

**Town Of Eastchester  
LOCAL LAW NO. 5 - 2000**

**ADOPTED NOVEMBER 21, 2000**

**AMENDED MARCH 20, 2001 BY LOCAL LAW NO. 4 OF 2001, AMENDED  
AUGUST 14, 2001 BY LOCAL LAW NO. 7 OF 2001, AMENDED JANUARY 22, 2002 BY  
LOCAL LAW NO. 1 OF 2002, AMENDED SEPTEMBER 21, 2004  
BY LOCAL LAW NO. 9 OF 2004, AMENDED MAY 20, 2008 BY LOCAL LAW NO. 2 –  
2008, AMENDED NOVEMBER 5, 2009 BY LOCAL LAW NO. 8 – 2009 AND AMENDED  
MARCH 19, 2013 BY LOCAL LAW NO. 1 - 2013**

**TABLE OF CONTENTS**

<b>TABLE OF CONTENTS</b>	<b>1</b>
<b>INTRODUCTION</b>	<b>9</b>
<b>SECTION 1. PURPOSE</b>	<b>10</b>
<b>SECTION 2. DEFINITIONS</b>	<b>12</b>
<b>A. Introduction</b>	<b>12</b>
<b>B. General Construction of Language</b>	<b>12</b>
<b>C. Terms Not Defined</b>	<b>14</b>
<b>D. Definitions</b>	<b>14</b>
<b>SECTION 3.</b>	<b>40</b>
<b>SECTION 4. DISTRICTS, MAP AND SCHEDULES</b>	<b>41</b>
<b>A. Districts</b>	<b>41</b>
<b>B. Map</b>	<b>42</b>
1. Establishment	42
2. Boundaries	42
<b>C. Schedules Controlling Lands and Buildings</b>	<b>43</b>
1. Establishment	43
2. Uses	43
3. Interpretation of Schedule	43
4. Order of Restrictiveness	43
5. Schedule of Residential District Regulations	44
6. Schedule of Non-Residential District Regulations	44
<b>SECTION 5. ADMINISTRATION AND ENFORCEMENT</b>	<b>45</b>
<b>A. General</b>	<b>45</b>
<b>B. Building Permits</b>	<b>46</b>

1.	Applications _____	46
2.	Permits _____	46
3.	Applications and Fees for Extensions of Building Permits _____	47
<b>C.</b>	<b>Certificate of Occupancy _____</b>	<b>48</b>
1.	Applications _____	48
2.	Occupancy Prohibited without Certificate _____	48
3.	Certificate for Variance and Special Permit _____	48
4.	Recording Status of Non-Conforming Uses _____	48
<b>D.</b>	<b>Interpretation _____</b>	<b>49</b>
<b>E.</b>	<b>Violations, Penalties, and Enforcement _____</b>	<b>49</b>
<b>SECTION 6. NON-CONFORMITY _____</b>		<b>52</b>
<b>A.</b>	<b>Continuing Non-Conforming Uses _____</b>	<b>52</b>
<b>B.</b>	<b>Special Permit Uses _____</b>	<b>52</b>
<b>C.</b>	<b>Dimensional Non-Conformity _____</b>	<b>52</b>
<b>D.</b>	<b>Non-Conforming Use of Land, Buildings or Structures _____</b>	<b>53</b>
1.	Non-Conforming Use of Land _____	53
2.	Change to Building or Structure _____	53
3.	Non-Conforming Use of a Building or Structure _____	53
4.	Cessation of Non-Conforming Use _____	53
5.	Removal of Building _____	54
<b>E.</b>	<b>Reconstruction _____</b>	<b>54</b>
1.	Over Fifty Percent _____	54
2.	Fifty Percent and Under _____	55
<b>F.</b>	<b>Change to Another Non-Conforming Use _____</b>	<b>55</b>
<b>SECTION 7. EXCEPTIONS AND MODIFICATIONS _____</b>		<b>55</b>
<b>A.</b>	<b>As to District Boundaries _____</b>	<b>56</b>
<b>B.</b>	<b>As to Use _____</b>	<b>56</b>
<b>C.</b>	<b>As to Height _____</b>	<b>58</b>
<b>D.</b>	<b>As to Area _____</b>	<b>60</b>
<b>E.</b>	<b>Open Retail Business Or Retail Business District Or General Business District (ORB, RB, GB) _____</b>	<b>63</b>
<b>SECTION 8. FENCES AND WALLS _____</b>		<b>64</b>
<b>A.</b>	<b>Purpose _____</b>	<b>64</b>
<b>B.</b>	<b>Measuring Height _____</b>	<b>64</b>
<b>C.</b>	<b>Fences and Walls in Residential Districts _____</b>	<b>65</b>
1.	Front Line Fences _____	65
2.	Rear Line Fences _____	65
3.	Side Line Fences _____	65

4.	Enclosing Rear Yard _____	65
<b>D.</b>	<b>Fences and Walls in Non-Residential Districts Excluding the General Business District</b> _____	<b>66</b>
1.	Front Line Fences _____	66
2.	Rear Line Fences _____	66
3.	Side Line Fences _____	66
4.	Enclosing Rear Yard _____	66
5.	Enclosing Side Yard _____	67
<b>E.</b>	<b>Fences and Walls in General Business District</b> _____	<b>67</b>
<b>F.</b>	<b>Fences in Corner Lots and Flag Lots</b> _____	<b>67</b>
1.	Corner Lots _____	67
2.	Flag Lots _____	67
<b>G.</b>	<b>Retaining Walls in All Districts</b> _____	<b>68</b>
<b>H.</b>	<b>Fence Posts or Supporting Members</b> _____	<b>68</b>
<b>I.</b>	<b>Duty to Maintain</b> _____	<b>69</b>
<b>J.</b>	<b>Persons Eligible to Appeal</b> _____	<b>69</b>
<b>K.</b>	<b>Fences or Walls Prohibited in All Districts</b> _____	<b>69</b>
<b>L.</b>	<b>Fences and Walls Prohibited in All Residence Districts, RB, DSC, ORB, and RTD</b> _____	<b>70</b>
<b>SECTION 9. GENERAL REQUIREMENTS</b> _____		<b>71</b>
<b>A.</b>	<b>Conformity Required</b> _____	<b>71</b>
<b>B.</b>	<b>Completion of Structures for Which Permit Has Been Issued</b> _____	<b>71</b>
<b>C.</b>	<b>Subdivision Of A Lot</b> _____	<b>71</b>
1.	Authority _____	71
2.	Purpose _____	72
3.	Subdivision Policy _____	72
4.	Definitions _____	72
<b>D.</b>	<b>Subdivision Procedure</b> _____	<b>75</b>
1.	Sketch Plan _____	75
2.	Major Subdivision _____	75
3.	Resubdivision _____	76
4.	Minor Subdivision _____	76
<b>E.</b>	<b>General Procedures</b> _____	<b>77</b>
1.	Purpose of Sketch Plan _____	77
2.	Sketch Plan Procedure _____	77
3.	Expiration of Sketch Plan Approval _____	78
4.	Required Sketch Plan Data _____	78
5.	Purpose of Preliminary Plat _____	79
6.	Preliminary Plat Procedure _____	80
7.	Subdivision Application Fee _____	80
8.	Expiration of Preliminary Plat Approval _____	80
9.	Preliminary Plat Mapping Requirements _____	81

