

# Local Law Filing

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

## Village of Warwick

Local Law No. 1 of the year 2009

A local law amending Chapter 145 of the Code of the Village of Warwick entitled ZONING.

Be it enacted by the Village of Warwick Board of Trustees as follows:

### SECTION 1. LEGISLATIVE INTENT

The Zoning Local Law of the Village of Warwick was adopted by the Board of Trustees on July 7, 1988 as Local Law No. 7-1988, as amended. Said local law also superseded the village's former Zoning Ordinance of 3-11-1965, as amended. This Local Law shall amend the Zoning Local Law of the Village of Warwick by replacing Local Law 7 of 1988 in its entirety with the following new Zoning Law. The Zoning Local Law is adopted to be consistent with the recommendations of the Village's adopted *Comprehensive Plan*.

### SECTION 2. SEQ R DETERMINATION

The Village Board, acting as Lead Agency for the State Environmental Quality Review (SEQR) of the proposed Local Law No. 1 of 2009, issued a Negative Declaration for the action on December 1, 2008.

### SECTION 3. APPLICATION

This Local Law shall apply to all zoning districts within the Village of Warwick.

### SECTION 4. SEVERABILITY

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect within such part or parts.

### SECTION 5. AMENDMENTS TO THE ZONING LAW

*Chapter 145 of the Village Code is hereby amended by deleting it in its entirety and substituting in lieu thereof, the following new chapter 145:*

## **Zoning Law of the Village of Warwick, New York**

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## **ARTICLE I - Title and Purpose**

### **145-1 Long Title**

The long title shall be as follows: "A law regulating and restricting the location, construction and use of buildings and structures and the use of land in the Village of Warwick, County of Orange, State of New York."

### **145-2 Short Title**

This chapter shall be known and may be cited as the "Zoning Law of the Village of Warwick, New York."

### **145-3 Purposes**

There is hereby established a Zoning Law for the Village of Warwick, which Law is set forth in the text, tables and maps that constitute this chapter. Said Law is adopted for all the purposes set forth in Article 7 of the New York State Village Law and Articles 2 and 3 of the Municipal Home Rule Law, and all power and authority granted therein are hereby adopted in the interest, protection and promotion of the public health, safety and general welfare. The Zoning Law implements the policies for land use in the Village of Warwick as follows:

- A. To guide the future development of the Village in accordance with the *Comprehensive Plan* and all amendments thereto, and other specific resource management plans and policies, so that the Village may realize its potential as a place to live and to work, with the most beneficial and convenient relationships among the residential, commercial and mixed-use areas within the Village.
- B. The environmental resources of the Village are limited. The protection and enhancement of the natural, historic, scenic, aesthetic, human and community resources of the Village must be fully respected.
- C. The impacts of growth must be controlled to maintain the character of the Village consistent with the ability of the Village to provide infrastructure, facilities and services.
- D. Commercial development must maintain the character of the Village by paying strict attention to community appearance and aesthetics, respect existing Village transportation facilities, and should meet locally-generated needs.
- E. Public facilities and services, including roads, drainage and recreation, must be planned and implemented consistent with the ability of the community to fund such facilities and the need to provide for an expanded population, not as a response to incremental and disjointed growth.

- F. A greater role for the public must be encouraged, both at the community level, for policy implementation, and at the neighborhood level, for land use implementation.
- G. The Village, as a pedestrian-friendly and walkable community, should use all lawful means to create new interconnections within the Village and with the Town of Warwick and should maintain and enhance existing walkable connections throughout the Village.

## **ARTICLE II - Zoning Districts and Zoning Districts Map**

### **145-20 Districts Established**

The zoning districts listed below are hereby established, and the Village of Warwick is divided into the districts listed and as illustrated on the Village of Warwick Zoning Districts Map.

<b>Symbol</b>	<b>Title</b>
R	Residential
CB	Central Business District
GC	General Commercial District
CCRC	Continuing Care Retirement Community
LO	Limited Office Overlay
LI	Light Industrial District
MR-SC	Multiple Residence – Senior Citizen
PAC	Planned Adult Community Floating Zone
TND	Traditional Neighborhood Design Overlay District
AD	Annexation District Floating Zone

### **145-20.1 District Purposes**

**Residential (R).** The purpose of the Residential District is to allow for the development and redevelopment of residential parcels and to provide a mix of housing types to accommodate a variety of income levels throughout the Village.

**Central Business (CB).** The purpose of the Central Business District is to allow for the development and redevelopment of parcels for retail, office and mixed use developments such as second and third floor apartments over retail uses. It is intended to encourage pedestrian-oriented businesses and to strengthen the existing Village core.

**General Commercial (GC).** The purpose of the General Commercial District is to allow for the development and redevelopment of parcels for retail, office and mixed use developments such as second and third floor apartments over retail uses. This district allows for uses which are more automobile oriented such as gasoline stations.



**Continuing Care Retirement Community (CCRC).** The purpose of the Continuing Care Retirement Community is to allow for the development and redevelopment of parcels to accommodate the housing and social needs of persons who have reached retirement age.

**Limited Office (LO).** The purpose of the Limited Office Overlay is to allow similar permitted, conditional and special uses as the Residential district while also transitioning to larger scale uses such as professional or medical offices and banks on the outer limits of the Central Business district.

**Light Industrial (LI).** The purpose of the Light Industrial District is to allow for appropriately scaled business operations which are not well suited for residential neighborhood environments such as manufacturing or research and design facilities.

**Multiple Residence–Senior Citizen (MR-SC).** The purpose of the Multiple Residence-Senior Citizen District is to allow for appropriately scaled senior housing.

**Planned Adult Community (PAC).** The purpose of the Planned Adult Community Floating Zone is allow the Village Board to permit, on a case by case basis, age restricted (age fifty-five (55) and greater) communities that satisfy the special needs and habits of active adults in locations where they will not detract from the surrounding land uses.

**Traditional Neighborhood Design (TND).** The purpose of the Traditional Neighborhood Design Overlay District is to allow for the development of new neighborhoods and the revitalization and expansion of existing neighborhoods, consistent with Village settlement patterns. This includes a mix of housing and commercial uses utilizing pedestrian-oriented design concepts.

**Annexation District (AD).** The purpose of the Annexation District Floating Zone is to maintain the character of existing village density, residential development and to allow a controlled growth of the Village following traditional growth patterns.

## **145-21 Zoning Districts Map**

The boundaries of said districts are hereby established as shown on the Zoning Districts Map and which, with all explanatory matter thereon are hereby adopted and made part of this chapter. A copy of said map, indicating the latest amendments, shall be kept up-to-date in the offices of the Village Clerk and the Planning Board Secretary for the use and benefit of the public.

## **145-22 Interpretation of District Boundaries**

In determining the boundaries of districts shown on the Zoning Districts Map, the following rules shall apply:

- A. Where a district boundary is shown following a street, highway, road, right-of-way, parkway, and public utility right-of-way, main channel of a stream or watercourse or railroad.

- B. Where a district boundary is shown as following a Village boundary line, a property line, a lot line or a projection of any one (1) of the same, such boundary is shown as separated from but approximately parallel to any such land marked or monumented line or projection thereof, such boundary shall be deemed to be parallel to any land marked or monumented line or projection thereof, as the case may be, at such distance there from as shown on the Zoning Districts Map. If such boundary is shown as separated from but approximately parallel to any such landmark or monumented line, such district boundary shall be deemed to be parallel to the aforesaid centerline at such distance there from as shown on the Zoning Districts Map.
- C. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Districts Map, the following rules shall apply:
1. Following center lines: Where district boundaries are indicated as approximately following the center lines of streets, parkways, waterways or railroad right-of-way lines, the district boundaries shall be construed to coincide with the center lines of streets, parkways, waterways or railroad right-of-way lines, or such lines extended.
  2. Following lot lines: Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
  3. Parallel to center lines: Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the Zoning Districts Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Districts Map.
  4. Water bodies: Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Village of Warwick, unless otherwise indicated.
  5. Lots in two 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 30 feet into the more-restricted portion, provided that the lot has frontage on the street in the less-restricted district. For the purposes of this section, the "more-restricted district" shall be deemed that district subject to regulations which:
    - (a) Prohibit the use intended to be made of said lot; or
    - (b) Require higher standards with respect to setbacks, coverage, yards, screening, landscaping and similar requirements.
  6. District lines within 30 feet of lot lines. In all cases where a district boundary line is located not farther than 30 feet away from a lot line of record, such boundary line shall be construed to coincide with such lot lines.

## **145-23 General District Regulations**

Following the effective date of this chapter:

- A. No building shall be erected, moved, structurally altered, reconstructed or enlarged, nor shall any land or building be used, designed or arranged to be used for any purpose in any manner except in compliance with this chapter and all other applicable laws, together with all rules, requirements and restrictions appurtenant thereto.
- B. No yard, setback or open space required in connection with any building or use shall be considered as providing a required yard, setback or open space for any other building or use on the same or any other lot.
- C. No lot shall be formed from part of a lot already occupied by a building or use unless such building or use, all yards, setbacks and open spaces connected therewith and the remaining lot comply with all requirements prescribed by this chapter for the district in which said lot is located.
- D. Any use not permitted by this chapter shall be deemed to be prohibited. The list of prohibited uses contained in Section 145-33 of this chapter shall not be deemed to be an exhaustive list but has been included for the purposes of clarity and emphasis and to illustrate, by example, some of the undesirable and incompatible uses and are thus prohibited. Uses identified as special permit uses or conditional uses shall be deemed prohibited unless a valid special permit shall be issued by the Village Board or Zoning Board of Appeals therefore or appropriate conditional approval granted by the Planning Board.
- E. Pre-existing uses identified as special permit uses or conditional uses in this chapter, for which there exists a valid certificate of occupancy on the effective date of this chapter or amendment thereof shall not be deemed nonconforming unless such uses are non-complying as to the bulk or supplemental regulations of this chapter.
- F. No building permit or certificate of occupancy or certificate of use shall be granted for any use unless the Code Enforcement Officer shall find that the use shall conform to the standards set forth in this chapter.
- G. No land or building shall be used in any manner so as to create any hazard to the public health, peace or comfort or to hinder the most appropriate use of land in the vicinity in that all such uses shall conform to the performance standards prescribed in Section 145-104 for the control of noise; vibration; smoke; dust or other atmospheric pollutant; odor; radiation and electromagnetic interference; fire; explosive hazard and heat; liquid or solid wastes; and vehicular traffic emissions induced there from.
- H. Any lands annexed to the Village shall enter as and be zoned Annexation District (AD).

### **145-23.1 Residential (R) District**

This section sets forth use and density regulations for the Residential (R) District. Use groups for each permitted, conditional and special permit use is noted in parentheses below. Please see section 145-41 for detailed bulk regulations for each use group.

Village of Warwick Zoning Law

A. Permitted Uses:

1. One family residence (b)
2. Two-family detached residence (not more than one principal residential building per lot) (g)
3. Community residence facilities subject to Village Board approval as to site selection pursuant to Section 41.34 of NYS Mental Hygiene Law (c)
4. Residential Professional Office (p)
5. Public utility rights of way, transmission lines, or unmanned structures (e.g. substation, pumping station) serving the Village (n/a)
6. Village of Warwick uses and buildings (n/a)
7. Agriculture (a)
8. Buildings or stands for the display or for sale of products of agricultural products all of which are grown on the same premises (n/a)

B. Conditional Uses:

1. One-family residence semi-attached/lot (h)
2. Senior Citizen Housing Development (i)
3. Accessory Apartment (one) (b)
4. Guesthouse/Servant Caretaker Dwelling (n/a)
5. Family/Group Care Facilities (c)
6. Bed & Breakfast Establishments (n/a)
7. Home Occupation (b)
8. Public utility buildings (n/a)
9. Churches/Places of worship (d)
10. Annual membership clubs/Outdoor recreation (d)
11. Fraternal Organization (k)
12. Nursery school/day care (b)

C. Special Uses.

1. Multiple Residence (g)
2. Educational Facilities (d)
3. Cemeteries (e)
4. Volunteer ambulance service facilities (b)
5. Hospitals/Nursing homes (e)
6. Fire stations (n/a)

## **145-23.2 Central Business (CB) District**

This section sets forth use and density regulations for the Central Business (CB) District. Use groups for each permitted, conditional and special permit use is noted in parentheses below. Please see section 145-41 for detailed bulk regulations for each use group.

### A. Permitted Uses:

1. Village of Warwick uses and buildings (n/a)
2. Libraries/Museum/Art galleries (k)
3. Buildings or stands for the display or for sale of products of agricultural products all of which are grown on the same premises (n/a)
4. Business/Professional/Government offices (j)
5. Funeral homes/Mortuaries (j)
6. Banks (j)
7. Retail stores (k)
8. Personal service stores (k)
9. Eating/Drinking establishments (k)
10. Service establishment other than of a personal nature (k)
11. Theatres/Cinemas (k)
12. Outlets for laundries/cleaning (k)
13. Newspaper printing (k)

### B. Conditional Uses:

1. Home Occupation (b)
2. Residences on 2nd & 3rd Floor of existing bldg. (j)
3. Public utility buildings (n/a)
4. Churches/Places of worship (d)
5. Annual membership clubs/Outdoor recreation (d)
6. Fraternal Organization (k)
7. Nursery school/day care (b)
8. Manufacturing for sale on premises (k)
9. Hotels/Motels (m)
10. Gasoline service station (o)
11. Automobile sales and service (o)

### C. Special Uses:

1. Wireless telecommunication facilities (n/a)
2. Educational Facilities (d)
3. Cemeteries (e)
4. Volunteer ambulance service facilities (b)
5. Hospitals/Nursing homes (e)
6. Fire stations (n/a)

### **145-23.3 General Commercial (GC) District**

This section sets forth use and density regulations for the General Commercial (GC) District. Use groups for each permitted, conditional and special permit use is noted in parentheses below. Please see section 145-41 for detailed bulk regulations for each use group.

#### **A. Permitted Uses:**

1. Village of Warwick uses and buildings (n/a)
2. Libraries/Museum/Art galleries (k)
3. Buildings or stands for the display or for sale of products of agricultural products all of which are grown on the same premises (n/a)
4. Business/Professional/Government offices (j)
5. Funeral homes/Mortuaries (j)
6. Banks (j)
7. Retail stores (k)
8. Personal service stores (k)
9. Eating/Drinking establishments (k)
10. Service establishment other than of a personal nature (k)
11. Theatres/Cinemas (k)
12. Outlets for laundries/cleaning (k)
13. Newspaper printing (k)

#### **B. Conditional Uses:**

1. Home Occupation (b)
2. Residences on 2nd & 3rd Floor of existing bldg. (j)
3. Public utility buildings (n/a)
4. Churches/Places of worship (d)
5. Annual membership clubs/Outdoor recreation (d)
6. Fraternal Organization (k)

7. Nursery school/day care (b)
  8. Manufacturing for sale on premises (k)
  9. Hotels/Motels (m)
  10. Gasoline service station (o)
  11. Automobile sales and service (o)
  12. Car wash (o)
- C. Special Uses:
1. Wireless telecommunication facilities (n/a)
  2. Educational Facilities (d)
  3. Cemeteries (e)
  4. Volunteer ambulance service facilities (b)
  5. Hospitals/Nursing homes (e)
  6. Fire stations (n/a)

#### **145-24 Warwick Village Historic District**

- A. Upon the enactment of this chapter and from thereafter, the Architectural and Historic District Review Board (AHDRB) shall make a study of the structures existing and situated in the Historic District and for the purpose of identifying and conserving, protecting, enhancing and perpetuating those structures within the Historic District which by reason of their particular or distinctive architectural and historical heritage, and shall recommend such structures to be designated as landmarks. Upon receipt of any such recommendation from the AHDRB, the Village Board of Trustees will schedule and conduct a public hearing, at which time the parties in interest and citizens shall have an opportunity to be heard with respect to the proposed designation of any structure as a landmark.
- B. A written notice of any proposed designation of a structure as a landmark, or any building or structure within the historic district under this section shall be given to the owner of record thereof, at least fifteen (15) days prior to the date of the public hearing called for by this section.
- C. In the event that the Village Board of Trustees shall adopt the proposed designation of a structure as a landmark, such designation shall be entered in the minutes of the Village Board of Trustees, and a copy thereof shall be published once in the official newspaper, a copy of such designation shall be posted conspicuously at or near the entrance to the office of the Village Clerk, and a copy of such designation (including all studies and reports completed by the AHDRB) shall be placed in the public library. Such designation shall take effect ten (10) days after such publication and posting. In its determination of whether such landmark qualifies by reason of its particular or distinctive architectural and historical heritage, the Village Board of Trustees shall not

be bound by the confines of the Historic District. The Village Board of Trustees may also designate natural structures and other historically significant monuments and other structures within the Village but outside the Historic District. Following designation of a structure as a landmark, the Village Board of Trustees shall nominate such property to the National Register of Historic Places by preparing and filing an application for nomination to the New York State Historic Preservation Officer.

- D. No building permit shall be issued by the Code Enforcement Officer for the construction, reconstruction or alteration of an historic or cultural landmark unless the application is in writing. Notwithstanding any provision of Article IX to the contrary, every application for such a building permit is subject to the issuance of a Certificate of Appropriateness as described in Chapter 7 - Architectural and Historic District of the Village Code by the AHDRB and Site Plan Approval and shall be considered by the Planning Board. Failure of the Planning Board to hold a hearing or render a decision within the time periods set forth in Article IX shall not entitle the applicant to issuance of a building permit.
1. Criteria for review of a Site Plan application in the Historic District. The Planning Board's decision, in consultation with the AHDRB, shall be based on the following principles:
    - a. Properties which contribute to the character of the historic district shall be retained with their historic features altered as little as possible;
    - b. Any alteration of existing properties shall be compatible with its historic character, as well as with the surrounding district; and
    - c. New construction shall be compatible with the district in which it is located.
  2. In applying the above-stated principles, the Planning Board shall consider the following factors:
    - a. The general design, character, and suitability to the property of the proposed alteration or new construction;
    - b. The scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
    - c. Visual compatibility with surrounding properties
    - d. The importance of historic, architectural, or other features to the significance of the property.
  3. Applications for Site Plan approval in the Historic District shall include all requirements per Article IX of this chapter.

#### **145-24.1 Demolition Delay in the Historic District**

- A. **Intent and Purpose.** This section is intended to preserve and protect significant buildings which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the Village and to limit the detrimental effects of demolition on the character of the Village. Through this section, owners of preferably preserved buildings are encouraged to seek out alternative options that will



preserve, rehabilitate or restore such buildings and residents of the Village are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this section promotes the public welfare by making the Village a more attractive and desirable place in which to live, work and recreate, reinforcing the uniqueness and sense of place of the Village, and enhances the desirability of the Village as a tourism destination. To achieve these purposes, the Architectural and Historic District Review Board (AHDRB) is authorized to advise the Code Enforcement Officer with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this section.

B. **Procedure.** No demolition permit for a building, which is in whole or in part seventy-five years or more old, shall be issued without following the provisions of this section. If a building is of unknown age, it shall be assumed that the building is over 75 years old for the purposes of this section. An applicant proposing to demolish a building subject to this section shall file with the Code Enforcement Officer an application containing the following information:

1. The 911 street address of the building to be demolished.
2. The owner's name, address and telephone number and tax parcel number.
3. A description of the building including the date of original construction (if known) and dates of significant modifications to the building.
4. The reason for requesting a demolition permit.
5. A description of the proposed reuse, reconstruction or replacement sought by the applicant.
6. A photograph or photograph(s) of the building.

C. **Administration.** The Code Enforcement Officer shall within seven (7) days forward a copy of the application to the AHDRB. The AHDRB shall within thirty (30) days after receipt of the application or as soon thereafter that the AHDRB shall met, make a written determination of whether the building is significant. Upon determination by the AHDRB that the building is not significant, the Board shall so notify the Code Enforcement Officer and applicant in writing. The Code Enforcement Officer may then issue the demolition permit. Upon determination by the AHDRB that the building is significant, the AHDRB shall so notify the Code Enforcement Officer and the applicant in writing. No demolition permit may be issued at this time. If the AHDRB does not notify the Code Enforcement Officer within thirty (30) days of receipt of the application, the Code Enforcement Officer may proceed to issue the demolition permit. If the AHDRB finds that the building is significant, it shall hold a public hearing within thirty (30) days of the written notification to the Code Enforcement Officer.

1. The AHDRB shall decide at the public hearing or within fourteen (14) days after the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination

of the AHDRB may be postponed. If the AHDRB determines that the building is not preferably preserved, the AHDRB shall so notify the Code Enforcement Officer and applicant in writing. The Code Enforcement Officer may then issue the demolition permit. If the AHDRB determines that the building is preferably preserved, the AHDRB shall notify the Code Enforcement Officer and applicant in writing. No demolition permit may then be issued for a period of twelve months from the date of the determination unless otherwise agreed to by the AHDRB. If the AHDRB does not so notify the Code Enforcement Officer in writing within thirty (30) days of the public hearing, the Code Enforcement Officer may issue the demolition permit.

2. Upon a determination by the AHDRB that any building that is the subject of an application is a preferably preserved building, the following shall apply:
  - a. No building permit for new construction or alterations on the premises shall be issued for a period of twelve months from the date of the determination unless otherwise agreed to by the AHDRB.
  - b. No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Code Enforcement Officer and have been found to comply with all laws pertaining to the issuance of a building permit or if for a parking lot, a certificate of occupancy for that site.
  - c. All approvals necessary for the issuance of such building permit or certificate of occupancy including without limitation any necessary zoning variances, special use permits, or conditional use permits, shall be granted and all appeals from the granting of such approvals shall be concluded, prior to the issuance of a demolition permit under this section.
  - d. The Code Enforcement Officer may issue a demolition permit or a building permit for a preferably preserved building within the twelve months if the AHDRB notifies the Code Enforcement Officer in writing that the AHDRB finds that the intent and purpose of this section is served even with the issuance of the demolition permit or the building permit. Following the twelve-month delay period, the Code Enforcement Officer may issue the demolition permit.
3. The AHDRB may prepare such rules and regulations as are necessary to administer the terms of this section, subject to approval by resolution of the Village Board of Trustees. The Schedule of Fees of the Village shall be sufficient to cover the costs associated with the administration of this

section. Administrative and advertising fees shall be borne by the applicant. The AHDRB may delegate authority to make initial determinations of significance to one or more members of the AHDRB or to the Village Board of Trustees or the Code Enforcement Officer. The AHDRB may pro-actively develop a list of significant buildings that will be subject to this section. Buildings proposed for the significant building list shall be added following a public hearing.

- D. **Emergency Demolition.** If after an inspection, the Code Enforcement Officer finds that a building subject to this section is found to pose an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building or structure, then the Code Enforcement Officer may issue an emergency demolition permit to the owner of the building or structure. The Code Enforcement Officer shall then prepare a report explaining the condition of the building and the basis for the decision, which shall be forwarded to the AHDRB.
- E. **Enforcement and Remedies.** The AHDRB and/or the Code Enforcement Officer are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this section or to prevent a threatened violation thereof. Any owner of a building subject to this section that demolished the building without first obtaining a demolition permit in accordance with the provisions of this section shall be subject to a fine as specified in Section 145-149.4 of the Village Zoning Law. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed or unless otherwise agreed to by the AHDRB. If a building subject to this section is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the AHDRB.
- F. **New York State Historic Preservation Act.** Following a determination that the building is significant and preferably preserved, the AHDRB may recommend to the Mayor and Village Board that the building be protected through the provisions of New York State Historic Preservation Act of 1980. Nothing in this section shall be deemed to conflict with the provisions of the New York State Historic Preservation Act. If any of the provisions of this section do so conflict, that Act shall prevail.

## **145-25 Limited Office Overlay**

- A. Intent. The Village Board finds that certain locations identified on the Zoning Districts Map by the Limited Office Overlay serve as transition areas between residential neighborhoods and the General Commercial and Central Business districts. In these areas, it is the intent to allow additional uses such as business, professional or

governmental offices, banks and funeral homes in addition to the permitted, conditional and special permit uses allowed in the neighboring Residential district.

B. The following standards shall apply:

1. The architecture of the proposed use should be compatible with the existing character of the neighborhood and should not create an adverse impact to neighboring residential areas.
2. Parking shall be screened from neighboring properties and generously landscaped.
3. Drive-thru and drive-in services are not permitted.
4. If feasible and applicable, parking should be located to rear of the building to the maximum extent possible.
5. The anticipated trip generation of the use, as determined by the Planning Board, shall maintain the integrity of the residential character and the immediate neighborhood.
6. The Planning Board, during site plan review, may require pedestrian or vehicle interconnections, if applicable, between neighboring properties in order to protect the health and safety of the public and to reduce traffic congestion.
7. All exterior lighting, including lighting fixtures, lighting of walks and of parking areas shall be accomplished with low level fully shielded lighting in a residential style.
8. There shall be no parking, storage or standing of any commercial vehicles or construction equipment, except as otherwise permitted in residential districts, and no outdoor display of goods, outdoor storage of materials, or outdoor storage of equipment.
9. No alteration to the exterior of the principal residential building or accessory building used for the proposed activity shall be made which changes the character thereof as a residential premises except that a single sign, not exceeding two (2) square feet in area, shall be permitted, subject to all other applicable sign regulations of this Chapter. Any new construction undertaken to accommodate the proposed activity shall also be wholly consistent with the character of a residential premises.
10. The proposed use shall not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
11. No offensive noise, vibration, glare, dust, odors, heat, fumes, smoke, or electrical interference shall be detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.

12. A Certificate of Occupancy, to be issued by the Village Code Enforcement Officer, shall be required for all uses proposed in the LO. Application forms are available from the Village Building Department.
13. In no case shall the proposed use be open to the public at times earlier than 8:00 AM or later than 8:00 PM.
14. The volume of deliveries or truck traffic shall be less than an average of three (3) per day.
15. The following uses are specifically prohibited from consideration as permitted in the LO under this Chapter, because of parking requirements, deliveries and other issues of land use compatibility.
  - (a) Ambulance, limousine, taxi, or similar service with any employees or more than one vehicle used in the home occupation.
  - (b) Automobile-related businesses including repair, maintenance, painting, parts, sales, upholstery, detailing, or washing services.
  - (c) Places of public assembly accommodating more than 25 persons.
  - (d) Commercial stables, kennels, or animal hospitals.
  - (e) Construction companies, building contractors, home builders, or general contractors with any employees or more than one vehicle and/or more than one trailer used in the business.
  - (g) Convalescent homes or clinics.
  - (i) Landscape Contractors with any employees or more than one vehicle and/or more than one trailer used in the landscape business.
  - (j) Mortuary establishments.
  - (m) Home processed food businesses in accordance with § 276.3 of the New York State Agriculture and Markets Law.

## **145-26 Planned Adult Community (PAC) Floating Zoning District**

- A. **Purpose and Intent.** The Planned Adult Community (PAC) District is hereby established to enable the Village of Warwick to permit Planned Unit Development intended to primarily house people fifty-five (55) years of age and older and to address the specific needs and desires of that population. A floating zone is a zoning district that "floats" until an application is made to apply the new district to a specific parcel. Upon approval of the application by the Village Board of Trustees, the Zoning Districts Map is amended and the parcel receives the PAC District designation. The PAC District permits the Village to evaluate the need and demand for a PAC, address specific aspects of the PAC, relate the type, design and layout of a PAC to a particular site and control the impacts that such a development may have on the surrounding community. Furthermore, the PAC District is intended to discourage urban sprawl while encouraging innovative, Traditional Neighborhood developments and alternative

land development practices, which will otherwise promote the public health, safety and welfare of the public, preserve or enhance property values within existing residential areas and maintain the unique character of the Village.

- B. **Applicability.** A PAC District shall represent a mapped geographic area applied to the Zoning Districts Map according to the amendment procedures of the Village of Warwick Zoning Law. PAC Districts are subject to Special Use Permit approval by the Village Board and may be applied within the R zoning district established by this law. Unless expressly stated otherwise in this section, all lands affected by a PAC District shall conform to all other applicable provisions of this Zoning Law.
- C. **PAC District Zoning Process.** Acceptance of an application for the PAC District shall be at the sole discretion of the Village Board. Approval of a PAC District shall also be at the sole discretion of the Village Board and shall require a determination by the Village Board that the application meets the following criteria:
1. **Demonstrated Local Need.** The local need for such a development within the community shall be demonstrated by the applicant to the sole satisfaction of the Village Board.
  2. **Evaluations and Mitigation of Significant Impacts.** The development shall not significantly impact the adjacent area, circulation and traffic, historic structures, the overall population mix of the Village, the tax rate base and any other issues as may be identified, together with a full environmental impact statement, as required.
  3. **Site Development Concept Plan.** The development concept of all areas encompassed by a PAC District shall be adequately described by a Site Development Concept Plan comprised of scaled drawings and associated reports. At a minimum, the Site Development Concept Plan shall adequately describe:
    - a. The boundary and area of the PAC District, including the underlying zoning district.
    - b. The general location, orientation and size of proposed principal and ancillary structures and the individual lots upon which are situated, associated parking areas, open space and landscape areas, recreation areas, the location, size and general treatment of environmentally sensitive areas and the general pedestrian and vehicular traffic routes (external and internal) to and from the development:
      - (1) The road system within the development shall be designated to provide adequate ingress and egress without interconnection to the road system of an existing development.
    - c. Tabular data, written statements, graphic materials and illustrations sufficient to demonstrate compliance with all applicable provisions of this law; and

- d. Any data that the Village Board deems necessary to evaluate the development proposal.

D. **General Provisions.** A PAC shall comply with the following provisions:

1. **Age Restriction.** The PAC shall comply with applicable New York and Federal law, as the same may be amended, so that at all times the PAC qualifies as housing for older persons intended and operated for occupancy by persons 55 years of age and older, as currently provided in 42 U.S.C. Section 3607(b)(2)(C). In no event shall any person under the age of eighteen (18) permanently occupy a PAC unit. However, such age restrictions shall not apply to any caretaker/administrator's unit. A deed restriction that enforces the foregoing requirement shall be provided in a form acceptable to the Village Attorney and shall be included in every deed conveying title to each unit in a PAC.
2. **Minimum Size.** The minimum size for a PAC is twenty (20) contiguous acres.
3. **Maximum Allowable Density.** The maximum allowable density shall not exceed seven (7) units per buildable acre, or such lesser density as may be deemed appropriate by the Village Board considering the surrounding area to maintain an appropriate transition with neighboring properties. Buildable acreage is defined as the gross site area minus those land areas defined in Section 145-42A of this law.
4. **Site Plan Required.** Prior to application for a Building Permit, Site Plan approval shall comply with the Site Plan Review procedures and requirements of the Village of Warwick Zoning Law and the Village Law.
5. **Subdivision Plat Required.** A subdivision plat, which identifies the individual lot upon which each principal building is to be situated shall be provided by the applicant. Such plat shall comply with the Subdivision Regulations of the Village and the Village Law.
6. **Homeowners Association Required.** All PACs shall be required to create a Homeowners Association, which shall have dominion over the common areas within the development. Prior to final approval of the Site Plan, the developer shall obtain such approval, acceptance, or "no action letter" as may be required by the State of New York Department of Law, pursuant to the Martin Act (General Business Law, Section 352 Et. seq.) and/or such other laws or regulations may apply to the offering for sale of common interests in realty. Copies of all submissions and responses, including but not limited to articles of incorporation and by-laws for such Homeowners Association shall be supplied to the Planning Board and Village Attorney.

E. **Effect of Approval.**

1. **Duration of Zone Change Approval.** An approved zone change for a PAC shall remain valid for one (1) year following approval by the Village Board. If, at the end of that one-year period, no formal application for Site Plan has been

filed with the Planning Board, then the zone change shall lapse and a new application for PAC District zoning shall be required to be approved by the Village Board before any filing of an application for a Site Plan.

2. **Amendments to Site Plan.** Any amendment to an approved Site Plan shall be submitted to the Planning Board and shall conform in all respects to this Article. No amendment approved by the Planning Board shall be deemed final absent compliance with the Martin Act.

F. **Permitted Uses.**

1. **Permitted Principal Uses.**

- a. **Housing Types.** Adult housing needs vary, depending on the age and activity level of the individual. As such, a PAC may provide a variety of housing types, including one-family detached residences, one-family semi-attached residences and townhouse residences (with no more than four (4) units in a building). The Planning Board may increase the number of units permitted in a multiple family residence building in order to permit 12 units per building, providing the Planning Board determines that such increase is consistent with the purpose and intent set forth in Section 145-26(A) above.
- b. **Civic Uses.** Public or semi-public uses located centrally, or as a focal point within a PAC as may be required by the Village Board.

2. **Permitted Accessory Uses.** Detached garages or garages attached to one another.

3. **Permitted Related Ancillary Facilities.** Specific related ancillary facilities may be permitted within a PAC. The design of ancillary facilities must be complimentary in design to the rest of the PAC. Facilities shall be designed to primarily provide services to residents and shall be centrally or conveniently located within the development. Permission for such facilities shall be at the discretion of the Village Board, and may include:

- a. Facilities for the administrator, maintenance, and security of the development (owned by the Homeowners Association).
- b. Recreation facilities, such as walking trails, gazebos, tennis courts and athletic fields (owned by the Homeowners Association).
- c. Swimming pools, pursuant to Section 145-103 of the law (owned by the Homeowners Association)
- d. Community clubhouse (owned by the Homeowners Association).
- e. A residence for a resident caretaker and/or administrator (owned by the Homeowners Association).
- f. Customary home occupations as defined and permitted by this law, and



- g. Any other use deemed appropriate to and in keeping with the purpose and intent of this Zoning Law as determined by the Village Board.

G. **Parking Regulations.** Minimum off-street parking within a PAC shall be provided as follows:

- 1. Residential Units: Two (2) spaces per dwelling unit. Notwithstanding the foregoing, dwelling units in multiple family residence buildings shall have a minimum of one and one-half (1 1/2) space per dwelling unit.
- 2. Caregiver or person under the age of fifty-five (55) in household; one (1) Space.
- 3. Community Use: As required by Articles III and IV of the Village of Warwick Zoning Law. In addition to the required off-street parking, on-street parking shall be provided where possible.

H. **Design Standards.** All applicable standards of this section shall be complied with, unless it is determined in the sole discretion of the Planning Board that the literal enforcement of one or more standards does not advance the purpose and intent of this Zoning Law, are impractical or will exact undue hardships because of peculiar conditions pertaining to the tract in question. A waiver from the following standards may be granted by the Planning Board in specific cases, at its discretion, and only if it has been determined that the proposed waiver shall not create or affect any adverse impacts on the tract to be developed or on adjacent or nearby properties, and that such waiver will not materially detract from the Traditional Neighborhood concept intended by this Zoning Law or materially deviate from the concept plan approved by the Village Board.

1. **Community Design Standards.**

- a. New development with PACs shall strive to achieve the historic, time-honored standards and design characteristics of the existing Village of Warwick.
- b. A minimum of twenty percent (20%) of the gross tract area shall be reserved as common open space and/or public parks. At least fifty percent (50%) of this minimum must be derived from buildable acreage and/or buffer areas of wetlands.
- c. A mix of housing shall be provided in order to create a variety of housing types and sizes, according to the standards set below:
  - (1) One-Family Detached Residences: 70%-90% of units.
  - (2) One-Family Semi-Attached Residences: 0%-20% of units.
  - (3) Townhouse Residences: 0%-20% of units; and
  - (4) Multiple Family Residences: 0%-20%
- d. Housing shall not be segregated according to unit type. For any Single unit type, a variety of lot sizes shall be provided, such that the majority

of lots are not at or near the minimum lot size. Minimum lot sizes shall be as follows:

- (1) Single-Family Detached Dwellings: Minimum 5,000 sq. ft.
  - (2) Single-Family Semi-Attached Dwellings: Minimum 3,000 sq. ft. per unit.
  - (3) Townhouse Dwellings: Minimum 1,800 sq. ft.
  - (4) Multi-Family Dwellings: No required minimum; and
  - (5) Other Permitted Uses; No required minimum.
- e. Yards: Yard setbacks shall be provided as follows:
- (1) Front yards shall be a minimum of ten (10) feet.
  - (2) Side yards shall be a minimum of six (6) feet, except for the attached sides of semi-attached dwellings and townhouse dwelling party walls. Side yards for detached garages may be less than six (6) feet provided that a maintenance easement is provided on the adjacent property, which allows for appropriate maintenance of the detached garage on all sides. Detached garages for semi-attached dwellings and townhouse dwellings may be attached along the same property line as the attached party wall of the principal buildings.
  - (3) Rear setbacks shall be a minimum of twenty (20) feet; and
  - (4) Yard areas adjacent to tract boundaries may be required by the Planning Board to be larger in order to maintain an appropriate transition to the adjacent properties.
- f. Development coverage of a lot including principal buildings, detached garages, parking areas, any impervious materials, and including natural impervious areas shall not exceed the percentages of the net buildable area for each of the following building types:
- (1) Single-Family Detached Dwellings: Fifty percent (50%)
  - (2) Single-Family Semi-Attached Dwellings: Seventy percent (70%)
  - (3) Townhouse Dwellings: Ninety percent (90%)
  - (4) Multi-Family Dwellings: Ninety percent (90%) and
  - (5) Other Permitted Uses: Seventy percent (70%). Any paved sidewalks and lanes located within public or private right-of-ways are excluded from development coverage calculations.
- g. Community amenities and uses shall be centrally and/or conveniently located to the development.

- h. Buildings located at entrance points may mark the transition into and out of the development in a distinct fashion, using massing, additional height, contrasting materials and/or architectural embellishments.
- i. Focal points, or points of visual termination, shall generally be occupied by more prominent buildings and structures or landscape elements.
- j. Buildings shall define the streetscape through the use of generally consistent setbacks. The streetscape shall also be reinforced by shade trees, lamp posts and other elements, such as walls, hedges and fences, which define front yards.
- k. Some portion of the common open space shall be developed as exterior public and semi-public community greens, and shall generally be of a geometric, located at focal points, enhance surrounding buildings and provide amenities for residents.
- l. Buildings shall be considered in terms of their relationship to the height and massing of adjacent buildings, as well as in relation to human scale.
- m. Buildings shall be located to front, towards and in relation to the street, both functionally and visually, to the greatest extent possible. Buildings shall not be oriented toward parking areas.
- n. Spatial relationships between buildings and other structures shall be geometrically logical and/or architecturally formal.
- o. The distance between a detached garage and any other principal or accessory structure on any lot shall be a minimum of fifteen (15) feet.
- p. Walls and fences shall be architecturally compatible with the style, materials and colors of the principal building on the same lot.
- q. The entire development shall be extensively landscaped in accordance with a plan conceived as a complete pattern throughout the total site. All areas of the site not occupied by buildings and other improvements shall be planted with trees, shrubs, hedges, ground cover, perennials and annuals. Yard areas located between the front wall of a building and the street shall be more intensively landscaped, including evergreen plant materials.
- r. Shade trees shall be planted along both sides of all streets and lanes at an average spacing of thirty (30) feet on center. The minimum size of shade trees shall be not less than 2.0 to 2.5 inches in caliper.
- s. The planting plan shall be provided to the Shade Tree Commission who shall provide the Planning Board with an advisory report. The Commission shall not impose conditions more restrictive than contained herein but may endorse an alternative plan consistent with the intent of this section.

- t. There shall be one (1) tree per lot planted along both sides of all lanes. The minimum size of shade trees shall be two to two and one-half (2-2.5) inches in caliper.
  - u. Common open space containing existing attractive or unique features, such as streams, creeks, ponds, woodlands, specimen trees, or healthy mature vegetation, is encouraged to be left unimproved and in a natural state.
  - v. All utility connections shall be provided below grade, except that service boxes may be located above grade. Lots which abut existing streets where overhead electric or telephone distribution supply lines and service connections have previously been installed may be supplied with electric and telephone service from these overhead lines, but any new service shall be installed below grade. The location of utility pedestals, electric transformers, and similar utilities fixtures shall be coordinated and reviewed by the Planning Board prior to construction. Adequate landscaping shall be installed as approved by the Planning Board. A pre-construction meeting of utility company representatives, the applicant, and the Planning Board is required.
  - w. Street lighting that consists of pedestrian-scaled decorative lampposts shall be provided in the street right-of-way.
2. **Architectural Design Standards.** Subject to review by the Architectural and Historic District Review Board, the following standards shall govern construction within the PAC District.
- a. Buildings shall generally relate in scale and design features to other surrounding buildings, showing respect for local context.
  - b. Buildings on corner lots shall be considered more significant structures since they have two (2) front facades exposed to the street. Special architectural responses are encouraged on corner buildings.
  - c. Buildings shall avoid long, monotonous, uninterrupted wall or roof plans. Offsets and breaks in building walls and rooflines shall be provided on townhouse or multi-family structures.
  - d. The front facade of a building shall be architecturally emphasized through window placement, entrance treatment and details. Buildings with more than one facade facing a street shall provide more than one front facade treatment.
  - e. All sides of a building shall be architecturally compatible with regard to style, materials, colors and details.
  - f. A detached garage shall be architecturally compatible with regard to style, materials, colors and details.
  - g. Garages accessed by front yard driveways shall be recessed from the front wall of the main building by a minimum of fifteen (15) feet.

- h. Mechanical equipment, trash and recycling enclosures, and other service areas shall be located to the side or rear of the building and shall be screened from view from the public right-of-way and adjacent properties by walls, fencing, and/or evergreen landscaping at a height deemed appropriate by the Planning Board.
  - i. Flat roofs shall generally be avoided. Other types of roofs should be appropriate to the building's architecture. Architectural embellishments which add visual interest to roofs, such as dormers, belvederes, masonry chimneys, cupolas and other similar elements are encouraged.
  - j. Window placement and proportions shall be architecturally compatible with the style, materials, colors and detail of buildings. Windows shall be vertically proportioned wherever possible. To the extent possible, the location of windows on the upper stories of a building shall be vertically aligned with the locator of windows and doors on the ground level.
  - k. Blank windowless walls shall not be permitted.
  - l. All front entrances shall be defined and articulated by architectural elements such as porches, lintels, pediments, pilasters, columns, porticos, overhangs, railings, balustrades and others, where appropriate. Any such element utilized shall be architecturally compatible with the style, materials, colors and details of the building as a whole, as shall the doors.
  - m. All air conditioning units, utility and mechanical equipment and satellite dishes shall be unobtrusively located, architecturally integrated, and screened from the public right-of-way and adjacent properties by parapets, penthouses, walls, fencing, and/or evergreen landscaping. Such devices shall not be located in any front yard area.
  - n. All materials, colors and architectural details used on the exterior of a building shall be compatible with the building's style, as well as with neighboring buildings.
  - o. One-family, semi-attached townhouse and multiple-family buildings shall project a single-family character as much as possible through scale, massing, entrance location, fenestration and detail.
  - p. Each dwelling except multi-family residences shall be provided with a private side or rear outdoor area enclosed by means of a fence screen, wall hedge or some combination of the same, which shall provide adequate privacy from neighboring dwelling units and rear yards.
  - q. The use of traditional exterior finishes and materials shall be encouraged.
3. **Circulation and Parking Design Standards.**
- a. Streets shall be laid out in a highly-interconnected pattern, based on the site's topography, unique natural features and environmental

- constraints. The street layout shall take into consideration the location of a community focus, other internal open spaces, gateways and vistas.
- b. PACs should facilitate all modes of transportation, while striving to create pedestrian-friendly streets and spaces. Crosswalks and pedestrian traffic patterns shall be located and organized in a manner which will maximize pedestrian safety.
  - c. Lanes are permitted to access residential properties and reduce the visual impact of driveways and garages on the streetscape:
    - (1) There shall be a minimum spacing of thirty (30) feet between garages located on opposite sides of a lane.
    - (2) Lots with lanes shall not be permitted to have front driveways.
  - d. The street layout shall incorporate a hierarchy of street types, Including:
    - (1) Village streets - Paved thirty (30) feet wide to Village specifications, with parking allowed on both sides of the street, or to a lesser width at the sole discretion of the Village Board;
    - (2) Private streets - Paved twenty-four (24) feet wide to Village specifications, with parking allowed on one (1) side of the street; and
    - (3) Private lanes - Paved twelve (12) feet wide with six inch granular sub-base, two-inch asphaltic binder and two-inch top course, with no parking allowed.
  - e. Driveways located within the front yard shall have a maximum width of ten (10) feet. Driveways located within the rear setback of lanes shall have a maximum width of twenty (20) feet.
  - f. Sidewalks with a minimum width of four (4) feet shall be provided on both sides of every street, except lanes, within a PAC. Where buildings exist on only one side of any street; sidewalks will generally only be required on that one side of the street.
  - g. Sidewalks shall be buffered from the street by a planting strip not less than five (5) feet wide.
  - h. No off-street parking shall be permitted between the front building line and the street.
  - i. All off-street parking areas, which contain over four (4) parking spaces shall be located to the rear of the back building line, and screened from the adjacent street and any single or two-family dwelling units
  - j. The Homeowners Association by-laws shall provide provisions for off-street parking assignments to specific dwelling units, including providers for caregivers and residents of any household, which require more than two (2) parking spaces.

- k. Street maintenance shall be provided by the Homeowners Association on all private streets and right-of-ways.

### **145-26.1 Continuing Care Retirement Community (CCRC) District**

Within the Continuing Care Retirement Community District, the following regulations shall apply:

- A. **Resident Age Restriction.** Except for the resident manager, assistant manager and their families, the occupancy of a CCRC District shall be limited primarily to individuals sixty-two (62) years of age or older, and couples with one (1) individual sixty-two (62) years of age or older, but may include a limited number of individuals under the age of sixty-two (62) who demonstrate a need for medical services provided on the campus.
- B. **Ancillary Facilities.** Within the CCRC District, certain related ancillary facilities may be permitted either in a separate building or in combination with dwelling units, such as dining rooms, laundries, game rooms, workshops or medical infirmaries, etc. Such facilities shall be subordinate to the residential character of the community.
- C. **Open Space.** Suitably equipped and adequately maintained recreation and open space shall be provided. Group sitting areas shall be well defined by walls, fences, hedges or other plantings designed to impart residential quality with a feeling of security and privacy for group activities. The suitability of equipment and maintenance of recreation and open space will be determined by the Village Planning Board.
- D. **Safety.** There shall be provided, a safe and convenient system of drives, service access roads and walks with due consideration given in planning such facilities to such items as handrails and ramps. Such facilities shall be adequately lighted and said lighting shall not be directed on adjacent streets or properties.
- E. **Refuse Areas.** Central refuse collection areas shall be located for the convenience of all residents. They shall be supplied with an adequate number and type of covered receptacles and shall be provided with proper screening and maintenance.
- F. **Distances.** The minimum distances between detached buildings shall be fifty (50) ft. The maximum building length shall be no more than three hundred (300) ft. All parking areas, driveways and recreation areas shall be no closer than ten (10) feet to any building or lot line, and any outdoor swimming pool shall be no closer than thirty (30) feet to any building and fifty (50) feet to any lot line.
- G. **Landscape.** Screening and planting requirements shall provide adequate screening and buffer areas along adjoining residential properties and streets.
- H. **Transportation.** Each CCRC shall provide, or be serviced directly by or accessible to some form of public or private transportation so that non-driving residents are able to participate in those community activities or services of their choice.

**145-27 Annexation District (AD)**

- A. The purpose of the AD District is to maintain the character of existing Village density residential developments and to allow a controlled growth of the Village following traditional growth patterns. For each parcel of buildable contiguous land in single ownership, there may be identical base density as that allowed pursuant to the Town of Warwick Zoning regulations (Local Law #10 of 2002) as adopted January, 2002 and formally applicable to the annexed lands.
- B. Applications for annexation shall be made to the Village Board of Trustees. The Village Board of Trustees shall refer the application to the Planning Board for input on the appropriateness of the parcel for annexation and compliance with applicable Zoning standards for the proposed project.
- C. Lands proposed to be annexed to the Village of Warwick may apply for an increase in density as described in subsection D below. Applications for annexation which are not seeking increased density may be subject to § 145-27.1 for Residential Cluster Development.
- D. Incentive Zoning Procedure Applicable to Annexation District. This subsection sets forth the procedure whereby an applicant for an increase in density in the Annexation District may obtain an increase in density pursuant to the authority granted to the Village under NYS Village Law §7-703.
  - 1. "As of Right Unit Count". Preliminary As of Right Unit Count is based on the conventional subdivision lot count as described in the Town of Warwick Subdivision and Zoning Regulations.
    - a. The "Preliminary - As of Right" unit count shall not exceed the number of dwelling units, that in the Village Planning Board's judgment, would be permitted if the land were subdivided into lots fully conforming with the lot size and density requirements of the Conventional Town of Warwick Zoning applicable to the property prior to its annexation into the Village of Warwick.
    - b. For this determination, the applicant shall submit a subdivision plan designed so that no waivers or variances from any provision of the Town of Warwick code shall be necessary. The plan shall show the proposed lots, house sites, streets, rights-of-way and the density based on an analysis conducted in accordance with the Town of Warwick's Environmental Control formula contained in Section 164-41.3 (Table ECF) of the Town of Warwick Zoning Code.
    - c. It is recognized that all necessary information may not be available in final format based on items such as certified surveys, two foot (2') contours, and formal wetlands delineation. In this case, the "As of Right" unit count shall be known as a "Preliminary - As of Right" unit count with a "Final - As of Right" unit count to be approved by the Town and Village Boards after all required information is available. However, this "Preliminary - As of Right" unit count will provide the Applicant, as well



as the Town and Village Boards, with a good starting point for overall density calculations.

- i. Prior to Final Subdivision or Site Plan Approval the final determination of the As of Right Unit Count must be based on certified two foot (2') contours, a Jurisdictional Delineation of the Wetlands by the US Army Corps of Engineers and the DEC as appropriate or a qualified wetlands expert where such delineation is deemed adequate by the Village of Warwick Planning Board and a certified boundary survey showing all ROW's, easements, 100 year flood plains and streams.
2. Existing Resource Map. The information required for an Existing Resource map is described in the Town of Warwick 2002 Zoning Code for Cluster Developments. A1 16441.1
3. Area Usage Plan (i.e. bubble diagram). This map shows circles or amorphous shapes that represent potential development areas.
4. Maximum Development Density for the Project. Maximum Development Density is based on ½ acre lot size in the Net Parcel Area as determined in Section 1.i. above and is calculated by dividing the Net Parcel Area by ½ acre lot size. The Final Density of the Project will be determined only after the Design Standards in Section 147-27.E have been applied. The Net Parcel area is determined by deducting the total area of the following from the gross parcel area (this calculation of Net Parcel Area relates only to the Annexation Zone and supersedes any other calculation of Net Area described in any other sections of the Village of Warwick Zoning Law):
  - a. Slopes of 15% or greater over 2000 square feet or more of contiguous based on controlled two foot (2') contours.
  - b. Federal Jurisdictional Wetlands based on the National Wetland Inventory maps or preferably a field delineation by a qualified ecological consultant. Final As of Right unit count to be confirmed based on Jurisdictional Determination by the Army Corps of Engineers.
  - c. All existing Right of Ways (ROWs) and active easements as described on the deed or survey.
  - d. All streams measured to the mean high water mark, lands under water, and 100 Year Flood Plains or Flood Hazard Area as defined by the Federal Emergency Management Agency (FEMA) from best available mapping. Final As of Right unit count to be confirmed on a certified survey.
  - e. Lands identified as sever in reference to flooding, ponding, erosion or slope by the United States Natural Resource Conservation Service.

