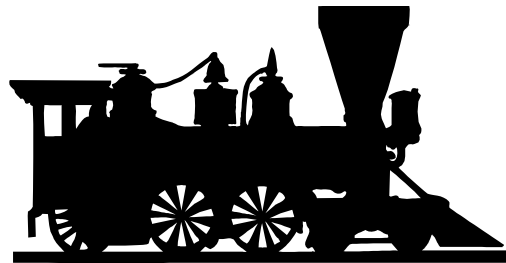


# **ZONING LAW**



**THE VILLAGE OF DELANSON**

**Schenectady County, N.Y.**

**Adopted July 27, 2005**



## TABLE OF CONTENTS

<b>ARTICLE 1. AUTHORITY AND PURPOSE.....</b>	<b>11</b>
Section 1.1. Statutory Authority .....	11
Section 1.2. Purpose and Intent .....	11
<b>ARTICLE 2. TITLE .....</b>	<b>11</b>
Section 2.1. Title.....	11
<b>ARTICLE 3. DEFINITIONS.....</b>	<b>11</b>
Section 3.1. Word Usage .....	11
Section 3.2. Definitions .....	12
<b>ARTICLE 4. ESTABLISHMENT OF ZONING DISTRICTS, ZONING MAP</b> <b>.....</b>	<b>22</b>
Section 4.1. Districts.....	22
Residential Districts: .....	22
Business Districts: .....	22
Special Purpose Districts:.....	23
Section 4.2. Official Zoning Map.....	23
A. Location and Boundaries .....	23
B. Map Filed.....	23
C. Map Amendments.....	23
D. Record.....	23
E. Revision of Map.....	23
Section 4.3. Interpretation of Boundaries.....	23
<b>ARTICLE 5. GENERAL PROVISIONS .....</b>	<b>24</b>
Section 5.1. Compliance Required .....	24
A. Generally .....	24
B. Minimum Requirements .....	24
Section 5.2. Lots .....	24
A. Required Lot Area .....	24
B. Lot Required For Every Building .....	24
C. Subdivisions.....	25
D. Lots in Two (2) Districts .....	25
Section 5.3. Yards.....	25

A. Generally .....	25
B. Yard For Every Building .....	25
C. Yards In Adjoining Districts.....	25
D. Buffer Yard Requirements for Non—Residential Uses/Districts.....	25
Section 5.4. Visibility At Intersections .....	26
Section 5.5. Parking for Every Building .....	26
Section 5.6. Maximum Height/Minimum Building Floor Area.....	26
Section 5.7. Location of Dwelling Unit within Structure .....	26
Section 5.8. Effect on Public Utilities .....	26
<b>ARTICLE 6. DISTRICTS.....</b>	<b>26</b>
Section 6.1. HR Historic Residential District .....	26
A. Purpose .....	26
B. Restrictions .....	27
C. Principal Uses Permitted.....	27
D. Accessory Uses Permitted .....	27
E. Additional Uses by Special Permit .....	28
F. Lot Area Requirements .....	28
G. Building Requirements.....	29
Section 6.2. GR General Residential Districts — GR—1, GR—2.....	30
A. Purpose .....	30
B. Principal Uses Permitted.....	30
C. Accessory Uses Permitted .....	30
D. Additional Uses by Special Permit.....	31
E. Lot Area Requirements .....	32
F. Building Requirements.....	33
Section 6.3. Mobile Home Planned District.....	34
A. Purpose .....	34
B. Applicability of Provisions .....	34
C. Permitted Uses .....	34
D. Lot Area Requirements.....	34
E. Building and Design Requirements .....	35
F. Application and Review Procedure.....	36
Section 6.4. LB Limited Business District .....	38
A. Purpose .....	38
B. Permitted Uses .....	38
C. Accessory Uses .....	39
D. Additional Uses by Special Permit.....	39
E. Lot Requirements .....	40
Section 6.5. GB General Business District .....	41

A. Permitted Uses .....	41
B. Accessory Uses .....	41
C. Special Permit Uses .....	41
D. Prohibited Uses .....	42
E. Lot Requirements .....	42
<b>ARTICLE 7. SUPPLEMENTARY REGULATIONS .....</b>	<b>43</b>
Section 7.1. Accessory Structures and Uses .....	43
A. Attached Structures .....	43
B. Detached Structures .....	43
C. Storage Buildings .....	43
Section 7.2. Outdoor Storage and Dumping of Waste Refuse and Garbage .....	43
A. Storage .....	43
B. Disposal .....	43
Section 7.3. Fences .....	43
A. Location and Height .....	43
B. Location of Posts .....	44
C. Aesthetics .....	44
D. Barbed Wire and Electrically Charged Fences .....	44
E. Fences on Public Property .....	44
Section 7.4. Gasoline Filling Stations, Convenience Stores Which Sell Gas, and Motor Vehicle Repair Shops .....	44
A. Location of Pumps .....	44
B. Motor Vehicle Repair .....	45
C. Location of Vehicles .....	45
D. Location of Work Area .....	45
E. Storage of Vehicles .....	45
F. Storage of Materials and Refuse .....	45
G. Access Drives .....	45
H. Required Buffer Yards .....	45
Section 7.5. Motor Vehicle Sales .....	45
A. Vehicle Condition .....	46
B. Location of Vehicles .....	46
C. Motor Vehicle Repairs .....	46
Section 7.6. Swimming Pools .....	46
A. Location .....	46
B. Safety Provisions .....	46
Section 7.7. Commercial Extraction of Topsoil, Sand, Gravel or Stone and Mining .....	46
A. Permit Required .....	46
B. Permit Required for Mining .....	47
C. Chief Administrative Officer .....	47

Section 7.8. Off -Street Parking Requirements .....	48
A. General Requirements .....	48
B. Design .....	48
C. Location and Setback Requirements.....	49
D. Collective Provision .....	49
E. Restrictions on Commercial Vehicles in Residential District.....	50
F. Restrictions on Unregistered Motor Vehicles that Cannot Start or Move under Own Power in the HR, GR, and LB, Districts. ....	50
G. Restrictions on Storage of Off-Highway Motor Vehicles .....	50
Table 8: Off Street Parking Requirements .....	50
Section 7.9. Off—Street Loading .....	51
A. Spaces Required .....	51
B. Dimensions .....	52
C. Location .....	52
Section 7.10. Occupancy of Factory Manufactured Homes or Mobile Homes ....	52
A. Factory Manufactured Homes .....	52
B. Mobile Homes.....	52
Section 7.11. Signs .....	53
A. Applicability .....	53
B. Exceptions.....	53
C. Billboards.....	53
D. General Requirements .....	53
E. Signs in Residential Districts .....	54
F. Signs in the Business Districts .....	54
Section 7.12. Rooming Houses/Bed and Breakfast Establishments .....	55
Section 7.13. Lighting .....	56
Section 7.14. Home Occupations .....	56
A. Purpose .....	56
B. Definition .....	56
C. Permitted Location of Home Occupations.....	56
D. Issuance, Terms and Revocation of Permits.....	56
E. Use Limitations .....	57
F. Permitted Home Occupations.....	57
G. Prohibited Home Occupations.....	58
H. Non—Conforming Home Occupations .....	58
Section 7.15. Unsafe Buildings and Structures .....	58
Section 7.16. Roadside Stands .....	58
Section 7.17. Veterinary Clinics, Animal Hospitals, Commercial and Home Kennels .....	59
A. Veterinary Clinics, Animal Hospitals, or Commercial Kennels in the GB Business District .....	59

B. Veterinary Clinics, Animal Hospitals, or Commercial Kennels in the LB District.....	59
C. Home Kennels.....	59
Section 7.18. Apartment Conversions.....	59
Section 7.19. Multi—Family Dwelling Units.....	60
A. Parking Requirements.....	60
B. Building Regulations.....	60
C. Lot Area Requirements.....	60
D. Design Requirements for Multiple-Family Uses.....	60
Section 7.20. Satellite Dish Antennas.....	61
Section 7.21. Performance Standards.....	62
A. Conformance Required.....	62
B. Purposes.....	62
C. Standards for Noise.....	63
D. Standards for Vibration.....	64
E. Standards for Smoke, Dust and Other Atmospheric Pollutants.....	64
F. Standards for Odorous Matter.....	65
G. Standards for Toxic or Noxious Matter.....	65
H. Standards for Radiation and Electromagnetic Interference.....	65
I. Standards for Fire, Explosive Hazard and Heat.....	65
J. Standards for Liquid or Solid Wastes.....	65
K. Standards for Vehicular Traffic.....	65
L. Standards for Lighting.....	66
M. Procedure.....	66
Section 7.22. Temporary Construction Sheds and Trailers.....	66
Section 7.23. Towers.....	67
A. Purpose.....	67
B. Accessory Towers.....	67
C. Special Permit.....	67
D. General Requirements.....	68
E. Exemptions.....	68
Section 7.24. Single Family Attached Dwellings.....	68
A. Parking Requirements.....	68
B. Building Regulations.....	69
C. Lot Area Requirements.....	69
D. Design Requirements For Single Family Attached Dwellings.....	69
<b>ARTICLE 8. SPECIAL USE PERMITS.....</b>	<b>70</b>
Section 8.1. Definition.....	70
Section 8.2. Authorization.....	70
Section 8.3. Application Procedure.....	70

A. Applications.....	70
B. Review and Public Hearing .....	71
C. Withdrawal of Application, Rehearing if Withdrawn or Denied.....	71
Section 8.4. Conditions Imposed.....	72
A. Conditions.....	72
Section 8.5. Standards for Granting Special Use Permits.....	72
A. Requirements .....	72
B. Additional Requirements .....	73
Section 8.6. Effect of Issuance .....	73
Section 8.7. Limitations.....	73
A. Expiration .....	73
B. Amendments to Special Use Permits.....	73
<b>ARTICLE 9. NON-CONFORMING USES, BUILDINGS, STRUCTURES, LOTS .....</b>	<b>73</b>
Section 9.1. Purpose .....	73
Section 9.2. Non—Conforming Uses.....	73
A. Non—Conformity Due to Change in Provisions.....	74
B. Change of Non—Conforming Use .....	74
C. Enlargement or Extension of Non—Conforming Use.....	74
D. Resuming Discontinued Non-Conforming Use.....	74
E. Displacement.....	74
Section 9.3. Non-Conforming Buildings and Structures .....	74
A. Continuation .....	74
B. Enlargement or Alteration of Non—Conforming Buildings or Structures.....	74
Section 9.4. Restoration Due to Damage to a Non—Conforming Building or Structure, or to a Building or Structure Containing a Non- Conforming Use .....	75
Section 9.5. Non—Conforming Lots of Record .....	76
<b>ARTICLE 10. ADMINISTRATION AND ENFORCEMENT.....</b>	<b>76</b>
Section 10.1. Enforcement .....	76
Section 10.2. Duties of the Building Inspector .....	76
Section 10.3. Building Permit .....	77
A. Permit Required.....	77
B. Application for Permit .....	77
C. Approval by the Planning Board or Board of Appeals.....	77
D. Revocation of Permit .....	78

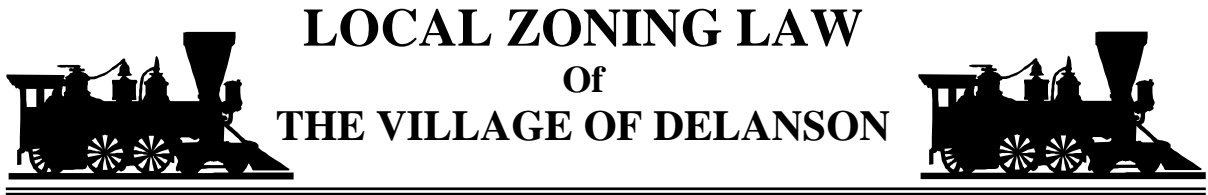


E. Appeals.....	78
F. Extensions .....	78
Section 10.4. Certificates of Occupancy .....	78
A. Purpose .....	78
B. Where Required .....	78
C. Procedure .....	79
D. Temporary Certificate.....	79
Section 10.5. Amendments.....	79
A. Village Board Power to Amend.....	79
B. Referral to the Planning Board .....	79
C. Public Hearing and Required Notice .....	79
D. Decision by the Village Board.....	80
E. Filing Requirements .....	80
Section 10.6 Fees.....	80
Section 10.7 Zoning Board of Appeals .....	81
A. Creation and Procedure .....	81
B. Board of Appeals Jurisdiction.....	82
C. Variances .....	82
Section 10.8. Zoning Referrals.....	83
Section 10.9. Planning Board .....	84
A. Creation and Procedure .....	84
B. Planning Board Jurisdiction.....	84
Section 10.10. Penalties and Enforcement Actions.....	85
A. Penalties.....	85
B. Enforcement Actions .....	85
Section 10.11. Complaint Procedure .....	85
Section 10.12. Appeals .....	85
Section 10.13. Compliance With SEQRA .....	85
<b>ARTICLE 11. SITE PLAN APPROVAL .....</b>	<b>86</b>
Section 11.1. Authorization.....	86
Section 11.2. Purposes and Review Standards.....	86
Section 11.3. Uses Requiring Site Plan Approval.....	87
A. Building Permits.....	87
B. Change of Use.....	87
C. Waivers .....	87
Section 11.4. Optional Sketch Plan Review.....	88

Section 11.5 Application for Site Plan Approval .....	88
A. Application and Transmittal .....	88
B. Contents of Site Plans .....	88
C. Exemptions .....	90
D. Additional Information .....	90
E. Other Sources .....	90
Section 11.6. Review and Decision.....	91
A. Review Procedure.....	91
B. Factors for Review.....	91
C. Decision .....	91
Section 11.7. Effect of Approval.....	92
Section 11.8. Financial Responsibilities .....	92
Section 11.9. Limitation on Site Plan Approval.....	92
Section 11.10. Amendments.....	92

**TABLE OF TABLES**

Table 1: Lot Area Requirements in HR District .....	28
Table 2: Yard Dimensions in HR District.....	29
Table 3: Lot area Dimensions in GR-1 & GR-2 .....	32
Table 4: Yard dimensions in GR-1 & GR-2 .....	33
Table 5: Lot Area dimensions of MHPD district.....	34
Table 6: Yard dimensions of MHPD .....	35
Table 7: Parking Space design requirements.....	49
Table 8: Off Street Parking Requirements.....	50
Table 9: Off Street Loading Parking.....	51
Table 10: Off Street Loading Parking Dimensions .....	52
Table 11: Maximum Sound Level Decibels.....	63
Table 12: Maximum Vibration Levels.....	64



**LOCAL ZONING LAW**  
Of  
**THE VILLAGE OF DELANSON**

---

---

## **ARTICLE 1. AUTHORITY AND PURPOSE**

### **Section 1.1. Statutory Authority**

[The Village Board of the Village of Delanson](#), in the County of Schenectady and the State of New York, under authority of the Village Law of the State of New York, Article 7, hereby ordains, enacts and publishes the following:

### **Section 1.2. Purpose and Intent**

It is the purpose of this local law to promote the health, safety and general welfare of the community, to guide future growth and development of the Village, to secure safety from fire, flood, panic and other dangers, to provide adequate light and air, to prevent overcrowding and congestion, to facilitate the adequate provision for transportation, water, drainage, sewage, parks, open space and other public requirements, to conserve the value of land and buildings in accordance with the character of the district and its particular suitability for certain uses, to establish the most beneficial relationship between land use, buildings and the circulation of traffic throughout the Village, to safeguard natural resources, prevent the contamination of wells, streams and watercourses, to preserve the integrity and attractiveness of the community, to assure privacy for the residences and freedom from nuisances and harmful, unsightly, obtrusive and noisome land uses and activities, and to provide administrative bodies and procedures as shall be necessary for the implementation, amendment and enforcement of the various requirements of this chapter.

## **ARTICLE 2. TITLE**

### **Section 2.1. Title**

This chapter shall be known and may be cited as the **Zoning Law of the Village of Delanson.**”

## **ARTICLE 3. DEFINITIONS**

### **Section 3.1. Word Usage**

In the interpretation of this chapter, the rules and definitions contained in this Article shall be observed and applied, except where the word usage clearly indicates otherwise, for clarity of interpretation of the context, the following definitions of word use shall apply:

- A. Words used in the present tense shall include the future tense.
- B. Words used in the singular number shall include the plural number, and the

plural the singular.

- C. The word “shall” is mandatory and not discretionary. The word “may” is permissive.
- D. The word “lot” shall include the words “piece,” “parcel,” “plat” and “plots;” and the phrase “used for” shall include the phrases “arranged for,” “designed for,” “intended for,” “maintained for,” and “occupied for.”
- E. The word “person” includes a corporation, partnership, trust, estate, or agent as well as an individual.
- F. The word “village” shall mean the Village of Delanson.
- G. The words “this local law” or “this chapter” shall mean the Delanson Zoning Law as originally adopted and as amended from time to time.

### **Section 3.2. Definitions**

**ABANDON** — To voluntarily cease, for more than twelve (12) consecutive months, the use and maintenance of land, buildings or structures which have been nonconforming, or to change from one nonconforming use to another, or to change to a conforming use.

**ACCESSORY STRUCTURE OR USE** — A structure or use, which is:

1. Conducted or located on the same lot as the principal building or use served;
2. Clearly incidental to~ subordinate to and serves the principal use; and
3. Either in the same ownership as the principal use or is clearly operated and maintained solely for the comfort, convenience, necessity or benefit of the occupants, employees, customers or visitors of or to the principal use.

Accessory structures may include, but are not limited to fences, swimming pools, storage sheds, platforms and signs. Storage sheds shall not include any type of vehicle, trailer or mobile home.

**ALTERATION, STRUCTURAL** — Any change or re—arrangement in the structural parts, or existing or proposed facilities of such building or structure or any enlargement thereof, whether by extension of any side or by any increase in height, or the moving of such building or structure from one location or position to another.

**AUTOMOBILE REPAIR SHOP** — Any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of motor vehicles is conducted or rendered.

**AUTOMOBILE WRECKING YARD** - See **SCRAP YARD**.

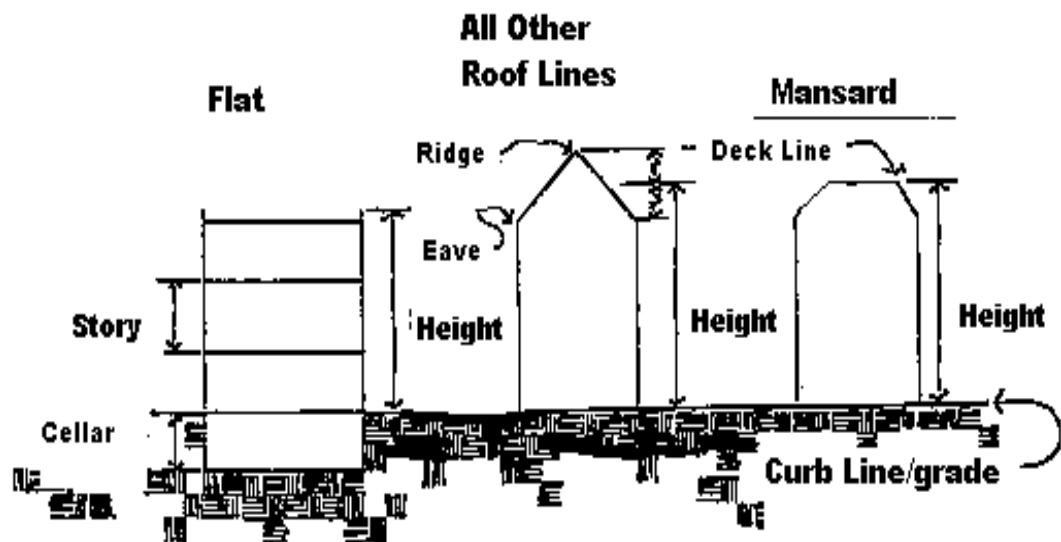
**BASEMENT** — The space of a building that is partly below grade which has more than half its height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building.

