of special use permit. If after any inspection by the Building Inspector or the neighborhood advisory committee it appears that the facility is not in complete compliance with all of the terms and conditions of the special use permit the person or persons making the inspection shall, within 10 days, notify the Town Board and the operator, in writing, of the nature of the noncompliance and the action necessary to remedy the defect. Thirty days after the issuance of said notice, the person or persons making the original inspection shall again inspect the "premises." If the defect has not been remedied, the person or persons conducting the inspection shall, within five days, notify the Town Board and the operator, in writing, of the continuing noncompliance. The Town Board shall then hold a public hearing at which time it may modify or cancel the special use permit. A certified copy of the minutes of the public hearing modifying or canceling the special use permit shall be sent to the operator of the facility by registered mail. In the event that the special use permit is canceled, the "use" of the "premises" as a "residential care facility" must cease within 30 days of the mailing of the certified copy of the minutes canceling the special use permit.

§ 113-57. Standards for "multifamily housing." [Amended 5-2-2013 by L.L. No. 2-2013; 2-6-2014 by L.L. No. 2-2014]

No special permit shall be issued for the development of "multifamily housing" unless the Town Board shall find in addition to the other requirements of this article, that the proposed "use" satisfactorily meets all of the following standards and conditions:

- A. Upon referral of the application to the Planning Board in accordance with § 113-50 herein, the Planning Board shall assist the Town Board, as necessary, in the review of the application with regard to the State Environmental Quality Review Act (SEQRA).²² The special permit application shall be amended as necessary to enable the Planning Board to make a recommendation to the Town Board regarding a determination of significance. Site plan approval by the Planning Board shall be a condition of the issuance of any special permit by the Town Board.
- B. The "multifamily housing" plan shall utilize creative design and development techniques to achieve the conservation and/or preservation of significant natural environmental features, including steep slopes, wetlands, watercourses, water bodies and significant rock outcroppings, on properties which are not overly environmentally constrained and which, for safety purposes, are within proximity to the Town's major roads. The "multifamily housing" plan and the controls contained in this § 113-57 shall replace the bulk and other dimensional regulations found elsewhere in this chapter and, upon approval, the "multifamily housing" plan shall become the basis for continuing land use controls during the development period and thereafter.
- C. Minimum site area; location.
- (1) The "multifamily housing" site shall have an area of not less than 20 acres in

22. Editor's Note: See Environmental Conservation Law Article 8.

the R-1A and R-2A "Districts" and not less than 30 acres in the R-3A "Districts," and the lot shall have road frontage not more than 1/4 mile in travel distance from at least one of the Town's major roads (that is, Westchester Avenue, High Ridge Road, Salem Road, Stone Hill Road, Pound Ridge Road and Long Ridge Road).

- (2) Notwithstanding the above, for lots which have road frontage within 1/4 mile in travel distance from the intersection of Westchester Avenue and Trinity Pass Road, the "multifamily housing" site shall have an area of not less than the minimum "lot area" required for "one-family dwellings" in the zoning "district" in which the site is located.
 - (3) The aggregate of the slopes in excess of 25% and the wetlands, watercourses and water bodies, as defined in the Town of Pound Ridge Freshwater Wetlands Law²³ shall constitute less than 45% of the gross "lot area" of the "multifamily housing" site.
- D. The maximum number of "dwelling units" shall be determined by dividing the gross "lot area" (excluding slopes in excess of 25% and wetlands, watercourses and water bodies, as defined in the Town of Pound Ridge Freshwater Wetlands Law²⁴) by the minimum "lot area" required for "one-family dwellings" in the zoning "district" in which it is located, multiplying that result by four and rounding down to the nearest whole number. The density may be further restricted in consideration of the following factors:
- (1) The environmental suitability of the property.
 - (2) Access to the property.
 - (3) Shape of the property.
 - (4) Potential impact upon the surrounding neighborhood and land "uses."
- E. There shall be no more than 50 "dwelling units" permitted in any "multifamily housing" development.
- F. Maximum "building coverage" limitations, as applied to the gross "lot area" of the "multifamily housing" site as per Subsection D above, shall be as follows:

| Requirements | "District" | | |
|-----------------------------|-------------------|-------------|-------------|
| | R-3A | R-2A | R-1A |
| Maximum "building coverage" | 5% | 7.5% | 15% |

- G. Landscaped buffer.

- (1) The "multifamily housing" plan shall maintain a minimum of 50% of the gross "lot area" as open space. For the purposes of this section, "open space" shall include all land and water areas on the site which are not covered by

23. Editor's Note: See Ch. 63, Freshwater Wetlands.

24. Editor's Note: See Ch. 63, Freshwater Wetlands.

"buildings," "structures," roadways, other impervious surfaces, and semi-impervious surfaces such as gravel and porous paving. A suitably landscaped buffer area of a size to be determined to be adequate by the Planning Board based upon considerations of topography, adjoining land "use" and site design, but generally not less than 100 feet in width, shall be provided along all property boundaries. Such landscaped buffer area may contribute to the satisfaction of the fifty-percent open space requirement.

- (2) Notwithstanding Subsection G(1) above, for properties located entirely within 1/4 mile of the PB-A, PB-B or PB-C "Districts," the suitably landscaped buffer which shall be provided along all property boundaries shall be of a size to be determined to be adequate by the Planning Board based upon considerations of topography, adjoining land "use" and site design, but generally not less than 50 feet in width.
- H. "Multifamily" "dwelling units" may be located in attached or detached "structures"; provided, however, that there shall be no more than four "dwelling units" in any one dwelling "building" and the maximum building length shall not exceed 100 feet.
- I. All "dwelling units" shall be permitted a maximum "height" of 2 1/2 stories or 35 feet, whichever is less.
- J. The average area of all "multifamily" "dwelling units," excluding "garage" space and any enclosable porch, shall not exceed 2,500 square feet of habitable floor area, and no individual "dwelling unit" shall contain in excess of 3,000 square feet.
- K. The site shall have direct access from a public road.
- L. Common indoor and outdoor recreational facilities may be provided on site in lieu of recreation fees. Such facilities shall be as determined adequate by the Planning Board. All recreation areas shall be appropriately landscaped and shall include a combination of small, internal, private "yard" and court areas for a variety of passive activities. Safety shall be emphasized in the design and particular attention given to pedestrian "use." Vehicular circulation drives shall be separated from pedestrian walks. Abrupt changes in grade shall be avoided and all changes in grade in the walk system shall be accomplished by both ramps and stairs. Such facilities, where needed, shall be built in ANSI specifications.
- M. Parking.
- (1) There shall be provided a minimum of not less than 2.0 "parking spaces" for each "dwelling unit"; plus for each "dwelling unit" having bedrooms in excess of two there shall be an additional 0.5 "parking space" for each bedroom, plus 0.5 outdoor, unreserved "parking space" available for visitor "use" for each "dwelling unit."
 - (2) Notwithstanding Subsection M(1) above, where the Town Board determines that less than the required number of parking spaces will satisfy the intent of this § 113-57, the Board may waive the initial improvement of up to 15% of the parking spaces required pursuant to Subsection M(1). In all cases it shall be expressly demonstrated on the site plan that sufficient space remains for the provision of the total amount of off-street parking required and the site plan

shall bear such designation. All such undeveloped parking space shall be used and maintained as additional landscaped grounds until required for parking. Written guaranties, satisfactory to the Town Attorney, shall be submitted by the applicant for the potential eventual improvement of any such spaces which may have been waived, and these spaces must be constructed by the property owner within six months of the date of written notice to the property owner by the Town Board that such spaces have been determined as necessary and must be constructed. In addition, the Planning Board shall have the authority to require, as a condition of approval on a project by project basis, a specific mechanism by which to ensure that the waived parking spaces, if required by the Town Board, will be built. The applicant may alternatively apply to the Town Board for approval to construct said waived spaces.

- N. "Multifamily" "dwelling units" shall not be serviced by individual wells and septic systems, but rather by communal or shared sewage disposal and water supply facilities.
- O. A homeowners' association shall be formed for purposes of owning, operating and maintaining all common land areas and all common facilities on the site. All "dwelling unit" owners must be members of the association and shall share in all costs incurred by the association on an equitable basis. The applicant shall execute and file with the Town such documents as, in the opinion of the Town Attorney, will be sufficient to create a property owners' association responsible for the continued ownership, "use" and maintenance of all common land areas and facilities in accordance with the following requirements and any other conditions and limitations deemed appropriate by the Town to assure that the interests of the Town and of the future property owners will be adequately protected. In addition to all other purposes, the association shall establish necessary rules and regulations from time to time which shall be consistent with the purposes of this chapter and govern the "use" of "premises" authorized hereunder.
 - (1) Membership in the association must be mandatory for each property owner within the development and for any successive property owners.
 - (2) All restrictions on the "use" and maintenance of the common lands and facilities must be perpetual.
 - (3) The association must be responsible for liability insurance, local taxes and maintenance of the common land areas and facilities.
 - (4) Each property owner within the development shall be made responsible for his proportionate share of the association's expenses, including taxes, and all assessments levied by the association shall become a lien on his property if not paid.
 - (5) In the event that the maintenance, preservation and/or "use" of the common land areas and facilities ceases to be in conformance with any of the above requirements or any other requirements specified by the Town when approving the special permit or site plan, the Town shall be granted the right to take all necessary action to assure such conformance and to assess against the association and/or the individual property owner within the development all costs incurred by the Town for such purposes.

- (6) The homeowners' association may provide one "dwelling unit" for a resident manager and said person's "family" or other maintenance support staff. Such unit shall be restricted in occupancy to said resident manager and "family" or other maintenance support staff. Such unit shall be included in the computation of the allowable number of units for the property. It shall be the responsibility of the homeowners' association to maintain this unit in keeping with other units on the property and to accept all financial responsibility for it.
- P. "Multifamily housing" projects may contain or be comprised of "two-family dwellings," and the requirements pertaining to "multifamily housing" units and development herein shall apply thereto.
- Q. The Town Board, in its sole discretion, may modify the width of the landscaped buffer requirements of § 113-57G herein up to a maximum of 50%, upon demonstration by the special permit applicant that:
 - (1) The benefit to the Town of granting such a modification outweighs any potential detriment; and
 - (2) Compliance with the requirement is not requisite to the health, safety and general welfare of the public.
- R. So long as the total number of "dwelling units" in the project does not exceed 50, the Town Board may allow up to a 25% increase in the maximum number of "dwelling units" as determined in Subsection D above for such special benefits as the provision of:
 - (1) At least 15% (rather than a minimum of 10%) of the "dwelling units" in the "multifamily housing" project as "affordable fair housing dwelling units" in accordance with § 113-100 of this chapter; and/or
 - (2) A significant amount of environmental conservation and/or preservation which goes above and beyond that otherwise required for the approval of the special permit.
- S. The Planning Board shall render a specific advisory opinion to the Town Board on all waiver and modification requests made by an applicant in accordance with §§ 113-57M(2) and 113-57Q herein.
- T. In the event of any inconsistencies between the standards contained in this § 113-57 and the provisions in the remainder of this chapter, the provisions of § 113-57 shall control.

§ 113-58. Standards for take-out food establishments, bakeries, "delicatessens" and "sandwich shops."

No special permit shall be issued for the development of a "take-out food establishment," "bakery," "delicatessen" or "sandwich shop" unless the Town Board shall find, in addition to the other requirements of this article, that the proposed "use" satisfactorily meets all of the following standards and conditions:

- A. The Town Board shall find that the "use" will be complementary to the Scotts Corners business "district" by providing an additional service to retail

establishments and pedestrian retail activity.

- B. The Town Board shall find that the appearance of the special "use" will be complementary to the Scotts Corners business "district."
- C. The "gross floor area" shall not exceed 2,000 square feet and shall be contained on the ground floor of a multitenanted "building."
- D. No drive-in or drive-through services shall be permitted.
- E. The business owner and the property owner shall be responsible for maintaining the area around the "use." The business owner and/or property owners shall provide one or more trash receptacles. In the PB-A "District," such receptacles shall be supplied by the Town and paid for by the applicant. The area must be kept free of waste, refuse, loose wrappers and containers or other materials associated with this special "use" at all times.
- F. The hours of operation may be limited by the Town Board.
- G. Water consumption shall be metered and reported to the Building Department on a regular basis.

§ 113-58.1. Standards for "wireless telecommunication services facilities." [Added 8-13-1998 by L.L. No. 7-1998]

- A. The following special permit standards and requirements shall apply to all "wireless telecommunication services facilities." No special permit approval shall be granted unless the Town Board makes the findings in writing that the application fulfills all of the purposes and meets all of the requirements of this section.
- B. Purpose. The purpose of these special regulations is to reasonably control the location, construction and maintenance of "wireless telecommunication services facilities" in order to:
 - (1) Limit the number of "wireless telecommunication services facilities" to the minimum necessary to provide "adequate coverage" and "adequate capacity" to the Town of Pound Ridge;
 - (2) Upgrade the communications systems of the Town's local public and quasi-public agencies and service providers;
 - (3) Minimize the impact of such facilities on residential properties through maximum separation among other methods;
 - (4) Encourage the siting of "wireless telecommunication services facilities" on properties and areas which are not used exclusively for residential purposes; and
 - (5) Protect, to the maximum extent practicable, aesthetic qualities, the open space character of the Town of Pound Ridge, the property values of the community, the health and safety of citizens and a citizen's ability to receive communication signals without interference from other communication providers, while not unreasonably limiting competition among communication

providers.