10.	Purpose of Final Plat _____	85
11.	Final Plat Procedure _____	85
12.	Expiration of Final Plat Approval _____	88
13.	Final Plat Mapping Requirements _____	88
14.	Drainage Plan and Street Profiles _____	91
<b>F.</b>	<b>Performance and Maintenance Bond _____</b>	<b>92</b>
1.	Purpose of Performance Bond _____	92
2.	Procedure for Performance Bond _____	93
3.	Maintenance Bond _____	93
4.	Public Improvements Specifications _____	94
5.	Inspection _____	94
6.	Fees _____	95
<b>G.</b>	<b>Minor Subdivision Plat _____</b>	<b>95</b>
1.	Purpose _____	95
2.	Procedure _____	95
3.	Fees _____	96
4.	Expiration of Approval _____	96
5.	Mapping Requirements _____	96
<b>H.</b>	<b>Design Standards _____</b>	<b>96</b>
1.	Land Use _____	96
2.	Dedication of Park Land _____	97
3.	Streets and Highways _____	97
4.	Lots and Blocks _____	100
5.	Preservation of Natural Environment _____	100
6.	Public Utilities _____	101
<b>I.</b>	<b>Miscellaneous Provisions _____</b>	<b>101</b>
1.	Required Notification and Signs _____	101
2.	Authority to Modify Provisions _____	101
3.	Notes on Filed Plats _____	101
4.	General _____	102
5.	Roadways _____	103
6.	Sanitary Sewers _____	104
7.	Water Mains _____	105
8.	Drainage _____	106
9.	Miscellaneous _____	106
<b>J.</b>	<b>Cluster Subdivision _____</b>	<b>107</b>
1.	Purpose _____	107
2.	Applicability _____	107
<b>K.</b>	<b>Accessory Building Or Structures _____</b>	<b>112</b>
<b>L.</b>	<b>Projection Beyond Building Line Prohibited _____</b>	<b>112</b>
<b>M.</b>	<b>Landscaping, Screening and Buffer Areas _____</b>	<b>112</b>
<b>N.</b>	<b>Exterior Lighting _____</b>	<b>116</b>

O. Effective Square _____	117
P. Coverage – Impervious Surface _____	117
Q. Maximum Permitted Gross Floor Area (One- and Two- Family Residences) _____	118
R. Lot Frontage on a Cul-De-Sac _____	119
S. Swimming Pools, Residential _____	120
T. Tennis Courts, Sports Courts, Sports Apparatus, Basketball Courts, On Lots _____	122
U. Portable Storage Units _____	123
V. Solar Energy Collectors _____	123
W. Lot Mergers _____	125
<b>SECTION 10. ZONING BOARD OF APPEALS _____</b>	<b>126</b>
A. Interpretation _____	126
B. Variances _____	126
1. Use Variances: _____	127
2. Area Variances _____	128
3. Conditions and Safeguards _____	129
C. Special Permits _____	129
D. Non-Conformity _____	129
E. Undersized Lot _____	130
F. Rules and Regulations _____	130
G. Procedure _____	130
1. Appeals and Applications _____	130
2. Public Hearing _____	131
3. Quorum and Decision _____	131
4. Minutes and Records _____	131
5. Review by Other Agencies _____	132
H. Expiration of Variance _____	132
<b>SECTION 11. PLANNING BOARD, SITE PLAN APPROVAL, AND ARCHITECTURAL REVIEW _____</b>	<b>134</b>
A. Establishment _____	134
B. Special Permits _____	134
C. Rules and Regulations _____	134
D. Quorum and Decision _____	134
E. Site Plan Approval and Architectural Review _____	135
1. Multi-Family and Non-Residential: _____	135
2. One or Two Family Dwellings: _____	137
F. Application _____	139

1.	General _____	140
2.	Legal Data _____	140
3.	Natural Features _____	141
4.	Existing Structures and Utilities _____	142
5.	Proposed Development _____	142
<b>G.</b>	<b>Review Procedure _____</b>	<b>144</b>
1.	Application _____	144
2.	Review by Other Agencies _____	145
3.	Public Hearing and Decision on Site Plans _____	145
4.	Notice _____	146
5.	Variances in Conjunction With a Site Plan _____	146
<b>H.</b>	<b>Standards _____</b>	<b>147</b>
<b>I.</b>	<b>Expiration _____</b>	<b>150</b>
<b>J.</b>	<b>Amendments _____</b>	<b>150</b>
1.	Minor Amendments _____	150
2.	Substantial Amendments _____	151
<b>K.</b>	<b>Guarantee of Completion _____</b>	<b>151</b>
<b>SECTION 12. SPECIAL PERMITS _____</b>		<b>153</b>
<b>A.</b>	<b>General Provisions _____</b>	<b>153</b>
<b>B.</b>	<b>Approving Agencies _____</b>	<b>153</b>
<b>C.</b>	<b>Review Procedure _____</b>	<b>155</b>
1.	Application _____	155
2.	Review By Other Agencies _____	155
3.	Public Hearing _____	156
4.	Notice _____	156
5.	Action _____	156
6.	Extensions of Time Periods _____	157
7.	Variances in Conjunction With a Special Permit _____	157
<b>D.</b>	<b>Standards _____</b>	<b>158</b>
<b>E.</b>	<b>Expiration _____</b>	<b>158</b>
<b>F.</b>	<b>Revocation _____</b>	<b>159</b>
<b>G.</b>	<b>Change _____</b>	<b>159</b>
<b>H.</b>	<b>Individual Standards and Requirements for Certain Special Permits _____</b>	<b>159</b>
1.	Assembly Shop _____	160
2.	Car Wash _____	160
3.	Day Care Facility - Commercial _____	162
4.	Day Care Facility - Home Based _____	163
5.	Day Care Facility – Intermittent _____	164
6.	Drive-In Accessory Use _____	164
7.	Extension of a use over a District Boundary Dividing a Lot _____	165