**BED AND BREAKFAST** — A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises. See [Article 7, Section 7.12](#).

**BILLBOARD** — ~ sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

**BUILDING** — A structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals, or property.

**BUILDING, HEIGHT** — The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height between eaves and ridge for all other types of roofs. See Diagram below.



**BUILDABLE LOT AREA** - The total lot area of the development less the area of any land designated as a NYSDEC or ACOE Wetland, land slopes in excess of 25%, all easements any land to be permanently ceded to any governmental agency.

**BUILDING LINE** — The line nearest the front line of the lot which establishes the minimum depth of the front yard, the line nearest the side lines of the lot which establishes the minimum depth of the side yards, and the line nearest the rear line of the lot which establishes the minimum depth of the rear yard.

**BUILDING, PRINCIPAL** — A building in which the main or principal use of the lot on which said building is located is conducted.

**CAR WASH** — A building, or portion thereof, containing facilities for washing automobiles, and/or areas for vacuuming or the like, using production—line methods or other mechanical devices or providing space, water, equipment or soap for the complete or partial hand washing of automobiles, whether by operator or by customer.

**CELLAR** — That space of a building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

**CEMETERY** — All property used or held exclusively for the burial or other permanent deposit of the human dead, excluding crematory.

**CLUB, PRIVATE** — An organization, lodge or service organization catering exclusively to members and their guests, or premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, provided that there are not conducted any vending stands, merchandising or commercial activities, except as required generally for the membership and purpose of such club.

**COMMERCIAL EXTRACTION OF SAND, GRAVEL, TOPSOIL OR STONE** The extraction of stone, sand, gravel or topsoil for sale, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made and which does not constitute mining, as defined herein.

**CONVALESCENT HOME** — Any facility offering the following types of care:

1. Skilled nursing care, including, in addition to room and board, those nursing services and procedures employed in caring for the sick which require specialized training, judgment, technical knowledge and skills.
2. Personal care, including, in addition to room and board, personal assistance such as help in walking and getting in and out of bed; assistance in bathing, dressing and feeding; preparation of a special diet; and similar personal care.

**CONVENIENCE STORE** — A place of business being operated for the sale and purchase, at retail, of cold drinks, packaged foods, tobacco, and similar convenience goods. For the purpose of this ordinance, permitted activities may also include the sale of gas, oil or other fuel for the propulsion of vehicles if so specified in the applicable zoning district standards. Motor vehicle repairs are specifically not permitted.

**COVERAGE, LOT** — The lot area or percentage of lot area covered by buildings, other structures and impervious surfaces.

**COMMUNITY CENTER** - A building used for recreational, social, educational and cultural activities usually owned and operated by a public or nonprofit group or agency.

**DRIVE—IN ESTABLISHMENT** — A place of business being operated for the sale and purchase, at retail, of food and other goods, services or entertainment,

which is laid out and equipped so as to allow its patrons to be served or accommodated while remaining in their automobiles, or which allows the consumption of any food or beverage in automobiles on the premises or elsewhere on the premises but outside any completely enclosed structures.

**DRIVEWAY** — A private roadway, covered with an impervious surface, that provides access to a lot.

**DWELLING** — A building containing one (1) or more dwelling units.

**DWELLING, MULTIPLE-FAMILY** — A building, or portion thereof, containing three (3) or more dwelling units.

**DWELLING, SINGLE—FAMILY** — A detached building designed for, or occupied exclusively by, one (1) family.

**DWELLING, TWO—FAMILY** — A building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.

**DWELLING UNIT** — One (1) or more rooms which are arranged, designed or used as living quarters for one (1) family only; including permanently installed bathroom(s) and complete kitchen and sleeping facilities.

**FACILITIES** — Mechanisms for water supply, sanitary waste disposal and electrical systems. The terms water supply and waste disposal systems shall include system components typically used in kitchen and bathroom remodeling work or additions.

**FAMILY** — Any number of individuals occupying the premises and living and cooking together as a single housekeeping unit. This term shall not be deemed to include a group occupying a boarding house, lodging house, club, fraternity, hotel or similar premises.

**FENCE** — Any structure or device, regardless of composition, which encloses a parcel of land or divides a parcel of land into more than one (1) portion, or serves as a barrier, but shall not include a building or growing plants or trees.

**FLOODWAY CHANNEL** — A passageway for storm—and/or surface waters along a natural watercourse and/or along an artificial channel constructed under due process of law for passage of storm—and/or surface waters.

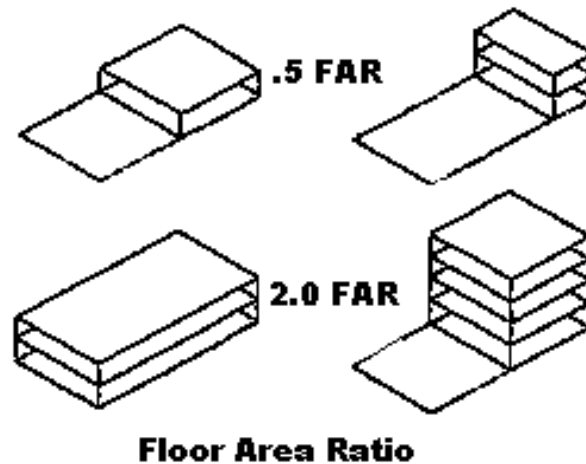
**FLOOR AREA** — The sum of the area of the several floors of a building, measured from the outside faces of the exterior walls surrounding each floor but excluding areas used as a garage, a cellar below ground, attics, open porches, patios and breezeways.

**FLOOR AREA, GROSS** — The sum of the gross horizontal area(s) of the floor(s) of the building(s) measured from the exterior faces of the walls, including all roofed areas, such as enclosed porches.

**FLOOR AREA, LIVABLE** — The sum of the gross horizontal areas designed for the exclusive use of occupants of a single dwelling unit, but excluding hallways, stairwells, elevator areas, storage and laundry space and other areas intended for

the common use of all tenants or occupants.

**FLOOR AREA RATIO** — Determined by dividing the gross floor area of all buildings on a lot by the area of that lot.



**FUNERAL HOME** — A building or part thereof used for human funeral services. Such building may contain space and facilities for: a) embalming and the performance of other services used in preparation of the dead for burial; b) the performance of autopsies, and other surgical procedures; c) the storage of caskets, funeral urns, and other related funeral supplies; and d) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

**GARAGE, PRIVATE** — A building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

**GASOLINE FILLING STATION** - Any area of land, including any structures thereon, that are used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles. For the purpose of this local law, permitted activities shall also include sales of cold drinks, packaged foods, tobacco, and similar convenience goods for filling station customers, as accessory and incidental to principal operation.

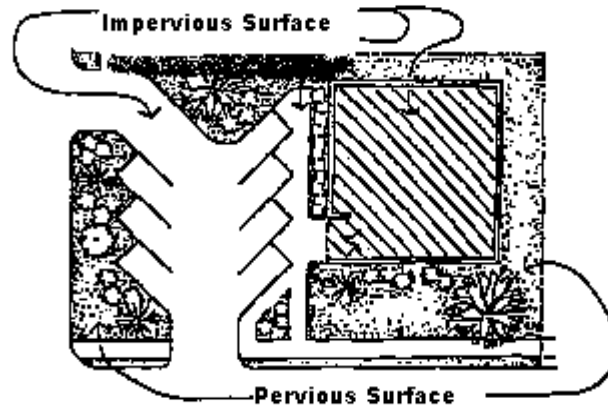
**HOME OCCUPATIONS** — [See Article 7, Section 7.14.](#)

**HOSPITAL, ANIMAL OR VETERINARY CLINIC** - An establishment where a full range of medical services are provided to small and/or large animals by one or more veterinary doctors and staff. This use shall be deemed to include, as necessary for treatment or observation, overnight animal boarding for not more than five (5) animals.

**IMPERVIOUS SURFACE** — Any material that substantially reduces or prevents infiltration of storm water into previously undeveloped land. Impervious surface shall include streets, roofs, sidewalks, driveways, including graveled driveways



and parking lots.



**IMPERVIOUS SURFACE RATIO** — A measure of the intensity of land use that is determined by dividing the total area of all impervious surfaces on the lot by the area of the lot.

**KENNEL, HOME** - Any building or buildings or land, in conjunction with a residential use, designed or arranged for the care of three or more dogs and five cats belonging to the owner of the principal use, kept for purposes of show, hunting or as pets. [See Article 7, Section 7.17 C](#)

**KENNEL, COMMERCIAL** — An establishment licensed to operate a facility housing dogs, cats, or other household pets and/or where grooming, breeding, boarding, training or selling of animals is conducted as a business.

**LOADING AREA** — Parking area(s) specifically reserved for loading and unloading activities in conjunction with commercial or industrial activities.

**LIGHT INDUSTRIAL USE** — A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage sales, and distribution of such products, but excluding basic industrial processing.

**LOT** — A lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an approved street and shall be occupied by one principal building and accessory structures customarily incidental to such principal building.

**LOT FRONTAGE** — The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as defined in this section.

**LOT, CORNER** — A parcel of land at the junction of and fronting on two (2) or more intersecting streets. A lot shall be deemed to front on each highway it abuts

and be subject to the requirements of a front yard on each such highway, with the yards opposite thereto on corner lots subject to side yard requirements only.

**LOT, DEPTH OF** — A mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines.

**LOT LINES** — Any line dividing one lot from another.

**LOT OF RECORD** - Any lot which has been established as such by plat, survey, record or deed prior to the effective date of this chapter, as shown in the records of the office of the Assessor, Town of Duanesburg and/or the Schenectady County Clerk.

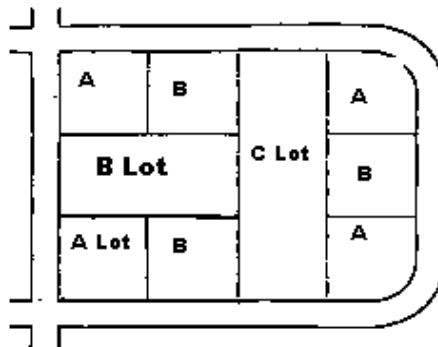
**LOT, WIDTH OF** — Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard which is also known as the front building line.

**LOT TYPES** — The diagram on the following page illustrates terminology used in this local law with reference to corner lots, interior lots, reversed frontage lots and through lots. In the diagram:

A = corner lot, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. (See lots marked A in the diagram.)

B = interior lot, defined as a lot other than a corner lot with only one frontage on a street.

C = through lot, defined as a lot other than a corner lot with frontage and more than one street. Through lots abutting two streets may be referred to as double frontage lots.



**Lot Types**

**MANUFACTURED HOME, APPROVED** — A dwelling which displays an insignia of approval certifying compliance with the New York State Uniform Fire

Prevention and Building Code as found in Article 18 of the Executive Law of New York State, and any amendments thereto.

**MEDICAL OFFICE** — A professional office for the practice of medicine, dentistry or chiropractic.

**MEDICAL OUT—PATIENT CLINIC** — A facility for treatment of human ailments, operated by a group of physicians, dentists, or other licensed medical practitioners for the treatment and examination of out—patients.

**MINING** — any activity regulated by the New York State Mined Land Reclamation Law (Environmental Conservation Law, Article 23, Title 27), including but not limited to, the extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use; exclusive of manufacturing processes, the mine location; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the deposition of overburden, tailings and waste at the mine location. “Mining” shall not include the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies or excavations in aid of agricultural activities.

**MOBILE HOME** — A dwelling which displays an insignia of approval certifying compliance with the Regulations promulgated and adopted by the United States Department of Housing and Urban Development, and any amendments thereto.

**NON-CONFORMING BUILDING or STRUCTURE** - Any building or structure which does not comply with all of the regulations of this ordinance or of any amendment hereto governing lot area or building requirements for the zoning district in which such building or structure is located, or which is designed or intended for a non—conforming use, but which complied with applicable regulations at the time such building or structure was established.

**NON-CONFORMING LOT** — A lawful use of land that does not conform to the requirements of its zoning district but which complied with applicable regulations at the time the lot was created.

**NON—CONFORMING USE** — A structure or land lawfully occupied by a use at the time of the passage of this ordinance or of any amendment hereto that does not conform after the passage of this ordinance or amendment hereto to the regulations of the district in which it is situated. Non—conforming use shall include any building containing one (1) or more dwelling units in addition to the number permitted by the district regulations where such building is located.

**OPEN SPACE** - An area that is intended to provide light and, air, and is designed for either environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, buffer yards, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and watercourses. Open space shall not be deemed to include driveways, parking lots or other surfaces designed or intended for vehicular travel.

**PARKING AREA** — An off-street area reserved for the parking of motor vehicles, including necessary passageways and driveways giving direct access to a public Street or alley.

**PARKING SPACE** — The area required for parking one (1) automobile, truck or vehicle.

**PLOT** — A map, plan or layout of the village or section or subdivision thereof, indicating the location and boundaries of individual properties and streets.

**PRINCIPAL USE** — The main purpose (activity) for which the land and/or buildings thereon is intended.

**PROFESSIONAL OFFICE** — An office maintained by an individual or firm for the practice of a profession, such as physician, dentist, lawyer, engineer, architect, teacher, accountant, realtor, insurance broker, and other professional occupations.

**RECLAMATION** — The conditioning of the land affected by mining to make it suitable for any uses or purposes consistent with the provisions of the Mined Land Reclamation Law (Environmental Conservation Law, Article 23, Title 27).

**RECREATIONAL USE** - A use of land or buildings for athletics, picnic grounds and similar uses; but for the purposes of this chapter shall not include the use of video games, pinball machines, slot machines or other such uses involving mechanical devices for private gain, except, however, food, soda, candy and cigarette dispensing devices.

**RECREATIONAL VEHICLE** — Every type of motor—driven vehicle, including boats, used primarily for recreational purposes and including living and/or sleeping facilities.

**RESEARCH LABORATORY** — A facility for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

**RESTAURANT** — A business establishment that serves food and beverages to persons seated at tables or counters within the building.

**RIGHT—OF—WAY** — An area or strip of land, either public or private, on which an irrevocable right—of—passage has been recorded for the use of vehicles or pedestrians or both.

**ROOMING HOUSE** — An establishment providing permanent lodging, with no more than four (4) guest rooms, where meals may be regularly prepared and served to lodgers for compensation.

**SATELLITE DISH ANTENNA** — A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. The definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

**SCRAP YARD** — A parcel of land on which waste material or six (6) or more inoperative vehicles and other machinery are collected, stored, salvaged, or sold.

**SIGN** — Any structure, or part thereof, or device, freestanding or attached thereto or painted or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an announcement, direction or advertisement. The word “sign” includes the word “billboard,” but does not include the flag, pennant or insignia of any nation, state, city or other political unit or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive movement or event.

**SINGLE-FAMILY ATTACHED DWELLING** - A structure designed for occupancy by one family, which shares one party wall with an adjoining single-family dwelling. Each "attached single-family dwelling" is completely self-contained for independent family living with it's own land.

**SPECIAL USE** — [See Article 8.](#)

**STORY** — That portion of a building which is 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 any floor and the ceiling above it.

**STREET** — A traveling way intended for vehicular use, which provides access and frontage to abutting properties. Construction of any street, or improvement of any portion of an undedicated street must be done in accordance with the Village of Delanson Street and Highway Law and Accompanying Highway and Drainage Standards.

**STREET LINE** — A dividing line between a lot, tract or parcel of land and a right—of—way of the street.

**SWIMMING POOL** — Any in—ground pool or above—ground pool which has a capacity to hold water four (4’) feet in depth or greater. Swimming pools shall be considered permanently installed and shall be deemed accessory structures.

**TOWER** — Includes any tower, edifice, pole or other structure, whether attached to a building or freestanding, and whether guyed or self—supporting, designed to be used for, or for the support of devices to be used for, the transmission and/or reception of radio frequency signals, such as but not limited to broadcast, short wave, citizens’ band, FM or television signals or wind—driven such as energy converters and wind speed and/or direction indicators. Any existing tower, which is not in conformance with these regulations, shall be considered a nonconforming use.

**TRAVEL TRAILER**— A vehicular portable structure built on a chassis, designed to be used primarily as a temporary dwelling for travel, recreation, and vacation uses, and not placed on a foundation. For the purposes of this ordinance, this term shall be construed to include self—propelling living quarters commonly called “recreation vehicles” and “pick—up campers”.

**VEHICLE, MOTOR** — Every vehicle operated or driven on a public highway

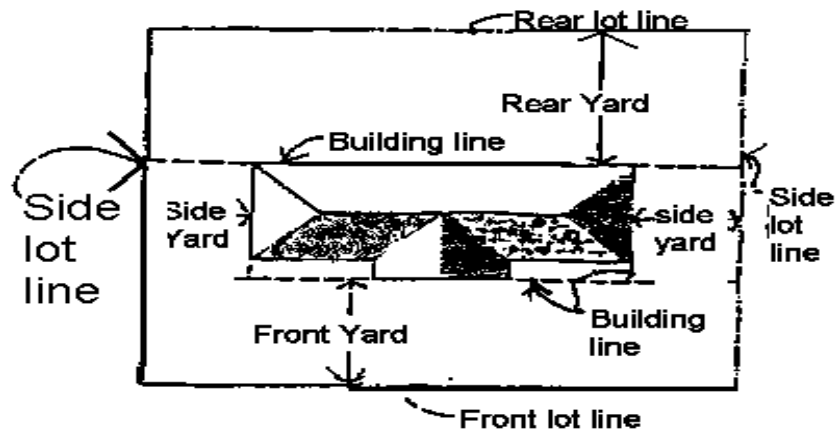
propelled by any power other than muscular power.

**VEHICLE, OFF-HIGHWAY MOTOR** — Every vehicle operated or driven not on a public highway to include, but not limited to: off—highway motor bikes, snowmobiles, all—terrain type vehicles or farm machinery.

**YARD, FRONT** — An open, unoccupied space on the same lot with a main building, extending the full minimum required lot width and situated between the street line and the building line projected to the side lines of the lot.

**YARD, REAR** — An open, unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the “rear yard” shall be measured between the rear line of the lot and the rear line of the building.

**YARD, SIDE** — An open, unoccupied space on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.



## ARTICLE 4. ESTABLISHMENT OF ZONING DISTRICTS, ZONING MAP

### Section 4.1. Districts

In order to promote the purposes of this local law, the Village of Delanson is hereby divided into the following districts:

#### Residential Districts:

- HR Historic Residential District
- GR General Residential Districts, GR—2, GR—1

#### Business Districts:

- LB Limited Business District
- GB General Business District

**Special Purpose Districts:**

MHPD Mobile Home Planned District

Where districts are referred to as “more restrictive” or “less restrictive,” the designation shall refer to the order in which the districts are named in the above list, the first named being most restrictive, except however, the special purpose districts shall not be considered as “more restrictive” or “less restrictive” than any other district.

**Section 4.2. Official Zoning Map**

**A. Location and Boundaries**

The districts established by this chapter are bounded and defined as shown on the map designated as the “Zoning Map of the Village of Delanson,” which, with explanatory matter thereon, is hereby made a part of this chapter.