C. Use. Except as provided hereinafter, no "wireless telecommunication services facility" shall be located, constructed or maintained on any "lot," "building," "structure" or land area in the Town of Pound Ridge except in conformity with the requirements of this chapter and all other applicable regulations.

D. Location and access.

(1) "Wireless telecommunications services facilities" shall be located in accordance with the following priorities. The applicant shall evaluate and demonstrate the feasibility of the highest priority locations before considering the next lower priority:

(a) Locations where one "wireless telecommunication services facility" site can provide at least "adequate coverage" and "adequate capacity" to the Town of Pound Ridge and which avoid and minimize impacts upon adjoining residential properties by providing a separation of 1,000 feet or more from all property boundaries and/or residences.

(b) Locations where one "wireless telecommunication services facility" site can provide at least "adequate coverage" and "adequate capacity" to the Town of Pound Ridge.

(c) Locations with existing or approved "wireless telecommunications facilities" or other existing communication towers which are used exclusively for public or quasi-public agencies or service providers or other available sites listed on the Existing Facilities and Available Sites Inventory.

(d) Parcels or rights-of-way used exclusively for existing public utilities or watershed lands.

(e) Locations or facilities of commercial or nonresidential uses.

(f) Other locations or facilities.

(2) Unless otherwise waived, modified or required by the Town Board for aesthetic, safety or other reasons, location on lower priority locations shall be permitted only because of unreasonable technological or structural limitations. Wherever possible, such facility shall be attached to an existing "building" or "structure." To the maximum extent practicable, existing roadways shall be "used" to provide access to the site of a "wireless telecommunication services facility." "Wireless telecommunication services facilities" shall not be located within 2,500 feet of any historic district or any site with official designation as a local landmark, or which is listed or designated as eligible for listing on the State or the National Registers of Historic Places or the Register of National Natural Landmarks, unless otherwise modified by the Town Board in an effort to accommodate collocation or other purposes of this chapter.

E. Collocation.

(1) The shared "use" of existing public utility and "wireless telecommunication

services facilities" shall be strongly encouraged. The Town shall maintain an inventory of existing "wireless telecommunication services facilities" and available sites (the Existing Facilities and Available Sites Inventory) including "public utilities" that are obligated under the Federal Telecommunications Act of 1996 to provide "wireless telecommunication service" carriers with nondiscriminatory access to their facilities. Collocation shall be required unless it has been demonstrated to the satisfaction of the Town Board that:

- (a) "Adequate coverage" and "adequate capacity" cannot be provided from any sites identified on the Existing Facilities and Available Sites Inventory or other existing or approved sites in a reasonably technologically feasible manner;
 - (b) None of the sites identified on the Existing Facilities and Available Sites Inventory or other existing or approved sites with communication antennas can accommodate the proposed "wireless telecommunication services facility" with respect to structural or other engineering limitations, including frequency incompatibilities; or
 - (c) The owner(s) of the sites identified on the Existing Facilities and Available Sites Inventory or other existing sites with communication antennas lawfully refuses to permit the applicant use of the site.
 - (2) All new "wireless telecommunication services facilities" and "premises" shall be of proper size, location and design to accommodate the collocation of other licensed "wireless telecommunication service" providers' facilities, and the communications equipment of all local emergency services as necessary to provide "adequate coverage" of the entire Town, unless otherwise permitted by the Town Board.
- F. Setbacks. It shall be a priority of the Town to maximize the separation between "wireless telecommunication services facilities" and residences and residential properties. Unless otherwise modified by the Town Board in an effort to accommodate collocation or other purposes of this chapter, freestanding "wireless telecommunication services facilities" shall be located not less than two times the otherwise applicable setback requirements for principal "structures" for the district in which the property is located, or the "height" of the facility plus the otherwise applicable setback requirements for principal "structures" for the district in which the property is located, whichever shall be greater. It shall be demonstrated to the satisfaction of the Town Board that the proposed facility is set back adequately to prevent damage or injury resulting from ice-fall or debris resulting from failure of a "wireless telecommunication services facility" or any part thereof, and to avoid and minimize all other impacts upon adjoining properties. "Wireless telecommunication services facilities" structurally mounted to the roof of an existing "building" shall be set back from the side of the "building" so as to minimize its visibility, but in no case less than 10 feet.
- G. Freestanding structures. No freestanding "wireless telecommunication services facility" shall be permitted except for a "monopole" unless another alternate design is otherwise permitted by the Town Board in an effort to accommodate collocation or other purposes of this chapter. "Wireless telecommunication services facilities"

which require the "use" of guy wires are prohibited.

- H. Height limitations. Notwithstanding the following height limitations, in no case shall a "wireless telecommunication services facility" exceed the minimum height reasonably necessary to accomplish the purpose it is proposed to serve.
 - (1) The height of any antennas or other associated equipment structurally mounted as part of a "wireless telecommunication services facility" shall not exceed by more than 15 feet the highest point of the existing "structure" on which such antennas or equipment are affixed.
 - (2) The height of any "monopole" or other freestanding "structure" utilized in a "wireless telecommunication services facility" shall not exceed 140 feet in height measured from the highest point of such facility to the finished grade elevation of the ground immediately adjacent to the "structure" unless otherwise modified by the Town Board in an effort to accommodate collocation or other purposes of this chapter.
- I. Visual mitigation. The applicant/provider shall prepare a visual impact assessment of the proposed "wireless telecommunication services facility" based upon appropriate modeling, photography and other pertinent analytical techniques as required by the Town Board, including but not limited to a map identifying the zone of visibility. Landscaping and/or other screening and mitigation, including but not limited to architectural treatment, and alternative construction, structural and transmission technologies such as antennas attached to or disguised as trees or other features, shall be required to minimize the visual impact of such facility from public thoroughfares, important viewsheds and vantage points and surrounding properties to the extent practicable as determined by the Town Board. No "signs" other than exempt "signs" or as may be required by the Town Board for security or safety purposes, shall be erected on any "wireless telecommunication services facility."
- J. Lighting. The "wireless telecommunication services facility" shall not be artificially lighted unless otherwise required by the Federal Aviation Administration (FAA).
- K. Operational characteristics. Unless otherwise superseded by the Federal Communications Commission (FCC), the design and "use" of the proposed "wireless telecommunication services facility," including its cumulative impact with other existing and approved facilities, shall be certified to conform with the maximum "NIER" exposure standards promulgated by the FCC, as amended. Said certification shall include a report prepared in accordance with FCC Office of Engineering and Technology Bulletin 65, as amended. Unless the original certification is based on the maximum capacity of the site and all existing and approved equipment thereon, then the Town Board shall require annual certification of conformance with the applicable emissions standards and the requirement and conditions of special permit approval. Certification shall also be required prior to any modification of the "wireless telecommunication services facility," at any time the Building Inspector suspects such modification or upon modification of the FCC standards. The Town Board shall hire a qualified professional of its choosing to review and confirm such initial and annual certification report, the cost of which shall be reimbursed by the applicant in accordance with the escrow account procedures of § 113-94. Any violation of the emissions standards shall require

immediate discontinuation and correction of the "use" responsible for the violation. Any such violation of these requirements of the Zoning Law or the conditions of special permit approval shall be deemed to be an offense punishable by fine and/or imprisonment in accordance with § 113-96 of this Zoning Law.

- L. Noise. Noise-producing equipment shall be sited and/or insulated to minimize to the maximum extent practicable any increase in noise above ambient levels as measured at the property line.
- M. Utility service. Electrical and land-based telephone lines extended to serve the "wireless telecommunication services facility" sites shall be installed underground.
- N. Safety provisions. A "wireless telecommunication services facility" shall be designed and erected so that, in the event of structural failure, it will fall within the required setback area and, to the maximum extent possible, away from adjacent development. No "structure" shall be permitted which would be classified by the FAA Regulations Title 14 CFR Part 77 as an obstruction or hazard.
- O. Security provisions. A security program shall be formulated and implemented for the site of a "wireless telecommunication services facility." Such program may include physical features such as fencing, anti-climbing devices or elevating ladders on "monopoles" or other approved "structure" and/or monitoring either by staff or electronic devices to prevent unauthorized access and vandalism.
- P. Structural inspection and report. A "monopole" or other approved "structure" shall be inspected at the expense of the service provider in accordance with the escrow account procedures of § 113-94 by a licensed professional engineer at any time upon a determination by the Building Inspector that the monopole or other approved "structure" may have sustained structural damage, but in no case less than every five years. A copy of the inspection report shall be submitted to the Building Inspector.
- Q. Lease agreement. In the case of an application for approval of a "wireless telecommunication services facility" to be located on lands owned by a party other than the applicant or the Town, a copy of the lease agreement with the property owner, together with any subsequent modifications thereof, shall be provided to the Town Board and a copy shall be filed with the Town Clerk. The Town Board, at its discretion and in cooperation with the involved parties, shall allow certain proprietary information contained in such lease which is unrelated to the requirements of this section or the conditions of the approvals for said facility, to be omitted or kept confidential. The Town Board shall not approve the special permit application unless it finds that the lease agreement is in conformance with and properly reflects the purposes and requirements of this section and the conditions of special permit and site plan approval.
- R. Removal.
 - (1) A "wireless telecommunication services facility" or any portion thereof, including any portion above the "height" of the antenna, shall be dismantled and removed from the property on which it is located when it has been inoperative or abandoned for a period of 180 days from the date on which it ceased operation, or no longer has a valid approval, permit or license, or is

otherwise no longer necessary for the provision of "adequate coverage" and "adequate capacity" in the Town of Pound Ridge. The applicant shall provide to the Town written notification including identification of the date the use of the facility was discontinued or abandoned or no longer has a valid approval, permit or license, or is otherwise no longer necessary for the provision of "adequate coverage" and "adequate capacity" in the Town of Pound Ridge by one or more of the service providers, acknowledgment of the requirement to remove the facility and identification of the plans for the removal of the facility.

- (2) The owner and/or applicant shall provide to the satisfaction of the Town of Pound Ridge a written agreement suitable for filing with the Westchester County Clerk, Division of Land Records, to ensure the dismantling, removal and restoration of such an abandoned "wireless telecommunication services facility." Performance of the removal requirements as set forth herein shall be secured by a bond posted by the applicant in an amount and for a duration determined to be adequate by the Town of Pound Ridge Town Board.
- (3) In the event that such facility or portion thereof is not completely removed from such property within such time, the Town shall be authorized to effect such removal.

S. Application procedure.

- (1) Application forms. An application for approval of a "wireless telecommunication services facility" shall be submitted on the relevant forms for special "use" permit approval. No application for a "wireless telecommunication services facility" shall be considered complete without multicolor signal level propagation plots at 10 dBm intervals to -100 dBm at standard United States Geological Survey (USGS) scale drawings of 1 to 25,000 or 1 to 100,000, including but not limited to radial propagation plots and drive propagation plot data, and identification of all of the relevant system design parameters of all existing, approved or proposed facilities which may affect or provide service within the Town of Pound Ridge. Separate signal level propagation plots shall be required for each proposed facility.
- (2) Demonstration of need and master plan. The operator(s) of the "wireless telecommunication services facility" shall submit a copy of the relevant FCC licensing and shall demonstrate to the satisfaction of the Town Board that there is a public need for each such facility at the location(s) proposed by the applicant to provide "adequate coverage" or "adequate capacity" in Pound Ridge. Such demonstration shall include the preparation of existing and master effective service area plans which:
 - (a) Demonstrate that existing facilities do not and cannot provide "adequate coverage" or "adequate capacity" to Pound Ridge. In no case shall the provision of "adequate coverage" and "adequate capacity" constitute a public need for a new or additional "wireless telecommunication services facility" in Pound Ridge unless the applicant demonstrates to the satisfaction of the Town Board, in consultation with its engineer, that:

[1] The provision of "adequate coverage" and/or "adequate capacity"

unreasonably discriminates against the applicant in comparison to other "wireless telecommunication services" providers in Pound Ridge where imperfect coverage and inequities between competing services are unavoidable; or

[2] For other technological reasons and considerations, the criteria for determining a public need should be waived or modified to further the intent and purposes of this chapter.

- (b) Minimize the number of such facilities within the Town of Pound Ridge;
 - (c) Maximize collocation and shared "use" of existing public utility and "wireless telecommunication services facilities";
 - (d) Identify all existing and proposed "wireless telecommunication services facilities" which impact the service area covering the Town of Pound Ridge and identify all proposed and other locations considered for such facility(ies); and
 - (e) Analyze feasible alternatives, including alternative sites, to reasonably minimize the visual impacts.
- (3) Proof of collocation attempts. Any application for a "wireless telecommunication services facility" shall include a statement and appropriate documentation demonstrating to the satisfaction of the Town Board and in consultation with its consulting engineer that the Town's Existing Facilities and Available Sites Inventory has been reviewed and, to the extent relevant to provide "wireless telecommunication services" in the area in the Town of Pound Ridge which is the subject of such application, that all reasonable efforts have been made to collocate such facility on all sites identified in such Existing Facilities and Available Sites Inventory and all other existing sites with communication antennas within the service area.
- (4) Statement of collocation accommodation. As a condition of special permit approval, the applicant shall be required to provide a written agreement, in recordable form suitable for filing and prepared to the satisfaction of the Town Attorney, acknowledging that it shall be required to allow the collocation of other future "wireless telecommunication service facilities" unless otherwise unreasonably limited by technological, structural or other engineering considerations and expressly stating that it shall negotiate in good faith with all other providers.
- (5) Expedited approval for collocation on approved facilities. Where collocation of a "wireless telecommunication services facility" is proposed for any approved facility identified on the Existing Facilities and Available Sites Inventory or other existing site with communication antennas within the service area, the added "wireless telecommunication services facility" shall be permitted, as an amendment to the existing special "use" permit for such alternative site, by submission of an application for a building permit and without the need for an application for an amended special permit approval, provided that such facility meets all of the otherwise applicable requirements of this chapter and no physical modification other than the attachment of the

antennas and the installation of associated equipment to be located on the ground is required. An amended written narrative and certification report indicating conformance with all of the special permit standards and conditions of approval shall be provided in addition to all required information in support of the required building permit and for review and approval by the Town Board in consultation with its consulting engineer. An as-built drawing of the modified facilities shall be filed with the Building Department. The Building Inspector shall provide written notification to the Town Board of such application for building permit.