8.	Hospital _____	165
9.	Hotel _____	166
10.	Non-Profit Community Service Facility _____	166
11.	Nursery Schools _____	167
12.	Outdoor Dining _____	168
13.	Private Parking Lot _____	170
14.	Place of Worship _____	172
15.	Private School _____	172
16.	Private Learning Center _____	174
17.	Public Utility Facility _____	175
18.	Radio or Television Broadcasting Studio or Station _____	176
19.	Recreation and Family Entertainment Facility (Indoor) _____	176
20.	Recreation and Family Entertainment Facility (Outdoor) _____	178
21.	Recreation/Social Club/Lodge _____	178
22.	Food Service Establishment _____	187
23.	Satellite Earth Station _____	183
24.	Transportation Facility _____	183
25.	Veterinary Hospital _____	184
26.	Wireless Communication Installation _____	184
27.	Senior Housing Development _____	187
B. Enforcement. _____		<b>193</b>
<b>SECTION 13. PARKING, LOADING AND DRIVEWAYS _____</b>		<b>195</b>
<b>A. Required For All New Buildings and Uses _____</b>		<b>195</b>
<b>B. Existing Structures and Uses _____</b>		<b>195</b>
<b>C. Location, Improvement, Use, Design and Maintenance _____</b>		<b>195</b>
1.	Location _____	195
2.	Improvement of Parking Facilities _____	196
3.	Waiver of Improvement _____	196
4.	Size of Parking Spaces _____	196
5.	Aisles _____	196
6.	Access _____	197
7.	Landscaping _____	197
8.	Grades and Marking _____	199
9.	Interconnection of Parking Areas _____	199
10.	Operation and Maintenance _____	200
11.	Reserved Parking for Handicapped Persons _____	200
12.	Shared Parking _____	200
<b>D. Schedule of Off-Street Parking Requirements _____</b>		<b>201</b>
<b>E. Off-Street Loading Requirements _____</b>		<b>204</b>
1.	Size _____	204
2.	Location _____	204
3.	Required Number of Spaces _____	204

4.	Improvement of Loading Facilities _____	205
<b>F.</b>	<b>Driveways _____</b>	<b>205</b>
1.	Driveway Grades _____	205
2.	Driveway Alignment and Location _____	206
3.	Driveway Surfacing _____	206
4.	One and Two-Family Driveways _____	206
5.	Sight Distance _____	207
<b>SECTION 14. AMENDMENTS _____</b>		<b>208</b>
<b>A.</b>	<b>General _____</b>	<b>208</b>
<b>SECTION 15. SEVERABILITY _____</b>		<b>209</b>
<b>SECTION 16. EARLIER ORDINANCES REPEALED _____</b>		<b>210</b>
<b>SECTION 17. RELATION TO OTHER PROVISIONS _____</b>		<b>211</b>
<b>SECTION 18. EFFECTIVE DATE _____</b>		<b>212</b>



BE IT ENACTED by the TOWN BOARD of the TOWN OF EASTCHESTER as follows:

## **INTRODUCTION**

The following establishes Zoning Regulations for the unincorporated area of the Town of Eastchester and provides for the administration and enactment thereof pursuant to the zoning provisions of the Town Law of the State of New York.

The Town Board of the Town of Eastchester by virtue of the power and authority vested in it by law, ordains and enacts the following which shall be known and may be cited as the “Zoning Law of the Town of Eastchester.”

## **SECTION 1. PURPOSE**

The comprehensive zoning plan for the Town of Eastchester set forth in the text, map and schedule that constitute this local law, is adopted for the purposes set forth in the Town Law and is intended to:

- A. Guide and regulate the orderly growth, development, redevelopment and future development in accordance with a comprehensive and beneficial plan of land use and population density;
- B. Protect the established character and the social and economic well-being and stability of both private and public property and thus encourage orderly and beneficial development;
- C. Protect and conserve the value of land and buildings;
- D. Assist the movement of local and through traffic by adequate off-street parking and loading facilities;
- E. Provide a guide for public policy and action with respect to public facilities and services, and for private enterprise with respect to the uses of land and buildings;
- F. Protect present and future property values and tax base by promoting harmonious and enduring neighborhoods, by preventing the construction of inappropriately large or inappropriately small structures in established districts, and by preventing monotonous and unsightly uniformity of building development or unsightly structures of incongruous or inappropriate form that might tend to depress surrounding property values;

- G. Limit development to that which will not exceed the capacity of existing and programmed public facilities and services; and
- H. Avoid hazardous conditions and excessive damage resulting from storm water runoff and flooding, and to encourage the appropriate use and sound management of natural resources throughout the Town, all of which purposes are hereby declared to be legitimate and proper public objectives, clearly in the public interest and in harmony with the broad purposes enumerated in the Town Law.

## **SECTION 2. DEFINITIONS**

### ***A. Introduction***

For the purpose of this local law, certain words and terms used herein are defined in this section.