**B. Map Filed**

This Zoning Map, when duly adopted, shall be filed in the Office of the Village Clerk, and certified copies thereof shall be filed with the Building Inspector, Board of Zoning Appeals and the Planning Commission. Filing of the Zoning Map shall also be in compliance with requirements of Section 7-724 of the Village Law, or any successor section.

**C. Map Amendments**

A Zoning Map amendment, which may be enacted by the Village Board, shall be filed with the Building Inspector, Village Clerk, Board of Zoning Appeals and the Planning Board. Filing of a Zoning Map amendment shall also be in compliance with Sections 7-724 and 7-706 of the New York State Village Law, or any successor section.

**D. Record**

The Delanson Village Clerk shall keep an index of all changes in the Zoning Map hereafter made. Such index will identify areas changed with reference to the record adopting such change. The Village Clerk may have printed supplements prepared from time to time and cause same to be attached to this Chapter.

**E. Revision of Map**

Every change or amendment of the Zoning Map, duly enacted by the Village Board, shall, within a reasonable time, be shown upon the Zoning Map.

**Section 4.3. Interpretation of Boundaries**

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

- A. Where District boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right—of— way

lines shall be construed to be such boundaries.

- B. Where District boundaries are so indicated that they approximately follow the lot lines of maps filed in the Schenectady County Clerk's Office for residential developments, such lot lines shall be construed to be said boundaries.
- C. If no distances are clearly identified, such boundaries shall be determined by the use of the scale shown on said Zoning Map.
- D. Where the boundary of a District follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.
- E. Where the boundary of a District follows a river, stream or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Village of Delanson unless otherwise indicated.

## **ARTICLE 5. GENERAL PROVISIONS**

### **Section 5.1. Compliance Required**

#### **A. Generally**

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 local law and particularly with the specific regulations for the district in which such building or land is located. Any use not specifically permitted by this local law is prohibited.

#### **B. Minimum Requirements**

In interpreting and applying the provisions of this local law, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this local law to interfere with or invalidate any easements, covenants, or other agreement between parties, provided, however, that where this local law is more restrictive than comparable conditions imposed by -other local laws, ordinances, rules, regulations, or by easements, covenants or agreements, the provisions of this local law shall govern.

### **Section 5.2. Lots**

#### **A. Required Lot Area**

No building or structure shall be constructed or altered so as to conflict with the required minimum lot area for the district in which such building or structure is located. No parcel or lot shall be so reduced in area, width or depth so as to be smaller than required for the Zoning District in which said lot or parcel is located.

#### **B. Lot Required For Every Building**

Every building erected after the effective date of this local law shall be located



on a lot, as defined herein. No more than one (1) principal building and its accessory structures shall be permitted to occupy a lot.

**C. Subdivisions**

Should a lot hereafter be formed from the part of a lot already occupied by a building, such separation shall be effected in such manner as not to impair conformity with any of the requirements of this local law with respect to the existing buildings 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 the provisions of this local law and the Subdivision Local Law of the Village of Delanson.

**D. Lots in Two (2) Districts**

Where a District boundary line divides a lot in a single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided that the lot has frontage on a street in the less restricted District.

**Section 5.3. Yards**

**A. Generally**

No building or structure shall be constructed, erected or altered so as to conflict with the required front, side and rear yards for the district in which such building or structure is located, except as may otherwise be permitted in this Section.

**B. Yard For Every Building**

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 (1) lot shall be considered as a yard or open space for a building on any other lot.

**C. Yards In Adjoining Districts**

Where a residential district adjoins any other district on a side or rear yard, such other district or districts shall be subject to the same side and rear yard requirements on the lots directly adjoining said residential district.

**D. Buffer Yard Requirements for Non—Residential Uses/Districts**

Where a non—residential district or use abuts a residential district or use, a buffer yard shall be provided along each side and rear lot line adjoining the residential district or use. Such buffer yard shall meet minimum dimension requirements for yards for the district in which it is located, and shall contain screening comprised of either a six (6) foot high stockade fence or equivalent, or a landscape strip containing a compact evergreen hedge not less than six (6) feet in height, and/or other means of buffering as deemed appropriate by the Planning Board or Board of Appeals. Such screening shall be located no greater than five (5) feet from the property line. If deemed appropriate, a buffer

yard and/or screening may also be required along the front lot line.

#### **Section 5.4. Visibility At Intersections**

On a corner lot in any district, no fence, hedge or other obstruction more than three and one—half (3 1/2) feet in height above the average street elevation shall be erected to exist within the triangle formed by the intersecting street lines and a straight line joining said street lines at points which are thirty [30] feet in distance from the point of intersection measured along said street lines. This restriction shall apply to all existing hedges, fences and landscaping.

#### **Section 5.5. Parking for Every Building**

No off—street parking or loading space required in connection with any building for the purpose of compliance with this ordinance shall be included as part of the off—street parking or loading space similarly required for any other building.

#### **Section 5.6. Maximum Height/Minimum Building Floor Area**

No residential or commercial structure shall be erected or altered so that it contains less floor area or greater height than is required for the district within which such structure is located as set forth in [Article 6, Districts](#), of this ordinance.

#### **Section 5.7. Location of Dwelling Unit within Structure**

Basements or cellars shall not be used as dwelling units.

#### **Section 5.8. Effect on Public Utilities**

This local law is not intended to restrict the construction or use of underground or overhead lines or of other structures used for public utility purposes by corporations organized under the laws of the State of New York and subject to the jurisdiction of the Public Service Commission of the State of New York; however, the establishment of public utility buildings or substations in residential districts shall require a Special Permit and shall be subject to such conditions as the Planning Board may impose in order to preserve and protect the character of the district.

### **ARTICLE 6. DISTRICTS**

#### **Section 6.1. HR Historic Residential District**

##### **A. Purpose**

Whereas the Delanson Historic Residential District, (HR) as defined on the Village of Delanson Official Zoning Map, has been listed on the State and National Registers of Historic Places, and pursuant to Section 96—a and Article 5—K of the New York State General Municipal Law, the Village adopts the standards contained in this section in order to:

1. Protect the historic resources of the Village.

2. Encourage the preservation, restoration and productive use of historic and architecturally significant structures within the Village.
3. Conserve and improve the value of property within the Historic Residential District.

#### **B. Restrictions**

1. Applicability — Any proposal for exterior structural alteration, demolition, new construction or moving of a historic site or structure or property within the Historic Residential District shall not be permitted until the applicant has received Site Plan Approval from the Village Planning Board, according to the procedure set forth in [Article 11](#), Site Plan Review and based upon the review standards, including building compatibility and impact on adjacent properties established in that Article.

#### **C. Principal Uses Permitted**

The following uses shall be permitted within the Historic District:

1. One and two family dwellings. Mobile homes are specifically not permitted.
2. Public parks, playgrounds, gardens, and neighborhood recreational areas.

#### **D. Accessory Uses Permitted**

The following accessory uses shall be permitted on the same lot with a legal principal use:

1. Home occupations in accordance with provisions of [Article 7, Section 7.14](#), of the Supplementary Regulations.
2. Garage, carport and parking areas for use of occupants.
3. Private swimming pools, tennis courts and other private recreational facilities for the use of residents and not run gain.
4. Buildings for lawn care, gardening or maintenance of residential property. No more than two (2) allowed per lot.
5. Satellite Dishes, subject to the provisions [of Article 7, Section 7.20](#). In the HR District, no satellite dish shall be visible from a public right-of-way.
6. Other customary accessory uses and buildings, provided such uses are clearly incidental to the principal use and do not include any activity commonly conducted as a business.
7. Outside storage of travel trailers and or recreational vehicles, subject to the following restrictions:
  - a. only if registered to the residence;

- b. only one travel trailer or recreational vehicle shall be stored per lot;
- c. the travel trailer or recreational vehicle must not be stored in a required yard setback area; and
- d. the travel trailer or recreational vehicle shall not be occupied or used for living or business purposes, **except as** provided elsewhere in this chapter.

For the purpose of this section, temporary parking of a travel trailer or recreational vehicle for limited use by visitors of the residents of the dwelling unit shall not be deemed storage. However, such temporary parking shall not exceed four (4) weeks annually.

**E. Additional Uses by Special Permit**

The following uses shall be allowed subject to the issuance of a Special Permit as provided in [Article 8](#). of this local law:

- 1. Churches and similar places of worship including rectories, parish houses, etc.
- 2. Non—boarding public and private schools, libraries and museums.
- 3. Public utility installations providing services to the general area.
- 4. Fire stations, village maintenance and sewage facilities.
- 5. Rooming houses or Bed and Breakfast establishments, also subject to the provisions of [Article 7, Supplemental Regulations, Section 7.12](#).
- 6. Home Kennels, also subject to the provisions [Article 7, Section 7.17](#)

**F. Lot Area Requirements**

- 1. Area — The minimum area and width dimensions shall apply to lots in the Historic Residential District as listed below:

**Table 1: Lot Area Requirements in HR District**

<u>Minimum Dimensions</u>				
<u>Building District</u>	<u>Lot Type</u>	<u>Lot Area Square Feet</u>	<u>Width Feet</u>	<u>Depth Feet</u>
HR	*SFD	20,000	80'	120'
	**TFD	25,000	80'	120'
*SFD = Single Family Dwelling				
**TFD = Two Family Dwelling				

- 2. Lot Coverage — All buildings, accessory buildings and structures, and

impervious surfaces shall cover no more than thirty percent [30%] of the lot area.

3. Yards Required — Each lot shall have front, side and rear yards as listed below:

**Table 2: Yard Dimensions in HR District**

<u>District</u>	Minimum Dimensions		
	<u>Front Yard</u> <u>Depth</u>	<u>Side Yard</u> <u>Width (Each)</u>	<u>Rear Yard</u> <u>Depth</u>
HR	25 ft.	10 ft.	30 ft.

- a. Projections into Yards — Steps, overhangs, attached garages, concrete pads, enclosed porches, unenclosed porches, decks, patios, and solar reflectors are considered to be part of the principal building and shall not infringe on any required yard area.
  - b. Corner Lots — On corner lots, front yard set—back requirements shall be observed from both lot lines adjacent to the streets.
4. Exceptions -
    - a. Where there are existing dwellings within one hundred (100) feet on either side and within the same block, which are set back less than twenty—five (25) feet from the front lot line, the minimum required front yard depth may be reduced to the average set—back of such adjacent dwellings, provided, however, that no front yard shall be less than ten (10) feet.
    - b. When a lot is less than one hundred twenty (120) feet deep at the time of passage of this ordinance, the rear yard depth may be reduced by one—half (1/2) the distance that the lot depth is less than one hundred twenty (120) feet, provided, however, that no rear yard shall be less than fifteen (15) feet.
  5. Parking Requirements — [See Article 7, Section 7.8](#). Motor vehicles shall not be parked, stored or left standing in any required front yard area, except in the driveway associated with the residential use.

**G. Building Requirements**

1. Height Limits — No structure shall exceed thirty—five [35] feet in height.
2. Minimum Floor Areas — Each single family dwelling shall contain at least one thousand (1,000) square feet in floor area. Each two family dwelling shall contain at least twelve hundred (1200) square feet in floor area. Each dwelling shall have a minimum horizontal dimension of eighteen (18) feet, exclusive of open porches, attached garage or other accessory structures.
3. Accessory Buildings and Structures — Accessory buildings and structures, including garages and/or open parking space(s) shall

comply with front and side yard setback requirements. Accessory buildings may be placed not less than five (5) feet from the rear lot line.

## **Section 6.2. GR General Residential Districts — GR—1, GR—2**

### **A. Purpose**

The Village of Delanson is characterized by soils which exhibit severe development limitations. The Village has no municipal sewer system and some areas within the Village are not connected to the public water supply. Therefore, village residents are entirely dependent on individual septic systems, and in some cases individual wells, to meet demands for waste disposal and water supply. In addition, various sections of the village possess moderate to steep slopes. These factors are the basis for the lot area requirements set forth below.

GR—1: (Minimum lot size — 1 acre)

Land within the GR-1 district is characterized by moderate to steep slopes and/or soils which exhibit severe limitations to development; access to public water is available.

GR—2: (Minimum lot size — 2 acres)

The GR—2 district contains land with no access to public water, as well as slopes and soils with severe development limitations.

### **B. Principal Uses Permitted**

The following uses shall be permitted within the GR Residential Districts:

1. One and two family dwellings. Approved manufactured homes as defined in [Article 3](#), are permitted subject to the requirements of [Article 7, Section 7.10](#).
2. Public parks, playgrounds and recreational areas.
3. In the GR—1 and GR—2 Districts only, Multiple Family dwellings, subject to the requirements of [Article 7, Section 7.19](#).

### **C. Accessory Uses Permitted**

The following accessory uses shall be permitted on the same lot with a legal principal use:

1. Home occupations in accordance with provisions of [Article 7, Section 7.14](#), of the Supplementary Regulations.
2. Garage, carport and parking areas for use of occupants.
3. Private swimming pools, tennis courts and other private recreational facilities for the use of residents and not run for gain.
4. Buildings for lawn care, gardening or maintenance of residential

property. No more than two (2) allowed per lot.

5. Satellite Dishes, subject to the provisions of [Section 7.20](#).
6. Home Kennels, subject to the requirements of [Article 7, Section 7.17](#)
7. Other customary accessory uses and buildings, provided such uses are clearly incidental to the principal use and do not include any activity commonly conducted as a business.
8. Permitted accessory towers, subject to the provisions of [Section 7.23](#).
9. Outside storage of travel trailers and or recreational vehicles, subject to the following restrictions:
  - a. only if registered to the residence;
  - b. only one travel trailer or recreational vehicle shall be stored per lot;
  - c. the travel trailer or recreational vehicle must not be stored in the required yard setback area; and
  - d. the travel trailer or recreational vehicle shall not be occupied or used for living or business purposes, except as provided elsewhere in this chapter.

For the purpose of this section, temporary parking of a travel trailer or recreational vehicle for limited use by visitors of the residents of the dwelling unit shall not be deemed storage. However, such temporary parking shall not exceed four (4) weeks annually.

**D. Additional Uses by Special Permit**

The following uses shall be allowed subject to the issuance of a Special Permit as provided in [Article 8](#) of this local law:

1. Churches and similar places of worship including rectories, parish houses, etc.
2. Non—boarding public and private schools, libraries and museums.
3. Public utility installations providing services to the general area.
4. Fire stations, village maintenance and sewage facilities.
5. Rooming houses or Bed and Breakfast establishments, subject to the provisions of Article 7, Supplemental Regulations, [Section 7.12](#).
6. Apartment Conversions, subject to the requirements of [Article 8](#), Special Permits and [Article 7, Supplementary Regulations, Section 7.18](#).

7. Medical Out—Patient Clinics and medical offices.
8. Community Center
9. Single Family Attached Dwelling

**E. Lot Area Requirements**

1. Area — The minimum area and minimum width or minimum depth dimensions shall apply to lots in the Residential Districts as listed below: Table 3: Lot area Dimensions in GR-1 & GR-2

**Table 3: Lot Area Requirements GR-1 & GR-2**

District	Building Type	<u>Minimum Dimensions</u>		
		Area in Square Feet	Width in Feet	Depth in Feet
GR—1	* SFD	43,560 (1. Acre)	100	150
	** TFD	50,000	100	150
	*** MFD	50,000 plus 7,000 per additional unit		
	****SFAD	7,500 per Unit	45	130
GR—2	* SFD	87,120 (2 Acres)	100	150
	** TFD	95,000	100	150
	*** MFD	95,000 plus 8,000 per additional unit		
*SFD Single Family Dwelling				
**TFD = Two Family Dwelling				
***MFD = Multiple—Family Dwelling				
****SFAD = Single Family Attached Dwelling				

2. Lot Coverage — All buildings, accessory buildings, structures, and impervious surfaces shall cover no more than thirty percent (30%) of the buildable lot area except Single Family Attached Dwellings. Single Family Attached Dwellings, accessory buildings, structures, and impervious surfaces shall cover no more than **40%** of the buildable lot area.
3. Yards Required — Each lot shall have front, side and rear yards as listed below:



**Table 4: Yard dimensions in GR-1 & GR-2**

<u>Minimum Dimensions</u>			
<u>Building Type</u>	<u>Front Yard Depth</u>	<u>Side Yard Width (Each)</u>	<u>Rear Yard Depth</u>
SFD	25 ft.	10 ft.	30 ft
TFD	25 ft	10 ft	30 ft
MFD	25 ft	10 ft	30 ft
SFAD	25 ft	15 ft End of Building	30 ft

- a. Projections into Yards — Steps, overhangs, attached garages, concrete pads, enclosed porches, unenclosed porches, decks, patios, and solar reflectors are considered to be part of the principal building and shall not infringe on any required yard area.
- b. Corner Lots — On corner lots, front yard set—back requirements shall be observed from both lot lines adjacent to the streets.

4. Exceptions

- a. Where there are existing dwellings within one hundred (100) feet on either side and within the same block, which are set back less than twenty—five (25) feet from the front lot line, the minimum required front yard depth may be reduced to the average set—back of such adjacent dwellings, provided, however, that no front yard shall be less than ten (10) feet.
- b. When a lot is less than one hundred twenty (120) feet deep at the time of passage of this ordinance, the rear yard depth may be reduced by one—half (1/2) the distance that the lot depth is less than one hundred twenty (120) feet, provided, however, that no rear yard shall be less than fifteen (15) feet.

- 5. Parking Requirements — [See Article 7, Section 7.8](#). Motor vehicles shall not be parked, stored or left standing in any required front yard area, except in the driveway associated with the residential use.

**F. Building Requirements**

- 1. Height Limits - No structure shall exceed thirty—five [35] feet in height.
- 2. Minimum Floor Areas — Each single-family dwelling shall contain at least twelve hundred (1200.) square feet in floor area. Each two family dwelling shall contain at least fifteen hundred (1500) square feet in floor area. Each dwelling shall have a minimum horizontal dimension of eighteen (18) feet, exclusive of open porches, attached garage or other accessory structures.

3. Accessory Buildings — Accessory Buildings, including garages and/or open parking space(s) shall comply with front and side yard requirements. Accessory buildings may be placed not less than five (5) feet from the rear lot line.

**Section 6.3. Mobile Home Planned District**

**A. Purpose**

The intent of Mobile Home Planned District (MHPD) is to create an opportunity for alternative, affordable housing in the Village of Delanson.

**B. Applicability of Provisions**

1. Minimum Site Size — The provisions of this Section may be applied only to sites having six [6] contiguous acres of land.
2. Ownership - An application for approval of a Mobile Home Planned District (MHPD) may be filed by a person having an interest in the property to be included in the Planned District. The MHPD applications shall be filed in the name or names of the recorded owner or owners of property included in the development. However, the applications may be filed by holder(s) of an equitable interest in such property.
3. Location of MEPD District — Mobile Home Planned District shall only be permitted in the GR-2 Residential District; subject to the requirements of this Section.

**C. Permitted Uses**

Permitted uses within a MHPD District:

1. Mobile Homes, as defined in [Article 3](#) of this local law, used as single family dwellings.
2. Non—Residential Uses — Active and passive park and recreation areas, open space and facilities, including swimming pools, tennis courts, ball fields, playgrounds, walkways, bikeways, nature trails and similar structures and facilities.
3. Accessory Uses — Those accessory uses and structures permitted in the GR-2 Residential District

**D. Lot Area Requirements**

1. Area and Width — The minimum area and minimum width and minimum depth dimensions shall apply to lots in the MHPD as follows:

**Table 5: Lot Area dimensions of MHPD district**

Lot Area in Square Feet	Lot Width in Feet	Lot Depth in Feet
87,120 (2 acres)	100	150

2. Lot Coverage — All buildings, accessory buildings and structures and impervious surfaces shall cover no more than thirty percent (30%) of

the lot area.