Example:

100 acres gross parcel area – 40 acres of wetlands and steep slopes = 60 net parcel area

Maximum Development Density = 60 net acres / ½ acre density = 120 units

5. Escrow Fees. Applicant to deposit appropriate escrow fee to cover the cost of initial review as set forth in the fee schedule adopted by Village Board of Trustees.
6. Initial Meeting. Applicant and their design team shall meet informally with Village & Town Boards and Village Planning Board for general discussion of the proposed development. This is to establish a working dialogue between the Applicant and the Municipalities early in the process.
7. Environmental Impact Statement. Pursuant to NYS Village Law §7-703, an Environmental Impact Statement (EIS) must be prepared by the applicant for any zoning district where the granting of incentives or bonuses may have a significant effect on the environment as determined by the lead agency. The EIS must, at a minimum, establish the following conditions:
  - a. The "As of Right" unit count from Section 145-27D.1. above.
  - b. The Maximum Development Density from Section 145-27D 4. above.
  - c. Maximum number of development units proposed on the site.
  - d. The number of additional development units proposed to be obtained as Annexation Units from Section 8. below.
  - e. Accommodations for Affordable Housing.
    - i. A minimum of 5% to 10% additional Annexation units above the number proposed in (d) must be obtained by the developer and be designated as "Affordable" as defined by Orange County in the 2003 "Comprehensive Plan - Strategies for Quality Communities."
    - ii. The cost for these additional affordable Annexation Units shall be set at 80% of the current cost for Annexation Units as defined in 145-27D.8.a. below. Additionally, the standard Recreation Fee paid to the Village will be waived for the affordable units.
    - iii. A Deed Restriction, approved by the Village Attorney, will be placed on these units to ensure that these units can be sold only to income-qualified buyers as described in the Orange County Comprehensive Plan of 2003 and whose gross household income is equal or less than 80% of the Orange County median income based on the most recent income statistics published by the U.S. Department of Housing and Urban Development or the New York State Division of Housing and Community Development. It is the responsibility of the seller to follow the criteria set forth in the Orange county

Comprehensive Plan. The Deed Restriction will further state that when the unit is offered for sale or re-sale, the opportunity to purchase the unit will first be offered to income-qualified households selected from the following categories of preference:

- (a) Village of Warwick municipal workers.
  - (b) Village of Warwick residents who are employees of the Warwick Valley School District.
  - (c) Village of Warwick residents who are volunteer firemen or ambulance workers.
  - (d) Village of Warwick residents who are combat veterans of the armed forces.
  - (e) Town of Warwick municipal workers.
  - (f) Town of Warwick residents who are employees of the Warwick Valley School District.
  - (g) Town of Warwick residents who are volunteer firemen or ambulance workers.
  - (h) Town of Warwick residents who are combat veterans of the armed forces.
- iv. After sixty (60) days from the date on which the unit is initially offered for purchase, the opportunity to purchase may be made available to other income-qualified households.
  - v. This Deed Restriction shall remain in effect for a period of 30 years from the date of initial sale of the property.
  - vi. The Affordable Annexation Units must not be clustered together but distributed throughout the project area and constructed so as to blend into the neighborhood following the Design Standards described in Section 145-27E. below.
- f. Mitigation measures for identified impacts to environmental resources and infrastructure; this may include off-site infrastructure (water, sewer, and traffic).
  - g. The areas to be developed and the general type of development.
  - h. Need for, or lack of need for, a Home Owners Association.
8. **Provision for Increased Density.** Property in the Annexation District shall be eligible for an increase in the number of development units otherwise allowable under the "As of Right" unit count established in Section 145-27D.4 above based upon the factors disclosed in the EIS, taking into account measures designed to mitigate any adverse environmental effects, and further provided that:
- a. A fee is paid to the Village for each development unit greater than the

number of units otherwise allowed under the "As of Right" unit count, based upon the cost per Annexation Unit as set forth from time-to-time by the Warwick Village Board of Trustees and the Warwick Town Board;

- b. Adequate facilities including sewer, water and transportation are available;
  - c. The Village Planning Board subsequently approves a subdivision or Site Plan which complies with the applicable Design Standards set forth in Section 145-27.E. below.
9. **Bulk Requirements.** Bulk Requirements for development under the Incentive Zoning Procedure in the Annexation District are listed in Section 145-27.E.3. "Specific Community Design Standards."

**E. Design Standards Applicable to Annexation District.**

1. **Applicability and Waivers.** All applicable standards of this section shall be complied with, unless it is determined in the sole discretion of the Village of Warwick Planning Board that the literal enforcement of one or more standards does not advance the purpose and intent of this ordinance, are impractical or will exact undue hardships because of peculiar conditions pertaining to the tract in question. A waiver from the following standards may be granted by the Planning Board in specific cases, at its discretion, and only if it has been determined that the proposed waiver shall not create or affect any adverse impacts on the tract to be developed or on adjacent or nearby properties, and that such waiver will not materially detract from the Design Concepts intended by this ordinance. An applicant for an increase in the number of development units under this subsection shall have the burden of demonstrating that a standard is not applicable or should be waived according to the criteria specified herein.

During the review process, the Planning Board may, at its discretion, engage the services of professionals to help their review of the submitted documents. The fee for the professional will be paid from the Warwick Incentive Trust Account as prescribed by the Village-Town Intermunicipal Agreement governing annexations by the applicant upon submission of an invoice from the professional.

2. **General Community Design Standards.**
- a. A site design shall be prepared by a team of professionals including a Land Planner, a Professional Engineer, a Landscape Architect, and a Registered Architect and should incorporate the following concepts to preserve the existing features of the land to the greatest extent practical.  
  
The natural features of a site, including existing topography, natural watercourses, rock formations, significant hedgerows and mature trees, should be incorporated into the site design. The first step in any site design should be to assess the existing landscape and identify the site's

natural features. Significant cultural features, such as stone walls, should be preserved as much as possible. Development should work around these features, rather than be imposed on them. Sites that possess significant ecological properties such as aquifers, public water supply watersheds, wetlands, and streams, whose degradation would negatively affect other properties, should be developed in a manner that will effectively prevent the possibility of such degradation.

New development within the Annexation District shall strive to achieve the historic, time-honored standards and design characteristics of the existing Village of Warwick and the Hudson Valley region.

- b. A minimum of 25% percent of the gross tract area shall be reserved as common open space and/or public parks. At least fifty percent (50%) of the reserved space must be derived from Net Area of the parcel as calculated in Section 145-27.D.1.4. excluding, for this calculation, the area of any 100 ft. wetland buffer described in Section 145-27.D.1.d.
  - c. A mix of housing styles and housing of varying proportions shall be provided in order to create a variety of housing types and sizes consistent with the existing Village of Warwick and the Hudson Valley region.
  - d. Housing shall not be segregated according to unit type.
3. **Specific Design Standards.** The specific design standards for lands proposed to be annexed shall comply with the Traditional Neighborhood Design standards specified in § 145-28, subsections I through K.
- a. There shall be a mix of three residential housing types (none less than twenty percent (20%) of the total).

### **145-27.1 Residential Cluster Development in the Annexation District.**

- A. **Purposes.** A subdivision is considered an open space development when lots and dwelling units are clustered closer together than otherwise permissible in a conventional subdivision and where open space is created on the remainder of the property without increasing density for the tract as a whole. Open space developments are authorized under § 7-738 of New York State Village Law, are also referred to as conservation subdivisions or open space developments, are encouraged, and where appropriate required, herein. They are intended to be applied to lands that may be annexed to the Village in the future and that are not subject to the “Intermunicipal Agreement: Town and Village of Warwick” for the Transfer of Development Rights program. All applications for annexation shall be made to the Village Board of Trustees. The Village Board of Trustees shall refer to the application to the Planning Board for input on the appropriateness of the parcel for annexation and compliance with applicable Zoning standards for the proposed project.

The purposes of open space developments on annexed lands are as follows:

1. To provide greater economy, efficiency and convenience in the siting of services and infrastructure, including the opportunity to reduce road lengths, utility runs, and the amount of paving required;
2. To conserve important open lands, including those areas containing unique and sensitive natural features such as steep slopes, floodplains, stream corridors, and wetlands by permanently setting them aside from development;
3. To provide multiple options for landowners to minimize impacts on environmental resources and natural or cultural features such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings and sites, and fieldstone walls;
4. To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, with a strong neighborhood identity;
5. To provide for a balanced range of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups and residential preferences, so that Warwick's population diversity may be maintained;
6. To implement policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the Village Comprehensive Plan, including provisions to create a greenway trail system and other areas for active or passive recreational use for the benefit of present and future residents;
7. To conserve scenic views;
8. To promote development in harmony with the goals and objectives of the Village Comprehensive Plan; and
9. To mitigate identified environmental impacts under the State Environmental Quality Review Act (SEQR).

**B. Authorization.** Authorization is hereby granted to the Planning Board to modify applicable provisions of this Zoning Law as to lot size, lot width, depth, yard, and other applicable requirements of the Zoning Law, Subdivision Regulations and Street Specifications, as well as type of residential use, subject to the purposes, standards and procedures contained herein, so as to accommodate open space developments. Prior to filing a formal application for approval of a subdivision, the applicant shall participate in a pre-application conference. The applicant shall make a deposit, in accordance with the Village's Fee Schedule, sufficient to cover the pre-application expenses required for review by the Village's professional engineer, planner and attorney.

The Planning Board may require open space development where it finds any one (1) of the following elements present, as determined through review of an *Existing Resources Map and Site Analysis Plan* as described herein, justifying conservation of natural, cultural or historic resources, scenic features, or preservation of neighborhood character.

Village of Warwick Zoning Law

1. Slopes: slopes of fifteen percent (15%) or greater on twenty-five percent (25%) or more of the property.
2. Water resources: wetlands, aquifer and aquifer recharge areas, municipal water supply watershed areas, flood-prone areas as shown on Federal Emergency Management Agency maps, or New York State Protected Streams.
3. Agricultural lands: lands within 2,000 feet of a New York State certified Agricultural District.
4. Important Environmental Areas. Lands within or contiguous to areas identified by the Metropolitan Conservation Alliance in the Southern Wallkill Biodiversity Plan (available for the Office of the Village Clerk), areas identified as a Critical Environmental Area designated pursuant to Article 8 of the Environmental Conservation Law or other areas identified by a government agency as important for conservation purposes.
5. Designated open space areas: lands contiguous to publicly owned or designated open space areas or privately owned designated natural areas.
6. Historic structures and sites: historic structures or areas of national, state or local importance.
7. Scenic Viewsheds and Special Features: sites bordering designated State, County, Village or Village Scenic Roads, or other special features identified in the Village Comprehensive Plan.
8. Trails: existing and potential trails, bikeways, and pedestrian routes of Village, Town, County or State significance.
9. Recreation: lakes, ponds or other significant recreational areas, or opportunities or sites designated in the Village Comprehensive Plan.
10. Applicant Request: on lands where the applicant has requested approval of a open space development.

The Planning Board shall require open space development where it finds any one (1) of the following elements present:

11. Significant natural areas and features: areas with rare vegetation, significant habitats, or habitats of endangered, threatened or special concern species as determined by the New York Department of Environmental Conservation (Natural Heritage Program) or the Metropolitan Conservation Alliance's Southern Wallkill Biodiversity Plan, mature forests over 100 years old, locally important vegetation (such as trees over 24" in diameter at breast height), or unique natural or geological formations.
12. Gateway locations as identified in the Village Comprehensive Plan.

**C. Permitted, accessory and special permit uses:**

1. Permitted, accessory and special permit uses within an open space development shall be the same as those otherwise allowed in the zoning district in which the

development is located. As an alternative to single-family detached dwellings, townhouse style architecture is also permitted in open space developments provided common areas are in condominium or cooperative ownership and subject to review by the Village Attorney.

2. Open space land, comprising a portion of the open space development, as defined in § 145-27.1.J.

**D. Density.** The permitted number of dwelling units shall not exceed the number of units that, in the Planning Board's judgment, would be permitted if the land were subdivided into lots fully conforming to the minimum lot size and density requirements of this chapter applicable to the district or districts in which such land is situated and conforming to all other requirements of the Village of Warwick Code. To determine density, the applicant shall submit a Yield Plan, designed so that no waivers from any provision of the Village of Warwick Code shall be necessary and meeting the following requirements:

1. Yield Plans shall be prepared as a conceptual sketch plan in accordance with the minimum lot sizes and other development standards for the Zoning district involved.
2. Yield plans shall show proposed lots, streets, rights-of-way, and other pertinent features.
3. A fully engineered yield subdivision plan that meets all of the requirements of the Zoning Law, Subdivision Regulations, and Street Specifications to determine lot yield.
  - a. Fully engineered yield subdivision plans shall include conceptual drainage designs, and shall be designed so that no waivers or variances from any provision of the Village of Warwick Code shall be necessary.
  - b. Fully engineered yield subdivision plans shall be realistic and must not show potential house sites or streets in areas that would not ordinarily be legally permitted in a conventional subdivision. If necessary, the Planning Board may require the applicant to provide an analysis of potential compatibility or incompatibility of the yield plan with the "Standards for Issuance of Permits and Letters of Permission" found in 6 NYCRR 663.5 when sites involve State protected freshwater wetlands or other resources for which discretionary permits would be required. Any lands which are subject to flooding or are comprised of wetlands and a 100 foot upland buffer area, ponds, streams or slopes in excess of fifteen percent (15%), and prime agricultural soils shall not be considered suitable for building development for purposes of this analysis. All minimum front, side and rear yard requirements must be satisfied by measurement wholly on dry land, except to the extent which may be permitted by any other section of this Zoning Law.

**E. Open space development design process.** The first step in the open space design process is for an applicant to submit an *Existing Resources Map and Site Analysis Plan* and



participate in a conceptual pre-application discussion with the Planning Board. The second step is to submit a sketch plan showing an open space layout that is responsive to the pre-application discussion with the Planning Board. The *Existing Resources Map and Site Analysis Plan* must be on a separate map from the Sketch Plan. The maximum permissible number of lots in an open space development will be based on the yield plans and will be the basis for the open space layout. This layout shall include an identification of primary and secondary conservation lands within a parcel(s), which includes those elements most highly valued by the community. Illustrations of the design process are provided herein to assist applicants and landowners.

1. Sketch Plan. A Sketch Plan shall be submitted by the applicant as a diagrammatic basis for informal discussions with the Planning Board regarding the design of a proposed subdivision or land development. The purpose of a sketch plan is to facilitate an expedient review of proposed new subdivisions in conformance with the Village Zoning Law and Comprehensive Plan. Sketch Plan submission is a way to help applicants and Planning Board members develop a better understanding of the property and to help establish an overall design approach that respects its special or noteworthy features, while providing for the density permitted under the Zoning Law. To provide a full understanding of the site's potential and to facilitate the most effective exchange with the Planning Board, the Sketch Plan shall include the information listed below. Many of these items can be taken from the *Existing Resources and Site Analysis Plan*, a document that must in any case be prepared and submitted no later than the date of the Site Inspection, which precedes the Preliminary Plan.
  - a. The information required by the Village Subdivision Regulations;
  - b. 100-year floodplain limits, and approximate location of State and/or Federal wetlands, if any;
  - c. Topographical and physical features, including existing structures, wooded areas, hedgerows and other significant vegetation, steep slopes (over 15%), soil types, ponds, streams within two hundred (200) feet of the tract, and existing rights-of-way and easements;
  - d. Schematic layout indicating a general concept for land conservation and development ("bubble" format is acceptable for this delineation of conservation areas); and
  - e. In the case of land development plans, proposed general layout, including building locations, parking lots, and open spaces.
  - f. Site Context Map. A map showing the location of the proposed subdivision within its neighborhood context shall be submitted. For all sites, such maps shall be at a scale not less than 1"= 1000', and shall show the relationship of the subject property to natural and man-made features existing within 2,000 feet of the site. The features that shall be shown on Site Context Maps include topography and streams (from

USGS maps), State and/or Federal wetlands, woodlands over one-half acre in area (from aerial photographs), ridgelines, public roads and trails, utility easements and rights of way, public land, and land protected under conservation easements.

2. Preliminary Plan Documents. A preliminary open space development plan shall consist of and be prepared in accordance with the following requirements, which are designed to supplement and, where appropriate, replace the requirements of the Village of Warwick Subdivision Regulations:
  - a. Preliminary Plan. The submission requirements for a Preliminary Plan include the requirements for Sketch Plans listed in § 145-27.1E(1) above and;
  - b. The submission requirements of the Subdivision Regulations, and;
  - c. Existing Resources and Site Analysis Plan. For all open space developments (except those in which all proposed lots are to be ten or more acres in area), an *Existing Resources and Site Analysis Plan* shall be prepared to provide the developer and the Planning Board with a comprehensive analysis of existing conditions, both on the proposed development site and within 500 feet of the site. The *Existing Resources and Site Analysis Plan* becomes the basis for the four-step design process. Conditions beyond the parcel boundaries may be described on the basis of existing published data available from governmental agencies, and from aerial photographs.

The Planning Board shall review the Plan to assess its accuracy and thoroughness. Unless otherwise specified by the Planning Board, such plans shall be prepared at the scale of 1"=100' or 1"=200', whichever would fit best on a single standard size sheet. The following information shall be included in this Plan:

- (1) Topography, the contour lines of which shall be at two-foot intervals, determined by photogrammetry (although 10-foot intervals are permissible beyond the parcel boundaries, interpolated from published USGS maps). The determination of appropriate contour intervals shall be made by the Planning Board, which may specify greater or lesser intervals on exceptionally steep or flat sites. Slopes greater than fifteen percent (15%) shall be clearly indicated. Topography for major subdivisions shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official USGS benchmarks.
- (2) The location and delineation of ponds, streams, and natural drainage swales as well as the 100-year floodplains and wetlands,

as defined by the State of New York and the US Army Corps of Engineers.

- (3) Vegetative cover conditions on the property according to general cover type including cultivated land, permanent grass land, old field, hedgerow, woodland and wetland, isolated trees with a caliper in excess of twelve (12) inches, the actual canopy line of existing trees and woodlands. Vegetative types shall be described by plant community, relative age and condition.
  - (4) Soil series, types and phases, as mapped by the U.S. Department of Agriculture, Natural Resources Conservation Service in the Orange County Soil Survey, and accompanying data published for each soil relating to its suitability for construction (and, in unsewered areas, for septic suitability).
  - (5) Ridge lines and watershed boundaries shall be identified, if any exist.
  - (6) A viewshed analysis showing the location and extent of views into the property from public roads and from public parks, public forests, and other designated open space areas.
  - (7) Geologic formations on the proposed development parcel, based on available published information or more detailed data obtained by the applicant.
  - (8) The location and dimensions of all existing streets, roads, buildings, utilities and other man-made improvements.
  - (9) Locations of all historically significant sites or structures on the tract and on any abutting tract.
  - (10) Locations of trails that have been in public use (pedestrian, equestrian, bicycle, etc.) or proposed in the Village Comprehensive Plan.
  - (11) All easements and other encumbrances of property which are or have been filed of record with the Orange County Clerk's Office shall be shown on the plan.
3. Four-Step Design Process for Open space developments. All sketch plans shall include Step 1 of the four step design process. All preliminary plans shall include documentation of a four-step design process in determining the layout of proposed open space lands, house sites, streets and lot lines, as described below.
- a. Step 1: Delineation of Open Space Lands. Proposed open space lands shall be designated using the *Existing Resources and Site Analysis Plan* as a base map and complying with § 145-27.1E(2)(c) and the Subdivision Regulations, dealing with Resource Conservation and Greenway Delineation Standards. The Village's *Comprehensive Plan* shall also be

considered. Primary Conservation Areas shall be delineated comprising floodplains, wetlands and slopes over twenty-five percent (25%) as shown by example on Figure 11a. Secondary Conservation Areas shall be delineated comprising the resources listed in § 145-27.1E(2)(c) and as shown by example on Figure 11b. The applicant shall prioritize natural and cultural resources on the tract in terms of their highest to least suitability for inclusion in the proposed open

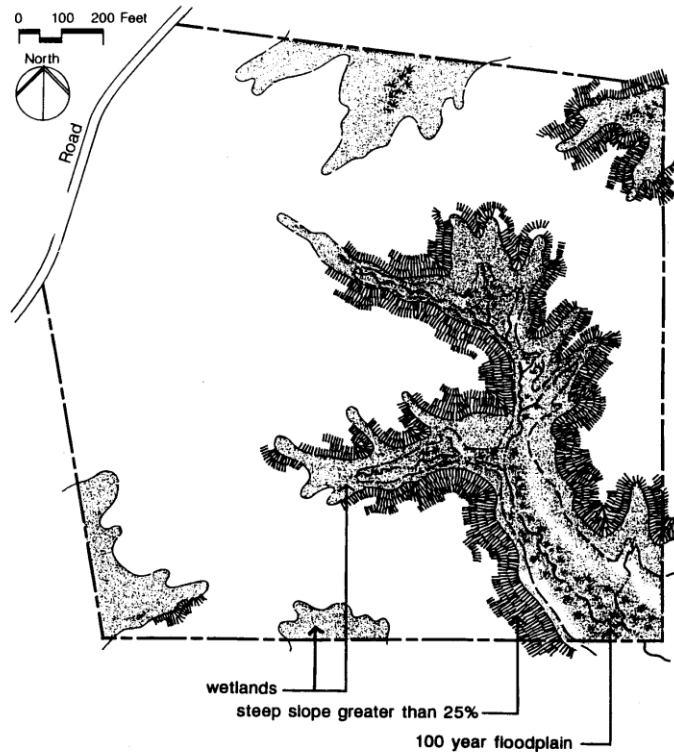


Figure 11a. Primary Conservation Areas

- Primary conservation areas include:
- Freshwater wetlands and ponds
- Steep slope areas of 25% or more
- 100 year floodplains
- Streams

space, in consultation with the Planning Board after a site inspection, to create a prioritized list of resources to be conserved.

On the basis of those priorities and practical considerations given to the tract's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives, Secondary Conservation Areas shall be delineated (see Figure 11b) to meet at least the minimum area percentage requirements for

open space lands and in a manner clearly indicating their boundaries as well as the types of resources included within them. Calculations shall be provided indicating the applicant's compliance with the acreage requirements for open space areas on the tract. The result is shown on Figure 11c, potential development areas. If the secondary conservation areas include active agricultural lands or contain soils classified within soil group one (1) through four (4) of the New York State Land Classification System, the siting guidelines found in § 145-27.1D shall be followed in the design process.

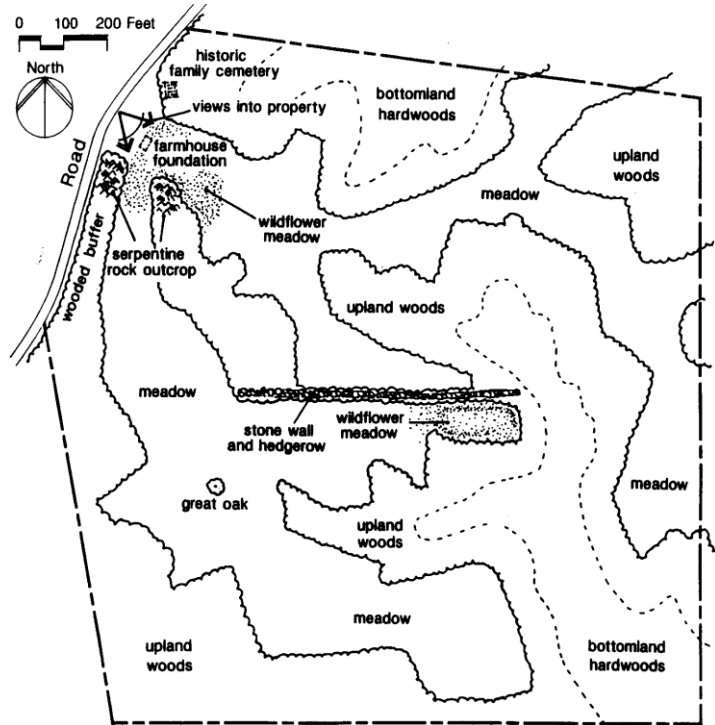


Figure 11b. Secondary Conservation Areas

- Secondary conservation areas include
- Roads & trails
- Structures including foundations
- Stone walls and hedgerows
- Vegetation types by community
- Isolated trees
- Views to and from the site
- Steep slopes of 15 to 25%
- Active agricultural lands & soil groups 1-4

- b. Step 2: Location of House Sites. Potential house sites shall be tentatively located (see Figure 12), using the proposed open space lands as a base map as well as other relevant data on the *Existing Resources and Site Analysis Plan* such as topography and soils. House sites should

generally be located not closer than 100 feet from Primary Conservation Areas and 50 feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of residential development on such areas as well as the potential positive benefits of such locations to provide attractive views and visual settings for residences.

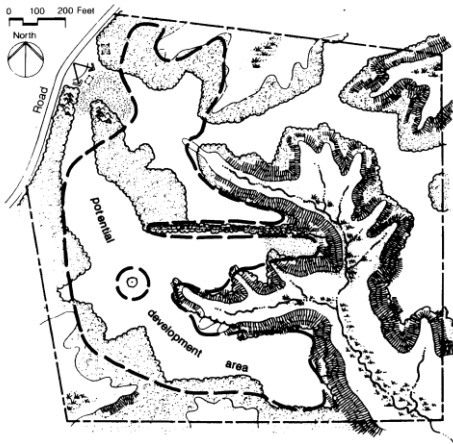


Figure 11c. Potential Development Areas

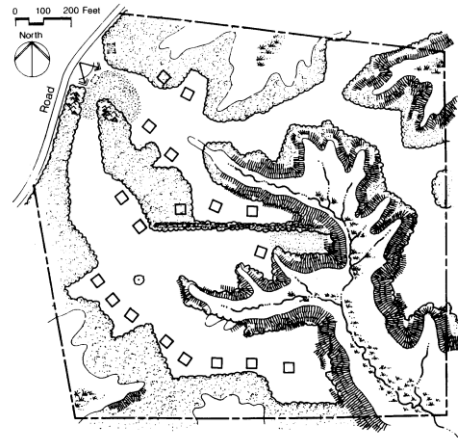


Figure 12. House Sites

- c. Step 3: Alignment of Streets and Trails. Upon designating the house sites, a street plan shall be designed to provide vehicular access to each house, complying with the standards identified herein and bearing a logical relationship to topographic conditions as illustrated in Figure 13. Impacts of the street plan on proposed open space lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and traversing slopes exceeding 15%. Existing and future street connections are encouraged to eliminate the number of new cul-de-sacs to be maintained by the Village and to facilitate access to and from homes in different parts of the tract and adjoining parcels. Cul-de-sacs are appropriate only when they support greater open space conservation or provide extensive pedestrian linkages.
- d. Step 4: Drawing In the Lot Lines. Upon completion of the preceding three steps, lot lines are drawn as required to delineate the boundaries of individual residential lots – see Figure 14.



Figure 13. Aligning Streets and Trails

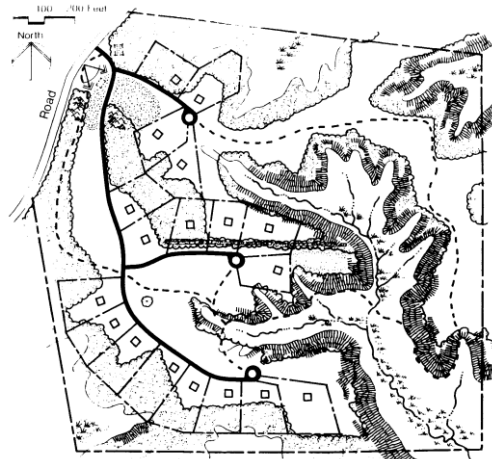


Figure 14. Drawing in the Lot Lines

- e. Where traditional streetscapes and "terminal vistas" are of great importance, Steps Two and Three may be reversed, so that streets and squares are located during the second step, and house sites are located immediately thereafter. The first step is to identify open space lands, including both Primary and Secondary Conservation Areas.
- F. Dimensional standards.** Except as specified herein, all dimensional standards normally applicable to other subdivisions and uses shall also be applicable to open space development.
1. Minimum required open space: In all Zoning districts, an open space development must preserve at least fifty percent (50%) of the tract's developed acreage as open space land. Parking areas and roads shall not be included in the calculation of the minimum required open space.
  2. Minimum lot width at building line: 50 feet.
  3. Yard regulations: the builder or developer is urged to consider variations in the principal building position and orientation, but shall observe the following minimum standards:
    - Front yard: 15 feet
    - Rear yard: 25 feet
    - Side yard: 10 feet separation for principal buildings
  4. Maximum impervious coverage. No more than thirty-five percent (35 %) of any given acre shall be covered with impervious surface in the form of access drives, parking areas or structures.

5. Minimum lot size. The minimum lot size shall be five thousand (5000) square feet per single-family unit. Attached or townhouse style units shall be in condominium, cooperative, or other acceptable ownership options.

**G. Open space standards:**

1. The required open space land consists of a combination of Primary Conservation Areas and Secondary Conservation Areas. Primary Conservation Areas include freshwater wetlands and ponds with a one hundred (100) foot surrounding buffer area where practical, streams, lands within the 100-year floodplain, unbuildable lands with hydric or other unsuitable soils, and lands having slopes of fifteen percent (15%) or more. The proposed subdivision design shall strictly minimize disturbance of these environmentally sensitive areas. Primary Conservation Areas shall be included in the required open space area to the greatest extent practical. The applicant shall also demonstrate that such features will be protected by the proposed subdivision plan. Secondary Conservation Areas include special features of the property that would ordinarily be overlooked or ignored during the design process such as agricultural lands, woodlands, significant natural areas and features, stone walls, hedgerows, meadows, historic structures and sites, historic rural corridors, scenic viewsheds, and trails. Secondary Conservation Areas shall be included in the required open space area to the greatest extent practical such that protecting these resources will, in the judgment of the Planning Board, achieve the purposes of this section.
2. Open space lands shall be laid out in general accordance with the Village Comprehensive Plan to better enable an interconnected network of open space.
3. A recreational fee in lieu of land, as set forth in the Village's fee schedule, shall be imposed to accommodate the foreseeable recreational needs of the proposed subdivision's residents. Upon the recommendation of the Planning Board and where the Village Board of Trustees deems it appropriate for land to be deeded for recreational purposes, up to ten percent (10%) of the total acreage may be subject to the Village's recreational land dedication requirement. Typically, this acreage will be used to provide potential connections within the Village's long-range trail network.
4. Active agricultural land with farm buildings may be used to meet the minimum required open space land. Access to open space land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations. Land used for agricultural purposes shall be buffered from residential uses, either bordering or within the tract, by a minimum setback of at least two hundred (200) feet and if practical three hundred (300) feet deep. No clearing of trees or understory growth shall be permitted in this setback (except as may be necessary for street or trail construction). Where this buffer is unwooded, the Planning Board may require vegetative screening to be planted, or that it be managed to encourage natural forest succession through



“no-mow” policies and the periodic removal of invasive alien plant and tree species.

5. Open space land should generally remain undivided. No individual parcel of common open space shall be less than one (1) acre except as to roadway median strips, traffic islands, walkways, trails, courtyards, play areas, recreation facilities, drainageways leading directly to streams, historic sites or unique natural features requiring common ownership protection.
6. No portion of any house lot may be used for meeting the minimum required open space land unless encumbered with a conservation restriction.

**H. House lot standards.** Development areas for the location of house lots include the necessary building envelope for each dwelling unit, constituting the remaining lands of the tract outside of the designated open space areas. House lots shall be designed in accordance with the following standards:

1. House lots shall not encroach upon Primary Conservation Areas and their layout shall respect Secondary Conservation Areas.
2. All new dwellings shall meet the following setback requirements to the greatest extent practicable:
  - a. From agricultural lands either bordering or within the tract 200 feet
  - b. From buildings or barnyards housing livestock 300 feet
  - c. From active recreation areas such as courts or playing fields (not including tot lots) 150 feet
3. Views of house lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping which meets the landscaping requirements of the Zoning Law and Subdivision Regulations.
4. House lots shall generally be accessed from interior streets, rather than from roads bordering the tract. New intersections with existing public roads shall be minimized. Although two access ways into and out of subdivisions containing twenty (20) or more dwellings are generally required for safety, proposals for more than two entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow or unduly impact the environment.
5. At least three-quarters of the lots shall directly abut or face conserved open space, if practical.

**I. Streets and driveways.**

1. Common driveway access may be provided to serve up to six (6) dwellings. Common driveways should be 16 feet wide or, at a minimum, provide for vehicle pull-offs that are 16 feet in width at intervals no less than every 500 feet. A pedestrian circulation and/or trail system shall be designated and installed sufficient for the needs of residents, as deemed practical by the Planning Board.

2. Open space development streets shall meet the Village Street Specifications, unless access arrangements have been made in accordance with § 7-732 of New York State Village Law. Open space developments containing twenty (20) lots or more shall have at least two (2) connections with existing streets or streets on an approved subdivision plat for which a bond has been filed. Regardless of the street design employed, the applicant shall demonstrate and the Planning Board shall find that emergency services access is adequate for the number of dwellings proposed.
3. Straight segments connected by 90 degree and 135 degree bends are preferred.
4. Whenever appropriate, street systems should produce terminal vistas of open space in accordance with the conservation emphasis of the open space development design and to positively contribute to the open space goals of the Village.
5. The use of reverse curves should be considered for local access streets in open space developments in conjunction with long horizontal curve radii (at least 250 feet) and where traffic speeds will not exceed 30 mph.
6. Single-loaded streets are encouraged alongside conservation areas to provide views of the conservation lands for residents and visitors.
7. Street trees may be required, depending upon the open or wooded character of the parcel, in accordance with the Subdivision Regulations.

**J. Permanent protection of open space.** Conservation easements are the preferred method to protect open space under Article 49 of the New York State Environmental Conservation Law. In all cases, the permanent preservation of such open space shall be legally assured to the satisfaction of the Planning Board and Village Attorney and the Village Board shall be granted third party enforcement rights to enforce the terms of the conservation restriction. The following regulations shall apply:

1. If a conservation easement is proposed, the conservation easement shall be titled to a private conservation organization provided that:
  - a. The conservation organization is acceptable to the Village and is a *bona fide* conservation organization as defined in Article 49 of the New York State Environmental Conservation Law;
  - b. The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the conservation organization becomes unwilling or unable to continue carrying out its functions; and
  - c. A maintenance agreement acceptable to the Village is established between the owner and the conservation organization to insure perpetual maintenance of the open space.
2. The conservation restriction shall permanently restrict the open space from future subdivision, shall define the range of permitted activities, and shall give the Village the ability to enforce these restrictions. Under no circumstances

shall any development be permitted in the open space at any time, except for the following uses:

- a. Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow). The clearing of woodland shall generally be prohibited, except as necessary to create trails and active recreation facilities. The determination of necessity shall lie with the Planning Board.
  - b. Game preserve, wildlife sanctuary, or other similar conservation use.
  - c. Woodlots, arboreta, agriculture and silviculture in keeping with established standards for best management practices, selective harvesting, and sustained-yield forestry.
  - d. Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Planning Board.
  - e. Active non-commercial recreation areas, such as playing fields, playgrounds, and courts, provided such areas do not consume more than half of the minimum required open space land or five acres, whichever is less. Playing fields, playgrounds, and courts shall not be located within 150 feet of abutting properties nor shall such facilities be equipped with lighting. Parking facilities for the same shall also be permitted, and they shall generally be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain no more than ten parking spaces. Such recreation uses may be a public park or recreation area owned and operated by a public or private nonprofit agency, but shall not include storage of materials, trucking or repair facilities, or private or municipal sanitary landfills.
  - f. Stormwater detention areas designed, landscaped, and available for use as an integral part of the open space area.
  - g. Easements for drainage; access, sewer or water lines, or other public purposes.
  - h. Underground utility rights-of-way. Above ground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required open space land.
- K. Ownership of open space land and common facilities.** The following methods may be used, either individually or in combination, for ownership of open space land (exclusive of its conservation easement) and common facilities. Open space trails may be initially offered for dedication to the Village. Open space land and common facilities shall not be transferred to another entity except for transfer to another

method of ownership permitted under this section. Ownership methods shall conform to the following:

- (1) Fee simple dedication to the Village. The Village may, but shall not be required to, accept any portion of the open space land and common facilities, provided that:
  - (a) There is no substantial cost of acquisition to the Village; and
  - (b) the Village agrees to and has access to maintain such facilities; and
  - (c) such facilities for public use shall be accessible to residents of the Village.
- (2) Homeowners' Association. Open space land and common facilities may be held in common ownership by a homeowners' association, subject to all of the provisions for homeowners' associations set forth in New York State regulations. In addition, the following regulations shall be met:
  - (a) The applicant shall provide the Village with a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities.
  - (b) The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units in the development.
  - (c) Membership in the association shall be mandatory for each property owner within the subdivision and successive owners in title with voting rights of one vote per lot or unit, and the subdivider's control, therefore, passing to the individual lot/unit owners on sale of the majority of the lots or units.
  - (d) The association shall be responsible for liability insurance, local taxes and maintenance of open space land, recreational facilities and other commonly held facilities.
  - (e) The by-laws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in his or her dues. Such dues shall be paid with the accrued interest before the lien may be lifted.
  - (f) Written notice of any proposed transfer of common facilities by the association or the assumption of maintenance for common facilities must be given to all members of the association and to the Village no less than thirty (30) days prior to such event.
  - (g) The association shall have adequate resources to administer, maintain, and operate such common facilities.

- (3) Non-common private ownership. The required open space land may be included within one or more large “conservancy lots” provided the open space is permanently restricted from future development.
- L. **Maintenance.** Unless otherwise agreed to by the Planning Board, the cost and responsibility of maintaining common open space and facilities shall be borne by the homeowners’ association, conservation organization, private owner, or, in the case of open space and facilities deeded to the Village, the municipality.

## **145-28 Traditional Neighborhood Design Overlay District**

- A. **Intent.** The purpose of the Traditional Neighborhood Design Overlay District (TND-O) is to provide for the development of new neighborhoods and the revitalization and expansion of existing neighborhoods in a manner that promotes diversity in housing type and size, provides for multiple transportation options, mixed uses and civic functions consistent with the historic development patterns of the Village. The TND-O District promotes the physical, visual, and social characteristics of the Village where people live, work and shop within a walkable pedestrian-oriented area.

TNDs are subject to review and approval by the Village Board of Trustees in accordance with the provisions of § 145-28.D. A Concept Plan is created first as an illustrative design for the overall future development of a traditional neighborhood. The Concept Plan is not a final design plan but is intended to serve as a template for the application of specified design principles in order to achieve a desired form and appearance of developments. By creating a long-term plan, some impacts may be prevented that would have occurred with uncoordinated piecemeal expansion. The development of a Concept Plan is intended to provide the surrounding community and the Village with information about, and an opportunity to comment on, the traditional neighborhood’s future development. The plan also allows the developer of the TND and the Village to address the effects of future development. Finally, an approved TND Concept Plan is intended to ensure that the uses will be allowed to develop in a manner consistent with the plan. Concept plans may be completed at various levels of detail. Generally, the more specific the plan, the less review will be required as the future permitted and specially permitted uses are built. All TNDs, are subject to approval by the Village Board of Trustees, and then are subject to Site Plan, Subdivision, and where required, Conditional Use Permit approval by the Village Planning Board.

- B. **Purpose.** The purposes of the Traditional Neighborhood Design District are to:
  - 1. Preserve and foster the distinctive sense of place of the Village of Warwick.
  - 2. Ensure that future development conforms to the traditional compact, pedestrian-oriented and mixed-use neighborhood pattern of the existing Village.
  - 3. Create a range of housing opportunities and choices.

4. Extend walkable, mixed-use neighborhoods.
5. Distribute a range of open space including greens, squares and playgrounds within neighborhoods.
6. Provide a variety of transportation choices, reduce traffic congestion and allow independence to those who do not drive by ensuring that daily living activities occur within walking distance of most dwellings.
7. Encourage community and stakeholder collaboration in development decisions.
8. Take advantage of compact building design.
9. Make development decisions predictable, fair and cost-effective.
10. Ensure that the TNDs are village-like in form and scale and comprise open space, trails and a pedestrian-friendly environment.
11. Work towards fulfillment of the policies established by the Hudson River Valley Greenway and as espoused by Duany Plater-Zyberk & Company, the original authors of the “SmartCode” upon which portions of this Section of the Zoning Law has been based.

**C. Applicability**

1. The TND-O applies to parcels that have been designated within the TND-O District as illustrated on the Village of Warwick Zoning Districts Map.
2. All other provisions of the Village of Warwick Zoning Law and Subdivision Regulations continue to be applicable to issues not covered by this Article except where these would contradict the Intent and Purposes Sections, in which case the conflict shall be resolved in favor of this Article.
3. The use of the following three terms are integral to the effectiveness of this Article whereby “shall” indicates the provision is required, “should” is utilized when a provision is recommended, and “may” notes when a provision is optional.
4. In the event of any conflict, the provisions of this Article shall take precedence over those of other Village of Warwick codes, ordinances, regulations and standards.
5. Terms used throughout this Article shall take their commonly accepted meanings unless defined in § 145-180. In the event of conflict between these definitions and those of other Village of Warwick Laws and regulations, use of this Article shall take precedence.

**D. Application Procedure**

1. TNDs are first subject to approval of an overall Concept Plan by the Village Board of Trustees for lands within the TND-O Zoning District. The TND-O Zoning District does not affect the underlying Zoning District provisions. If applicants wish to avail themselves of the density and other bonuses available for TND developments, then an application for Concept Plan review and

approval shall be made to the Village Board of Trustees. The use of a collaborative charrette planning process, modeled on the guidelines and standards established by the National Charrette Institute (NCI), is required for the development of the Concept Plan. The Village Board shall assure full opportunity for public participation in the development of the Concept Plan.

2. The applicant shall submit to the Village Board of Trustees a Concept Plan that includes all of the following components:
  - a. General Statement. The Concept Plan shall include a narrative which describes how the proposal serves the purposes of the district as outlined in § 145-28.B. This narrative shall include information about potential phasing, an explanation of how the proposal complies with the design standards set forth herein, a description of the housing mix including affordable units and other proposed uses, and a discussion of compliance with the Leadership in Energy and Environmental Design (LEED) for New Construction and LEED for Homes Green Building Rating System standards.
  - b. Environmental Analysis. The Concept Plan shall include a map showing New York State protected freshwater wetlands, Federal jurisdictional wetlands, streams, 100 year floodplains, biodiversity conservation areas as identified by the Metropolitan Conservation Alliance in their *Southern Wallkill Biodiversity Plan* (which is on file in the Office of the Village Clerk), areas of fifteen percent (15%) and greater slope, and such other environmental features and development limitations that would affect development of the site.
  - c. Request for Incentives. If the applicant is requesting a density bonus in accordance with § 145-28.H, then all required materials as outlined in such Section shall be submitted as part of the Concept Plan.
  - d. Site Plan. The Concept Plan shall include an illustrative Site Plan, showing at an appropriate level of detail, buildings and other structures; the pedestrian, bicycle, and vehicle circulation system; vehicle parking areas; open space areas; and other required items. The conceptual Site Plan shall be designed to be an illustrative plan that can serve as a template for the application of specified design principles in order to achieve a desired form and appearance of development. The information provided shall include the following:
    - (1) All improvements planned in conjunction with the proposed uses including general locations, layout, and dimensions of structures, parking areas, streets, utilities, recreation areas, conservation areas, and other information necessary to demonstrate compliance with the requirements of Subsection (2)(a) above, including square footage of building floor area, numbers of residential units, and impervious surface coverage.

- (2) Conceptual plans for possible future uses.
  - (3) Project phasing. Project phasing is a means to provide transportation, water supply, wastewater, emergency, school and other accommodations sufficient to meet the needs of proposed residential and commercial uses. The phasing plan shall include the proposed sequence of phasing of the construction of infrastructure and buildings and the ratio of residential, retail, and other non-residential floor space to be built in each phase, estimated dates, and interim uses of property awaiting development. In addition the plan should address any proposed temporary uses or locations of uses during construction periods.
  - (4) Fiscal impact. A standard fiscal impact model, such as the one described in Rutgers University's Center for Urban Policy Research publication entitled *The Fiscal Impact Handbook*, may be used to describe such fiscal effects.
  - (5) Projected transportation impacts. These include the expected number of trips (peak and daily), an analysis of the impact of those trips on the adjacent street system, and proposed mitigation measures to limit any projected negative impacts. Mitigation measures may include improvements to the street system or specific programs to reduce traffic impacts such as encouraging the use of public transit, carpools, vanpools, pedestrian and bicycle facilities as well as proposed connections to existing or planned pedestrian and bicycle facilities, and other alternatives to single occupancy vehicles.
- e. SEQR – DGEIS. The Concept Plan shall be subject to review of a Draft Generic Environmental Impact Statement under SEQR. The level of detail provided should reflect the degree to which the applicant has refined their conceptual plans. The level of detail provided in the DGEIS may affect the site-specific SEQR review required at the Site Plan, Subdivision Plan and Conditional Use Permit review stages. When more site-specific information is provided at the DGEIS stage, lesser information may be required at the site-specific SEQR review stage. In any case, the 6 NYCRR 617 review procedures for generic environmental impact statements shall govern the generic and site specific review processes.
- f. Planning Board. If the Village Board receives a proposal for approval of a TND Concept Plan, the Village Board shall refer such Concept Plan to the Village Planning Board for its review and recommendations. The Planning Board shall review the TND Concept Plan and shall discuss it with the applicant at a regular meeting. The Planning Board may invite informal public comment at such a meeting. The Planning



Board shall report its recommendations to the Village Board within sixty (60) days after its next regularly scheduled meeting following the date of such referral of the proposed Concept Plan. The Planning Board's recommendation may be to adopt, adopt with modifications, or reject the proposed TND Concept Plan. If the Planning Board fails to report within sixty (60) days, it shall be deemed to have no objections.

- g. Architectural and Historic District Review Board. If the Village Board receives a proposal for approval of a TND Concept Plan, the Village Board shall refer such Concept Plan to the Village Architectural and Historic District Review Board (AHDRB) for its review and recommendation. The AHDRB shall report its recommendation to the Village Board within sixty (60) days after its next regularly scheduled meeting following the date of such referral of the proposed Concept Plan. The AHDRB's recommendation may be to adopt, adopt with modifications, or reject the proposed traditional neighborhood Concept Plan. If the AHDRB fails to report within (sixty) 60 days, it shall be deemed to have no objections.
- h. Public Hearing. Prior to approving a TND Concept Plan, the Village Board shall hold a public hearing on the Concept Plan. If the Planning Board or the AHDRB provides a report recommendation to the Village Board, as provided for in § 145-28.D(f) and (g), said reports shall become an official part of the minutes of the public hearing.
- i. Village Board Action. The Village Board shall refer the application to the Orange County Department of Planning, under Section 239-m of General Municipal Law, prior to taking action on the application. Following completion of the public hearing and the Generic SEQR review process, the Village Board may act to approve, approve with modifications or conditions, or disapprove the TND Concept Plan application in the exercise of its sole legal discretion.
- j. Development Plan; Planning Board Approval. Prior to the issuance of any building permit within a TND-O District, detailed Site Plan, conditional use permit application (as applicable) and subdivision plans shall be approved by the Planning Board in accordance with the Site Plan Review provisions of Article IX of the Village Zoning Law, the Conditional Use Approval provisions of Article XI of the Village Zoning Law, and the Subdivision Regulations, and no building or other site development shall be carried out except in conformity with such approved plans and permits.
  - (1) The Planning Board shall not approve any subdivision plan for a TND unless said Board finds that the plan is in substantial conformance with the Concept Plan which served as the basis for the Village Board approval. If the Planning Board finds substantial differences from the Concept Plan, the Planning

Board shall refer the proposed plan to the Village Board for review and re-approval.

(2) The Planning Board shall not approve any Site Plan for a TND unless said Board finds that the Site Plan is in substantial conformance with the Concept Plan which served as the basis for the Village Board approval. If the Planning Board finds substantial differences from the Concept Plan, the Planning Board shall refer the proposed plan to the Village Board for review and re-approval.

(3) The Planning Board shall not approve any conditional use permit for a TND unless said Board finds that the use is in substantial conformance with the Concept Plan which served as the basis for the Village Board approval. If the Planning Board finds substantial differences from the Concept Plan, the Planning Board shall refer the proposed plan to the Village Board for review and re-approval.

E. **Uses.** The TND-O is a mixed use zone where the land is devoted to residential and non-residential uses. The TND-O is designed to be flexible so that the Village Board and the applicant can adjust the balance of uses to best serve the needs of present and future residents of the Village. The broad mix of uses is to include residential, retail, office, lodging and others as identified in Table 1 below. The TND-O is normally composed of two areas, the residential mixed-use and the commercial mixed-use areas. The commercial mixed-use areas are intended to be, but are not required to be, composed of mixed-use building types that accommodate retail, offices, and dwellings including townhouses, lodging and apartments. This area is a tight network of streets and blocks with sidewalks, street tree planting and buildings set close to the frontages. The residential mixed-use areas are intended to be, but are not required to be, composed of primarily residential uses with mixed uses usually confined to certain corner locations. The residential mixed-use areas have a wide range of building types including single-family, two-family and townhouses. Setbacks and street tree settings are variable.

The geographic determination and scope of the commercial mixed-use and Residential mixed-use areas within a TND shall be made through the Concept Plan approval process described in § 145-28D. There shall be full opportunity for public participation in the geographic determination and scope of the commercial mixed-use and residential mixed-use areas during preparation of the Concept Plan.

Village of Warwick Zoning Law

Table 1: TND Permitted Uses:					
Residential	Lodging <sup>1</sup>	Office <sup>2</sup>	Retail <sup>3</sup>	Civic	Other
Single family (detached)	Inn, up to 50 rooms	Business, professional, governmental office	Open market	Village buildings	Utilities – transmission lines, sub stations
Multiple residence	Bed & Breakfast	Live-work	Retail	Fountain or public art	Fire/police station/ambulance
Townhouse		Accessory home professional office	Display gallery	Library, museum	Funeral home/mortuary
Two-family			Eating & drinking establishment	Playground	Elementary school
Cottage			Kiosk	Churches/places of worship	Nursery school
Residential professional office			Personal service	Bus shelter	Home occupation
Residences on 2 <sup>nd</sup> & 3 <sup>rd</sup> floor of buildings					

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<sup>1</sup> For an Inn, the maximum length of stay shall not exceed thirty (30) days. Inns shall not include a formula business as defined herein.

<sup>2</sup> The building area available for office use on each lot is limited to the first story of the principal building and/or the ancillary building.

<sup>3</sup> The building area available for retail use is limited to the first story of buildings at corner locations, not more than one per block. The specific use shall be further limited to a neighborhood store or food service seating no more than 40.

Table 2: TND Conditional Uses					
Residential	Lodging	Office	Retail	Civic	Other
Temporary tenant				Surface parking lot	
Class 2 Home Occupation					Medical clinic
Accessory dwelling unit					Cemetery
					Jr. & Sr. High school, College
					Electric substation

F. **VariANCES.** The following standards and provisions shall not be made available for variances:

1. The maximum dimensions of traffic lanes.
2. The minimum residential densities.
3. The permission to build ancillary apartments.
4. The requirements of parking location.

G. **Base Residential Density.** The overall density of the site shall be calculated in terms of housing units based upon the Net Site Area as determined below. Once the overall density has been determined, units will be converted into other permitted uses to achieve the desired mix of land uses within the project.

1. Density shall be calculated based on the Net Site Area. The Net Site Area is the acreage that remains after subtracting:
  - a. New York State protected freshwater wetlands and their associated one hundred foot (100') adjacent buffer area
  - b. Federal jurisdictional wetlands
  - c. Streams
  - d. 100-year floodplains
  - e. Areas of slopes 15% gradient and greater
  - f. 10% of the gross site area assigned to civic space.

2. The overall density shall be calculated as follows. For purposes of density calculation, the Net Site Area shall include the thoroughfares (i.e., there is no deduction for a roadway allowance) but not land allocated to civic use.
  - a. For the residential mixed-use areas, overall density is calculated in terms of housing units at 4 units per Net Site Area acreage.
  - b. For the commercial mixed-use areas, overall density is calculated in terms of housing units at 6 units per Net Site Area acreage.
3. Accessory dwellings do not count toward the maximum density calculations. The maximum size of an accessory dwelling unit shall not exceed 600 square feet.
4. The overall density may be increased by the density incentive provisions as follows:
  - a. For the residential mixed-use areas, overall density may be increased by the density incentive provisions up to 10 units per acre.
  - b. For the commercial mixed-use areas, overall density may be increased by the density incentive provisions up to 20 units per acre.
5. Density may be increased at the option of the applicant through the provisions for Incentive Zoning as outlined in § 145-28.H.
6. For TND projects on parcels of less than 20 acres, the overall mix of land uses is flexible. Such projects should incorporate a minimum of zero percent (0%) to up to a maximum of thirty percent (30%) mix of land uses other than residential (i.e., lodging, office, retail, civic, education) in the residential mixed-use areas and up to fifty percent (50%) mix of land uses other than residential in the commercial mixed-use areas. For TND projects on parcels of 20 acres and greater, the Village Board shall use the guidelines outlined herein as standards to be achieved. Regardless of the size of the proposed TND, the Village Board remains responsible for determining the appropriate mix of residential to other land uses by exchanging the overall housing units for other uses at the following rates:
  - a. For lodging: 4 bedrooms (for rent) for each unit of overall density.
  - b. For office or retail: 800 square feet for each unit of overall density.
7. Fifteen percent (15%) of the total housing units (after units have been exchanged as described in 5) shall be in the affordable housing range. These units must have a similar exterior to the market rate units, but can vary by square footage and amenities.
8. Buildings may be dedicated to uses described in Tables 1 and 2 of § 145-28.E. There should be a mix of residential housing types (none less than twenty percent (20%) of the total) for each residential mixed-use development.