- (6) Owner/applicant representative contacts. The applicant and all future owners of the premises and the "wireless telecommunication services facility" shall at all times keep on file in the office of the Town Clerk the name, address and telephone number of the owner and operator of such facility and of at least one individual who shall have authority to arrange for the maintenance of the premises and facility, and who shall be authorized to accept service of notices and legal process on behalf of the owner and operator(s) of the premises and facility and to bind the owner to any settlement, fine, judgment or other disposition (other than incarceration) which may result from any civil or criminal action or proceeding instituted by the Town against such owner and/or operator(s).
- T. Intermunicipal notification of applications. In addition to all other referral requirements for special permit applications pursuant to § 239 of the General Municipal Law and § 277 of the Westchester Administrative Code and as set forth in §§ 113-50 and 113-61E of the Zoning Law, notification shall be made to all municipalities of all applications involving "wireless telecommunication services." With said referral, the Town shall request reciprocal referral of all applications in the adjacent municipality involving "wireless telecommunication services."
- U. Decisions. All decisions of the Town Board involving applications for "wireless telecommunication services" shall be in writing and supported by substantial evidence contained in a written record.
- V. Waiver or modification of standards. In order to further the purposes of this section, the Town Board may, upon just cause shown, waive or modify any of the special permit standards and criteria contained herein.

§ 113-58.2. Residential use of 100% of maximum permitted floor area. [Added 1-12-2006 by L.L. No. 1-2006; amended 5-2-2013 by L.L. No. 2-2013]

No special permit shall be issued for residential use of 100% of the maximum permitted floor area in the PB-C District unless the Town Board shall find that, in addition to all other requirements of this article:

- A. The project permanently contributes toward meeting the Town's special housing needs, as set forth in the Town's Comprehensive Plan, whereby the rent or purchase price of 20%, but in no case less than two, of the dwelling units (such units shall be of the same size, bedroom count, and construction as the market-rate units except as specifically approved by the Town Board with the advice of the Planning Board and the Town Housing Board), are below-market-rate units, and which are

affordable to households with an income of not more than 80% of the median income in Westchester County, in effect at the time, and further that such units shall be deed restricted as to maximum rental rates or sales price and other factors as determined by the Town Board to be appropriate to meet the objective of this section.

- B. An occupancy and management plan for the restricted units shall be provided by the Housing Board to be appointed by the Town Board to administer the below-market-rate housing requirements of this section. Such occupancy and management plan shall include income eligibility requirements, sale, resale and rental restrictions and limitations, and a plan of priority for below-market-rate housing applicants.
- C. Adequate off-street parking will be provided, but in no case less than 1.5 spaces per dwelling unit, exclusive of driveway spaces in front of garages.
- D. Notwithstanding the subsections above, subsequent to the effective date of § 113-100 of this chapter, all new affordable dwelling units created in accordance with § 113-58.2 shall be affordable fair housing dwelling units regulated by § 113-100, rather than below-market-rate units. The same shall be true for all new occupancies of all existing below-market-rate units.

ARTICLE IX
Site Plan Requirements

§ 113-59. Grant of powers to Planning Board.

In those "districts" and for those "buildings" and "uses" where site plan approval by the Planning Board is required under the terms of this chapter, the Planning Board is hereby authorized to review and approve, approve with modifications or disapprove site plans, which plans shall be prepared to specifications as set forth in this chapter and in the regulations of the Planning Board, if and as such may be adopted. The Planning Board is further authorized to require site plan approval for individual residential "lots" where determined appropriate by said Board in connection with the granting of subdivision approval. Where site plan approval is required, no "building" permit or certificate of conformance shall be issued by the Building Inspector until and unless such a plan shall have been approved by the Planning Board, and no certificate of occupancy or certificate of conformance for a "building" or "use" shall be issued until all of the requirements of such approval, including any conditions attached thereto, shall have been met.

§ 113-60. General standards.

The Planning Board shall not approve a site plan unless it shall find that such plan conforms to the requirements of this chapter, as well as to other applicable laws and regulations and is properly related to the policies and recommendations of the Town Development Plan. 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 which are in harmony with the general purpose and intent of this chapter, particularly in regard to achieving the following standards:

- A. Traffic access. The number, location and design of all proposed driveways, in terms of their width, length, grade, alignment, visibility and relationship to the existing "street" system and neighboring properties and land "uses" shall be such that maximum safety and function will be achieved.
- B. On-site circulation and parking. Adequate and convenient off-"street" parking and "loading spaces" shall be provided to prevent parking in public "streets" of vehicles belonging to any persons connected with or visiting the proposed "use." The interior circulation system shall be adequate to provide safe access to all "buildings," "structures" and required off-"street" parking, including access for firefighting and for the handicapped.
- C. Pedestrian circulation. An adequate and safe pedestrian circulation system shall be provided to permit safe access to "uses" on the site from the "street" and from all "parking areas."
- D. Landscaping and buffering. All ground mounted solar arrays, parking, loading and service areas shall be screened in a reasonable manner at all seasons of the year from the view of adjacent residential lots and streets. The general landscaping of the site shall be designed in an attractive manner and, wherever possible, desirable natural features existing on the site shall be protected and retained. **[Amended 12-8-2016 by L.L. No. 3-2016]**

- E. Lighting. Outdoor lighting shall be provided on the site to assure the safe movement of vehicles and persons and for security purposes. Such lighting shall be properly designed and shielded so as to avoid glare, prevent visibility of the source of the light from areas off-site and other undesirable impacts on neighboring properties and "streets."
- F. Protection of natural and cultural resources. The Planning Board shall endeavor to adequately protect any resources of local, State, and/or national significance. To this end, the Planning Board shall assure conformance with this chapter as well as with the Town Freshwater Wetlands Law, the Town Flood Damage Prevention Law²⁵ and all other applicable Town, County, state and federal laws and regulations.
- G. Drainage. The proposed stormwater drainage system shall be adequate to prevent any increase in the rate of surface runoff or otherwise contribute to downstream flooding during a storm of any magnitude up to and including a one-hundred-year frequency storm.
- H. Water and sewage. The proposed systems for water supply and sewage collection and disposal on the site shall be adequate to serve the needs of all proposed "uses" on the site without adversely impacting neighboring properties or "uses."
- I. Solid waste. Adequate provisions shall be made for the storage, collection, recycling and disposal of solid waste. Such facilities shall not be permitted to adversely affect neighboring properties or public facilities.
- J. "Building" design. The "height," location and size of the proposed "buildings" shall be in conformity with the requirements of this chapter. All such "buildings," utilities and other "structures" shall harmoniously relate to each other, the site and neighboring properties.
- K. Signage. All proposed "signs," including on-site directional "signs" and "building" "signs," shall meet the requirements of the Town Sign Law (Chapter 88), shall be adequate to provide reasonable information to the public and shall be in harmony with the design of the site and "buildings" and with neighboring properties.
- L. Hours of operation. For "uses" that could create negative impacts to neighboring properties by reason of noise, traffic, lighting or other impacts, the Planning Board may limit the hours of operation to mitigate such impacts.
- M. Other public needs. The Planning Board shall assure that other public needs, including but not limited to the provision of recreational facilities and open space, as well as other needed services, are adequately and properly met.

§ 113-61. Application procedure.

- A. Submissions. The applicant shall submit to the Planning Board 10 copies of a completed site plan application.
- B. Application fee reimbursement of professional review fees. An application fee shall accompany each such application in an amount set forth in a fee schedule as may

25. Editor's Note: See Ch. 63, Freshwater Wetlands, and Ch. 60, Flood Damage Prevention.

be amended from time to time by resolution of the Town Board. The Planning Board may require the establishment of an escrow account deposit in accordance with § 113-94C herein to reimburse the Town for the costs of professional review fees charged in connection with the review of the application. If the Planning Board shall not deem it necessary to establish an escrow account, the applicant shall still be responsible for reimbursing the Town for charges incurred for professional review services in accordance with § 113-94B.

- C. Notice of an initial Planning Board application shall be the responsibility of the applicant. Such a notice shall include a Notice of Application and such other information as the Planning Board may deem appropriate and shall be sent, via mail, at least 14 days prior to the next scheduled meeting in which said application is to be heard. **[Added 5-4-2006 by L.L. No. 4-2006²⁶; amended 12-8-2016 by L.L. No. 2-2016]**
- D. Required data. All of the following information shall be indicated on the site plan or submitted as part of or supplement to the site plan application unless specifically waived by the Planning Board. The site plan shall be drawn at an appropriate scale.
- (1) Title of development, date, revision dates, if any, North point, scale, name and address of record owner and of applicant, if other than owner, and of the engineer, architect, landscape architect or surveyor preparing the site plan. Where the applicant or owner is a corporation, the Planning Board may require the names and addresses of all officers, directors and principal stockholders of said corporation. Written authorization from the owner(s) to submit the application shall be required where the applicant is not the owner of the affected property.
 - (2) Area and boundaries of the subject property, section and "lot" numbers of the subject property, adjacent zoning and "district" boundaries, "buildings" or setback lines as required in this chapter, lines of existing "streets" and adjoining "lots" as shown on the Tax Maps and reservations, easements and other areas dedicated to public and special "use."
 - (3) A vicinity map showing the relationship of the property to adjacent and nearby properties, "streets," all contiguous landholdings and other features.
 - (4) The names and mailing addresses of all owners of record of all adjacent properties.
 - (5) Location and dimensions of all existing "buildings" and other "structures," poles, retaining "walls," stone "walls," "fences," rock outcrops, wooded areas, single trees with a diameter of six inches or more measured 4 1/2 feet above the ground, controlled areas as defined in the Town Freshwater Wetlands Law and/or state-designated wetlands as defined in the State Freshwater Wetland Act,²⁷ water supply, sanitary sewerage, storm drainage and any other utility facilities and of any other significant existing natural and cultural features within 100 feet of all property lines shall also be shown.

26. Editor's Note: This local law also redesignated former Subsections C through G as D through H, respectively.

27. Editor's Note: See Ch. 63, Freshwater Wetlands, and Environmental Conservation § 24-0101 et seq., respectively.

- (6) Existing and proposed contours at a maximum vertical interval of two feet both for the site and for an area extending at least 25 feet beyond the property boundary. The source of topographic information shall be ground observations or recent aerial survey data, subject to the approval of the Town Engineer.
- (7) Proposed "use" or "uses" of all land and "buildings."
- (8) Outline and elevations of the pavement of abutting "streets" and of proposed means of vehicular and pedestrian access to and from the site.
- (9) Location, layout and numbers of proposed off-"street" parking and "loading spaces."
- (10) Location and layout of any proposed recreation areas.
- (11) Proposed finished floor and "basement" elevations of "buildings," "finished grades" of walls, pavements and storm drains. When the site is within, or near as determined by the Building Inspector, the Town Engineer or the Planning Board, a designated flood hazard area, such elevations shall be on the United States Geological Survey Datum.
- (12) Detailed construction plans of proposed retaining walls, steps, ramps, paving and drainage "structures."
- (13) Expected storm drainage loads and a stormwater management plan.
- (14) Estimates of all earthwork, including the quantity of any material to be imported to or removed from the site, or a statement that no material is to be removed or imported. A certification from a geological engineer or other qualified professional as to the source, content and suitability of any material to be imported or used for fill shall be provided.
- (15) Location and dimensions of all proposed site improvements, including water supply, sanitary sewerage, storm drainage and other utility lines and equipment, including connections to existing facilities. The nature of any industrial waste shall be identified, and the means for its disposal shall be described. The applicant's engineer shall identify any condition that may result in denial of on-site water supply or a separate sewage disposal system by the Westchester County Health Department.
- (16) Detailed landscaping plans, including type, size and location of all materials used and plans for buffer screening and fencing.
- (17) Proposed location, type, design, size, color and illumination of all "signs."
- (18) Proposed type, design mounting "height," location, direction, shielding, power and timing of all outdoor lighting along with the design of any power and communication facilities.
- (19) Conditions specified by the Board of Appeals or Town Board in the approval of any variance or special permit related to the subject property.
- (20) Any proposed division of "buildings" into units of separate occupancy and detailed breakdowns of all existing and proposed floor space by type of "use"

and floor level.