### ***B. General Construction of Language***

The following rules of construction apply to the language of this local law:

1. Words stated in the present tense include the future tense.
2. The singular includes the plural, and the plural includes the singular, unless the natural construction of the wording indicates otherwise.
3. Words stated in the masculine gender include the feminine and neuter, and vice-versa, unless the natural construction of the wording indicates otherwise.
4. The specific shall control the general.
5. The word “shall” is mandatory and not directory and does not indicate mere futurity unless the context clearly so requires; the word “may” is permissive.
6. The word “includes” shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
7. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and”, “or”, or

“either...or”, the conjunction shall be interpreted as follows: “And” indicates that all the connected items, conditions, provisions, or events shall apply. “Or” indicates that the connected items, conditions, provisions, or events may apply singly or in any combination. “Either...or” indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

8. A “building” or “structure” includes any part thereof.

9. The words “lot”, “plot” and “tract of land” shall each include the other.

10. The word “premises” shall include land and buildings thereon.

11. Unless otherwise specified, all distances shall be measured horizontally.

12. a. In the case of any difference of meaning or implication between the text of this local law and any caption or illustration, the text shall control.

b. In the case of any difference of meaning or implication between the text of this local law and the schedules, the schedules shall control.

13. Whenever any provision of this resolution and any other provisions of law, whether set forth in this ordinance or in any other law, ordinance, or resolution of any kind, impose overlapping or contradictory regulations over the use of land or over the use or bulk of buildings or other structures, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern.

14. The terms “occupied” or “used” as applied to any land or building shall be construed as though followed by the words “or intended, arranged or designed to be occupied or used,” unless the natural construction of the wording indicates otherwise.

15. The term “employee” shall include an employer, owner and any other person occupied on the same premises.

16. The word “town” means the unincorporated portion of the Town of

Eastchester, but if capitalized means the Town government, or the duly designated Town officer to whose title it relates. The “Town Board”, “Zoning Board of Appeals”, “Planning Board”, “Building Inspector”, “Town Attorney”, etc. mean respectively such officers or boards of the Town of Eastchester.

### **C. Terms Not Defined**

Where terms are not defined, they shall have their ordinarily accepted meanings or such as the context may imply.

### **D. Definitions**

**Accessory Building** (See **Building, Accessory**)

**Alteration** - Any change, addition or modification in construction or arrangement.

**Aisle** - The area used by motor vehicles for access to and from all off-street parking spaces, but not including the access driveway.

**Architectural Feature** – Deleted by Amendment 9/21/04

**Arcade** - An indoor amusement and recreation establishment wherein the principal use is the provision of three (3) or more electronic or mechanical game devices available to the public on a commercial (pay in order to play) basis.

**Assembly Shop** - A commercial building or part thereof where products or materials are converted to a different form or assembled into a final form, provided no machinery or process is used which emits dust, smoke, odor, fumes, noise or vibration or causes other nuisance; and, provided further that only electrical power not in excess of 3 horsepower per motor is used on the premises.

**Attic** – The space enclosed within the roof structure of a building.

**Automobile Sales Lot** - Any premises where two or more motor vehicles are offered for sale or

lease.

**Bar** - A business enterprise primarily engaged in the retail sale of alcoholic beverages for consumption on the premises.

**Basement** – That portion of a building that is partly or completely below grade. A basement shall be considered a story if the finished surface of the floor above the basement is more than 5 feet above the average finished grade at the perimeter of the building (based on the average elevation of the finished grades at the 4 or more principal building corners). *(Amended 9/21/04)*

**Building** – Any structure having a roof supported by columns or walls, or both, and intended to shelter, house or enclose any person(s), animal(s) or personal property. When any portion of a structure is completely separated from every other portion of the structure by a masonry division or firewall without any window, door or other opening and the masonry division or firewall extends from the ground to the upper surface of the roof at every point, such portion shall be deemed to be a separate building. *(Amended 9/21/04)*

**Building, Accessory** - A building subordinate to and either attached to or detached from the principal building on a lot, the use of which is incidental to and customarily associated with that of the principal building. *(Amended 9/21/04)*

**Building, Area** - Deleted by Amendment 9/21/04.

**Building Coverage** – The total horizontal area (measured from the exterior faces of the exterior walls or columns) of the ground floor of all principal and accessory buildings on a lot expressed in square feet. Building Coverage shall include: all areas under a roof, including, but not limited to, covered porches, porticoes, terraces, and stairs; and chimneys. *(Amended 9/21/04)*

**Building Coverage Ratio** –The ratio of building coverage on a lot to the total lot area expressed as a percentage. *(Amended 9/21/04)*

**Building Front or Face** - The general outer surface of the building abutting or fronting upon any street or public highway.

**Building Height** - The vertical distance measured from the average elevation of the existing grade or the proposed grade (whichever is lower) at the perimeter of the building (based on the average elevation of the grades at the 4 or more principal building corners) to the highest point of a flat or mansard roof or to the principal eave of a sloped roof. (See also Ridge Height). For all one- and two-family residences, the finished floor elevation of the first floor shall not be more than 3 feet above the averaged finished grade along the front foundation wall, excluding basement garages.

*(Amended 9/21/04)*

**Building Line** - The external face of the exterior wall of a building at ground level.

**Building, Nonresidential** - A building that is used primarily for purposes other than dwelling purposes. *(Amended 9/21/04)*

**Building, Principal** - A building in which is conducted the principal use of the lot on which it is situated.

**Building, Residential** - A building that is used primarily for dwelling purposes. *(Amended 9/21/04)*

**Cabaret** - As defined in Local Law No. 3 of 1971, "In relation to Dance Halls and Cabarets," or as may be amended from time to time.

**Cafeteria** - Deleted by Amendment 3/19/13

**Camper Trailer** - A travel trailer with a collapsible top which has a body width not exceeding ten feet and a height measured from the ground, when collapsed, not exceeding four feet.

**Cellar** - See Basement. *(Amended 9/21/04)*

**Club** - (See Recreation/Social Club/Lodge).

**Common Ownership** - Parcels or lots are considered to be held in common ownership if one or



more persons or entity(ies) holds at least a fractional share in two or more adjacent or contiguous lots. (*Amended 5/20/08*)

**Construction** - A combination of materials to form a structure that is safe and stable and adapted to permanent or continuous use for public, institutional, residence, business or storage purposes.

**Copy Shop** - An establishment engaged in duplicating services and photocopying, including collating of booklets and reports.

**Court** - An open, uncovered and unoccupied space, bounded on two or more sides by the walls of a building. An inner court is a court entirely within the exterior walls of a building. All other courts are outer courts.