9. Each project shall assign at least ten percent (10%) of its gross area to civic space. Civic space is permanently dedicated to open space such as a park, playground or village green.
- H. **Density Incentives.** It is the purpose of this section to permit the Village Board to grant incentives, to the private sector engaged in the land development process, to advance the specific policies in accordance with the Village of Warwick Comprehensive Plan (2004) and in coordination with other community planning mechanisms or land-use techniques.
1. **Authority.** In accordance with § 7-703 of the Village Law of the State of New York, the Village Board is empowered to provide for a system of zoning incentives as the Village Board deems necessary and appropriate, consistent with the purposes and conditions set forth herein. The authority to grant density incentives may be used by the Village Board to assist in the implementation of the following objectives from the Village of Warwick Comprehensive Plan:
    - a. To provide affordable housing as defined herein;
    - b. To sustain a quality source of drinking water;
    - c. To maintain long-term maintenance and efficiency of the central sewage treatment system;
    - d. To provide active and passive recreational parks, neighborhood pocket parks, trails and outdoor recreation on public and private lands;
    - e. To preserve the Village greenbelt in order to maintain the traditional sense of place which defines the Village.
  2. **Applicability.** This section applies only to the TND-O Zoning District.
  3. **Permitted Incentives.** The Village Board may grant the following specific incentives within the procedures set forth in this article:
    - a. One residential unit;
    - b. 800 square feet of office
    - c. 800 square feet of retail
  4. **Community Benefits or Amenities.** The following community benefits or amenities may, at the sole discretion of the Village Board, be accepted in exchange for an incentive as provided in "Permitted Incentives" above. These community benefits or amenities may be either on or off the site of the subject application and may involve one or more parcels of land.
    - a. Affordable housing units as defined herein.
    - b. Creation of civic space.
    - c. Improvements to water or sewer infrastructure beyond what is necessary to supply such services to the proposed TND development.

- d. Cash in accordance with the Special Conditions below, paid to the Village of Warwick's dedicated account fund for Zoning Incentives. Proposed cash must be placed in an escrow account to be held by the Village and documented in writing to the Village of Warwick Board of Trustees prior to approval of an incentive zoning proposal. The decision of whether to accept cash payments in lieu of community benefits or amenities is at the sole discretion of the Village Board of Trustees.
  - e. Any combination of the above listed community benefits or other community benefits and amenities as the Village Board determines to be in the best interests of the community.
5. **Special Conditions.** All proposed amenities to be provided by the applicant must show a demonstrable benefit to the area as determined by the Village Board at the time of application.

<b>Table 3: Determination of Amenity Required:</b>		
Development	Density Increase	Amenity Required
Residential	One housing unit	One affordable unit, cash payment to be established annually by the Village Board or other benefit or amenity as determined by the Village Board of Trustees
Office	800 square feet	One affordable unit, cash payment to be established annually by the Village Board or other benefit or amenity as determined by the Village Board of Trustees
Retail	800 square feet	One affordable unit, cash payment to be established annually by the Village Board or other benefit or amenity as determined by the Village Board of Trustees

6. **Criteria and Procedure for Approval.** Applications requesting incentives in exchange for providing community benefits will be submitted to the Village Board in accordance with adopted procedures for requests to approve a traditional neighborhood Concept Plan. The application will include the following:
- a. The requested incentive.
  - b. The proposed amenity.
    - (1) The determination of the base density calculation.
    - (2) The estimated cash value of the amenity.
  - c. A narrative which demonstrates the following:

- (1) The benefits to the community, including the benefit area, from the proposed amenity.
  - (2) Consistency with the goals and objectives of the Village Comprehensive Plan.
  - (3) The relative importance and need for the amenity and that the community benefit provided by the applicant is commensurate with the granting of an incentive by the Village Board.
  - (4) That there are adequate sewer, water, transportation, waste disposal and fire-protection facilities in the zoning district in which the proposal is located to handle the additional demands the incentive may place on these facilities beyond the demand that would be placed on them if the district were developed to its fullest potential.
  - (5) That all conditions and other applicable requirements of the law are met.
  - (6) That the project is in harmony with the stated objectives of this Section and will promote the purposes herein, and that the project is sufficiently advantageous to render it appropriate for grant of an incentive.
- d. Any other information or support materials as needed or requested by the Village Board.
  - e. Village Board Action. Review of applications for incentives shall be processed as part of the TND Concept Plan approval process as described in § 145-28-D of this Zoning Law.
- I. **Circulation Standards.** The circulation of pedestrians, bicycles and vehicles are an integral part of the traditional neighborhood and travel ways for all three must be accommodated. Roads consist of vehicular lanes and public frontages. Roads provide for traffic and parking and are to be designed according to desired speed for a particular area as described below and illustrated in Figure 1. The public frontage is the area between the private lot line and the edge of the vehicular lane. Elements of the public frontage include sidewalks, curbing, planters, street trees and streetlights. Pedestrian comfort shall be a primary design consideration.

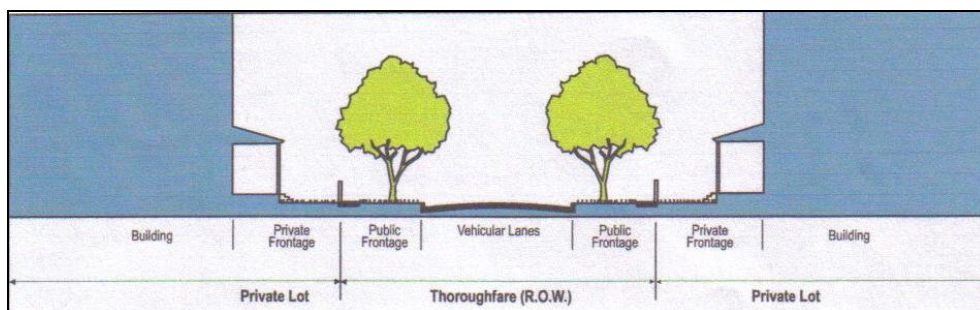


Figure 1: The relationship of the street (thoroughfare) to public/private frontage



Village of Warwick Zoning Law

1. Streets

- a. Village Streets. All principal streets shall meet the standards set forth herein and shall be suitable for dedication to the public.
- b. Standards. The standards for vehicular lanes are described in Tables 4 and 5 with sample illustrations provided in Figure 2.

Table 4: Vehicle lane specifications			
Design Speed	Travel Lane Width	Parking Lane Width	Turning Radius
Below 20 mph	8 feet	n/a	5-10 feet
20-25 mph	9 feet	7 feet (parallel)	10-15 feet
25-35 mph	10 feet	8 feet (parallel)	15-20 feet

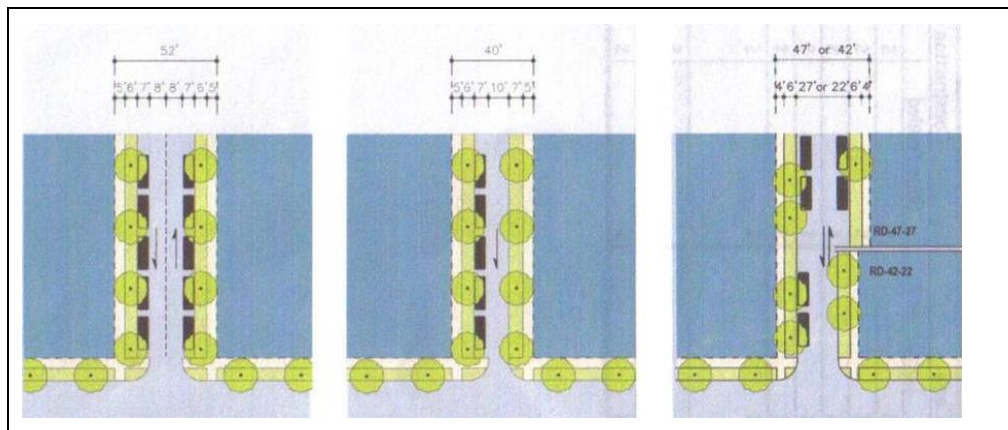


Figure 2: Vehicular lane design

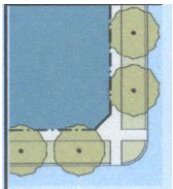
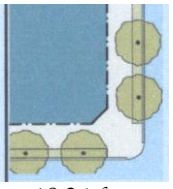
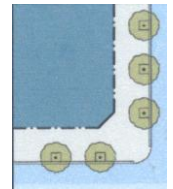
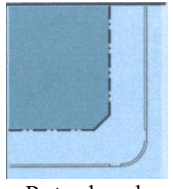
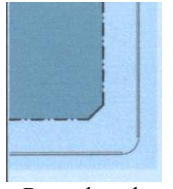
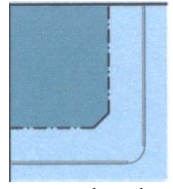
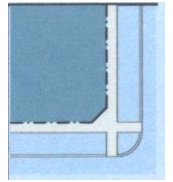
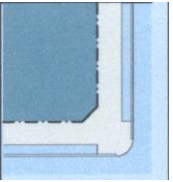
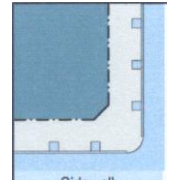
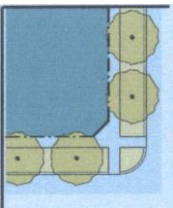
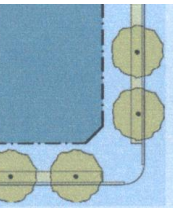
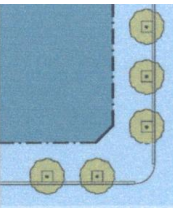
Table 5: Street Specifications			
Traffic Lanes	Two-way	One-way	Yield
Parking Lanes	Both sides @ 7 feet	One side @ 7 feet	Both sides or one
ROW Width	52 feet	40 feet	47 or 42 feet
Pavement Width	30 feet	17 feet	27 or 22 feet
Sidewalk Width	5 feet	5 feet	4 feet
Planter Width	6 feet	6/7 feet	6 feet

- c. Block Size. In the Residential mixed-use areas, the circulation system shall be designed to define blocks not exceeding a maximum block perimeter of 2,400 feet and in the commercial mixed-use areas 2,000 feet measured as the sum of the lot frontage lines.
- d. Connected Roads. All roads shall terminate at other roads, forming a network. Internal roads shall connect wherever possible to those on adjacent sites. If the adjacent property is undeveloped, and the road must temporarily be a dead-end road, the right-of-way and improvements shall be extended to the property line, and a temporary circular turnaround shall be provided on all temporary dead-end roads, with the notation on the plat that land outside the road right-of-way shall revert to abutters whenever the road is continued. The use of cul-de-sacs and other roadways with a single point of access shall be permitted only where no other alternatives exist. Where cul-de-sacs are deemed to be unavoidable, continuous pedestrian circulation shall be provided for by connecting sidewalks that link the end of the cul-de-sac with the next street or open space through the use of pedestrian paths. To the greatest extent practical, streets shall either continue through an intersection, or terminate with a "T" intersection directly opposite the center of a building, or a view into an open space area.
- e. Lot Frontage. Lots shall front on a vehicular lane, except that twenty percent (20%) of the lots may front on a pedestrian passage.
- f. Rear Lanes. If proposed, rear lanes shall be permitted to bisect blocks and to provide secondary access to adjoining properties. The following provisions shall apply:
  - (1) Lanes shall be treated as private streets and shall not be dedicated to the Village. Lanes may be dedicated to the property owners' association or may be dedicated as common easements across the rear portions of lots.
  - (2) Any lot having access from a lane shall additionally front upon a public street.
  - (3) Lanes shall be paved with pervious block pavers.
  - (4) Curbing shall not be required except at corners of intersections with other street types. At such corner locations, curbing shall be required for the entire corner radius and five (5) feet preceding same. Such curbing shall not extend more than six (6) inches above the finished pavement.
  - (5) Lane lighting shall be provided on all garages or on utility poles or lighting poles adjacent to parking areas. Lighting fixtures and lighting poles shall be of consistent architectural style and shall complement the predominant architectural theme.

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- g. Bicycle Network. A network of bicycle trails and routes should be provided throughout and should be connected to existing or proposed networks wherever possible.
- 2. Public Frontage. Elements of the public frontage include civic space, sidewalks, curbing, planters, street trees and streetlights.
  - a. The design of public frontage varies slightly depending on the selection of roadway as illustrated in Figure 3.

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Figure 3: Public Frontages			
Frontage Type	Residential Areas	Commercial mixed-use Areas	
Public Frontage			
Total width	12-18 feet	18-24 feet	18- 30 feet
Curb			
Type Radius	Raised curb 5-20 feet	Raised curb 5-20 feet	Raised curb 5-20 feet
Walkway			
Type Width	Sidewalk 4-8 feet	Sidewalk 12-20 feet	Sidewalk 12-30 feet
Planter			
Arrangement Planter Type Planter Width	Regular Single Continuous 4 feet	Regular Single Continuous 4 feet	Opportunistic Single Tree well 4 feet
Landscape	Trees	Trees	Trees
	Pin Oak Red Oak White Oak Chinese Elm Ginkgo Biloba London planetree	Ginkgo Biloba White Ash Hackberry	Ginkgo Biloba White Ash Hackberry

b. Design Guidelines - See Figure 3 for an illustration of the components.

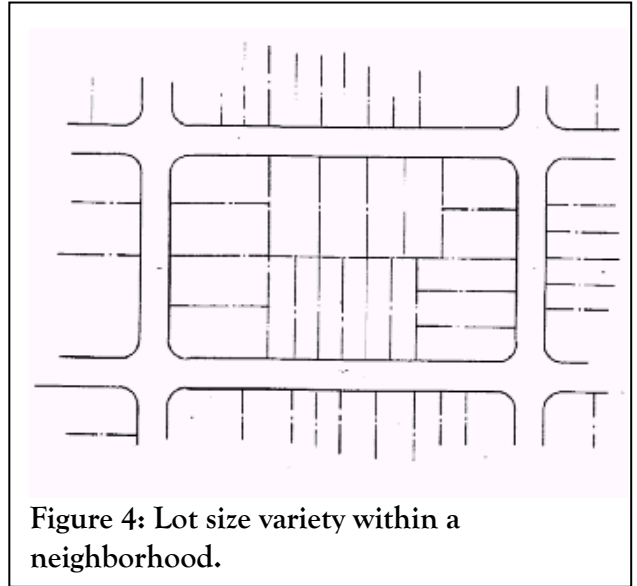
- (1) Width. The width of the public frontage shall be a minimum of 12 feet and a maximum of 18 feet.
- (2) Curb. For frontages incorporating drainage, there shall be a raised curb with a 5 to 20 foot turning radius. No curb is required where drainage is proposed as open swales. Asphalt curbing is prohibited.
- (3) Walkways. The public frontage shall contain a 5 foot (minimum) to 8 foot (maximum) sidewalk.
- (4) Planting strip. The public frontage shall contain a continuous 8 foot (minimum) to a 12 foot (maximum) strip.
- (5) Landscaping. The public frontage shall include trees planted in a regularly-spaced alee pattern of single or alternated species with shade canopies of a height that, at maturity, clears three stories but remains predominantly clear of building frontages. The species of landscape installed shall consist primarily of native species tolerant of soil compaction and requiring minimal irrigation, fertilization and maintenance. Appropriate species include but are not limited to: Trees: Tulip Poplar, Hickory, White Oak, Red Maple, Red Oak, Pin Oak, Chinese Elm, Green Ash, Ginkgo Biloba, Honey Locust (Thornless), London Plane Trees. All such trees shall have a caliper of at least 2 1/2 inches at a height of three feet above finished grade.
- (6) Stormwater - Plans for stormwater pollution prevention shall comply with all applicable State and Local regulations as may be amended from time to time.
- (7) Streetlights.
  - (a) Streetlights shall be provided on both sides of all streets at intervals of no greater than seventy-five (75) feet on center and at intersections.
  - (b) Streetlights shall utilize cast-iron posts not exceeding 12 feet in height.
  - (c) Lighting posts and fixtures shall be post or column style and shall complement the predominant architectural theme.
  - (d) Streetlights shall be located between the street curb or pavement and the sidewalk.

J. Design Standards

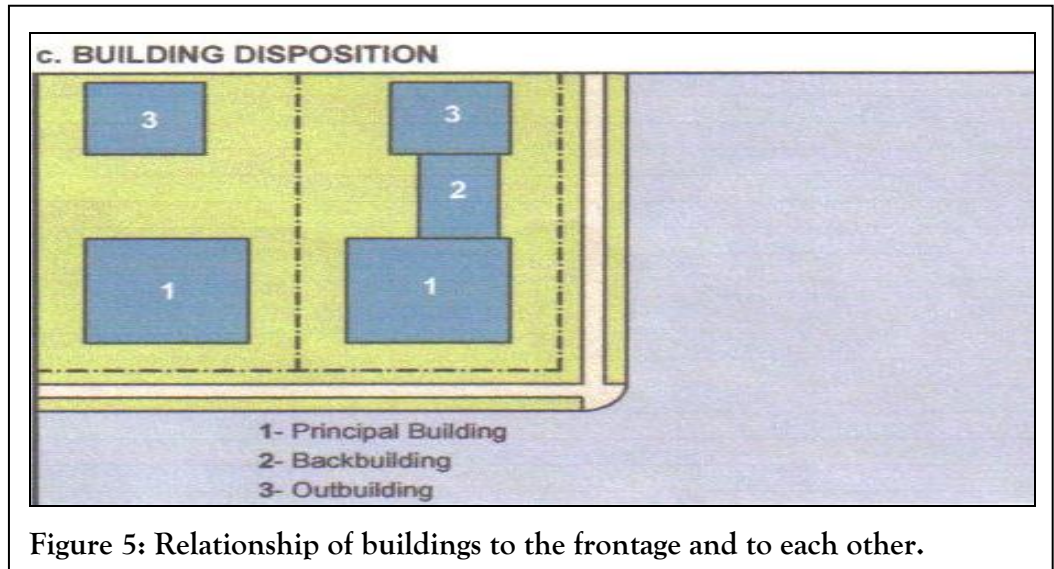
1. Lot Dimension

- a. The lot width shall be a minimum of 18 feet and a maximum of 96 feet.

- b. A variety of lot sizes (see Figure 4) should be provided to eliminate the appearance of a standardized subdivision and to facilitate housing diversity and choice that meets the projected requirements of people with different housing needs. Lot widths should create a relatively symmetrical street cross section that reinforces the public space of the street as a simple, unified public space.

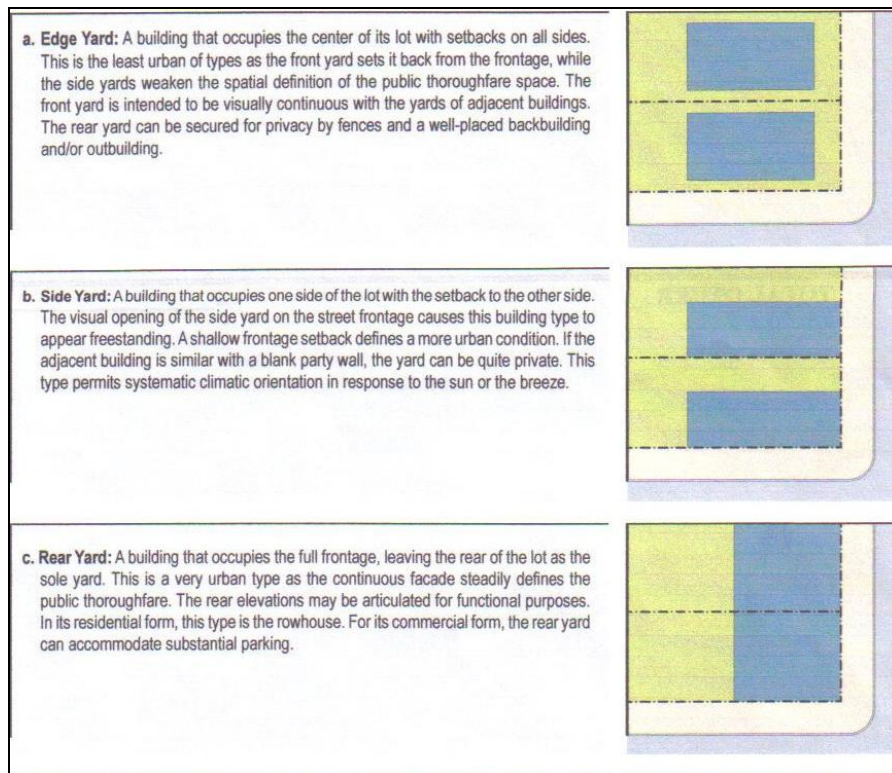


- 2. Building Coverage, Height and Placement
  - a. Lot coverage shall not exceed 70%.
  - b. One principal building at the frontage, and one outbuilding to the rear of it, may be built on each lot as shown on Figure 5.



- c. Building Setbacks.
  - (1) The front setback shall be a minimum of 10 feet and a maximum of 25 feet.
  - (2) The side setback shall be zero feet minimum and a maximum of 10 feet for single-family structures.

- (3) The rear setback shall be 10 feet minimum or 15 feet minimum from the centerline of the lane.
- (4) In the case of an infill lot, setbacks shall match one or the other of the existing adjacent setbacks.
- (5) Buildings shall be placed in relation to the boundaries of their lots utilizing Edge Yard, Side Yard or Rear Yard disposition as illustrated in Figure 6.



**Figure 6: Appropriate building disposition for a traditional neighborhood.**

- (6) The minimum height for a principal building is 2 stories and the maximum is 3 stories. The maximum height for an outbuilding is 2 stories.
- (7) Build-to line. Each block shall be designed with a uniform build-to line that shall establish the front yard setback for the lots on the block. The function of the build-to line is to form a distinct street edge and define the border between the public space of the street and the private space of the individual lot. The build-to line shall fall between the minimum and maximum front yard setbacks.
- (8) Buildings shall define the streetscape through the use of uniform setbacks along the build-to line for each block. The build-to line shall be generally continued across side yard setback areas between buildings by using landscaping. The

streetscape shall also be reinforced by lines of closely planted shade trees, and may be further reinforced by walls, hedges or fences which define front yards.

3. Private Frontages. The private frontage is the area between the building and the lot lines. This private area that adjoins the public frontage is often a frequently utilized place for social interaction. Figure 7 shows the location of the private frontage among the other elements of urban design. In the Residential mixed-use areas, the standards identified as T3 or T4 (noted in Figure 8) apply. In the commercial mixed-use areas, the standards identified as T4, T5 or T6 (noted in Figure 8) apply.

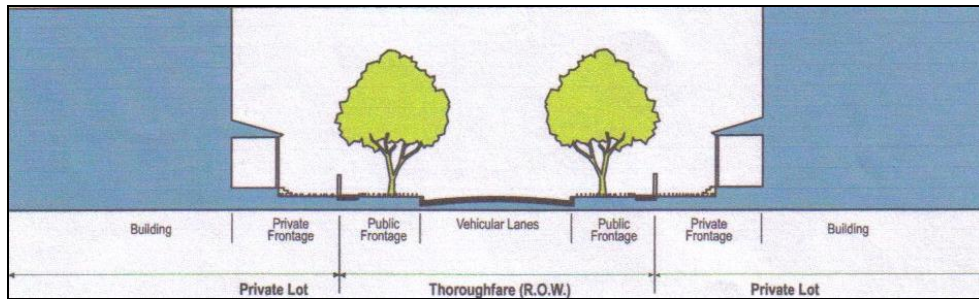


Figure 7: Cross section of an urban street.

- a. The private frontages illustrated in Figure 8 are permitted:

	SECTION	PLAN	
	PRIVATE FRONTAGE   R.O.W.   PUBLIC FRONTAGE	PRIVATE FRONTAGE   R.O.W.   PUBLIC FRONTAGE	
<b>Porch &amp; Fence:</b> a frontage wherein the facade is set back from the frontage line with an attached porch permitted to encroaching. A fence at the frontage line maintains the demarcation of the yard. The porches shall be no less than 8 feet deep.			T3 T4
<b>Terrace or Light Court:</b> a frontage wherein the facade is set back from the frontage line by an elevated terrace or a sunken light court. This type buffers residential use from urban sidewalks and removes the private yard from public encroachment. The terrace is suitable for conversion to outdoor cafes.			T4 T5
<b>Forecourt:</b> a frontage wherein a portion of the facade is close to the frontage line and the central portion is set back. The forecourt created is suitable for vehicular drop-offs. This type should be allocated in conjunction with other frontage types. Large trees within the forecourts may overhang the sidewalks.			T4 T5 T6
<b>Stoop:</b> a frontage wherein the facade is aligned close to the frontage line with the first story elevated from the sidewalk sufficiently to secure privacy for the windows. The entrance is usually an exterior stair and landing. This type is recommended for ground-floor residential use.			T4 T5 T6
<b>Shopfront and Awning:</b> a frontage wherein the facade is aligned close to the frontage line with the building entrance at sidewalk grade. This type is conventional for retail use. It has a substantial glazing on the sidewalk level and an awning that may overlap the sidewalk to the maximum extent possible.			T4 T5 T6

Figure 8: Descriptions of private frontage types.



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- (1) Facades shall be built parallel to the principal frontage line or parallel to the tangent of a curved principal frontage line.
- (2) Retractable cloth awnings, supported by iron or similar frames, may encroach into or over the public sidewalk up to three feet six inches (3' 6") provided there is a clear space of eight feet (8') from the sidewalk to the iron frame of the awning, and no part of such awning shall be at a distance less than seven feet (7') from the sidewalk. Stoops may encroach 100% of the depth of a setback. Open porches and non-retractable awnings may encroach up to 50% of the depth of the setback. Balconies and bay windows may encroach up to 25% of the depth of the setback.
- (3) Permanent awnings require the approval of the Village Board of Trustees, in accordance with § 177-8 of the Village Code.

4. Landscaping

- a. In addition to street trees, a minimum of one tree to match the species of street trees on the Public Frontage shall be planted within the First Layer of the Private Frontage for each 30 feet of frontage.
- b. The species of landscape installed shall consist primarily of native species requiring minimal irrigation, fertilization and maintenance.

5. Signs. Signs are regulated in §145-81 of the Zoning Law.

6. Utilities

- a. All utilities shall be placed underground and shall be situated in rear lanes or in the Public Frontage.

7. Parking Standards

- a. Each use, including a change or expansion of a use, shall provide parking areas in compliance with this Section. No building shall be occupied and no use shall be commenced until the improvements required by this Section are completed and approved by the Village Code Enforcement Officer.
- b. Number of Spaces.

- (1) Vehicular parking shall be provided as noted in Table 6:

Table 6: Parking Requirements	
Use:	Ratio of spaces
Residential	1.5/dwelling Accessory home professional occupations (including both living space and working space) shall be counted as one dwelling unit

Table 6: Parking Requirements	
Use:	Ratio of spaces
Lodging	1.0/bedroom
Office	3.0/1000 sq. ft.
Retail	4.0/1000 sq ft.
Civic	To be determined by the Planning Board based upon the use and ratios presented in the Recommended Zoning Ordinance Provisions for Parking & Off-Street Loading Spaces published by the Parking Consultants Council & the National Parking Association
Other	To be determined by the Planning Board based upon the use and ratios presented in the Recommended Zoning Ordinance Provisions for Parking & Off-Street Loading Spaces published by the Parking Consultants Council & the National Parking Association

c. On-street parking available along the frontage lines that correspond to each lot shall be counted toward the parking requirement of the building on the lot.

d. Parking for two dissimilar functions within any pair of adjacent blocks may be shared and is strongly encouraged. Shared parking is calculated by adding the total number of spaces required by each separate function and dividing the total by the appropriate Sharing Factor from Figure 9.

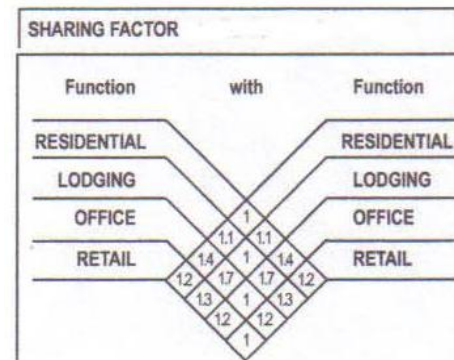


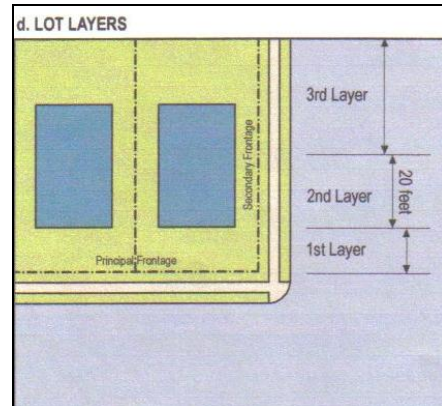
Figure 9: Shared Parking Factor

**An example of shared parking calculation:**

The residential use requires 10 spaces while the office portion requires 12 spaces. Independently they would require 22 spaces, but when divided by the sharing factor of 1.4, they would require only 16 spaces. **A second way to calculate:** If there are 22 spaces available for residential and office functions, multiplying this by the factor 1.4 gives the equivalent of 30 spaces. Buildings are allowed corresponding to 30 parking spaces.

e. Location.

- (1) All parking, other than on-street, shall be located at the third layer as shown in Figure 10.



**Figure 10: Note the third layer is located at the rear of the lot.**

- (2) Garages shall be located at the third layer.
- (3) Parking shall be accessed from the rear lane.
- (4) Parking lots shall be masked from the frontage by a linear building or Streetscreen.
- (5) A minimum of one bicycle rack shall be provided within the Public or Private Frontage for every ten vehicular parking spaces associated with commercial uses.

#### K. Architectural Standards

1. Architectural character. Buildings may be either traditional in their architectural character, or be a contemporary expression of traditional styles and forms respecting the scale, proportion, character and materials of historic hamlet structures.
2. Architectural variety. A variety of architectural features and building materials is encouraged to give each building or group of buildings a distinct character.
3. Building mass. Buildings of 40 feet or more in width along a frontage shall be visually divided into smaller increments to reduce their apparent size and contribute to a human-scale development. The mass of these buildings shall be de-emphasized in a variety of ways through architectural details such as divisions or breaks in materials, window bays, separate entrances and entry treatments, variation in roof lines, awnings, or the use of sections that may project or be recessed up to 10 feet.
4. Building materials. The exterior finish materials on all facades shall be limited to natural building materials that age gracefully such as brick, stucco, wood clapboard, and vertical wood board and batten. Synthetic materials, such as painted fiber cement board siding, are also allowed if they faithfully simulate the natural material and have equal or better weathering characteristics. Balconies and porches shall be made of painted wood or

metal. Windows, plastic gutters, siding, fencing and shutters made of vinyl, plastic or similar material are prohibited.

5. Sloped roofs. Buildings shall have sloped roofs. Roofs shall be symmetrically sloped no less than 7:12, except that porches and attached sheds may be no less than 2:12.
6. Shape of openings. All openings, including porches, galleries, and windows, with the exception of storefronts, shall be square or vertical in proportion.
7. Divided light windows. True divided light windows or simulated divided lights should be used. Windows with the snap on grids are discouraged.
8. Sliders. Doors and windows that operate as sliders are prohibited along frontages.
9. Retail Frontages. The facades on retail frontages shall be detailed as storefronts and glazed no less than 70% of the sidewalk-level story.
10. Front porches. Front porches shall be no less than 8' deep
11. Fences. Fences, if provided, shall be within the First Layer Lot as illustrated in Figure 10. Fences at other layers may be of painted wood board or chain link.
12. LEED Standards. Wherever possible, building materials and systems should be used that meet the established standards and practices of the U.S. Green Building Council "Leadership in Energy and Environmental Design" (LEED) program.

**L. Phasing.** The purpose of this subsection is to ensure that growth in a TND-O occurs in an orderly and planned manner that allows time for the Village to prepare for and to maintain high quality services for an expanded residential population while allowing a reasonable amount of additional residential growth during those preparations. Key services would be under considerable strain unless TND developments are phased. This Subsection will relate timing of development in a TND-O for projects consisting of 100 units or greater to the Village's ability to accommodate the growth in population generated by such TNDs.

1. No building permit for a new residential unit(s) shall be issued unless in accordance with the regulations of this subsection.
2. Once a development schedule is approved in accordance with § 145-28.D.2.j., building permits shall be issued in conformity with that schedule.
3. In determining phasing, the Planning Board shall be guided by the findings of the SEQR review of the proposed developments which shall include an environmental assessment of traffic impacts, economic impacts, and cumulative impacts including developments proposed in surrounding communities and other appropriate studies as determined necessary by the Planning Board. The Planning Board shall be guided by the following criteria:
  - a. Ability of the Village to adequately serve the proposed development with streets, utilities, drainage, educational, and protective services.

TND developers remain responsible for ensuring that water and sewer service needs of the TND-O are adequate and shall construct needed facilities.

- b. Other arrangements which will provide for or reduce the cost of public services and facilities such as childcare, health care, elder services, disabled services, recreation, transportation or water conservation.
- c. Provisions of housing needs for diverse population groups. Special consideration may be given to the scheduling of developments that include attached units or apartments.
- d. Commitments already made in the development schedules for approved developments.
- e. Site design, which responds to, incorporates, and protects natural features such as vegetation, topography, watercourses and views, or which is designed to respond to the character of the neighborhood.

**M. Ownership/Maintenance**

- 1. Developments within a Traditional Neighborhood Design District may be in either single or multiple ownership. Units and/or lots may be leased or owned separately.
- 2. At the time of submission of a detailed Site Plan to the Planning Board for approval, the applicant shall be required to prepare and submit a written program for the maintenance of any commonly owned area, including open space and recreation areas, walkways, driveways, parking areas and other common utilities and facilities. This program shall fix the responsibility for the maintenance program on either the landlord or a home association, or a combination thereof, and shall demonstrate, to the satisfaction of the Planning Board and the Village Attorney, how such responsibility will be legally bound and enforceable. If authorized and approved by the Village Board, community areas may be dedicated to the Village by the applicant.
- 3. In the case of multiple ownership of land or buildings, including single-family homes and condominium or cooperative ownership of apartments or townhouses, a homeowners' association shall be formed. Membership in this association shall be required for all owners of dwelling units within the development, and the association shall be responsible for the maintenance program. Where the development is a combination of multiple ownership and leased units, the landlord shall be a member of the homeowners' association with maintenance responsibilities proportional to the number of units which he or she owns.

## **ARTICLE III Use Regulations**

### **145-30 General Requirements**

The general requirements affecting the use of buildings, structures and land for each of the districts established by Article II are hereby established and set forth in this Article.

### **145-31 Use Table**

The accompanying table entitled "Table of General Use Requirements" shall be deemed part of this chapter and is referred to herein as the "Use Table".

### **145-32 Utilization of Use Table**

- A. The Use Table, included herein, is divided into columns with each column headed by a capital letter(s) represent the respective Zoning Districts for reference. Vertical lines divide the requirements for one (1) district from those of another.
- B. In the Use Table, all uses are indicated as follows:
  - P** Uses permitted by right and subject to the bulk and supplemental requirements as applicable.
  - C** Uses permitted only upon approval of the Planning Board and are conditional thereon pursuant to Article XI and Article XII of this Zoning Law.
  - S** Special uses permitted on approval of the Village Board in accordance with Article XVI.
  - \*** All uses denoted by an asterisk (\*), including all special permit uses and conditional uses, also require Site Plan approval by the Planning Board in accordance with Article IX.
- C. The uses identified in Structure/Land Use column have a corresponding letter designating a Use Group for reference to the Table of Bulk Requirements. Certain uses do not have respective Bulk Requirements and are designated with "n/a" in the Use Group column. For uses where there is no respective Use Group identified, applicants are encouraged to provide the Planning Board with a proposal for a Use Group related to a similar structure or use as the one being proposed.
- D. Any use not identified in the Use Table shall be deemed prohibited. Any use indicated as conditional shall be deemed prohibited unless approved in a manner specified by this chapter. Where conditional uses are identified by generic word or description, the Planning Board shall determine whether a specific use shall be construed to be part of such generic class. In making such determination, the Planning Board shall consider to

what extent the proposed use is alike, in land use impacts, the class of use indicated in the Use Table.

### **145-33 Prohibited Uses**

The uses which are listed in this section are prohibited in the Village, subject to the qualifications set forth in § 145-23D.

- A. Manufacturing uses involving primary production of the following products from raw materials:
  - 1. Asphalt, cement, charcoal and fuel briquettes.
  - 2. Chemicals: aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, carbon black and bone black, creosote, hydrogen and oxygen, industrial alcohol, nitrates (manufactured and natural) of an explosive nature, potash, plastic materials and synthetic resins, pyroxilin, rayon yarn and hydrochloric, nitric, phosphoric, picric and sulfuric acids.
  - 3. Coal, coke and tar products, including gas manufacturing; explosives; fertilizers; gelatin, glue and size.
  - 4. Linoleum and oilcloth; matches; paint; varnish and turpentine.
  - 5. Rubber (natural and synthetic); soaps, including fat-rendering; starch.
- B. The following processes: nitrating of cotton or other materials; milling or processing of flour, feed or grain; magnesium foundry; reduction, refining, smelting and alloying of metal or metal ores; refining secondary aluminum; refining petroleum products, such as gasoline, kerosene, naphtha, lubricating oil; distillation of wood or bones; and reduction and processing of wood pulp and fiber, including paper mill operations.
- C. Operations involving stockyards and slaughterhouses, grain elevators, slag piles and keeping, breeding and raising of pigs for commercial purposes.
- D. Storage of explosives, except under license from the State of New York and in a manner and place conforming to the laws of the State of New York and the American Table of Distances and provided that no more than five thousand (5,000) pounds is stored in any one (1) magazine.
- E. Bulk or wholesale storage of gasoline above ground.
- F. Dumps, sanitary landfills and junkyards, except those operated by the Village.
- G. Quarries, stone crushers, screening plants and storage of quarry screening.
- H. Incineration of waste materials except in a plant owned and operated by the Village, or a health facility approved by the N.Y.S. D.E.C.
- I. Disposal of septic or sewage wastes except in a plant owned and operated by the Village, or a health facility approved by the N.Y.S. D.E.C.

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- J. Any other use, whether specified above or not, that is of such a nature as to be detrimental to neighboring properties by reason of emission of odor, dust, refuse matter, garbage, vibration, smoke, gas, radiation, noise or any other factor that is dangerous to the comfort, peace, enjoyment, health or safety of the area or community.
- K. Freestanding water towers and freestanding water tanks, located below, on or above ground are not permitted, except that such a tower or tank, owned and operated by a public utility shall be allowed, as a conditional use of the Planning Board, on plots of three (3) acres or more, subject to approval of the Village Board.
- L. No commercial vehicles in excess of twenty-six feet (26') in length shall be parked in a residential district.
- M. No animal kennels.
- N. Amusement parks and circuses and related activities except for a temporary permit or special license from the Village Board.
- O. No drive-in or drive-thru restaurants.



**Table of Use Requirements**

<b>Land Use District</b>	<b>R</b>	<b>LO</b>	<b>MR-SC</b>	<b>CCRC</b>	<b>CB</b>	<b>GC</b>	<b>LI</b>	<b>TND<sup>1</sup></b>	<b>PAC<sup>2</sup></b>	<b>AD<sup>3</sup></b>	<b>Use Group<sup>4</sup> (See Bulk Table)</b>	<b>Special Conditions<sup>9</sup></b>
<b>Residential Uses</b>												
One family residence	P*	P*			P*						b	
One-family residence semi-attached/lot	C*	C*			C*						h	§145-128
Two-family detached residence <sup>5</sup>	P*	P*			P*						g	
Community residence facilities <sup>6</sup>	P*	P*			P*						c	
Multiple Residence	S*	S*			S*						g	§145-127
Senior Citizen Housing Development	C*	C*	C*		C*						i	§145-124
Accessory Apartment (one)	C*	C*			C*						b	§145-120.4
Guesthouse/Servant Caretaker Dwelling	C*	C*			C*						n/a	§145-120
Apartment	S*	S*			S*						g	§145-120
Family/Group Care Facilities	C*	C*			C*						c	§145-120
<b>Mixed Uses</b>												
Residential Professional Office	C*	C*									p	§145-120
Bed & Breakfast Establishments	C*	C*									n/a	§145-120.2
Home Occupation	C*	C*			C*	C*					b	§145-120.3
Residences on 2nd & 3rd Floor of existing bldg.					C*	C*					j	§145-120
<b>General Uses</b>												
Public utility facilities <sup>7</sup>	P*	P*					P*				n/a	
Public utility buildings	C*	C*			C*	C*	P*				n/a	§145-120
Wireless telecommunication facilities					S*	S*	S*				n/a	§145-110.1
Village of Warwick uses and buildings	P	P			P	P	P				n/a	
Churches/Places of worship	C*	C*			C*	C*					d	§145-120

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Table of Use Requirements												
Land Use District	R	LO	MR-SC	CCRC	CB	GC	LI	TND <sup>1</sup>	PAC <sup>2</sup>	AD <sup>3</sup>	Use Group <sup>4</sup> (See Bulk Table)	Special Conditions <sup>9</sup>
Educational Facilities	S*	S*			S*	S*	S*				d	§145-120
Annual membership clubs/Outdoor recreation	C*	C*			C*	C*					d	§145-120
Fraternal Organization	C*	C*			C*	C*					k	§145-120
Cemeteries	S*	S*	S*		S*	S*					e	§145-120
Volunteer ambulance service facilities	S*	S*	S*		S*	S*					b	§145-120
Hospitals/Nursing homes	S*	S*	S*	S*	S*	S*					e	§145-120
Ambulatory Care Center				S*							c	§145-120
Fire stations	S*	S*			S*	S*					n/a	§145-120
*Health club, spa, fitness center, gymnasium (*adopted 10/7/13)						P*	P*				n	
Medical offices/medical facilities				S*			S*				c	§145-120
Skilled Nursing/Rehabilitation Facility				S*							e	§145-120
Adult home/Assisted living facilities				S*							c	§145-120
Congregate housing	S*			S*							c	§145-120
Adult day care				S*							c	§145-120
Libraries/Museum/Art galleries	S*				P*	P*	P*				k	§145-120
<b>Business &amp; Service Uses</b>												
Agriculture	P	P									a	
Nursery school	C*	C*	S*	S*	C*	C*					b	§145-120
Day care	C*	C*	S*	S*	C*	C*					b	§145-120
Buildings or stands for agricultural product sales <sup>8</sup>	P*	P*			P*	P*					n/a	
Business/Professional/Government offices		P*			P*	P*	P*				j	
Funeral homes/Mortuaries		P*			P*	P*	P*				j	
Banks		P*			P*	P*	P*				j	
Retail stores					P*	P*	P*				k	

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Table of Use Requirements												
Land Use District	R	LO	MR-SC	CCRC	CB	GC	LI	TND <sup>1</sup>	PAC <sup>2</sup>	AD <sup>3</sup>	Use Group <sup>4</sup> (See Bulk Table)	Special Conditions <sup>9</sup>
Personal service stores					P*	P*	P*				k	
Eating/Drinking establishments					P*	P*	P*				k	
Service establishment other than of a personal nature					P*	P*	P*				k	
Theatres/Cinemas					P*	P*	P*				k	
Outlets for laundries/cleaning					P*	P*	P*				k	
Newspaper printing					P*	P*	P*				k	
Manufacturing for sale on premises					C*	C*					k	§145-120
Hotels/Motels					C*	C*	C*				m	§145-121
Gasoline service station					C*	C*	C*				o	§145-122
Automobile sales and service, including repairs					C*	C*	C*				o	§145-122
Car washes						C*	C*				o	§145-123
Manufacturing/assembly/finishing							P*				m	
Research and design facilities							P*				m	
Contractor's storage yard							C*				m	§145-126
Indoor Recreation (e.g. batting cages, tennis courts)							P*				m	
Warehouse							S*				m	§145-120

1. For allowable uses in the TND District, please see §145-28.
2. For allowable uses in the PAC District, please see §145-26.
3. For allowable uses in the AD District, please see §145-27.
4. For uses which contain "n/a" in this column, applicants should provide the Planning Board or Village Board with a proposal for a Use Group related to a similar structure or land use.
5. Not more than one principal residential building per lot.
6. Subject to Village Board approval as to site selection pursuant to §41.34 of NYS Mental Hygiene Law.

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7. Rights of way, transmission lines, or unmanned structures (e.g. substation, pumping station) serving the Village.
8. Buildings or stands for the display or for sale of agricultural products all of which are grown on the same premises.
9. In districts where certain uses are permitted, they are not subject to the special conditions identified in this column.

## **ARTICLE IV**

### **Bulk Requirements**

#### **145-40      General Requirements**

The general requirements relating to the arrangements of buildings, structures and uses occupying a lot for the zoning districts established by Article II are hereby established.

#### **145-41      Bulk Table**

The accompanying table entitled "Table of Bulk Requirements" shall be a part of this chapter and is referred to herein as the "Bulk Table" setting forth the minimum bulk requirements of this chapter.

- A.      The Bulk Table is divided into columns, each column headed by a number for reference. The Bulk Table is divided by single horizontal lines into groups, each group being identified by a letter corresponding to the letter symbol appearing in the Use Table adjacent to each use or combination of uses. Each of the uses within each group is regulated by the bulk regulations for the indicated use group.
- B.      Other articles herein contain supplemental requirements applying to bulk, setback and coverage of specified uses.
- C.      In accordance with § 7-730 of New York State Village Law, lots in a conventional subdivision shall at least comply with the requirements of the Table of Bulk Requirements. The Planning Board has the authority to impose higher planning and design standards than otherwise provided for lots in a conventional subdivision, where there exists good reason in the nature of the land, including but not limited to topography, location, shape, size, drainage, surface and ground water resources and other physical features of the site as well as the character of the surrounding community.

## TABLE OF BULK REQUIREMENTS

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	15A	16	17	18	19	20
Use Group	Minimum Lot Area (sq. ft.) (see also Note 4)	Lot Width (ft.)	Front Setback (ft.)	Front Yard (ft.)	Side Setback (ft.)	Total Side Setback (ft.)	Side Yard (ft.)	Side Yards within 25' of Residence District Boundary	Rear Setback (ft.)	Rear Yard (ft.)	Rear Yard within 25' of Residence District Boundary	Street Frontage (ft.)	Max Height (ft.)	Development Coverage (%) (see also Note 4)	Building Coverage (%) (see also Note 4)	Floor Area Ratio (F.A.R.)	Lot Depth (ft.)	Livable Floor Area/Dwelling Unit (sq. ft.)	Lot Area/Dwelling Unit (sq. ft.) (see also Note 4)	Bedrooms/Acre of Lot Area
a	200,000	400	100	100	100	200	75	100	100	75	100	300	35	25	n/a	0.20	500	n/a	n/a	n/a
b	20,000	100	35	35	20	50	10	n/a	35	10	n/a	80	35	35	n/a	0.25	125	1,250	n/a	n/a
c	40,000	150	50	50	30	60	20	20	30	30	30	100	35	20	n/a	0.20	200	600	4,000	12
d	40,000	100	100	20	20	50	20	40	45	20	35	100	40	n/a	25	0.20	200	n/a	n/a	n/a
e	80,000	200	50	20	20	40	10	10	20	10	10	200	35	n/a	n/a	n/a	200	n/a	n/a	n/a
f	17,500	100	35	35	20	50	10	n/a	35	10	n/a	75	35	35	n/a	0.25	125	1,200	n/a	n/a
g	22,500	125	40	40	25	60	15	n/a	35	10	n/a	90	35	35	n/a	0.25	125	900	n/a	n/a
h	40,000	20	20	20	Note 5	Note 5	Note 5	n/a	35	35	n/a	20	35	20	n/a	0.20	100	600	4,000	12
i	40,000	150	50	25	30	60	20	20	30	30	30	100	35	40	n/a	n/a	200	600	2,000	24
j	5,000	50	Note 1	n/a	10	10	10	15	10	10	20	50	40	80	40	0.40	50	600	n/a	n/a
k (see 6)	5,000	50	Note 1	n/a	10	10	10	n/a	10	10	n/a	50	40	100	n/a	n/a	50	n/a	n/a	n/a
l	5,000	50	Note 1	n/a	10	10	10	20	10	10	20	50	40	n/a	40	n/a	100	n/a	n/a	n/a
m	40,000	100	40	15	20	n/a	20	40	40	20	35	100	40	n/a	40	n/a	150	n/a	n/a	n/a
n	20,000	100	40	15	20	50	10	20	40	10	20	100	35	n/a	60	0.20	200	n/a	n/a	n/a
o	10,000	100	Note 1	n/a	10	10	10	20	10	10	20	100	40	80	n/a	n/a	100	n/a	n/a	n/a
p	20,000	100	35	35	20	50	10	n/a	35	10	n/a	80	35	70	n/a	0.25	200	700	n/a	n/a
q	400,000	800	100	50	75	150	50	50	75	50	50	800	Note 2	40	20	0.45	400	Note 3	2,000	24

**Note 1** - The required front setback need not be greater than the average setback of the two nearest neighboring structures located on the same side of the street within 150 feet of the proposed building.

**Note 2** - The maximum building height shall not exceed thirty-five (35) feet, except that new construction may include one building which shall not exceed forty (40) feet in height. Hotels/motels shall not exceed thirty (30) feet in height.

**Note 3** - Efficiency - 400 sq ft, One bedroom - 550 sq ft, Two bedroom - 750 sq ft

**Note 4** - Lot area shall be defined in § 145-181 for columns 2, 15, 15A, 19 and 20 per Local Law #1 of 2001.

**Note 5** - See § 145-128.

**Note 6** - 100% development coverage permitted only when project incorporates a "green roof".

**N/A** - Not applicable

## **145-42 Special Bulk Requirements**

- A. As part of any lot area, density, or development coverage requirement of this chapter for any uses on land or underwater, or any other lands subject to or within the one-hundred-year floodplain or within the Flood Hazard Area as defined by the Federal Emergency Management Agency (FEMA), or New York State DEC Freshwater wetlands including a one-hundred foot (100') adjacent area, Federal Jurisdictional Wetlands, lands identified as severe in reference to flooding, ponding, erosion or slope by the United States Natural Resources Conservation Service, within easements of right-of-way of utilities or with slopes (unexcavated) of over fifteen percent (15%) or any existing public or private road shall not be counted. The application of this section to any particular lot shall be the responsibility of the Village Planning Board at the time of subdivision or Site Plan approval.
- B. Street frontage for lots fronting on cul-de-sacs or on a street with a radius of curvature at the centerline of one hundred feet (100') or less, or in other appropriate circumstances, may be reduced by the Planning Board at the time of subdivision plat approval to no less than one-half (½) of the required dimensions. No portion of the lot, along the access route from its frontage into the lot, shall be narrower than the approved frontage.
- C. In GC, CB and LI Districts, no side setback, no side yard, no rear setback or no rear yard shall be required where such setback abuts overhead utility transmission line right-of-way; a railroad or limited-access highway.
- D. The maximum footprint for any commercial or mixed-use structure on any lot is 10,000 square feet, and the maximum gross floor space for any commercial or mixed use structure is 20,000 square feet, provided that no more than two commercial or mixed use structures on one lot, each of which is subject to the foregoing maximums, may be connected by a connector, which connector shall not exceed a footprint of 500 square feet and floor space of 1,000 square feet. The maximum footprint requirement shall not apply to a hospital or an ambulatory service facility.

## **ARTICLE V Yard and Setback Regulations**

### **145-50 General Yard And Setback Requirements**

No principal or temporary structure shall be located any closer to any street or property line than the required minimum setback in §145-41, Bulk Table, or the established setback, if such exists. Accessory structures and uses are permitted within the required setback other than the front setback only specifically authorized herein. Parking shall not be permitted in any required yard.



**145-51 Front Yard Exceptions**

- A. The Planning Board may permit the following accessory structures in the LI District within a required front yard:
  - 1. Gatehouse
  - 2. Reception Office
  - 3. Watchman's post
- B. The Planning Board may permit a garage, accessory to a residence, to be located within the front yard or setback where, due to topographic conditions, there would be practical difficulties in constructing a safe and convenient drive from the street; provided, however, such shall not affect the future use and development of adjacent properties.
- C. No shrubbery, hedge or other natural growth, fence or wall over three feet (3') higher than the apex at the center line of the street shall be located within the triangular area shown shaded in Figure 15 at the intersection of two (2) streets, nor shall the limbs or foliage of any tree obstruct vision or be permitted to grow nearer to the ground than eight feet (8') where such limbs or foliage overhang or are over or upon land within the triangular area as shown in Sketch A.