- (21) Any other information determined necessary or appropriate by the approving agency in order to provide for the proper administration and enforcement of this chapter.
- E. Additional standards regarding commercial septic systems. In order to assure that the design, construction, operation and maintenance of septic systems of commercial establishments is undertaken so as to protect the public health and to protect the quality of surface and ground water supplies of the Town of Pound Ridge, the installation, repair, extension or alteration of a septic system serving any commercial "use" shall be undertaken in conformance with the standards of this chapter regarding commercial septic systems. These standards shall be in addition to any other septic system regulations which may be required by any state or County law or regulation. These standards shall also apply to subsurface septic disposal areas intended to serve a commercial "use" whenever application for special permit or site plan approval has been made pursuant to Article VIII or IX of this chapter. These standards are as follows:
- (1) For any activity which requires the site plan approval of the Planning Board or the approval of a special permit by the Town Board, the following information in addition to that specified in Subsection C(3) shall be submitted on a plot plan prepared by a licensed professional engineer as part of the application for approval.
 - (a) Location of the existing and proposed septic disposal area and proposed expansion areas.
 - (b) Location of the proposed well and any existing wells, sewage disposal area, bodies of water, wetlands and culverts within 200 feet of the proposed disposal area and expansion area.
 - (c) Locations of deep test holes and percolation test holes, as required by the Westchester County Health Department and by Subsection D(2)(a) below:
 - (2) Each proposed sanitary septic disposal area and expansion area shall be so designed as to meet the minimum requirements of the Westchester County Department of Health and, in addition, shall meet the following standards:
 - (a) Deep test holes and percolation test holes shall be dug in both the proposed disposal area and the expansion area in accordance with the schedule below:
 - [1] One deep test hole and two percolation test holes for every 2,000 square feet or fraction thereof of proposed disposal area and for every 2,000 square feet or fraction thereof of proposed expansion area.
 - [2] In order to assure that existing subsurface conditions are fully explored and documented, the Town Engineer may require that additional test holes be dug at locations to be designated by said

Engineer.

- [3] Upon selection and approval of the test hole sites, the applicant shall notify the office of the Town Engineer who shall witness the tests.
- (b) In both the areas proposed for primary disposal and system expansion, the groundwater level shall not be less than four feet below the undisturbed existing ground surface unless otherwise permitted by the Town Engineer. This shall be verified by application as consistent throughout the year. If the groundwater level cannot be verified by other field indicators, then, at the discretion of the Town Engineer, deep hole and percolation tests shall be limited to the months of March 1 through June 15, or as specifically designated by the Town Engineer.
 - (c) No primary septic disposal area or proposed expansion area may be located in an area where percolation rate tests have exceeded 15 minutes per inch.
 - (d) In the site proposed for the primary septic disposal area or proposed expansion area, there shall be at least six feet from the existing, undisturbed ground surface to rock. This shall be verified at the time of deep test hole inspection by a designated Town representative.
 - (e) No primary septic disposal area or proposed expansion area may be located within 25 feet from any property line.
 - (f) Curtain drains shall be located at least 15 feet from the disposal area on the upgrade side and 25 feet from the sides of the disposal area. Curtain drains shall not be permitted adjacent to the septic system in any location downgrade of the subsurface flow.
 - (g) Other conditions of septic system design may include engineering improvements required by the Town Engineer and approved by the Planning Board or other otherwise required to ensure conformance with other local laws and regulations.
 - (h) For subsurface, on-site septic designs, other than leaching trenches, the Planning Board may establish additional guidelines and procedures in accordance with the generally accepted engineering standards.
- F. Review by other agencies. The Planning Board shall, where appropriate, submit copies of the site plan application to the Building Inspector, the Town Engineer and the Highway Department. The Planning Board may also submit copies for information, review and comment regarding facilities under their jurisdiction to any local, County, state or federal agency with jurisdiction. All agencies shall have 30 days from the date of forwarding to submit a written report. Such time limit may be extended by mutual agreement with the applicant. The Planning Board shall, in addition, forward copies to the Westchester County Planning Board at least 30 days prior to final action, when such proposed development abuts a state or County highway, park, drainage channel or "building" site in accordance with § 239-m of the General Municipal Law. An act contrary to the recommendations of the County Planning Board shall require a vote of a majority plus one of all the members of the

Planning Board. Within 30 days after final action, the Planning Board shall file a report of the final action it has taken with the County Planning Board.

- G. Staged development. Where the staging of a development is contemplated, a plan for the ultimate development of the entire property shall be submitted. The site plan shall show and shall be approved for only the stage(s) for which construction will begin within 12 months of the date of final approval by the Planning Board.
- H. Additional submissions. Where, due to special conditions unique to a site, or to the size, nature or complexity of the proposed "use" or development of land or "buildings," the Planning Board finds that additional data are necessary for the proper review of the site plan, the Board may require such data to be included in the required submission of said plan.

§ 113-62. Special permit applications.

Where special permit approval is required for a proposed "use" under Article VIII of this chapter, site plan approval shall be incorporated into that process and shall be the responsibility of the Town Board, except as otherwise required by § 113-36B.

§ 113-63. Public hearings. [Amended 5-4-2006 by L.L. No. 4-2006]

The Planning Board shall schedule and conduct a public hearing on each site plan application, except in those cases where the hearing requirement may be waived by said Board, within 62 days from the date of the meeting at which a proper and complete application has been received. Notice of said public hearing shall be the responsibility of the applicant. Such a notice shall include a copy of the application and such other information as the Planning Board may deem appropriate, and be sent, by way of certified mail, at least 14 days prior to the date of said hearing at which the application is to be heard. Notification shall be sent to all property owners of record within a distance of 500 feet from the boundary of the property. A receipt verifying said notice has been sent and received, or that best effort has been made, shall be submitted to the Planning Board Secretary at least five days prior to said meeting.

§ 113-64. Time for Planning Board decision.

Within 62 days of the date of the close of the public hearing, or of the date that the application was received if no hearing has been held, the Planning Board shall decide whether to approve, approve with modifications or disapprove the site plan. The time at which the Planning Board must arrive at its decision may be extended at the request of the applicant or as necessary for the Planning Board to complete all necessary environmental review requirements pursuant to the State Environmental Quality Review Act (SEQRA).²⁸ A copy of the Board's decision shall be filed in the office of the Town Clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant.

§ 113-65. Conditional approval.

- A. The Planning Board may require such conditions, modifications and safeguards in

28. Editor's Note: See Environmental Conservation Law Article 8.

conjunction with its approval of a site plan as said Board determines necessary to assure that the requirements and intent of the Town's applicable laws, regulations and plans will be complied with. Such conditions may include any applicable requirement which the Planning Board has heretofore been empowered by virtue of provisions of the Town Law to impose as a requirement with regard to the approval of plats and such reasonable conditions and restrictions as are directly related to or incidental to a proposed site plan. All required improvements, and compliance with all applicable laws and regulations of the Town Code, shall be guaranteed by a performance and restoration bond, or other suitable form of financial security deemed acceptable by the Town Attorney, in accordance with the provisions of § 113-92.1. The Planning Board shall also have the power to waive, subject to appropriate conditions, any requirements as, in its judgment of the special circumstances of a particular site plan, are not requisite in the interest of the public health, safety and general welfare. Such conditions of approval shall include adequate provisions for improvements to be made within the "street" right-of-way where such improvements may be necessitated by the additional pedestrian and/or vehicular traffic to be generated from the new, enlarged or changed development, and such improvements shall be designed to be consistent with the overall improvement plan for such "street(s)." **[Amended 4-11-2003 by L.L. No. 4-2003]**

- B. Conditions for approval for the installation, repair, extension or alteration of a commercial septic system shall include conformance with the Planning Board's regulations for commercial septic systems. These regulations shall be in addition to any other septic system regulations which may be required by any state or County law or regulation.

§ 113-66. Expiration of approval.

Site plan approval obtained pursuant to the procedures and requirements in this chapter shall expire if a building permit is not issued and construction begun within a period of one year or if construction is not completed within a period of three years from the date of approval.

§ 113-67. Issuance of certificates of conformance and occupancy; surety.

The Building Inspector may issue certificates of conformance and occupancy after all requirements of site plan approval, and/or special permit approval which requires the preparation of a site plan, have been completed or temporary certificates of conformance and occupancy after the applicant has provided surety covering all uncompleted requirements in such amount as shall be set by the Planning Board and in such form as meets the approval of the Town Attorney. All site plan requirements for which surety is posted shall be for a term to be determined by the Planning Board based upon the recommendation of the Town Engineer to guarantee their proper installation and maintenance. The Building Inspector shall report to the Planning Board when the requirements, construction, installation and all other items of the site plan have been completed, at which time the Planning Board may authorize the release of the surety. Failure to complete any improvements covered by the surety within the terms established by the Planning Board shall render the temporary certificates of conformance and/or occupancy void as required in § 113-92 of this chapter, and such surety shall be called

unless the term is extended by the Planning Board and surety for the new term posted.

§ 113-68. As-built plan.

- A. Upon completion of any development or redevelopment pursuant to an approved site plan, and prior to the issuance of a certificate of conformance and occupancy, the applicant shall submit to the Building Inspector an as-built plan prepared and certified by a licensed engineer or surveyor showing the location of all site improvements as constructed.
- B. The as-built plan shall be reviewed by the Town Engineer and/or the Building Inspector to determine if it is in conformance with the Zoning Code, the approved site plan and related requirements of the Planning Board and any conditions of a special permit or variance. Where the Town Engineer and/or the Building Inspector determines that the as-built plan is not in conformance, no certificates of conformance and occupancy shall be issued by the Building Inspector unless either the construction is corrected or a revised site plan is submitted to and approved by the Planning Board except as provided below. **[Amended 4-9-1998 by L.L. No. 3-1998]**
- C. Field changes.
 - (1) During construction, the Town Engineer or Building Inspector may authorize or require, at his own determination or upon the request of the applicant, minor adjustments to the approved site plan when such adjustments are necessary in light of technical or engineering considerations the existence or materiality of which was first discovered during actual construction. Such minor adjustments shall be consistent with the spirit and intent of the approved site plan. The Town Engineer or Building Inspector shall notify the Planning Board of such adjustments, in writing, at the next regularly scheduled Planning Board meeting, and said notification shall be entered into the record of the Planning Board.
 - (2) Where unforeseen conditions are encountered which require any material change to an approved site development plan, or where the developer wishes to modify the approved plan for other reasons, an amended site plan shall be filed with the Planning Board for review and approval in accordance with the same procedures required for initial applications.

§ 113-69. Conformance with approved plan.

Continued conformance with any approved site plan shall be required as a condition of the continuance of any certificate of conformance and certificate of occupancy for the land or "building" to which it applies. Failure to so maintain or continue conformance shall be considered cause for revocation or removal of such certificate and the immediate discontinuance of the approved "use."

§ 113-70. Planning Board initiative.

- A. Area site plans. The Planning Board may, on its own initiative, propose a general or specific site plan to serve as a guide for future developments in any area where

site development plan approval may be required in the future. Such area site plan shall be based upon the requirements of this chapter and the Town Plan.

- B. Area design plans. The Planning Board may, on its own initiative, propose a general or specific site design plan to serve as a guide for future developments in any area where site development plan approval may be required in the future. Such area design plan shall be based upon the requirements of this chapter and the Town Plan. Such area design plan may establish guidelines applicable to the layout and design of one or more sites as well as the "building" located thereon, including but not limited to standards for landscaping, lighting, signage, utility installation, paving materials, pedestrian amenities, "building" materials, colors and architectural style.

ARTICLE X
Off-Street Parking and Loading

§ 113-71. Purpose.

It is the intention of this article that all "structures" and land "uses" be provided with a sufficient amount of off-"street" motor vehicle parking to meet the needs of persons employed at or making "use" of such "structures" or land "uses."

§ 113-72. Required spaces to be shown on plan.

In the case of new "one-family" residences, no building permit shall be issued unless the plans therefor, when submitted for a building permit, shall show specifically the location and specifications of a "garage" complying with the Bulk Schedule²⁹ and the means of access thereto from the public "streets" or highways. No certificate of occupancy or certificate of conformance shall be issued for any "building" or land "use" until the required off-"street" "parking space" has been established; provided, however, that a certificate of occupancy for a new "one-family" residence may be issued prior to the construction of any "garage" or which is shown on the plans therefor as required by the preceding sentence.

§ 113-73. Existing "buildings" and "uses."

- A. "Buildings" and land "uses" in existence or for which building permits have been approved on the effective date of this amended chapter shall be subject to the "parking space" requirements of this chapter on the date of such permit or the date the "use" was established, in the case of existing "uses," provided that any parking facilities then existing to serve such "structures" or "uses" shall not in the future be reduced, except where they exceed such requirements, in which case they shall not be reduced below such requirements. Required parking facilities shall, however, be provided as a condition for the issuance of any building permit for any enlargement of such "structures" or "uses" in the future, but in the case of exceptional difficulty or unusual hardship to such properties arising out of this requirement, appeal may be made to the Board of Appeals. In acting upon such case, the Board of Appeals shall require such degree of conformance as it may deem reasonable for that part of the "structure" or "use" that is legally nonconforming but shall not waive any part of the requirement for that part of the "structure" or "use" that constitutes an enlargement or expansion and shall not permit reduction or elimination of whatever quantity of parking may already be in existence unless it is in excess of requirements.
- B. Required off-"street" parking facilities which, after development, are later dedicated to and accepted by the Town shall be deemed to be for any public parking "use" permitted by the Town Board.

§ 113-74. Off-"street" parking and loading requirements for certain "uses."