3. Yards Required — Each lot shall have front, side and rear yards as listed below:

**Table 6: Yard dimensions of MHPD**

<u>Minimum Dimensions</u>		
<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>
<u>Depth</u>	<u>Width (each)</u>	<u>Depth</u>
25 ft. Same as required Lot Width	25 ft.	30 ft.

- a. Projections into Yards — Steps, overhangs, attached garages, concrete pads, porches, decks, patios, and solar reflectors, are considered to be part of the principal building and shall not infringe on any required yard area.
  - b. Corner Lots — On corner lots, front yard set-back requirements shall be observed from both lot lines adjacent to the streets.
4. Driveways — Driveways shall not be located within twenty—five (25) feet of a side lot line.
  5. Parking Requirements — See [Article 7, Supplementary Regulations, Section 7.8](#). Motor vehicles shall not be parked, stored or left standing in any required front yard area, except in the driveway associated with the residential use.

**E. Building and Design Requirements**

1. Height — No structure shall exceed thirty-five (35) feet in height.
2. Minimum Floor Area — Each mobile home shall contain at least seven hundred twenty (720) square feet in floor area.
3. Accessory Buildings — No accessory building, detached garage or barn shall be located in any required front or side yard area, nor closer than twenty—five (25) feet from the rear lot line.
4. Installation — Each mobile home must be installed in compliance with the Installation Standards promulgated under the authority of New York State Executive Law, Article 18, entitled the New York State Uniform Fire Prevention and Building Code Act. Each mobile home must be placed on a permanent masonry foundation sunk at least four (4) feet below grade.
5. The house shall appear to face the street with the long axis of the

building running parallel to the street.

6. The main roof should be pitched, rather than flat.
7. The exterior walls should look like masonry or wood, regardless of actual composition.

**F. Application and Review Procedure**

Whenever any Z4HPD is proposed, before any permit for the erection of a permanent building in such planned residential development shall be granted, and before any subdivision plot, or any part thereof, may be filed in the Office of the Schenectady County Clerk, the developer, or his authorized agent, shall apply for a secure approval of such MHPD in accordance with the following procedures:

1. Application for Sketch Plan Approval: In order to allow the Village Board and the developer to reach an understanding on basic design requirements prior to detailed design investment, the developer shall submit a sketch plan of his proposal to the Planning Board. The Planning Board shall review the sketch plan based upon the provisions of this Section and make a report of their findings to the Village Board. The sketch plan shall be approximately to scale, though it need not be to the precision of a finished engineering drawing, and it shall clearly show the following information:
  - a. The location, area and Zoning District designation of the subject site and the Zoning District designation and use of land of adjoining areas.
  - b. The general outlines of the interior roadway system, if applicable, and all existing rights—of—way and easements, whether public or private.
  - c. The storm drainage, water supply and sanitary sewerage systems and locations of other utilities.
  - d. A topographic map showing contour intervals of not more than five (5) feet of elevation, along with an overlay outlining the soil areas susceptible to erosion or flooding, if any.
  - e. A location map showing uses and ownership of abutting lands.
  - f. A long form environmental assessment shall be submitted together with a list of other permits required and involved agencies. If determined necessary, an environmental impact statement will be prepared in accordance with the requirements of the New York State Environmental Quality Review Act (SEQRA).
2. Planning Board Review and Report to Village Board: The Planning Board shall review the sketch plan and other documents submitted by the applicant.
  - a. Completed Application — The Chairman of the Planning Board

shall certify when all of the necessary application material has been presented. The Planning Board shall render either a favorable or unfavorable report, as described below, to the Village Board within sixty (60) days of such certification. If no report has been rendered after sixty (60) days, the applicant may proceed as if a favorable report

- b. A favorable report shall include a recommendation to the Village Board that a public hearing be held for the purpose of considering MHPD. It shall be based on the following findings, which shall be included as part of the report:
  - 1. That the proposal meets the intent and objectives of MHPD, as expressed herein.
  - 2. That the proposal meets all the general requirements of this Section.
  - 3. That there are adequate services and utilities available or proposed to be made available in the construction of the development.
- c. An unfavorable report shall state clearly the reason therefore and if appropriate, point out to the applicant what might be necessary in order to receive a favorable report. The applicant may, within ten (10) days after receiving an unfavorable report, file an application for a MHPD with the Village Board. The Village Board may then determine, on its own initiative, whether or not it wishes to call a public hearing.

3. Village Zoning Amendment to Mobile Home Planned District:

- a. Village Board Action and Public Hearings — Upon completion of the requirements for review under the New York State Environmental Quality Review Act, and upon receipt of a favorable report from the Planning Board or upon its own determination subsequent to an appeal from an unfavorable report, the Village Board shall set a date for and conduct a public hearing for the purpose of considering the applicants plan for a Mobile Home Planned District, in accordance with the procedures established by Village Law.
- b. Referrals — The Village Board shall refer the application to amend the zoning map to the Schenectady County Planning Department and to the Village Building Inspector. The Building Inspector shall review the applicant's proposal and shall report to the Village Board regarding the adequacy of the utilities, site design, drainage, streets and other aspects of the proposed development consistent with the purposes of this ordinance. The Building Inspector may request that the Village's professional engineer review the proposal and provide a referral to be included in the report to the Village Board. The report of the Building Inspector may include such actions, stipulations or conditions which are deemed necessary and

appropriate.

- c. **Decision** — The Village Board shall act on the rezoning application in accordance with Village Law, and may attach to its authorizing resolution any modifications, conditions, safeguards or requirements as may be appropriate to protect the public health, safety and welfare.
- d. **Conditions for Final Zoning Approval** — If the Village Board grants the Mobile Home Planned District, the zoning map shall be so annotated, subject to the following:
  1. MHPD rezoning shall be conditional upon the applicant’s securing final site plan approval in accordance with the procedures established in [Article 11, Site Plan Review](#), approval of a final subdivision plat pursuant to the Village’s Subdivision Regulations and compliance with all additional conditions and requirements as may be set forth by the Village Board in its resolution granting the MHPD.
  2. Final Site Plan Approval Requirements — As mentioned above, the applicant’s proposal shall undergo site plan review in accordance with [Article 11, Site Plan Review](#), prior to receiving final zoning approval. In addition, the applicant must receive final subdivision plat approval. Therefore, the procedures for final site plan approval and final subdivision plat approval shall be undertaken simultaneously.
  3. Financial Responsibility — No building permits shall be issued for construction within a MHPD District until improvements are installed or Letter of Credit posted in accordance with the same procedures as provided for in Section 7—730 of the Village Law relating to subdivision and as elsewhere required in this or other ordinances or subdivision regulations of the Village of Delanson.
  4. Expiration — Approval or approval with modifications of the MHPD zoning shall expire at the end of twelve (12) months after the effective date, unless the applicant has submitted at least one (1) final site plan application for a MHPD development, or if such time limit is extended by action of the Village Board.

## **Section 6.4. LB Limited Business District**

### **A. Purpose**

The limited business district is designed for the convenience shopping of persons residing in nearby residential areas and to permit such uses as are necessary to satisfy those basic shopping needs that occur daily or frequently.

### **B. Permitted Uses**

The following uses shall be permitted within the LB Limited Business

District:

1. All uses permitted in the HR and GR Residential Districts, subject, however, to all requirements and restrictions applicable in those districts.
2. Banks and professional offices.
3. Neighborhood retail stores including, but not limited to food stores, meat markets, delicatessens, milk, candy and ice cream stores, drug stores, hardware stores, variety, card, newspaper and stationary store and landscaping and garden supply stores.
4. Personal service shops including barbers, hair dressers, flower shops, coin operated laundries, upholstering, dressmaking, and similar businesses, provided that:
  - a. All goods or products shall be sold at retail on the premises; and,
  - b. Such manufacturing or processing shall be done by not more than five (5) employees.
5. Restaurants.
6. Funeral homes.
7. Clubs, lodges, social and recreation centers, except those in which the chief activity is customarily carried on for profit.
8. Transportation passenger stations, communication and express mail offices.
9. Convalescent homes.

**C. Accessory Uses**

Accessory uses permitted in the LB Limited Business District shall be limited to the following:

1. Accessory uses permitted in the GR General Residential Districts.
2. Parking and loading.
3. Bus shelters and loading areas.
4. Permitted signs.
5. Storage.
6. Buildings and uses customarily accessory to the permitted use.

**D. Additional Uses by Special Permit**

The following uses shall be allowed subject to the issuance of a Special Permit as

provided in [Article 8](#) of this local law:

1. Convenience stores that do not sell gas.
2. Drive—in establishments.
3. Motels or hotels.

**E. Lot Requirements**

1. The following definitions shall apply to lot requirements in both the Limited Business (LB) and General Business (GB) Districts:
  - a. Floor Area Ratio - A ratio derived by dividing the gross floor area of all buildings on a lot by the area of the lot.
  - b. Impervious Surface Ratio — A measure of the intensity of land use that is determined by dividing the total area of all impervious surfaces on the lot by the area of the lot.
2. The minimum lot area required for any permitted use in the LB District shall be 30,000 square feet. Minimum lot width shall be fifty (50) feet, minimum lot depth shall be one hundred (100) feet.
3. The Floor Area Ratio shall not exceed seventy—five percent (75% or .75).
4. The Impervious Surface Ratio shall not exceed seventy—five percent (75% or .75).
5. Yards shall be provided as follows:
  - a. Front — 20 feet
  - b. Side — 10 feet (each)
  - c. Rear — 5 feet

Where an LB District abuts a Residential District or use, buffer yard requirements of [Section 5.3.D](#). shall be met.

6. Lot Access and Driveways: A maximum of one combination - entrance/exit or two one—way driveway openings shall be permitted to a lot from each abutting street. Driveway lane widths shall not be less than twelve (12) feet each.

One—way driveways shall not be less than fifteen (15) feet apart measured from the centerline of each driveway and at least five (5) feet from the side property line.

All access drives shall be located at least fifty (50) feet, where feasible, from any street intersection.

7. Parking for each lot developed shall conform to parking requirements set forth in [Article 7, Section 7.8](#). All parking areas shall be located to the rear or side of the principle building. However, parking may be



permitted in front of the building in some cases as determined appropriate by the Planning Board through [Site Plan Review, Article 11](#). Such parking shall not be located in the required front yard setback area.

8. Signs in the LB district shall conform to standards set forth in [Article 7, Section 7.11](#).

## **Section 6.5. GB General Business District**

### **A. Permitted Uses**

The following uses shall be permitted within the GB District:

1. All uses permitted in the LB District subject, however, to all requirements and restrictions applicable in that district. No residential uses shall be permitted.
2. Motor vehicle sales and used car lots.
3. Public garages, automobile repair shops and gasoline service stations conducting automobile repair, convenience stores which sell gas, gas stations.
4. Lumber and building materials yards.
5. Wholesale business and general merchandise warehousing.
6. Electric substations.

### **B. Accessory Uses**

Accessory uses permitted in the GB General Business District shall be limited to the following:

1. Accessory uses permitted in the LB Limited Business District.
2. Temporary offices and storage.

### **C. Special Permit Uses**

The following uses shall be allowed subject to the issuance of a Special Permit as provided in [Article 8](#) of this local law:

1. All Special Uses permitted in the Limited Business (LB) District.
2. Light Industrial Uses.
3. Research Laboratories.
4. Commercial extraction of topsoil, sand, gravel or stone, also subject to the provisions of [Article 7, Supplementary Regulations, Section 7.7](#).
5. Mining, also subject to the provisions of [Article 7, Supplementary Regulations, Section 7.7](#).

6. Gasoline filling stations, convenience stores which sell gas, and motor vehicle repair shops, also subject to the provisions of [Article 7, Supplementary Regulations, Section. 7.4.](#)
7. Cemeteries.

**D. Prohibited Uses**

The following uses shall be prohibited within the GB District:

1. Scrapyards.

**E. Lot Requirements**

1. The definitions of floor area ratio and impervious surface ratio applicable to lot requirements in the limited Business — LB District shall also apply to lot requirements in the General Business — GB District.
2. The minimum lot area required for any permitted use in the GB District shall be 1 acre with minimum lot frontage, depth and width of 200 feet.
3. The Floor Area Ratio shall not exceed eighty percent (80% or .8).
4. The Impervious Surface Ratio shall not exceed eighty percent (80% or .8).
5. Yards shall be provided as follows:
  - a. Front — 25 feet
  - b. Side — 15 feet
  - c. Rear — 15 feet

Where a General Business — GB District abuts a Residential District or use, buffer yard requirements of [Section 5.3.D.](#) shall be met.

6. Lot Access and Driveways: A maximum of one combination entrance/exit or two one—way driveway openings shall be permitted to a lot from each abutting street. Driveway lane widths shall not be less than twelve (12) feet. One—way driveways shall not be less than fifty (50) feet apart measured from the centerline of each driveway, and at least twenty (20) feet from the side property line.
  - a. All access drives shall be located at least fifty (50) feet from any street intersection.
7. Parking for each lot developed shall conform to parking requirements set forth in [Article 7, Section 7.8.](#)
8. Signs in the GB district shall conform to standards set forth in [Article 7, Section 7.11.](#)

## **ARTICLE 7. SUPPLEMENTARY REGULATIONS**

### **Section 7.1. Accessory Structures and Uses**

Accessory structures and uses, as defined herein, are permitted subject to the restrictions, limitations and standards imposed by district regulations, this Section and applicable specific use requirements. The following requirements do not apply to fences; regulations for fences are contained in [Section 7.3](#) of this local law.

#### **A. Attached Structures**

Every accessory structure attached to the principal structure shall be considered a part thereof, and the applicable front, side and rear yard requirements shall apply. Every accessory structure located less than ten [10] feet from a principal structure shall, for the purposes of this Section, be considered an attached accessory structure.

#### **B. Detached Structures**

No detached accessory structure shall be located in the required front yard area of any lot, nor in the required side yard setback area.

#### **C. Storage Buildings**

In any district, farm buildings no longer utilized for agricultural uses may be used for storage on a rental basis subject to the requirement that no salesroom or showroom shall be maintained for the sale of stored articles or merchandise at retail, and no exterior sign, shall be displayed.

### **Section 7.2. Outdoor Storage and Dumping of Waste Refuse and Garbage**

#### **A. Storage**

All waste, garbage and refuse resulting from the operation of permitted business and manufacturing uses, or from the occupancy of multiple family apartment development, shall, if stored in the open air, be placed in covered metal containers located on a concrete or comparable base slab and shall be obscured from every neighboring residential property and the public way.

#### **B. Disposal**

It shall be unlawful for any person(s) to dump, deposit or store for more than two (2) months any type of material, solid or otherwise, determined to be detrimental to the health, safety and general welfare of the people or future residents of the Village.

### **Section 7.3. Fences**

#### **A. Location and Height**

1. Generally: Fences shall be permitted anywhere on a lot or parcel of land, provided that the height thereof does not exceed four [4] feet in a front yard or six (6) feet in a side or rear yard, measured from ground level on the interior side of the fence to the uppermost part thereof.

However, for non—residential uses in the General Business — GB District, fences enclosing property which do not exceed eight [8] feet in height are permitted in all yards.

2. On Corner Lots/Visibility: No fence or other obstruction higher than three and one—half [3—1/2] feet above an adjacent curb elevation shall be permitted on a corner lot within a triangular area encompassed by three (3) imaginary lines, one [1] of which runs along the edge of the pavement abutting the lot on one [1] intersecting street and another of which runs along the edge of the pavement abutting the lot of the other intersecting street, and the third formed by a line drawn between two (2) points, one (1) on each side of the aforesaid lines located thirty [30] feet from the intersection thereof.
3. Front Yard Fences: All fences situated in front yards shall be constructed so that the fence is uniformly less than fifty percent (50%) solid or opaque when viewed from a point perpendicular to the plane created by the fence surface.

**B. Location of Posts**

Fence posts and other structural fence supports which because of the construction of the fence, must be situated on one [1] side thereof shall not be located on the side of the fence abutting adjacent properties.

**C. Aesthetics**

The more aesthetically attractive side of the fence shall face abutting properties. The side which is more aesthetically attractive shall be that side which is more pleasing in appearance to a reasonable person because of finish, painting, woodwork or other reason.

**D. Barbed Wire and Electrically Charged Fences**

No barbed wire fences or electrically charged fences shall be permitted except in conjunction with an agricultural use.

**E. Fences on Public Property**

Fences may be erected on property owned by the Village of Delanson, or to which the Village has a right of access by easement or license, by the Village of Delanson only.

**Section 7.4. Gasoline Filling Stations, Convenience Stores Which Sell Gas, and Motor Vehicle Repair Shops**

Gasoline filling stations, Convenience Stores which sell gas, and Motor Vehicle Repair Establishments may only be permitted in the General Business GB Districts subject to the issuance of a Special Permit as provided in [Article 8](#) and the additional following requirements:

**A. Location of Pumps**

Motor vehicle fuel pumps and storage tanks shall be set back a minimum of twenty—five [25] feet from every property line. Where residentially zoned or occupied property adjoins the facility, the Village may, as a condition of

Special Use Permit approval, require a greater setback where necessary and appropriate to serve the purpose of this local law.

**B. Motor Vehicle Repair**

Every Special Permit authorizing the establishment or expansion of a motor vehicle repair business shall specify, as a condition of the permit, the type of repairs to be permitted. Such condition shall be binding on the permit holder.

**C. Location of Vehicles**

No vehicles shall be parked or stored less than twenty [20] feet from any property line.

**D. Location of Work Area**

All repairs and services shall be performed within completely enclosed buildings, except for the dispensing of motor vehicle fuel, oil and similar products.

**E. Storage of Vehicles**

Not more than twenty [20] motor vehicles may be stored in an open area at any motor vehicle repair establishment, and such motor vehicles must be so stored for the purpose of repair and reconditioning thereof only. Such vehicles may not be stored for more than sixty [60] consecutive days in any three hundred sixty—five (365) day period at the same premises. The Planning Board may require higher standards for such storage as a condition of any Special Use Permit.

**F. Storage of Materials and Refuse**

All automobile parts, dismantled vehicles and other equipment shall be within enclosed buildings. All refuse and trash shall be stored in closed containers and in an area screened from view at all points on any public or private property or street when viewed from the ground level.

**G. Access Drives**

There shall be no more than two [2] access driveways to the street. On corner lots, there shall be no more than one [1] additional access driveway to the side Street, for a total of three [3] access driveways on the lot. All access drives shall be located at least fifty [50] feet from any intersection.

**H. Required Buffer Yards**

These facilities shall meet all requirements for front, side and rear yard setbacks as required in the GB District. Where such a facility abuts a residential district or property, it shall meet all requirements for buffer yards as set forth in [Article 5.3.D.](#)

**Section 7.5. Motor Vehicle Sales**

A business having three [3] or more new or used motor vehicles for sale or lease shall be deemed a motor vehicle sales business and may be permitted in the General Business — GB Districts subject to the issuance of a Special Use Permit as provided in [Article 8](#) and subject to the additional requirements set forth below.

**A. Vehicle Condition**

No motor vehicle which cannot be started and moved under its own power shall be stored in any open area of the motor vehicle sales establishment. All motor vehicles shall be maintained in running condition.

**B. Location of Vehicles**

No vehicles shall be parked less than ten [10] feet from any property line.

**C. Motor Vehicle Repairs**

Motor vehicle repair facilities, accessory to any motor vehicle sales establishment, shall be allowed only by Special Use Permit authorization and shall conform to the requirements for such uses set forth in [Section 7.4](#).