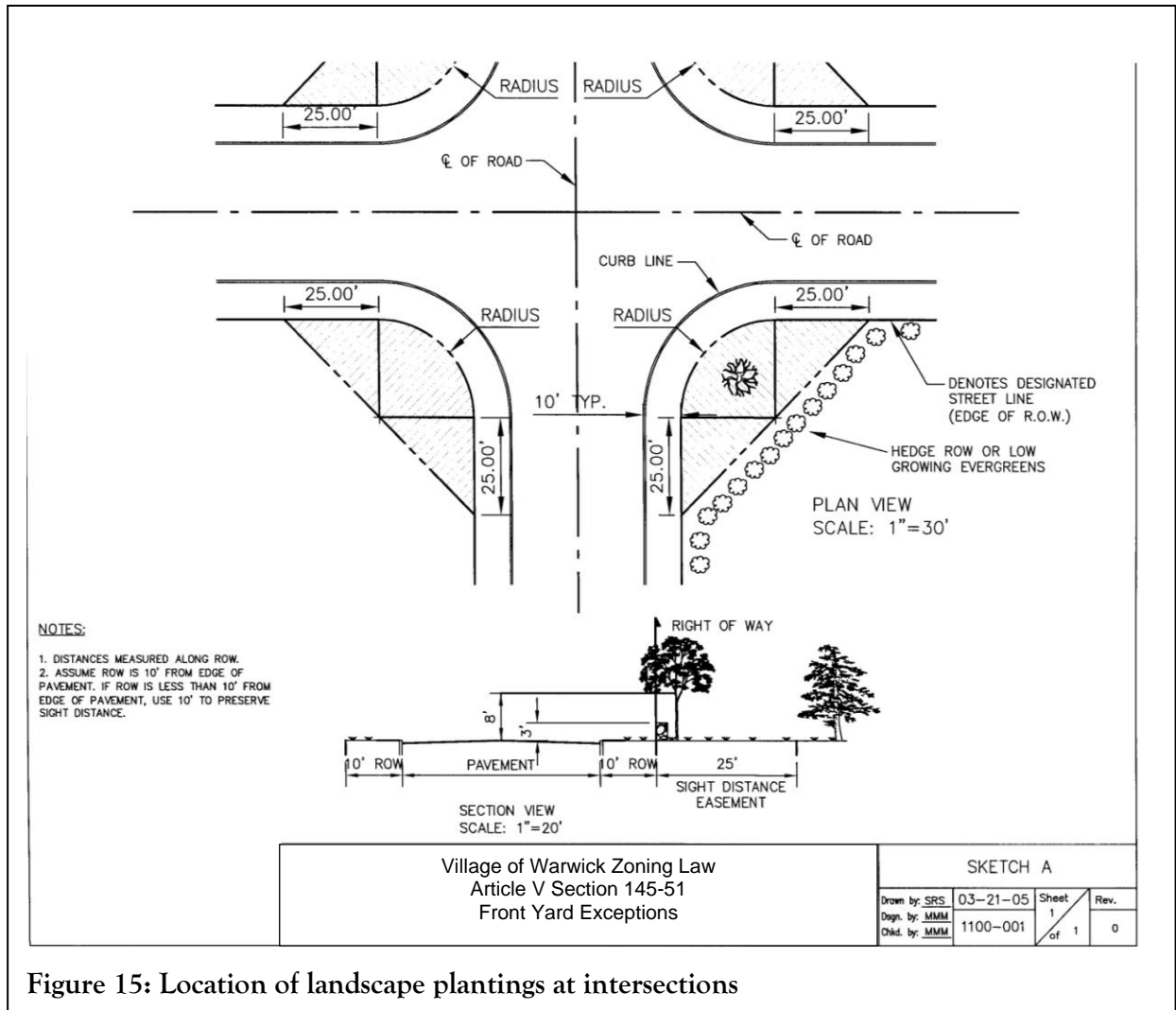


Figure 15: Location of landscape plantings at intersections

### 145-52 Side And Rear Yard Exceptions

- A. An unroofed terrace or patio, which is not more than one foot (1') above ground level or an arbor, open trellis or flagpole is permitted in a required setback. An open fire escape, deck or unroofed porch or terrace, which is more than one (1) foot above ground level, may project not more than six (6) feet into a required setback.
- B. An awning or moveable canopy may project not more than ten (10) feet into a required setback; cornices or eaves may project not more than eighteen (18) inches into a required setback.
- C. A fence or wall not more than three and one-half (3 ½) feet in height is permitted along any lot line and no more than six and one-half (6 ½) feet in height along that part of any lot line behind the required front yard. Good side of fence (side without visible posts) shall face the neighboring property.
- D. The Planning Board may modify all side and rear yard and/or setback requirements for nonresidential uses in the GC, CB, and LI Districts, except where abutting a residential

district. All such uses shall conform to the buffer requirements of this chapter. In the case of a development proposal in the LI District, where the development is intended or designed to be served by means of an industrial service road, the Planning Board may also modify the lot area, lot width, front yard, street frontage and all setbacks requirements but to an extent no greater than fifty percent (50%) of the minimum requirements. In such instances, the following requirements shall apply:

1. The front yard and setback depth shall be established from street line designated as such on an approved Site Plan or subdivision plat.
2. Buildings shall be so located and arranged that all have adequate access for emergency vehicles.
3. Restrictive covenants may be imposed on the site based on the approved Site Plan or subdivision plat enforceable by all tenants, owners, or lessees of such development.

### **145-53 Measurement Of Front Yards And Setbacks**

All required front yard and front setback depths shall be measured from the designated street line, front lot line or existing street line, whichever is greater distance from the center line of the public street abutting the lot in question. Where lots are subdivided on other than a public street, the designated street line for purposes of front yard and setback measurement, shall be parallel to and one-half (1/2) the distance from the centerline of any access easement or right-of-way.

### **145-54 Corner Lots**

A front yard and front setback shall be required on a corner lot from each street line. There shall be designated on the Site Plan which of the remaining yards or setbacks shall be the side and rear yard or setback, respectively.

## **ARTICLE VI Supplementary Regulations**

### **145-60 Permitted Height Exceptions**

The height limitations of this chapter shall not apply to:

- A. Rooftop, bulkheads, elevator penthouses, water towers, fire towers, hose towers, cooling towers, air conditioning or heating equipment, flagpoles, radio or television aerial, provided that such features shall not occupy, in the aggregate, more than ten (10%) percent of the area of the roof of a building and are set back from the edge of the roof at least one (1) foot for each one (1) foot by which such features exceed the

maximum height otherwise specified for the district in which they are located. All mechanical equipment located on the tops of buildings shall be visually screened.

- B. Parapet walls or cornices, which do not exceed the maximum height requirement for the district in which they are located by more than four (4) feet.
- C. Solar energy systems, provided that such systems shall be erected only to the height necessary to accomplish the purposes they are intended to serve.

**145-61 Courts**

- A. An outer court shall be at least twenty (20) feet wide, as wide as its depth or as wide as the height of the highest wall adjoining said court, whichever is the greater.
- B. An inner court shall be at least sixty (60) feet in the least horizontal dimension. Two (2) open and unobstructed passageways, each at least fourteen (14) feet high and twelve (12) feet wide to permit access by fire-fighting equipment, shall be provided at ground level to any inner court.

**145-62 Spacing**

- A. The distance between two (2) principal buildings on the same lot shall be no less than equal to the length of the largest adjacent building or sixty (60) feet apart, whichever is larger.
- B. The distance between a principal building and an accessory building shall be no less than the height of the accessory building but in no event less than fifteen (15) feet.

**145-63 Compliance With State Environmental Quality Review Act**

The provisions of the State Environmental Quality Review Act (SEQR) shall be complied with as appropriate. Fees for SEQR processing are in addition to other fees required by this chapter as set forth in Section 145-92C and the Standard Schedule of Fees of the Village of Warwick.

**145-64 Reserved**

**145-65 Reserved**

## **145-66 Non-Residential Architectural Standards**

- A. **Applicability.** These standards apply to Special Use Permit applications. The Planning Board shall refer to the AHDRB for comments.
- B. **Architectural Character.** Buildings may be either traditional in their architectural character, or be a contemporary expression of traditional styles and forms respecting the scale, proportion, character and materials of historic village structures.
- C. **Building Mass.** Buildings of 40 feet or more in width along a frontage shall be visually divided into smaller increments to reduce their apparent size and contribute to a human-scale development. The mass of these buildings shall be de-emphasized in a variety of ways through architectural details such as divisions or breaks in materials, window bays, separate entrances and entry treatments, variation in roof lines, awnings, or the use of sections that may project or be recessed up to 10 feet.
- D. **Building Roof.** Flat roofs are allowed if they are designed as a “green” roof defined herein. Gable roofs may vary in pitch from 7:12 to 14:12. Roof pitches below 8:12 on main roofs are discouraged. Mansard roofs should be avoided. Shed roofs are acceptable as secondary roofs but discouraged as main roofs. The minimum pitch of shed roofs should be 3:12.

## **145-67 Stormwater Management And Erosion And Sediment Control**

- A. **Findings.** The purpose of this section of the Zoning Law is to establish minimum requirements for the control of stormwater, soil erosion and sedimentation of surface waters to protect and safeguard the general health, safety and welfare of the residents and to address the following findings:
  - 1. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition.
  - 2. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species.
  - 3. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat.
  - 4. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation.
  - 5. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow.
  - 6. Substantial economic losses can result from these adverse impacts on the waters of the Village.

7. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities.
  8. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
  9. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.
- B. **Purposes.** Establishing minimum stormwater management requirements and controls will address the findings of fact cited above by achieving the following purposes:
1. Require land development activities to conform to the substantive requirements of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised;
  2. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
  3. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
  4. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
  5. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.
  6. The goal of New York State's stormwater management program is to retain or absorb stormwater on the developed site with the quantity, rate and quality of runoff remaining the same as the pre-development condition. The Village of Warwick's goal is to exceed this goal by 10% for rate so that extra capacity is designed in the stormwater management facilities to accommodate minor changes in the impervious cover which frequently occur overtime and after development approvals have been received.
- C. **Applicability.** This Subsection shall be applicable to all land development activities as defined herein. All land development activities subject to review and approval by the Planning Board under subdivision, Site Plan, conditional use and/or special permit

regulations shall be reviewed subject to the standards contained in this local law. The Village of Warwick designates the Code Enforcement Officer (CEO) for acceptance of all stormwater pollution prevention plans (SWPPP) and directs the CEO to forward such plans to the Planning Board and Village Engineer. The Planning Board, as part of the Subdivision, Site Plan and Special Use Permit review processes required by this Chapter, may review the plans and may engage the services of a professional engineer to review the plans, specifications and related documents at a cost not to exceed the amount specified in the fee schedule established by the Village Board. The CEO may refer the SWPPP to the Planning Board if it is determined that a SWPPP is necessary. All land development activities not subject to review as stated in this subsection shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Code Enforcement Officer who shall approve the SWPPP if it complies with the requirements of this law.

- D. **Exemptions.** The following activities shall be exempt from review under this law:
1. Agriculture conducted in a manner consistent with “Sound Agricultural Practices” as defined by the New York State Department of Agriculture and Markets.
  2. Forestry conducted in a manner consistent with the “Timber Harvesting Guidelines” as defined by the New York State Department of Environmental Conservation, except that landing areas and log haul roads are subject to this Subsection.
  3. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
  4. Repairs to any stormwater management practice or facility deemed necessary by the CEO.
  5. Any part of a subdivision if a plat for the subdivision has been approved by the Village of Warwick Planning Board on or before the effective date of the Zoning Law.
  6. Land development activities for which a building permit has been approved on or before the effective date of the Zoning Law.
  7. Cemetery graves.
  8. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
  9. Emergency activity immediately necessary to protect life, property or natural resources.
  10. Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.

11. Landscaping and horticultural activities in connection with an existing structure.

E. **Stormwater Pollution Prevention Plans.** No application for approval of a land development activity shall be deemed complete until the Planning Board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this Subsection.

1. **Contents of Stormwater Pollution Prevention Plans.** All SWPPPs shall provide the following background information and erosion and sediment controls:
  - a. Background information about the scope of the project, including location, type and size of project.
  - b. Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);
  - c. Description of the soil(s) present at the site;
  - d. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than one (1) acre shall be disturbed at any one time unless pursuant to an approved SWPPP .
  - e. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
  - f. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill -prevention and response;
  - g. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
  - h. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;



- i. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
  - j. Temporary practices that will be converted to permanent control measures;
  - k. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
  - l. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
  - m. Name(s) of the receiving water(s);
  - n. Delineation of SWPPP implementation responsibilities for each part of the site;
  - o. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
  - p. Any existing data that describes the stormwater runoff at the site.
2. Land development activities as defined herein and meeting Condition “A”, “B” or “C” below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in subsection K below as applicable:
- Condition A** - Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the DEC’s 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
- Condition B** - Stormwater runoff from land development activities disturbing five (5) or more acres.
- Condition C** - Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.
3. **SWPPP Requirements for Condition A, B and C:**
- a. All information in Subsection E.1. herein;
  - b. Description of each post-construction stormwater management practice;
  - c. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
  - d. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;

- e. Comparison of post-development stormwater runoff conditions with pre-development conditions;
  - f. Dimensions, material specifications and installation details for each post-construction stormwater management practice;
  - g. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice;
  - h. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;
  - i. Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Subsection G. herein;
  - j. For Condition A, the SWPPP shall be prepared by a licensed landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements herein.
  - k. The NY SPDES General Permit for Stormwater Runoff from Construction Activities (GP-02-01) requires that SWPPPs be prepared by a licensed professional for land development activities discharging a pollutant of concern to an impaired water identified on the DEC's 303(d) list of impaired waters or to a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
4. **Other Permits.** The applicant shall assure that all other applicable permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.
  5. **Contractor Certification.** Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign, date and provide a notarized copy of the following certification statement before undertaking any land development activity : "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards." The certification shall include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made. The certification statement(s) shall become part of the SWPPP for the land development activity. A copy of the SWPPP shall be retained at the site of the land development

activity during construction from the date of initiation of construction activities to the date of final stabilization.

- F. **Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control.** All land development activities shall be subject to the following performance and design criteria:
1. **Technical Standards.** For the purpose of this Subsection, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this Zoning Law:
    - a. The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual).
    - b. New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).
  2. **Equivalence to Technical Standards.** Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Subsection F.1. and the SWPPP shall be prepared by a licensed professional.
  3. **Water Quality Standards.** Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.
- G. **Maintenance, Inspection and Repair of Stormwater Facilities**
1. **Maintenance and Inspection During Construction.** The applicant or developer of the land development activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this local law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty percent (50%).
  2. For land development activities as defined in Subsection C. herein and meeting Condition A, B or C in Subsection E.2., the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every month and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a site logbook. The Village of Warwick may require inspection by the Village Engineer and an improvement bond may be required to ensure completion of all stormwater management facilities.

3. The Village CEO may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the CEO at least 48 hours before each of the following:
  - a. Start of construction
  - b. Installation of sediment and erosion control measures
  - c. Completion of site clearing
  - d. Completion of rough grading
  - e. Completion of final grading
  - f. Close of the construction season
  - g. Completion of final landscaping
  - h. Successful establishment of landscaping in public areas. If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until all violations are corrected and all work previously completed has received approval by the CEO.
4. The CEO is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit “as built” plans for any stormwater management practices located onsite after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.
5. **Maintenance Easement(s).** Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Village of Warwick CEO or Village Engineer to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Section. The easement shall be recorded by the grantor in the office of the Orange County Clerk after approval by the Village of Warwick Attorney. The Village may require the formation of a drainage district or a back-up drainage district if warranted.
6. **Maintenance after Construction.** The owner or operator of permanent stormwater management practices installed in accordance with this law shall ensure they are operated and maintained to achieve the goals of this Section. Proper operation and maintenance also includes as a minimum, the following:

- a. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this Section.
  - b. Written procedures for operation and maintenance and training new maintenance personnel.
  - c. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Subsection F.3.
  - d. The Village of Warwick may require a maintenance bond to fund the inspection of stormwater management facilities.
  - e. Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.
7. **Maintenance Agreements.** The Village of Warwick shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the Orange County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B, available from the Village Clerk's office, entitled Sample Stormwater Control Facility Maintenance Agreement. The Village of Warwick, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this Section and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.
8. **Submission of Reports.** The CEO may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this Section.

- 9. **Right-of-Entry for Inspection.** When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Village of Warwick the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection F.6.e. herein.
  
- H. **Construction Completion Guarantee.** In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Village of Warwick in its approval of the Stormwater Pollution Prevention Plan, the Village of Warwick may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Village of Warwick as the beneficiary. The security shall be in an amount to be determined by Village of Warwick based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Village of Warwick, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Village of Warwick. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.
  
- I. **Maintenance Guarantee.** Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Village of Warwick with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Village of Warwick may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.
  
- J. **Recordkeeping.** The Village of Warwick requires entities subject to this section to maintain records demonstrating compliance with this Section.
  
- K. **Stormwater Management Practices Acceptable for Water Quality.** Table 7 presents stormwater management practices that have been determined to be acceptable for water quality maintenance and mitigation.

Table 7: Stormwater Management Practices		
Group	Practice	Description

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**Table 7: Stormwater Management Practices**

Group	Practice	Description
<b>Pond</b>	Micropool Extended Detention Pond (P-1)	Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to prevent sediment resuspension.
	Wet Pond (P-2)	Pond that provides storage for the entire water quality volume in the permanent pool.
	Wet Extended Detention Pond (P-3)	Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time.
	Multiple Pond System (P-4)	A group of ponds that collectively treat the water quality volume.
	Pocket Pond (P-5)	A stormwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on groundwater to maintain a permanent pool.
<b>Wetland</b>	Shallow Wetland (W-1)	A wetland that provides water quality treatment entirely in a shallow marsh.
	Extended Detention Wetland (W-2)	A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface.
	Pond/Wetland System (W-3)	A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time.
	Pocket Wetland (W-4)	A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool.

<b>Table 7: Stormwater Management Practices</b>		
<b>Group</b>	<b>Practice</b>	<b>Description</b>
<b>Infiltration</b>	Infiltration Trench (I-1)	An infiltration practice that stores the water quality volume in the void spaces of a gravel trench before it is infiltrated into the ground.
	Infiltration Basin (I-2)	An infiltration practice that stores the water quality volume in a shallow depression before it is infiltrated into the ground.
	Dry Well (I-3)	An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff.
<b>Filtering Practices</b>	Surface Sand Filter (F-1)	A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix.
	Underground Sand Filter (F- 2)	A filtering practice that treats stormwater as it flows through underground settling and filtering chambers.
	Perimeter Sand Filter (F-3)	A filter that incorporates a sediment chamber and filter bed as parallel vaults adjacent to a parking lot.
	Organic Filter (F-4)	A filtering practice that uses an organic medium such as compost in the filter in place of sand.
	Bioretention (F-5)	A shallow depression that treats stormwater as it flows through a soil matrix, and is returned to the storm drain system.
<b>Open Channels</b>	Dry Swale (O-1)	An open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff into the soil media.
	Wet Swale (O-2)	An open drainage channel or depression designed to retain water or intercept groundwater for water quality treatment.



**Definitions:**

The terms used in this section of the Zoning Law or in documents prepared or reviewed under this Zoning Law shall have the meaning as set forth in this section.

**Agricultural Activity** - the activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

**Applicant** - a property owner or agent of a property owner who has filed an application for a land development activity.

**Borrow site** - an area outside of the project site from which stone, soil, sand or gravel is excavated for use at the project site except the term does not include commercial pits.

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

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

**Dedication** - the deliberate appropriation of property by its owner for general public use.

**DEC** - the New York State Department of Environmental Conservation

**Design Manual** - the *New York State Stormwater Management Design Manual*, most recent version including applicable updates that serves as the official guide for stormwater management principles, methods and practices.

**Developer** - a person who undertakes land development activities.

**Erosion Control Manual** - the most recent version of the “New York Standards and Specifications for Erosion and Sediment Control” manual, commonly known as the “Blue Book”.

**Grading** - excavation or fill of material, including the resulting conditions thereof.

**Impervious Cover** - those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

**Industrial Stormwater Permit** - a State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**Infiltration** - the process of percolating stormwater into the subsoil.

**Jurisdictional Wetland** - an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**Land Development Activity** - construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one

acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

**Landowner**- the legal or beneficial owner of land, including those holding the right to purchase or lease land, or any other person holding proprietary rights to the land.

**Maintenance Agreement** - a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

**Nonpoint Source Pollution** - pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**Phasing** - clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

**Pollutant of Concern** - sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

**Project** - land development activity

**Recharge** - the replenishment of underground water reserves.

**Sediment Control** - measures that prevent eroded sediment from leaving the site.

**Sensitive Areas** - cold water fisheries, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

**SPDES General Permit for Construction Activities GP-02-01** - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

**SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-02-02** - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards

**Stabilization** - the use of practices that prevent exposed soil from eroding.

**Stop Work Order**- an order issued which requires that all construction activity on a site be stopped.

**Stormwater** - rainwater, surface runoff, snowmelt and drainage

**Stormwater Hotspot** - a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

**Stormwater Management** - the use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

**Stormwater Management Facility** - one or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

**Stormwater Management Practices (SMPs)**- measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

**Stormwater Pollution Prevention Plan (SWPPP)** - a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

**Stormwater Runoff** - flow on the surface of the ground, resulting from precipitation

**Surface Waters of the State of New York** - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

**Watercourse** - a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

**Waterway** - a channel that directs surface runoff to a watercourse or to the public storm drain.

## **ARTICLE VII Parking and Loading**

### **145-70 Off-Street Parking and Loading Requirements**

- A. Purpose. The Village of Warwick finds that large and highly visible parking areas can damage the scenic and historic character of the community, can encourage vehicle travel while discouraging travel by foot, bicycle and public transit and can therefore increase energy consumption, traffic congestion, and air pollution and reduce the quality of life. The Village of Warwick wishes to promote public transit while reducing the cost of housing and encourages applicants to limit the number of parking spaces provided. Therefore, the parking standards provided herein are recommended maximums. The purpose of the off-street parking and loading regulations is to ensure that such uses are treated as accessory uses, are adequate to serve design day needs, do not predominate the site, are placed to the side and rear of buildings to minimize their visibility, and feature quality landscaping and architecture to reduce the visual impact of glare, headlights, and parking lot lights from streets and neighboring properties. Off-street parking areas should compliment the buildings on a site, improve the appearance of the Village of Warwick, protect the character of residential, business,

institutional, and industrial areas, and conserve the value of land and buildings on surrounding properties.

1. **Parking Space Requirements.** Permanent off-street parking and loading spaces shall be provided in all districts in accordance with the standards set forth below as follows:
  - a. When any new building or structure is erected;
  - b. When any existing building or structure is enlarged or increased in capacity;
  - c. When adding dwelling units, guest rooms, seats or floor area to an existing or lawfully approved structure;
  - d. When a new use is established;
  - e. When an existing use is changed to another use;
  - f. When a new business activity is added;
  - g. When there is a change of ownership; or
  - h. When there is a change of tenant.
2. **Permitted accessory uses.** Off-street parking spaces, open or enclosed, are permitted accessory to any use, subject to the provisions of this section. Off-street loading berths, open or enclosed, are permitted accessory to any use except residences for one or two families. No off-street loading berth shall be located in a front yard.
3. **Schedule of requirements.**
  - a. The accessory off-street parking and loading spaces specified by the recommended generation rates below are to be used as guidelines by the Planning Board in the development of sufficient but not excessive parking for proposed uses. A written report, defining and documenting the feasibility of an increase in spaces, shall be submitted by a qualified parking consultant and approved by the Planning Board. Any land which is developed as a unit under single ownership and control shall be considered a single lot for the purpose of these standards. The final number and layout of parking spaces shall be determined by the Planning Board based on the need to protect public safety and convenience while minimizing harm to the character of the community and to scenic historic, and environmental resources. In determining the parking requirements for any proposed use, the Planning Board shall consider the Schedule of Parking Space Standards, together with the following criteria:
    - (1) The number of persons who would be parking at the use as employees, customers, clients, members, students or other users, at times of typical peak daily usage and not for seasonal highest volume.

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- (2) The size of the structure(s) and the site.
- (3) The scenic and/or historic sensitivity of the site.
- (4) The distance and access to public transit or the potential for ridesharing.
- (5) The potential for shared parking, where peak-parking accumulation can be accommodated at different times of the day, week or season by nearby land uses. Shared parking should be examined in relation to the availability of such off-site, off-street parking existing within 300 feet of the site. Shared parking must be either open to the public, owned or controlled by the applicant, or where a deeded right to shared use has been demonstrated by the applicant.
- (6) The potential for staggered hours of use, in the case of a combination of uses on a single parcel, to reduce the parking requirements. The applicant shall legally assure, to the satisfaction of the Planning Board and Village Attorney, how staggered hours of operation will continue for the life of the uses.
- (7) The parking space generation rates may be increased by the Planning Board where an applicant demonstrates that the particular development characteristics of the proposed land use requires a greater number of spaces than specified herein. Such demonstration shall include documentation of parking experience elsewhere through surveys of demand and problems at existing uses that may be applicable and/or a study of patterns of local automobile use that shows adjustments in design day peaks are needed. The Planning Board may require applicants to address alternatives for reducing vehicle use, parking demand and housing costs by limiting the number of parking spaces to less than the maximums identified herein.

<b>Schedule of Uses and Parking Space Requirements</b>		
<b>Use</b>	<b>Parking Spaces Required</b>	<b>Loading Spaces Required</b>
<b>Residential</b>		
Accessory apartment	1 / dwelling unit	None
Home occupation	1 / 500 square feet of GFA devoted to the home occupation	None
Adult home, nursing home or assisted living	0.33 / resident	None
Senior dwelling unit	1 space / 1 bedroom unit plus 1.25 spaces / 2 bedroom unit	None
Single-family dwelling unit	2 / dwelling unit	None
Lodging houses	1 per sleeping room or unit plus any spaces required for restaurant and meeting rooms plus 1 space for each 4 employees on the peak	As required for restaurant and meeting rooms

Village of Warwick Zoning Law

Schedule of Uses and Parking Space Requirements		
Use	Parking Spaces Required	Loading Spaces Required
<b>Residential</b>		
	activity shift	
Two-family dwelling unit <sup>4</sup>	1.5 spaces / 1 bedroom 2 spaces / 2 or more bedrooms	None
Multi-family or mixed-use dwelling	1.25 spaces/studio, 1.5 spaces/1 bedroom, 2 spaces / 2 or more bedrooms	1 space / 100-199 units then 1/ space / each additional 100 units
<b>Retail</b>		
Convenience retail	4 / 1,000 square feet GFA	None for the first 5,000 square feet GFA, then 1/5,000 square feet up to 10,000 square feet
Farm markets	4 / 1,000 square feet GFA	None for the first 5,000 square feet GFA, then 1/5,000 square feet up to 10,000 square feet
Farm stands selling agricultural and nursery products	4 / 1,000 square feet GFA	None
General retail	3.3 / 1,000 square feet of GFA	None for the first 5,000 square feet GFA, then 1/5,000 square feet up to 10,000 square feet
Hard goods retail	2.5 / 1,000 square feet GFA interior sales space plus 1.5 / 1,000 square feet interior storage	None for the first 5,000 square feet GFA, then 1/5,000 square feet up to 10,000 square feet
Auto sales and service	2.5 / 1,000 square feet GFA interior sales space plus 1.5 / 1,000 square feet of external display (does not include stock areas closed to the public) plus 3 / service bay	1 / 10,000 square feet up to 50,000 square feet GFA plus one for each 50,000 square feet thereafter
Other Retail/service uses	As determined by the Planning Board	None for the first 5,000 square feet GFA, then 1/5,000 square feet up to 10,000 square feet
Personal service establishments	2 / treatment station but not less than 4 / 1,000 square feet GFA	None
Service retail	2.4 / 1,000 square feet GFA	None for the first 5,000 square feet GFA, then 1/5,000 square feet up to 10,000 square feet
<b>Food and Beverage</b>		
Eating & drinking places (drive-in prohibited)	12 / 1,000 square feet GLA plus any spaces required for banquet and meeting rooms	1 / 30,000 square feet GLA
<b>Office/Business Services</b>		
Business and professional offices	3.6 / 1,000 square feet GFA for GFA up to 20,000 square feet	None
Funeral homes	1 / 3 persons accommodated at capacity plus one per 2 employees	1 / chapel which shall be 10 feet wide, 20 feet long, and seven and one-half feet (7½') high

<sup>4</sup> Includes two-family and townhouse style dwellings.

Village of Warwick Zoning Law

Schedule of Uses and Parking Space Requirements		
Use	Parking Spaces Required	Loading Spaces Required
<b>Residential</b>		
Medical Offices/facilities	6 / 1,000 square feet GFA for GFA up to 5,000 square feet; 5.5/1,000 square feet GIA for buildings with GFA up to 20,000 square feet	None for the first 30,000 square feet GFA then 1 thereafter
<b>Industrial</b>		
Manufacturing	2 / 1,000 square feet GFA plus any required spaces for offices, sales, or similar use or as special conditions may require	1 / 10,000 square feet up to 50,000 square feet GFA plus one for each 50,000 square feet thereafter
Warehouse, self-storage	3 spaces at the office; access to individual storage units shall provide for loading of vehicles without impeding traffic flow through the facility	None
<b>Institutional/Recreational</b>		
Indoor recreation	0.33 / person in permitted capacity	None
Membership Clubs	1 / 1,000 square feet GFA but not less than 1 / 5 seats	None
Hospitals or sanitariums	0.4 / employee plus 1 / 3 beds plus 1 / 5 average daily outpatient treatments plus 1 / 4 members of medical staff	1 / 100,000 square feet GFA
Institutions of higher learning, public libraries, museums, state-accredited private schools	To be established by the Planning Board based on a study of parking needs prepared specifically for the subject institution	To be established by the Planning Board based on a study of loading space needs prepared specifically for the subject institution
Nursery school or day care	1 / employee plus 0.1 / person of capacity enrollment plus drop-off spaces equal to one for each 8 enrollees permitted, or as required by special use permit conditions	None
Place of public assembly	0.25 / person in permitted capacity	1 / 100,000 square feet GFA
Recreational facility	0.33 / person in permitted capacity	1 / 100,000 square feet GFA

- b. Reasonable and appropriate off-street parking and loading requirements for structures and uses which do not fall within the categories listed above shall be determined by the Planning Board upon consideration of all factors entering into the parking needs of each such use. The Planning Board remains responsible for balancing the need for adequate parking with the need to avoid the negative impacts of excessive parking.
- c. Special care is required for development of impervious surfaces in the Wawayanda Creek Aquifer (see Comprehensive Plan Map #5 and § 145-67 for the Village of Warwick Stormwater Management Regulations). All surfacing, grading and drainage shall facilitate groundwater recharge by minimizing impervious pavement and all peak or overflow parking areas shall be permeable. Maximum use of

pervious paving materials for parking areas shall be required except in cases of unusual or extraordinary difficulties due to exceptional conditions of topography, access, location, shape, or other physical features of the site. The use of rooftop gardens or green roofs for buildings with flat roofs is encouraged.

The Planning Board is authorized to approve parking reserve areas which may not be constructed until and unless demand is evident.

The Planning Board may, as a condition of allowing parking reserve areas, require an applicant to set aside (or to "bank") land to meet potential future parking needs. Such land shall remain in its natural state or be landscaped, but may not be used in a manner that would prevent it from being developed for parking in the future. Reserve areas shall be clearly identified on Site Plans approved under Article XI. A deed restriction shall be executed guaranteeing that the owner will provide the additional spaces if the Code Enforcement Officer, upon thorough investigation of the actual use of parking spaces at the building or use, recommends to the Planning Board that the approved reduction be modified or revoked.

- d. Definitions. As used in this chapter, the following definitions shall govern the interpretation of the parking regulations. The uses enumerated and similar uses not specifically defined may be located as stand-alone facilities (in separate buildings), combined in buildings generally housing a number of similar uses or located in mixed-use facilities where a wide range of non-related uses may be combined in a single building, or development complex.

EMPLOYEE. Shall mean the regular working staff, (paid, volunteer or otherwise) at maximum strength and in full time equivalent numbers necessary to operate, maintain or service any given facility or use under normal levels of service.

GARAGE, PRIVATE. An accessory building housing motor vehicles (not more than one (1) of which may be a commercial vehicle of not more than three (3) tons gross vehicle weight) which are the property of and for the private use of the occupants of the parcel on which the private garage is located.

GARAGE, PUBLIC. Any building or premise (except those used as a private garage or off-street parking facility) used for equipping, repairing, hiring, selling or storing motor vehicles.

GROSS FLOOR AREA. The term "gross floor area" (GFA) as used herein shall mean the gross floor area, including the exterior building walls, of all floors of a building or structure. GFA shall include all occupiable areas minus the following deductions:



[1] Vehicular parking and loading areas within the structure.

[2] Floor area occupied by HVAC (heating, ventilating and air conditioning), mechanical, electrical, communications and security equipment or apparatus.

GROSS LEASABLE AREA. The term "gross leasable area" (GLA) as used herein shall mean the gross floor area minus the following floor area deductions:

[1] Elevator shafts and stairways

[2] Public restrooms

[3] Public lobbies, common mall areas, atriums and courtyards provided solely for pedestrian access to the building from the exterior, and/or for aesthetic enhancement or natural lighting purposes.

[4] Permanently designated corridors (i.e. not subject to relocation by the requirements of a specific lease).

OCCUPIED SPACE. An area enclosed or covered providing a ceiling height of 7' 0" or more, intended for normal use by people on an occasional or more frequent basis. Occupied space may include basements, cellars, penthouses, attic space and interior balconies or mezzanines if the space is intended for use or habitation.

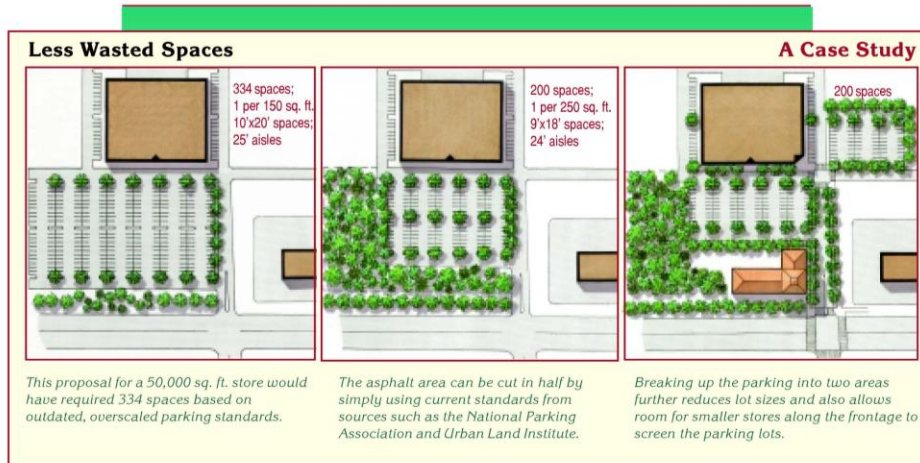
OFF-STREET PARKING FACILITY. Parking spaces located in an area other than on a street or public right-of-way and limited in use to vehicles not exceeding a gross vehicle weight of three (3) tons or not parked continuously for periods of more than forty-eight (48) hours, except in facilities designated for special uses such as airport parking. Parking facilities include the following sub-classes:

[1] SURFACE PARKING LOT. A parking facility constructed on prepared grade and without a covering roof or structure.

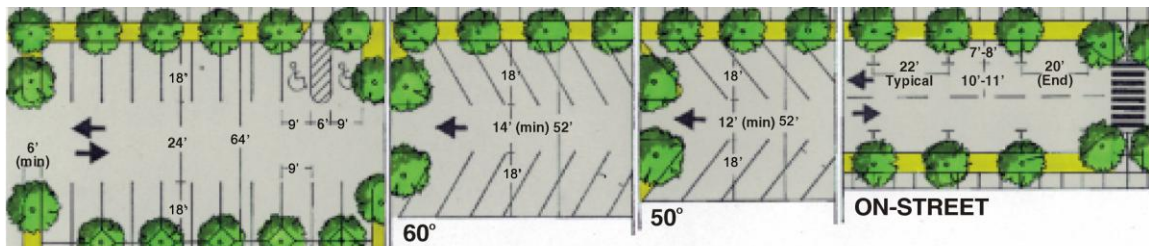
[2] OPEN PARKING STRUCTURE. A parking area or facility, comprising one or more floors as a part or whole of a building, that meets the requirements for natural ventilation as specified by the New York State Building Code.

[3] ENCLOSED PARKING STRUCTURE. A parking area or facility comprising one or more floors as a part or whole of a building, that does not meet adopted Building Code requirements for openness.

4. **Areas computed as parking spaces.** Areas which may be computed as open or enclosed off-street parking spaces include any private garage, carport or other



area available for parking, other than street or a driveway except in the



Traditional Neighborhood District. A driveway for a one-family or two-family residence may count as one parking space, other than on a corner lot, where the visibility at intersections is to be safeguarded.

- Location of Parking Spaces.** All off-street parking shall be located behind or to the side of the principal building(s) except as permitted by § 145-71. Parking spaces shall be screened from public view to the maximum extent practicable, provided such screening does not interfere with safety standards for sight distance. The Planning Board is authorized to reduce applicable front yard setbacks to allow placement of buildings nearer to the street, when parking is provided wholly at the rear of buildings and to link the site to the streetfront and sidewalk systems, whether existing or planned. Recommended parking dimensions are shown in the illustration below:

- Access.** Unobstructed access to and from a street shall be provided. Such access shall consist of at least one ten-foot lane for parking areas with fewer than 20 spaces and at least two ten-foot lanes for parking areas with 20 spaces or more.
- Drainage and surfacing.** All open parking areas shall be properly drained, and all such areas shall be provided with a suitable surface as specified by the Planning Board. See § 145-70.A(3)(c) for special conditions that apply to parking areas in the Wawayanda Creek Aquifer.

8. **Landscaping.** Parking lot landscaping is in addition to all other landscaping requirements of the Zoning Law. See § 145-91.E for landscaping requirements of all uses requiring conditional use permits, special permits and/or Site Plan approval. In all parking lots providing eight (8) or more off-street parking spaces, at least fifteen percent (15%) of the area between the inside perimeter of the parking surface of the parking area shall be landscaped and maintained with trees, shrubs and other plant materials, as determined necessary by the Planning Board. Natural landscaping can count as part of the fifteen percent (15%) requirement. In all parking lots providing eight (8) or more off-street parking spaces, a minimum of one canopy tree having a caliper of at least three inches (3") in diameter at breast height (dbh) and 10 shrubs shall be planted for each eight (8) parking spaces and any additional portion thereof, said tree(s) to be planted in median dividers, landscape islands or such other locations as may be determined by the Planning Board to relieve the monotonous expanse of asphalt and provide shade for parked vehicles.

The following principles of off-street parking lot design shall be considered in developing a landscape plan. It is recognized that each site is different due to topography, the presence of surface water resources, and other factors such as snow removal. Therefore, while the use of all principles is encouraged in parking lot design, each may not be attainable on every site.

- (a) Use of native species is highly encouraged since such species are tolerant of Southeastern New York's climate, generally disease resistant, do not create unusual maintenance problems, and are readily available from local nurseries. Use a variety of tree species to provide visual interest, to protect against same species die-out or disease, and be tolerant of road salt. Large leafed and/or fruiting trees should be avoided.
- (b) To reduce the visual impact of the parking lot, provide a ten (10) foot wide landscape strip around the perimeter of the lot, to be planted with shade trees and low shrubs. Provide a minimum of one shade tree every 35 feet of lot perimeter but not necessarily at 35 feet on-center. In the judgment of the Planning Board, additional shade trees and sufficient shrubs may be necessary to effectively shade/screen the parking lot.
- (c) Break up the blacktop and reduce stormwater runoff by using bricks, pavers, or textured surfaces for crosswalks. For uses subject to seasonal fluctuations, establish overflow parking using pervious surfaces such as cellular concrete blocks where the interstices of the blocks are filled with earth and planted with grass. The Planning Board remains responsible for determination of the adequacy of parking supply demand.
- (d) Divide the rows of parking with planting strips and trees, averaging a tree every six (6) to ten (10) spaces. Planting strips should be a minimum of eight (8) feet in width.

- (e) Provide diamond shaped tree islands six (6) feet wide for every four (4) to six (6) parking stalls.
- (f) Reduce visual impacts by breaking up large parking lots into smaller parking groves and parking courts with a significant number of shade trees and surrounded by low hedges, stone walls, or attractive fencing. Avoid more than 10 parking spaces in a continuous row and more than 30 spaces in any single parking area defined by landscaping.
- (g) Create large planting islands (over 500 square feet) to be located throughout the lot and planted with shade trees, low shrubs, and/or ground cover. These should preferably be located at the ends of parking rows.
- (h) Provide planting islands between every 15 spaces to avoid long rows of parked cars. Each of these planting islands should provide at least one shade tree.
- (i) Landscaping should be used to delineate vehicular and pedestrian patterns. Clear and legible signs, different color and texture paving materials, raised or inverted areas, and other techniques should be used to further direct the flow of both vehicular and pedestrian traffic within the lot.
- (j) Use existing woodlands, if located on the site, by preserving as much as possible along the perimeter of the lot. Provide additional evergreen shrubs if needed.
- (k) At least twenty-five percent (25%) of the shade trees should be evergreen type.
- (l) The use of non-plant materials as part of the landscape plan is encouraged, especially where such materials exist on the subject site. These materials may include the following: large landscape quality boulders, water features, wood or concrete soil retaining devices, gravels, concrete garden amenities, and approved mulch materials.
- (m) Lighting should compliment the landscaping and architectural features on the site, should be distinctive and human scale, and should avoid excessive glare or wasted light.
- (n) In large parking lots, separate pedestrian walkways should be provided to allow safe movement within the lots. These facilities should generally be oriented perpendicular to and between parking bays. Adjacent to the walks, trees should be planted. Coordinate pedestrian walkways with access for public transit if available or planned. The following walkway guidelines also apply:
  - [1] One walkway can serve as a collector for up to four bays of parked cars.

- [2] The walkway should be a minimum of four feet wide, allowing an additional 30 inches on each side for overhanging of automobiles.
  - [3] All walkways should be raised to a standard sidewalk height and should be constructed of different paving material than the parking lot.
  - [4] Provide pedestrian and bicycle amenities such as benches, shade, human scale lighting, and bicycle racks.
- (o) All plant material used to landscape parking lots is to be maintained at all times in a living and growing condition. The property owner is responsible for regular weeding, mowing of grass, irrigating, fertilizing, pruning, and other maintenance of all planting as needed. Any plant that dies shall be replaced with another living plant that complies with the approved Site Plan within thirty (30) days, or as soon as practical given weather conditions, after notification by the Village Code Enforcement Officer. A three (3) year maintenance bond shall be provided to ensure successful planting.
9. **Joint facilities.** Required parking spaces, open or enclosed, may be provided in spaces designed to serve jointly two or more establishments whether or not located on the same lot, in accordance with the standards defined in § 145-70.A(3).
10. **Design Standards.**
- (a) Parking facilities shall be designed with regard for orderly management, topography, landscaping, ease of access, and shall be developed as an integral part of an overall site design.
  - (b) Parking spaces shall have wheel stops or curbs to prevent injury to trees and shrubs planted in landscaped islands.
  - (c) Bicycle parking spaces and racks shall be provided in an area that does not conflict with vehicular traffic. Designated van/car pool parking, and other facilities for transportation alternatives to single occupancy vehicle use shall be provided wherever practical.
  - (d) All above-ground loading facilities shall be oriented to preserve auditory privacy between adjacent buildings, and shall be screened from public view to the extent necessary to eliminate unsightliness.
  - (e) Parking areas shall comply with the applicable requirements of the Americans with Disabilities Act. All handicapped parking spaces shall be designed in accordance with the American National Standard Institute, Inc. *Standards for Making Buildings and Facilities Accessible To and Usable by Physically Handicapped People* (ANSI A117.1-1980 or as amended). The minimum width for the vehicle space shall be ten (10) feet and shall have an adjacent access aisle. The minimum width of an

access aisle serving car parking shall be five (5) feet. The minimum width of an access aisle serving van parking shall be eight (8) feet. The number of handicapped parking spaces shall be provided according to the Table 8 - Required Accessible Parking Spaces below.

Table 8: Required Accessible Parking Spaces	
Total Parking Spaces Provided	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
More than 1,000	20 plus one for each 100 over 1,000

11. **Screening from residential uses.**

- (a) Whenever a parking lot abuts the side or rear lot line of a lot in a residence district, or any land in residential use, said parking lot shall be effectively screened from such adjoining lot by a substantial fence, or berm, or a thick evergreen hedge as determined by the Planning Board, with a height of not less than six (6) feet at the time of planting and pruned to a height of not less than six and one-half (6½) feet.
- (b) Whenever a parking lot is located across the street from land in any residence district, or any land in residential use, it shall be screened from the view of such land by a thick hedge located along a line drawn parallel to the street and a distance of five feet from the edge of pavement or greater in order to maintain adequate sight distance, such hedge to be interrupted only at points of ingress and egress. The open area between such hedge and the street shall be landscaped in harmony with the landscaping prevailing on neighboring properties fronting on the same street.
- (c) Identification and directional signs located on the street side of such screening as provided in Article VIII shall not exceed an area of two (2) square feet each and shall be limited to such number as are essential for the particular use.

12. Trailers (camping or travel), boats, and commercial vehicles not exceeding twenty-six (26) feet in length.

- (a) One (1) house trailer, recreational vehicle or boat trailer not exceeding twenty-six (26) feet in length may only be parked or stored on any developed residential lot and must be behind the front setback line of any required yard. The use of such a vehicle for dwelling purposes is

prohibited. All other parking storage or use of such vehicles is prohibited, except that:

- [1] One (1) house trailer, recreational vehicle or boat trailer not exceeding twenty-six (26) feet in length may only be parked or stored on any developed residential lot and must be behind the front setback line of any required yard. All other parking storage or use of such vehicles is prohibited. The use of such a vehicle for dwelling purposes is prohibited.
- [2] No house trailer, recreational vehicle or boat may be stored on an unimproved lot.
- [3] One commercial vehicle not exceeding 26 feet in length may be parked within a private garage in any residence district.

13. **Driveways.** No driveway shall provide access to a lot located in another district, which lot is used for any use prohibited in the district in which such driveway is located.

**B. Additional requirements for off-street loading berths.**

1. Accessory open or enclosed off-street loading berths shall be provided for any lot or any use as specified herein. Any land which is developed as a unit under single ownership and control shall be considered a single lot for the purpose of such requirements.
2. **Size, location and access.** Each required loading berth shall be at least 12 feet wide, 33 feet long and 14 feet high, unless specified elsewhere for a particular use. Unobstructed access, at least 10 feet wide, to and from a street shall be provided. Such access may be combined with access to a parking lot. The berth may be located either within a building or in the open, but not within required yards. If such berths are not enclosed, they shall be located not less than 300 feet from any residence district boundary and an effective visual and noise barrier shall be provided as in the case of parking areas as set forth in § 145-70A(10).

**C. Regulations affecting both parking and loading facilities.**

1. Access near street corners. No entrance or exit for any accessory off-street parking area with over 10 parking spaces, nor any loading berth, shall be located within 50 feet of the intersection of any two street lines.
2. On lots divided by district boundaries. When a lot is located partly in one district and partly in another district, the regulations for the district requiring the greater number of parking spaces or loading berths shall apply to all of the lot. Parking spaces or loading berths on such a lot may be located without regard to district lines, provided that no such parking spaces or loading berths shall be located in any residence district, unless the use to which they are accessory is permitted in such district.



3. Parking in commercial and mixed-use zoning districts may meet the standards specified in § 145-70. In addition, the following standards may apply:
  - a. On-street parking may be provided in parking lanes parallel to street curbs along all public streets in accordance to a determination by the Planning Board as per § 145-70.A.3.a.(7).
  - b. Off-street parking areas located to the rear or side of buildings may be supplemented by on-street parking areas at the Planning Board's discretion. Ideally, off-street parking shall be provided in the rear yard perpendicular to the building, between the building and a lane that abuts the rear property line and provides access to the parking area.
  - c. Buffering of parking lots adjacent to residences (if applicable) shall be accomplished through landscaping sufficient to screen the nuisance characteristics of parking, such as headlights, noise and views of cars.
  - d. Parking lots shall be accessed either through a lane or through internal connections to parking lots on adjacent properties. Cross-access easements for adjacent properties with interconnected parking lots shall be required, in language acceptable to the Planning Board Attorney.
  - e. No off-street parking shall be permitted in the front yards of buildings, nor shall off-street parking be permitted on corner lots except when screened.
  - f. Any off-street parking space or parking lot abutting a sidewalk shall be buffered from the sidewalk by a landscaped area no less than four feet wide in which is located a continuous row of shrubs no less than 3.5 feet high, or by a wall or fence no less than four feet high and no more than 6 feet high and at least 1.5 feet from any property line, in addition to the required shade trees.
  - g. Reduction of impervious surfaces through the use of interlocking pavers is strongly encouraged for areas that serve low-impact parking needs, such as remote parking lots, parking areas for periodic use, and parking in natural amenity areas.

### **145-71 Location And Size Of Parking Spaces**

- A. **Location.** Open or enclosed off-street parking spaces may include any private garage, carport or other area available for parking. This does not include a street, entrance and exit lanes or a driveway and no vehicle shall be parked or stored in any required yard or fire lane. Parking in the front yard setback is prohibited in residential use except that a driveway of a one-family or two-family residence may count as one (1) parking space. A driveway beyond a required front yard for a one-family or two-family residence may count as one (1) parking space.

- B. **Size of Spaces.** The Planning Board, in consultation with the Village Engineer, shall determine the total area devoted to parking, considering the schedule of parking requirements at §145-70.A(3) of the Zoning Law. As a guideline, two hundred fifty (250) square feet should be considered for each standard parking space, to provide for standing area and aisles for maneuvering. Parking spaces shall be striped to denote a minimum nine (9) foot wide by eighteen (18) foot long area for a standard parking space. Compact spaces may be striped to denote a minimum eight (8) foot wide by sixteen (16) foot long space at the discretion of the Planning Board in consultation with the Village Engineer. Entrance and exit lanes shall not be computed as parking space except for driveways for one (1) family and two (2) family residences.
- C. An undedicated Village street cannot be used as part of the parking count.

## **145-72 General Requirements**

- A. **Access.** Unobstructed access to and from a street shall be provided for nonresidential uses. Such access shall consist of a minimum of one (1) twelve foot lane for parking areas with over twenty (20) or fewer spaces and at least two (2) twelve foot lanes for parking areas with over twenty (20) spaces. Access to roads shall include adequate turnaround area to preclude the need for backing out onto the public right-of-way.
- B. **Drainage and Surfacing.** All open parking areas shall be properly drained so as not to cause surface drainage to a public street, and all such areas shall be provided with a paved surface, except that grass or gravel areas may be used at the discretion of the Planning Board.
- C. **Joint Facilities.** Required parking spaces, open or enclosed, may be provided in spaces designated to service jointly two (2) or more uses or owners, whether or not located on the same lot, provided that the number of required spaces in such joint facilities shall not be less than the total required for such uses.
- D. **Combined Uses.** When any lot contains two (2) or more uses having different parking requirements, the parking requirements for each use shall apply to the extent of that use. Where one (1) or more such uses will be generating a demand for parking spaces primarily during periods when the other use or uses is not or are not in operations, the Planning Board may reduce the total parking spaces required by fifty (50%) of the parking spaces required for that use with the least requirement.
- E. **Location and Ownership.** Required accessory parking spaces shall be provided upon the same lot as the use to which they are accessory or on a nearby lot, provided that all spaces on the second lot are located within three hundred feet (300') walking distance of the original lot along the existing road network (see also § 145-70A(3)(a)(5) for additional requirements related to off-site parking). Parking spaces shall conform to all the requirements of the district in which the parking spaces are located. In no event shall such parking spaces be located in any residence district unless the use to which the spaces shall be in the same ownership as the use to which they are accessory and shall be subject to deed restriction in a form approved by the Village Attorney, binding

the owner and his heirs and assigns to maintain the required number of spaces available, either throughout the existence of the use to which they are accessory or until such spaces are provided elsewhere.

- F. **On Lots Divided by District Boundaries.** When a parking lot is located partly in one (1) district and partly in another district, the regulations for the district requiring the greatest number of parking spaces shall apply to the entire lot. Parking spaces on such lot may be located without regard to district lines, provided that such parking spaces shall not be located in any residential district unless the use to which they are accessory is permitted in such district.

### **145-73 Parking Spaces Adjacent To Lots In Residence Districts.**

Off-street parking spaces (open or enclosed) are permitted accessory to any use, subject to the provisions of this Article, provided that no off-street parking space is located nearer than fifteen feet (15') to any lot in residential use or any Residence District boundary line. See also § 145-120.3 on Home Occupations for additional parking.

### **145-74 Driveways**

No driveway shall provide access to a lot located in a nonresidential district across land in a residential district.

### **145-75 Commercial Vehicles**

- A. Not more than one (1) commercial vehicle of twenty-six feet (26') or less in length, may be parked on a developed lot in any residence district, and not within the required yards of such lot and in no case between the street line and the principal building.
- B. Not more than one (1) commercial vehicle of twenty-six feet (26') or less in may be parked within a private garage in any residence district.
- C. No commercial vehicles are permitted as accessory to a commercial farm use in any residence district and shall not be stored or parked within any required yard.
- D. No commercial vehicle or otherwise shall be parked or stored on any unimproved lot.

### **145-76 Storage Of House Trailers And Boats**

- A. One (1) house trailer, recreational vehicle or boat trailer not exceeding twenty-six (26) feet in length may only be parked or stored on any developed residential lot and must be behind the front setback line of any required yard. All other parking storage or use of such vehicles is prohibited. The use of such a vehicle for dwelling purposes is prohibited.

- B. No house trailer, recreational vehicle or boat may be stored on an unimproved lot.