- A. Off-"street" motor vehicle parking facilities shall be provided as follows, except as provided above or where additional parking requirements may be made as a

29. Editor's Note: The Schedule of Bulk Regulations is located at the end of this chapter.

condition of the issuance of a special permit under Article VIII:

| Type of "Use" | Minimum Requirements |
|--|--|
| "One-family" dwelling | 2 spaces |
| Professional office permitted in a residential "district" as an accessory "use" | 2 spaces in addition to spaces required for residential units, except that medical or dental offices shall have 4 spaces for each doctor or dentist in addition to residential parking requirements. |
| Church or other place of worship | 1 space for each 5 seats or pew spaces or 0.5 spaces per occupant of the largest room according to the maximum occupancy permitted by the Fire Code, whichever is greater. |
| Camps and day camps | 1 space for each member of camp staff, plus 1 space for each 5 campers |
| "Nursery school," pre-kindergarten and private elementary and high school | 1 space for each teacher and staff member, plus 1 space for each 5 pupils |
| Telephone exchange | 1 space for each 2 employees, plus 1 space for each company vehicle |
| "Private membership club" | 1 space for each member, except in case of memberships issued to families, in which case, at least 1 space for each "family" |
| "Health club" | 1 space for each 200 square feet of "gross floor area" or major portion thereof |
| "Accessory apartment" | 1 space for each bedroom |
| "Landscape nursery and garden center" for: Enclosed "buildings" where retail sales are conducted | 1 space for each 200 square feet of "gross floor area" or major portion thereof |
| Greenhouses, shade sheds and similar display and sales areas to which the public is admitted | 1 space for each 500 square feet of "gross floor area," or ground area in the case of shade sheds, or major portion thereof |
| All greenhouses, storage "buildings" and other "structures" to which the public is not admitted | 1 space for each 2,500 square feet of "gross floor area" or major portion thereof |
| All outdoor sales and display areas, excluding those areas where nursery stock is grown | 1 space for each 2,500 square feet of such area or major portion thereof |
| Retail or personal service business | 1 space for each 200 square feet of "gross floor area" or major portion thereof |
| Business or professional office | 1 space for each 250 square feet of "gross floor area" or major portion thereof |

| Type of "Use" | Minimum Requirements |
|--|---|
| Bank | 8 spaces, plus 4 additional spaces for each teller in excess of 2, including waiting spaces for tellers at drive-up windows |
| "Restaurant" | 1 space for each 3 seats or 1 space for each 100 square feet of "gross floor area" or major portion thereof, whichever is greater |
| Veterinary office | 1 space for each employee plus 1 space for each 400 square feet of "gross floor area" or major portion thereof |
| Residential "dwelling units" in Planned Business "Districts" | 1 space for each "dwelling unit" |

- B. Off-"street" loading. Except for residential "uses," off-"street" loading facilities shall be provided as follows: One off-"street" "loading space" shall be required for the first 4,000 square feet of "gross floor area," or ground area in the case of shade sheds, and one additional space for each 10,000 square feet or major portion thereof. Such "loading space(s)" shall be so located that, when in "use," it will not interfere with the safe movement of pedestrians and vehicles to, from or within the "parking area."
- C. Reasonable and appropriate off-"street" parking and loading requirements for "structures" and land "uses" which do not fall within the categories listed above shall be determined in each case by the Planning Board, which shall consider all factors entering into the parking and loading needs of such "use."
- D. Where the Planning Board determines that, because of probable variations in the time of peak usage of "parking spaces" serving different types of land "uses" or because of the nature of a particular "use" or "uses," the number of off-"street" parking and "loading spaces" required by this chapter may be excessive, the Board may allow a reduction in the total number of such spaces to be initially improved, subject to such conditions as said Board may require to assure the improvement of the remaining spaces at such time as the Board may determine their necessity.
- E. Where two or more different "uses" occur on a single "lot," the total amount of parking and loading facilities to be provided shall be the sum of the requirements for each individual "use" on the "lot," except that the Planning Board may approve the joint "use" of parking and "loading space" by two or more establishments on the same or on contiguous "lots," the total capacity of which is less than the sum of the spaces required for each, provided that the Board finds that the capacity to be provided will substantially meet the intent of the requirements by reason of variation in the probable time of maximum "use" by patrons or employees among such establishment and provided that such approval of joint "use" shall be automatically terminated upon the termination of the operation of any of such establishments.

§ 113-75. Layout and location of spaces.

- A. The required off-"street" parking facilities for "structures" and land "uses" which

are developed after the effective date of the amended chapter shall be provided on the same "lot" or "premises" with such "structure" or land "use," except that off-"street" "parking spaces" required for "structures" or land "uses" on two adjoining "lots" may be provided in a single common facility on one or both of said "lots" and except that the Planning Board may permit all or part of the required spaces to be located on any "lot" within 300 feet of the "building," except in a residential "district," if the Board determines that it is impractical to provide parking on the same "lot" with the "building."

- B. In any residential "district," no unenclosed off-"street" parking facility shall be developed within 25 feet of a "front lot line" or within 10 feet of a side or "rear lot line."
- C. No parking in connection with any nonresidential "use" shall be so located that motor vehicles may enter or leave the "parking area" across a sidewalk except at a point or points approved as part of a plan approved in accordance with the requirements of Article VIII or IX.
- D. No parking required for a business "use" in a business "district" may be provided in a residential "district."
- E. Traffic circulation aisles between rows of "parking spaces" shall be at least 25 feet in width, except that the Planning Board may approve a lesser distance as appropriate for areas with angled or compact "parking spaces." Where such aisles are also needed to carry significant traffic flows to and from other portions of the "parking area" or the "street," the Board may require the width of such aisles to be at least 35 feet.
- F. "Parking areas" shall be reasonably located with respect to the major entrances of the "structure" which they serve. The Planning Board may require as a condition of site plan approval that the location and design of parking, maneuvering and access areas be so arranged that they will be compatible with those existing or planned on contiguous or neighboring properties, including the provision of traffic and pedestrian access connections between such areas.

§ 113-76. Improvement of parking and loading facilities.

Required off-"street" parking and loading facilities may be enclosed in a "structure" or may be open, provided that all required parking and loading facilities shall be graded, surfaced, drained and suitably maintained to the satisfaction of the Building Inspector, to the extent necessary to avoid nuisances of dust, erosion or excessive water flow across public ways or adjacent lands or other unsafe conditions. If, at any time during the course of such "use," the Building Inspector determines that the required parking and loading facilities are not being properly maintained, written notice of such shall be mailed to the property owner. All deficiencies noted in such letter must be corrected to the satisfaction of the Building Inspector within a reasonable time frame as specified in such letter, as a condition of the continuation of the certificate of conformance and the certificate of occupancy. The Building Inspector may require the plan to provide for suitable markings to indicate individual parking and "loading spaces," maneuvering area, entrances and exits.

§ 113-77. Operation and maintenance of facilities.

Required off-"street" parking and loading facilities shall be maintained as long as the "use" or "structure" exists which the facilities are designed to serve. Required "parking areas" developed for specific "structures" and "uses" shall be reserved at all times to those persons who are employed at or make "use" of such "structures" and land "uses," except when dedicated to and accepted by the Town as public "parking areas." Except as specifically referenced, the requirements of this article shall not apply to properties and "uses" in a Planned Business A "District." These properties shall be subject to the off-"street" parking and loading standards as specified in the regulations of the Planned Business A "District."

ARTICLE XI
Board of Appeals

§ 113-78. Establishment; powers to adopt regulations; organization.

- A. A Board of Appeals, as heretofore established by the Town Board, is hereby maintained.
- B. Said Board shall have the power to adopt, from time to time, such rules and procedure not inconsistent with law, as it may determine to be necessary to carry out the provisions of these regulations and to exercise the authority vested in it by the Town Law.

§ 113-79. Powers and duties.

The Board of Appeals shall have all the powers and duties prescribed by the Town Law and by this chapter, which powers and duties are summarized and more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any of the power of the Board of Appeals that is conferred by §§ 267, 267-a and 267-b of the Town Law.

§ 113-80. Interpretation.

On appeal from an order, requirement, decision or determination made by an administrative official, the Board of Appeals shall decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any "district" boundary line, if uncertainty remains after reference to the rules specified in Article II.

§ 113-81. Variances.

Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the chapter, the Board of Appeals shall have the power in passing upon appeals to vary or modify the application of any of the regulations or provisions of this chapter relating to the "use," construction or alteration of "buildings" or "structures" or the "use" of land, upon application by an appellant, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.

- A. "Use" variances. Where because of unnecessary hardship relating to the land an applicant desires to utilize land for a "use" not allowed in the "district" in which the land is located, the Board may grant a variance in the application of the provisions of this chapter in the specific case, provided that as a condition to the grant of any such variance, the applicant shall demonstrate to the Board, and the Board shall make each and every one of the following findings, 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) 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) The requested "use" variance, if granted, will not "alter" the essential character of the neighborhood;
 - (4) The alleged unnecessary hardship has not been self-created; and
 - (5) That within the intent and purposes of this chapter the variance, if granted, is the minimum variance necessary to afford relief and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. To this end, the Board may permit a lesser variance than that applied for.
- B. Area variances. In making its determination, the Board of Appeals shall consider the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider the following factors:
- (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
 - (2) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.
 - (3) Whether the requested area variance is substantial in relation to the requirement.
 - (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or "district."
 - (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board but shall not necessarily preclude the granting of the area variance.
 - (6) The Board, in the granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate to afford relief and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. To this end, the Board may permit a lesser variance than that applied for.
- C. Variances when subdivision, site plan or special permit applications are involved. Where a proposed site plan contains one or more features which do not comply with the zoning regulations, or where a proposed special permit "use" contains one or more features which do not comply with the zoning regulations, or where a proposed subdivision plat contains one or more "lots" which do not comply with the zoning regulations, application may be made to the Board of Appeals for an area variance or variances pursuant to Subsection B, without the necessity of a decision or determination of an administrative official charged with the enforcement of this chapter or a referral by an approving agency acting pursuant to this chapter.

§ 113-82. Conditions and safeguards. [Amended 4-11-2003 by L.L. No. 4-2003]

The Board of Appeals, in granting of both "use" variances and area variances, may

prescribe such reasonable conditions or restrictions applying to the grant of a variance as it may deem necessary in each specific case, in order to minimize the adverse effects of such variance upon the character and property values of the neighborhood or community and to protect the public health, safety and welfare. All required improvements, and compliance with all applicable laws and regulations of the Town Code, shall be guaranteed by a performance and restoration bond, or other suitable form of financial security deemed acceptable by the Town Attorney, in accordance with the provisions of § 113-92.1. Such conditions or restrictions shall be directly related to the proposed "use" of the property and shall be incorporated in the building permit and certificate of occupancy. Failure to comply with such conditions and restrictions shall constitute a violation of this chapter, and may constitute the basis for denial or revocation of a building permit, certificate of conformance or certificate of occupancy and for all other applicable remedies.

§ 113-83. Appeal or application.

An appeal shall be taken within 60 days of the order or decision appealed from by filing with the official or agency from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the ground thereof. The official or agency from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken. A referral to the Board for a variance, or a request for an interpretation, may be made at any time. All such appeals and applications to the Board shall be made by the owner or agent duly authorized, in writing, and shall be on forms prescribed by the Board. Each appeal or application shall fully set forth the circumstances of the case, shall refer to the specific provision of the chapter 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 grounds on which it is claimed that the same should be granted.

§ 113-84. Review by other agencies.

- A. Upon receipt of a completed appeal or application, the Board of Appeals may forward copies for review and report to the Building Inspector, Town Engineer and Planning Board and to other such officials and agencies of the Town as it deems appropriate. All such agencies shall have 45 days from the date of forwarding to submit a report. In reviewing an application for an area variance for a subdivision plat, the Zoning Board of Appeals shall request the Planning Board to provide a written recommendation concerning the proposed variance.
- B. The Board of Appeals shall refer to the Westchester County Planning Board for its recommendation all matters within the provisions of Article 12B, Section 239-l and 239-m of the General Municipal Law at least 10 days prior to the public hearing.

§ 113-85. Public hearing.

The Board of Appeals shall conduct a public hearing on every appeal, application or request made pursuant to this chapter. Such public hearing shall be held within a reasonable time from the date an appeal is taken or an application or request is made to the Board.

§ 113-86. Notice of hearing. [Amended 12-8-2016 by L.L. No. 2-2016]

Notice of Hearing shall be published in the official newspaper at least 14 days prior to the date of such hearing

§ 113-87. Decision.

The Board of Appeals shall decide upon the appeal for relief, interpretation or determination within 62 days after the close of said hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board. Every decision of the Board of Appeals shall be by resolution, shall be recorded and shall fully set forth the facts of the case, the findings and the conclusions on which the decision was based. The decision of the Board shall be filed in the office of the Town Clerk within five business days after the day such decision is rendered, and a copy of such resolution shall be mailed to the applicant.

§ 113-88. Rehearing.

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

§ 113-89. Fees.

Any person or corporation, other than the Town of Pound Ridge, making any application to the Board of Appeals under the provisions of this chapter shall pay to the Building Department the sum as set forth in the Schedule of Fees³⁰ to cover the cost of advertising the notice of hearing, upon each application filed.

30. Editor's Note: See Ch. 54, Art. II, Schedule of Fees.

ARTICLE XII
Administration and Enforcement

§ 113-90. Powers and duties of Building Inspector.