**Coverage, Building** - (*See Building Coverage*) (*Amended 9/21/04*)

**Coverage, Impervious Surface** – (*See Impervious Surface Coverage*) (*Amended 9/21/04*)

**Day Care Facility** - A facility licensed by the New York State Department of Education or the New York State Department of Social Services, if license for its operation is required by law, within a building or structure where care, protection and supervision are provided for children, on a regular schedule, at least twice a week, and irrespective of compensation award or otherwise.

**Deck** - A structure with no roof or walls except for physical partitions and railings and which is constructed on piers or a foundation above grade for use as an outdoor living area.

**Delicatessen** – *Deleted by Amendment 8/14/01*

**Drive-In Accessory Use** - A non-residential use or an accessory use to a non-residential use which has a need for a vehicular queue or parking spaces to accommodate persons to whom it serves or transfers products or materials outside its building, if any, or to accommodate persons consuming its service, products or materials in a vehicle on the premises.

**Driveway** - That area used for vehicular access to a site or building. (*Amended 9/21/04*)

**Dwelling** - A building containing one or more dwelling units.

**Dwelling, One Family** - A detached building containing one dwelling unit only.

**Dwelling, Two Family** - A detached building containing two dwelling units only.

**Dwelling, Multifamily** - A building or portion thereof containing three or more dwelling units.

**Dwelling Unit** - A building or self-contained separate portion thereof providing complete housekeeping facilities (food preparation and preservation, sanitary facilities, habitable space and a separate entrance) for one or more persons. (*Amended 9/21/04*)

**Effective Square** – Every lot in a one- and two-family residential district created by final subdivision plat approved by the Planning Board after the effective date of this law shall be capable of containing a horizontal square wholly within its boundaries, the dimensions of which shall correspond to the dimensions listed in the Schedule of Residential District Regulations for the district, and some portion of the effective square shall touch the minimum required front yard setback line. (*Amended 9/21/04*)

**Facade** - The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

**Family**

1. A householder plus one or more persons related by blood, marriage or adoption living together in a family-like arrangement as a single, not-for-profit housekeeping unit sharing one common kitchen facility; or

2. A group of persons headed by a householder caring for a reasonable number of individuals, sharing one common kitchen facility, in a family-like living arrangement which is the functional and factual equivalent of a family or related persons; or

3. A maximum of four persons not sharing a relationship as described above, but sharing

one common kitchen facility.

4. For the purposes of this ordinance, domestic servants employed on the premises shall be included in the definition of a family.

5. It shall be presumptive evidence that five (5) or more persons living in a single dwelling unit, sharing one common kitchen facility, but not sharing a relationship as described above, do not constitute the functional and factual equivalent of a family or related persons. In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:

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

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

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

(d) The group is permanent and stable. Evidence of such permanency and stability may include:

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

(ii) Members of the household have the same address for purposes of voter's registration, driver's license, motor vehicle registration or filing of taxes.

(iii) Members of the household are employed in the area.

(iv) The household has been living together as a unit for one (1) year or more whether in the current dwelling unit or other dwelling unit.

(v) There is common ownership of furniture and appliances among the members of the household.

(vi) The group is not transient or temporary in nature.

(e) Any other factor reasonable related to whether or not the group is the functional equivalent of a family.

**Farm** - Any parcel of land containing not less than five acres which is used for gain in raising agricultural products, livestock, poultry or dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes the raising of fur bearing animals, riding academies, livery or boarding stables and dog kennels.

**Fence** - A structure of wood, metal, plastic, or stone or any combination thereof, erected to enclose, separate, divide or define a lot or portion thereof. (*Amended 9/21/04*)

**Floodplain** - The area adjacent to a body of water or watercourse that is susceptible to being inundated by water. Floodplains are identified on maps prepared by the Federal Emergency Management Agency.

**Frontage** - The extent of a building or a lot along a public highway.

**Floor Area, Gross (Non-Residential)** - The sum of the gross horizontal areas of the several floors of a building or buildings on a lot, measured from the interior faces of exterior walls or from the center line of party walls separating two buildings, excluding: (1) any floor area devoted to off-street parking and/or loading; (2) any space within a cellar or basement used for storage, mechanical equipment or other building operation and maintenance services; (3) all floor area within an attic if defined as a half story; and (4) all floor area within an attic with a floor-to-ceiling height of less than

seven feet if defined as a full story. (*Amended 9/21/04*)

**Floor Area, Gross (One- and Two-Family Residences)** - The sum of the gross area of all floors of a residence, measured from the interior faces of exterior walls (or in the case of a common wall separating two residences, from the center line of such common wall), subject to the following:

1. The gross floor area shall not include:
  - a. basement space if not considered a story;
  - b. all floor area within an attic if defined as a half story;
  - c. all floor area within an attic with a floor-to-ceiling height of less than seven feet if defined as a full story;
  - d. the lesser of 400 square feet or the total area contained within a one-story attached or detached garage.
2. All areas with a floor-to-ceiling height of 15 feet or more shall be doubled for the purpose of calculating gross floor area. (*Amended 9/21/04*)

**Formula Fast Food/Quick Serve Restaurant** – Formula fast food and formula quick serve restaurants share a common name, trademark, or logo with 7 or more other restaurants in the area, region or country, and are generally characterized by the following:

1. food is intended to be prepared and served very quickly;
2. food is typically ordered at a stand-up counter and there is minimal or no table service
3. payment is typically made prior to consumption;
4. the menu is typically posted over the counter as a wall display and the menu selections are general consistent at every location;
5. food is typically preheated or precooked and kept hot or reheated to order (e.g.,

burgers and fries, burritos and tacos, pizza and pasta, etc.) or is set behind a counter, visible to the customer for immediate assembly (e.g., salads and sandwiches, ice cream and yogurt, etc.);

6. food is typically served to the customer in a packaged form for take-out (although tables may be provided for consumption on premises);

7. plates, cups and utensils are typically disposable;

Formula fast food/quick serve restaurants are prohibited within the Town of Eastchester. (*Amended 3/19/13*)