### **145-77 Required Off-Street Loading Berths**

Off-street loading berths, open or enclosed, are permitted accessory uses (except for one and two family residences), subject to the following provisions:

- A. Uses for which required: Accessory off-street loading berths shall be provided for any use specified below. Any land, which is developed as a unit under single ownership and control shall be considered a single lot for the purpose of these loading requirements.
1. For a public library, museum, art gallery, or similar quasi-public institution, or governmental building, community center, hospital or sanitarium, nursing or convalescent home, institution for children or aged, or school, with floor area of 10,000 square feet, one (1) berth; for each additional 25,000 square feet or fraction thereof, one (1) additional berth.
  2. For buildings with professional, governmental or business offices, or laboratory establishments, with floor areas of 10,000 to 25,000 square feet of floor area, and one (1) additional berth for each additional 25,000 square feet of floor area of fraction thereof so used.
  3. For buildings with offices and retail sales and service establishments, one (1) berth for 8,000 to 25,000 square feet of floor area, and one (1) additional berth for each additional 25,000 square feet of floor area of fraction thereof so used.
  4. For undertakers, one (1) berth for each chapel. (Such berths shall be at least ten (10') feet wide, twenty (20') feet long, and seven and one-half feet (7 ½') high.
  5. For hotels, one (1) berth for each 25,000 square feet of floor area.
  6. For manufacturing, wholesale and storage uses, and for dry cleaning and rug-cleaning establishments and laundries, one (1) berth for 5,000 to 10,000 square feet of floor area in such use, and one (1) additional berth for each additional 20,000 square feet of floor area or fraction thereof so used.
- B. **Size, Location and Access.** Each required loading berth shall be at least twelve (12') feet wide, thirty-three (33') feet long, and fourteen (14') feet high. Unobstructed access, at least ten (10') feet wide, to and from a street shall be provided. Such access may be combined with access to a parking lot. All permitted or required loading berths shall be on the same lot as the use to which they are accessory, except as provided in C.
- C. **Joint Facilities.** Permitted or required loading berths, open or enclosed, may be provided in spaces designed to serve jointly two (2) or more adjacent establishments, provided that the number of required berths in such joint facilities shall not be less than the total required for all such requirements.

## **145-78      Supplementary Regulations For Parking And Loading Facilities**

- A.    **Access near street corners.** No entrance or exit for any accessory off-street parking area with over four (4) parking spaces, nor any loading berth, shall be located within fifty (50') feet of the intersection of any two (2) streets.
- B.    **On lots divided by district boundaries.** When a lot is located partly in one (1) district and partly in another district, the regulations for the district requiring the greater number of parking spaces or loading berths shall apply to all of the lot. Parking spaces or loading berths on such a lot may be located without regard to district line, provided that no such parking spaces or loading berths shall be located in any Residence District, unless the use to which they are accessory is permitted in such District, or upon approval by the Planning Board.
- C.    **Supplementary Regulations for any Parking Spaces Adjacent to Residential Area**
  - 1.    Wherever a parking lot abuts the side or rear lot line of a lot in a residential area, the said parking lot shall be screened from such adjoining lot by a substantial wall or evergreen fence, or thick hedge, at least six feet (6') high and approved by the Planning Board.
  - 2.    Whenever a parking lot is located across the street from other land in a residential area, it shall be screened from the view of such land by a thick hedge, wall or fence approved by the Planning Board, located along a line drawn parallel to the street and a distance of twenty (20') feet there from; such hedge to be interrupted only at points of ingress and egress. The open area between such hedge and the street shall be landscaped in harmony with the landscaping prevailing on neighboring properties fronting on the same street. Two (2) identification and directional signs located on the street side of such screening shall be permitted in accordance with Article VIII however, they shall not exceed an area of three (3) square feet.
- D.    **Requirements for Lighting.** The Planning Board is empowered, subject to § 145-200 to adopt additional rules and regulations pertaining to the lighting systems.
- E.    **Regulations for Parking Spaces.** The Planning Board is empowered, subject to § 145-200, to adopt rules and regulations providing for standard design of parking areas, including striping of stalls; provision of vehicle stops; control of traffic movements; and specifications and surfacing of required parking spaces.

## **ARTICLE VIII Signs**

### **145-81    Sign Regulations**

- A.    **Purpose.** The purpose of this Section is to promote and protect the public health, safety, and welfare by regulating signs of all types. It is intended to promote attractive

signs that clearly and simply communicate their message while enhancing their surroundings, protect pedestrian and vehicular safety, protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the Village, preserve scenic and natural beauty, and provide a more enjoyable and pleasing community.

**B. Permit Required.**

1. Except as otherwise provided, a sign permit from the Village of Warwick is required prior to the erection, relocation, or alteration of any sign regulated under this section.
2. Permanent new signs require the approval of the Planning Board. The Planning Board, within ten (10) days of its receipt of an application for a sign permit at a regularly scheduled Planning Board meeting, shall refer the application to the Architectural and Historic District Review Board (AHDRB) for comment. The AHDRB shall review the application and provide comment to the Planning Board within thirty (30) days of its receipt of the sign application. Failure of the AHDRB to provide comment to the Planning Board within thirty (30) days shall be considered as no comment on a sign application. The Planning Board shall consider the comments of the AHDRB and the application and shall approve, approve with modifications, or deny the application and notify the Code Enforcement Officer of its decision on this matter. If the sign application is approved, the Code Enforcement Officer shall issue a sign permit within fifteen (15) days of the Planning Board's decision.
3. Alteration or relocation of a permanent sign shall be reviewed by the Code Enforcement Officer. In reviewing the alteration or relocation application for a permanent sign, the Code Enforcement Officer shall determine that the sign will meet the criteria in § 145-81.D. and § 145-81.J. If, in the judgment of the Code Enforcement Officer, sufficient doubt exists as to whether the application can comply with the design criteria, referral shall be made to the Planning Board within ten (10) days of receipt of the application at a regularly scheduled Planning Board meeting. The Planning Board, within ten (10) days of its receipt of an application at a regularly scheduled Planning Board meeting, for a permanent sign alteration or relocation, shall refer the application to the Architectural Historic District Review Board (AHDRB) for comment. The AHDRB shall review the application and provide comment to the Planning Board within thirty (30) days of its receipt of the sign application. Failure of the AHDRB to provide comment to the Planning Board within thirty (30) days shall be considered as no comment on a sign application. The Planning Board shall consider the comments of the AHDRB and the application shall then consider the design criteria and approve, approve with modifications, or deny the application for a permanent sign permit alteration or relocation and notify the Code Enforcement Officer of its decision on this matter.

4. A permit issued for an approved sign shall be valid for installation and/or erection of the sign for six (6) months from the date of the permit, but may be renewed within thirty (30) days prior to the expiration, for good cause shown, for an additional six (6) months, upon payment of one-half (½) of the original fee.
5. All approved signs installed prior the effective date of this Zoning Law, shall be brought into compliance with the provisions of this Section within five (5) years from date of adoption of this Zoning Law. No replacement or installation of new signs shall be permitted unless in conformance with this Section. Non-conforming signs that are the subject of Subdivision, Special Use Permit, Conditional Use Permit and/or Site Plan applications, Certificates of Occupancy, or other permit, approval, entitlement, or authorization from the Village of Warwick shall be subject to all of the terms and conditions of this section.

**C. Application Procedure.** Any person desiring to procure a permit for a new sign shall file with the Planning Board a written application on a form prescribed by the Village, including payment of the applicable fee as outlined in Chapter 63 “Fees” of the Village of Warwick Code. The sign permit application shall contain:

1. Name, address, and telephone number of applicant and property owner.
2. Location of the building, structure or land upon which the sign now exists or is to be erected and the location on the property where the sign is to be erected.
3. Linear frontage of the building, if relevant, and Zoning District in which the property is located.
4. Sign Design: For permanent signs, a scaled drawing of the sign showing the following:
  - a. Type of sign, shape, size, and materials.
  - b. Graphic design, including lettering, pictorial matter, and sign colors with color swatches.
  - c. The visual message, text, copy or content of the sign.
  - d. The method of illumination, if any, including type of lamp, wattage, and the position of lighting or other extraneous devices. A photometric plan and manufacturers cut sheets showing lighting levels and potential glare from illumination may be required in accordance with § 145-91.C. and § 145-104.B.10 of the Zoning Law.
  - e. Landscaping, if any, including types of vegetation, location of plantings, and planting and maintenance schedule.
5. Sign Location: If a new permanent sign is to be erected, or an existing permanent sign is to be altered in size or elevation, a plan, drawn to scale, shall be submitted showing the following:

- a. If a freestanding sign, a full description of the placement of the proposed sign, specifically its location on the premises, its orientation, and its position in relation to adjacent buildings, structures, roads, driveways, property lines, other signs, lighting fixtures, walls, and fences.
  - b. If an awning, window, wall, or projecting sign, the placement of the proposed sign, which shall include: location on the awning, window, wall or building; the size of the awning, window, or linear footage of the building; projection from the building, if relevant; and the proposed position of the sign in relation to adjacent signs and lighting fixtures.
6. For all signs, if the applicant is not the owner of the property on which the sign is to be located written permission from the property owner is required.
- D. **Permanent Signs.** Within any zoning district the following permanent signs are permitted, provided however that this subsection shall not serve to expand the number of signs otherwise allowed:
1. Signs and bulletin boards customarily incidental to places of worship, libraries, museums, social clubs or societies, may be erected on the premises of such institution or off-premises with special permit approval from the Village Board of Trustees. A bulletin board for the benefit of the community, Only one (1) such sign or bulletin board not exceeding twenty (20) square feet may be erected and must face a street or highway. Such sign or bulletin board shall not be internally illuminated. Lighting, if provided, shall not cause glare or be offensive to traffic or residential areas.
  2. Recreational areas, golf clubs and other similar facilities permitted by the Zoning Ordinance shall be permitted one (1) sign not exceeding twenty-five (25) square feet.
  3. The following signage which is customarily incidental to public or private healthcare, hospitals, or schools is permitted:
    - a. A maximum of two (2) signs shall be permitted for each building or each defined major separate facility, one (1) of which may be a freestanding sign providing the necessary identification or purpose of that building or separate facility. In addition, if there is more than one (1) primary public entrance, an additional wall sign shall be permitted to identify such entrance to the public.
    - b. In addition, one (1) freestanding sign shall be permitted on each entrance from a public street to such facility to identify same and direct the public to various facilities in the complex which sign shall not exceed twenty-five (25) square feet.
    - c. Directional signs, each not exceeding six (6) square feet shall be permitted on interior roads, paved walkways and walls, as necessary, to provide direction for the public to the various facilities on the campus.



Freestanding directional signs shall be set back a minimum of fifty (50) feet from a public street.

4. Within residential districts, and for residential uses in the TND, the following permanent signs are permitted:
  - a. For each dwelling unit, one (1) non-illuminated sign indicating a permitted home occupation, with a maximum sign area of two (2) square feet.
  - b. For permitted and special permit nonresidential uses, one (1) sign with a maximum sign area of twenty-five (25) square feet.
  - c. For subdivisions, or condominium, townhouse, co-op, or apartment complexes, one (1) non-illuminated monument sign containing an area of not more than twenty-five (25) square feet and located not more than six (6) feet above ground level at its highest point, identifying the subdivision or complex, may be displayed. Such sign shall be set back at least ten (10) feet from the pavement of any public road. The Planning Board may specify a distance greater than ten (10) feet if during the review of the application, the Planning Board determines a greater distance is necessary to provide safe and adequate sight distance. The same restrictions shall apply if such signs are located in a nonresidential district. External illumination of the sign may be permitted provided the light is fully shielded, is directed downward, and does not create light trespass onto adjoining properties or glare that is visible from adjoining properties.
5. Within the CB, GC, LO Districts, and for commercial uses in the TND, the following permanent sign provisions shall apply:
  - a. Each building shall be limited to a total sign area of two (2) square foot in area for every one (1) linear feet of ground-floor street frontage occupied by an establishment. The total number of permitted signs on a single building or industrial lot shall not exceed two (2), of which only one may be freestanding, except as noted in the law. Each tenant in a building lot shall be allowed at least one (1) sign provided that the total sign area for the building lot conforms to the requirements. Buildings that have frontage on more than one street may have addition sign(s) on such street(s) with additional allowable sign area calculated according to the following formula: Additional sign area allowed equals one-half the allowable sign area of the primary street frontage for each additional street frontage (on such street) or one (1) square foot of signage (x) the linear feet of ground floor street frontage on the additional street(s) on each street, whichever is lesser. Buildings that have frontage on a municipal parking lot that fronts primarily on a street shall be considered to have frontage on a street for calculation of allowable signage in accordance with this section. A minimum total sign area of

twenty-four (24) square feet shall be permitted any use regardless of the building frontage.

- b. Where the design of an existing building façade incorporates a specific area for signs, the height and length of the signs shall be restricted to the dimensions of this area.
- c. No projecting sign may extend more than four (4) feet over the street right of way/property line, or be less than eight (8) feet from the ground. In no case shall a sign obstruct sight lines of vehicle or pedestrian traffic.
- d. Freestanding signs shall not be permitted where the building is set less than ten (10) feet back from the property line.
- e. Freestanding signs larger than eight (8) square feet are subject to the setback provisions in subsection J.2.b.(2) below.
- f. No freestanding sign shall exceed six (6) feet in height.
- g. Lettering and graphics on awnings and canopies (including gas pump canopies) shall count towards the sign area allowance per building.
- h. Sign coverage on windows shall not exceed twenty-five percent (25%) of the glass area or window in which it is displayed. For formula businesses (see § 145-120.5.A.1.d(7)), advertising or anything displaying a corporate logo, is forbidden to be displayed in the windows.
- i. Lettering and graphics of window signs shall count towards the sign allowance per building.
- j. Where four (4) or more establishments are planned as an integrated shopping center, mall, or office/business center and where the building(s) are set back more than ten (10) feet from the property line, the following provisions shall apply:
  - (1) Individual establishments shall not be permitted a freestanding sign.
  - (2) One (1) common freestanding shopping center identification sign identifying the shopping center or complex shall be permitted as follows:
    - (a) Monument signs no larger than twenty-five (25) square feet in area, with a height maximum of five (5) feet (including the base), and subject to the setback provisions in subsection J.2.b.(2) below.
    - (b) Post & arm signs no larger than eighteen (18) square feet in area with a height maximum of six (6) feet (including the post), and subject to the setback provisions in subsection J.2.b.(2) below.

- k. Movie theaters shall be permitted one freestanding changeable sign, with the capability of content change by means of manual or remote input, advertising the name of the theatre and indicating movies currently being shown. Such changeable sign shall be allowed twenty-five (25) square feet to display the name of the theatre, and shall be allowed an additional maximum area of nine (9) feet by nine (9) inches per number of movie screens existing at the establishment to list the name of movies currently being shown in lettering no more than six (6) inches high. The bottom portion of the area of the sign with lettering shall be no more than six (6) feet from the ground. The sign shall be subject to the setback provisions in subsection J.2.b.(2) below.
  - l. Gas stations shall additionally be permitted two (2) price, product, or promotional signs each not exceeding twelve (12) square feet or six (6) square feet per side, if located on the pump island, or set not closer than ten (10) feet from the edge of the pavement, not exceeding eight (8) feet above grade nor situated so as to impair visibility for pedestrians or motorists.
  - m. For properties which do not have frontage on a major or collector street one off premises sign may be erected with special permit approval of the Village Board of Trustees. The intent of the off premises sign is to provide convenience to the general public for the purpose of directing persons to the business(es) and as such will be simple in appearance, non-illuminated and appropriately to scale. The applicant must provide written permission from the owner of the property in which the sign will be erected. The Village Board of Trustees may seek the advice of the Planning Board and the AHDRB as a component of its consideration.
- E. **Temporary Signs.** All signs of a temporary nature must receive permits before being displayed, except those specified under § 145-81.F, Exempt Signs. Planning Board approval is not required and the Code Enforcement Officer or any duly appointed deputy inspector shall issue or deny a sign permit within a reasonable period of time. Both the permit and the sign shall note the date of the first day the sign may be displayed and the date it must be removed. Upon issuance of a sign permit, a security deposit, payable to the Village of Warwick, in accordance with the current fee schedule, shall be deposited with the Code Enforcement Officer or any duly appointed deputy inspector to insure removal of the sign(s) upon expiration of the permit period. If any temporary sign is not removed by the expiration of the time limit noted on the application, the Code Enforcement Officer or any duly appointed deputy inspector, after seven (7) days written notice to the permit holder to remove such sign(s) (computed from the date of mailing), and after failure of the permit holder to do so, will cause said sign(s) to be removed, and the cash deposit will be applied to help defray the reasonable and necessary cost of removal. Temporary signs are allowed for:
- 1. **Activities or Events.** An activity or event sign, not exceeding eighteen (18) square feet in surface area, displayed on private property and limited to one

such sign per event per premise, announcing the campaign, drive or event of a civic, philanthropic, educational or religious organization, shall be permitted to be erected not more than thirty (30) calendar days prior to the event and removed within a period of three (3) days after the event or as otherwise permitted by law. Temporary signs may be installed by businesses by giving notice to the Code Enforcement Officer or any duly appointed deputy inspector of the beginning and ending dates of use. Businesses that use temporary signs shall not exceed a maximum of forty (40) days per year when an activity or event sign is displayed. The activity or event sign shall be placed no closer to the road than existing signs and shall not exceed height limitations or be illuminated. Trailer or wheel-mounted signs are prohibited.

2. Temporary Real Estate Signs. Temporary real estate signs are permitted for each subdivision receiving final plat approval by the Planning Board.
  - a. One (1) such sign may be located on each side of the property which has frontage on a village, county or state highway or street on which the subdivision fronts. Said sign(s) shall be located at least five (5) feet from the property line and shall be permitted only during the period of active sales and in no case longer than one (1) year from the date of final approval. Upon written application from the subdivider, the Planning Board may extend this period for one (1) additional year, when the Planning Board deems that the circumstances warrant such extension. The subdivider shall post a bond, payable to the Village of Warwick, in accordance with the current fee schedule, as a reasonable condition for removal.
  - b. Each such sign shall not exceed four (4) feet in height, and shall not be located nearer than five (5) feet to any street or lot line or any building, unless attached directly to said building. The total sign area of each sign shall not exceed twelve (12) square feet.
- F. **Exempt Signs.** The following types of signs may be erected, maintained and removed without permits or fees, providing they comply with the specific requirements of § 145-81.D. and § 145-81.J. herein.
  1. Number and name plates identifying residents by name, or residences by number, not exceeding one (1) square foot if mounted on a house, apartment, or mailbox, or not exceeding two (2) square feet if located on a lawn.
  2. Historical markers, tablets, memorial signs and plaques, names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel or similar material, emblems installed by governmental bodies, religious or non-profit organizations, not exceeding four (4) square feet, defined as any sign that was installed and has been continuously in place without alteration since 1988.
  3. Construction, renovation or painting signs, not exceeding six (6) square feet, listing the architect, engineer, contractor and/or owner, on the lot where the

activity is being conducted while the activity is in progress but in no case for a period of greater than six months.

4. On-premise directional signs limited to generic text identifying public parking areas, entrances and exits, fire zones, and similar signs for the convenience of the general public. Such signs shall not be illuminated, shall not exceed two (2) square feet, and shall be set back at least five (5) feet from any public right-of-way or property line.
  5. Flags and insignia of any government, except when displayed in connection with commercial promotion.
  6. Temporary signs for activities or events, not exceeding four (4) square feet, for a period not exceeding seven (7) days.
  7. Non-illuminated warning, private drive, posted or no trespassing signs, not exceeding two (2) square feet.
  8. One (1) sign not exceeding eight (8) square feet for any religious institution.
  9. Temporary non-illuminated real estate signs identifying that the real estate upon which the sign is located is for sale, lease or rent, or holding open houses. Such signs must not exceed four (4) square feet. All such signs shall be removed within three (3) days after the sale, lease or rental of the premises.
  10. Holiday decorations, including lighting displayed for the period from Thanksgiving until the first week of the following year.
  11. Traffic or other municipal signs, legal notices, railroad crossing signs, danger and similar temporary emergency signs, signs which are solely devoted to prohibiting trespassing, hunting or fishing, the sign, banner, or any political, educational, charitable, philanthropic, civic, professional, religious and non-commercial signs.
  12. Signs indicating the sale price per gallon and octane rating of petroleum products displayed on fuel dispensing devices as required by New York State Department of Agriculture and Markets, Division of Bureau of Weights and Measures, 1 NYCRR Part 224.
  13. Any sign inside a building, not attached to a window or door that is not legible from distance of more than three (3) feet beyond the front façade of the building on which such sign is located.
- G. **Prohibited Signs.** All signs not specifically permitted are prohibited. Prohibited signs include but are not limited to:
1. Abandoned signs: Any sign that a) promotes a business that no longer exists, or a product that is no longer sold, on the premises on which the sign is located; or b) pertains to a time, event or purpose that no longer applies; or c) pertains to a product or service other than the one offered on such lot shall be deemed to have been abandoned after a period of thirty (30) days or more. Exceptions

may be made if the sign is found to have historic merit as determined by an historic registry and/or the Village Historical Society.

2. Animated signs: Any sign manifesting kinetic or illusory motion caused by natural, mechanical, manual, electrical or other means, except signs displaying time and/or temperature.
3. Billboards: see off-premise signs.
4. Illuminated flashing signs.
5. Self-illuminated signs, wherein the light source itself is shaped, and utilized to form the sign (e.g., neon or an array of individual lamps).
6. Internally illuminated signs wherein a translucent or opaque material, which forms the sign, is back-lit by the light source and the light is enclosed from direct view.
7. Lighting used to outline any part of a building, such as a gable, roof, side, wall or corner and including windows.
8. Mounted or portable search lighting used to project moving or stationary overhead light beams.
9. Non-conforming sign: Any sign that is not in compliance with this Local Law from the date of original enactment, or from any future date on which this Local Law may be amended unless specifically grandfathered by the Village Board of Trustees.
10. Off-premise signs: Any sign that advertises an establishment, products, services or activities which are not conducted, sold or offered on the lot where the sign is located.
11. Portable signs: Any sign, whether on its own trailer, wheels or otherwise, designed to be movable and not structurally attached to the ground, a building, structure, or another sign. Included are signs displayed on a parked or moving vehicle or trailer or other vehicle where the primary purpose of the vehicle is to promote a product, service, business, or other activity. Not included are signs or lettering on buses, taxis, or vehicles operating during the normal course of business.
12. Roof signs: Any sign erected on a roof or extending in height above the main roofline of the building on which the sign is erected.
13. Signs located in windows above the second story of a building.
14. Signs on side walls of mid-block buildings.
15. Signs incorporating projected images.
16. Signs that emit smoke, vapors or particles, sound or colors.
17. Signs located in or projecting over a public roadway or other public property, or that may be confused with or obstruct the view of any authorized traffic sign or

signal, or obstruct the sight distance triangle at any street intersection, except those erected by a governmental body.

18. Signs located on Village owned or other public property.

**H. Sign Illumination.** Except as otherwise provided, permanent signs may be illuminated subject to the following provisions:

1. Externally Illuminated

- a. Signs shall be illuminated from the top of the sign downward with fully shielded fixtures.
- b. Light sources shall be enclosed and shielded or screened in a manner not to be seen by passersby from a normal viewing angle and so that it does not interfere with residential or business uses or detract from the safety of motorists.
- c. Light sources shall be so located and/or shielded so that the edge of the beam of any artificial light source shall not cross any property line of a lot on which the sign is situated.
- d. Light sources shall be limited to natural white lamps and light fixtures and shall be designed to cause a reasonably uniform distribution of light over the full extent of the sign.

2. Internally Illuminated

- a. Internally illuminated signage shall be prohibited.

**I. Measuring Signs.** Sign area shall be measured as follows:

1. When any sign is framed or outlined, all of the area of the frame or outline shall be included.
2. Sign measurement shall be based upon the entire area of the sign with a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including structural supports if they are not used for advertising purposes.
3. Two-sided signs, arranged back-to-back, may be counted as one (1) sign.
4. The area of a sign consisting of an insignia or other device, but without background, shall be calculated as the smallest polygon or circle possible enclosing the insignia.
5. The area of a window sign consisting only of letters and symbols affixed or painted on glass shall be calculated as the smallest polygon or circle possible enclosing all of the letters and symbols.

**J. Design Criteria.** In reviewing applications for permanent signs, the Planning Board shall determine that the sign will meet the following criteria.

1. General Criteria

- a. Whenever feasible, multiple signs should be combined into one to avoid clutter.

- b. Signs should be as close to the ground as practical, consistent with legibility considerations.
  - c. Sign design should be compatible with the architectural character of the building on which it is placed and shall not cover any architectural features on the building.
  - d. To the extent possible, adjacent signs on the same or adjoining buildings should be placed within the same horizontal band and be of reasonably harmonious materials and colors.
2. General Rules by Sign Type
- a. Awning and Canopy Signs. Awning lettering may contain names, numbers and graphics limited to the business or building name upon which the awning is located. Lettering may be placed on the front and/or side panels of the awning, but not on the slope.
  - b. Freestanding Signs.
    - (1) No more than one freestanding sign may be located on a lot, except that a movie theatre may be allowed a freestanding changeable sign pursuant to § 145-81.D.5.k.
    - (2) Freestanding signs shall be located a minimum of fifteen (15) feet from the edge of pavement and a minimum of twenty-five (25) feet from the side property line.
    - (3) No freestanding sign may be located less than fifty (50) feet from any other freestanding sign.
    - (4) No freestanding sign shall exceed six (6) feet in height from the ground surface to the top of the sign.
  - c. Monument Sign. Monument signs shall not be placed so as to impair visibility for motorists. The maximum height of a monument sign shall be five (5) feet from the ground (including the base) to the top of the design.
  - d. Projecting Signs. Projecting signs shall have no more than two (2) faces, and shall not extend above the bottom of the window of the second floor of the building or fifteen (15) feet above ground level if there are no windows on the second floor of the building. They shall be securely anchored and shall not swing or move in any manner.
  - e. Wall Signs. The visible edge or border of a wall sign may extend up to nine (9) inches from the face of the wall to which it is attached, and may not extend any distance beyond or above the building in any direction. The placement of all wall signs must be above the display window and below the cornice in a single story building or between the shop window and the second story windowsill in a multi-story building. Wall signs must be securely anchored and shall not swing or move in any manner.

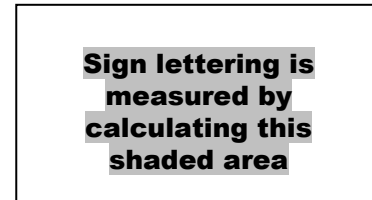


- f. Window Signs. No more than one (1) sign per window and a maximum of two (2) per business establishment shall be permitted.

3. Specific Criteria.

- a. All signs, with the exception of window signs, shall be constructed of wood, metal or other durable material as approved by the Planning Board or Code Enforcement Officer.

- b. The lettering on any sign may not exceed sixty percent (60%) of the sign area of any one side of the sign, with the exception of signs with no background. The area for lettering shall be computed in accordance with the illustration provided.



- c. A permanent sign should contain no more than five (5) words. Any symbol or logo is counted as a word.
- d. Florescent colors are prohibited.
- e. No more than two (2) typefaces should be used on any one sign to improve the sign's legibility.
- f. The Planning Board may require that landscaping be used at the base of a freestanding sign if such landscaping will make the sign more compatible with the surrounding area. Required landscaping may include one or more of the following types of vegetation: ivies, grasses, flowers, bushes, and small trees.

K. **Sign Design Manual.** The Village Board may, in consultation with the Planning Board, promulgate sign design standards or manuals, as a guideline to applicants and as an aid to the administration of this Section.

L. **Sign Removal.**

- 1. Any sign that does not comply with the regulations established for the issuance of a permit pursuant to this Local Law; or which is determined to have its sign permit revoked; or which is a non-conforming sign for more than thirty (30) days; or which is not maintained in good and complete condition, with lettering and graphics clean, legible, in true alignment and finishes in good repair, is prohibited and shall be brought into compliance with this Section of the Village Zoning Law.
- 2. The business, property and/or sign owner of such sign(s) shall be in violation of this Local Law until such sign(s) are removed or repaired. The Village of Warwick may, with thirty (30) days prior written notice to the property and/or sign owner(s), remove such sign without further notice or commence further proceedings at the expense of the property and/or sign owner.

M. **Definitions.** The following definitions apply to terms used in this Section:

AWNING SIGN - Any visual message on an awning.

BILLBOARD - An off-premise sign which is leased or rented for profit.

FREESTANDING SIGN - Any sign not attached to or part of any building but permanently affixed, by any other means, to the ground. Included are monument and post & arm signs

INTERNALLY ILLUMINATED - A sign lighted by or exposed to artificial lighting that shines through a plastic or other translucent or transparent covering. Neon signs and other similar signs are considered internally illuminated.

MONUMENT SIGN - A freestanding sign either with a base affixed to the ground or mounted on short poles no greater than three (3) feet high.

POST & ARM SIGN- A freestanding sign comprised of a vertical post to which a perpendicular arm is attached and from which the sign hangs.

PROJECTING SIGN - A sign attached to a building wall or structure that projects horizontally or at a right angle more than nine (9) inches from the face of the building.

REAL ESTATE SIGN - A temporary sign advertising the sale, lease or rental of the property or premises upon which it is located.

SHOPPING CENTER IDENTIFICATION SIGN- A common freestanding sign containing the name of the shopping center or business complex, but no individual businesses within the center or complex.

SIGN. Any material, structure or device, or part thereof, composed of lettered or pictorial matter displaying an advertisement, announcement, notice or name, and including any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any person or business or cause when such is placed in view of the general public.

SIGN HEIGHT - The height of a freestanding sign shall be measured vertically from the established average grade directly below the sign or entry level of the building or structure, whichever is lower, to the highest point of the sign, including support structures. Elevation added by artificial beams, mounds or similar forms shall be excluded from the calculation of average grade.

TEMPORARY SIGN - Any sign that is displayed only for a specified period of time and is not permanently mounted.

WINDOW SIGN - A sign visible from a sidewalk, street or other public place, affixed or painted on glass or other window material.

WALL SIGN - A sign that is painted on or attached directly to the outside wall of a building, with the face of the sign parallel to the wall and having a visible edge or border extending not more than nine (9) inches from the face of the wall.

## **ARTICLE IX**

### **Site Plan Review and Approval**

The Village Board hereby authorizes the Planning Board to review and approve, approve with modifications, or deny the Site Plan as set forth in this chapter, subject to such further approvals as may be required by the Zoning Law of the Village of Warwick and general legislation.

#### **145-90      Applicability**

- A. In all districts, except as provided in § 145-90.C below, Site Plan approval by the Planning Board shall be required for:
  - (1) The erection or enlargement of all buildings in all districts. In all cases where subdivision approval is required from the Village Planning Board, Site Plan approval shall also be required.
  - (2) Any use of vacant land, other than temporary assembly upon said land.
  - (3) Any change in use as defined herein, unless a waiver has been granted in accordance with § 145-99 of this Zoning Law.
  - (4) Any application for a Special Use Permit or Conditional Use Permit.
- B. Amendments of a previously approved plan, Special Use Permit or exception shall be subject to approval of such change or alteration by the Planning Board.
- C. Site plan approval may be required for excavation and construction activities associated with permitted uses and accessory uses thereto within areas of environmental sensitivity as identified herein, such determination to be made by the Code Enforcement Officer in consultation with the Village Engineer and/or Village Planner. To determine the necessity of site plan approval from the Planning Board, the Code Enforcement Officer, in consultation with the Village Engineer and/or the Village Planner, will review all applications for building permits within the areas identified herein and apply the criteria found in the Standards for Design and Review under § 145-91.I. If the application complies with the Standards for Design and Review and is otherwise in compliance with the Village Code, the Building Permit may be issued. If sufficient doubt exists as to whether the application complies with the Standards for Design and Review, the Code Enforcement Officer shall require that an application for Site Plan approval be made and shall then refer such application to the Planning Board for Site Plan review and approval. Applications for Building Permits within the following areas shall be reviewed by the Code Enforcement Officer against the criteria identified in § 145-91.I:
  - (1) For lands lying within a Flood Hazard Area or within flood hazard zone areas as defined by the Federal Emergency Management Agency (FEMA);
  - (2) For lands lying within a local, state, or federal designated historic district, building, structure, or site or within sites that are contiguous with such historic resources;

- (3) For lands lying within a scenic viewshed or scenic road corridor as officially designated by the Village of Warwick and/or a Town, County, State or Federal agency.
- (4) For lands lying within a proposed Greenway trail corridor, as designated on the Official Village Map or in the *Village of Warwick Comprehensive Plan*.
- (5) For lands lying within an area identified as an aquifer, aquifer recharge area or a public water supply watershed.

### **145-91 Objectives and Design Standards**

In considering and acting upon Site Plans, the Planning Board and the AHDRB shall take into consideration the Public Health, Safety and Welfare, the comfort and convenience of the public in general and of the prospective occupants of the proposed development and of the immediate neighborhood in particular and may prescribe such appropriate conditions and safeguards as may be required in order to further the expressed intent of this chapter and accomplish the following objectives in particular:

- A. **Environment** - The design, layout and operation characteristics of the proposed use will not represent significant impact on the environment or result in a waste of the land and other natural resources of the Village. To the greatest possible extent, development will be in harmony with the natural environment and adequate compensatory devices will be prescribed to offset potential significant deterioration resulting from the project.
- B. **Development** - The Site Plan elements, including buildings, parking, drainage, pedestrian and vehicle circulation, signs and lighting, will not adversely affect the potential of adjacent properties or the property under review from its highest and best use.
- C. **Compatibility** - Architecture that is compatible with the character and scale of the surrounding neighborhood. This includes building size, height, massing and appearance. Signage and lighting will be compatible and in scale with building elements and will not predominate the overall visual impact of the project. Textures of buildings and paved areas will be sufficiently varied to prevent a massive or monolithic appearance, particularly areas of asphalted paving for parking. Stone walls, historic structures, natural features like mature trees and other historically significant structures shall be considered during the site plan review process.
- D. **Pedestrian circulation** - Sidewalk facilities, including provisions for street trees, will be provided including connections to adjacent properties. The development plan should also consider additional pedestrian facilities such as benches and tables if compatible with the use and site location.
- E. **Landscaping and screening** - All recreation areas, parking and service areas will be reasonably screened from the view of adjacent residential lots and streets in all seasons

of the year. The following general landscaping principles will be considered during site plan review:

1. The site plan has integrated natural features, such as mature trees, rock outcrops, streams, slopes or stone walls into the design of the plan.
  2. Low maintenance native plants have been incorporated to reinforce the character of the region.
  3. Plantings along the public frontage, especially street trees and continuous landscaping, reinforce the flow of the street and/or bridges gaps between buildings.
  4. A diversity of plant species has been proposed and there is a combination of trees and low plantings to create contrasting forms.
  5. Landscaping has been used to frame views of architecture or open vistas.
  6. Consideration has been given to establishing an open space system on the site which connects to the surrounding natural area or landscaping on the adjoining parcel.
  7. Enforceable maintenance agreements have been offered to ensure long-term viability of the landscaping plan.
  8. Trees and shrubs will not obstruct the use of sidewalks, roads, or other pathways.
- F. Traffic access** - All proposed traffic accesses will be adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located near street corners or other major access points; and other similar safety considerations.
- G. Circulation and parking** - Adequate off-street parking and loading spaces will be provided to prevent parking of vehicles on public streets. The interior circulation system will be adequate to provide safe accessibility to all required off-street parking.
- H. Architecture** - Excessive uniformity, dissimilarity, poor quality of design or building out of context with the surroundings can have a remarkably disruptive effect on the visual character of the Village. It effects nearby buildings, the streetscape, and the image of the Village as a whole. The exterior appearance of buildings erected in any neighborhood can adversely affect the desirability of the immediate area and the neighborhood for residential, business and other purposes. The stability and value of both improved and unimproved property can be detrimentally affected. All new buildings and redevelopment of existing buildings will avoid excessive uniformity, dissimilarity, or poor quality of design and will be built in context with the surroundings.
- I. Design Standards** - The purpose of good site design is to create a functional and attractive development, to minimize adverse impacts, and to ensure that a development project will be an asset to the community. To promote this purpose the Planning Board, in reviewing site plans, shall consider the standards set forth below. Such standards are intended to provide a framework within which the designer of the

development is free to exercise creativity, invention and innovation while recognizing the Village's scenic and historic qualities. The Planning Board may require submission of alternative design and layout proposals based on the standards in this section:

1. Site Layout and Design Considerations. To the maximum extent practicable, development shall be located to preserve the natural features of the site and to avoid wetland areas, steep slopes, significant wildlife habitats and other areas of environmental sensitivity. The placement and design of buildings and parking facilities shall take advantage of the site's topography, existing vegetation and other pertinent natural features.
  - (a) The site shall be planned to create a desirable relationship to the streetscape, and to provide for adequate landscape plantings, safe pedestrian movement, and adequate parking areas.
  - (b) All buildings in the plan shall be integrated with each other and with adjacent buildings and shall have convenient access to and from adjacent uses.
  - (c) Parking areas shall be placed at the rear and/or side of principal buildings so they are not visible from public streets. Where site limitations necessitate that parking areas be located adjacent to a public street, a berm, masonry wall, solid fence or evergreen hedge at least 30 inches in height above grade at the time of planting shall be installed to screen the view of parking areas from the street if feasible. Existing vegetation, which is proposed for preservation, may also be used to screen the view of parking areas.
  - (d) Newly installed utility service systems, and service revisions necessitated by exterior alterations, shall be installed underground. When feasible, existing aboveground utility service systems shall be placed underground.
2. Relationship of Buildings and Site to Adjoining Areas. Site plans involving non-residential uses proposed adjacent to a residential district or residential uses shall be reviewed with regard to the impact of the development on such district or use. The Planning Board shall encourage the use of a combination of landscaping, buffers, berms, screens, visual interruptions, and common building materials to create attractive transitions between buildings of different architectural styles and uses.
3. Building Design
  - (a) Individual buildings shall relate to each other and to traditional structures in the surrounding neighborhood in lot placement, scale, height, and connections to harmonize visually and physically with the traditional character of the Village.

- (b) New architecture shall relate to the traditional historic building standards of the Village of Warwick in regard to design, mass, scale, proportion, materials, texture, and color. Building components such as windows, roof lines and pitch, doors, eaves and parapets shall be compatible with historic structures in the Village. Vertical, double hung windows, and steeply pitched roofs are encouraged.
  - (c) Treatment of the sides and rear of all buildings shall be comparable in amenity and appearance to the treatment given to street frontages of these same buildings.
  - (d) Rooftop and ground level mechanical equipment shall be screened from public view by the use of materials harmonious with the building, or shall be located so as not to be visible from any public ways.
4. Parking and Loading Facilities. Parking and loading facilities shall be planned and developed in accordance with Article VII of the Zoning Law.
5. Access
- (a) All entrance and exit driveways shall be located with due consideration for traffic flow so as to afford maximum safety to traffic on public streets and shall be reviewed and approved by the appropriate state, county, or local authority prior to the granting of site plan approval.
  - (b) Similar land uses shall provide, wherever practical, cross-access between properties to reduce the number of curb cuts and limit the amount of traffic on the main arterial or collector street fronting the development. The Planning Board may require individual developers to construct a site layout that facilitates future cross-access in anticipation of future adjacent development.
  - (c) Similar land uses shall provide, wherever practical, joint access to arterials or collector streets fronting the development to minimize disruption of traffic flow, reduce potential points of conflict between through and turning traffic, and facilitate the control and separation of vehicles and pedestrian movement. The Planning Board may require individual developers to construct a site layout that facilitates future joint-access in anticipation of future adjacent development.
  - (d) All buildings shall be accessible to emergency vehicles. If the Planning Board deems it necessary, it shall refer the application to the applicable emergency services providers for comment on the proposed access arrangements.

6. On-site Circulation

- (a) On-site streets, pedestrian walks and bicycle paths shall properly relate to existing and proposed buildings. They shall be designed to permit the safe, efficient and convenient movement of vehicles, pedestrians, and bicyclists on site, and the safe connections with adjoining properties where appropriate.
- (b) Landscaped, paved, and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas, and adjacent buildings, and shall be separated from motor vehicle circulation.
- (c) For any use to which the public is expected to visit, the site plan shall make proper provision for buildings and site developments that are accessible to and functional for physically disabled persons, such as by provisions of walks and ramps of suitable width and grade, curb cuts, identified wide parking spaces and ground level building entrances, as required in the New York State Uniform Fire Prevention and Building Code and other applicable state and federal laws.

7. Drainage

- (a) The proposed development shall be designed to provide for proper surface water management through a system of controlled drainage that preserves existing drainage patterns, protects other properties and public roadways, and mitigates water quality impacts to the greatest extent practical. Drainage plans shall be reviewed by the Village Engineer prior to approval. Drainage systems shall be designed to decrease the downstream impact of peak stormwater flow and velocity.
- (b) Rain gardens, grassed roofs, permeable pavers, bioretention basins, rain barrels and other low impact development techniques shall be incorporated into the site design to the greatest extent practicable.

8. Landscaping and Screening

- (a) Landscaping should dominate the site plan and integrate the various elements of site design, preserving and enhancing the particular identity of the site, and creating a pleasing site character.
- (b) Landscape plantings of shrubs, ground cover, and shade trees, as well as perennials and annuals and other materials such as rocks, water, sculpture, art, walls, fences, paving materials and street furniture, shall be encouraged to create pedestrian scale spaces and to maintain a landscape continuity within the community. All landscaping within the site shall be designed to facilitate



conservation of the environment and preservation of community aesthetic character. This shall be accomplished through the use of native plant material and the retention of existing natural vegetation, thereby reducing or eliminating the need for irrigation, pesticides, herbicides, and fertilizers.

- (c) The preservation of mature plant species, hedge rows, wetlands and woodlots shall be encouraged and included as a design element in the development of the site.
  - (d) Existing isolated tree stock twelve (12) or more inches in diameter at breast height and trees twenty-four (24) or more inches in diameter at breast height shall be protected and preserved to the maximum extent practical to retain valuable community natural resources and promote energy conservation by maximizing the cooling and shading effects of trees.
  - (e) Landscaping shall be used to create boundaries and transitions between areas of differing development intensities as well as to separate areas of incompatible land uses. A buffer zone thickly planted with native trees and shrubs of sufficient width to entirely screen a non-residential use from a neighboring residential use shall be required.
  - (f) Open space shall be designed as an integral part of the overall site design and shall be appropriately landscaped.
  - (g) Parking facilities shall be landscaped and screened from public view, to the extent necessary to eliminate the unsightliness of parked cars.
  - (h) Solid waste facilities and containers, outdoor service areas, and loading docks shall be screened around their perimeter from the street and from other adjacent residential areas through the addition of evergreen plantings or architectural elements. Outdoor storage shall be prohibited.
9. Signs. All signs shall comply with the sign regulations of this chapter.
10. Lighting. All outdoor lighting shall comply with the lighting regulations of this chapter.
11. Trails.
- (a) In developments where a Greenway Trail System is proposed to cross the subject parcel, as indicated on the Official Village Map or the *Village of Warwick Comprehensive Plan*, such trail location shall be shown on the site plan. The Village Board may require that such land be designated for recreational use provided the Planning Board finds that a proper case exists for requiring

such recreational land. If proposed, the type of construction of trails shall be compatible with the anticipated use.

- (b) In developments where a link to schools, churches, shopping areas, trails, greenbelts and other public facilities is feasible, a trail system should be provided. If proposed, the type of construction of trails shall be compatible with the anticipated use.

12. Noise.

- (a) Structures shall be located, constructed, and insulated to prevent on-site noise from interfering with the use of adjacent properties. Similarly, buildings shall be situated to prevent off-site noise from intruding on new development. In no case shall off-site noise exceed the standards contained in § 145-104 of the Zoning Law. Procedures for evaluating noise in common usage, such as the US Department of Housing and Urban Development's *The Noise Guidebook* (HUD-953-CPD) shall be used to determine impacts and mitigation.
- (b) Methods for reducing noise shall be used where appropriate, and shall include: fencing, walls, and natural buffers, such as berms and landscape planting with deciduous and coniferous trees and large shrubs.

## **145-92 Procedures**

- A. Prior to application for a Building Permit, Certificate of Occupancy or Certificate of Use, where required, Site Plan approval shall be secured from the Planning Board. The applicant has the option of choosing between a formal application for approval or a pre-application informal submission for review. Procedures for Site Plan approval provide detailed specifications as to application materials. For purposes of an informal submission, the applicant should provide as much information as he or she can, keeping in mind the specific criteria specified in the Site Plan rules and regulations. The pre-application review by the Planning Board should not constitute a formal application, and no approval can be granted based on it. At this time the applicant should outline any modifications he or she is requesting from the requirements specified in the Site Plan rules and regulations.
- B. Submission for Site Plan review shall be made on forms prescribed by the Planning Board and accompanied by a fee in accordance with the Standard Schedule of Fees of the Village of Warwick. Applications to the Planning Board shall be made by the property owner involved or by an applicant with the written consent of the property owner and the property owner's signature shall be notarized. Such submission shall be submitted to the Planning Board secretary at least three (3) weeks prior to the Planning Board meeting at which review is sought. The Planning Board will determine if referral to the AHDRB is warranted. The Planning Board secretary shall determine if the submission is in proper form and if so, shall cause it to be referred to such Village

department, agencies and consultants as are necessary to evaluate the proposal. Applications not in proper form shall be rejected in writing, within ten (10) days after submission. A copy of such rejection shall be sent to the Planning Board.

- C. The Standard Schedule of Fees provides for the processing of the application. As required by said Schedule, escrow fees shall be paid by the applicant for services for reviews, including reviews of an informal submission, performed at the direction of the Planning Board by the Village Engineer, Attorney or other consultant. All fees shall be paid prior to signing of the Final Site Plan.

### **145-93 Preliminary Review**

- A. An applicant, at his discretion, may submit, prior to a formal application for Final Site Plan approval, an application for Preliminary Site Plan approval. The applicant shall submit all application materials provided for on the Site Plan in as much detail as he/she feels is warranted to enable the Planning Board to come to a preliminary conclusion as to the merits of the proposal. Should variances from the requirements of this chapter be contemplated, their nature and degree should be specified. The application for preliminary approval shall be made and processed in the manner specified in Section 145-92B.
- B. The Planning Board will review the proposed plan and may grant concept approval with such conditions as are necessary to ensure conformity of said plans with the general and specific criteria set forth in this chapter and other applicable rules and regulations of the Village of Warwick.
- C. The Planning Board shall authorize the setting of a public hearing and shall conduct a public hearing within sixty-two (62) days from the date a completed application is received. The Planning Board shall require the applicant to mail notice by certified mail of said hearing to applicant at least ten days before such hearing and to all property owners within three hundred feet (300') of the property line of the applicant's property and shall give public notice of said hearing in a newspaper of general circulation in the Village at least five days prior to the hearing. The cost of sending or publishing any notice of public hearing shall be paid by the applicant prior to the holding of the public hearing. In the event that conditional use approval is required, the Planning Board shall simultaneously consider both applications. In reviewing a Site Plan application, which has been granted a Special Use Permit by the Village Board of Trustees, the Planning Board shall ensure conformity with any Special Use Permit requirements.
- D. At least ten days prior to the public hearing, the Planning Board shall mail notice thereof to the Orange County Planning Board as required by section 239M of the General Municipal Law.
- E. At least ten days prior to the public hearing, the Planning Board shall mail notice thereof to the Town of Warwick Planning Board for any properties lying within a

distance of 500 feet from any municipal boundary of the Village of Warwick and the Town of Warwick.

- F. The Planning Board shall comply with provisions of the State Environmental Quality Review Act (SEQR) under Article 8 of the State Environmental Conservation Law and its implementing regulations as codified in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

#### **145-94 Final Review And Approval**

- A. An application for Final Site Plan approval shall be made in the same manner as prescribed for Preliminary approval as specified in the Site Plan rules and regulations.
- B. The Final Site Plan and all supporting materials shall be subject to review and consultation in the same manner as the Preliminary Site Plan, and a consolidated report shall be prepared and submitted to the Planning Board by the Planning Board secretary. The Planning Board shall make a determination on the application within sixty-two (62) days after the close of the public hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board shall be filed in the office of the Village Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant. The board shall include such conditions of approval as were required and in addition:
  - 1. The Planning Board shall require that on or off-site improvements are installed, including but not limited to on and off-site drainage systems to ensure that all drainage, storm run-off and subsurface waters are carried into approved watercourses and drainage systems shown on the Official Map if such map has been adopted by the Village Board of Trustees. The Planning Board shall further require that all such off-site improvements and/or drainage systems be installed on property granted to the Village by fee, easement or otherwise, as determined by the Planning Board.
  - 2. No Certificate of Occupancy or Use shall be issued for the Site Plan until all conditions and requirements, including off-site requirements, of the Site Plan approval have been duly installed and all easements and property interest granted or dedicated to the Village.
  - 3. A partial Certificate of Occupancy or Use for a period of ninety (90) days, but not more than one (1) year in the aggregate, for a building, structure or part thereof may be issued before all the on-site improvements are complete; provided nonetheless, that such portion or portions of the site improvements as are necessary to permit the site to be occupied safely without endangering life or the public welfare have been completed. The Village Engineer shall require cash deposit or letter of credit to ensure and guarantee the completion of the on-site improvements. The Code Enforcement Officer shall determine the sum of such deposit or letter or credit.

4. The site shall be developed in strict conformity with the approved Site Plan except as provided for below. When the approval of field change (see definition of "field change") is requested of the Code Enforcement Officer or other appropriate village inspection agency, such request shall be submitted to the appropriate agency in writing. No field change shall be valid unless a copy of the required change is filed with the Planning Board with the approval of the appropriate agency noted thereon or appended thereto, within five (5) days of such approval.
5. Recreation area, park or playground suitably located and equipped. Referral on all open space, park and recreational areas shall be made to the Village Recreation Committee, and to any other appropriate consultants for recommendations. The Village Board shall be consulted before considering such recommendations, so as to secure assurances as to the Village's acceptance of any lands, easements, etc. Where the Village Board of Trustees in consultation with the Planning Board has determined that a park or playground shall not be located within the subdivision or Site Plan, a fee in lieu of parkland shall be payable as a condition of final approval. Such payment for park, playground or other recreational purposes or the payment in lieu thereof, may not be authorized until the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located or if such parks cannot be suitably located, the payment of a recreation fee. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the Village, based on projected population growth to which the proposed Site Plan will contribute.

#### **145-95 Sign And Filing**

Upon submission of the final Site Plan with modifications required by the Planning Board in its final approval, the Chairman of the Planning Board, upon acceptance of the Village Engineer, shall sign the approved Site Plan and file one (1) copy with the Code Enforcement Officer and the Village Clerk, who may thereafter issue a Building Permit, Certificate of Occupancy and Certificate of Use in reliance thereon, in accordance with Article XIV.

#### **145-96 Amendments To Approved Plans.**

An application for an amendment of any approved Site Plan for a site which, has received prior final Site Plan approval shall be processed in accordance with the preceding provisions. However, only those Site Plan elements proposed to be modified or changed need be presented, except where such modifications or changes have a material and substantial importance in the balance of the Site Plan and function of the site. The applicant's licensed design professional shall submit a letter and a drawing when necessary, indicating the scope of the proposed change no later than three (3)

weeks before a Planning Board meeting of a determination by the Planning Board as to whether the proposed amendment shall require a public hearing. Fees for an amended Site Plan shall be in accordance with The Standard Schedule of Fees of the Village of Warwick.

#### **145-97 Site Maintenance**

It shall be the duty of every property owner to maintain his property in conformity with the approved Site Plan. Failure to do so shall constitute a violation of this chapter.

#### **145-98 Expiration Of Site Plan Approval**

- A. Every Site Plan approval shall expire if the work authorized has not commenced within twelve (12) months from the date of its approval, subject to any extension or has not been completed within twenty-four (24) months from the date of Site Plan approval unless the applicant has requested and been granted a phased construction schedule.
- B. If construction has not been commenced within one (1) year from the approval of the Site Plan or phased construction schedule has not been completed, the holder of the approval may apply to the Planning Board for an extension not to exceed one (1) additional year and such application for extension must be filed prior to the end of the one year period. Upon the payment of one-half (1/2) of the application fees required for the original Site Plan approval and any professional review fees incurred, the Planning Board may, in its discretion and for due cause, extend the approval for a period not to exceed one (1) additional year from the date of its expiration.
- C. Failure to receive an extension or complete work within the time prescribed, if any specified in the approval, shall require that a new Site Plan approval application be filed and a new approval issued before any work may commence or continue.
- D. Notwithstanding the above, if the delay in commencing such construction is directly and solely caused by the imposition of a moratorium, the holder of such Site Plan approval may apply to the Planning Board for an extension. The Planning Board may, in its discretion and for due cause extend the approval for a period not to exceed the time such delay was directly and solely caused by such moratorium.