- A. No board, agency, officer or employee of the Town shall issue, grant or approve any permit, license, certificate or other authorization, including special permits by the Town Board, for any construction, reconstruction, alteration, enlargement or moving of any "building," or for any "use" of land or "building" that would not be in full conformance with the provisions of this chapter. Any such permit, license, certificate or other authorization issued, granted or approved in violation of the provisions of this chapter shall be null and void and of no effect, without the necessity of any proceedings or revocation or nullification thereof, and any work undertaken or "use" established pursuant to any permit license, or certificate or authorization shall be unlawful, and no action will be taken by any board, agency or employee of the Town purporting to validate any such violation.
- B. This Chapter shall be enforced by the Building Inspector in accordance with the provisions of this chapter.
- C. Records and reports.
 - (1) The Building Inspector shall keep a permanent record, including all pertinent maps and plans, of all applications for building permits, certificates of conformance and certificates of occupancy.
 - (2) The Building Inspector shall also keep a permanent record of all violations of this chapter, whether reported by private citizens or by any board, agency, office or employee of the Town, and such record shall show the disposition of all such violations.
 - (3) The Building Inspector shall make a report to the Town Board, in writing, at least once every three months, reporting the number and type of building permits, certificates of conformance and certificates of occupancy issued and listing all reported or continuing violations of this chapter and the disposition or pending action of such violations.

§ 113-91. Building permits.

- A. No "building" or "structure" shall be erected, enlarged, structurally altered, reroofed, demolished, moved or removed, wholly or partly, and no excavation for any "building," "structure" or "use" shall be made until a permit therefor has been issued by the Building Inspector. The conversion to living space of any "garage" or carport attached to a "one-family dwelling" shall be deemed to be the enlargement of a "building" or "structure" within the meaning of this section, and no building permit for any such conversion shall be issued unless the requirements of § 113-72 with respect to a new "one-family dwelling" are complied with. Except upon a written authorization of the Board of Appeals, no such building permit certificate of conformance or certificate of occupancy shall be issued for any "building" where such construction, addition, alteration, moving or "use" thereof would be in violation of any of the provisions of this chapter.

- B. No building permit shall be issued for the construction of any detached accessory "building" of the "structure," inclusive of "garages," utility sheds, storage sheds or any other outbuildings, until such time as the principal "building" of the approved bulk, size and arrangement has been substantially completed on a "lot" conforming in all respects to all applicable provisions of this chapter.
- C. After building permits for permitted construction have been granted in accordance with the appropriate provisions of this chapter, a temporary construction shed may be erected on the "lot" on which primary construction is to be undertaken. Such construction shed shall not be larger in size than 36 square feet unless an application therefor is made to the Building Inspector, such application adequately showing the need for a construction shed of larger size. At the discretion of the Building Inspector, permission may be granted for the temporary erection and "use" of such larger construction shed. All construction sheds shall be immediately removed in the event that the Building Permit originally issued by the Building Inspector either expires or becomes void or immediately upon completion of the work authorized by the Building Permit, prior to the issuance of a certificate of conformance and/or certificate of occupancy, as required. Under no circumstance shall any construction shed be used for residential purposes.
- D. A building permit shall be void if construction is not started within a period of 60 days or completed within a period of one year of the date of said permit. Such building permit may be renewed by the Building Inspector for an additional period of time, under the same procedure and pursuant to the provisions of this chapter, as they may apply. Renewal of a building permit shall require the preparation and submittal of a construction phasing schedule which shall give priority to completion of the exterior building and site improvements, and which schedule shall be a condition of said Building Permit renewal.
- E. In addition to any information required by the Building Inspector to determine conformance with the New York State Building Code, there shall be submitted with all applications for building permits three copies of a layout or plot plan drawn to scale, showing the actual shape and dimensions of the "lot" to be built upon, the exact size and location on the "lot" of the existing "building" and "accessory buildings" and the lines within which the "building" or "structure" is to be erected or altered, the existing and intended "use" of each "building" or part thereof, the number of families or housekeeping units that a "building" is designed to accommodate and such other information with regard to the "lot" and neighboring "lots" that may be necessary to determine and provide for the enforcement of this chapter. One copy of such plans shall be returned to the owner when such plans shall have been approved by the Building Inspector. All dimensions shown on the plan relating to the location and size of the "lot" to be built upon shall be used on an actual survey prepared by a licensed land surveyor, and the "lot" shall be staked out on the ground before construction is started. The Building Inspector, after inspection of the property, may require information relative to the contours of the "lot" where the "building" or "buildings" are to be located.
 - (1) No building permit for the erection of a new "building" shall be issued before the applicant therefor has filed with the Building Inspector two prints of a plot plan showing the proposed "building" in relation to all property lines prepared by a licensed architect. All proposed new "buildings" shall be staked out by or

under the supervision of a licensed land surveyor, and a signed Statement from the surveyor that the proposed "building" has been staked out in conformity to the approved plot plan shall be filed with the Building Inspector before footings are poured. After installation of footings (which may include foundation corners and/or the first course of the foundation) and prior to inspection of the same by the Building Inspector, a survey showing the location of the footings, as aforesaid, in place shall be prepared by a licensed surveyor and filed with the Building Inspector. The footings survey shall also indicate the location of any portion beyond the footings as shown by the "building" plans or architect's drawings. If the foregoing survey discloses any violations of the setback provisions of this chapter with respect to any portion of the proposed "building," all construction work shall cease until conformity is achieved, subject to the right of the applicant to appeal from the decision of the Building Inspector.

- (2) In the case of proposed additions to existing "buildings" and "structures," or where a permit is requested for an "accessory building," the survey requirements hereinabove described may, at the option of the Building Inspector, be modified where there is on file with the Building Inspector a survey showing the location of existing improvements and setbacks and where the Building Inspector can adequately determine from such survey that a proposed addition or "accessory building," as shown on a site plan, will not result in a setback violation.

F. Swimming pools.

- (1) No property owner shall commence construction of any private swimming pool on any property before obtaining a permit therefor from the Building Department of the Town of Pound Ridge. Said permit shall be issued only after the filing of an application with the Building Department, said application to be accompanied by one set of plans reflecting width, length and depth of such swimming pool. In addition thereto, a survey of the property upon which said swimming pool is to be located shall be filed with the application, and said survey shall specifically locate the swimming pool to be constructed.
- (2) No portion of any swimming pool permitted under this chapter shall be located closer than 50 feet from any property line or within a supplementary setback as indicated on the survey, subdivision plat or approving resolution submitted as required hereinabove. It shall be mandatory that spilloffs and drainage from any swimming pool shall be controlled in a method approved by the Building Inspector and in accordance with § 113-36.
- (3) A filing fee in such amount as may be, from time to time, fixed by resolution of the Town Board shall accompany each application for a swimming pool permit.

G. Tennis courts.

- (1) No property owner shall commence construction of a private tennis court on any property before obtaining a permit therefor from the Building Department of the Town of Pound Ridge. Said permit shall be issued only after the filing of an application with the Building Department, said application to be

accompanied by one set of plans reflecting width and length of such tennis court. In addition thereto, a survey of the property upon which said tennis court is to be located shall specifically locate the tennis court to be constructed. No portion of any tennis court, including the "fence" surrounding the court, permitted under this chapter shall be located closer than 50 feet from any property line or within a supplementary setback "building" area as indicated on the survey, subdivision plat or approving resolution submitted as required hereinabove.

- (2) A filing fee in such amount as may be, from time to time, fixed by resolution of the Town Board shall accompany each application to construct a tennis court.
- H. The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed "building" sites will be reasonably safe from flooding. If the proposed "building" site is in a location that has a flood hazard, any proposed new construction or substantial improvement must be designed or modified and anchored to prevent flotation, collapse or lateral movement of the "structure"; "use" construction materials and utility equipment that are resistant to flood damage; and "use" construction methods and practices that will minimize flood damage and comply with all other requirements of the Flood Damage Prevention Law.³¹

§ 113-92. Certificates of conformance and occupancy.

- A. It shall be unlawful for an owner to make or permit any new "use" of land or to "use" or permit the "use" of any "building" or "premises," or part thereof, created, erected, changed, converted or enlarged, wholly or partly, in its "use" or "structure" after the effective date of this amended chapter until a certificate of conformance and occupancy shall have been issued by the Building Inspector. Such certificate shall state that such "building" or "premises," or part thereof, and the proposed "use" thereof are in complete conformity with the provisions of this chapter. The lack of a certificate of conformance and occupancy for "uses" and "buildings" existing as of the date of the adoption of this chapter shall not, of itself, be deemed to be nonconformance with this chapter. It shall be the duty of the Building Inspector to issue a certificate of conformance and occupancy, provided that he is satisfied that the "building" and the proposed "use" of the "building" or "premises" conform to all the requirements herein set forth. A certificate of conformance and occupancy shall be applied for coincident with an application for a building permit.
- B. A certificate of conformance and occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and "use" of the "building" or land to which it applied and shall continue in effect as long as such "building" and the "use" thereof or of such land is in full conformity with the provisions of this chapter and any requirements made pursuant thereto.
- C. The Building Inspector shall maintain a record of all certificates, and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the "building" affected. Upon written request from the owner, the Building

31. Editor's Note: See Ch. 60, Flood Damage Prevention.

Inspector shall issue a certificate of conformance and occupancy for any "building" or "premises," certifying, after inspection, that the extent and kind of "use" and disposition conforms to the provisions of this chapter.

D. Properties adjoining roads under construction.

- (1) No certificate of conformance or certificate of occupancy shall be issued for a "building" or "premises" or part thereof, access to which is from a road or roads in a new subdivision, the plat of which has been approved by the Planning Board and filed with the County Clerk, which road is being, or is to be, constructed under a performance bond, unless the Planning Board has certified to the Building Inspector that the traveled way, together with its accessory storm drainage facilities, giving access to the "building" or "premises" is suitably improved for vehicular access by the occupant and by fire and police equipment and that agreements satisfactory to the Town Attorney have been presented to the Planning Board providing for the maintenance of such road in all-weather passable condition at all times. Such maintenance responsibility shall also include adjoining public or private roads required for such access wherein the developer has or will have done any construction work in connection with said subdivision.
- (2) In the event that said roads are not continuously maintained in an all-weather passable condition, the Town Engineer and/or the Building Inspector shall notify the developer, in writing (certified mail, return receipt requested) as to the nature of the deficiency and the action necessary to return the road to an all-weather passable condition. Failure of the developer to proceed with effective remedial action within 24 hours, in the case of surface condition maintenance, or 48 hours, in the case of road construction failures, following the receipt of such written notice shall be cause for the Town Engineer and/or Building Inspectors upon authorization by the Supervisor, to have the necessary work done. The charges for such work shall be reimbursed out of such performance bond, as provided in the Land Development Regulations.³²
[Amended 4-9-1998 by L.L. No. 3-1998]

§ 113-92.1. Performance and restoration guarantees. [Added 4-11-2003 by L.L. No. 4-2003]

- A. The Town Board, the Planning Board, the Zoning Board of Appeals, the Water Control Commission and the Building Inspector are hereby authorized to require the establishment of performance and restoration guarantees as part of any permit or approval issued or granted thereby. Unless otherwise waived by the approving or permitting agency, a letter of credit, performance bond or equivalent financial security shall be delivered to the Town to guarantee thereby to the Town that the applicant shall:
- (1) Faithfully cause to be constructed and completed within a reasonable time, to be determined by the Building Inspector, the required improvements as indicated on any plans approved by the Town Board, Planning Board, the Zoning Board of Appeals, the Water Control Commission, or as required for

32. Editor's Note: See Ch. A117, Land Development Regulations.

permits issued by the Building Inspector.

- (2) Restore and remedy any violations of the Town Code or the approved plans as directed by the approving or permitting agency; and
 - (3) Reimburse the Town for any professional fees associated with inspections, reports and legal proceedings authorized by the Town as necessary to ensure the enforcement, compliance and remediation of violations of the approved plans or provisions of the Town Code.
- B. Procedures. The Town shall require letters of credit, performance bonds or equivalent financial security for any construction and site work involving grading, curbs, sidewalks, utilities, lighting, driveways, parking lots, plantings, signs, fences, etc., as indicated on the approved plans or building permits as well as restoration and remediation of violations involving such work. Unless otherwise required, no financial guarantees are required for construction of a principal building or structure covered by a building permit.
- (1) Unless otherwise modified by the approving agency, the letter of credit, performance bond or equivalent financial security are to be written to cover the full estimated cost of required construction and site work involving public improvements or improvements, protection or remediation that are deemed to be of interest in protecting the health, safety and welfare of the public.
 - (2) Estimates of construction costs are to be submitted to the approving agency by the applicant's New York State licensed professional engineer, architect or landscape architect.
 - (3) The letter of credit, performance bond or equivalent financial security shall be submitted to the Building Inspector prior to issuance of any building permit or certificate of occupancy.
 - (4) Legal and administrative costs and expenses the Town may incur beyond normal inspections and enforcement proceedings, including professional review fees associated with inspections, reports and legal proceedings authorized by the Town to enforce the approved plans, or other costs incurred by the Town associated with the collection of a letter of credit, performance bond or equivalent security, shall be reimbursed to the Town from the amount set aside in the performance guaranty.
 - (5) With 30 days' written notice, a letter of credit, performance bond or equivalent security may be extended for a period not to exceed 12 months at each occurrence. For each extension, the approving agency can require a revised cost estimate and alter the sum required on the letter of credit, performance bond or equivalent security.
 - (6) The letter of credit, performance bond or equivalent security will be cancelled by written notice from the Town once the applicant has satisfactorily completed all required construction.
 - (7) The approving agency may, upon written request from the applicant, reduce the amount of any financial security in consideration of completed

improvements. All requests for extension of time and/or reduction shall be accompanied by an application fee as set forth in the fee schedule for the approving agency.