**Formula Fast Casual/Quick Casual Restaurant** – Formula fast casual and formula quick casual restaurants share a common name, trademark, or logo with 7 or more other restaurants in the area, region or country. Compared to formula fast food/quick serve restaurants, a formula fast casual/quick casual restaurant typically offers more customized and freshly prepared dishes in a more inviting and/or upscale atmosphere, prices are slightly higher and customers are expected to spend more time in the establishment. Formula fast casual/quick casual restaurants are generally characterized by the following:

1. food is typically ordered at a stand-up counter;

2. there is minimal table service (e.g., after an order has been placed at the counter, a server may bring the order to customers seated at a table) or there is no table service (e.g., customers carry their orders on trays to a table);

3. payment is typically made prior to consumption;

4. the menu is typically posted over the counter as a wall display and the menu selections are generally consistent at every location;

5. menu selections are often set behind a counter, visible to the customer, and customers

are provided options in the way the food is prepared or assembled (e.g., a customer may build his/her own sandwich, burrito, rice bowl, etc. and/or may select from a variety of main and side dishes);

6. Although plates, cups and utensils may be disposable, non-disposable plates, cups and utensils are common.

Formula fast casual/quick casual restaurants are prohibited in the Town of Eastchester. (*Amended 3/19/13*)

**Food Service Establishments** –

Within the Town of Eastchester, all food service establishments are classified as either a Type I, Type II or Type III Food Service Establishment as defined below. However, regardless of the classification, Formula Fast Food Restaurants/Quick Serve Restaurants and Formula Fast Casual/Quick Casual Restaurants, as defined herein, are prohibited within the Town of Eastchester.

***Type I Food Service Establishment*** - A Type I Food Service Establishment is any establishment that includes any appliance requiring a Type I hood in accordance with the 2010 Mechanical Code of New York State (Section 507.2.1). Type I hood systems shall be installed where cooking appliances produce grease or smoke, such as occurs with griddles, fryers, broilers, ovens, ranges and wok ranges.

All proposed Type I Food Service Establishments require review and approval by the Planning Board in accordance with the Special Permit requirements for Food Service Establishments, regardless of the size of the establishment. Any existing establishment that proposes to install an appliance requiring a Type I hood must first obtain the approval of the Planning Board unless such establishment has already been designated as, or has received prior approvals as, a Type I Food Service Establishment.

***Type II Food Service Establishment*** - A Type II Food Service Establishment is any establishment that includes no appliances requiring a Type I hood, but that does include any appliances requiring a Type II hood in accordance with the 2010 Mechanical Code of New York State (Section 507.2.2). Type II hoods shall be installed where cooking or dishwashing appliances produce heat, steam, or products of combustion and do not produce grease or smoke, such as steamers, kettles, pasta cookers and dishwashing machines.

All proposed Type II Food Service Establishments with a gross floor area of 1800 square feet or less shall not require review and approval by the Planning Board. Any proposed Type II Food Service Establishments with a gross floor area of greater than 1800 square feet shall require review and approval by the Planning Board in accordance with the Special Permit requirements for Food Service Establishments. Any existing establishment with a gross floor greater than 1800 square feet that proposes to install an appliance requiring a Type II hood must first obtain the approval of the Planning Board unless such establishment has already been designated as, or has received prior approvals as, a Type I or Type II Food Service Establishment.

***Type III Food Service Establishment*** - A Type III Food Service Establishment is any establishment that includes no appliances requiring a Type I hood or a Type II hood, but that does require appliances listed as “Exceptions” for Type II hoods in accordance with the 2010 Mechanical Code of New York State (Section 507.2.2), if such appliances are to be used for the preparation of food or beverage products for sale. Such exceptions include, but are not limited to: a single light-duty electric convection, bread, retherm or microwave oven and electrically heated appliances including toasters, steam tables, popcorn poppers, hot dog cookers, coffee makers, rice cookers, egg cookers and warming ovens.



All proposed Type III Food Service Establishments with a gross floor area of 1800 or less shall not require review and approval by the Planning Board. All proposed Type III Food Service Establishments with a gross floor area of greater than 1800 square feet shall require review and approval by the Planning Board in accordance with the Special Permit requirements for Food Service Establishments. Any existing establishment with a gross floor area greater than 1800 square feet that proposes to install appliances listed as “Exceptions” for Type II hoods in accordance with the 2010 Mechanical Code of the New York State (Section 507.2.2) must first obtain the approval of the Planning Board unless such establishment has already been designated as, or has received prior approvals as, a Type I, Type II or Type III Food Service Establishment. (*Amended 3/19/13*)

**Funeral Home** - A building or part thereof used for human funeral services. Such building may contain space and facilities for:

1. Embalming and the performance of other services used in the preparation of the deceased for burial.
2. The storage of caskets, funeral urns, and other related funeral supplies.
3. The storage of funeral vehicles.

A funeral home shall not include facilities for cremation.

**Garage, Private** - An accessory building or part of a main building used mainly for the storage of motor vehicles belonging to residents, employees, or visitors of the premises, as an accessory use. The garage shall provide space for not more than one private passenger vehicle for each 3,000 square feet of lot area, except that garage space for two such private vehicles shall be permitted on any lot of 5,000 square feet or more. Such private accessory garage may be within, under or directly connected to the principal structure by way of a breezeway or other appropriate connecting structure not exceeding twenty feet in length and shall not project into any required yard.

**Garage, Public** - A building or part thereof, other than a private garage, used for the storage, care or repair of motor vehicles for remuneration, including any sale of motor vehicle accessories, or where any such vehicles are kept for hire.

**Gasoline Station** - Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances, including any sale and installation of tires and of motor vehicle accessories, and which may or may not include facilities located entirely within the building for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means, or the making of other than minor repairs and adjustments.

**Greenhouse/Nursery** - A property used for the growing and stocking of flowers, plants, shrubs, trees or other gardening, landscaping or orchard stock for wholesale, retail sale or use at other locations.

**Group Care Facility** - A residential care facility for not more than eight (8) persons in care that is operated in a private dwelling and licensed by the State of New York, and shall be classified as a one-family dwelling.