#### **145-99 Waivers**

A. In all districts where site plan approval by the planning board is required for a change in use, a waiver of such site plan approval may be granted by the Planning Board as follows:

- 1. Upon payment of a fee as may be determined from time to time by resolution of the Board of Trustees and upon submission of a form promulgated by the village

for written application, if the Planning Board determines that the change in use proposed *will not* result in any increase in the intensity of the use of the building(s) or land which will significantly affect the characteristics of the site and/or the village, the Planning Board may grant a waiver of site plan review approval by resolution duly made and adopted at any meeting of such Board, and shall file a copy of said findings and waiver in the office of the Planning Board, and forward a copy thereof to the Building Department. Upon issuance of a resolution of waiver and the filing of same in the Building Department, the Building Inspector is authorized to issue such authorizations for use of the premises as are proposed including a certificate of occupancy or use, if applicable, provided the applicant otherwise complies with all applicable rules and regulations. An application for a waiver and the Planning Board's determination to issue a waiver shall be a Type II action for SEQRA classification purposes.

2. If the Planning Board determines that the change in use proposed *may or will* result in an increase in the intensity of the use of the building(s) or land which will significantly affect the characteristics of the site and/or the village, the Planning Board, shall not waive Site Plan review approval.

B. In all districts where site plan approval by the planning board is required, the Planning Board may waive any specific site plan elements or requirements set forth in Article IX of this Zoning Law for the approval, approval with modifications or disapproval of a Site Plan submitted for approval, including the submission requirements for activities deemed by the Planning Board to be minor. The grant of any such waiver(s) shall be accompanied by a written finding that compliance with the site plan requirement(s) are either not requisite in the interest of the public health, safety and general welfare or is otherwise inappropriate to the particular Site Plan application. Upon issuance of a resolution of waiver and the filing of same in the Building Department, the Building Inspector is authorized to issue such authorizations for use of the premises as are proposed including a certificate of occupancy or use, if applicable, provided the applicant otherwise complies with all applicable rules and regulations.

C. In considering and acting upon an application for waiver of a Site Plan for a change in use, or a waiver of site plan elements, the Planning Board, shall take into consideration a) the impact of the project upon the Public Health, Safety and Welfare, the comfort and convenience of the public in general and of the prospective occupants of the proposed site and of the immediate neighborhood in particular; and b) whether the project may or will result in any increase or change in the intensity of the use of the building(s) or land which will significantly affect the characteristics of the site and/or the village; and c) whether there will be any increase or change in the following described characteristics that may or will arise from the proposed project. The list of characteristics set forth below are not intended to be exclusive but rather illustrative, and the Planning Board shall have such

discretion as to issue or not issue a waiver as they may determine based upon the illustrative characteristics and any other factors as they may determine are applicable.

- The current and the proposed number of persons occupying or using the site as employees, customers, or otherwise
- The current and the proposed number of required off-street and availability of on-street parking
- The current and the proposed size, number, and location of loading areas
- The current and the proposed location and layout of pedestrian and vehicular interconnections
- The current and the proposed volume and time of deliveries
- The current and the proposed volume and time of truck traffic
- The current and the proposed adequacy, location, and layout of access and egress by foot traffic and vehicular traffic
- The current and the proposed location, amount of, and intensity of exterior lighting
- The current and the proposed location, amount of, and type of outdoor display of goods
- The current and the proposed location, amount of, and type of outdoor storage of materials and equipment
- The current and the proposed location, amount of, and type of storage or standing of any commercial vehicles
- The current and the proposed landscaping
- The current and the proposed existence or creation of offensive noise, vibration, glare, dust, odors, heat, fumes, smoke, or electrical interference
- Whether there will be any alteration to the exterior of the principal building or accessory building
- Whether the building is in the village Historic District and what are the impacts upon the Historic District
- What are the existing utilities and where are the service lines located
- Whether there will be any change in the location of or provision of utility service lines and connections
- Whether there will be any change in the existing drainage and storm water detention areas
- What and where are the existing easements for drainage, access, sewer and water lines, or other public or private purposes; underground utility rights-of-way; above ground utility and street rights-of-way
- Whether there will be any changes in the existing easements for drainage, access, sewer and water lines, or other public or private purposes; underground utility rights-of-way; above ground utility and street rights-of-way
- Whether there will be any increase in demand for municipal services such as fire, police, ambulance, and school services
- Whether there will be an increase or decrease in the square footage of building space occupied by the current use and by the proposed use



D. Procedure for Waivers:

An applicant seeking a waiver of site plan approval from the Planning Board shall proceed as set forth in the following provisions.

1. Complete the application form for Waiver and pay the then current fee as approved by the Village Board.
2. The secretary or clerk to the Planning Board shall review the application for completeness within three (3) business days of receipt. If it is not complete the application shall be returned to the applicant and no further action taken thereon until again submitted and deemed complete by the secretary or clerk to the Planning Board.
3. Once deemed complete the secretary or clerk to the Planning Board shall place the application on the agenda for the next meeting of the Planning Board provided there be at least seven (7) business days until the date of such next meeting. If there be less than seven (7) business days until the date of such next meeting, the application shall be placed on the agenda of the next following monthly meeting of the Planning Board.
4. The applicant or a duly authorized representative of the applicant shall be required to attend the meeting at which the application is presented to the Planning Board.

E. Any Certificate of Occupancy or Use granted upon a waiver of Site Plan approval by the Planning Board may, in addition to such other conditions as may be deemed appropriate by the Planning Board, be further conditioned upon their being no increase or change in the intensity of the use of the building(s) or land which will significantly affect the characteristics of the site and/or the village and the continuation of the conditions upon which the waiver was granted. If the Building Inspector determines that the conditions upon which the findings of a waiver previously made by the Planning Board no longer exist, the Building Inspector may revoke the certificate of occupancy or use, and upon such revocation the owner of the property or the applicant shall make and file an application for Site Plan approval for said use in accordance with the further provisions of Article IX of the Ordinance. Application shall be submitted within 30 days of issuance by the Building Inspector of Notice to Stop and or Remedy. Failure to so file and to diligently proceed with an application for site plan approval shall result in revocation of any then applicable site plan approval and any waiver issued thereon, and shall constitute a violation of this law.

F. As a condition of all Certificates of Occupancy or Use granted pursuant to a waiver of site plan review, right of entry for inspection with reasonable notice shall be provided to determine whether the factors considered in granting the waiver have changed.

- G. Penalty. Failure to comply with any provisions of this law shall be punishable pursuant to the provisions of the Ordinance.

## **ARTICLE X**

### **Landscaping; Environmental and Swimming Pool Maintenance Requirements; Performance Standards**

#### **145-100 Authorization To Adopt Rules And Regulations**

Pursuant to the provisions of Article X of the Village Law and § 145-200 of this chapter, the Planning Board is authorized to adopt rules and regulations pertaining to the incorporation of landscape materials in any project requiring Site Plan approval and for the environmental control of such projects.

#### **145-101 Landscaping, Erosion And Sedimentation Controls**

The minimum landscape requirements and erosion and sedimentation controls for any use requiring Site Plan approval are a general guide only and may be waived or varied by the Planning Board where, due to special characteristics of the project site, the proposed use, surrounding area or buildings and structures, such changes are necessary to ensure compatibility and conformance with other standards or criteria of this chapter.

#### **145-102 Reserved**

#### **145-103 Swimming Pools**

No person shall maintain an existing or erect a new swimming pool unless the safeguards set forth herein are observed:

- A. All pools are subject to the issuance of Building Permit.
- B. All pools shall conform to all applicable State and Local laws.
- C. All pools shall be installed outside any flood plain as defined by the Federal Emergency Management Agency.
- D. Pools shall be located outside of setback requirements as described in § 145-50.

**145-104 Performance Standards**

A. Conformance required. No use hereafter shall 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.

B. **Standards**

1. Noise

- a. **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 Z24.10-1953, Octave-Bank 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.
- b. **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 pm and 7:00 am, and all day Sunday.

Octave Band (Cycles per Second)	Sound Pressure Level (Decibels)
0-74	66
75-149	58
150-299	55
300-599	50
600-1,199	45
1,200-2,399	42
2,400-4,799	38
4,800-20,000	35

c. 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 8:00am and sunset; the noises of safety signals; warning devices, emergency warning signals, and transient noises of moving sources, such as automobiles, trucks, airplanes and railroads.

2. Vibration

- a. **Method of measurement.** For the purposes of measuring vibration, a measuring system approved by the Planning Board shall be employed.
- b. **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:

Frequency (Cycles per Second)	Vibration Displacement (Inches)	
	Second Stated	Impact
Under 10	0.0005	0.0010
10-19	0.0004	0.0008
20-29	0.0003	0.0006
30-39	0.0002	0.0004
40 and over	0.0001	0.0002

3. Smoke, Dust and Other Atmospheric Pollutants

- a. **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 of the public health, safety, welfare or comfort or a source of damage to the property.
- b. **Method of Measurement of Smoke.** For the purpose of grading the density of smoke, the Ringelmann 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 unites emitted exceeds 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.
- c. **Maximum Permitted Emission of Smoke.** There shall be no measurable emission of smoke, gas or other atmospheric pollutant. The emission of one (1) smoke unit per hour and smoke with discernable density of No. 1 on the Ringelmann Smoke Chart shall be prohibited.
- d. **Maximum Permitted Emission of Dust.** The emission of dust related to combustion for indirect heating from any source shall not exceed

thirty hundredths (0.30) pounds of dust per thousand pounds of flue gas adjusted to fifty percent (50%) excess air for combustion. There shall be no measurable emission of dust or other particulate matter not related to combustion for indirect heating. All properties shall be suitably improved and maintained with appropriate landscaping and paving, or other type of improvement, so that there will be no measurable windblown dust or other similar types of air pollution created.

4. Odorous Matter.

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

5. 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.

6. Radiation and Electromagnetic Interference.

a. **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, of the Code of Federal Regulations.

b. **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.

7. Fire, Explosive Hazard and Heat.

a. **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 except as provided for in § 145-33D.

b. **Heat** - There shall be no emission of heat which would cause a temperature increase in excess of one degree Fahrenheit (1) along any adjoining lot line, whether such change be in the air, in the ground or in any watercourse or waterbody.

8. 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 Orange 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.

9. Vehicular Traffic.

No business or industrial use 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 of air quality standards established by the United States Environmental Protection Administration, the New York State Department of Environmental Conservation or other regulatory agency having jurisdiction, due to the design or capacity of the state or 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.

10. Lighting.

No use shall be permitted to where the exterior lighting emits glare, sky glow or light spillage onto neighboring properties. The following lighting standards are applicable to all Site Plan, Special Use and Conditional Use permits:

- a. All lighting fixtures shall be fully shielded to eliminate glare.
- b. Light levels (measured in footcandles) should not exceed one (1) footcandle in pedestrian area. In high security areas, light levels should not exceed five (5) footcandles.
- c. Uplighting is discouraged and should be avoided.
- d. Pole heights in commercial mixed-use and pedestrian areas should be human scale (ten (10) to fifteen (15) feet in height). Parking lot lights should not exceed fifteen (15) to twenty (20) feet in height. Poles should be spaced approximately four times the height.

## **ARTICLE XI**

### **Conditional Use Review and Approval**

#### **145-110 Approval By Planning Board Required; Conditions**

The uses listed in § 145-31, Use Table, noted with the letter "C", are conditional uses permitted only upon approval by the Planning Board in accordance with the procedures and standards herein. After approval, such uses shall be subject to any conditions attached thereto.

### **145-111 Application**

Application for conditional use approval pursuant to this chapter shall be on forms prescribed by the Planning Board. Such application shall accompany the application for preliminary or final Site Plan approval. The preliminary or final Site Plan and conditional use application may be processed concurrently in accordance with § 145-92, et seq. Fees for conditional use application shall be in accordance with the Standard Schedule of Fees of the Village of Warwick.

### **145-112 Timetable And Public Hearing**

- A. The Planning Board shall authorize the setting of a public hearing and shall conduct a public hearing within sixty-two (62) days from the date a completed application is received. The Planning Board shall require the applicant to mail notice by certified mail of said hearing to applicant at least ten days before such hearing and to all property owners within three hundred feet (300') of the property line of the applicant's property and shall give public notice of said hearing in a newspaper of general circulation in the Village at least five days prior to the hearing. The cost of sending or publishing any notice of public hearing shall be paid by the applicant prior to the holding of the public hearing.
- B. At least ten days prior to the public hearing, the Planning Board shall mail notice thereof to the Orange County Planning Board as required by section 239M of the General Municipal Law.
- C. At least ten days prior to the public hearing, the Planning Board shall mail notice thereof to the Town of Warwick Planning Board for any properties lying within a distance of 500 feet from any municipal boundary of the Village of Warwick and the Town of Warwick.
- D. The Planning Board shall comply with provisions of the State Environmental Quality Review Act (SEQR) under Article 8 of the State Environmental Conservation Law and its implementing regulations as codified in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

### **145-113 Application Procedures**

An application for a conditional use shall, simultaneously with the filing of such application, file an application for Site Plan approval with the Planning Board Secretary together with appropriate plans, drawings and fee and Site Plan review. Thereafter, and before any consideration or review of the application for such conditional use, the Planning Board Secretary shall refer said application to the Planning Board. Following the granting of such conditional use, the application shall be considered by the Planning Board for final Site Plan approval.

**145-114 Decisions**

The Planning Board shall make a determination on the application within sixty-two (62) days after the close of the public hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The Board shall include such conditions of approval as were required. The Planning Board shall cause to be filed with the Planning Board Secretary, the Village Clerk and Code Enforcement Officer, the decision of the Planning Board and a copy thereof to be mailed to the applicant within five (5) business days after such decision is rendered. Conditional use approval shall be deemed to be indefinite authorization unless otherwise specified in the approval thereof but, in any case, shall expire within eighteen (18) months of the date of approval unless a building permit has been issued for the conditional use. Such period may be extended on separate application to the Planning Board.

**145-115 Appeals**

Any person aggrieved by any decision of the Planning Board may apply to the Supreme Court of the State of New York for review by a proceeding under Article 78 of the Civil Practice Law and Rules, within thirty (30) days after the filing of the decision.

**ARTICLE XII  
Conditional Use and Special Use Permit Use Standards**

**145-120 General Conditions**

The Planning Board is authorized to approve, approve with modifications or disapprove conditional uses and is further authorized to impose reasonable conditions directly related to and incidental to a proposed conditional use. Prior to approving any conditional use, the Planning Board shall determine the conformity of such use and the proposed development therefore with conditions and standards as set forth in this chapter, including the conditions and standards set forth for Site Plan approval. Conditions pre-requisite to approval of such uses are of a general and specific nature. In various provisions of this chapter, specific standards are enumerated for certain uses, which standards shall be the minimum conditions for such uses. The Village Board of Trustees are authorized to approve special permit uses in accordance with Article XVI and § 145-160 of this Zoning Law respectively. The general conditions and standards for conditional use and special permit approval are as follows:

- A. The proposed use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and not be detrimental to the site or adjacent properties in accordance with the zoning classification of such properties.



- B. The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous.
- C. The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the development and use of adjacent land and buildings.
- D. The proposed use will not require such additional public facilities or services, or create such fiscal burdens upon the Village greater than those which characterize uses permitted by right.
- E. As a condition of all special permits and conditional use permits, right of entry for inspection with reasonable notice shall be provided for to determine compliance with the conditions of said permit.
- F. As a condition of all special permit and conditional use permits, a time limitation may be imposed.
- G. In addition to the general standards for conditional uses and special permits as set forth above, the approving Board may, as a condition of approval of any such use, establish any other additional standards, conditions and requirements, including a limitation on hours of operation, as it may deem necessary or appropriate to promote the public health, safety and welfare and to otherwise implement the intent of this chapter.

### **145-120.1 Wireless Communications**

- A. **Purpose and Legislative Intent.** The intent of this section is to ensure that the placement, construction or modification of wireless communications facilities and related equipment is consistent with the land use policies and Zoning Code of the Village to minimize the negative and adverse visual impact of wireless telecommunications facilities; to assure a comprehensive review of environmental impacts of such facilities; to protect the health, safety and welfare of the residents of the Village of Warwick; and to encourage shared use of wireless telecommunication facilities. These regulations are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.
- B. **Definitions; Word Usage.** For purposes of this section and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations and their derivations shall have the meanings given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Accessory Facility or Structure - An accessory facility or structure serving or being used in conjunction with a telecommunications facility and located on the same property or lot as the telecommunications tower, including but not limited to utility or transmission equipment storage sheds or cabinets.

Applicant - Includes an individual, corporation, estate, trust partnership, joint-stock company, association of two or more persons, limited liability company or entity submitting an application to the Village of Warwick for a Special Use Permit for a telecommunications facility.

Application - The form approved by the Village Board, together with all necessary and appropriate documentation that an applicant submits in order to receive a Special Use Permit for a telecommunications facility.

Antenna - A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency signals. Such waves shall include, but not be limited to, radio, television, cellular, paging, personal telecommunications services (PCS) and microwave telecommunications, excluding homeowners.

Break Point - The location on a telecommunications tower (tower) which, in the event of a failure of the tower, would result in the tower falling or collapsing within the boundaries of the property on which the tower is placed.

Village - The Village of Warwick, New York.

Co-Location - The use of the same telecommunications tower or structure to carry two or more antennas for the provision of wireless services by two or more persons or entities.

Commercial Impracticability or Commercially Impracticable - The meaning in this chapter and any Conditional Use granted hereunder as is defined and applied under the United States Uniform Commercial Code (UCC).

Completed Application - An application that contains all information and/ or data necessary to enable the Village Board to evaluate the merits of the application and to make an informed decision with respect to the effect and impact of the telecommunications tower on the Village in the context of the permitted land use for the particular location requested.

EAF - The Environmental Assessment Form approved by the New York Department of Environmental Conservation.

FAA - The Federal Aviation Administration or its duly designated and authorized successor agency.

FCC - The Federal Communications Commission or its duly designated authorized successor agency.

Freestanding Tower - A tower that is not supported by guy wires and ground anchors or other means of attached or external support.

Height - When referring to a tower or structure, the distance measured from the preexisting grade level to the highest point on the tower or structure, even if said highest point is an antenna.

NIER - Nonionizing electromagnetic radiation.

Person - Any individual, corporation, estate, trust, partnership, joint-stock company, association of two or more persons having a joint common interest or governmental entity.

Personal Wireless Services or PWS or Personal Telecommunications Service or PCS (or any functionally equivalent service technology that may be developed in the future) - Shall have the same meaning as defined and used in the 1996 Federal Telecommunications Act.

Site - See definition for "Wireless Telecommunications Facility or Tower or Personal Wireless Facility".

Telecommunications - The transmission and reception of audio, video, data and other information by wire, radio frequency, light and other electronic or electromagnetic.

Wireless Telecommunications Facility or Tower or Site or Personal Wireless Facility (or any functionally equivalent service or technology that may be developed in the future) - A structure or location designed or intended to be used or used to support antennas. It includes, without limit, antennas applied to facade of a building or roof-mounted antennas, freestanding towers, guyed towers, monopoles and similar structures that employ camouflage or stealth technology and including, but not limited to, structures such as a church steeple, water tower, sign or other similar structures intended to mitigate the visual impact of an antenna or the functional equivalent of such. It is a facility or structure intended for transmitting and/or receiving radio, television, cellular, paging, personal telecommunications services or microwave telecommunications services or microwave telecommunications, but excluding those used exclusively for private radio and television reception and private citizens' bands, amateur radio and other similar telecommunications.

Telecommunications Structure - Any structure used in, associated with or necessary for the provision of wireless services and as described in the definition of "Wireless Telecommunications Facility or Tower or Site or Personal Wireless Facility".

Temporary - In relation to all aspects and components of this chapter fewer than ninety (90) days.

C. **Telecommunications Facilities.** Telecommunication facilities and towers shall be conditionally permitted within the Village subject to regulations pursuant to this section, Site Plan approval and coordinated SEQQR review, pursuant to Environmental Conservation Law of New York.

D. **Special Use Application and Other Requirements.**

1. Applicants are required to obtain a Special Use permit from the Village Board for a wireless telecommunications facility or any modification of such facility. All applicants for Special Use permits for a wireless telecommunications facility

or any modification of such facility shall comply with the requirements set forth in this section.

- a. An application for a Special Use for a wireless telecommunication facility shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application. At the discretion of the Village Board, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.
- b. Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the Village Board.
- c. The applicant shall demonstrate that:
  - (1) The applicant's proposed wireless telecommunications facility can be maintained in a safe manner and in compliance with all conditions of the Special Use.
  - (2) The applicant is authorized to do business in New York State.
- d. No wireless telecommunications facility or tower or other tall structure shall be installed or constructed for the purpose of providing, wireless telecommunications service until a plan of the site is reviewed and approved by the Village Board. No construction may be undertaken in furtherance of an application until SEQR review has been completed and Site Plan approval and Special Use approvals have been granted by the Village Board.
- e. All applications for the construction or installation of a new wireless telecommunications facilities shall be prepared by a New York licensed professional engineer and land surveyor and shall address either on the Site Plan or in a narrative report which may accompany the Site Plan submission, the following:
  - (1) The need for the wireless telecommunications facility to provide service primarily within the Village.
  - (2) Name and address of person preparing the report.
  - (3) Name and address of the property owner, operator and applicant, to include the legal form of the applicant
  - (4) Postal address and Tax Map parcel number of the property.
  - (5) Zoning district or designation in which the property is situated.
  - (6) Size of the property stated both in square feet and lot line dimensions and a diagram showing the location of all lot lines.

- (7) Location of all residential structures within 750 feet.
- (8) Location and uses of all occupied structures within 750 feet.
- (9) Location and uses of all structures on the property which is the subject of the application.
- (10) Location, size and height of all proposed and existing antennas and all appurtenant structures.
- (11) Type, size and location of all proposed and existing landscaping.
- (12) The number, type and design of the wireless telecommunications facility(s) antenna(s) proposed and the basis for the calculations of the wireless telecommunications facility's capacity to accommodate multiple users.
- (13) The make, model and manufacturer of the wireless facility and antenna(s).
- (14) A description of the proposed wireless facility and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting.
- (15) The frequency, modulation and class of service of radio or other transmitting equipment.
- (16) Transmission and maximum effective radiated power of the antenna(s).
- (17) Direction of maximum lobes and associated radiation of the antenna(s).
- (18) Applicant's proposed wireless facility maintenance and inspection procedures and related system of record.
- (19) Certification that NEIR levels at the proposed site are within the threshold levels adopted by the FCC.
- (20) Certification that the proposed antenna(s) will not cause interference with existing telecommunications devices. The certifying engineer need not be approved by the Village.
- (21) A copy of the FCC license applicable for the use of the wireless telecommunications facility.
- (22) Certification that topographic and geologic conditions which are to be confirmed by field tests are sufficient to assure the stability of the proposed wireless telecommunications tower.
- (23) Propagation studies of the proposed site and all adjoining proposed or in-service or existing sites.

- (24) Applicant shall disclose, in writing, any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new wireless telecommunications facility that it constructs.
- E. In the case of a new wireless telecommunications facility, the applicant shall be required to submit a report demonstrating its efforts to secure shared use of existing wireless telecommunications facility(s). Copies of written requests and responses for shared use shall be provided to the Village Board.
- F. Certification that the wireless telecommunications facility and attachments both are designed and constructed ("as built") to meet all county, state and federal structural requirements for loads, including wind and ice.
- G. Prior to issuance of a Certificate of Compliance or Certificate of Occupancy the applicant shall post with the Village cash bond or surety for the cost of removal of the tower in the event it should be abandoned or become a hazard or otherwise be subject to removal pursuant to valid exercise of police power of the Village.
- H. The applicant shall submit a completed Long Form EAF and a completed Visual EAF addendum.
- I. The Visual EAF addendum shall be in the form of a visual impact assessment which shall include:
- (1) A Zone of Visibility Map, indicating the full range and line of sight within which the proposed facility will be visible.
  - (2) Pictorial representations of before and after views from key viewpoints to be determined by the Village Board including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible.
  - (3) An assessment of the visual impact of the facility base, wires and accessory buildings from abutting and adjacent properties and streets.
  - (4) A discussion of the feasibility of disguising the proposed utilizing stealth technology to blend with surrounding vista.
- J. The applicant shall provide a plan for mitigation of the visual impacts which shall include a screening plan and such other methods as the applicant may employ to diminish any adverse visual impact attributable to the proposal. If the telecommunications facilities are not obscured from public view by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. The Village Board shall determine the types of trees and plant material and depth of buffer required.
- K. Unless otherwise directed by the Village Board all utilities serving any wireless telecommunications facility site shall be installed under-ground and in compliance with all laws, rules and regulations of the Village, including specifically, but not limited to,

the National Electrical Safety Code and the National Electrical Code, where appropriate. Noise Suppression materials shall be utilized in the design and construction of the tower and any appurtenances.

- L. Both the wireless telecommunications facility and any and all accessory or associated facilities shall to the maximum extent employ building materials, colors and textures which are compatible with the natural surroundings of the site. To the extent that a tower extends above the height of the vegetation surrounding it, the facility shall be constructed to resemble or mimic a native coniferous species of tree to minimize the adverse visual impacts. The tower may also be camouflaged by other means such as a flagpole, clock tower steeple or other structures consistent with the character of the neighborhood or community as determined by the Village Board.
- M. An access road and parking to assure adequate emergency and service access shall be provided, should such be deemed necessary by the Village Board. Existing roads, whether public or private, shall be utilized to the extent possible.
- N. All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, modified or restored in strict compliance with all current technical, safety and safety-related codes adopted by the Village, County, State, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.
- O. Each applicant shall obtain all other permits and licenses required by applicable law, rule, regulation or law and must maintain the same, in full force and effect, for as long as required by the Village or other governmental entity or agency having jurisdiction over the applicant.
- P. All new towers shall demonstrate the feasibility of accommodation of future demand. The scope of this examination shall be determined by the Village Board. The wireless telecommunications facility shall be structurally designed to accommodate at least two additional antenna arrays equal to those of the applicant and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant demonstrates that the provisions of future shared usage of the wireless telecommunications facility is not technologically feasible, or is commercially impracticable and creates an unnecessary and unreasonable burden, based upon:
  - 1. The number of FCC licenses available for the area.
  - 2. The kind of wireless telecommunications facility site and structure proposed.
  - 3. The number of existing and potential licenses without wireless telecommunications facility spaces/sites.
  - 4. Available space on existing and approved telecommunications towers.

**Q. Location of Wireless Telecommunications Facilities**

**1. Priority of Location**

- (1) Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities, including towers or other tall structures, in accordance with the following priorities (listed in highest to lowest order):
  - (a) Co-location on a site with existing telecommunications towers or structures.
  - (b) On existing tall structures or telecommunications towers.
  - (c) New tower on same site.
  - (d) In nonresidential use buildings/structures in the LI, CB, GC zones.
  - (e) On other property in the Village.
- (2) If the proposed property site is not the highest priority listed above, an explanation shall be provided.
- (3) Sites with superior priority may not be bypassed absent a demonstration that such site is unavailable. Each applicant shall address co-location as an option, and if such option is not proposed, the applicant must explain. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.
- (4) Notwithstanding the above, the Village Board may approve any site located within an area in the above list of priorities, provided it finds that such approval is in the best interest of the health, safety and welfare of the Village.

2. The applicant shall submit a written report demonstrating a review of the above locations in order of priority, demonstrating the technological reason for the site selection. If the site selected is not the highest priority, then a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.

3. The applicant shall identify the locations of any additional sites that the applicant has, is, or will be considering, reviewing or planning for wireless telecommunications facilities in the vicinity of the Village.

**R. Shared Use of Towers**

1. Location of antennas on pre-existing structures shall be considered and preferred. Shared use of existing telecommunications towers or other existing structures within four miles of any proposed new tower site; and
  - a. Where such shared use is unavailable, the applicant shall submit a comprehensive report inventorying existing towers and other



appropriate structures within four miles of any proposed new tower site;  
and

b. The applicant shall provide analysis of the feasibility of shared use of any facility so identified.

2. An applicant intending to share use of an existing telecommunications tower or other tall structure shall be required to document the feasibility of same.

3. In the event that an application to share the use of an existing telecommunications tower does not increase the height of the telecommunications tower, the Village Board may waive any portion of this section deemed by the Village Board to be redundant of prior review.

**S. Height of Wireless Telecommunications Facilities.**

1. The applicant shall submit documentation justifying to the Village Board the total height of any wireless telecommunications facility and/or antenna and the basis therefore.

2. Wireless telecommunications facilities shall be no higher than the minimum height necessary. The maximum height shall be 80 feet, based on three co-located antenna arrays and ambient tree height of 70 feet.

3. The maximum height of any wireless telecommunications facility and attached antennas constructed after the effective date of the Zoning shall not exceed that which shall permit operation without artificial lighting of any kind in accordance with municipal, county, state and/or any federal law and/or regulation.

**T. Visibility of Facilities**

1. Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.

2. Unless otherwise directed by the Village Board, towers and facilities shall be camouflaged as defined herein. All facilities shall employ technology to obscure the facility from public view.

a. Camouflage by vegetation. If wireless communication facilities are not camouflaged from public viewing by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year round visual buffer. Ground mounted wireless communication facilities shall provide a vegetative buffer of sufficient height and depth to effectively screen the entire facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The Village Board shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions. Such buffer shall be maintained in a healthy state or replaced as necessary to provide continuing camouflaging.

b. Camouflage by design. To the extent that any wireless communications facility extends above the height of the vegetation immediately surrounding it, the facility shall be camouflaged by design to minimize the adverse visual and aesthetic impact unless otherwise required by the Village Board. Wireless communications facilities shall be camouflaged to resemble or mimic a native coniferous species of tree such as a Balsam Fir, Canadian Hemlock or Colorado Blue Spruce, among others, or by other means such as new construction of a silo, flagpole, clock tower, bell tower, cross tower, steeple other innovative replication of a structure that would be consistent with the character of the community as determined by the Village Board.

3. The Village Board may impose such conditions for maintenance as are deemed necessary to preserve the appearance of the structure.

U. **Security of Facilities.** All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner which prevents unauthorized access. Specifically:

1. All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or run into; and
2. Transmitters and telecommunications control points must be installed such that they are readily accessible only to persons authorized to operate or service them.

V. **Signage**

Signage shall be governed by the regulations of the particular district within which the facility is to be located.

W. **Lot Size and Setbacks.** In addition to the bulk requirements of the Village Zoning law, any proposed telecommunications towers and associated equipment shall satisfy the following additional requirements:

1. Be additionally set back from abutting parcels, recorded rights-of-way and road and street lines a distance sufficient to contain on site all ice-fall or debris from a tower or tower failure and to preserve the privacy and sanctity of any adjoining properties. In order to better protect the health, safety and welfare of the general public and to avoid the potential for injury due to falling ice or debris all towers shall be not less than 350 feet from the nearest property boundary of any school, park, day care center, public playground or similar occupancy.
2. Have a minimum setback from any property line a distance equal to the height of the facility, plus 10 feet, or the existing setback requirement of the underlying Zoning District, whichever is greater. All accessory structures shall be located so as to comply with the minimum setback requirements for the property on which it is situated.

X. **Retention of Expert Assistance and Reimbursement by Applicant**

1. In addition to the provisions of 6NYCRR Sec. 617.17(c) the Village Board may engage such consultants as it may deem necessary to assist the Board in reviewing and evaluating the application and any requests for recertification.
  2. An applicant shall deposit with the Village, funds sufficient to reimburse the Village for all reasonable costs of consultant and expert evaluation and consultation to the Village Board in connection with the review of any application.
  3. After receipt of an application pursuant to this section, the Village Board shall establish a review fee account in accordance with Village Code Sec. 98-30(H).
- Y. **Exception from Special Use.** In addition to the requirements of Article IX contained herein governing Site Plans:
1. No person shall be permitted to site, place, build, construct or modify or prepare any site for the placement or use of a wireless telecommunications facility as of the effective date of this Zoning Law without having first obtained a Special Use for a wireless telecommunications facility. Notwithstanding anything to the contrary in this section, no Special Use shall be required for those exceptions noted in the definition of wireless telecommunications facility, such as those used exclusively for fire, police and other dispatch telecommunications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar telecommunications.
  2. New construction, including routine maintenance on an existing wireless telecommunications facility, shall comply with the requirements of this section.
  3. All wireless telecommunications facilities existing on or before the effective date of this Zoning Law shall be allowed to continue as they presently exist; provided, however, that any modification to existing facilities must comply with this chapter.
- Z. **Public Hearing Required.** The Village Board shall hold a Public Hearing prior to the grant of a Special Use permit. Such Public Hearing may in the judgment of the of the Village Board be held jointly with the Public Hearing required for Site Plan approval pursuant to § 145-93 and all provisions relating thereto including notice and publication.
- AA. **Action on Application for Special Use**
1. The Village Board will undertake review of an application pursuant to this section in a timely fashion and shall act within a reasonable period of time given the relative complexity of the application and the circumstances with due regard for the public's interest and need to be involved and the applicant's desire for a timely resolution.
  2. Except for necessary building permits, and subsequent certificates of compliance, no additional permits or approvals from the Village other than the

Special Use granted under this chapter, shall be required for telecommunications facilities covered by this chapter.

3. After the Public Hearing and after formally considering the application, the Village Board may approve and issue or deny a Special Use and/or Site Plan. Its decision shall be in writing and shall be based on substantial evidence in the record. The burden of proof for the grant of the permit shall always be upon the applicant.
4. If the Village Board approves the Special Use for a wireless telecommunications facility, then the applicant shall be notified of such approval, in writing.
5. If the Village Board denies the Special Use for a wireless telecommunications facility, then the applicant shall be notified of such denial, in writing.
6. The Village Board's decision on an application for a Special Use for a wireless telecommunications facility shall be supported by substantial evidence contained in a written record.

**BB. Extension/Renewal of Special Use.**

1. The Special Use Permit granted pursuant to this chapter shall be valid for a period of 5 years measured from the date of final action by the Village Board.
2. Prior to the expiration of a Special Use granted pursuant to this chapter a holder may seek extension/renewal for individual periods of not less than 2 years. The holder of a Special Use for such tower shall submit a written request for extension/renewal. In the written request for recertification, the holder of such Special Use shall submit a renewal application in a form to be established by the Village Board which form shall require the following information in support thereof:
  - a. The name of the holder of the Special Use for the wireless telecommunications facility.
  - b. If applicable, the number or title of the Special Use.
  - c. The date of the original granting of the Special Use.
  - d. Any physical changes to the site covered by the permit.
  - e. A summary of the maintenance record of the facility during the term of the existing permit which shall include any and all structural changes.
  - f. Any requests for waivers or relief of any kind whatsoever from the requirements of this chapter and any requirements for a Special Use.
3. If, after such review, the Village Board determines that the permitted wireless telecommunications facility is in compliance with the Special Use and all applicable codes, laws and rules, then the Village Board shall issue a extension/renewal of the Special Use for the wireless telecommunications facility, which may include any new provisions or conditions that are mutually agreed upon, or required by codes, law or regulation.

4. If the Village Board does not complete its review, as noted in Subsection B of this section, prior to the five-year anniversary date of the Special Use, and subsequent fifth anniversaries, then the applicant for the permitted wireless telecommunications facility shall receive an extension of the Special Use for up to six months, in order for the Village Board to complete its review.
- CC. **Extent and Parameters of Special Use.** The extent and parameters of a Special Use for a wireless telecommunications facility shall be as follows:
1. Such Special Use shall be nonexclusive.
  2. Such Special Use shall not be assignable or transferable without the consent of the Village Board.
  3. Such Special Use may be revoked, canceled or terminated for violation of the conditions and provisions of the Special Use for a wireless telecommunications facility, or for a material violation of this chapter.
  4. Any action to revoke a Special Use permit shall comply with the Village Law § 145-120.1.KK.
- DD. **Application Fee.**
1. At the time the person submits an application for a Special Use for a new wireless telecommunications facility, such person shall pay an application fee to the Village of Warwick of \$7,500.00 or such other fee as the Village Board may establish at the annual reorganization meeting of the Village Board.
  2. The application fee for extension/renewal or amendment shall be \$2,500.00 or such other fee as the Village Board may establish at the annual reorganization meeting of the Village Board.
- EE. **Performance Security.** The applicant and the owner of record of any proposed wireless telecommunications facility property site shall be jointly required to execute and file with the Village, a bond or other form of security acceptable to the Village and the form and manner of execution, in an amount and with such cash or acceptable Letter Of Credit by the Village Board to assure the faithful performance of the terms and conditions of this chapter and conditions of any Special Use issued pursuant to this chapter. The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use and/or until the removal of the wireless telecommunications facility and any necessary site restoration is completed. The failure to pay any annual premium for the renewal of any such security shall be a violation of the provisions of the Special Use and shall entitle the Village Board to revoke the Special Use after prior written notice to the applicant and holder of the permit.
- FF. **Reservation of Authority to Inspect Wireless Telecommunications Facilities**
1. The Village may from time to time cause the inspection of facilities constructed pursuant to a permit granted pursuant to this chapter in accordance with State and Local law and building codes to insure the continued compliance with law and conditions of the Special Use, if any.

2. And for purposes of determining that facility does not constitute a threat to health.

**GG. Annual NIER Certification.** The holder of the Special Use shall, annually, certify to the Village Code Enforcement Officer that NEIR levels at the site are within the threshold levels adopted by the FCC and as specified in the Conditional Use approval (if any). The certifying professional engineer must be approved by the Village Board.

**HH. Liability Insurance.**

1. A holder of a Special Use for a wireless telecommunications facility shall secure and at all times maintain public liability insurance, property damage insurance and umbrella insurance coverage for the duration of the Special Use in amounts as set forth below:
  - a. Commercial general liability: \$1,000,000 per occurrence, \$2,000,000 aggregate.
  - b. Automobile coverage: \$1,000,000 per occurrence, \$2,000,000 aggregate.
2. The commercial general liability insurance policy shall specifically include the Village and its officials, employees and agents as additional insured.
3. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state.
4. The insurance policies shall contain an endorsement obligating the insurance company licensed to do business in the state.
5. Renewal or replacement policies or certificates shall be delivered to the Village Code Enforcement Officer at least fifteen (15) days before the expiration of the insurance which such policies are to renew or replace.
6. Prior to the issuance of a building permit for construction the holder of the Special Use permit shall deliver to the Village, a copy of each of the policies or certificates representing the insurance in the required amounts.

**II. Indemnification.**

Any Special Use issued pursuant to this section shall contain a provision with respect to indemnification. Such provision shall require the holder of the Special Use, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless and exempt the Village, officials of the Village, its officers, agents, servants, and employees from any and all penalties, damage or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising there from, either at law or in equity, which might arise out of, or are caused by, the construction, erection, modification, location, products performance, operation, maintenance, repair, installation, replacement, removal or restoration of a wireless telecommunications facility within the Village. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees and expert witness fees are included in those costs that are recoverable by the Village Board.

**JJ. Penalties for Offences.**

1. **Civil sanctions.** Any person who violates any of the provisions of this chapter shall be liable for a civil penalty not to exceed \$3,000 for every such violation.
2. **Criminal sanctions.** Any person, firm or corporation who or which willfully violates any of the provisions of this chapter or permits promulgated there under, excluding provisions set forth in the rules and regulations promulgated thereunder, upon conviction thereof of the first offense, shall be guilty of a violation punishable by a fine of not less than \$500 and not more than \$1,000 and for a second offense and each subsequent offense, shall be guilty of a violation punishable by a fine of not less than \$1,000 nor more than \$2,000 and a term of imprisonment of not more than ten (10) days, or both.
3. Notwithstanding anything in this section, the holder of the Special Use for a wireless telecommunications facility may not use the payment of fines, liquidated damages or other penalties to evade or avoid compliance with this section. An attempt to do so shall subject the holder of the Special Use to termination and revocation of the Special Use. The Village may also seek injunctive relief to prevent the continued violation of this chapter.

**KK. Default and/or Revocation.**

1. If a wireless telecommunications facility is repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this section or of the Special Use, then the Village Code Enforcement Officer shall notify the holder of the Special Use, in writing, of such violation. Such notice shall specify the nature of the violation or noncompliance and that the violations must be corrected within seven (7) days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this chapter, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Village Board may, at its sole discretion, order the violation remedied forthwith or may take such actions as may be authorized pursuant to the Village Law and or Executive Law of the State of New York.
2. Failure to comply with the terms hereof may give rise to revocation of the Special Use permit and or Site Plan approval.

- LL. Re-Hearing.** In the event it is determined that there exists a threat to health or safety which was unknown or not disclosed or not considered by the Village Board at the time of the issuance of a permit or any renewal, the Village Board may, upon majority vote, re-hear the Special Use.

Upon re-hearing, the Village Board may adhere to its previous determination, modify or deny the Special Use, including the imposition of such additional conditions as may, in the view of the Village Board, be required.

**MM. Removal of Wireless Telecommunications Facilities.**

1. In the event a facility shall be found in any of the following conditions, it shall be subject to removal pursuant to the authority of the Village Board pursuant to Village Law and Executive Law:
  - a. A wireless telecommunications facility which has been abandoned (i.e., not used as a wireless telecommunications facility) for a period exceeding ninety (90) days or a total of one hundred eighty (180) days in any three-hundred-sixty-five day period, except for periods caused by force majeure or acts of God.
  - b. A permitted wireless telecommunications facility falls into such a state of disrepair that it creates a health or safety hazard.
  - c. A wireless telecommunications facility has been located, constructed or modified without first obtaining the required Special Use, or any other necessary authorization.
2. The holder of the Special Use, or its successors or assigns, shall dismantle and remove such wireless telecommunications facility, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible within ninety (90) days of receipt of written notice from the Village Code Enforcement Officer. Restoration of the site is limited only by physical or commercial impracticability.
3. If the Village removes, or causes to be removed, a wireless telecommunications facility, and the owner of the wireless telecommunications does not claim the property and remove the facility from the site to a lawful location within ten (10) days, then the Village may take steps to declare the facility abandoned and sell it and its components.

**NN. Applicability of Application Requirements and Permit Conditions.**

1. Any applicant can request the waiver of application requirements that are inapplicable to their permit application. Such request shall be in writing. Requests should be discussed at the pre-application meeting. The applicant shall have the burden of supporting such requests. Determinations as to applicability of application requirements shall be made by the Village Board.
2. In determining permit conditions, the Village Board can waive inapplicable permit requirements, consistent with the policy goals and priorities of this chapter. The applicant shall have the burden of supporting such requests. Determinations as to applicability of permit condition requirements shall be made by the Village Board.

**OO. Adherence to State and/or Federal Rules and Regulations.**

1. To the extent that the holder of a Special Use for a wireless telecommunications facility has not received relief, or is otherwise exempt, from appropriate state and or federal agency rules or regulations, then the holder of such a Special Use permit shall adhere to and comply with all applicable rules, regulations, standards and provisions of any state or federal agency, including



but not limited to the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

2. To the extent that applicable rules, regulations, standards and provisions of any state or federal agency, including, but not limited to the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting and security, are changed and/or are modified during the duration of a Special Use permit, the permit holder shall confirm the permitted wireless telecommunications facility to the applicable changed and/or modified rule, regulation, standard or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard or provision, or sooner as may be required by the issuing entity.
- PP. **Inter-municipal Cooperation** - In order to keep the neighboring community informed and to facilitate the possibility of directing that an existing tower be considered for shared use, the Village Board shall require that:
1. The applicant notify in writing the Planning Board of the Town of Warwick. Notification shall include the exact location of the proposed tower and the general description of the project.
  2. Documentation of this notification shall be submitted to the Village Board at the time of application.

#### **145-120.2 Bed And Breakfast Lodging Establishments**

- A. No guest shall occupy the establishment in excess of fourteen (14) consecutive days within any calendar year.
- B. There shall be a maximum of four (4) guest rooms and the premises shall be occupied and operated by the property owner.
- C. There shall be a minimum of one (1) bathroom per floor.
- D. Parking for the primary residence shall be in accordance with the Village of Warwick Zoning Law. Parking for the bed and breakfast use shall be one (1) off-street parking space per guest room, in addition to the primary use. No parking shall be allowed in front of the existing building line. Parking provided shall be that of asphalt or other material in keeping with the character of the neighborhood. Creation of new parking within fifteen (15) feet of a property in residential use is prohibited, and use of existing parking may be utilized to satisfy the requirements of this paragraph.
- E. No kitchen or cooking facilities shall be allowed in any bedrooms.
- F. Only breakfast may be served to overnight guests, and no meals may be served to the general public.
- G. Guest rooms must have no less than one hundred (100) square feet of floor area, excluding closets and other similar areas.





- H. All rooms shall be in compliance with New York State Fire and Building Codes. In addition, each guest room shall be equipped with a minimum of one (1) single-station smoke detector.
- I. A - , B - , C - Type Fire Extinguishers are required in the kitchen and all common halls.
- J. One (1) non-illuminated sign, maximum three (3) square feet per side, not exceeding six (6) square feet total, shall be allowed.
- K. Such use shall be subject to the Conditional Use approval of the Planning Board.

### **145-120.3 Home Occupations**

- A. **Purposes.** Home occupations can provide numerous benefits for Village residents and the Village as a whole. They can provide useful services while encouraging business growth by eliminating the initial need for some small businesses to rent commercial space. Working at home can save energy resources that would be needed to commute and can reduce traffic congestion. Home occupations can also provide many people who might be unable to work outside the home (such as the elderly, single parents or the disabled) an opportunity to earn a living. The regulations contained herein are designed to provide flexibility to potential residents who wish to establish a home occupation. The regulations are not designed to allow a business that has outgrown the limited space available to operate a home occupation within someone's residence, when such businesses should instead relocate to a commercial space.
- B. **Authorization.** In any district, except for the PAC Zone, where a dwelling exists or where otherwise specified in the Zoning Law, a home occupation, as defined in § 145-181, may be established in conformance with the following use limitations:
  - 1. A home occupation may only be conducted within a dwelling unit which is a *bona fide* and principal residence of the owner, lessee or other persons who occupy or reside in the dwelling, or in an accessory building thereto which has been approved for use as a home occupation and for which a Certificate of Occupancy has been issued by the Code Enforcement Office. The application for home occupation must bear the signed approval of the owner of the property. For purposes of this Chapter, a home occupation occurring fully within the dwelling shall be considered a Class 1 home occupation and is subject to the issuance of a Conditional Use permit by the Planning Board and Site Plan approval in accordance with § 145-90. Those home occupations occurring wholly or partially in an accessory building, or home occupations that exceed the thresholds identified in § 145-120.3.B. shall be considered Class 2 home occupations which may only be authorized by Site Plan Approval and a Conditional Use Permit in accordance with § 145-120.
  - 2. Not more than one (1) home occupation, whether Class 1 or Class 2, may occur on a single residential lot and shall conform with § 145-120.3.B(1).
  - 3. Class 1 home occupations shall not occupy more than five hundred (500) square feet of the total floor area or twenty-five percent (25%) of the total floor

area of the dwelling on the premises, whichever shall be the more restrictive. This floor area requirement refers only to heated and habitable rooms within the dwelling unit. Class 2 home occupations shall not occupy more than 500 square feet or twenty-five percent (25%) of the total floor area of the dwelling and accessory structure used in the home occupation, whichever shall be more restrictive.

4. Except for articles produced on the premises and other articles customarily associated with the product made or the service provided on the premises, no stock in trade shall be displayed or sold on the premises nor shall any item be available for rental.
5. There shall be no parking, storage or standing of any commercial vehicles or construction equipment, except as otherwise permitted in residential districts, and no outdoor display of goods, outdoor storage of materials, or outdoor storage of equipment used in conjunction with a home occupation.
6. No alteration to the exterior of the principal residential building or accessory building used for the home occupation activity shall be made which changes the character thereof as a residential premises except that a single sign, not exceeding two (2) square feet in area, shall be permitted, subject to all other applicable sign regulations of this Chapter. Any new construction undertaken to accommodate the home occupation activity shall also be wholly consistent with the character of a residential premises.
7. The lot on which the home occupation is proposed shall meet the minimum lot area and setback requirements set forth in the Table of Bulk Requirements for the district, and the accessory building proposed to house the home occupation shall similarly meet all setback and related bulk requirements set forth in this Chapter.
8. The home occupation shall not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
9. Only customary home appliances and light office equipment shall be used, and no offensive noise, vibration, glare, dust, odors, heat, fumes, smoke, or electrical interference shall be detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.
10. Not more than one (1) person, outside the members of the household occupying the dwelling, shall be employed on the residential premises in the conduct of the home occupation. Off-street parking shall be provided for the additional employed person and shall conform to all applicable regulations of Articles VII and IX. Any use requiring, in accordance with the Table of General Use Requirements, more than three (3) off-street parking spaces shall be deemed a Class 2 home occupation under this Chapter.

11. A Certificate of Occupancy, to be issued by the Village Code Enforcement Officer, shall be required for all home occupations. Application forms are available from the Village Building Department.
12. In no case shall a home occupation be open to the public at times earlier than 8:00 AM or later than 8:00 PM.
13. Class 1 home occupations shall be compatible with the residential use of the property and the residential character of the neighborhood and shall not be classified as a Class 2 home occupation requiring a Conditional Use Permit provided that:
  - a. The volume of invitees or clients who visit the home occupation premises is less than six (6) per day, and
  - b. The volume of deliveries or truck traffic is less than an average of three (3) per day, and
  - c. The home occupation requires no more than two (2) parking spaces in addition to those required under § 145-70.
  - d. If any threshold in subsection (a) or (b) or (c) above is reached, the Class 1 home occupation shall be classified as a Class 2 home occupation requiring the issuance of a Conditional Use Permit from the Planning Board.
14. The following uses are specifically prohibited from consideration as permitted home occupations under this Chapter, because of parking requirements, deliveries and other issues of land use compatibility. Uses that have been identified with a “” and that do not exceed the thresholds provided herein, may be permitted as Class 2 home occupations, subject to the conditional use permit requirements of § 145-120.
  - a. Ambulance, limousine, taxi, or similar service with any employees or more than one vehicle used in the home occupation. 
  - b. Automobile-related businesses including repair, maintenance, painting, parts, sales, upholstery, detailing, or washing services.
  - c. Bed and breakfast establishments with one (1) or more bedrooms for rent. 
  - d. Places of public assembly accommodating more than 25 persons.
  - e. Commercial stables, kennels, or animal hospitals.
  - f. Construction companies, building contractors, home builders, or general contractors with any employees or more than one vehicle and/or more than one trailer used in the business.
  - g. Convalescent homes or clinics.
  - h. Dancing, art, martial arts, and similar group instruction activity when serving more than six (6) students per day. 

- i. Landscape Contractors with any employees or more than one vehicle and/or more than one trailer used in the landscape business.
  - j. Mortuary establishments.
  - k. Personal service establishments, licensed by the NY State Education Department, serving more than one (1) customer at a time.
  - l. Restaurants, taverns, tea rooms, and similar eating and drinking establishments.
  - m. Home processed food businesses in accordance with § 276.3 of the New York State Agriculture and Markets Law. 🏠
15. The Site Plan Approval and Conditional Use Permit granted for a Class 2 home occupation shall expire when the occupation changes, when the intensity of the home occupation increases or the property is sold.

#### **145-120.4 Accessory Apartments**

It is the specific purpose and intent to allow one accessory apartment within one-family residential structures or in an accessory structure such as a garage or other detached building on a lot containing a one-family residence in order to provide the opportunity and encouragement for the development of small, rental housing units designed, in particular, to meet the special housing needs of single persons and couples. It is the further purpose and intent of this provision to allow the more efficient use of the Village's existing housing stock, to provide economic support for existing resident families of limited income, and to preserve and protect property values. The following specific standards are set forth for such accessory uses:

- A. The owner(s) of the one-family residence in which the accessory apartment is to be located shall occupy at least one (1) of such units on the premises. The owner shall have been a resident on the premises for at least twelve (12) consecutive months immediately preceding submission of the accessory apartment application. Should the owner have a place of residence other than the premises for a period of more than six (6) months, the conditional use permit shall become null and void, and the premises shall revert to its original permitted use which existed immediately prior to the issuance of the permit. Accessory apartments shall be clearly incidental and subordinate to the principal structure and shall not change the single-family residential character of the neighborhood.
- B. There shall be no more than (1) accessory apartment per existing one-family residence structure on a lot.
- C. In order to be eligible for an accessory apartment, the structure in which the accessory apartment is proposed shall have existed prior to the effective date of local law number 4 of the year 1984. Proof of existence shall be demonstrated by an issued Certificate of Occupancy or be proven by the applicant (using deeds, dated surveys showing the structure, insurance documents, tax records, dated permits or other such documents) to the satisfaction of the Code Enforcement Officer as having been built prior to the

date when certificates of occupancy were issued for such structure. Adding an accessory apartment is considered a change in use to the property.