- (8) All letters of credit, performance bonds or equivalent securities shall be issued by a bank, bonding or surety company approved by the Town Attorney and shall also be approved by such Town Attorney as to form, sufficiency and manner of execution.
- (9) The approving agency may waive the requirement for a letter of credit, performance bond or equivalent financial security when, in the opinion of the Building Inspector, minimal costs are involved in the required site improvements and/or there is minimal risk to the health, safety and welfare of the public.

§ 113-93. Preexisting building permits.

All permits for "buildings" or "structures" issued prior to the effective date of this amended chapter, or prior to the effective date of an amendment to this chapter, shall be null and void unless substantial work has been done toward the completion of said "building" or "structure" as set forth in § 113-31. If construction is not completed within one year, or if "building" operations are discontinued for a period of six months or more, any further construction shall be in conformity with the provisions of this chapter.

§ 113-94. Fee schedule and reimbursement of professional review fees.

- A. All nonrefundable application fees shall be in an amount as may be from time to time set forth in a fee schedule established by resolution of the Town Board. No fees shall be required from the Town or any of its "districts."
- B. Reimbursement of professional review fees. The Town Board, the Planning Board and the Zoning Board of Appeals, in the review of any application presented to it, may refer such application to any planner, engineer, environmental expert, legal counsel or other professional as such Board shall deem reasonably necessary to assist it in the review of such application as required by law. Fees charged by such professionals shall be in accord with fees usually charged for such services in Westchester County and pursuant to a contractual agreement between the Town and such professional. All such charges shall be paid by the Town upon submission of a Town voucher. The applicant shall reimburse the Town for the cost of such professional review services upon submission of a copy of the voucher or, at the discretion of the approving agency, in accordance with Subsection C(1) herein concerning the establishment of escrow accounts. Such professional review fee reimbursement costs shall bear a reasonable relationship to the average costs for applications of that type. The payment of such fees shall be required in addition to any and all other fees required by this or any other section of this chapter, or any other Town law, ordinance or regulations.
- C. Escrow account procedures.
 - (1) At the time of submission of any application to, and prior to the review by the Town Board, the Planning Board or the Zoning Board of Appeals, the

approving agency may require the establishment of an escrow account from which withdrawals shall be made to reimburse the Town for the cost of professional review services. The applicant shall then provide funds to the Town for deposit into such account in an amount to be determined by the approving agency based on its evaluation of the nature and complexity of the application. The applicant shall be provided with copies of any Town voucher for such services as they are submitted to the Town. When the balance in such escrow account is reduced to 1/2 of the full escrow deposit amount, the applicant shall deposit additional funds into such account to bring its balance up to 100% of the amount of the full escrow deposit, or to some lesser amount as deemed acceptable by the approving agency to complete the review of the application. If such account is not replenished within 20 days after the applicant is notified, in writing, of the requirement for such additional deposit, the approving agency may suspend its review of the application. A building permit or certificate of occupancy or certificate of conformance shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the Town. After all pertinent charges have been paid, the Town shall refund to the applicant any funds remaining on deposit.

- (2) In the event that a positive declaration is made in accordance with the New York State Environmental Quality Review Law (SEQR)³³ regarding the subject application, reimbursement procedures utilizing the basic escrow account established in accordance with Subsection C(1) may be suspended until after completion of the SEQR process. After all pertinent charges have been paid, the Town may refund to the applicant any funds remaining on deposit in the basic escrow account minus \$100 so as to maintain said escrow account with the Town. All reimbursements of the costs of professional review fees incurred subsequent to making a positive declaration and necessary for the preparation or review of an EIS shall be made in accordance with the procedures established under SEQR. Upon completion of the SEQR process or continued review of the application which is not directly related to the preparation or review of an EIS, the applicant shall replenish the basic escrow account with a deposit in an amount deemed necessary by the approving agency, but in no case in an amount greater than the full escrow deposit amount originally established by the approving agency. All subsequent reimbursements and refunds shall be made in accordance with Subsection C(1).

§ 113-95. Collection of fees.

- A. All required fees shall be collected by the Clerk or Secretary of the board having jurisdiction over the application.

§ 113-96. Penalties for offenses.

- A. Any owner, lessee, tenant, occupant, architect or builder, or the agent of any of them, who violates or is accessory to the violation of any provisions of this chapter

33. Editor's Note: See Environmental Conservation Article 8.

or who fails to comply with any of the requirements thereof or who erects, constructs, "alters," enlarges, converts or moves or "uses" any "building" or "uses" any land in violation of said detailed statement or plans submitted by him and approved under the provisions of this chapter shall be guilty of an offense and shall be liable to a fine which shall not exceed \$2,500 or imprisonment for a period not to exceed 15 days, or by both such fine and imprisonment per violation. Each week's continued violation shall constitute a separate additional violation. Violations shall be prosecuted and penalties collected in the manner prescribed by law or regulation effective in the Town.

- B. Any "building" erected, constructed, altered, enlarged, converted, demolished, moved or removed or used contrary to any of the provisions of this chapter, and any "use" of any land or any "building" which is conducted, operated or maintained contrary to any of the provisions of this chapter, shall be and the same is hereby declared to be unlawful. The proper Town authorities may institute an injunction, mandamus, abatement or any other appropriate action to prevent, enjoin, abate or remove such erection, construction, alteration, enlargement, conversion or "use" in violation of any of the provisions of this chapter. Upon the failure or refusal of the proper local officer, board or body of the Town to institute any such appropriate action or proceeding for a period of 10 days after written request by a resident taxpayer of the Town to so proceed, any three taxpayers of the Town residing in the "district" wherein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as such local officer, board or body of the Town is authorized to do. The Building Inspector shall serve notice personally or by registered mail, and, if by mail, it shall be addressed to the owner or occupant of the "premises" where such violation exists, at the address given by him upon the application for any permit required under the provisions of this chapter or the Building Code of the Town, or to the last known address of the owner as shown by the records in the office of the Town Receiver of Taxes or in the Office of the Clerk of the County of Westchester, and if such violation does not cease within such time as proper Town authorities may specify and a new certificate of conformance and/or certificate of occupancy is not obtained, they shall institute such of the foregoing action as may be necessary to terminate the violation. Such notice may also be served by posting on the "premises." The remedies provided for herein are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

ARTICLE XIII
Amendments; Greenway Compact Plan

§ 113-97. Manner of amending these regulations.

- A. Amendment. The Town Board may, from time to time, on its own motion, on petition or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this chapter, after public notice and hearing, in the manner provided by § 264 of the Town law.
- B. Referrals.
- (1) Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon before the public hearing provided for in Subsection A above. In recommending the adoption of any such proposed amendment, the Planning Board shall state its reasons for such recommendation, describing any condition that it believes makes the amendment advisable and specifically setting forth the manner in which, in its opinion, the amendment would be in harmony with the Comprehensive Plan of land "use" for the Town and would be in furtherance of the purposes set forth in Article I of this chapter. In recommending the rejection or revision of any proposed amendment, the Planning Board shall similarly state its reasons. Failure of the Planning Board to make a report on any proposed amendment within 45 days of the date of referral shall be deemed to be approval thereof, unless such proceedings have theretofore been terminated.
 - (2) The Town Board shall forward a notice of public hearing on all proposed amendments affecting a change in the use of the property to the Westchester County Planning Board, and to the adjacent municipality where it affects land within 500 feet of said municipal boundary, at least 10 days prior to a public hearing in accordance with § 277.61 and § 277.71 of the Westchester County Administrative Code. The proposed amendments shall also be referred to the County Planning Board 30 days prior to final action where such amendments affect lands abutting a state or County highway, park, drainage channel or "building" site in accordance with § 239-m of General Municipal Law. An act contrary to the recommendations of the County Planning Board shall require a vote of a majority plus one of all the members of the Town Board. Within 30 days after final action, the Town Board shall file a report of the final action it has taken with the County Planning Board.
- C. Effect on issuance of permits. Whenever the Town Board, by resolution, authorizes a public hearing on a proposed amendment to this chapter, and for a period of 90 days following the date of such resolution, no "building" shall be erected, enlarged or altered, and no permit or certificate shall be issued for the construction, enlargement or alteration of any "building" or for the occupancy of any land or "building," in any manner that would be contrary to the chapter as it would be changed by the proposed amendment.
- D. Posting of "sign" announcing proposed amendment. In any case where an amendment to the Zoning Map is proposed, "signs," on forms provided by the Town

Clerk, announcing the nature of the proposed change and the date and location of the public hearing on the amendment, shall be posted as provided by law.

§ 113-98. Westchester County Greenway Compact Plan. [Added 10-6-2005 by L.L. No. 3-2005]

By Local Law No. 3 of the Year 2005, the Town of Pound Ridge has adopted the Compact Plan,³⁴ as amended from time to time, as a statement of policies, principles, and guides to supplement other established land use policies in the Town. In its discretionary actions under this Zoning Code, the reviewing agency should take into consideration said statement of policies, principles and guides, as appropriate.

34. Editor's Note: See Ch. 14, Greenway Compact.

ARTICLE XIV
Environmentally Sensitive Lands
[Added 9-5-2007 by L.L. No. 6-2007]

§ 113-98.1. Purpose.

The way in which presently undeveloped acreage in Pound Ridge is developed is of critical importance to the public interest. It is hereby declared to be the purpose of this article to maintain and protect environmentally sensitive lands in order to ensure the public health, safety and general welfare for both present and future residents of the Town of Pound Ridge by restricting new zoning lots to those which can be developed with little or no disturbance of environmentally sensitive lands.

§ 113-98.2. Designation.

For the purpose of these regulations, "environmentally sensitive lands" shall be defined as wetlands, one-hundred-year floodplain and steep slopes (equal to or greater than 15%). Specific definitions are contained in § 113-2, Definitions.

§ 113-98.3. Calculation of lot area.

- A. When specified in sections of the Code of the Town of Pound Ridge, calculation of lot area shall exclude the following proportions of lands:
- (1) Wetlands: 75%.
 - (2) One-hundred-year floodplain: 75%.
 - (3) Very steep slopes (equal to or greater than 25%): 75%.
- B. When any one area has more than one of these characteristics, the proportion excluded remains at 75%.

§ 113-98.4. Intensity of development.

- A. Residential lots.

- (1) Each single-family lot created by subdivision after the effective date of this article shall have a minimum buildable area in square feet as specified below. Said minimum buildable area must be contiguous, must have a minimum dimension in all directions of 50 feet and must not contain any environmentally sensitive lands. Not more than 1/3 of the minimum buildable area shall consist of wetland minimum activity setback area as such area is defined in § 63-3 of the Code of the Town of Pound Ridge.

| District | Minimum Buildable Area |
|-----------------|-------------------------------|
| | (square feet) |
| R1-A | 20,000 |
| R2-A | 30,000 |
| R3-A | 40,000 |

- (2) Whenever the preparation of a conventional subdivision plan is required so as to establish a unit lot count (e.g., designed residential development, conservation subdivision under provisions of § 281 of the Town Law), such plan shall be prepared in accordance with the above requirements.
- B. The provisions of this chapter shall not apply to any development, alteration or improvement of property for which preliminary plat approval or final site plan approval has been obtained and not expired and for which the approved work has not been completed prior to the effective date of this chapter.
 - (1) As used in this section, the term "preliminary plat approval" shall mean:
 - (a) In the case of an application for the subdivision of land, adoption by the Planning Board of a resolution granting approval or conditional approval of a preliminary plat.
 - (2) As used in this section, the term "final site plan approval" shall mean:
 - (a) In the case of an application for a site plan approval, adoption by the Planning Board of a resolution granting approval or conditional approval.
 - (b) In the case of the issuance of a building permit, or other authorization for the commencement of the development, alteration or improvement of property, the continued compliance and existence of the requisite permit or authorization.

§ 113-98.5. Construction.

Activities upon environmentally sensitive lands and excavation, filling or grading of any environmentally sensitive lands shall conform to all other applicable laws and regulations of the Town of Pound Ridge.

§ 113-98.6. Exempt activities.

- A. The provisions of this article shall not apply to nonresidential districts.
- B. The provisions of this article shall not apply to special permit uses.
- C. The provisions of this article shall not apply to the creation of any new lots where the requirements for the creation of such new lots in any other section of the Code of the Town of Pound Ridge are more restrictive.