**Section 7.6. Swimming Pools**

**A. Location**

No public or private swimming pool shall be located in any required front yard. Swimming pools shall be considered accessory structures for the purposes of this local law and shall be subject to the restrictions placed on such structures as prescribed in the applicable district regulations.

**B. Safety Provisions**

Every swimming pool shall comply with the following safety provisions:

1. Every pool shall have an enclosure erected and maintained surrounding the property or the pool area, equipped with self— latching gates and sufficient to make such body of water inaccessible from the outside to small children.
2. The enclosure for an in—ground swimming pool shall be a minimum of four [4] feet in height.
3. In the case of above—ground swimming pools four [4] feet or higher, no enclosure is necessary if the only access to the pool is by portable ladder and such ladder is unattached when the pool is not in use.
4. Any deck or similar structure attached to or part of an above— ground pool shall be constructed in such a manner that will maintain the pools inaccessibility to small children, or a separate enclosure of four (4) feet or higher shall be provided.
5. All gates and doors opening into the pool enclosure shall be kept closed and locked at all times when the pool is not under the immediate attendance of an adult person.

**Section 7.7. Commercial Extraction of Topsoil, Sand, Gravel or Stone and Mining**

**A. Permit Required**

The commercial extraction of topsoil, sand, gravel or stone, other than mining,

except when incidental to or in connection with permitted construction on said premises, shall be permitted by [Special Use Permit](#) only in the GB General Business District.

#### **B. Permit Required for Mining**

Mining in districts other than GB General Business is absolutely prohibited. Mining in the GB General Business District may be permitted by special use permit upon those conditions set forth in section 23—2703 (2) (b) of the New York State Mined Land Reclamation Law, which conditions include:

- (1) limitations and restrictions regarding ingress and egress to public thoroughfares controlled by local government;
- (2) limitations and restrictions regarding routing of mineral transport vehicles on roads controlled by the local government;
- (3) requirements and conditions as specified in the mined land reclamation permit issued by the New York State Department of Environmental Conservation (DEC) concerning setbacks from property boundaries and public thoroughfare rights—of—way, natural or man—made barriers to restrict access, if required, dust control and hours of operation, when such requirements and conditions are established pursuant to subdivision three of section 23—2711 of the New York State Environmental Conservation Law; and
- (4) enforcement of reclamation requirements contained in mined land reclamation permits issued by the DEC.

#### **C. Chief Administrative Officer**

The Mayor of the Village of Delanson, as the Chief Administrative Officer, is hereby authorized to participate in the review by the DEC of an application for a Mined Land Reclamation Permit, including but not limited to, making a determination, as set forth at 23—2711(3) of the New York State Environmental Conservation Law, in regard to:

1. appropriate setbacks from property boundaries or public thoroughfare rights—of—way;
2. manmade or natural barriers designed to restrict access if needed, and, if affirmative, the type, length, height and location thereof;
3. the control of dust;
4. hours of operation; and
5. whether mining is prohibited at that location.

The determination shall be accompanied by supporting documentation justifying the particular determinations on an individual basis. The determination, including supporting documentation, shall be provided to the DEC within thirty (30) days after receipt of the noticed provided by the DEC.

DEC is required to send this notice by certified mail upon its receipt of a complete application for a mining permit.

## **Section 7.8. Off -Street Parking Requirements**

### **A. General Requirements**

1. For all buildings and structures erected and all uses of land established after the effective date of this local law, accessory off-street parking shall be provided as set forth in [Table 8](#) below, which relates the specific use or occupancy to minimum number of spaces required. In some cases, however, additional parking may be required as a condition for the issuance of a Special Use Permit as provided in [Article 8](#) of this local law. Where the use of a building or a structure is not established, parking spaces shall be provided as required for the most intense use to which such building could be used. If a use does not correspond to one of the use categories listed in [Table 8](#), the Planning Board shall establish the minimum number of parking spaces required using [Table 8](#) as a guide.
2. When the intensity of use of any building or structure shall be increased, parking spaces as required by this section shall be provided for such increase in intensity of use.

### **B. Design**

1. Screening — All open automobile-parking areas containing more than Six [6] parking spaces shall be screened on each side adjoining a residential district or use. Such screening shall be comprised of either a stockade fence or equivalent, or a landscape strip containing a compact evergreen hedge not less than four [4] feet in height.
2. Surface — Every off-street parking area and space, except parking for individual single family or two family dwellings, shall be constructed in a manner so as to provide an all—weather, durable and dustless surface and shall be graded and drained to dispose of all surface water accumulation in the area without adding additional water on an adjoining property or right—of—way. Individual parking spaces shall be clearly identified by markings four (4) to six (6) inches in width.
3. Handicapped Parking — Parking spaces shall be set aside and designated for handicapped persons where required; necessary ramp facilities shall also be provided.
4. Parking Space Dimensions — Each off-street parking space shall be at least nine (9) feet wide and eighteen (18) feet long. Each space shall have direct access to an aisle with the following minimum width:



**Table 7: Parking Space design requirements**

<u>Type of Space</u>	<u>AISLE WIDTH in feet</u>	
	<u>One—Way Traffic Flow</u>	<u>Two—Way Traffic Flow</u>
Parallel or thirty (30]degree angle	11	22
Forty—five [45] degree angle	13	24
Sixty [60] degree angle	18	24
Perpendicular or ninety (90] degree angle	24	24

5. Parking Area Layout — No more than fifteen [15] parking spaces shall be permitted in a continuous row. A landscaped median shall be installed at the end of each fifteen [15] space row. Such median shall be five (5) feet in width and shall extend the full length of the adjacent parking spaces.

**C. Location and Setback Requirements**

1. All parking spaces required to serve building or uses erected or established after the effective date of this Chapter, shall be located on the same lot as the building or use served, except as provided in Paragraph D. of this Section.
2. Required parking and loading spaces shall be located to the rear or side of the principal building, but not within the required side or rear yard setback areas. Parking shall not be permitted in front of the principal building, except in a driveway associated with a residential use, or as permitted in [Section 6.4.E.7](#) for uses in the LB Limited Business District.

**D. Collective Provision**

Off—street parking facilities for separate uses may be provided collectively if the total number of spaces is not less than the sum of the separate requirements except where such parking facility is shared at different hours of the day. If the applicant(s) can establish that such collective parking facilities service two or more uses which will experience reduced parking demand due to staggered hours of operation, then the Village Board may authorize a reduction of the total number or spaces by no more than twenty percent (20%) of the total which would normally be required by this Chapter.

**E. Restrictions on Commercial Vehicles in Residential District**

Parking of more than one (1) commercial vehicle of gross vehicle weight in excess of 10,000 pounds per dwelling unit is prohibited.

**F. Restrictions on Unregistered Motor Vehicles that Cannot Start or Move under Own Power in the HR, GR, and LB, Districts.**

Parking of more than one (1) unregistered motor vehicle per dwelling unit or commercial building, is prohibited unless such vehicle is parked in a completely enclosed garage or stored so that it cannot be seen from the public right—of—way or from any adjacent lands.

Any motor vehicle which cannot be started and moved under its own power shall be stored so that it cannot be seen from the public right—of—way or from any adjacent lands.

**G. Restrictions on Storage of Off-Highway Motor Vehicles**

Any off - highway motor vehicle must be stored in a required yard setback area.

**Table 8: Off Street Parking Requirements**

<u>Use</u>	<u>Minimum Number of Spaces Required</u>
Auditorium, Theatre and Places of Public Assembly	1 per every 4 seats
Banks, Financial Services	5 per 1,000 square feet of gross floor area
Hotel or Motel	1 per each guest sleeping room, plus 1 per employee in maximum shift
Convalescent or Nursing Homes	1 per every 3 beds, plus 1 per every 2 employees
Convenience Store	1 space per 100 square feet of gross floor area, minimum of 5 spaces
Gas Station or Motor Vehicle Repair Shop	2 spaces per bay and 1 space per employee
Medical Clinic or Medical Office	4 spaces per staff doctor, plus 1 space per employee or five per every 1000 square feet of floor area whichever is greater
Office -Business, Professional, etc	5 per every 1,000 square feet of floor area
Laboratories [Research, Medical, Dental, etc.]	1 per 225 square feet of gross floor area of

	office space, plus 1 space per employee in areas other than office space
Restaurants — Sit Down	1 per every 4 seats, plus 1 for every 2 employees
Restaurants — Drive—In	1 per every 100 square feet of gross floor area
Retail and Wholesale Uses, Service Uses	1 space per 200 square feet of floor area
Residence — Mobile Home	2 per dwelling unit
Residence — Single Family	2 per dwelling unit
Residence – Single Family Attached Dwelling	2 per Single Family Attached Unit
Residence — Two Family	2 per dwelling unit
Residence — Multiple Family	2 per dwelling unit
Manufacturing/Industrial/ Warehouse	1 space per 500 square feet of gross floor area 1 space per each employee in maximum shift.

**Section 7.9. Off—Street Loading**

In order to ensure that vehicular traffic is unimpeded and to reduce traffic safety hazards, sufficient off-street loading spaces shall be provided for each business or commercial use.

**A. Spaces Required**

The number of off-street loading spaces required is based on the gross floor area of the building or use, as follows:

**Table 9: Off Street Loading Parking**

<u>Gross Floor Area of Building or Use (in square feet)</u>	<u>Number of Off—Street Loading Spaces Required</u>
0 – 4,999	0
5,000 — 40,000	1
each additional 40,000 or major fraction thereof [i.e., .5.or greater)	1

**B. Dimensions**

Each off—street-loading space shall have the following minimum dimensions, exclusive of access and turning area:

**Table 10: Off Street Loading Parking Dimensions**

<u>Dimension</u>	<u>Size in Feet</u>
Width	15
Length	40
Length if tractor trailer will be primary user of loading space	55
Height	14

**C. Location**

Off-street loading spaces may be located within any structure within a side or rear yard, or within a required off—street parking area, except no such space, or access drive serving the loading space, shall be located closer than twenty (20) feet from any lot line adjoining a residentially zoned parcel of land.

**Section 7.10. Occupancy of Factory Manufactured Homes or Mobile Homes**

**A. Factory Manufactured Homes**

As defined in [Article 3](#), are considered single or two—family dwellings, whichever category is appropriate to the particular case, subject to all zoning requirements applicable to such dwellings. Each such home shall comply with all applicable lot, bulk, minimum floor area and all other requirements applicable to single or two—family dwellings as set forth in this local law and in the New York State Fire Prevention and Building Code.

**B. Mobile Homes**

As defined in [Article 3](#), are subject to all zoning requirements applicable to single family dwellings, except for minimum floor area standards. Each such home shall comply with all applicable lot, yard, setback and all other requirements applicable to single family dwellings as set forth in this local law.

Each mobile home must be installed in compliance with the Installation Standards promulgated under the authority of New York State Executive Law, Article 18, entitled the New York State Uniform Fire Prevention and Building Code Act. Each mobile home must be placed on a permanent masonry foundation sunk at least four (4) feet below grade. Each mobile home must meet all other standards applicable to such dwellings as set forth in the New York State Fire Prevention and Building Code.

## **Section 7.11. Signs**

### **A. Applicability**

No signs, whether new or existing, shall hereafter be erected or altered except in conformance with the provisions of this Chapter. Non—conforming signs existing prior to the effective date of this Section shall be permitted to remain; however, any change of use or sign shall conform to the requirements of this Section.

### **B. Exceptions**

For the purposes of this Chapter, the term “sign” does not include signs erected and maintained pursuant to any in discharge of any government functions and/or election.

### **C. Billboards**

Billboards, that is, any sign that directs attention to an idea, product, business activity, service or entertainment which is conducted, sold or offered elsewhere than upon the lot or parcel on which such sign is located, and is not a directional sign as defined herein, shall not be permitted in any district.

### **D. General Requirements**

In any district, all signs shall comply with the following general requirements:

1. Illumination — No sign shall be illuminated in a manner which will cause undue distraction, confusion or glare to vehicular traffic or which will create a nuisance to adjoining property.
2. Structure — Any sign, except signs painted on a building or structure, shall comply with Building Code standards for strength.
3. Directional Signs — For each principal non—residential use there may a maximum of three [3] necessary directional signs erected and maintained for guidance of the public. A directional sign is a sign containing only the name of an establishment having goods, services or entertainment, and any necessary directional guidance. Such sign may not be greater than six [6] square feet in sign area. A directional sign may also include the standard symbol for guide signs as shown in the Manual of Uniform Traffic Control Devices.
4. Temporary Signs — No temporary or portable signs or signs on trailer shall be placed on any premises or building except as otherwise permitted herein.
5. Flashing Signs — No sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights.
6. Location of Signs — On a corner lot, no sign, landscaping or, structure shall be erected, placed or maintained within the triangular area formed by intersecting street lines and a straight line joining street lines at points which are thirty [30] feet distant from the point of intersection, measured along the street lines. No sign shall be placed so as to obstruct the necessary sight distance of vehicular traffic.

7. Sign Area Calculation — Sign area is the surface area within the shortest lines that can be drawn around the outside perimeter of a sign, including all decorations and lights, but excluding the supports if they are not used for advertising purposes. One face of the sign shall be counted in computing the sign area. Any neon tube, string of lights or similar device shall be deemed to have a minimum dimension of one [1] foot for the purpose of computing sign area.

#### **E. Signs in Residential Districts**

No sign or other device for advertising purposes of any kind may be erected or established in any Residential District except as follows:

1. One [1] sign not exceeding four (4) square feet in area which announces the permitted major home occupation and name of the occupant of the premises will be permitted.
2. One [1] temporary, real estate or construction sign not exceeding five (5) square feet in area will be permitted on the property being sold, leased or developed. Such sign shall be removed promptly when it has fulfilled its function.
3. One (1) sign or bulletin board customarily incidental to religious institutions, mobile home parks, residential subdivisions cemeteries and other permitted non—residential uses, which sign shall not exceed thirty two [32] square feet in area.
4. Posting of notice to the public pertaining to, but not limited to fishing, trespassing, hunting and snowmobiling, provided that each sign does not exceed one and one—half [1-1/2] square feet in area.

#### **F. Signs in the Business Districts**

In the Limited Business — LB and General Business — GB Districts, no sign or other device for advertising purposes shall be erected or established except as follows:

1. One [1] temporary, real estate or construction sign not exceeding five [5] square feet in area will be permitted on the property being sold, leased or developed. Such sign shall be removed promptly when it has fulfilled its function.
2. Posting of notice to the public pertaining to, but not limited to fishing, trespassing, hunting and snowmobiling, provided that each sign does not exceed one and one—half [1—1/2] square feet in area.
3. Building—mounted signs accessory to a business or industrial use shall not extend more than twelve [12] inches beyond the building facade and shall not extend above the roof of the building.
4. Signs in the Business Districts shall contain no information beyond the name, nature or principal use, symbol and other information necessary for the business or use. Such sign shall contain no information or

advertising for any product or service not sold or performed on the premises. However, no part of such sign nor supporting upright or pole shall be closer than five [5] feet from the property line or the vertical extension of such property line.

5. In the LB Limited Business District:
  - a. Either one (1) free-standing or one (1) building mounted sign is permitted, for a total of one (1) advertising sign per lot, except on corner lots where a total of two (2) signs may be permitted, one (1) facing each roadway.
  - b. For each linear foot of building frontage, one (1) square foot of sign area shall be permitted, NOT TO EXCEED A TOTAL SIGN AREA OF 12 [twelve] SQUARE FEET.
6. In the GB General Business District:
  - a. One (1) building mounted sign is permitted, for a total of one (1) sign per lot, except as provided in c. and d. below.
  - b. For each linear foot of building frontage, one [1] square foot of sign area shall be permitted, NOT TO EXCEED A TOTAL SIGN AREA OF 80 [eighty] SQUARE FEET.
  - c. On corner lots, a total of two (2) signs may be permitted, one (1) facing each roadway.
  - d. Where a business or industrial use is set back more than sixty [60] feet from a Street line, one (1) ground mounted sign may be erected and maintained not less than fifteen [15] feet from the property line. Such sign shall contain a total sign area of not more than one [1] square foot for each one thousand (1,000) square feet of the lot or parcel area containing such sign, up to a maximum sign area of fifty [50] square feet. Such sign shall not exceed a height of twenty-five [25] feet above the average grade at its location.

### **Section 7.12. Rooming Houses/Bed and Breakfast Establishments**

In any Residential District, Rooming Houses and Bed and Breakfast establishments may be permitted if they meet all requirements and procedures set forth in [Article 8](#), Special Use Permits, and the following additional requirements:

- A. No more than four [4] bedrooms, including guest rooms and any owner—occupied bedrooms, shall be allowed per facility.
- B. A Bed and Breakfast Establishment or Rooming House shall only be permitted on a lot meeting the minimum lot size requirements for the district in which it is located.
- C. There shall be one (1) parking space provided per guest room.
- D. Meals shall only be served to guests taking lodging in the facility.

- E. No sign, other than one [1] exterior sign not exceeding five [5] square feet shall be displayed, except if the establishment is located in the LB Limited Business District, in which case one (1) twelve [12] square foot sign is permitted.
- F. The exterior appearance of the structure shall not be altered from its single— family character.

### **Section 7.13. Lighting**

All exterior lighting accessory to any use, including the lighting of any sign, parking area or recreational facility, shall be so arranged to prevent direct glare of beams onto any adjacent public or private property or street.

### **Section 7.14. Home Occupations**

#### **A. Purpose**

The standards and regulations of this section are designed to protect and maintain the character of residential areas while recognizing that certain professional and trade activities may, on a limited scale, be appropriate accessory uses in residential dwellings.

#### **B. Definition**

A Home Occupation is a business, profession, occupation or trade, conducted for gain or support entirely within a residential building which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such premises.

#### **C. Permitted Location of Home Occupations**

Subject to the standards and requirements of this section, one (1) home occupation is permitted in any residential dwelling unit or structure accessory thereto. In no case shall more than two (2) home occupations be permitted in conjunction with a single residential unit.

#### **D. Issuance, Terms and Revocation of Permits**

1. Special Permit Required. A home occupation may be allowed subject to the issuance of a Special Use Permit as provided in Article 8 and subject to the additional requirements set forth in this Section.
2. A home occupation must be conducted by the applicant; the applicant shall reside on the premises where the home occupation will be operated.
3. Should, at any time, during the period which the Special Permit for the home occupation is in effect, the Building Inspector find that the operation of such home occupation is in violation of the provisions of this Section and/or the requirements of Article 8, he/she shall, by declaration, serve notice of such violation according to the provisions of Article 10; violations of Special Use Permit conditions may result in a revocation of the Special Use Permit.



**E. Use Limitations**

No home occupation shall be permitted unless it complies with the following restrictions:

1. only persons residing on the premises shall be employed in any home occupation.
2. A home occupation shall be incidental to the use of a dwelling unit for residential purposes. No more than twenty—five (25%) percent or four hundred (400) square feet of the floor area of the dwelling, whichever is less, shall be devoted to the home occupation, regardless of the location of the home occupation as per 6. below.
3. There shall be no exterior display of stock—in—trade.
4. No sign, other than one (1) exterior sign not exceeding two (2) foot square shall be displayed.
5. There shall be no exterior storage of equipment or materials used in the occupation.
6. The home occupation shall be conducted entirely within the principal dwelling unit or in a private accessory garage.
7. No offensive noise, vibration, smoke, dust, odors, heat, or glare, or electrical interference detectable to normal sensory perception outside the structure, shall be produced by the home occupation.
8. Instruction of students shall be limited to not more than three pupils at any one time.