**Half Story** – (See Story, Half)

**Hazardous Material** - Any hazardous, toxic or dangerous waste, substance or material, pollutant or contaminant, as defined for purposes of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), as amended ("CERCLA"), or the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.), as amended ("RCRA"), or any other federal or state regulations (Title 6 of the New York Code Rules and Regulations), any substance which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous, or any substance which contains gasoline, diesel fuel or other petroleum or hydrocarbons, polychlorinated biphenyls "pcbs", radon gas, urea

formaldehyde, asbestos or lead.

**Height, Accessory Building** – Deleted by Amendment 9/21/04

**Height, Building** - (See Building Height) (Amended 9/21/04)

**Height, Ridge** – (See Ridge Height).

**Home Occupations** – An accessory use of service character customarily conducted wholly within a dwelling, on the ground floor only, by the residents thereof which is clearly secondary to the use of the building for living purposes and does not change the character thereof or have an exterior evidence of such secondary use other than a small name plate or sign, no greater than 144 square inches and not more than eighteen (18”) in length, provided that such use does not occupy more than one-fourth of the ground floor area in said principal residential building or such equivalent in accessory building(s). A home occupation shall not include: the keeping, boarding, or raising of animals and insects, groomer veterinary clinics, animal hospital, kennel or other similar use, barbershops, beauty parlor, hairdressing and manicuring establishments, massage parlors or masseuses, clinics, tearooms, tourist homes, real estate broker/agencies or insurance broker/agencies, landscaping and nursery establishments, convalescent homes, mortuary establishments, trades or businesses of any kind, or any use that generates excessive amounts of traffic, noise, truck deliveries, or other neighborhood nuisances. (Amended 9/21/04)

**Home Professional Office** – An accessory use of an office or studio of a resident physician, surgeon, dentist or other person licensed by the State of New York to practice a healing art, a lawyer, architect, artist, certified public accountant, engineer, or teacher, as herein restricted, provided that not more than one (1) person is employed who is not a member of the family and that such office shall be in the main building and shall not occupy more than the equivalent of 25% of the area of one (1) floor of said building which shall be ground floor only. For the purposes of this

definition, a teacher shall be restricted to a person giving individual instruction in academic or scientific subjects to a single pupil at one time. A "home professional office" shall not include the office of any person professionally engaged in the purchase or sale of economic goods. The following occupations which include but are not limited to personal service establishments; dancing instruction, band instrument or piano or voice instruction, tearooms, tourist homes, beauty parlors, barbershops, hairdressing and manicuring establishments, convalescent homes, mortuary establishments, kennels, groomer veterinary clinics, animal hospital, masseuse, insurance broker/agent, real estate broker/agent, and stores, trades or businesses of any kind or similar use or any use that generates excessive amounts of traffic, noise, truck deliveries or other neighborhood nuisances shall not be deemed to be "home professional offices." The "home professional office" of a physician shall not include a biological or other medical testing laboratory.

**Hospital** - A place for the diagnosis, treatment, or other care of human ailments, including but not limited to a sanitarium, clinic, rest home, or convalescent home.

**Hotel** - A building, or portion thereof, containing rooms, without individual kitchen facilities, occupied by transient guests who are lodged with or without meals, which rooms have primary access from public halls, and in which building, or portion thereof, there are certain public rooms and halls for the use of all guests, and in which are provided such services as are incidental to the use thereof as a temporary residence.

**Householder** - An individual who resides in a dwelling unit and who owns, rents or otherwise has legal possession of such unit.

**Impervious Surface** - Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to: building rooftops excluding overhangs; paved areas, and; gravel or stone driveways and parking lots. (*Amended 9/21/04*)

**Impervious Surface Coverage** – The total horizontal area of impervious surfaces on a lot expressed in square feet. *(Amended 9/21/04)*

**Impervious Surface Ratio** – The ratio of impervious surface coverage on a lot to the total lot area expressed as a percentage. *(Amended 9/21/04)*

**Junk Yard** - The use of any area of any lot, whether inside or outside a building, for the storage, keeping, or abandonment of junk, including scrap materials, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof including automobiles not displaying a valid registration for any length of time.

**Landscaping** - Any combination of trees, shrubs, flowers, grass, or other horticultural elements, decorative stonework, paving, screening or other landscape architectural elements, all of which are designed to enhance the visual quality of the property and/or to provide a screen to mitigate any objectionable aspects that may detrimentally affect adjacent land.

**Laundry and Dry Cleaning Establishment** - A building or part thereof used for receiving articles or goods of fabric to be subjected to the process of laundering or dry cleaning, or cleaning elsewhere, including coin operated self service laundromats, provided that at least one employee is in attendance on the premises during the hours said business is open. Dry cleaning machinery and equipment shall be prohibited in multi-family buildings.

**Livable Floor Area** - Deleted by Amendment 9/21/04

**Livable Floor Area, Average** – Deleted by Amendment 9/21/04

**Loading Space** - An off-street space available for the loading or unloading of goods, and complying with the requirements of Section 13 of this local law.

**Lot** – A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon. *(Amended 9/21/04)*

**Lot Area** - The total horizontal area included within lot lines.

**Lot, Adjacent** – Lots sharing a common boundary of 50 feet or more. (*Amended 5/20/08*)

**Lot, Corner** - A lot at the junction of and abutting on two or more intersecting streets when the interior angle of intersection does not exceed 135 degrees.

**Lot Depth** - The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

**Lot, Flag** – A lot that does not meet minimum lot frontage requirements and that is shaped in such a way that the main building site area is set back from the street on which it fronts and so that access to the street is limited to a narrow strip of land. (*Amended 9/21/04*)

**Lot, Interior** - A lot other than a corner lot.

**Lot Line** - A property line bounding a lot.

**Lot Line, Front** – (1) On an interior lot, the lot line adjoining a street; (2) On a corner lot with two lot lines adjoining a street, one such lot line shall be designated as the front lot line and the other such lot line shall be designated as a side lot line adjoining a street; (3) On a corner lot with three lot lines adjoining a street, one such lot line shall be designated as the front lot line, the remaining such lot lines shall be designated as rear lot lines, side lot lines or side lot lines adjoining a street depending upon their relationship to the designated front lot line; (4) In the case of a flag lot, the lot line adjoining a street along with the lot line closest to and most nearly parallel to the street that serves the lot. A lot may have only one designated front lot line. (*Amended 9/21/04*)

**Lot Line, Rear** - The lot line generally opposite the front lot line. If the rear lot line is less than 10 feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front lot line, not less than 10 feet long, lying wholly within the lot and farthest from the front lot line.