- D. The maximum floor area for the accessory apartment whether in main dwelling or in an accessory structure shall be eight hundred (800) square feet and the minimum floor area of the accessory apartment shall be four hundred (400) square feet and as such shall not exceed the size of the primary residence. If the accessory apartment is proposed within the main dwelling, the primary residence shall not be reduced below one thousand (1000) square feet. These areas shall be exclusive of porches or basements. There shall be no more than one (1) bedroom per accessory apartment.
- E. Off-street parking spaces shall be provided for each dwelling unit in accordance with § 145-70 of this Zoning Law but in no case shall the parking space be located in the front yard, in the driveway forward of the front building line of the dwelling unit or in the 1<sup>st</sup> layer as defined herein.
- F. No office, retail, service, home office or commercial use shall be permitted on the premises or within the structure except in strict conformance with Section 145-120.3 of this Zoning Law.
- G. The accessory apartment must comply with all requirements of the New York State Building Code and all laws and housing regulations of the State of New York and the Village of Warwick and shall be maintained in a neat and orderly manner.
- H. Each dwelling unit in the structure shall contain its own separate and private bathroom and kitchen wholly within each dwelling unit.
- I. The structure in which the accessory apartment is located shall have only one (1) front entrance, and only one (1) entrance from any other facade of the structure. An entrance leading to a foyer with entrances leading from the foyer to the two (2) dwelling units will be acceptable.
- J. If the accessory apartment is located above a garage, an air to air heat exchanger and a carbon monoxide detector shall be installed to reduce the risk of carbon monoxide poisoning.
- K. A new owner shall apply for a renewal of the Conditional Use permit for an existing accessory apartment within six (6) months of taking title to the property.
- L. The residence structure which existed as the effective date of Local Law No. 4 of the year 1984 shall not be expanded by more than ten percent (10%) of its area as of that date, on the exterior, in order to accommodate the accessory apartment.
- M. The accessory apartment shall be located within the residential structure so that the floor level of the apartment shall not be more than four (4) feet below the average adjoining finished grade. No habitable space used for an accessory apartment shall be located in cellars, except that below-grade space is permitted as habitable space for an accessory apartment where in conformity with the following conditions:
  - 1. The grade adjoining one exterior wall for the entire width of the habitable space is at or lower than the floor level of the habitable space.

2. The depth is not more than four times the height.
  3. Such space conforms to all other requirements for habitable space as defined in the New York State Fire Prevention and Building Code.
- N. In the event the apartment is proposed for an accessory structure, the apartment must be wholly contained in the existing structure. Such structure shall have a dedicated water line and sewer line that are separate from the primary residence.

### **145-120.5 Formula Businesses**

- A. **Purpose.** The Village of Warwick is unique not only because of its well preserved historic structures, but because of its small individualized shops and restaurants as well. Warwick's historic downtown district is recognizable nationwide. It attracts thousands of visitors each year, a large part of whom come to enjoy and experience the unique character of the Village and its numerous quaint shops and restaurants. This unique character would be adversely affected by a proliferation of "formula businesses" which are required by contractual or other arrangements to be virtually identical to businesses in other communities as a result of standardized services, merchandise, decor, uniforms and the like. The development of such businesses, if unchecked and unregulated, would conflict with the distinct atmosphere and unique character for which Warwick's historic district is recognized. Therefore, the Village Board finds that in order to preserve the character of the business district and other mixed use area, it is reasonable and necessary to monitor and regulate the establishment of formula businesses through issuance of conditional use permits, in accordance with Articles XI and XII of this Zoning Law.
1. In addition to the standards set forth in § 145-120, and in addition to any and all recommendations of the Architectural and Historic District Review Board (AHDRB), the Planning Board shall require that all of the following standards be met for formula businesses in the CB, GC and TND Districts:
    - a. Approval of the formula business establishment will not alter the identity of the Village business district or other similar mixed use district in a way that detracts from its uniqueness or contributes to a nationwide trend of standardized downtown offerings;
    - b. Approval of the formula business establishment will contribute to a diverse and appropriate blend of businesses in these areas;
    - c. Approval of the formula business establishment will complement those businesses already in the downtown business district and help promote and foster the local economic base as a whole;
    - d. The formula business establishment will be compatible with existing surrounding uses; has been designed and will be operated in a non-obtrusive manner to preserve the community's character and ambiance; and the proposed intensity of uses on the site is appropriate given the

uses permitted on the site and on adjoining sites, including but not limited to the following:

- (1) The size of any individual formula business shall not exceed two thousand five hundred (2,500) square feet of gross floor area.
  - (2) The street frontage of any individual formula business shall not exceed sixty-five feet (65') in width.
  - (3) No drive through windows shall be permitted.
  - (4) The applicant shall submit a plan indicating the provision for rubbish removal, including the dumpster location with proper screening and buffering so that there will not be any substantial impacts to abutting properties.
  - (5) There shall not be a substantial impact to the public safety from increased traffic. At the discretion of the Planning Board, the applicant may be required to submit a traffic impact study during the State Environmental Quality Review Act (SEQR) review of the application.
  - (6) There shall not be any impacts to the roadway or abutting properties from the loading area.
  - (7) Advertising or anything displaying a corporate logo, is forbidden to be displayed in the windows.
  - (8) No signs which are internally illuminated shall be allowed in accordance with § 145-81.H. of the Zoning Law.
- B. Consistency with Village Plan and Historic District. Approval of the formula business establishment shall be consistent with the policies and standards of the Village Comprehensive Plan and the Historic District requirements, if applicable, contained in § 145-24 of the Zoning Law.

### **145-121 Hotels And Motels**

- A. Hotel and motel units shall not contain kitchen facilities of any nature, shall not be used as apartments for non-transient tenant, shall not contain more than two (2) rooms and shall not be connected by interior doors in groups of more than two (2). There shall be no more than one (1) hotel or motel unit for each one thousand four hundred (1,400) square feet of site area exclusive of required setbacks.
- B. Each hotel or motel room shall have an area of at least three hundred (300) square feet. Each hotel or motel unit shall have a bath facility with shower or bath, one (1) toilet facility and sink. No motel or hotel building shall exceed a height of two (2) stories or thirty (30) feet, whichever is less.
- C. The following accessory uses shall be permitted:



1. One (1) apartment with or without kitchen facilities for the use of the hotel or motel manager or caretaker and his family within the motel building.
  2. One (1) coffee shop for hotels or motels with no more than one hundred (100) rooms is permitted. Such facilities shall be located within the hotel or motel building.
  3. Amusements and sports facilities for the exclusive use of hotel guests including:
    - a. Swimming Pool
    - b. Children's playground
    - c. Tennis and other game courts
    - d. Game or recreation rooms
  4. Office and lobby, provision of which shall be mandatory for each hotel or motel.
  5. Meeting and/or conference rooms.
- D. All hotels and motels shall be equipped with sprinkler and fire alarm systems.

#### **145-122 Gasoline Stations**

Gasoline stations are conditional uses in the GC District and subject to the restrictions as set forth in § 145-31, Use Table as well as the following standards:

- A. **Location.** No gasoline stations shall be located closer than four hundred (400) feet from a school of general instruction, public recreation area, church, hospital, or other gasoline service station measured to the lot lines thereof.
- B. **Access.** Access points shall be located a minimum of fifty (50) feet from the intersection of the designated street lines. All accesses shall be defined by the use of concrete curbing and shall be designed to provide safe and convenient travel without the potential for backing vehicles into the public street. A direct sidewalk connection for pedestrian access shall be provided to the primary building at the front of the building or if that is not possible at the side of the primary building.
- C. **Service Areas.** Pump islands, canopies and all parking spaces shall be located to the rear of the principal building. No outdoor display of products, other than the gas pumps, shall be permitted. No gasoline pump shall be located nearer than fifteen (15) feet to any street line. The canopy should be connected with the primary structure wherever possible and the roof design and supports should be coordinated even if not connected. Canopies should never visually dominate the site and should be patterned after traditional roof types in the Village.
- D. **Tanks.** All storage of fuels shall conform to the rules and regulations of the New York State Department of Environmental Conservation. The storage of gasoline or flammable oils in bulk shall be located fully underground and not nearer than fifteen (15) feet from any property line or street line.

- E. **Screening and Design.** Design all four sides of the primary building with windows and other architectural features to avoid visible blank walls. Reflect the traditional architecture of the Village in building and roof forms, window proportions, materials, colors, and detail. Signage shall be of a monument type integrated into a planter or landscaping and shall not exceed five feet in height from the ground.

Provide a ten (10) foot wide landscaped area along all gasoline service station property lines, excluding the front lot line, property lines adjacent to existing commercial uses and access points. The landscaped area shall be densely planted with a mixture of shrubs, trees and a fence, not less than six (6) feet high, which will create an opaque screen. All landscaped areas along property lines which are crossed by access drives shall be planted with low shrubs not greater than three (3) feet high and trees with a branching habit which begins at least eight (8) feet above ground level. Furthermore, planting shall not interfere with the normal line of sight (three hundred fifty (350) feet in either direction) needed for safe entering and exiting maneuvers by motor vehicles.

- F. **Maintenance and operation.** Due to the extent of land use impacts from such stations which are a product of exterior operations, the following requirements shall be made and noted on the Site Plan:

1. All vehicles at gasoline stations, except for one (1) tow truck, shall be stored within a building when the facilities are not open for business. However, licensed vehicles parked for minor repairs may be left outside for a period not to exceed seventy-two (72) hours. At no time shall any unlicensed or dismantled automobiles, trucks, tractors, trailers or accessories thereof be parked outside of a building. No car, truck or trailer rentals shall be permitted.
2. There shall not be any outside storage or display of accessories or portable signs when gasoline stations are not open for business.
3. Rubbish, oil cans, tires, discarded motor vehicle parts and components and any other waste materials may be temporarily stored in a completely fenced in opaque enclosure adjacent to the gasoline station building. The area of such enclosure shall not exceed two hundred (200) square feet. There shall be no storage of any of the above-mentioned items outside of such enclosure.
4. No repair work may be performed out of doors. This does not preclude, however, adding oil to motor vehicles, changing windshield wipers or other similar repairs normally performed in conjunction with the sale of gasoline.
5. During the hours that a gasoline station is open, all cars of employees and customers and tow trucks must be parked only in areas designated on the Site Plan.
6. All landscaped areas designated on the gasoline station Site Plan and/or landscaping plan shall be maintained in a neat and healthy condition.

- G. **Convenience Sales.** Gasoline stations may offer for sale general convenience retail items, not related to the sale of gasoline, such as milk, bread, newspapers and similar items.

- H. **Vehicle Sales Prohibited.** The offering for sale and sale of a new or used motor vehicle is prohibited. This prohibition includes the display of registered or unregistered vehicles with any "for sale" sign thereon.
- I. **Discontinuation of Use.** In the event a gasoline station is abandoned, as determined by the Code Enforcement Officer, the owner, lessee and/or motor-fuel supplier of said gasoline station shall immediately remove the tanks, gasoline pumps, all identification signs and lighting poles. In lieu of removing the tanks, said owner and/or lessee shall remove the flammable liquids therefrom for a three-month period only and thereafter remove the tanks in accordance with any applicable rules or regulations of the New York State Department of Environmental Conservation. The owner and/or lessee shall also provide adequate protection against unlawful entry into the building and onto the property and shall close all vehicular entrances to the property to prevent the storage of abandoned vehicles thereon.

### **145-123 Car Washes**

Car washes may be permitted by the Planning Board as provided in § 145-31, Use Table, subject to the following requirements:

- A. Such establishments shall not be located closer than four hundred (400) feet from any residential district boundary line, lands in residential use, school, hospital, nursing home or other similar institutional use, or other car wash facility.
- B. Each establishment shall provide parking/waiting areas equal in number to six (6) times the maximum capacity. Four (4) times the maximum capacity shall be provided for automobiles beyond the exit of the equipment so situated as to be usable for the hand finishing of the washing process and which shall be no closer than fifty (50) feet to any street right-of-way line. A maximum capacity shall be determined by dividing the equipment line by twenty (20) feet.
- C. All wash water shall be completely recirculated within the washing system and no discharge shall be permitted.

### **145-124 Senior Citizen Housing Developments**

The standards for senior citizen housing developments shall be as follows:

- A. It shall be the duty of the owner or his agent to file a certification with the Code Enforcement Officer indicating compliance with this chapters' requirements relating to the number of occupants and the age of the occupants in each dwelling unit. Such certification shall be filed no later than January 15th of each year.
- B. No more than fifteen percent (15%) of the dwelling units shall be two-bedroom units. No dwelling unit shall contain more than two (2) bedrooms, except that one (1) dwelling unit for each superintendent may be provided which shall consist of no more than three (3) bedrooms.

- C. Except for the superintendent and his family, the occupancy of a senior citizen housing development shall be limited to single persons who qualify as senior citizens under present, future or amended definitions of the governmental agency<sup>5</sup> providing subsidy or support to the project or to families, the head of which so qualifies, except that occupancy of a dwelling unit by a family, the head of which is younger than a senior citizen, shall be permitted if it is established that the presence of such person is essential for the physical care of an eligible occupant. In the absence of any definition, the minimum age for eligibility shall be fifty-five (55) years.
- D. Within the senior citizen housing development, certain related ancillary facilities may be permitted either in a separate building or in combination with dwelling units, such as cafeterias, self-service laundries, lounges, gamerooms, workshops or medical infirmaries, only to the extent that they meet the needs of the occupants of the development. Such facilities shall be subordinate to the residential character of the development and shall be located out of public view with no outside advertising. Such facilities shall be expressly approved by the Planning Board. Approval of a Site Plan for dwelling units in a senior citizen housing development in no way constitutes approval for installation of any type of related facility.
- E. The maximum density allowed shall not exceed twenty (20) units per acre based on lot area as adjusted as set forth in Section 145-42A.
- F. The development coverage shall not exceed forty percent (40%), including buildings, walks, parking areas and driveways. Parking areas above the ground floor, if any, within a building shall not be counted in computing said coverage. Building coverage shall not exceed twenty percent (20%).
- G. The maximum building height shall be thirty-eight (38) feet or three (3) stories, whichever is less.
- H. The minimum distance between detached buildings shall be fifty (50) ft.
- I. Suitably equipped and adequately maintained recreation and open space shall be well-defined by walls, fences, hedges or other plantings designed to impart a sense of containment or security and to provide group privacy.
- J. There shall be provided a safe and convenient system of drives, service access roads and walks with due consideration given in planning such facilities to such items as handrails and ramps. Such facilities shall be adequately lighted and said lighting shall not be directed on adjacent streets or properties.
- K. Central refuse collection areas shall be located for the convenience of all units. They shall be supplied with an adequate number and type of covered receptacles and shall be provided with proper screening and maintenance.

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<sup>5</sup> Federal Department of Housing and Urban Development, New York State Division of Housing and Community Renewal or similar or successor agencies of the federal or state government.

- L. All parking areas, driveways, recreation areas and refuse collections areas shall be no closer than ten (10) feet to any building or lot line, and any swimming pool shall be no closer than thirty (30) feet to any building and fifty (50) feet to any lot line. The requirement, which prohibits parking in required yards (§ 145-71A) may be waived by the Planning Board along property lines which abut parking areas or drives in contiguous senior citizen housing development.
- M. The required side and/or rear yard may be decreased to ten (10) feet where abutting another senior citizen housing development.
- N. External fire warning light should be on the face of the building that is visible from the street.

### **145-125 Automobile Sales And Service**

Automobile sales and service agencies for the sale and servicing of new and used motor vehicles, accessories and customary accessory uses may be permitted, provided that such agencies are franchised dealers or factory-owned dealerships of new motor vehicles and that all operations are conducted from the same site and subject to the following requirements:

- A. No such facility shall be closer than five hundred (500) feet (measured along the designated street line) to any residential district boundary, institutional or nonprofit use or school of general instruction. Such use shall not be permitted within one hundred (100) feet of a residential district along a rear lot line.
- B. The display area for vehicles shall not exceed one hundred ten (110) feet, extending between the front yard line and principal building, and not more than ten (10) vehicle display spaces shall constitute a display group, with each group being separated by significant landscape elements.
- C. The lighting level shall not exceed three (3) footcandles within a display area, and no banners, balloons, pennants, string flags, and similar type of displays are permitted. No signs, including numbers, prices or other advertising message, shall be displayed so as to be visible to the public right-of-way, except display window area pursuant to the Site Plan rules and regulations.
- D. All motor vehicle storage, other than the display area and customer parking, shall be fully fenced and screened from the side and rear property lines. All other accessory uses, including servicing shall be conducted within fully enclosed structures. Gasoline service if provided, shall be located to the rear of the principal building. Oil and gasoline storage shall be solely in underground tanks and in conformance with § 145-122D.
- E. Where the use involves display or sales of recreational vehicles, with gross vehicle weight exceeding five thousand (5,000) pounds, or trucks and commercial vehicles, such as buses or tractors, the Planning Board shall increase the applicable yards by a factor computed on the basis of the vehicle height divided by five (5) feet six (6) inches.

### **145-126 Contractor's Storage Yards**

Contractor's storage yards may be permitted in the LI District, subject to the following requirements:

- A. The Planning Board may require that all building materials, equipment and supplies be located within enclosed buildings or open sheds.
- B. Outdoor storage areas, if any, shall be limited to those specific locations and designated limits approved by the Planning Board. Such outdoor storage areas shall be heavily screened and landscaped from all street lines and lot lines, as required by the Planning Board.
- C. The Planning Board may require conformance with any requirements recommended by the fire department having jurisdiction. In no case shall the storage of any flammable materials be permitted within one hundred fifty (150) feet of any lot line.
- D. The Planning Board may require conformance with any other necessary requirements in order to prevent a nuisance to neighboring properties by reason of dust, noise, odor or any other nuisance which the Planning Board feels will be associated with the intended use.

### **145-127 Multiple Residences**

- A. Multiple residences are subject to Special Use permit approval from the Village Board of Trustees in accordance with the general standards set forth in §145-120 and the special conditions described below.
- B. Multiple residences require a minimum lot size of 22,500 square feet.
- C. Multiple residences shall be constructed to resemble a single-family dwelling.
- D. Multiple residences shall be consistent with the character of the immediate surrounding neighborhood.
- E. If there are multiple buildings proposed for a lot, the following shall apply:
  - 1. The distance between principal residential buildings on the same lot must be equal to the length of the largest building or sixty (60) feet, whichever is greater.
  - 2. There shall be no more than six (6) dwelling units per principal residential building.
  - 3. No building shall exceed one hundred and twenty-five (125) feet in length.
  - 4. The minimum distance between a principal residential building and an accessory building shall be twenty-five (25) feet.
  - 5. There shall be provided on the same lot, a suitably fenced children's play area containing not less than one hundred (100) square feet of ground area for each dwelling unit therein.

6. There shall be no parking areas between the front lot line and a principal residential building.
7. The number of dwelling units shall be calculated in accordance with the residential density requirements of § 145-28.G(2)(a) of the Zoning Law.
8. Wherever space is provided for the parking of four (4) or more vehicles in the open, such spaces shall be individually identified by means of pavement markings. No parking space shall be located in any front yard or within ten (10') feet of any lot line in side or rear yards. The parking of motor vehicles within fifteen (15') feet of any wall or portion thereof is prohibited. No service of any kind shall be permitted to be extended to users of the lot, including automobile service, repair or fueling, and no gasoline, oil, grease or other supplies shall be stored or sold in any such lot or in any garage on such lot. Parking areas shall be screened by a substantial hedge, wall or fence with a height of not less than six and one-half (6 ½') feet, and approved by the Planning Board.

**145-128 One Family Semi-Attached Residences With Not More Than One Principal Residential Building**

- A. The distance between principal residential buildings on the same lot must be equal to the length of the largest buildings or sixty (60) feet, whichever is greater.
- B. No more than six (6) dwelling units per principal residential building.
- C. No building shall exceed one hundred and twenty-five (125) feet in length.
- D. The minimum distance between a principal residential building and an accessory building shall be twenty-five (25) feet.
- E. There shall be provided on the same lot, a suitably fenced children's play area containing not less than one hundred (100) square feet of ground area for each dwelling unit therein.
- F. All end row or attached dwellings shall have a minimum lot width of thirty-five (35) feet and a side yard of at least fifteen (15) feet. In the case of a group of attached dwellings for rent, all regulations for attached dwellings shall apply, except that the minimum building width shall be twenty (20) feet and a sideyard of at least fifteen (15) feet shall be provided for all end-attached dwellings.

**145-129 Affordable Housing**

- A. **Purpose.** In order to provide a choice of housing opportunities for a variety of income groups within the Village of Warwick, in accordance with the purposes of this Article and the policies of the *Village of Warwick Comprehensive Plan*, the Planning Board shall deny any application for a conditional use permit for a subdivision, where affordable housing units are mandatory, if the applicant does not comply at a minimum with the following requirements for affordable housing units:

1. **Five or more lots.** Subdivisions of land into five (5) or more lots for single-family dwellings are required to include fifteen percent (15%) of the total number of dwelling units within the subdivision as affordable housing units. As an incentive, a density bonus of fifteen percent (15%) will be granted. For example, in a subdivision containing five (5) lots, one lot must contain an affordable housing unit ( $5 \times .15 = .75$  which is rounded up to produce one unit). In a subdivision containing ten (10) lots, two lots must contain an affordable housing unit ( $10 \times .15 = 1.5$  which is rounded up to produce two units). In the five (5) lot example, one bonus lot would be approved for a total of 6 lots, while in the ten (10) lot example, two bonus lots would be approved for a total of 12 lots. The Planning Board shall review the resources and public facilities available to the subdivision including transportation, water supply, waste disposal and fire protection, during the mandatory SEQR review, to ensure the additional density being proposed will not create significant environmentally damaging consequences.
2. **On-site units required.** The requirement for affordable housing units shall be established by constructing new dwelling units or rehabilitating existing dwelling units on the site proposed for subdivision approval, subject to the conditional use permit.
3. **Siting of affordable units.** All affordable units constructed or rehabilitated under this Zoning Law shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.
4. **Minimum design and construction standards for affordable units.** Affordable housing units within market rate developments shall be integrated with the rest of the development and shall be compatible in both interior and exterior design, appearance, construction and quality of materials with other units.
5. **Timing of construction or provision of affordable units or lots.** Where feasible, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

Market-Rate Unit %	Affordable Housing Unit %
Up to 30%	None required
30% plus 1 unit	10%
Up to 50%	30%



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Market-Rate Unit %	Affordable Housing Unit %
Up to 75%	50%
75% plus 1 unit	70%
Up to 90%	100%
Fractions of units shall not be counted.	

6. **Local Preference.** First preference for affordable housing units shall be given to existing residents of the Village of Warwick, second preference to residents of the Town of Warwick, third preference to other towns but who work as municipal or school district employees in Warwick, fourth preference to other residents of Orange County, and fifth preference to all others as permitted by law. Proof of residency, such as a driver's license or voter registration card, will be accepted to determine residency.
7. **Marketing Plan for Affordable Units.** Applicants under this Zoning Law shall submit a marketing plan or other method approved by the Village, to the Planning Board for its approval, which describes how the affordable units will be marketed to potential homebuyers or tenants. This plan shall include a description of the lottery or other process to be used for selecting buyers or tenants.
8. **Maximum Incomes and Selling Prices: Initial Sale.** To ensure that only eligible households purchase affordable housing units, the purchaser of an affordable unit shall be required to submit copies of the last three years' federal and state income tax returns and certify, in writing and prior to transfer of title, to the developer of the housing units or his/her agent, and within thirty (30) days following transfer of title, to the local housing trust, community development corporation, housing authority or other agency as established by the Village, that his/her or their family's annual income level does not exceed the maximum level for affordable housing as established by the Village of Warwick, and as may be revised from time to time.
9. **Preservation of Affordability; Restrictions on Resale.** Each affordable unit created in accordance with this Zoning Law shall have limitations governing its resale. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for affordable income households. The resale controls shall be established through a deed restriction on the property and shall be in force for a period of forty (40) years. All deeds of affordable housing units shall contain references to the restrictions on resale, enumerated herein, and such restrictions shall be placed on the subdivision plat as a condition of approval.

- a. **Resale price.** Sales beyond the initial sale to a qualified affordable income purchaser shall include the initial discount rate between the sale price and the unit's appraised value at the time of resale. This percentage shall be recorded as part of the restriction on the property noted above. For example, if a unit appraised for \$100,000 is sold for \$75,000 as a result of this Zoning Law, it has sold for seventy-five percent (75%) of its appraised value. If, several years later, the appraised value of the unit at the time of proposed resale is \$150,000, the unit may be sold for no more than \$112,500, seventy-five percent (75%) of the appraised value of \$150,000.
- b. The Planning Board shall require, as a condition for a conditional use permit under this Zoning Law, that the applicant comply with the mandatory set-asides and accompanying restrictions on affordability, including the execution of the deed rider noted above. The Code Enforcement Officer shall not issue a Certificate of Occupancy for any affordable unit until the deed restriction is recorded.

## **ARTICLE XIII**

### **Nonconforming Uses, Buildings or Lots**

#### **145-130 Applicability Of Article**

This Article applies to lots, buildings, structures and non-building uses in existence on the effective date of this law. The lawful use of any such premises or uses existing on the effective date of this chapter may be continued although neither such use conforms nor the bulk complies with the requirements, except as hereinafter follows:

#### **145-131 Nonconforming Buildings, Structures or Lots**

- A. Any nonconforming use may be continued indefinitely, but:
  1. Alterations: shall not be enlarged, extended, reconstructed, restored or placed on a different portion of the lot or parcel of land occupied by such uses on the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever, except that the Planning Board may permit an expansion not to exceed 15% of the existing ground area of said nonconforming use, provided that the most restrictive bulk requirements specified in the district in which said nonconforming use is located, shall apply to any such extension.
  2. Displacement: no nonconforming use shall be extended to displace a conforming use.
  3. Discontinuance: shall not be re-established if such use has been discontinued for any reason for a period of one year or more or has been changed to or

replaced by a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.

- B. District changing. Whenever the boundaries of the district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.
- C. Nonconformity in areas other than structure or use. Normal maintenance and repair, structural alteration in and moving, reconstruction or enlargement of a building which does not house a nonconforming use, but is nonconforming as to the district regulations for lot area, lot width, lot depth, front yard, side yard, rear yard, minimum height, maximum lot coverage or minimum livable floor area per dwelling is permitted if the same does not increase the degree of or create any new nonconformity.
- D. Normal maintenance. Nothing in this chapter shall be deemed to prevent normal maintenance and repair of any building or the carrying out upon the issuance of a building permit of major structural alteration or demolitions necessary in the interest of public safety. In granting such a permit, the Code Enforcement Officer shall state the precise reason why such alterations were deemed necessary.
- E. Nonconforming Lots.
  - 1. All applications submitted to the Code Enforcement Officer involving nonconforming lots shall require a variance from the Zoning Board of Appeals.
  - 2. A residential lot, separated from any other land in the same ownership and nonconforming as to bulk and not located in and part of a subdivision plat approved by the Planning Board and filed in the Office of the County Clerk, and which has a minimum lot width of one hundred (100) feet, may be used for a one-family detached residence, provided that such use shall comply with the bulk requirements as specified in the Table of Bulk Requirements for Use Group "f".
  - 3. For all residential lots having less than one hundred (100) feet of lot width, the following minimum requirements shall apply:
    - a. The minimum width of one (1) required side setback shall be twenty (20) feet.
    - b. The total width of both required side setbacks may be reduced nine (9) inches for each foot that the lot width is less than that specified in the Bulk Table.
    - c. The minimum front and rear setbacks shall be thirty (30) feet.
    - d. The minimum lot width and lot frontage shall be seventy five (75) feet.
    - e. The maximum building height shall be twenty five (25) feet.
  - 4. For all non-residential lots having less than one hundred (100) feet of lot width, the following minimum requirements shall apply:

- a. The minimum width of each required side setback shall be twenty (20) feet in the GC and LI Districts and ten (10) feet in the LO and CB Districts, except that where any setback abuts a residential district, the normal requirements for setbacks, yards and buffer shall apply.
  - b. The total width of both required side setbacks may be reduced nine (9) inches for each foot that the lot width is less than that specified for the Table of Bulk Requirements.
  - c. The minimum front and rear setbacks shall be thirty (30) feet for lots in the LO, GC and CB districts and fifty (50) feet for lots in the LI Districts.
  - d. The minimum lot width and lot frontage shall be seventy five (75) feet.
- F. A lot shall not be considered nonconforming with respect to the front setback or front yard requirements of this chapter if said condition is the result of a street right-of-way widening reservation or dedication, whether in fee or easement, required by the Planning Board at the time of subdivision or Site Plan approval.

#### **145-132 Additional Considerations**

- A. **Repair and Alteration.** Normal maintenance and repair of a building or structure is permitted if it does not extend the non-conforming use. No extension, alteration or enlargement shall be made in a building or structure occupied by a non-conforming use, nor in a non-conforming non-building use except:
1. When required pursuant to an order of a Court of Competent Jurisdiction.
  2. To adapt the building or structure to a conforming use.
  3. In a building or structure occupied by a non-conforming use or in a non-conforming non-building use permitted to extend under § 145-132D.
- B. **Change of Use.** Any non-conforming use shall not be changed to another non-conforming use without prior approval by the Board of Appeals and then only to a use which as determined by the Board of Appeals is of the same or a more restricted nature. If the Board of Appeals approves such changes, they shall conform, to the extent practical to current design standards and are also subject to Site Plan approval by the Planning Board.
- C. **Cessation of Use.** If active continuous operations are not carried on in a non-conforming use during a continuous period of one (1) year, the building or land where such previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operations shall not affect the foregoing. The time period set forth herein shall be tolled for any cessation of use pursuant to a court order.
- D. **Permitted Extension or Enlargement shall mean:**
1. In the case of a non-conforming use in a building the enlargement or extension of such use so as to create additional floor area within any existing building to

any portion of the floor area therein not formerly used for such non-conforming use, except where such additional floor area was manifestly designed for such use at the time such use became non-conforming.

2. In the case of a non-conforming non-building use of any additional land on which no substantial operations were previously conducted, provided that any such extension or enlargement is on the same lot occupied by the non-conforming use on the effective date of this chapter and subject to Site Plan approval.

**E. Damage and Destruction**

1. In the event of damage and destruction by fire or other casualty of any structure existing on the effective date of this Zoning Law the owner shall have one (1) year to apply for a building permit and six (6) months to initiate construction and earnestly pursue completion thereafter to rebuild the same size structure, regardless if the structure is conforming.
2. In the event that the living quarters of a residential structure are damaged or destroyed by fire or other casualty, the owner of the property may apply to the Code Enforcement Officer for temporary residential use of a trailer during the reconstruction process, provided that reconstruction is earnestly pursued and the trailer is removed upon issuance of a Certificate of Occupancy or one (1) year from issuance of a building permit, whichever comes first.

**F. Non-conforming Open Storage Yards or Outdoor Display.** Any non-conforming open storage yard or any outdoor display or storage of merchandise which is non-conforming, may continue for one (1) year after the effective date of this law.

**G. Non-conforming Industrial Uses.** In any Residential District, any non-conforming Industrial use which is permitted in the LI District may be continued for five (5) years after the effective date of this law, or an addition thereto that adds fifty percent (50%) or more to the real value of such use, whichever is the longer period, provided that, after the expiration of that period, such non-conforming use shall then be terminated.

**H. Modification by Zoning Board of Appeals.** If an application is made at least six (6) months before the expiration of the period prescribed for termination of a non-conforming use or non-complying bulk, and the Zoning Board of Appeals shall find that the period prescribed is unreasonable or inadequate for the amortization of the special value of the property resulting from such non-conforming use or non-complying bulk, then the Zoning Board of Appeals may grant such an extension of the period prescribed as it shall deem to be reasonable and adequate for such amortization, provided that no such period of extension shall exceed one-hundred percent (100%) of the period prescribed and that such extension may be granted only once for any use.

**I. Continued Use After Termination Date is a Violation.** The continuation of a non-conforming use or non-complying bulk after the termination date fixed for the same shall constitute a violation of this law.

- J. **Appeal of Decision.** Any person aggrieved by any decision of the Planning Board hereunder may, within thirty (30) days of the filing of the decision with the office of the Planning Board Secretary, appeal pursuant to Article 78 of the Civil Practice Laws and Rules.

## **ARTICLE XIV Administration and Enforcement**

### **145-140 Enforcement Officials; Powers And Duties Of Code Enforcement Officer**

This Zoning Law shall be enforced by a Code Enforcement Officer and one (1) or more Assistant Code Enforcement Officers, Code Enforcement Officers or Fire Inspectors, as the Village Board may appoint and deem necessary, hereinafter collectively referred to throughout this law as the "Code Enforcement Officer". It shall be the duty of the Code Enforcement Officer and he is hereby empowered to:

- A. Inspect any building, structure or land to determine whether any violation of this chapter, the Housing Code, Sewage Disposal, New York Uniform Chapter, Electrical or Plumbing Code or such other laws, rules and regulations as he shall be chargeable with inspection or enforcement of, has been committed or exist, whether or not such building, structure or land is occupied, whether such occupancy is in conformity with the aforesaid certificates or such other certificates as the Code Enforcement Officer shall issue; and otherwise generally inspect and enforce all of the laws, rules and regulations relating or affecting lots, buildings or structures and their use and occupancy.
- B. Issue such permits and certificates in conformity with the laws, rules and regulations of the State of New York and of this law and refuse to issue the same in the event of noncompliance, which reason therefore shall be endorsed on the application is provided in this law.
- C. Keep the Planning Board advised of all matters, as the Village Board shall determine, relating to the enforcement of this chapter and the appropriate laws, rules and regulations, make and keep all records necessary and appropriate to the office, including the issuance and denial of building permits, certificates of occupancy and/or uses, of formal complaints of violation and the action taken on the same; and keep a record of all permits, certificates of occupancy and use issued that shall be available for public inspection and send a copy to the Planning Board Secretary.
- D. Issue and post notices of Violations, Stop Orders, orders directing the remedying of any condition or omission that is or creates a violation of this chapter or other applicable laws, rules and regulations and revoke building permits, Certificates of Occupancy and Certificates of Use.

- E. Make such inspections and reports as shall be required by the Village Board for the enforcement, amendment or addition to this law or of any section or rules and regulations thereunder.
- F. Apply to the Village Board for authorization to perform such other actions or duties as may be necessary or required to enforce any authority or to invoke any penalty for the violation of this law and the Village Code and its rules and regulations.
- G. Have the power, right and authority to issue an appearance ticket, as the same as defined in Article 150 of the Criminal Procedure Law of the State of New York for the violations of any section of this law of the Village Code for any order of the Code Enforcement Officer.

**145-141 Adoption Of Uniform Fire Safety And Building Code By Reference**

- A. The New York State Uniform Fire Prevention and Building Code is hereby adopted and recognized as the official Building Construction Code of the Village for the purposes set forth therein and as it may be amended from time to time.
- B. All electrical work shall be inspected and approved by a Certified Electrical Inspector.

**145-142 Granting Of Building Permits And Certificates Of Occupancy And/Or Use**

No Building Permit, Certificate of Occupancy or Certificate of Use shall be issued unless the proposed construction or use is in conformance with all the provisions of this chapter and other applicable laws.

**145-143 Noncompliance With Orders**

Any person who shall violate any order of the Code Enforcement Officer issued under this law, shall be deemed to have violated this law.

**145-144 Building Permit Required**

A Building Permit is required for:

- A. The construction, reconstruction, moving, demolition, structural alteration or change in the use of a building or a structure.
- B. Temporary structures which will be utilized for thirty (30) days or more.
- C. Any change in the bulk of a building, structure or non-building use, not including ordinary repairs which are not structural in nature.

- D. Landscaping improvements in which the aggregate total exceeds ten thousand dollars (\$10,000) in value.

### **145-145 Application Procedure**

- A. Application for a Building Permit shall be made to the Code Enforcement Officer, on forms provided by him, and shall contain the following information and shall be accompanied with the following documents and material as may be required by the Code Enforcement Officer:
  - 1. Each application shall contain the following information:
    - a. A description agreeing with the Tax Map of the Village of Warwick of the land on which the proposed work is to be done.
    - b. A statement of the use or occupancy of all parts of the land and of the building or structure.
    - c. The valuation of the proposed work.
    - d. The full name and address of the owner, including the names and addresses of each officer and director of any corporation as is deemed necessary.
    - e. A brief description of the nature of the proposed work.
  - 2. Each application for a building permit shall be accompanied by plans and specifications, including plot plans as required drawn to scale, showing the location and size of all proposed new construction and all existing structures on the site, the nature and character of the work to be performed and the materials to be incorporated, distance from plot lines, widths and grades of adjoining streets, walks and lanes and, where required by the Code Enforcement Officer, details of structural, mechanical and electrical work, including computations, stress diagrams and other technical data. Plans and specifications shall bear the signature of the person responsible for the design and drawings and, if construction or landscaping improvements are over ten thousand dollars (\$10,000) in value, the architect's, landscape architect's or professional engineer's signature and New York State license number.
  - 3. Every application for a building permit shall be signed or otherwise endorsed in such a manner as to evidence the consent of the fee owner of record.
  - 4. Any amendment to the application or to the plans and specifications accompanying the same must be filed with and approved by the Code Enforcement Officer prior to the completion of the work, and such amendments shall comply with the provisions of this law. The refusal of such an amendment by the Code Enforcement Officer shall be in writing.
  - 5. Every application for a building permit pursuant to this law shall be accompanied by payment of a fee in accordance with the Standard of Fees.



6. Any plan deemed necessary to have a stamp by the Code Enforcement Officer regardless of the amount of dollars will require it.
  7. Approval of any other agencies including but not limited to: Orange County and/or New York State Health Department, New York State Department of Transportation, Village Planning Board, Village Zoning Board of Appeals, Shade Tree Commission, and Architectural and Historic District Review Board.
  8. Proof of Insurance and Disability Benefits, from Carrier or Agent.
- B. The Code Enforcement Officer shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith: He shall approve or disapprove the application within one (1) month from the receipt of the completed application accompanied by all appropriate documents and fees.
1. Upon approval of the application, the Code Enforcement Officer shall issue a permit upon the prescribed form by him and shall affix his signature thereto and endorse the plans and specifications to show approval.
  2. If the application is disapproved by the Code Enforcement Officer, he shall return the plans and specifications to the applicant and otherwise comply with § 145-140 and file each disapproval page in the office of the Code Enforcement Officer.
  3. If construction commences prior to issuance of a building permit, the fee shall be doubled.
- C. One (1) set of such approved plans and specifications shall be retained in the files of the Code Enforcement Officer for such time as shall be mandated by State Law, but not less than two (2) years. The applicant shall, at all times, keep one (1) set of the approved plans and specifications, together with the Building Permit, at the building site and open to inspection by the Code Enforcement Officer at all reasonable times. The Building Permit should be displayed so that it is readily visible.

#### **145-146 Expiration Of Permits**

- A. Every Building Permit shall expire if the work authorized has not commenced within twelve (12) months from the date of its issuance unless it is subject to one of the extension conditions below. Regardless if it is the original issuance or an extension, the Building Permit shall expire if has not been completed within twenty four (24) months from such dates.
- B. If construction has commenced within one (1) year from the issuance of the Building Permit but has not been completed, the holder of the permit may apply to the Code Enforcement Officer for an extension not to exceed one (1) year, such application to must be made before the one year period ends. Upon the payment of one-half (1/2) of the fee required for the issuance of the original Building Permit, the Code

Enforcement Officer may, at his discretion and for due cause, extend the permit for a period not to exceed one (1) year from the date of the original expiration.

- C. If construction has not commenced, the holder of the permit may apply to the Planning Board for an extension not to exceed one (1) year from the expiration of the permit, upon the payment of one-half (1/2) of the original Building Permit fee and such other fee or fees as may be payable upon any application to the Planning Board.
- D. Failure to complete the work within the time prescribed shall require that a new Building Permit application be filed and a new permit issued before any work may commence or continue
- E. Notwithstanding the above, if the delay in commencing or completing such construction is directly and solely caused by the imposition of a moratorium, the holder or such permit may apply to the Code Enforcement Officer or Planning Board, as the case may be, may in their discretion and for due cause extend the permit for a period not to exceed the time such delay was directly and solely caused by such moratorium.

#### **145-147 Revocation Of Permits**

The Code Enforcement Officer may revoke a Building Permit issued in any one (1) of the following circumstances:

- A. There has been a false statement or misrepresentation as to the material fact in the application, plans, specifications or other accompanying documents upon which the Building Permit was based.
- B. The Building Permit was issued in error and should not have been issued in accordance with the applicable laws.
- C. The holder or the applicant has failed to meet the requirements of an approved Site Plan and subdivision plat.
- D. The work being performed under the permit is not in accordance with the provisions of the application, the permit, the plans or specifications.
- E. The holder of the permit has failed or refused to comply with a Stop Order issued by the Code Enforcement Officer under § 145-148.

#### **145-148 Stop Work Orders**

Whenever the Code Enforcement Officer shall determine that work on any building or structure is being or has been conducted in violation of any of the provisions of the State Building Code, State, Federal, County or Village Laws, Rules or regulations or has failed to meet or violates any requirement of an approved Site Plan or subdivision plan, including but not limited to the required drainage, grade or elevation plans, sewer and septic plans, approved road profile plans such other plans or specifications upon which a Building Permit was issued, or that any work being conducted in a dangerous or unsafe manner, then the Code

Enforcement Officer may notify the owner of the property, or the owner's agent, or the person performing the work, to suspend and halt work. Such direction by the Code Enforcement Officer (a Stop Work Order) shall be in writing and delivered to the owner, or the owner's agent, or the person performing the work and a copy of same affixed to any part of said structure. Such Stop Work Order shall state the reasons therefore and the conditions under which the work may be resumed. Should work continue in violation of the Stop Work Order, the Code Enforcement Officer may, without further notice, revoke the Building Permit and, if there is a Certificate of Occupancy or Use, revoke the same.

### **145-149 Certificates Of Occupancy And/Or Use**

- A. A Certificate of Occupancy shall be applied for the owner or his agents and shall be issued by the Code Enforcement Officer as condition precedent to the occupancy and/or use of a structure and land as follows:
1. Occupancy of a structure erected or altered; A Certificate of Occupancy shall be required before occupancy of a new structure or before occupancy of an existing structure which has been altered, moved, changed in use or increased in off-street parking loading or stacking requirements. The certificate shall only be issued after the erection or alteration of said structure, or a component thereof or after required accessory use and all approved Site Plan requirements have been completed and found by inspection to be in conformity with the provisions of the applicable laws and approved Site Plan.
  2. Change in use of a conforming structure or land; A Certificate of Occupancy shall be required before occupancy of a conforming structure or land where the specific use has been changed and where by reason of the provisions of this law or other applicable law increased public or private facilities or modification of the structure are required, the Certificate shall be issued, when found by inspection, to be in conformity with the provisions of all applicable laws.
  3. Change in use of nonconforming building or land; A Certificate of Occupancy shall be required whenever the specific use of a non-conforming building or land is changed.
- B. **Partial Certificate or Use.** A partial Certificate of Occupancy or use for periods of ninety (90) days, but not more than one (1) year in the aggregate, for a building, structure or part thereof shall be issued before the entire work shall have been completed; provided, nonetheless, that such portion or portions for which the Certificate is issued may be occupied safely. The Code Enforcement Officer shall require a cash deposit or an irrevocable letter of credit drawn on a bank and on a form satisfactory to the Village Attorney to ensure and guarantee the completion of the structure. The Code Enforcement Officer shall determine the sum of said cash or letter of credit.
- C. No change shall be made in the use or occupancy of a building or structure unless a Certificate of Occupancy authorizing the Change of Use shall have been issued. A

Change in Use shall include, but not be limited to, a change in or of the type, class, nature or scope of the goods, services or operation.

### **145-149.1 Issuance Of Certificates Of Occupancy And/Or Use**

- A. A Certificate of Occupancy shall be deemed to authorize and is required for both initial and continued occupancy and use of the building or land to which it applies for the purposes therein stated.
- B. **Before Issuing a Certificate:**
  - 1. The owner or his agent shall make an application for a Certificate of Occupancy. Accompanying this application and before the issuance of a Certificate of Occupancy, there shall be filed with the Code Enforcement Officer an affidavit of the registered architect or licensed professional engineer who filed the original plans, or of the registered architect or licensed professional engineer who observed the construction of the work. This affidavit shall state that the deponent has examined the approved plans of the structure for which a Certificate of Occupancy is sought, that the structure has been erected in accordance with approved subdivision, plat or Site Plan except insofar as variations there from have been legally authorized. Such variations shall be specified in the affidavit.
  - 2. The Code Enforcement Officer shall examine or cause to be examined all buildings, structures and sites for which the application has been filed.
- C. If the Code Enforcement Officer shall determine that the improvement, construction, etc., was made in conformity with the building permit and the requirements of the law, he shall issue a Certificate of Occupancy or use as the case may be.

### **145-149.2 Revocation Of Certificate Of Occupancy And/Or Use**

If after the issuance of a Certificate of Occupancy or Use, the Code Enforcement Officer shall determine that there has been a violation of § 145-149C or that there has been a violation or set of circumstances which would authorize the revocation of a building permit pursuant to § 145-147 or § 145-148, the Code Enforcement Officer may revoke the Certificate of Occupancy or Use that has been issued.

### **145-149.3 Right Of Entry**

The Code Enforcement Officer or his authorized agent, upon the showing of proper credentials and in the discharge of his duties, may enter upon any land or building or structure at any reasonable hour, subject to all applicable laws.

#### **145-149.4 Penalties For Offenses**

Whenever a violation of this law occurs, or is alleged to have occurred any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Code Enforcement Officer who shall record the complaint in his files, conduct an investigation, and issue his findings in writing. If the Code Enforcement Officer finds that any of the provisions of this Zoning Law are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Code Enforcement Officer shall file copies of any notice of violation with the Village Clerk and the Village Attorney.

Any person who shall violate any provision of this law, or who shall build or alter any structure or use any land in violation of any statement or plan submitted and approved thereunder, or who shall knowingly assist therein, shall be liable to a fine of not more than one thousand dollars (\$1,000) fine or imprisonment. Each day's continued violation shall constitute a separate and additional violation. In addition to the forgoing provisions, the Village shall have such other remedies for any violation or threatened violation of this chapter as is now or may hereafter be provided by law.

#### **149-149.5 Appeals From Decisions Of Code Enforcement Officer**

Whenever the Code Enforcement Officer shall approve or disapprove, act or fail to act or otherwise perform any of his duties and shall render a decision thereon, such decision shall be reviewable by appeal to the Zoning Board of Appeals. Such appeal shall be submitted not more than thirty (30) days after the filing of the decision of the Code Enforcement Officer in the office of the Code Enforcement Officer and must be in written form.

## **ARTICLE XV Zoning Board of Appeals**

#### **145-150 Creation, Appointment And Organization**

The existing Zoning Board of Appeals of five (5) members is hereby continued. Their successors shall be appointed in accordance with the provisions of the Village Law. The Village Board shall designate the Chairman from the Zoning Board of Appeals' membership.

#### **145-151 Powers And Duties**

The Zoning Board of Appeals shall have all the powers and duties prescribed by statute and by this chapter, which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of the Board that is conferred by law.

- A. **Appeals** - The Zoning Board of Appeals shall hear and decide appeals from the review of any other requirement, decision or determination of the Code Enforcement Officer

or such other official charged with the enforcement of this chapter. The Zoning Board of Appeals shall not hear any appeal from nor review any order, determination, requirement, decision or revocation that has been directed by the Village Board. In addition, the Zoning Board of Appeals may not waive the requirement for Site Plan application as required in any part of this chapter.

**B. Interpretation** - On an appeal from any order, requirement, decision or determination made by an administrative official or by the Code Enforcement Officer to decide any of the following questions:

1. Determination of the meaning of any portion of the text of this chapter or of any condition or requirement specified or made under the provisions of this chapter.
2. Determination of the exact location of any District Boundary shown on the Zoning Districts Map.

**C. Variances** - Appeal from an order, requirement, decision or determination made by the Code Enforcement Officer or on referral of an applicant to the Board by an approving agency acting pursuant to this chapter, the Zoning Board of Appeals is authorized to vary or modify the strict letter of this chapter where its literal interpretation would cause practical difficulties or unnecessary hardships, as defined in this section, in such manner as to observe the spirit of this chapter, the Village Comprehensive Plan, secure public safety and welfare and do substantial justice. In granting variances, the Board is authorized to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property.

1. **Area Variances.** Where, because of practical difficulty, an applicant requests a variance of the bulk requirements of this chapter, the Board may grant a variance in the application of the provision of this chapter in the specific case, provided that, as a condition to the grant of any such variance, the Board shall make a specific finding that the application of the requirements of this chapter to the land in question creates such practical difficulty. In making this determination, the Board shall make each and every one (1) of the following findings:
  - a. The variation is not substantial in relation to the requirement.
  - b. The effect of any increased population density which may thus be produced upon available services and facilities is not significant.
  - c. A substantial change in the character of the neighborhood or a substantial detriment to adjoining properties will not be created.
  - d. The difficulty cannot be alleviated by some method feasible for the applicant to pursue other than a variance.
  - e. In view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be serviced by allowing the variance.

- f. The variation would not cause adverse aesthetic, environmental or ecological impacts on the property or on surrounding areas.
  - g. The alleged difficulty was not self-created, which consideration shall be relevant to the decision of the Board but does not necessarily preclude the granting of the area variance.
2. **Use Variances.** Where, because of unnecessary hardship relating to the land for use not allowed in the district in which the land is located, the Board may grant a variance in the application of the provisions of this chapter in the specific case, provided that as a condition to the grant of any such variance, the Board shall make each and every one (1) of the following findings:
- a. After considering each and every permitted use for the Zoning District in question, the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
  - b. The plight of the owner is due to unique circumstances affecting the property which is the subject of the application and not to general conditions in the neighborhood.
  - c. The use to be authorized by the variance is in reasonable harmony with the intent of this chapter and will not alter the essential character of the neighborhood.
  - d. The unnecessary hardship claimed as a ground for the variance has not been created by the owner or by predecessor in title; mere purchase of the land subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.
  - e. Within the intent and purposes of this chapter, the variance, if granted is the minimum variance necessary to afford relief. To this end, the Board may permit a lesser variance than that applied for.
- D. **Extensions across district boundaries.** In appropriate cases where a lot lies within two (2) districts, the Zoning Board of Appeals may permit the extension of existing or proposed permitted accessory off-street parking space across a district boundary, under such conditions as will safeguard the character of the district into which such use is extended. However, no such extension shall exceed seventy-five (75) feet, measured at right angles to such district boundary. The power under this subsection shall not permit the moving of the zoning district line but only the extension of the accessory off-street parking space.
- E. The Zoning Board of Appeals, after a Public Hearing shall have the power to direct the Code Enforcement Officer to issue a Building Permit, Certificate of Occupancy or Certificate of Use, as the case may be, subject to other applicable laws, codes, rules and regulations.

## **145-152 Rules Of Procedure**

- A. The Zoning Board of Appeals may adopt rules and regulations with respect to procedure before it and with respect to any subject matter over which it has jurisdiction, subject to approval of the Village Board. Such regulations shall include provisions for conduct of meetings, notifications of parties, form of applications and filing decisions.
- B. Every decision of the Zoning Board of Appeals shall be recorded in accordance with a standard format adopted by the Board, shall fully set forth the circumstances of the case and shall contain a record of the findings on which a decision is based. Every decision of said Board shall be by resolution, and each such resolution shall be filed in the offices of the Village Clerk within 5 business days and with the Code Enforcement Officer by case number.
- C. All appeals and applications made to the Zoning Board of Appeals shall be in writing and shall be accompanied by a fee as determined in the Standard Schedule of Fees, as may be adopted from time to time by resolution of the Village Board.
- D. Application for an appeal shall be made by the applicant within sixty (60) days from the date of filing in the Village Clerk's office of any order, requirement, decision, interpretation or determination of the Code Enforcement Office or such other official charged with the enforcement of this chapter. Failure to file notice of appeal within sixty days shall constitute a waiver of the right to appeal.
- E. An appeal shall stay all proceedings in the furtherance of the action appealed from, unless the Code Enforcement Office or such other official charged with the enforcement of this chapter from the appeal is taken, certifies to the Zoning Board of Appeals, after notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. Otherwise, case proceedings shall not be stayed other than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application on notice to the administrative official from whom the appeal is taken and on due cause shown.
- F. The Zoning Board of Appeals shall comply with provisions of the State Environmental Quality Review Act (SEQR) under Article 8 of the State Environmental Conservation Law and its implementing regulations as codified in Part 617 of Title 6 of the New York Codes, Rules and Regulations.
- G. The Zoning Board of Appeals shall authorize the setting of a public hearing and shall conduct a public hearing within sixty-two (62) days from the date a completed application is received. The Zoning Board of Appeals shall require the applicant to mail notice by certified mail of said hearing to applicant at least ten days before such hearing and to all property owners within three hundred feet (300') of the property line of the applicant's property and shall give public notice of said hearing in a newspaper of general circulation in the Village at least five days prior to the hearing. The cost of sending or publishing any notices related to such appeal, or a reasonable relating



thereto, shall be paid by the appealing party and shall be paid prior the hearing of such appeal.