**F. Permitted Home Occupations**

Permitted home occupations include, but are not necessarily limited to, the following:

1. Offices for accountants, architects, brokers, engineers, land surveyors, lawyers, therapists, insurance agents, and members of similar professions.
2. Consultation or emergency treatment by a doctor or a dentist, but not the general practice of such profession.
3. Limited office facility of a salesperson, sales representative or manufacturers representative provided that no retail or wholesale transactions are made on the premises.
4. Office facilities for ministers, priests and rabbis.
5. Home crafts such as model making, rug weaving, lapidary work and cabinet making.
6. Workshop or studio for an artist, photographer, craftsman, writer,

composer, dressmaker, tailor, typist or computer programmer.

7. Facilities for instruction to pupils in music, dance, or driver training. Instruction shall be limited to three (3) pupils or fewer at any one time.
8. Homebound employment of a physically or mentally handicapped person who is unable to work away from home by reason of disability.
9. In accordance with Section 390 of the New York Social Services Law, family day care homes for up to eight [8] children as provided in such Section.

#### **G. Prohibited Home Occupations**

Prohibited home occupations include:

1. Commercial stables, kennels or animal hospitals.
2. Private clubs or lodges.
3. Restaurants.

#### **H. Non—Conforming Home Occupations**

All non—conforming home occupations shall be treated as non—conforming uses as regulated under [Article 9](#).

### **Section 7.15. Unsafe Buildings and Structures**

The owner of any property substantially destroyed by fire or other causes shall within sixty [60] days from such event remove all debris, fill all open excavations, and level any unsafe remaining parts of the structure not suitable for repair, and generally eliminate any condition which the Building Inspector regards as hazardous to health or safety.

### **Section 7.16. Roadside Stands**

- A. Roadside stands shall sell only agricultural products grown on the premises. Only one [1] roadside stand is permitted per lot.
- B. Sales shall be restricted to the hours of 7:00 a.m. to 9:00 p.m.
- C. The stand must be a seasonal operation, not open to the public more than six [6] months in any calendar year.
- D. No roadside stand shall exceed four hundred [400] square feet in gross floor area; such stand shall be located a minimum of twenty—five [25] feet from the front lot line.
- E. A minimum of six [ 6] off-street parking spaces shall be provided at least fifteen [15] feet from the edge of the road pavement.
- F. One [1] sign shall be permitted in conjunction with a roadside stand. Such sign shall have a maximum area of five [5] square feet.

- C. A permit valid for six [6] months and limited to one [1] per year must be obtained from the Village Clerk.

## **Section 7.17. Veterinary Clinics, Animal Hospitals, Commercial and Home Kennels**

### **A. Veterinary Clinics, Animal Hospitals, or Commercial Kennels in the GB Business District**

In the GB District only, veterinary clinics, animal hospitals, or commercial kennels may be permitted if they meet all requirements and procedures set forth in [Article 8](#), for Special Use Permits, and the following additional requirements:

1. The minimum lot size on which such a use is permitted is two [2] acres.
2. Exercise pen and/or kennels, whether unenclosed or enclosed shall be located no closer than two hundred [200] feet from any adjoining property line.
3. Dogs must be confined within a building between the hours of 9:00 p.m. and 7:00 a.m.

### **B. Veterinary Clinics, Animal Hospitals, or Commercial Kennels in the LB District**

In the LB District only, veterinary clinics, animal hospitals, or commercial kennels may be permitted if all requirements and procedures set forth in [Article 8, Special Use Permits](#), are met. In addition, all exercise pens and/or kennels used in conjunction with such use shall be enclosed.

### **C. Home Kennels**

Home Kennels may be established in any Residential District subject to the requirements and procedures of [Article 8, Special Permit](#), and the following requirements:

1. Unenclosed exercise pens and/or kennels shall be located no closer than fifty [50] feet from any property line.
2. Dogs must be confined within a building between the hours of 9:00 p.m. and 7:00 a.m.
3. No more than five [5] dogs and five [5] cats, age six [6] months or older, shall be kept.

## **Section 7.18. Apartment Conversions**

Apartment conversions may be established in any Residential District subject to the requirements and procedures of [Article 8, Special Permit](#), and the following additional standards:

- A. An apartment conversion shall only be allowed in ~ building that existed prior to the effective date of this local law.

- B. Each dwelling unit within a converted apartment building shall contain a minimum livable floor area of six hundred (600) square feet.
- C. An apartment conversion shall only be permitted on a lot that meets the minimum lot size requirements for the district in which it is located. The lot shall be of adequate size to accommodate the septic system required for the number of units proposed.
- D. There shall be two (2) parking spaces provided per dwelling unit. Parking areas shall meet the requirements of [Section 7.8](#).
- B. The exterior appearance of the structure shall not be altered from its existing single-family or two-family character, whichever is applicable, to the maximum feasible extent.

### **Section 7.19. Multi—Family Dwelling Units**

Multiple Family Dwelling Units shall be permitted in the GR—General Residential GR-1 and GR—2 Districts only, subject to the requirements of [Article 6](#), the requirements of [Article 11, Site Plan Review](#), and the provisions listed below:

#### **A. Parking Requirements**

See [Article 7, Supplementary Regulations, Section 7.8](#).

#### **B. Building Regulations**

1. Maximum Building Height — Thirty—five (35) feet.
2. Livable Floor Area — Each dwelling unit shall have a minimum livable floor area of six hundred (600) square feet.
3. Accessory Buildings and Structures - Accessory buildings shall observe front and side yard requirements.
4. Maximum Number of Units per Building — Six (6).

#### **C. Lot Area Requirements**

Lots developed for multiple—family use shall comply with the lot area requirements applicable to the GR District in which they are located as required in [Section 6.2.E](#).

#### **D. Design Requirements for Multiple-Family Uses**

1. Utilities — No multiple—family development proposal shall be considered unless adequate water supply and sewage disposal facilities are available. No certificate of occupancy shall be issued until all dwelling units are connected to approved and functioning water and sewage disposal facilities.
2. Common Open Space — Not less than twenty—five percent (25%) of the gross acreage of the site shall be composed of land which is permanently dedicated to common open space. However, upon review

of the site plan for a multiple family development, the Planning Board may require that up to 50% of the gross acreage of the site be permanently dedicated to common open space or to natural areas where such areas are needed to preserve sensitive land, to maintain neighborhood character or to create needed recreational facilities.

3. Maintenance of Common Open Space - The multiple-family development plans shall include such provisions for the ownership and maintenance of all common open space and natural areas as are reasonably necessary to ensure their continuity, care, conservation, maintenance and operation, and to ensure that remedial measures are available to the village, if such property is permitted to deteriorate or if the use is changed from that which is permitted.
4. Landscaping — All portions of every multiple—family development which are not used for locations for buildings, structures, parking, circulation roadways, sidewalks, preserve areas or similar purposes, shall be landscaped and permanently maintained with plantings of trees and shrubs, as approved by the Planning Board as part of the site plan, to minimize erosion and storm water runoff and harmoniously blend such uses with the residential character of the surrounding neighborhood.
5. Buffer Yards — Except where a required yard abuts a public Street or roadway, every exterior yard shall be screened with evergreen landscape plantings at least six (6) feet in height and/or with natural vegetation, trees and shrubbery in a manner which effectively screens the multiple—family use from adjoining properties.
6. Pedestrian Circulation — Sidewalks and pathways shall be designed so as to provide-de safe and convenient access between buildings and parking.

#### **Section 7.20. Satellite Dish Antennas**

- A. Satellite Dish Antennas may be permitted in all zoning districts subject to the issuance of a building permit and the following requirements:
  1. All satellite dish antennas must be ground—mounted, except as may be allowed in paragraph B., below.
  2. Only one (1) satellite dish antenna shall be permitted per lot.
  3. No satellite dish antenna shall exceed twelve (12) feet in height above existing grade.
  4. A satellite dish antenna shall not be located in a required front yard setback area. On corner lots, front yard set back areas shall be observed from both lot lines adjacent to a street.
  5. A satellite dish antenna shall meet all requirements applicable to accessory structures for the zoning district in which it is located.
  6. A satellite dish antenna shall be adequately screened from adjacent

properties by means of landscaping or fencing.

7. A satellite dish antenna within a diameter of less than one (1) meter may be installed in a manner consistent with typical television antennas.
  8. Satellite dish antennas shall be used only for non—commercial purposes, except in the GB General Business and LB Limited Business Districts.
- B. In any GR—General Residential, General Business, or LB Limited Business District, a roof mounted satellite dish antenna may be permitted by special permit subject to the following criteria:
1. The applicant must demonstrate that ground—mounting the antenna would result in the obstruction of the antenna’s reception window and that the obstruction involves factors beyond the applicant’s control.
  2. The height of the proposed roof installation does not exceed the maximum height for the applicable zoning district.
  3. A special permit application for a roof—mounted satellite dish antenna must include certification by a professional engineer that the proposed installation will meet requirements for load distribution within the buildings structure.

## **Section 7.21. Performance Standards**

### **A. Conformance Required**

No special permit use or non—residential 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 occupancy. Central utility systems serving three (3) or more dwelling units, including but not limited to systems providing heat, water, air—conditioning, sewage treatment, garbage collection, and electrical power, shall be deemed to be nonresidential uses for the purposes of this Section.

### **B. Purposes**

Consistent with the general purposes of this local law, performance standards shall set specific controls on potentially objectionable external aspects of non—residential uses so as to:

1. Reduce to a reasonable minimum the dissemination of smoke, gas, dust, odor or other atmospheric pollutant outside the building in which the use is conducted.
2. Control noise perceptible beyond the boundaries of the site of the use.
3. Prevent the discharge of untreated or insufficiently treated wastes into any watercourse.
4. Prevent the dissemination of vibration, heat or electromagnetic

interference beyond the immediate site on which the use is located.

5. Prevent physical hazard by reason of fire, explosion, radiation or any similar cause.
6. 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 Noise

1. Method of Measurement — For the purpose of measuring the intensity and frequencies of sound, sound—level meters and octave band filters shall be employed. Octave band analyzers calibrated with pre—1960 octave bands (American Standards Association 224.10—1953, Octave Band Filter Set) shall be used. Sounds of short duration, which cannot be measured accurately with the sound level meter, shall be measured with an impact noise filter in order to determine the peak value of the impact.
2. Maximum Permitted Sound Pressure Level — The decibels resulting from any activity, whether open or enclosed, shall not exceed at any point, on or beyond any lot line, the maximum decibel level for the designated octave band as set forth in the following table, except that where the lot lies within two hundred (200) feet of a residence district, whether within or without the Village, the maximum permitted decibel level at any point on or beyond the district boundary shall be reduced by six (6) decibels from the maximum permitted level set forth in the table and, further, except that such reduction shall also apply to any sound emitted between the hours of 9:00 p.m. and 7:00 a.m., and all day Sunday.

**Table 11: Maximum Sound Level Decibels**

Octave Band (Cycles Per Second)	Sound Pressure Level (Decibels)
0—74	66
75—149	58
150—299	55
300—5 99	50
600—1, 199	45
1,200—2,399	42
2,400—4,799	38
4,800—20,000	35

3. Exemptions — The following uses and activities shall be exempt from the noise level regulations: noises not directly under the control of the property user; noises emanating from construction and maintenance activities between 8:00 a.m. and sunset; the noises of safety signals, warning devices, emergency pressure relief valves or other emergency warning signals; and transient noises of moving sources, such as automobiles, trucks, airplanes and railroads.

**D. Standards for Vibration**

1. Method of Measurement — For the purpose of measuring vibration, a two component measuring system approved by the Planning Board shall be employed.
2. Maximum Permitted Steady state and Impact Vibration Displacement —No activity shall cause or create a steady state or impact vibration on any lot line with a vibration displacement by frequency bands in excess of that indicated in the following table.

**Table 12: Maximum Vibration Levels**

Frequency (Cycles Per Second)	Vibration Displacement (In Inches)	
	Steady—State	Impact
Under 10	.0005	.0010
10 — 19	.0004	.0008
20 — 29	.0003	.0006
30 — 39	.0002	.0004
40 and Over	.0001	.0002

**E. 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 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 total 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 thousand pounds of flue gas adjusted to fifty percent (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 Wind—blown dust or other similar types of air pollution created.

**F. Standards for Odorous Matter**

No land use shall be permitted which emits any discernible odor outside the building in which the use is conducted.

**G. 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.

**H. 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 Atomic Energy 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, and in accordance with any other 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 Village.

**I. 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 degree Fahrenheit along any adjoining lot line, whether such change be in the air, in the ground, or in any watercourse or water body.

**J. 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 Schenectady 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.

**K. Standards for Vehicular Traffic**

No business or industrial use, home occupation or special permit shall be permitted where it is determined by the Planning Board 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 or air quality standards established by the U.S. 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.

#### **L. Standards for Lighting**

The lighting intensities listed below shall be used as a general design guide. The Planning Board may vary these criteria where the Board finds such a variation is appropriate and where such variations will not be a disturbance to neighbors.

1. Shopper Parking — an average of 1.0 foot-candles;
2. Long Term parking — an average of 0.75 foot-candles;
3. Intersections — 2.0 foot-candles;
4. Maximum at Property Lines — average of 0.6 foot-candles.
5. Signs — Lighting for signs shall comply with the requirements of 7.11 of this local law.

#### **M. Procedure**

1. In the case of any application for the establishment of a use subject to the performance standards, the Planning Board 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 Planning Board 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 site plan or special permit review, the Planning Board will determine if the applicants proposal will conform to the performance standards.

### **Section 7.22. Temporary Construction Sheds and Trailers**

After building permits for basic construction have been granted in accordance with the provisions of this local law, a temporary construction shed or trailer may be erected on the lot at which primary construction is to be undertaken. Prior to the issuance of a certificate of occupancy, such temporary shed or trailer shall be immediately removed. Such shed or trailer shall not be used for residential purposes, except in an emergency situation, and only with prior approval from the Planning Board.

## Section 7.23. Towers

### A. Purpose

The purpose of the following requirements is to protect property values, public safety and the scenic attractiveness of the Village by prescribing minimum standards and requirements for the erection of towers.

### B. Accessory Towers

Towers accessory to a permitted principal use may be established, provided they are in full compliance with the following requirements:

1. Accessory to Principal Use. Every accessory tower shall be clearly accessory to a permitted principal use and shall comply with the definition of accessory use.
2. Maximum Height. No accessory tower shall exceed seventy—five (75) feet in height.
3. Setback. Every accessory tower shall be located no closer to an exterior lot line than a distance equal to the tower height.
4. Compliance. Every accessory tower shall comply with the other applicable requirements of this Section.

### C. Special Permit

Except for permitted accessory towers, towers may be permitted in the GB — General Business District only, subject to the issuance of a special use permit as provided in [Article 8](#), and in compliance with the standards and requirements of this Section.

1. Additional Application Information: In addition to the preliminary site plan and other material required for special use permit review, every application shall contain the following-information:
  - a. A description and the proposed dimensions of the tower.
  - b. A certification by a registered professional engineer or manufacturer’s certification that the tower’s design will meet or exceed all applicable load requirements.
  - c. An assessment of the proposed tower’s visual impact together with any proposed measures, including landscaping or alternative site, which may mitigate the visual impact of the proposal.
  - d. A list of the owner of record of all residentially occupied properties within one thousand (1000) feet of the proposed tower together with an assessment of any adverse impact such use may have.
  - e. Other information as may be necessary to comply with the standards listed below.

2. Permit Standards - In addition to the standards set forth in [Article 8](#), no special permit for the establishment or expansion of a tower shall be granted unless the Planning Board finds:
  - a. That there is a public need for the tower.
  - b. That the applicant has made a good faith effort to consider alternative sites and to obtain shared use arrangements with other towers, and has provided evidence of such.
  - c. That the scale and height of the tower is the minimum necessary to fulfill the needs of the applicant.
  - d. That all practicable measures have been taken to minimize the adverse visual impact of the tower on the surrounding Community.

#### **D. General Requirements**

1. Location — Every tower shall be no closer to any lot line than a distance equal to the tower height, no guy wire or anchor shall be less than five (5) feet from any lot line.
2. Fencing — Every tower shall be fenced or secured in a manner which prevents unauthorized access to the structure.
3. Noise — No tower used for energy generation shall produce a level of noise at any lot line greater than the ambient night—time noise level.
4. Screening — Insofar as practicable, towers shall be sited-and screened in a manner which obscures the base of the structure from the public way.
5. Signs — No tower shall be used for or have placed upon it any type of sign except warning signs needed for public safety.

#### **E. Exemptions**

The following towers are exempt from the regulation found in this Section:

1. Public utility poles supporting wire or cable used for power transmission or communications.

### **Section 7.24. Single Family Attached Dwellings.**

Single Family Attached Dwelling Units shall be permitted in the GR-1 district by [Special Use Permit](#) only, subject to the requirements of [Article 6](#), the requirements of [Article 11](#), and the provisions listed below.

#### **A. Parking Requirements**

See [Article 7, Supplementary Regulations, Section 7.8](#)

## **B. Building Regulations**

1. No single-family attached dwelling shall contain more than three bedrooms; any room above the ground floor, except a bathroom, whether finished or not, shall be considered a bedroom.
2. No single-family attached dwelling shall be more than two stories high
3. Maximum building height - Thirty-Five Feet (35)
4. Livable Floor Area - Each Dwelling Unit shall have a minimum of 1200 square feet livable floor area.
5. Each dwelling unit shall have a minimum horizontal dimension of 25 feet exclusive of open porches, attached garage or other accessory structures.
6. Accessory Building and Structures - All accessory buildings and structures shall observe front and side yard setback requirements

## **C. Lot Area Requirements**

1. Lots developed for single-family attached units shall comply with the lot area requirements applicable to the GR-1 as required in [Section 6.2.E](#)
2. Units per acre. Any development shall be limited to not more than 4 units per acre of "buildable lot area," where "buildable lot area" is defined in [Article 3](#), "Definitions".
3. The total buildable lot area of the development must be at least 2 acres.

## **D. Design Requirements For Single Family Attached Dwellings**

1. Utilities. No Single Family Attached Dwelling development proposal shall be considered unless adequate water supply and sewage disposal facilities are available. No certificate of occupancy shall be issued until all dwelling units are connected to approved and functioning water, and sewage disposal facilities.
2. Sidewalks. Sidewalks shall be designed so as to provide safe and convenient access between buildings. All roadways shall have adjoining but separate sidewalks, a minimum of five feet wide, continuous along their entire length along the side of the roadway fronting buildings and parking spaces. Suitable crosswalks shall be provided where appropriate.
3. Maintenance of Common Open Space - The Single Family Attached Dwelling development plans shall include provisions for the ownership and maintenance of all common open spaces and natural areas as are

reasonably necessary to ensure their continuity, care, conservation, maintenance and operation, and to ensure that remedial measures are available to the Village, if such property is permitted to deteriorate or if the use is changed from that which is permitted.

4. Landscaping - All portions of every Single Family Attached Dwelling development which are not used for locations for buildings, structures, parking, circulation roadways, sidewalks, preserve areas or similar purposes shall be landscaped and permanently maintained with plantings of trees and shrubs, as approved by the Planning Board as part of the site plan, to minimize erosion and storm water runoff and harmoniously blend with such uses with the residential character of the surrounding neighborhood.

## **ARTICLE 8. SPECIAL USE PERMITS**

### **Section 8.1. Definition**

The Special Use Permit process is intended to impose controls to minimize or avoid the impacts related to certain uses which may be incompatible unless conditioned to ensure suitability with the neighborhood in which they are located. Special Use Permit procedures which follow are intended to assure that such review is made and that appropriate conditions and safeguards are imposed.