ARTICLE XV
Housing Board
[Added 9-18-2008 by L.L. No. 4-2008]

§ 113-99. Housing Board established; eligibility and selection for below-market-rate housing; rent and sale prices for below-market-rate housing. [Amended 5-2-2013 by L.L. No. 2-2013]

- A. Establishment of Housing Board. The Town Board hereby establishes a Town Housing Board, which shall be responsible for the administration of the below-market-rate housing requirements of this section as well as for the promulgation of rules and regulations as may be necessary to implement such requirements.
- (1) The Housing Board shall consist of seven members appointed by the Town Board and serving at the pleasure of the Town Board, with the Chairperson appointed annually.
 - (2) The rules and regulations developed by the Housing Board as may be necessary to implement the requirements outlined below must be approved by the Town Board.
 - (3) The Town Housing Board shall certify as eligible all applicants for rental or sales of below-market-rate dwelling units and shall annually reexamine, or cause to be reexamined, each renter occupant's family income and assets.
 - (4) On or before March 30 of each year thereafter, the Town Housing Board shall notify the owner or manager of each multifamily development containing below-market-rate affordable units as to the rent, sales and income eligibility requirements for such units derived from the preceding calendar year.
 - (5) The owner or manager of each multifamily development shall certify to the Housing Board on or before May 31 of each year that the current rental or sales prices and income eligibility of all below-market-rate dwelling units and their occupants comply with the terms of this article.
 - (6) Below-market-rate dwelling units may be occupied only by the owner, his or her immediate family and occasional houseguests, except by express permission of the Housing Board. Any unit not owner-occupied may be rented only if approved by the Housing Board, to applicants who qualify according to Subsections B, C, and D of this section.
- B. Income eligibility for below-market-rate housing units. Income eligibility for below-market-rate housing applicants shall be verified by the Housing Board according to the following standards or as further restricted in the applicable zone:
- (1) Families whose aggregate income, including the total of all current annual income of all adult members residing in the household from any source whatsoever at the time of application, but excluding the earnings of working minors (under 21 years of age) attending school full time, does not exceed the following multiples of Westchester County median income established by HUD during the three most recently completed calendar years:

Size of Family**(persons)****Multiple of Median Wages**

| | |
|-----------|-----|
| 1 | 0.9 |
| 2 | 1.1 |
| 3 | 1.3 |
| 4 | 1.4 |
| 5 | 1.6 |
| 6 | 1.7 |
| 7 | 1.9 |
| 8 or more | 2.0 |

- (2) Property income. For property or other investments that are not returning dividends, rents or other measurable income (excluding normal household personal possessions), a yearly income of 5% of the fair market value of the investment shall be included in the family's aggregate income.
 - (3) Applicants for below-market-rate rental units referred to in this section shall, if eligible and if certified for occupancy by the Housing Board, sign leases for a term of no more than two years.
 - (4) As long as a resident remains eligible and has complied with the terms of the lease, said resident may be offered a one-year renewal of the lease. If a resident's annual gross income should subsequently exceed by more than 20% of the maximum then allowable, as defined in this section, and if there is at that time an otherwise eligible applicant within one of the categories in Subsection B above, said resident may complete his current lease term or one year from date of notification, whichever is longer.
 - (5) In the case of owner-occupied below-market-rate dwelling units, the title to said property shall be restricted so that in the event of any resale by the home buyer or any successor, the resale price shall not exceed the then maximum sales price for said unit, regardless of improvement, as determined in accordance with Subsection B of this section. It is assumed that homeowners, in the course of their homeownership, will be making improvements to their property.
- C. Additional eligibility priorities. Financially eligible persons and families applying for below-market-rate dwelling units shall be selected by the Housing Board on the basis of the following categories of priority:
- (1) Pound Ridge Volunteer Fire Department Member or Pound Ridge Volunteer Ambulance Corps Member. Applicants must now be and have been members in good standing for not less than two years.
 - (2) Town of Pound Ridge municipal employees.
 - (3) Pound Ridge residents.

- (4) Immediate relatives of Pound Ridge residents (children, parents, siblings, aunts and uncles).
 - (5) Bedford Central and Katonah-Lewisboro School District employees.
 - (6) Other persons employed in Pound Ridge.
 - (7) Seniors from contiguous towns.
 - (8) Other persons employed in Westchester County.
 - (9) All others.
- D. Selection priorities. Within each of the above categories, the applicant shall be selected according to the following additional priorities.
- (1) Families of which the head or spouse is 62 years or older.
 - (2) Families of which the head or spouse is handicapped (certified by a physician).
 - (3) Pound Ridge head of family, 35 years of age or younger.
- E. Monthly rent and/or sale price of below-market-rate units.
- (1) The maximum monthly rent for a below-market-rate dwelling unit shall not exceed 1.75%, excluding utilities (gas, oil, electricity, water and sewage, common charges), or 2%, if utilities and common charges are included, of the multiple assigned to the number of bedrooms in the dwelling unit times the average of the last three-year median income levels published by Westchester County.
 - (2) The maximum gross sales price for a below-market-rate dwelling unit shall not exceed two times the multiple assigned to the number of bedrooms in the dwelling unit times the average of the last three-year median of annual paid wages as outlined in the table below.

| Number of Bedrooms in Dwelling Unit | Multiple Applied to Three-Year Average | Number of Occupants Permitted | |
|-------------------------------------|--|-------------------------------|---------|
| | | Minimum | Maximum |
| Efficiency | 0.9 | 1 | 1 |
| 1 | 1 | 1 ¹ | 2 |
| 2 | 1.25 | 2 | 4 |
| 3 | 1.5 | 3 | 6 |
| 4 | 1.75 | 5 | 8 |

NOTE:

¹Only if efficiency is not available. Tenant should be transferred to efficiency when one becomes available; lease should so provide.

- (3) At the time of the issuance of a certificate of compliance, the Building

Inspector shall send a copy of such certificate to the Town Housing Board, which shall then inform the applicant of the maximum rental or sales charge which may be established for the below-market-rate dwelling units in such development and the maximum annual gross family income for eligibility for occupancy of said units.

- (4) Tax assessment. The limited rental income and/or sales value of below-market-rate units shall be taken into consideration by the Town Assessor in determining the full value basis for assessments on such units.
- F. Other Housing Board responsibilities. In addition to the administrative responsibilities outlined herein, the Housing Board shall also evaluate resident housing needs, identify housing opportunities and maintain waiting lists for those seeking housing. The Housing Board shall make recommendations to the Town Board on the status of various housing-related issues at least once each calendar year.
- G. New dwellings and occupancies. Notwithstanding the subsections above, subsequent to the effective date of § 113-100 of this chapter, all new affordable dwelling units created in accordance with § 113-99 shall be affordable fair housing dwelling units regulated by § 113-100, rather than below-market-rate units. The same shall be true for all new occupancies of all existing below-market-rate units.

§ 113-100. Affordable fair housing dwelling units. [Added 5-2-2013 by L.L. No. 2-2013]

- A. Required affordable fair housing dwelling unit component. Within all residential developments of 10 or more dwelling units created by subdivision or site plan approval in the Town, no less than 10% of the total number of units must be created as affordable fair housing units. For example, one dwelling unit out of 10 approved units shall be an affordable fair housing dwelling. In the calculation of the required number of affordable fair housing dwellings in projects containing 30 or fewer dwelling units, when 10% of the total lots results in a fraction of a whole number, fractions of 0.6 or greater shall result in the creation of an additional affordable fair housing dwelling unit. In the calculation of the required number of affordable fair housing dwellings in projects containing more than 30 dwelling units, when 10% of the total lots results in a fraction of a whole number, said fraction shall result in the creation of an additional affordable fair housing dwelling unit. Notwithstanding the above, all multifamily housing projects containing four or more dwellings approved in accordance with § 113-57 of this chapter shall contain at least one affordable fair housing unit. **[Amended 2-6-2014 by L.L. No. 2-2014]**
- B. Maximum rent and sales price. The maximum monthly rent for an affordable fair housing dwelling unit and the maximum gross sales price for such a unit shall be established in accordance with U.S. Department of Housing and Urban Development guidelines as published in the current edition of the "Westchester County Area Median Income (AMI) Sales & Rent Limits," available from the County of Westchester.
- C. Time period of affordability. Affordable fair housing dwelling units must remain affordable for a minimum of 50 years from the date of the initial certificate of

occupancy for rental properties and from the date of the original sale for ownership units.

- D. **Property restriction.** A property containing any affordable fair housing dwelling units must be restricted using a mechanism such as a declaration of restrictive covenants in recordable form acceptable to the Town Attorney which shall ensure that the affordable fair housing unit(s) shall remain subject to the affordable fair housing regulations for a minimum of 50 years. Among other provisions, the covenants shall require that the affordable fair housing unit shall be the primary residence of the household selected to occupy the unit. Upon approval, such declaration shall be recorded against said property prior to the issuance of a certificate of occupancy for the development.
- E. **Unit appearance and integration.** All affordable fair housing dwelling units shall be indistinguishable in appearance, siting, and exterior design and finishes from the other homes in the development, to the greatest extent possible. Interior finishes and furnishings may be reduced in quality and cost to assist in the lowering of the cost of development of the affordable fair housing units. The affordable fair housing units shall be physically integrated into the design of the development and shall be distributed among various sizes (efficiency, one-, two-, three- and four-bedroom units) in the same proportion as all other dwelling units in the development.
- F. **Minimum floor area.** In single-family subdivisions, the minimum gross floor area of the affordable fair housing dwelling units shall not be less than 50% of the average floor area of the market-rate homes in the project. In multifamily projects, the minimum gross floor area of the affordable fair housing dwelling units shall not be less than 80% of the average floor area of the market-rate housing units in the development. Further, the affordable fair housing dwellings shall be no less than the following in size:

| Minimum Gross Floor Area | |
|--|--------------------------------------|
| Number of Bedrooms in Dwelling Unit | (square feet) |
| Efficiency | 450 |
| 1 | 675 |
| 2 | 750 |
| 3 | 1,000 (including at least 1.5 baths) |
| 4 | 1,200 (including at least 1.5 baths) |

- G. **Occupancy standards.** The following occupancy schedule shall apply to affordable fair housing dwelling units:

| Number of Occupants Permitted | | |
|--|----------------|----------------|
| Number of Bedrooms in Dwelling Unit | Minimum | Maximum |
| Efficiency | 1 | 1 |
| 1 | 1 | 2 |
| 2 | 2 | 4 |

| Number of Bedrooms in Dwelling Unit | Number of Occupants Permitted | |
|--|--------------------------------------|----------------|
| | Minimum | Maximum |
| 3 | 3 | 6 |
| 4 | 4 | 8 |

H. Marketing.

- (1) The affordable fair housing dwelling units created under the provisions of this section shall be sold or rented, and resold and re-rented during the required period of affordability, to only qualifying income-eligible households. Such income-eligible households shall be solicited in accordance with the requirements, policies and protocols established in the Westchester County Fair & Affordable Housing Affirmative Marketing Plan.
- (2) Notwithstanding the above, not more than 25% of the affordable fair housing units in a particular development may be marketed to the Town's nonresident workforce if it can be shown that such targeted nonresident workforce is more diverse than the existing resident population in the Town.

I. Resale requirements.

- (1) All affordable fair housing units shall have the title to said property and be deed restricted so that in the event of any resale by the home buyer or any successor, the resale price shall not exceed the then-maximum sales price for said unit, as determined in this chapter, or the sum of:
 - (a) The net purchase price (i.e., gross sales prices minus subsidies) paid for the unit by the selling owner, increased by the percentage increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers in the New York-Northern New Jersey Area, as published by the United States Bureau of Labor Statistics (the "Index") on any date between:
 - [1] The month that was two months earlier than the date on which the seller acquired the unit; and
 - [2] The month that is two months earlier than the month in which the seller contracts to sell the unit. If the Bureau stops publishing this Index, and fails to designate a successor index, the Town shall designate a substitute index; and
 - (b) The cost of major capital improvements made by the seller of the unit while said seller of the unit owned the unit as evidenced by paid receipts depreciated on a straight line basis over a fifteen-year period from the date of completion and such approval shall be requested for said major capital improvement no later than the time the seller of the unit desires to include it in the resale price.
- (2) Notwithstanding the above, in no event shall the resale price exceed an amount affordable to a household at 80% of AMI at the time of the resale.

J. Lease renewal requirements.

- (1) Applicants for affordable fair housing rental units shall, if eligible and if selected for occupancy, sign leases for a term of no more than two years. As long as a household remains eligible and has complied with the terms of the lease, said household shall be offered renewal leases for a term of no more than two years each. Renewal of a lease shall be subject to the conditions of federal, state or county provisions that may be imposed by the terms of the original development funding agreements for the development or to the provisions of other applicable local law.
- (2) If no such provisions are applicable and if a household's annual gross income should subsequently exceed the maximum then allowable, as defined in this chapter, then said household may complete their current lease term and shall be offered a market-rate rental unit available in the development at the termination of such lease term, if available. If no such dwelling unit shall be available at said time, the resident may be allowed to sign one additional one-year lease for the affordable fair housing unit they occupy but shall not be offered a renewal of the lease beyond the expiration of said term.

K. Incentives for the provision of affordable fair housing dwelling units.

- (1) Each single-family detached affordable fair housing dwelling may be located on a lot meeting at least 75% of the minimum lot area for the single-family homes in the development.
- (2) The Planning Board may, in its discretion, waive up to 50% of the recreation fee otherwise attributable to the creation of affordable fair housing dwelling units.

L. Tax assessment. The limited rental income and/or sales value of the affordable fair housing units shall be taken into consideration by the Town Assessor in determining the full value basis for assessments on such units.

M. Administration and monitoring. The Town Board shall designate a board, commission or other organization to administer and monitor compliance with these regulations. If the affordable fair housing has a regulatory agreement regarding the affordable fair housing nature of the project with a state and/or federal agency, a copy of the annual audit(s) by the regulatory agency(ies) shall be submitted to the Town.

N. Expedited project review process.

- (1) The various review and approval authorities involved with a project having an affordable fair housing dwelling unit component shall make every practicable effort to hold their meetings and/or hearings concurrently.
- (2) Projects containing affordable fair housing dwelling units shall be placed at the beginning of all relevant meeting and work session agendas.
- (3) Should the approval process extend beyond one year, an applicant for a project containing affordable fair housing dwelling units shall be entitled to at least one additional meeting per year with said review and approval authorities.