- H. At least ten days prior to the public hearing, the Zoning Board of Appeals shall mail notice thereof to the Orange County Planning Board as required by section 239M of the General Municipal Law.
- I. At least ten days prior to the public hearing, the Zoning Board of Appeals shall mail notice thereof to the Town of Warwick Planning Board for any properties lying within a distance of 500 feet from any municipal boundary of the Village of Warwick and the Town of Warwick.
- J. The Zoning Board of Appeals shall take final action either to grant or deny the appeal, within sixty-two days after the conduct of the public hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the board.
- K. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the board not previously reheard may be made by any member of the board. A unanimous vote of all members of the board present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing, the board may reverse, modify or annul its original order, decision or determination upon unanimous vote of all members present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision, or determination will not be prejudiced thereby.
- L. Unless construction is commenced and diligently pursued with six (6) months of the date of the granting of a variance or special permit, such variance shall become null and void. The Zoning Board of Appeals may request the Code Enforcement Officer to determine if this requirement has been satisfied.
- M. Notwithstanding the above, if the delay in commencing construction is directly and solely caused by the imposition of a moratorium, the holder of such variance may apply to the Code Enforcement Officer for an extension. The Code Enforcement Officer may at his discretion and for due cause extend the permit for a period not to exceed the time such delay was directly and solely caused by such moratorium.
- N. Services for reviews performed by the Village Attorney, Village Engineer, Village Planner or other consultant, shall be paid by the applicant or its principals. All such fees shall be due and payable at the time of and as a condition to the decision rendered by the Board.

### **145-153 Appeals From Zoning Board Of Appeals Determination**

Any person aggrieved by any decision of the Zoning Board of Appeals hereunder may, within thirty (30) days of the filing of the decision with the office of Village Clerk, appeal pursuant to Article 78 of the Civil Practice Laws and Rules.

## **ARTICLE XVI**

### **Special Use Permit Review and Approval**

#### **145-160 Statutory Authorization**

- A. Pursuant to the provisions of the Municipal Home Rule Law, the Village Board reserves the approval authority for Special Use Permits for uses identified as such by an "S" in the Use Table. Such uses represent such diverse benefits and impacts on local land uses as to preclude specific descriptions and standards for their approval. The Village Board, in considering any application for a Special Use Permit hereunder, shall exercise such discretion reserved for legislative matters so as to ensure that the public health, welfare and safety are protected and the environmental and land resources of the Village are most efficiently utilized
- B. Applications for Special Use Permits pursuant to this Section shall be upon forms prescribed by the Village Board and shall contain the information required in the rules and regulations adopted pursuant to this chapter.
- C. Fees for Special Use Permit applications and for appeals before the Village Board shall be in accordance with the Standard Schedule of Fees of the Village of Warwick

#### **145-161 Application Procedure**

- A. An applicant for a Special Use Permit shall, simultaneously with the filing of any application with the Village Board, file an application for Site Plan approval with the Village Planning Board, together with appropriate plans, drawings and fees for Site Plan review. Before the Village Board shall give any consideration to or review of the application for such Special Use Permit, the Village Planning Board shall refer said Site Plan Development application to the Architectural and Historic District Review Board (AHDRB). The AHDRB shall review the Site Plan Development application in light of the general considerations and the specific standards provided herein for Special Use Permits. Thereafter, the Architectural Historic District Review Board shall transmit its recommendations to the Village Planning Board and Village Board within thirty (30) days.
- B. The Village Board shall authorize the setting of a public hearing and shall conduct a public hearing within sixty-two (62) days from the date a completed application is received. The Village Board shall require the applicant to mail notice by certified mail of said hearing to applicant at least ten days before such hearing and to all property owners within three hundred feet (300') of the property line of the applicant's property and shall give public notice of said hearing in a newspaper of general circulation in the Village at least five days prior to the hearing. The cost of sending or publishing any notice of public hearing shall be paid by the applicant prior to the holding of the public hearing.

- C. At least ten days prior to the public hearing, the Village Board shall mail notice thereof to the Orange County Planning Board as required by section 239M of the General Municipal Law.
- D. At least ten days prior to the public hearing, the Village Board shall mail notice thereof to the Town of Warwick Planning Board for any properties lying within a distance of 500 feet from any municipal boundary of the Village of Warwick and the Town of Warwick.
- E. The Village Board shall comply with provisions of the State Environmental Quality Review Act (SEQR) under Article 8 of the State Environmental Conservation Law and its implementing regulations as codified in Part 617 of Title 6 of the New York Codes, Rules and Regulations.
- F. The Village Board, in approving any Special Use Permit hereunder, shall require conformance with any supplementary requirements applying to such uses generally and may establish such other conditions or limitations upon the use, which are reasonably related to the public health, safety and general welfare and as may be necessary to carry out the intent of this chapter. The decision of the Village Board shall be filed in the office of the Village Clerk and a copy thereof mailed to the applicant. Thereafter, the applicant will proceed with Site Plan approval before the Village Planning Board.
- G. Unless specifically authorized in the decision of the Village Board, no requirement or conditions of such Special Use Permit shall be subject to appeals before the Zoning Board of Appeals. The granting of a Special Use Permit pursuant to this Subsection shall be exercised in the sound discretion of the Village Board. The Village Board shall have the full authority granted by law to approve, approve with modifications, waive the dimensional or submission requirements specified hereunder, or deny an application for Special Use Permit.
- H. Use requirements or special conditions imposed by this chapter for any Special Use Permit use shall not be waived or reduced by the Village Board and shall be considered to be the minimum requirements for any authorization hereunder, except that the Village Board may authorize further application and action by the Zoning Board of Appeals. Special Use Permits shall be deemed to be indefinite authorization unless otherwise specified in the approval thereof but, in any case, shall expire within eighteen (18) months of the date of approval unless a Building Permit has been issued for the Special Use Permit Use. Such permit may be extended on separate application to the Village Board.
- I. The Village Board shall make a determination on the application within sixty-two (62) days after the close of the public hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Village Board. The Board shall include such conditions of approval as were required. The Village Board shall cause to be filed with the Village Clerk, the Planning Board Secretary, and Code Enforcement Officer, the decision of the Village Board and a copy thereof to be mailed to the applicant within five (5) business days after such decision is rendered.

- J. The granting of Special Use Permits for the uses indicated may be conditioned on periodic renewal, which renewal may be granted following application, Public Notice and Hearing and may be withheld upon determination that conditions, as may have been identified in the original grant, requiring that the use be of temporary duration, now necessitate cessation of such use or imposition of additional or supplemental safeguards or conditions, or that the original conditions as may have been prescribed for such Special Use Permit have not been or are not being complied with, wholly or in part. Notices of violation pursuant to Article XX shall be prima facie evidence of lack of conformity with such standards or conditions.

### **145-162 Appeals From Village Board Determinations**

Any person aggrieved by any decision of the Village Board hereunder may, within thirty (30) days of the filing of the decision, in the office of the Village Clerk, appeal pursuant to Article 78 of the Civil Practice Laws and Rules.

## **ARTICLE XVII Amendments**

### **145-170 Amendment Of Chapter; Report From Planning Board**

This chapter, or any part thereof, may be amended, supplemented or repealed from time to time by the Village Board on its own motion or upon recommendation by the Planning Board or by petition. Prior to a Public Hearing, every such proposed amendment shall be referred by the Village Planning Board for a report, unless the proposed amendment was initiated by the Village Planning Board. The Village Board shall not take action on any such amendment without such report from the Village Planning Board unless the Planning Board fails for any reason to render such report within sixty (60) days following the date of such referral.

### **145-171 Petitions**

Petitions to amend this chapter shall be in writing and shall contain a description of the property affected, together with such other information as the Village Board shall require. Such petitions shall include the names and addresses of all owners of real property within five hundred (500) feet of the property affected or any other contiguous property of a petitioner in the same ownership. All petitions for amendment of this chapter, excepting those submitted by the Planning Board or on motion of the Village Board, shall be accompanied by a fee in accordance with the Standard Schedule of Fees of the Village of Warwick.

### **145-172 Hearings**

The Village Board shall fix the time and place of a Public Hearing on the proposed amendment and cause notice thereof to be given as provided by law.

### **145-173 Referral To County Planning Board**

If any proposed amendment consists of or includes any of the following conditions, the Village Clerk shall, prior to final action, refer the proposed amendment to the Orange County Planning Board.

- A. Any change in the district classification of, or the requirements applying to real property lying within a distance of five hundred (500) feet from:
1. The boundary of any Village or Town.
  2. The boundary of any state or county park or other recreation area.
  3. The right-of-way of any state parkway, thruway, road or other controlled access highway or county road or parkway.
  4. The right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines.
  5. The boundary of any county or state owned land on which a public building or institution is located.

### **145-174 Protest Against Amendments**

In the case of a protest against any amendment, such amendment shall not become effective except in accordance with the provisions of Article 7-708 of the Village Law.

### **145-175 Legislative Act.**

Consideration of an amendment to this Zoning Law will be deemed to be a legislative act. Nothing herein shall require the Village Board to accept for consideration or adoption any application or petition for amendment, any amendment recommended by the Planning Board, or by petition or by application for a Zoning District Map amendment, including a Floating District. The determination by the Village Board to consider, enact or deny the proposed amendment shall be deemed to be a legislative act within the sole discretion of the Village Board.

## **ARTICLE XVIII**

### **Word Usage**

#### **145-180 General Word Usage**

- A. Unless otherwise listed below, the numbers, abbreviations, terms and words used herein shall have the meanings of common usage as set forth in the latest edition of Webster's New Collegiate Dictionary or equivalent. Terms of law shall have the meanings as set forth in the latest edition of Black's Law Dictionary.
- B. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular number include the plural; words used in the plural number include the singular; the word herein" means in this chapter; the words "requirements" pertains to this chapter; and the words "this chapter" shall mean this chapter and the maps included herein, as enacted or subsequently amended.
- C. The "Village" is the Village of Warwick, in the County of Orange, State of New York; the "Village Board", "Zoning Board of Appeals", "Planning Board" and "Code Enforcement Officer", are respectively, the Village Board of Trustees, Village Zoning Board of Appeals, Village Planning Board and Code Enforcement Officer of the Village.
- D. "Article" as a term of reference in this chapter, refers to this chapter and not "article" as defined in the Revised Code of the Village of Warwick.
- E. "Shall" is always mandatory, except when applied to public officials, in which event "shall" is directory. "Time requirements" shall, nevertheless, be considered mandatory.

#### **145-181 Definitions**

As used in the chapter, the following terms shall have the meaning indicated:

**ACCESSORY** - The term applied to a building, structure or use which is clearly incidental or subordinate to and customarily used in connection with, the principal building, structure or use and which is located on the same lot with the principal building, structure or use. Any "accessory" building or structure attached to a principal building or structure is deemed to be part of such principal building or structure in applying the bulk requirements to such building or structure. No use shall be considered "accessory" where such use requires a greater area of a lot or larger setbacks or yards or for which greater restrictions than for the principal use on the lot are imposed by this chapter.

**ACCESSORY APARTMENT** - A self-contained housekeeping unit, including a separate kitchen that is developed as an accessory use to the primary use of an owner-occupied single-family residence.

**ACRE** - For the purpose of this Zoning Law, an acre shall be forty-thousand (40,000) square feet.

**ADJOINING** - Physically touching or bordering upon or sharing a common property line or major portion thereof.

**ADULT HOME/ASSISTED LIVING FACILITY** - A residential care facility providing residential units accompanied by services for housekeeping, personal care, recreation and food.

**ADULT USE, PASSIVE** - A sexually oriented business that excludes minors or which is required by law to do so, in order to allow the sale of sexually related materials. Passive adult business uses include adult bookstores, adult video and/or novelty stores, adult movie theaters, peep shows, and the like.

**AFFORDABLE HOUSING** - Affordable housing shall be defined as residential units available for a sales price or rental fee within the means of a household income which is eighty percent (80%) or less of the Village's median household income as derived annually from data prepared by the United States Department of Housing and Urban Development.

**AGRICULTURAL ACTIVITY** - the activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

**AGRICULTURE** - Any activity connected with the raising of crops, livestock or production of livestock products, including but not limited to field crops, fruits, vegetables, horticultural specialties, livestock and livestock products, maple sap, Christmas trees, aquaculture products and woody bio-mass. This shall encompass any activity or use now permitted by law, engaged in by or on behalf of a farmer in connection with farming including, but not limited to; housing for farm workers; stables and other tourist activities; the collection, transportation, distribution and storage of animal and poultry waste; storage, transportation and use of equipment for tillage, planting, harvesting and marketing; transportation, storage and use of fertilizers and limes, and legally permitted and applied insecticides, herbicides, and fungicides; construction of farm structures and facilities, including farm wineries and other on-farm food processing; construction and maintenance of fences and other enclosures; and the use and/or maintenance of related pastures, idle or fallow land, woodland, wetland, farm ponds, farm roads and certain farm buildings and other structures related to the agriculture practices. Agriculture shall also include value-added processing, wholesale and retail marketing, including U-pick sales, of the agricultural output of the farm and related products that contribute to farm income, including the sale at the owner's farm stand of agricultural products so long as a substantial portion of the annual gross sales of the farm stand have been grown on said farm.

**ANIMAL HOSPITAL** - A facility for the care and treatment of animals, including shelters and like facilities, other than animal kennels as defined herein.

**ANNUAL MEMBERSHIP CLUB** - A nonprofit organization established for the common purpose of offering services of a community or recreational (indoor or outdoor) nature

to its membership usually characterized by certain membership qualifications and meetings.

**APARTMENT** - a dwelling unit sharing a building and a lot with other dwellings and/or uses. Apartments may be for rent or for sale as condominiums.

**APPLICANT** - a property owner or agent of a property owner who has filed an application for a land development activity.

**AREA** -

- A. **Building Area:** The total of areas taken on a horizontal plane at the main grade level of the principal building and accessory buildings exclusive of uncovered porches, terraces and steps.
- B. **Floor Area:** The sum of the gross horizontal area of the several floors of the building. Floor areas do not include cellars, unenclosed porches or accessory buildings not used for human occupancy.
- C. **Gross Area:** The measure of and in a horizontal plane, uncorrected or adjusted for legal encumbrances surface conditions or slope.
- D. **Lot Area:** The horizontal area included within the property lines of a lot, after it has been adjusted as set forth in § 145-42A.

**ART GALLERY** - a building, structure or part of a building or structure used for the exhibition and or sales of artistic works.

**AUTO REPAIR** - Repairs, incidental replacement of parts and motor service to passenger automobiles and trucks not exceeding one and one-half tons' capacity.

**AWNING** - A roof-like structure, often adjustable and made of non-rigid material such as canvas or flexible plastic, that provides protection from sun, rain, and wind over a storefront, window, door, or deck.

**BED-AND-BREAKFAST** - An owner-occupied residence resulting from a conversion of a one-family dwelling, used for providing overnight accommodations and a morning meal to not more than 10 transient lodgers, containing at least three (3) but not more than five (5) bedrooms for such lodgers but with no full-service restaurant facilities, and with no more than one (1) nonresident employee.

**BILLBOARD** - An off-premise sign which is leased or rented for profit.

**BORROW SITE** - an area outside of the project site from which stone, soil, sand or gravel is excavated for use at the project site except the term does not include commercial pits.

**BUILDING COVERAGE** - The percentage of the lot area covered by the combined area of all buildings and structures.

**CEMETERY** - Land used or intended to be used for the burial of dead human beings and dedicated for cemetery purposes, including columbariums and mausoleums when operated with and within the boundary of such cemetery and excluding crematories and mortuaries.

**CHANGE OF USE** - See "Use, Change of."



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

**CHURCH** - See "places of worship".

**CIVIC** - The term defining not-for-profit organizations dedicated to arts, culture, education, recreation, government, transit, and municipal parking.

**CIVIC SPACE** - An open area dedicated for public use. Civic Space types are defined by the combination of certain physical constants including the relationship between their intended use, their size, their landscaping, and their buildings that front them.

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

**CONDITIONAL USE** - See "Use, Conditional."

**CONDOMINIUM** - An estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a residential building, such as an apartment. A condominium may include, in addition, a separate interest in other portions of such real property.

**CONGREGATE HOUSING** - A housing development offering individual dwelling units without kitchen facilities but with a common dining area for food service.

**CONNECTOR** - A minor connecting structure, whose primary façade is set back from the façade of the two buildings to be connected. The connector shall have a height lower than the two buildings to be connected, and shall have a footprint of no more than 500 square feet.

**CONTRACTOR'S STORAGE YARD** - Any space used for the storage or keeping of construction supplies, materials, equipment, machinery or vehicles, or parts thereof, which are in operable condition and active use by a construction or landscape contractor.

**COMMUNITY RESIDENCE FACILITIES** - as defined by New York State Mental Hygiene Law § 41.34 means a supportive living facility with four to fourteen residents or a supervised living facility subject to licensure by the office of mental health or the office of mental retardation and developmental disabilities which provides a residence for up to fourteen mentally disabled persons, including residential treatment facilities for children and youth.

**COTTAGE** - a small house, typically one story single family residence.

**DAY CARE** - A nonresidential facility intended to provide for the daytime care and supervision of children for a period exceeding three hours and which meets New York State requirements for certification. Day care also includes Adult Day Care and Intergenerational Day Care as defined below:

**DAY CARE, ADULT** - A nonresidential facility intended to provide daily assistance and/or supervision to handicapped adults, the elderly or adults otherwise requiring assistance to perform activities with daily living and which meets New York State requirements for certification.

**DAY CARE, INTEGENERATIONAL** – A nonresidential facility intended to provide for the daytime care and supervision of children for periods exceeding three hours and which meets New York State requirements for certification and which offers activities or programs that increase cooperation, interaction or exchange between any two generations (i.e. the sharing of skills, knowledge, or experiences between old and young).

**DEC** - the New York State Department of Environmental Conservation

**DEDICATION** - the deliberate appropriation of property by its owner for general public use.

**DESIGN MANUAL** - the *New York State Stormwater Management Design Manual*, most recent version including applicable updates that serves as the official guide for stormwater management principles, methods and practices.

**DESIGN SPEED** - is the velocity at which a street or road tends to be driven without the constraints of signage or enforcement. There are three ranges of speed acceptable in a TND: Very Low: (below 20 MPH); Low: (20-25 MPH); and Moderate: (25-30 MPH). Lane width is determined by desired design speed.

**DEVELOPER**- a person who undertakes land development activities.

**DEVELOPMENT COVERAGE** – The percentage of the lot area covered by the by the combined area of all buildings, structures, or other impervious surfaces on the lot.

**EATING/DRINKING ESTABLISHMENT** - Any establishment, however designated, at which food and beverages are sold primarily for consumption on the premises, whether in a building or elsewhere on the property.

**EDUCATIONAL FACILITIES:**

**GENERAL INSTRUCTION** – Any public or private elementary or junior high school, high school, college, university or postgraduate school offering courses in general instruction at least five (5) days per week and seven (7) months per year.

**RELIGIOUS INSTRUCTION** – Any public or private elementary, junior high school, high school, or college offering courses in religious instruction at least five (5) days per week and seven (7) months per year.

**SPECIAL INSTRUCTION** – Any non-public school conducting a regularly scheduled curriculum of specialized or vocational study.

**EMPLOYEE** - Shall mean the regular working staff, (paid, volunteer or otherwise) at maximum strength and in full time equivalent numbers necessary to operate, maintain or service any given facility or use under normal levels of service.

**EROSION CONTROL MANUAL** - the most recent version of the “New York Standards and Specifications for Erosion and Sediment Control” manual, commonly known as the “Blue Book”.

**FAMILY:**

A. One of the following:

1. One (1), two (2) or three (3) persons occupying a dwelling unit; or
- 2 Four (4) or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.

**B.** In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:

1. The group must share the entire house;
2. Occupants must live and cook together as a single housekeeping unit;
3. Expenses for food, rent, utilities or other household expenses must be shared by the group; and
4. The group is permanent and stable, and is not transient or temporary in nature.

**FAMILY/GROUP CARE FACILITIES** - A facility used as a group residence or extended care facility designed for the care and housing of persons who are unable to live and work independently at a particular time and which provides for provision of such person's specific needs and where compensation and/or reimbursement of costs is paid to an operator pursuant to state or federal standards, licensing requirements or programs funding residential care services.

**FIRE STATION** - A building or structure used to store and maintain fire and rescue vehicles and equipment.

**FLOATING ZONE** - A floating zone is a zoning district that "floats" until an application is made to apply the new district to a specific parcel. Upon approval of the application by the Village Board of Trustees, the Zoning Districts Map is amended and the parcel receives the Zoning District designation.

**FLOOR AREA RATIO (FAR)** - The floor area of all buildings on a lot divided by the lot area.

**FORMULA BUSINESS** - A business which is required by contractual or other arrangement to maintain one or more of the following items: standardized ("formula") array of services and/or merchandise, trademark, logo, service mark, symbol, decor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than five (5) other businesses regardless of ownership or location. Formula businesses can include, but are not limited to: restaurants, retail stores, banks, real estate sales offices, spas, hair and nail salons, and hotel/motel/inn/B&B.

**FRATERNAL ORGANIZATION** - Any incorporated society, order, or supreme lodge, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, and having a representative form of government. This definition does not include religious organizations.

**FRONTAGE** - All the property abutting on one side of a street, measured along the street line.

**FRONTAGE LINE** - Those lot lines that coincide with a public frontage. Facades along Frontage Lines define the public realm and are therefore more regulated than the elevations that coincide with other Lot Lines.

**FUNERAL HOME** - A business that provides burial and funeral services for the deceased and their families. These services may include a prepared wake and funeral, and the provision of a chapel for the funeral.

**GARAGE, PRIVATE** - An accessory building housing motor vehicles (not more than one (1) of which may be a commercial vehicle of not more than three (3) tons gross vehicle weight) which are the property of and for the private use of the occupants of the parcel on which the private garage is located.

**GARAGE, PUBLIC** - Any building or premise (except those used as a private garage or off-street parking facility) used for equipping, repairing, hiring, selling or storing motor vehicles.

**GAS STATION** - Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline, oil or other motor vehicle fuels and which may include facilities for lubricating, cleaning or otherwise servicing motor vehicles, but not including the painting or major repair thereof or the use of mechanical car washing equipment. The term "gas station" shall not include a "Formula Business" establishment as defined herein. A gas station may include as an accessory use, a convenience store, not exceeding 2,000 square feet, for the sale of a limited number of food and household products.

**GRADING** - excavation or fill of material, including the resulting conditions thereof.

**GREEN ROOF** - A roof designed to incorporate vegetated materials on the rooftop to filter, absorb and detain rainfall. The roof typically consists of a waterproof roofing membrane, an insulation barrier, root barrier, moisture retention layer, drainage material, a geotextile filter, a light soil substitute and plants.

**GROSS FLOOR AREA** - The term "gross floor area" (GFA) as used herein shall mean the gross floor area, including the exterior building walls, of all floors of a building or structure. GFA shall include all occupiable areas minus the following deductions:

- A. Vehicular parking and loading areas within the structure.
- B. Floor area occupied by HVAC (heating, ventilating and air conditioning), mechanical, electrical, communications and security equipment or apparatus.

**GROSS LEASABLE AREA** - The term "gross leasable area" (GLA) as used herein shall mean the gross floor area minus the following floor area deductions:

- A. Elevator shafts and stairways
- B. Public restrooms
- C. Public lobbies, common mall areas, atriums and courtyards provided solely for pedestrian access to the building from the exterior, and/or for aesthetic enhancement or natural lighting purposes.

- D. Permanently designated corridors (i.e. not subject to relocation by the requirements of a specific lease).

**GUESTHOUSE/ SERVANT CARETAKER DWELLING** - A small house or cottage separated from and subordinate to the main house utilized to accommodate guests or for person(s) employed for general maintenance and grounds keeping of the property.

**\*HEALTH CLUB, SPA, FITNESS CENTER, GYMNASIUM** - A business establishment with equipment and facilities for exercising and improving physical fitness. (\*adopted 10/7/13)

**HOME OCCUPATION** - An occupation or business activity operated for financial gain in, or directed from, a residential dwelling unit or accessory building by one or more family members residing within that dwelling unit, and is clearly an accessory or incidental use and subordinate to the residential use of the dwelling unit.

**HOSPITAL** - An establishment for temporary occupation by the sick and injured for the purpose of medical diagnosis, treatment or other care of ailments and shall be limited to the treatment or other care of humans including nursing homes.

**HOTEL** - A building or group of buildings where sleeping accommodations (with or without meals) is provided to the transient guests of which primary access to a room is from interior public halls but where no individual private kitchen facilities are provided.

**IMPERVIOUS COVER**- those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

**INDOOR RECREATION** - A for-profit establishment engaged in providing recreation for a fee or admission charge including but not limited to batting cages, tennis courts or miniature golf.

**INDUSTRIAL STORMWATER PERMIT** - a State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**INFILTRATION** - the process of percolating stormwater into the subsoil.

**INN** - a non-formula business establishment providing lodging and food of which primary access to a room is from interior public halls.

**INTERNALLY ILLUMINATED** - A sign lighted by or exposed to artificial lighting that shines through a plastic or other translucent or transparent covering. Neon signs and other similar signs are considered internally illuminated.

**JURISDICTIONAL WETLAND** - an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**KIOSK** - a small structure having one or more sides open, used as a newsstand, refreshment stand, or other small scale retail use.

**LAND DEVELOPMENT ACTIVITY** - construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal

to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

**LANDOWNER** - the legal or beneficial owner of land, including those holding the right to purchase or lease land, or any other person holding proprietary rights to the land.

**LANE** - a vehicular driveway located to the rear of lots providing access to service areas and parking, and containing utility easements.

**LAYER** - a range of depth of a lot within which certain elements are permitted as illustrated in § 145-28 of the Zoning Law.

**LEED** - The Leadership in Energy and Environmental Design (LEED) Green Building Rating System™ is the nationally accepted benchmark for the design, construction, and operation of high performance green buildings which promotes a whole-building approach to sustainability by recognizing performance in five key areas of sustainable site development, water savings, energy efficiency, materials selection, and indoor environmental quality.

**LIBRARY** - A building containing printed, pictorial and electronic material for public use and for purposes of study, reference, recreation and relaxation.

**LIVE-WORK** - a dwelling unit that contains, to a limited extent, a commercial component. A Live-Work Unit is a fee-simple unit on its own lot, with the commercial component limited to the ground level.

**LOT, CORNER** - A lot situated at the junction of and fronting on intersecting streets.

**LOT, UNIMPROVED** - A lot of record where no improvements have been made including the erection of buildings or structures.

**LOT AREA** - The total horizontal area included within the property lines of a lot, after it has been adjusted as set forth in § 145-42A.

**LOT COVERAGE** - see Development Coverage definition.

**LOT LINE, FRONT** - A lot line which abuts or runs along the designated street line. In the case of a lot situated to the rear of another lot, its "front lot line" shall be to the rear lot line of the front lot for purposes of measuring the front setback.

**LOT LINE, REAR** - The lot line generally opposite the street line. If the "rear lot line" is less than ten (10) feet in length or if the lot comes to a point in the rear, the "rear lot line" shall be deemed to be a line parallel to the front lot line not less than ten (10) feet long lying farthest from the front lot line.

**LOT OF RECORD** - A legally existing lot at the time of adoption of this chapter, duly filed and recorded in the Orange County Clerk's Office as either an individual parcel of land or part of an approved subdivision, in accordance with the Village of Warwick Subdivision Regulations and applicable provisions of Village Law.

**LOT WIDTH** - The distance measured along a line drawn parallel to the front lot line at a distance equal to the minimum front setback requirement.

**MAINTENANCE AGREEMENT** - a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

**MANUFACTURING** - Any process whereby the nature, size or shape of articles or raw materials is changed, or where articles are assembled or packaged in quantity. Such use includes related research and development facilities, software manufacturing, and facilities for radio, television, internet, movie and other communications media production.

**MEDICAL OFFICES/MEDICAL FACILITIES** - A facility organized and operated for the primary purpose of providing health services, medical or dental, for outpatient care of the sick or injured, including ambulatory care, imaging and related facilities such as laboratories and other service facilities.

**MOTEL** - A building or group of buildings where sleeping accommodations (with or without meals) is provided to the transient guests where each room has a private outside entrance and an automobile space convenient to each unit but where no individual private kitchen facilities are provided.

**MORTUARIES** - See "Funeral Home".

**MUSEUM** - a building or structure devoted to the acquisition, conservation, study, exhibition and educational interpretation of objects having scientific, historic or artistic value.

**NON-COMPLYING BUILDING** - A structure lawfully existing at the effective date of this chapter or any amendment thereto affecting such structure, which does not comply with the bulk requirements of this chapter for the district in which it is situated, irrespective of the use to which such structure is put.

**NON-CONFORMING USE** - Any use of a building or structure, lot or land, or part thereof, lawfully existing at the effective date of this chapter or any amendments thereto affecting such use which does not conform to the use requirements of this chapter for the district in which it is located.

**NONPOINT SOURCE POLLUTION** - pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**NURSING HOME** - See "Hospital".

**NURSERY SCHOOL** - Any private school accredited by the Education Department of the State of New York, designed to provide daytime care or instruction for two (2) or more children from two (2) to six (6) years of age, inclusive, operated at least five (5) days per week and seven (7) months per year.

**OCCUPIED SPACE** - An area enclosed or covered providing a ceiling height of 7' 0" or more, intended for normal use by people on an occasional or more frequent basis. Occupied

space may include basements, cellars, penthouses, attic space and interior balconies or mezzanines if the space is intended for use or habitation.

**OFFICE, PROFESSIONAL/BUSINESS/GOVERNMENT** – Establishments that include offices of federal, state or local government, salesmen, sales representatives, architects, engineers, physicians, dentists, attorneys, insurance brokers, real estate brokers and persons with similar occupations. Other uses of any kind elsewhere specified in this chapter shall not be deemed “office, professional and business”.

**OFFICIAL MAP** – The Official Map adopted and established by the Village Board, showing the streets, highways, parks and drainage systems laid out on such map, including any references to more detailed maps and studies. The “Official Map” is final and conclusive with respect to the location and width of streets, highways, drainage systems and parks shown thereon; and the “Official Map” is established to conserve and protect the public health, safety and general welfare.

**OFF-STREET PARKING FACILITY** - Parking spaces located in an area other than on a street or public right-of-way and limited in use to vehicles not exceeding a gross vehicle weight of three (3) tons or not parked continuously for periods of more than forty-eight (48) hours, except in facilities designated for special uses such as airport parking. Parking facilities include the following sub-classes:

- A. **SURFACE PARKING LOT.** A parking facility constructed on prepared grade and without a covering roof or structure.
- B. **OPEN PARKING STRUCTURE.** A parking area or facility, comprising one or more floors as a part or whole of a building, that meets the requirements for natural ventilation as specified by the New York State Building Code.
- C. **ENCLOSED PARKING STRUCTURE.** A parking area or facility comprising one or more floors as a part or whole of a building, that does not meet adopted Building Code requirements for openness.

**OPEN MARKET** – Permanent or semi permanent facility where direct sales of food, crafts or other products are sold to the public by local vendors.

**OWNERSHIP, SAME** – Includes all vested or contingent interests of any person or his agent, representative, successor or assignee and irrespective of whether or not such interest is recorded, in the following circumstances:

- A. Direct ownership by such person or his or her spouse, child, parent, sibling or spouse of sibling, heir or next of kin, agent, corporation, firm entity, partnership or unincorporated association.
- B. Ownership of property by different corporations, firms, partnerships, entities or unincorporated associations, in which such a person is a stockholder, a partner or associate, or his or her spouse, child, parent, sibling or spouse of sibling, heir or next of kin or owns an interest of ten percent (10%) or greater in each corporation, firm, partnership, entity or unincorporated association.
- C. When such person or his estate, successors or assigns, or any person or entity included in Subsection A and B herein, may be materially or substantially



affected by the relief sought or by any determination in any proceeding sought before any board, body, commission or agency of the Village of Warwick, whether or not such person is a party to such application or proceeding and whether or not such person appears on the record of such proceeding.

**PARKING AREA** - A lot or part thereof used for the storage or parking of motor vehicles, with or without the payment of rent or charges in money and/or other consideration.

**PARKING LOT** - Lot or part thereof used for the storage of motor vehicles, which contains space rented to or used by the general public by the hour, day, week, month or year.

**PERSON** - The word "person" as used in this chapter, shall be defined to include, but not limited to an individual, a partnership, a joint venture, a corporation, an unincorporated association, a firm or any other form of entity, contractors, subcontractors or journeymen; "used" or "occupied" to include the words "intended", "arranged" or "designed to be used or occupied".

**PERSONAL SERVICE STORE** - An establishment primarily engaged in providing services involving the specialized care of a person or a person's apparel, including but not limited to barber and beauty shops, tailor shops and exercise or dance studios, but not including "Adult Uses" as defined herein.

**PHASING** - clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

**PLACES OF WORSHIP** - a building or structure which, by design and construction, is primarily intended for religious services or instruction, including social and administrative rooms accessory thereto.

**PLAYGROUND** - a tract of land designed for the use of children for active recreation purposes which many include equipment, such as swings and slides, and contain areas designated for uses, such as soccer fields and baseball diamonds.

**POLLUTANT OF CONCERN** - sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

**PRINCIPAL USE** - The primary or predominant use for which a lot or building is used.

**PRIVATE FRONTAGE** - the privately-held layer between the frontage line and the principal building facade. The structures and landscaping within the Private Frontage may be held to specific standards. The variables of private frontage are the depth of the setback and the combination of architectural elements, such as fences, stoops, porches and galleries.

**PROJECT** - land development activity

**PROMOTIONAL DEVICES** - A mechanical contrivance, plan or scheme devised to further the growth, sales and/or to bring attention to an event.

**PUBLIC FRONTAGE** - the area between the curb of the vehicular lanes and the Frontage Line. Elements of the Public Frontage include the type of curb, walk, planter, street tree and streetlight.

**PUBLIC UTILITY BUILDINGS** – buildings or structures utilized by public service regulated utilities excluding transmission lines.

**Recharge** - the replenishment of underground water reserves.

**REHABILITATION FACILITY** - See "Skilled Nursing Facility".

**RESEARCH & DESIGN FACILITIES** – An establishment where scientific research, development and/or experiments are conducted and which both meets and is routinely monitored for compliance with all applicable Federal, State, County and Town rules, regulations and requirements for protection of public health, safety and welfare.

**RESIDENCE** – A building or part thereof designated, used or occupied for one (1) or more dwelling units, but not including tourist home, hotel, motel, tourist cabin, summer colony or trailer.

**RESIDENCE, 2<sup>ND</sup> & 3<sup>RD</sup> FLOOR EXISTING BUILDING** – These are dwelling units typically located above first floor retail or office uses of existing buildings.

**RESIDENCE, MULTIPLE** - An arrangement of a building or buildings, the occupancy of which is intended for three (3) or more families living independently of each other in separate dwelling units with a floor or ceiling common to other dwelling units.

**RESIDENCE, ONE FAMILY** – A building designed, used or for residential purposes for one (1) dwelling unit only.

**RESIDENCE, ONE-FAMILY, DETACHED** – A one-family residence which is separated from other buildings by open space.

**RESIDENCE, ONE-FAMILY, SEMI-ATTACHED** – A building or structure which comprises one (1) dwelling unit for one (1) family and which is attached or connected to another dwelling unit for one (1) family at their common property line by means of a party wall, the length of which represents at least fifty percent (50%) of the total sidewall length of which the party wall is a part, and which is separated from any other building or structure by open space on the side lot line opposite the party wall and by open space on the front and rear lot lines. Each dwelling unit must be on its own lot.

**RESIDENCE, PRINCIPAL** – the primary residence of an individual as recognized by a valid New York State Drivers License, US Passport, New York State Identification Card, and/or personal New York State and Federal Income Tax filings.

**RESIDENCE, TWO-FAMILY, DETACHED** - A building which is designed, used or occupied for residential purposes for two (2) dwelling units.

**RESIDENTIAL PROFESSIONAL OFFICE** – Same as “Home Professional Office” except for the following: The owner does not necessarily have to live within the residence. The ‘Professional Office’ shall be permitted to occupy one-hundred percent (100%) of the ground floor area providing, however, there is at least a minimum of seven-hundred (700) square feet of livable space for the other occupant (not to exceed one (1) family)

within the residence. The Professional Office shall permit, but not necessarily be limited to dentists, physicians and health-related professionals and shall not be operated between 10:00 pm and 8:00am Monday through Saturday and shall have no office hours whatsoever on Sunday.

**RESTAURANT** - See "Eating/Drinking Establishment".

**RESTAURANT, DRIVE-IN** - Any restaurant, refreshment stand, snack-bar, dairy bar, hamburger stand or hotdog stand where food is served primarily for consumption at counters, stools, tables or bars outside the building or primarily for consumption in an automobile parked on the premises, whether such food is brought to said automobile by the customer or by the employees of the restaurant, regardless of whether or not additional seats or other accommodations are provided for customers inside the building. Any drive-thru restaurant shall be considered a "drive-in" restaurant.

**RESTAURANT, DRIVE-THRU** - see "restaurant, drive-in".

**ROAD, COLLECTOR** - Any street which serves to carry traffic from local residential streets to secondary streets.

**ROAD, LOCAL** - Any street which serves primarily as an access to abutting residential properties.

**ROAD, MAJOR** - Any street which is used primarily as a route for traffic between communities or large areas.

**ROAD, SECONDARY** - Any street which serves to carry traffic from collector streets to a system of major streets.

**SANITARY LANDFILL** - A site for the disposal of solid waste.

**SCHOOL** - See "Educational Facilities".

**SCREEN or SCREENING** -

- A. A strip of at least fifteen (15) feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least four (4) feet high, at the time of planting, of a type that will form a year-round dense screen.
- B. An opaque wall or barrier or uniformly painted fence at least six (6) feet high; or
- C. Any other islands, barriers, emplacements, walls, fences, trees, plantings, shrubbery or other artificial or natural dividing strip or marker of any kind, wherever located on the site, conditioned or required in any building permit, certificate of occupancy, Site Plan, subdivision approval, special permit, variance, zone change or other requirement of any board agency, commission or official of the Village of Warwick pursuant to this chapter.

**SEDIMENT CONTROL** - measures that prevent eroded sediment from leaving the site.

**SENIOR CITIZEN HOUSING DEVELOPMENT** - A residential development consisting of a multi-family residence or multi-family residences which have dwelling units designed for and occupied by senior citizens, which shall be constructed with the assistance of

mortgage financing or other financial assistance insured by or procured through or with the assistance of a state or federal government agency, and is constructed and maintained on a nonprofit or limited profit basis by an organization or its wholly-owned subsidiary incorporated pursuant to the provisions of the Private Housing Finance Law of the State of New York.

**SENSITIVE AREAS** - cold water fisheries, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

**SERVICE ESTABLISHMENT (OTHER THAN PERSONAL)** - A business or non-profit organization that provides services to the public, either on or off the premises, including but not limited to building, electrical, plumbing, landscaping, contracting, arts instruction or studio, business and educational services, cleaning, locksmith, photocopying, repair and restoration and word processing.

**SETBACK** - The minimum distance between a principal building, structure or use and a property line of the lot or, where a buffer is required, between the principal building, structure or use and any part of the buffer. (See Sketches B thru I found at the end of this chapter which illustrate setbacks for each Use Group).

**SETBACK, FRONT** - The distance from the building or use to the front lot line.

**SETBACK, REAR** - The distance from the building or use to the rear lot line.

**SETBACK, SIDE** - The distance from the building or use to any lot line other than to the front or rear lot lines.

**SHOPPING CENTER** - A structure or structures and customary parking and loading areas providing for a variety of retail commercial establishment managed as a unit and having the following characteristics:

- A. A unified architectural treatment and identifiable theme relating each of the commercial establishments within.
- B. A common interrelated parking and site circulation system with consolidated access to public roads.
- C. Individual establishments oriented to pedestrian traffic by access signs and display, which are not generally visible or only incidentally visible to the parking areas.
- D. Common amenities provided to patrons apart from the commercial establishments, such as benches, site decoration and landscaping, rest rooms and the like.
- E. Common spaces which are available for public assemblage, special events and local notices.

**SIGN** - Any material, structure or device, or part thereof, composed of lettered or pictorial matter displaying an advertisement, announcement, notice or name, and including any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any person or business or cause when such is placed in view of the general public.

- SIGN, ADVERTISING** – Any exterior sign which contains a sign display that attempts to solicit business through the inclusion of information which is not pertinent to the identification of a particular establishment and its location. Such information includes but is not limited to hours of operation; detailed description of merchandise offered for sale, lease or rent; sales and marketing policies, including prices; and promotional slogans.
- SIGN, ANNOUNCEMENT** – Any sign used to announce the use of the lot or direction or location of buildings and structures on the lot for an office, home occupation, religious charitable or other institutional use. An announcement sign may be indirectly illuminated.
- SIGN AREA** – The area within the shortest line that can be drawn around the outside perimeter of the face of a sign display, including all decoration but excluding supports, if any, unless the same are illuminated as illumination is defined under “sign, illuminated”. In computing total “sign area”, the area of the faces of all sign displays shall be counted.
- SIGN, AWNING** – Any visual message on an awning.
- SIGN, BILLBOARD** – A sign which directs attention to a business, commodity, service, entertainment or attraction conducted, sold, offered or existing elsewhere than on the same lot where such sign is displayed or not for the principal use of such lot.
- SIGN, BUSINESS IDENTIFICATION** – A sign containing the name of the establishment and information on the business conducted therewith, but specifically excluding phrases directing an action. (i.e., stop, buy, eat).
- SIGN, COPY-CHANGE** – A sign on which a visual message may be periodically changed.
- SIGN, DIRECTIONAL** – A sign limited to providing information of an activity, business or event.
- SIGN, DIRECTORY** – A listing of two (2) or more business enterprises, consisting of a matrix and sign components.
- SIGN DISPLAY** – A display or legend, including but not limited to letters, words, logos and insignia which are used or presented as an announcement or identification.
- SIGN, FLASHING** – Any illuminated sign on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use.
- SIGN, FREESTANDING**– Any sign not attached to or part of any building but permanently affixed, by any other means, to the ground. Included are monument and post & arm signs
- SIGN HEIGHT** – The height of a freestanding sign shall be measured vertically from the established average grade directly below the sign or entry level of the building or structure, whichever is lower, to the highest point of the sign, including support structures. Elevation added by artificial beams, mounds or similar forms shall be excluded from the calculation of average grade. **FREESTANDING SIGN** – Any sign

not attached to or part of any building but permanently affixed, by any other means, to the ground. Included are monument and post & arm signs

**SIGN, IDENTIFICATION-** A sign used to identify the name of a permitted institution or establishment which is the principal use upon the lot.

**SIGN, ILLUMINATED** - A sign on which artificial light is directed or which is constructed of translucent materials through which light is directed. A sign on which the illuminated source is visible to the public way or any property line is not a permitted sign in any district.

**SIGN, MONUMENT-** A freestanding sign either with a base affixed to the ground or mounted on short poles no greater than three (3) feet high.

**SIGN, OFF-PREMISES** - A sign, unrelated to a business or a profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.

**SIGN PLAN** - A plan depicting the size, location, materials and content of a sign, which plan shall be the sole permitted display for any sign subject to the Site Plan rules and regulations.

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

**SIGN, POST & ARM-** A freestanding sign comprised of a vertical post to which a perpendicular arm is attached and from which the sign hangs.

**SIGN, PROJECTING** -A sign attached to a building wall or structure that projects horizontally or at a right angle more than nine (9) inches from the face of the building.

**SIGN, REAL ESTATE-** A temporary sign advertising the sale, lease or rental of the property or premises upon which it is located.

**SIGN, REPRESENTATIONAL** - A three (3) dimensional sign built so as to physically represent the object advertised.

**SIGN, SHOPPING CENTER IDENTIFICATION** - A common freestanding sign containing the name of the shopping center or business complex, but no individual businesses within the center or complex.

**SIGN STRUCTURE** - The supports, uprights, bracing and framework for the sign. In the case of a sign structure consisting of two (2) or more sides where the angle formed between any two (2) of the sides or the projections thereof exceeds thirty degrees (30), each side shall be considered a separate sign structure.

**SIGN SURFACE AREA** - The entire area within a single, continuous perimeter enclosing all elements which form an integral part of the sign. The structure supporting a sign shall be excluded unless the structure is designed in a way to form an integral background for the display. Both faces of a double-faced sign shall be included as surface or area of such a sign.

- A. When such sign is on a plate or framed or outlined, all of the area of such plate or the areas enclosed by such frame or outline shall be included.
- B. When such sign consists only of letters, designs or figures engraved, painted, projected or in any manner affixed on a wall, the total area of such sign shall be deemed the area within which all of the manner of which such sign consists may be inscribed.

**SIGN, TEMPORARY** – Any sign that is displayed only for a specified period of time and is not permanently mounted.

**SIGN, WALL** – A sign that is painted on or attached directly to the outside wall of a building, with the face of the sign parallel to the wall and having a visible edge or border extending not more than nine (9) inches from the face of the wall.

**SIGN, WALL AREA** – The area of a building wall (not exceeding twenty (20) feet above ground level in the CB District and thirty (30) feet in all other districts) measured in the plane of the street frontage, including windows and doors.

**SIGN, WINDOW** – A sign visible from a sidewalk, street or other public place, affixed or painted on glass or other window material.

**SKILLED NURSING FACILITY** – A facility which primarily provides inpatient skilled nursing care and related services to patients who require medical, nursing or rehabilitative services but does not provide the level of care or treatment available in a hospital.

**SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01** - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

**SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02** - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

**SPECIAL USE** – See “Use, Special.”

**STABILIZATION** - the use of practices that prevent exposed soil from eroding.

**STOOP** – A small porch, platform or staircase leading to the entrance of a building or a house.

**STOP WORK ORDER** - an order issued which requires that all construction activity on a site be stopped.

**STORMWATER** - rainwater, surface runoff, snowmelt and drainage

**STORMWATER HOTSPOT** - a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

**STORMWATER MANAGEMENT** - the use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

**STORMWATER MANAGEMENT FACILITY** - one or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

**STORMWATER MANAGEMENT PRACTICES (SMPS)** - measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP)** - a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

**STORMWATER RUNOFF** - flow on the surface of the ground, resulting from precipitation

**STORY** - That part of any building, exclusive of cellars but inclusive of basements, comprised between the level of one (1) finished floor and the level of the next higher finished floor or, if there is no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams. Each ten (10) feet or fraction thereof of height shall be deemed a story in absence of finished floors.

**STREET** - A street which is one (1) of the following: an existing village, county or state highway or road; a public road shown on a filed subdivision plat; or a street shown on the Official Map if such map has been adopted by the Village Board of Trustees.

**STREET CENTER LINE** - A line, equidistant from each street line of a street or, if no street-line is established, if the street is unpaved, the centerline of the existing traveled way.

**STREET FRONTAGE** - See "Frontage".

**STREET LINE** - The right-of-way line of a street.

**STREET LINE, DESIGNATED** - The line established as the street right-of-way, whether or not in public ownership.

**STREETSCAPE** - the urban element that establishes the major part of the public realm. The streetscape is composed of streets (travel lanes for vehicles and bicycles, parking lanes for cars, and sidewalks or paths for pedestrians), as well as the visible private frontages (building facades and elevations, porches, yards, fences, awnings, etc.), and the amenities of the public frontages (street trees and plantings, benches, streetlights, etc.).

**STRUCTURE** - A combination of materials constructed, assembled or erected on, above or below the ground or attached to something having location on, above or below the ground, including but not limited to buildings, fences, towers and swimming pools.



**STRUCTURE, TEMPORARY** – Structures without any foundation or footing and that are removed when the designated time period, activity, or use for which the temporary structure was erected has ceased. For the purposes of this definition, motor vehicles and portable temporary storage containers, as defined herein, shall not be considered temporary structures.

**SURFACE WATERS OF THE STATE OF NEW YORK** - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

**SWIMMING CLUB** – A recreational club with swimming facilities operated for members and their guests, whether or not operated for gain.

**SWIMMING POOL, PRIVATE:**

- A. **INGROUND POOL** – An artificial pool or structure intended for wading, bathing or swimming purposes made of concrete, masonry, metal or other impervious material and which is an accessory use to a residence and for the exclusive use of the occupants of the residence and their guests.
- B. **ABOVE-GROUND POOL** – An artificial pool or structure which is so constructed as to be above grade and which has a ladder or steps in order to obtain access to the pool and which is an accessory use to the residence for the exclusive use of the occupants of the residence and their guests.

**TOWNHOUSE** - A building divided vertically and consisting of three or more attached dwelling units each of which has a separate entrance from an outside yard area.

**TRAILER** – A vehicle, including but not limited to a mobile home, which can be used as habitation for one (1) or more persons or for business, commercial or office purposes. The term “trailer” shall include such vehicles mounted on temporary or permanent foundations with the wheels removed.

**UNDERWATER** – Land is “underwater” where it is so shown on the United States Geological Survey (USGS) Map of the Village or land which is submerged for more than three (3) months of the year. In addition, soils classified as muck soils by the United States Soil Conservation Service based on field investigations shall be deemed land “underwater”.

**USE** – The specific purpose for which land or a building is used or occupied or maintained.

**USE, ACCESSORY** – A use customarily incidental and subordinate to the primary use on a lot, whether such “accessory use” is conducted in a principal or accessory building or on the lot.

**USE, CHANGE OF** – A "change of use" shall include changes from one use group to another as well as any change within such land use groups or changes to any other use within the same group. For example in the "Business and Services Uses" group, a change from a real estate office to an insurance office is a change of use.

**USE, CONDITIONAL** - A use that may be permitted in a certain zone on a case-by-case basis, subject to all certain conditions contained within the Zoning Law as well as any conditions that may be imposed on a case-by-case basis by the municipal board approving the project.

**USE, NONCONFORMING** – See “nonconforming use”.

**USE, SPECIAL** – A use which is permitted within a given zone or zones, but which is potentially incompatible with permitted and accessory uses provided therein. A special use shall be subject to general and special conditions imposed by this Zoning Law to assure that the proposed use is in harmony with the Zoning Law and will not adversely affect the neighborhood if such conditions are met. A special use is subject to authorization by the Village Board and Site Plan approval by the Village Planning Board, pursuant to the provisions of Articles XII and XVI of the Zoning Law.

**VEHICLE** – A means of transporting or carrying something.

**VETERINARY CLINIC/HOSPITAL** – See “animal hospital”.

**VOLUNTEER AMBULANCE SERVICE FACILITIES** – A building or structure used for the storing and maintenance of ambulance service vehicles, equipment and offices for the provision of ambulance service.

**WAREHOUSE** – A building, or part of a building, where the purpose is primarily for the storing, not distributing, of goods, wares, and merchandise whether for the owner or for others and whether it is a public or private warehouse.

**WATERCOURSE** - a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

**WATERWAY** - a channel that directs surface runoff to a watercourse or to the public storm drain.

**YARD, REQUIRED** – Open and unobstructed ground area of the plot, extending inward from a lot line the distance specified in the requirements for the district in which the lot is located. Where a buffer is required, the buffer shall be deemed to commence from the interior line of the buffer. (See Sketches B thru I found at the end of this chapter which illustrate required yards for each Use Group).

**YARD, REQUIRED FRONT** – A required yard extending along the full length lot line between the side lot lines.

**YARD, REQUIRED REAR** – A required yard situated along the rear lot line and extending the full width of the lot to the side lines of the lot.

**YARD, REQUIRED SIDE** – A required yard extending along a side lot line from the required front yard (or from the front lot line if there is no required front yard) to the required rear yard (or to the rear lot line if there is no required rear yard).

**ZONE** – An area within, which certain uses of land and buildings are permitted and certain others are prohibited, yards and other open spaces are required, lot areas, building height limits and other requirements are established, all of the foregoing being identical for the zone in which they apply.

## **ARTICLE XIX General Provisions**

### **145-190     Construal Of Provisions**

In their interpretation and application, the provisions of this chapter shall be held to be the minimum adopted for the promotion of the public health, safety, comfort, coincidence and general welfare. Except where specifically provided to the contrary, it is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings, structures, shelter or premises; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided however, that where this chapter imposes a greater restriction upon the use of a building or premise or requires larger open spaces than are imposed or required by any other statute, local law, rule, regulation or permits impair or interfere with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings, structures, shelter or premises; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided however, that where this chapter imposes a greater restriction upon the use of a building or premise or requires larger open spaces than are imposed or required by any other statute, local law, rule, regulation or permit or by any easement or agreement, the provision of this chapter shall control.

### **145-191     Severability**

Should any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid, except that the provisions of § 145-31, Use Table, pertaining to special permit uses before the Village Board, the standards and criteria therefor and the provisions of Article XVI shall not be separable. Should any provision pertaining to such special permit uses be declared unconstitutional or invalid, the Village Board declares that such provisions would not be enacted in whole or in part, and that such uses are declared prohibited, absent such special permit use regulations.

### **145-192     When Effective**

Upon the enactment by the Village Board, this chapter shall become effective as provided by the New York State Municipal Home Rule Law.

## **ARTICLE XX Rules & Regulations**

### **145-200 Power To Adopt Rules And Regulations.**

- A. Establishment. The Planning Board, the Zoning Board of Appeals and any other agency, board or commission affected by this chapter may recommend to the Village Board of Trustees regulations relating to any subject matter over which such board, agency or commission has jurisdiction.
- B. Adoption of any such recommendations by the Village Board of Trustees shall be by local law.

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