### **Section 8.2. Authorization**

The Planning Board shall approve or deny a Special Use Permit for all special uses listed in the respective districts specified in [Article 6](#) of this local law. The Board shall be guided by the requirements set forth in this Article.

### **Section 8.3. Application Procedure**

#### **A. Applications**

Applications for a Special Use Permit shall be submitted to the Building Inspector. A fee shall be submitted with the application in accordance with [Section 10.6](#) of this local law. The application shall be made on the form provided for such purpose and shall in all instances contain at least the following information and documentation:

1. Copies of the site plan and materials as required for site plan review under [Article 11, Section 11.5, Site Plan Approval](#).
2. The owner's name and address, if different than the applicant, and the owner's signed consent to file the application.
3. The name, residence and the nature and extent of the interest, as defined by Section 809 of the New York General Municipal Law, of any State officer or employee of the Village of Delanson or the County of Schenectady in the person, partnership or association making the application or in the subject property, if known to the applicant.

4. The street address or legal description of the subject property.
5. The zoning classification and present use of both the subject property and those parcels adjacent thereto.
6. A written statement addressing each of the standards set forth in [Section 8.5](#) below and stating specifically how the proposed special use relates to and meets each such standard.
7. Such additional information or documentation as the Planning Board may deem necessary or appropriate to show compliance with any additional standards imposed on the special use by the requirements of this chapter, the rules and procedures of the Board or to fully and properly consider the particular Special Use Permit application.

#### **B. Review and Public Hearing**

1. The Planning Board shall review the application under the requirements for site plan approval as described in [Article 11](#), Site Plan Review and those under [Section 8.5](#) of this article. The Planning Board shall hold at least one (1) duly advertised public hearing on the proposed special use. Not less than five (5) days prior to the date of such public hearing, notice shall be placed in a local newspaper stating the time, date and purpose for the hearing. The applicant and all interested parties shall have the opportunity to speak at the public hearing.
2. Within sixty-two (62) days of the public hearing and receipt of all necessary information and studies, including environmental impact statements, if required, the Planning Board shall act to either:
  - a. Grant the Special Use Permit subject to site plan review and approval.
  - b. Tentatively grant the Special Use Permit with conditions or modifications to be implemented in the construction and/or operation of the requested special use, subject to site plan approval.
  - c. Deny the Special Use Permit.
3. The Planning Board, in acting to tentatively grant or to deny such special use permit, shall state its reasons for such action, together with any conditions or modifications required and shall include this as a part of the record. A report stating the action taken and any conditions or modifications required shall be sent to the applicant and the Village Building Inspector. A copy of such report shall also be filed with the applicant. Approval of the Special Use Permit shall be subject to Site Plan review by the Planning Board under the procedures outlined in [Article 11](#).

#### **C. Withdrawal of Application, Rehearing if Withdrawn or Denied**

An application for a Special Use Permit may be withdrawn at any time, but if

withdrawn after the Board has convened the public hearing at which it was to be considered, or if denied by the Board, substantially the same application shall not be considered within twenty - four [24] months from date of withdrawal or denial.

## **Section 8.4. Conditions Imposed**

### **A. Conditions**

Prior to granting the Special Use Permit, the Planning Board may impose such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special use as is deemed necessary to secure compliance with the standards and requirements of this chapter. Such conditions and restrictions shall be expressly set forth in the Special Use Permit. Violation of such conditions to the Special Use Permit shall be a violation of the local law and may result in revocation of the special use permit.

## **Section 8.5. Standards for Granting Special Use Permits**

### **A. Requirements**

No Special Use Permit may be granted unless the Planning Board finds that:

1. Impact — The proposed building or use shall not substantially impact upon the nature and character of the surrounding neighborhood. In determining substantial impact, the Board shall consider the location and size of the proposed use, the nature and intensity of the operations involved in or conducted in connection with the proposed use, the size of the site in relation to the proposed use and the location of the site with respect to streets giving access to the proposed use.
2. Adjacent Properties — The proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utilities and other matters affecting the public health, safety and general welfare.
3. Nuisances — Operations in connection with the proposed use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration flashing lights than would be the operations of any permitted use not requiring a Special Use Permit.
4. Facilities and Services — The proposed building or use shall be served adequately by essential public facilities and services, such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and schools. There shall be adequate septic system capacity provided to accommodate the proposed use.
5. Loss of Significant Features — The proposed building or use will not result in the destruction, loss or damage of any natural, scenic, architectural or historic feature of significant importance.
6. Signs and Lighting — That the location of signs and lighting be considered with reference to glare, traffic safety, compatibility and



harmony with adjoining properties and the character of the area.

7. Compliance — The proposed building or use complies with all additional requirements imposed on it by the provisions of this Chapter.

#### **B. Additional Requirements**

In addition to the above standards for review of Special Use Permits, this chapter specifies other requirements for certain types of special uses. Such requirements are listed in [Article 7, Supplemental Regulations](#).

### **Section 8.6. Effect of Issuance**

The issuance of a Special Use Permit shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of an application for any permits or approvals which may be required by the codes and ordinances of the Village, including but not limited to a building permit, a certificate of occupancy and subdivision approval.

### **Section 8.7. Limitations**

#### **A. Expiration**

No Special Use Permit shall be valid for a period longer than one [1] year from the date of issue unless a building permit is issued and construction is actually begun within that period and is diligently pursued to completion, or an occupancy permit is obtained and a use commenced within that period. A Special Use Permit shall be deemed to authorize only the particular use for which it was issued, and such permit shall automatically expire and cease to be of any force or effect if such use shall, for any reason, be discontinued for a period of six [6] consecutive months or more.

#### **B. Amendments to Special Use Permits**

A special use permit shall be deemed to authorize only the particular use for which it was issued. Following completion of the development or establishment of the use authorized by a Special Use Permit, no such use shall be expanded or added to, in any manner unless the Special Use Permit is amended pursuant to the review and approval procedures in this Article.

## **ARTICLE 9. NON-CONFORMING USES, BUILDINGS, STRUCTURES, LOTS**

### **Section 9.1. Purpose**

This Section regulates and limits the continued existence of uses, buildings, structures and lots established prior to the effective date of this local law, and which do not conform to the regulations and standards of this local law.

### **Section 9.2. Non—Conforming Uses**

Except as provided in this Article, the lawful use of a building or structure existing on the effective date of this local law may be continued although such use does not conform to the provisions of this local law.

**A. Non—Conformity Due to Change in Provisions**

Whenever the use of a building becomes non—conforming through a change in the provisions of this local law or district boundaries established by this local law, such use may be continued subject to the provisions of this Article.

**B. Change of Non—Conforming Use**

A non—conforming use of a building may only be changed to a use permitted in the district in which it is located.

**C. Enlargement or Extension of Non—Conforming Use**

Each presently existing non—conforming use shall be neither enlarged nor increased in any manner. Each non—conforming use shall not be extended to occupy a greater area of the lot or building nor shall additional non—conforming buildings or structures be erected on the lot.

**D. Resuming Discontinued Non-Conforming Use**

1. In the event that a non—conforming use of any building or premises is discontinued for a period of one [1] year, the use of the same shall thereafter conform to the use permitted in the district in which it is located.
2. The Board of Appeals is authorized to grant not more than two [2] Six—month extensions to the one—year non—conforming period, provided that the owner of said building or premises can demonstrate that reasonable effort has been made to resume the non—conforming use during the one—year period. In no event shall the maximum time period during which a discontinued nonconforming use can be resumed exceed two [2] years. Application to the Board of Appeals for extension of the one—year conforming use period must be made at least thirty [30] days prior to the expiration of the one—year period.

**E. Displacement**

No non—conforming use shall be extended or enlarged so as to displace a conforming use.

**Section 9.3. Non-Conforming Buildings and Structures**

**A. Continuation**

Where a non—conforming building or structure exists at the effective date of adoption or amendment of this local law, such nonconformity may be continued so long as it remains otherwise lawful.

**B. Enlargement or Alteration of Non—Conforming Buildings or Structures**

1. Limit on Extent of Alteration of Non-Residential Buildings — A non—conforming non—residential building or structure may be structurally altered as long as cumulative alterations do not add more than thirty percent (30) to the usable floor area of the building or structure as it existed on the effective date of this local law, and when a valid building permit has been obtained.

2. No Increase in Nuisance — Such alteration shall not tend to increase any inherent nuisance, nor shall it violate any provisions of this local law regarding yards or lot coverage for the district in which it is located, or increase any existing violation of such provision.
3. Residential Structures on Non—Conforming Lots — In the case of residential structures legally existing on lots which became non-conforming on the effective date of this local law, the Building Inspector may issue a building permit for expansion of such a residential structure under the following circumstances:
  - a. The addition shall not add more than thirty percent [30%] to the usable floor area of the building or structure, as it existed on the effective date of this local law.
  - b. Such alterations shall not violate any of the provisions of this local law regarding yards or lot coverage for the district in which the building being altered is located.
  - c. Paragraph b., above, notwithstanding, the Building Inspector may issue a building permit for an addition to a nonconforming residential structure which brings the addition no nearer to a front, side or rear property line than the existing structure.
4. Increase in Demand on Existing Septic System — No non - conforming use shall be enlarged, altered or extended in any manner which will add further demand on the existing septic system serving such use. In the case of additions to residential buildings located on non—conforming lots as allowed above, such alterations shall not result in an increase in the number of bedrooms contained in such buildings, or any other alteration which would increase the demand on the septic system located on the undersized lot.
5. Adequate Parking/Loading Required — No non—conforming use shall be enlarged, altered or extended in any manner unless adequate parking is provided as required by [Section 7.8](#), “Off—Street Parking” and in conformance with [Sections 6.1](#) and [6.2](#). If the non—conforming use is non—residential in character, any enlargement, alteration or extension may dictate installation of off—street loading space(s) as required [under Section 7.9, “Off— Street Loading”](#).

**Section 9.4. Restoration Due to Damage to a Non—Conforming Building or Structure, or to a Building or Structure Containing a Non-Conforming Use**

- A. If a non—conforming building or premises is destroyed or damaged by fire, natural disaster or other casualty, the building may be restored and devoted to either the non—conforming use in existence when the building or structure was destroyed or damaged, or a use permitted as of right in the district in which it is located, provided that:
  1. The square footage, floor area or cubic content of any building, structure, or premises connected with such nonconforming use shall not be increased, except as permitted in paragraph [9.3.B. above](#), and subject

to all limitations imposed therein.

2. No additional structure not conforming to the requirements of this local law shall be erected in connection with such non—conforming use of land.
  3. No such non—conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this local law; and
  4. Restoration is begun within twelve [12] months after destruction or damage and is diligently carried to completion.
- B. The Village Board is authorized to grant not more than two [2] six [6] month extensions for beginning restoration, provided that the owner of said building can demonstrate that reasonable effort has been made to rebuild the non—conforming use during the one—year period.
- C. Site Plan Review — Any application for a building permit involving the alteration or extension of a non—conforming building or structure shall be reviewed by the Planning Board under the requirements of [Article 11, Site Plan Review](#). The Board shall ascertain that no previous expansion has taken place as a nonconforming expansion.

### **Section 9.5. Non—Conforming Lots of Record**

In any district in which single—family dwellings are permitted, a single— family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of this local law, notwithstanding limitations imposed by other provisions of this local law. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area, width, or depth, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area, width, or depth, of the lot shall conform to the regulations for the district in which such lot is located.

If two or more lots or combinations of lots and portions of lots with continuous frontage, in single ownership, are of record at the time of passage or amendment of this local law, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this local law, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this local law, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this local law.

## **ARTICLE 10. ADMINISTRATION AND ENFORCEMENT**

### **Section 10.1. Enforcement**

[The Building Inspector](#) of the Village of Delanson or a duly appointed representative thereof shall enforce the provisions of this local law.

### **Section 10.2. Duties of the Building Inspector**

The Building Inspector shall enforce the provisions of this local law and all Village

regulations relating to the location, construction, alteration, repair, removal, demolition, equipment, use, occupancy and maintenance of buildings and structures. The Building Inspector shall have no power to vary any of the regulations and provisions of this local law. In carrying out such enforcement, it shall be the duty of the Building Inspector to do the following:

- A. To issue Building Permits and Occupancy Certificates where compliance is made with the provisions of this ordinance and of the New York State Uniform Fire Prevention and Building Code.
- B. To refuse to issue such permits in the event of noncompliance, giving prompt, written notice of such refusal to the applicant together with the reasons therefore.
- C. To investigate all written complaints filed to the Building Inspector's office. If a violation is found to exist, the Building Inspector shall notify offending parties within ten (10) days after finding, and initiate legal action against such offenders within sixty (60) days after notice, if such violation persists.
- D. To keep such records as are necessary and appropriate to the office and file the same in the Office of the Building Inspector and Village Clerk, including a record of all permits and occupancy certificates issued or denied. A copy of all building permits issued shall be filed, each month, with the office of the Village Assessor.
- E. To submit a report at the close of each month, if activity merits, to the Village Board and Planning Board, if activity merits, enumerating all applications for permits and all complaints received, and the disposition of each. The Building Inspector shall issue no building permit or certificate of occupancy, except where provisions of this chapter, together with applicable Village ordinances and local laws, shall be complied with.

### **Section 10.3. Building Permit**

#### **A. Permit Required**

No building or structure shall be begun, extended, structurally altered or moved, nor shall any excavation be commenced, nor shall the use of an existing facility be changed or the use of a proposed facility commenced, until a building permit is issued by the Building Inspector. The Building Inspector shall in no case, except under a written order of the Board of Appeals, grant any building permit where the proposed changes and use would be in violation of the terms and provisions of this chapter.

#### **B. Application for Permit**

Application for a building permit shall be made on a standard form provided by the Building Inspector and shall include a description of materials, drawings, plans and/or information which may be required by this chapter, the Building Code and other applicable village, county and state requirements.

#### **C. Approval by the Planning Board or Board of Appeals**

Site Plan Review, Special Permit approval and /or Variances may be required before the issuance of a building permit. No building permit shall be issued

except in accordance with this chapter.

**D. Revocation of Permit**

Any building permit may be revoked if the Building Inspector determines any of the following:

1. That no construction or change has been made six (6) months from the date of issuance.
2. That the work performed under the permit is not being performed in accordance with the provisions of the application, plans, specifications, or conditions of approval.
3. That there has been any false statement or misrepresentation in the material facts of the application, plans or specifications on which the permit was issued.
4. That the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Building Inspector.
5. That the property owner or agent to whom the building permit was issued is in violation of any village, county, state or federal statute, law or ordinance relating to said construction.

**E. Appeals**

The Zoning Board of Appeals shall hear and decide appeals regarding determinations made by the Building Inspector in the enforcement of this chapter.

**F. Extensions**

A building permit shall become void after a period of six (6) months from the date of issuance unless actual change has been made or construction has been started pursuant to such permit. A building permit shall be valid for a period of twelve (12) months. However, due to unusual circumstances, the applicant may, prior to the expiration date of the building permit, apply to the Building Inspector for an extension of the permit. In such case the minimum charge for a new permit shall apply.

**Section 10.4. Certificates of Occupancy**

**A. Purpose**

The purpose of a certificate of occupancy is to give the Building Inspector a mechanism by which to verify that all Village local laws and ordinances have been adhered to, and that the plans, drawings and specifications submitted with the building permit have been complied with.

**B. Where Required**

A certificate of occupancy which certifies compliance with the Village of Delanson Code shall be obtained from the Building Inspector before any of the following:

1. The occupancy and use of a building hereafter erected, structurally altered, or moved.
2. The change in use of an existing building to a different use.
3. The change in use of land to different uses.
4. Any change in use of a nonconforming use.

**C. Procedure**

Certificates of occupancy shall be applied for coincident with the application for a building permit. Said certificate shall be issued within ten (10) days after final inspection shall have shown that the construction is approved as complying with the provisions of this ordinance and the building and plumbing codes of the Village. The applicant shall be responsible to notify the Building Inspector that construction is completed and request the certificate of occupancy inspection.

**D. Temporary Certificate**

A temporary occupancy for a part of a building may be permitted by the Building Inspector prior to completion and final inspection. A permit for temporary occupancy shall be valid for not more than sixty (60) days and may be renewed, for cause, for not more than thirty (30) days. A temporary occupancy permit shall not be renewed more than two times.

**Section 10.5. Amendments**

**A. Village Board Power to Amend**

The Village 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 in the manner provided by this Chapter and Sections 7—706 and 7—708 of the Village Law of the State of New York.

**B. Referral to the Planning Board**

Each such proposal, amendment or change, whether initiated by the Village Board or by petition, shall be referred to the Planning Board for report and recommendation thereon, prior to the public hearing held by the Village Board. In recommending the adoption of any such proposed amendment, the Planning Board shall state its reasons for such recommendation. On recommending the rejection or revision of any proposed amendment, the Planning Board shall similarly state its reasons.

**C. Public Hearing and Required Notice**

No amendment to any zoning regulation, restriction or district boundary shall become effective until after a public hearing on the proposed amendment, and during which the public shall have an opportunity to be heard. Public hearings by the Village Board for zoning amendments shall require:

1. Published notice giving at least ten (10) calendar days notice of the time and place of such hearing in the official newspaper designated by the Village Board. Such notice may or may not include the full text of the

proposed amendment or amendments, but shall include a statement sufficient to inform the public of the content of the proposed amendment, change or application.

2. Sending such notices not less than ten (10) calendar days in advance of the hearing to the parties to the proposal and any town, village or city within five hundred (500) feet of the proposal and as may be further required by Sections 7—706 of the Village Law of the State of New York.

#### **D. Decision by the Village Board**

A majority vote of the Village Board shall be required to approve such amendment or change except as noted below:

1. An amendment shall require the approval of at least three—fourths of the members of the Village Board (two—thirds if the Village Board has 3 members) in the event such amendment is the subject of a written protest and signed by:
  - (a) the owners of twenty percent or more of the area of land included in such proposed change;
  - (b) the owners of twenty percent or more of the area of land immediately adjacent to the land included in such proposed change, extending one hundred feet there from;
  - (c) the owners of twenty percent or more of the area of land directly opposite thereto, extending one hundred feet from the street frontage of such opposite land.
2. In the case where approval is contrary to the report of the Schenectady County Planning Department, a majority plus one (1) vote shall be required to approve such amendment or change and a resolution fully setting forth the reasons for such contrary action must be adopted.

#### **E. Filing Requirements**

Every Zoning local law and every amendment to a Zoning local law adopted, excluding any map incorporated therein, shall be entered in the minutes of the Village Board pursuant to the provisions of Section 7—706 of the Village Law of the State of New York and a copy, summary or abstract thereof shall be published once in the official newspaper and a copy of such local law or amendment together with a summary or abstract of any map incorporated therein shall be posted conspicuously at or near the main entrance to the office of the Village Clerk and affidavits of the publication and posting thereof shall be filed with the Village Clerk. Such minutes shall describe and refer to any map adopted in connection with such local law or amendment.

### **Section 10.6 Fees**

A non—refundable application fee, established in accordance with the officially adopted [fee schedule](#), payable to the Village Clerk shall be required with each application for any permit required under this ordinance. The [fee schedule](#) may



periodically be changed by the Village Board.

## **Section 10.7 Zoning Board of Appeals**

### **A. Creation and Procedure**

[The Zoning Board of Appeals](#), hereinafter referred to as the Board of Appeals, established under Section 7—712 of the Village Law of New York State, shall consist of five (5) members. The Board of Appeals shall have the power to adopt rules for its procedure and government not inconsistent with law or ordinance.

1. **Meetings of the Board of Appeals:** Meetings of the Board of Appeals shall be held at the call of the Chairperson and at such times as the Board may determine. The Chairperson or, in his/her absence, the Deputy Chairperson shall preside. The presence of three (3) members shall constitute a quorum. The concurring vote of a majority of the members of such Board shall be necessary to reverse any order, requirements, decision or determination of the Building Inspector, or to grant any variance from the requirements of this chapter, or to approve or make a recommendation on any other matter referred to it.
2. **Hearings, Notice and Decisions:** The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it. All hearings shall be open to the public and duly advertised as to nature, time and place of meeting. Such notice shall be published at least five (5) days in advance of such hearings. The Board of Appeals shall act on all applications or appeals within sixty two [62] days after the final hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board.
3. **Minutes and Filing Requirements:** The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Village Clerk, Building Inspector and Planning Board and shall be a public record. In the case of decisions by the Board on appeals, such decisions shall be filed in the office of the Village Clerk within five (5) business days after the day the decision on the appeal is rendered, and a copy shall be mailed to the applicant.
4. **Recommendation of the Planning Board:** At least twenty (20) days before the date of the hearing required by law on an application or appeal, the secretary of Board of Appeals shall transmit to the Planning Board a copy of said application or appeal, together with a copy of the notice of the aforesaid hearing and shall request that the Planning Board submit to the Board of Appeals its opinion on said application or appeal. The Planning Board shall submit a report of such advisory opinion prior to the date of said hearing. Upon failure to submit such

report, the Planning Board shall be deemed to have approved the application or appeal.

#### **B. Board of Appeals Jurisdiction**

The Board of Appeals is hereby vested with the following jurisdiction and authority:

1. Interpretation. To hear and decide appeals from and review any order, requirement, decision or determination made by the Building Inspector, or other village administrative official, charged with enforcement of this chapter.
2. Variances. 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 so that the spirit of this chapter shall be observed, public welfare and safety secured, and substantial justice done. However, any such variance shall conform to the conditions listed in this section, and such variance may not amount to an amendment of this chapter. In granting any variance, the Board of Appeals shall prescribe any condition or safeguard that it deems necessary or desirable.

#### **C. Variances**

1. Area Variances. The Board of Appeals shall have the power, upon an appeal from a decision or determination of an administrative official charged with the enforcement of this local law, to grant area variances from the area or dimensional requirements of this local law. In making its determination, the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making its determination the Board shall also consider the following:
  - a. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  - b. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - c. whether the requested area variance is substantial;
  - d. whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - e. whether the alleged difficulty was self—created; which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

- f. The Board of Appeals, in granting an area variance, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- 2. Use Variances. Where, because of unnecessary hardship, an applicant desires to utilize land for a “use” which would otherwise not be allowed, or that would be prohibited, in the district in which the land is located, the Board of Appeals may grant a use variance in the application of the provisions of this local law. No such use variance shall be granted by the Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove unnecessary hardship the applicant shall demonstrate to the Board that:
  - a. under applicable zoning regulations the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;
  - b. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  - c. that the “use” to be authorized by the variance will not alter the essential character of the neighborhood; and
  - d. that the alleged hardship has not been self—created.
  - f. the Board of Appeals, in granting a use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- 3. Conditions Imposed On Variances. The Board of Appeals, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

## **Section 10.8. Zoning Referrals**

In accordance with Section 229—1 and 239—m of the General Municipal Law of New York State, any amendment to this chapter which would change the district classification or regulations applying to real property, or any special permit or variance or site plan authorization affecting such real property within a distance of five hundred (500) feet from the boundary of any city, village or town; the boundary of any existing

or proposed county or state park, or other recreation area; the right—of—way of any existing or proposed county or state parkway, thruway, expressway, road or highway; the existing or proposed right—of—way of any stream or drainage channel owned by the county or for which the county has established channel lines; or the existing or proposed boundary of any county or state owned land on which a public building or institution is situated shall be referred to the Schenectady County Department of Planning by the Village Board, Planning Board or the Board of Appeals, whichever is appropriate, before such body shall take final action on said amendment, special use permit or variance, or site plan authorization. If the County Department of Planning disapproves or recommends a modification of the proposal, the municipality shall not act in contradiction to the County’s recommendation except by a vote of a majority plus one of all the members of the municipal body having jurisdiction, and after the adoption of a resolution which fully describes the reasons for such contradictory action.

## **Section 10.9. Planning Board**

### **A. Creation and Procedure**

1. Membership and Term: [The Planning Board](#) established under Section 7—718 of the Village Law of New York State, shall consist of five (5) members appointed by the Mayor. The Village Board shall designate a member of said Planning Board to act as Chairperson thereof, or on failure to do so, the said Planning Board shall elect a Chairperson from its members. The terms of the members of the Planning Board shall be five years, consistent with Village Law, Section 7—718.
2. Meetings of the Planning Board: The Chairperson or, in his/her absence, the Vice—Chairperson, shall preside. The presence of three (3) members shall constitute a quorum.
3. Hearings, Notice and Decisions: A majority vote of the Planning Board members shall be necessary to decide on matters required by this chapter. All hearings shall be open to the public and duly advertised as to nature, time and place of the meeting. Such notice shall be no less than five (5) days in advance of such meeting. The Planning Board shall decide on matters within sixty (60) days after the final hearing.
4. Minutes: The Planning Board shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its findings, recommendations and actions. Every decision or determination of the Planning Board shall be filed in the office of the Village Clerk and shall be public record.

### **B. Planning Board Jurisdiction**

The Board is hereby vested with the following duties under this Chapter:

1. Review all applications for variances and amendments to this chapter and report said findings and recommendations to the Village Board, Building Inspector, Board of Appeals and/or Village Clerk in the manner prescribed by this law.

2. Review the effectiveness of this chapter and report its conclusions and recommendations to the Village Board
3. Make investigations, maps and reports and recommendations in connection therewith relating to the planning and development of the Village.
4. Hear and decide matters pursuant to the subdivision rules and other applicable local laws or ordinances.
5. Hear and decide site plan review and special use permit applications.

## **Section 10.10. Penalties and Enforcement Actions**

### **A. Penalties.**

Any person(s) violating any of the provisions of this chapter shall be guilty of a violation as defined by the Penal Law of the State of New York punishable by a fine not to exceed fifty dollars (\$50) or by imprisonment not to exceed fifteen (15) days for each week of intentional violation, or both such fine and imprisonment. Each week continued violation shall constitute a separate violation. The Village Board shall have such other remedies as are allowable by law.

### **B. Enforcement Actions**

The building inspector shall serve written notice, either by personal service or by certified mail, “return receipt requested”, addressed to the premises of such violation, on the person or persons committing the violation. This notice shall specify the alleged violation and shall provide a reasonable time for compliance. The Village Board may also maintain an action or proceeding in the name of the village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any such local law, rule or regulation, notwithstanding that the local law, rule or regulation may provide a penalty or other punishment for such violation.

## **Section 10.11. Complaint Procedure**

Whenever a violation of this chapter occurs, any person may file a complaint. “Such complaint shall be in writing and shall be filed with the Building Inspector. Such complaint shall be recorded by the Building Inspector, immediately investigated, and a written report thereon filed with the Village Board within thirty (30) days.

## **Section 10.12. Appeals**

Any person aggrieved by any decision of the Planning Board, Zoning Board of Appeals, or any officer, department, board or bureau of the Village may apply to the supreme court for review by a proceeding under Article 78 of the civil practice law and rules.

## **Section 10.13. Compliance With SEQRA**

The requirements of this local law shall be applied and administered in a manner consistent with the New York State Environmental Quality Review Act (SEQRA). No proposed action, determined under SEQRA to be of environmental significance, shall be approved, granted a building permit, or otherwise authorized, until said action has

been approved by the designated SEQRA lead agency. The Village may, where practicable and appropriate, utilize the information contained in any required environmental assessment or statement in reaching a decision on an action being considered.

## **ARTICLE 11. SITE PLAN APPROVAL**

### **Section 11.1. Authorization**

In accordance with Section 7-725 of New York State Village Law, the Planning Board is authorized to review and approve, approve with modifications or disapprove all site plans for uses required by [Section 11.3](#) of this Article.

### **Section 11.2. Purposes and Review Standards**

It is the purpose of this site plan authorization procedure to provide a means for the Village review of the standards listed in this Section. The Planning Boards review of each site plan application shall be guided by the following:

- A. The full conformance of the site plan with the standards and requirements of the Village Zoning Law, subdivision code and other applicable local laws and ordinances.
- B. The adequacy and arrangement of vehicular and pedestrian traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and control devices.
- C. The impact of traffic generated on adjacent properties and roads.
- C. The location, arrangement, appearance and sufficiency of off—street parking and loading.
- E. The location, arrangement, site design and compatibility of buildings, structures, lighting and signs, and impacts on adjacent properties
- F. The adequacy, type and arrangement of landscaping, screening, buffer zones and open space.
- G. In the case of multiple-family dwellings, the adequacy of common property or open space for play areas and informal recreation.
- H. The adequacy and means for- complete disposal of storm water, sanitary waste, water supply for fire protection and consumption, fire and emergency vehicle access, solid waste disposal and snow removal.
- I. The adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- J. The protection of adjoining or nearby properties against noise, vibration, dust, odor, glare, unsightliness or other objectionable features.
- K. The retention of existing trees to as great a degree as is practicable.

## **Section 11.3. Uses Requiring Site Plan Approval**

### **A. Building Permits**

Site plan review and approval is required for the following structures and uses before the issuance of a building permit:

1. Any proposal for exterior structural alteration, demolition, new construction or moving of a historic site or structure within the HR District.
2. Any principal permitted or special use, except for a single—family or two—family dwelling and related accessory uses as permitted by right.
3. Any non—residential principal use or accessory use thereto in the HR and GR Residential Districts.
4. Any development or redevelopment involving the creation of more than ten (10) off-street parking spaces.
5. Any conversion, redevelopment or renovation of an existing building, structure, or use to a multiple—family or a nonresidential use.
6. Any multiple—family (three (3) or more units) development or redevelopment.
7. Any accessory building or structure containing or enclosing more than three hundred [300] square feet of gross floor area or accessory use, using or occupying more than two thousand (2,000) square feet of land area.
8. Any mobile home planned development as approved by the Village Board.

### **B. Change of Use**

A use which is established either by right or special permit or which is legally non—conforming consistent with the provisions of this local law, may not be changed to any other use or activity without prior notice to the Village. Such request for a change of use shall be made by filing an application for a building permit with the Village Building Inspector. Said application shall be reviewed by the Planning Board who may require that the applicant submit all materials and information as may be required for site plan review.

### **C. Waivers**

Notwithstanding the foregoing requirements for site plan review, the Planning Board may waive the requirement of review and approval where it finds, in writing, served to the Building Inspector and applicant that such review and approval is unnecessary and would not serve the purposes of this Article.

## **Section 11.4. Optional Sketch Plan Review.**

A sketch plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan, at the option of the applicant. The purpose of such a conference is to enable the applicant to inform the Planning Board of his/her proposal prior to the preparation of a formal site plan. The intent is also to enable the Planning Board to review the basic site design, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the formal site plan. Accordingly, an applicant participating in the sketch plan option should provide the information listed in 1 and 2 below, to the Planning Board for review at the sketch plan conference.

1. A statement and preliminary sketch showing proposed and existing:
  - a. locations and dimensions of principal and accessory structures;
  - b. access and parking areas;
  - c. signs;
  - d. landscaping;
  - e. contours and other natural features; and
  - f. other site improvements, including water supply and sanitary waste disposal facilities.
2. A sketch or map of the vicinity which clearly shows the location of the site in relation to adjacent streets, other rights—of—way, properties, easements and other relevant features.

## **Section 11.5 Application for Site Plan Approval**

### **A. Application and Transmittal**

Three (3) complete sets of an application for site plan approval shall be filed with the Building Inspector and must include the material and information as required by paragraph B. of this Section. A fee shall be submitted with the application in accordance with [Section 10.6](#) of this local law.

### **B. Contents of Site Plans**

An application for site plan approval shall be accompanied by the following information unless expressly waived by the Planning Board as a result of the sketch plan conference, if one was held:

1. The applicant's name, address and his interest in the subject property.
2. The Owner's name and address, if different than the applicant, and the Owner's signed consent to the filing of the application.
3. The street address or legal description of the property.
4. The zoning classification and present use of the subject property.



5. The proposed use or uses, and a general description of the proposed development.
6. A site plan drawn to scale of not less than fifty [50] feet to the inch on one (1) or more sheets, illustrating the proposed development and use and including the following:
  - a. Title of drawing north symbol, date and scale and name, address, title and license number of person or firm responsible for preparation of map.
  - b. The boundary lines and dimensions of the subject property; existing subdivision lots; available utilities; and easements, roadways, railroads, rail lines and public rights—of—way crossing and adjacent to the subject property.
  - c. Any proposed re-grading of the subject property and any significant natural, topographical or physical features of the property, including, at least, watercourses, marshes, trees in excess of twenty (20) inches in circumference measured at a height of four (4) feet, and existing contours in excess of four (4) feet in one hundred [100] feet.
  - d. The location size, use and arrangement [including height in stories and feet, floor area ratio, total floor area, total square feet of ground area coverage and number and size of dwelling units by number of bedrooms] of all proposed buildings.
  - e. Minimum yard dimensions and, where relevant, relation of yard dimensions to the height of any building or structure.
  - f. Location, dimensions and number of all vehicular and pedestrian circulation elements, including streets and roadways, driveways, entrances, curbs, curb cuts, parking spaces, loading spaces and access aisles, sidewalks, walkways and pathways.
  - g. An evaluation of soils on the site, and a sewage treatment system plan as designed by a licensed professional engineer. The proposed site must tie able to accommodate a conventional absorption field sewage treatment system or other appropriate system capable of adequately accommodating wastewater from the proposed use subject to the following:
    1. Any proposed system shall meet all current New York State Public Health Law or applicable New York State Department of Environmental Conservation Law standards.
    2. The applicant shall obtain Schenectady County Department of Health approval of the proposed sewage treatment system prior to the Village's approval of the site plan application, where applicable.

- h. All existing and proposed surface and sub-surface drainage facilities.
  - i. Location, size and arrangement of all outdoor signs and lighting.
  - j. Proposed landscaping and buffer yards, including the type, location and quantity of all plant materials, location and height of fences, retaining walls or screen plantings and the type or kind of building materials or plantings to be used for fencing or screening.
  - k. Location, designation and total area of all usable open space or common property and the extent to which it is to be improved.
1. In the case of any use requiring a special permit pursuant to this Chapter, any information necessary to demonstrate compliance with all conditions imposed on the proposed special use permit by this Chapter.
7. Commercial and Industrial Uses. In the Limited and General Business Districts, specific uses proposed and number of employees for which buildings are designed. The type of power to be used in the manufacturing process, and the proposed method of disposal of such waste or by-products shall also be shown where applicable.
  8. S.E.Q.R. No application shall be deemed completed without compliance with State Environmental Quality Review [SEQR] including where necessary, a lead agency determination, a negative or positive declaration and the submission of an acceptable Draft Environmental Impact Statement [EIS]

**C. Exemptions**

For minor site development plans, or in other appropriate circumstances, the Planning Board may waive the provision of any items or information listed in this Section. The Planning Board may allow the applicant to submit only that information which it deems necessary for review of a particular application.

**D. Additional Information**

The Planning Board may require other and further information or documentation it may deem to be necessary and appropriate to a full consideration and disposition of a particular application.

**E. Other Sources**

The Planning Board may consult with appropriate village, county, state and federal personnel as may be necessary and appropriate for a proper consideration of a particular application.

## Section 11.6. Review and Decision

### A. Review Procedure

1. Within sixty-two (62) days following receipt by the Planning Board of a complete application, the Board shall consider the application for site plan approval. An application shall be considered complete when all required information as per [Section 11.5.B](#) has been submitted, and applicable SEQRA and General Municipal Law, Section 239 referral requirements have been fulfilled. The Planning Board shall hold at least one [1] duly advertised public hearing on the proposed site plan. If the proposal is also subject to review under [Article 8](#), Special Use Permit, only one [1] public hearing is required to satisfy the requirements of both this Article and Article 8. Not less than five (5) days prior to the date of such public hearing, notice shall be placed in a local newspaper stating the time, date and purpose for the hearing. The applicant and all interested parties shall have the opportunity to speak at the public hearing.
2. The Planning Board shall decide upon such application within sixty-two (62) days of the hearing at which such application is considered and shall either, approve the application, approve it subject to certain specific modifications, or disapprove the site plan application. The time within which the Planning Board may render its decision may be extended by mutual consent of the applicant and the Planning Board.
3. Failure of the Planning Board to decide within sixty two (62) days, or such longer time as may have been agreed to by the applicant, shall be deemed approval of the application and plans.

### B. Factors for Review

The Planning Board's review of the site plan application shall be guided by the elements listed in [Section 11.2](#) of this Article.

### C. Decision

1. Approval. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the Village, the Planning Board shall endorse its approval on a copy of the site plan and shall file it along with a written statement of approval with the Village Clerk. A copy shall also be forwarded to the Building Inspector, and the applicant.
2. Approval Subject to Modifications or Conditions. The Planning Board may conditionally approve the site plan if it determines that one or more aspects of the site plan do not meet the standards set forth in [Section 11.2](#), and that revisions, additions, changes or alterations are required prior to full approval. Said site plan, with required modifications clearly and permanently marked, together with a written statement setting forth the basis and reasons for the approval subject to modifications, shall be forwarded to the Building Inspector, the Village Clerk and applicant.

Furthermore, prior to granting site plan approval the Planning Board

may impose such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the site as is deemed necessary to secure compliance with the standards and requirements of this chapter. Such conditions and restrictions shall be expressly set forth in the written statement of approval of the site plan, and shall be met, where applicable, prior to grant of any permits by the Village Building Inspector. Violation of such conditions placed on approval of the site plan shall be a violation of this local law and may result in revocation of permits granted by the Building Inspector.

After adequate demonstration to the Planning Board that all required modifications have been made to the site plan and any other conditions for approval have been met, and payment by the applicant of all fees and reimbursable costs due to the Village, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Building Inspector, Village Clerk and the applicant.

3. Disapproval. The Planning Board shall not disapprove any site plan submitted pursuant to this Article except on the basis of specific written findings directed at one or more of the standards for review. The Planning Board may recommend further study and resubmission of the site plan following revision or redesign. Said specific written findings setting forth the basis and reasons for disapproval of the site plan shall be forwarded to the Building Inspector, Village Clerk and the applicant.

### **Section 11.7. Effect of Approval**

If the Planning Board shall approve the application or approve it subject to conditions which are acceptable to the applicant, such approval shall not authorize the establishment or extension of any use nor the development, construction reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of application for any permits or approvals which may be required by the codes and laws of the Village, including but not limited to a variance, a special use permit, a building permit, a certificate of occupancy, subdivision approval and zoning amendment.

### **Section 11.8. Financial Responsibilities**

No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the Planning Board after consultation with the Building Inspector and other competent persons.

### **Section 11.9. Limitation on Site Plan Approval**

No site plan approval shall be valid for a period longer than one (1) year from the date of issue unless a building permit is issued and construction is actually begun within that period and is diligently pursued to completion; or an occupancy permit is obtained and a use is established within that period.

### **Section 11.10. Amendments**

An approved site plan may be amended at any time in the same manner and subject to the same standards and limitations as provided in this Section for original site plan approval.