**Lot Line, Side** - Any lot line not a rear lot line or a front lot line. (*Amended 9/21/04*)

**Lot Line Adjoining a Street, Side** – On a corner lot, any lot line adjoining a street that has not been designated as a front lot line or as the rear lot line. (*Amended 9/21/04*)

**Lot Merger** – The joining of two or more adjacent or contiguous lots, which are held in common ownership, into one lot. (*Amended 5/20/08*)

**Lot, Through** - An interior lot having frontage on two streets. (*Amended 9/21/04*)

**Lot Width** - The minimum required width of a lot as measured along the front lot line.

**Manufacturing** - The processing of foods and/or conversion of raw materials into a finished product for resale, wholesale or use on the premises.

**Mobile Home** - A movable one-family dwelling originally equipped with or having a vehicular chassis and provided with all of the following mechanical systems and equipment: plumbing, heating, electrical, cooking and refrigeration.

**Motor Home** - A portable, temporary abode designed to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle. See also “Camper Trailer”, “Mobile Home”, “Travel Trailer” and “Pick-up Coach”.

**Motor Vehicle Sales Agency** - A building or structure where a dealer displays new motor vehicles for sale or lease, together with the incidental sale of used vehicles, and associated motor vehicle service.

**Non-Conforming Lot** – A lot which lawfully existed prior to the adoption, revision or amendment to this Law, but which fails by reason of such adoption, revision, or amendment to conform to this Law. (*Amended 5/20/08*)

**Non-Conforming Structure, Dimensionally** – A structure lawfully existing on the effective date of this local law, or any amendment thereto affecting such structure, that does not conform to the

applicable lot and bulk regulations prescribed in this local law as amended, irrespective of the use.  
*(Amended 5/20/08)*

**Non-Conforming Use** - Use of a building or of land that does not conform to the regulations as to use for the district in which it is situated, which use was lawful under the Zoning Law in effect at the time it was established, or which pre-dated zoning.

**Non-Conforming (Dimensionally)** – Deleted by amendment 5/20/08

**Non-Profit Community Service Facility** - A facility not operated for profit utilized for a community service purpose such as those operated by the Red Cross or Salvation Army, including disaster relief services and facilities.

**Notice, Written** - A notification in writing mailed to the last business or home address of the person or persons to be notified by certificate of mailing in an official depository under the exclusive care and custody of the United States Postal Service. Proof of mailing shall be provided by way of an affidavit of service, in the form provided by the Planning & Building Department, and submission to the Planning & Building Department of the original certificates of mailing. *(Amended 5/20/08)*

**Nursing Home** – Deleted by Amendment 9/21/04

**Office** - A building or part thereof, designed, intended and used for the practice of a profession, the carrying on of a business, the conduct of public administration, or where not conducted on the site thereof, the administration of an industry, but shall not include such uses as retail commercial use, industrial use, or other non-administrative or professional uses, clinics, financial institutions, places of amusement or assembly.

**Parking Space** - A space available for the parking of one motor vehicle on a transient basis, and complying with the requirements of Section 13 of this local law. *(Amended 9/21/04)*

**Person** - Any individual or group of individuals, corporation, partnership, association, or any other



entity, including State and local governments and agencies.

**Personal Service Establishment** - A business where personal services are provided for gain and where the sale at retail of goods and merchandise is only accessory to the provision of such services, including but without limiting the generality of the foregoing, barber shops, beauty shops, massage parlors, tailor shops, shoe repair shops, nail salons, and tanning salon. *(Amended 5/20/08)*

**Pick-up Coach** - A device designed to be mounted on a truck chassis for occupancy as a temporary abode for travel, recreation and vacation. See also “Camper Trailer”, “Mobile Home”, “Motor Home” and “Travel Trailer”.

**Place of Worship** - A church, chapel, temple, parish hall, synagogue, mosque or other place of worship including offices for the administration of the religious institution, convents, seminaries, monasteries, rectories, parsonages and parish houses.

**Portable Storage Unit** – A portable, sturdy weather-resistant receptacle used for temporary storage and designed to be transported to and from a site by truck, trailer or other transport vehicle. *(Amended 5/20/08)*

**Print Shop** - An establishment engaged in printing or typesetting, blueprinting, engraving, stereotyping, electro-typing, which may also duplicating services and photocopying.

**Private Learning Center** - A Private Learning Center is a facility that is not a private school. It operates for the purposes of academic tutoring.

**Private Parking Lot** - An off-street, open air parking lot for the parking of private passenger vehicles of persons who visit, shop or work in the district and subject to the improvement, construction, use, design and maintenance provisions and requirements of Section 13 of this local law to the same extent as if said parking lot was a required off-street parking facility.

**Private School** -A Kindergarten, primary or secondary school not operated by a public school

district which furnishes a comprehensive curriculum of academic instruction similar to that of a public school.

**Public Utility** - Any agency, which under franchise or ownership, or under certificate of convenience and necessity or as so designated by the appropriate authority, which provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage collection or treatment, refuse collection or other similar service. (*Amended 9/21/04*)

**Recreation and Family Entertainment Facility (Indoor)** – An indoor facility for which the principal use is primarily for family oriented entertainment devoted to offering facilities for recreation and play.

**Recreation and Family Entertainment Facility (Outdoor)** - An outdoor facility within which the Principal use is devoted to and designed and equipped for the conduct of sports and any other recreational pursuits and activities.

**Recreation/Social Club/Lodge** - An organization of persons, incorporated pursuant to the provisions of the Membership Corporations Law or the Benevolent Orders Law, which is the owner, lessee or occupant of an establishment operated solely for a social, patriotic, political or benevolent purpose but not for pecuniary gain, and whose membership consists of persons duly admitted thereto in accordance with its by-laws and who pay annual or commuted dues in accordance with such by-laws.

**Required Open Space** – Deleted by Amendment 9/21/04

**Restaurant, Full Service** – Deleted by Amendment 3/19/13

**Restaurant, Carry-Out** - Deleted by Amendment 3/19/13

**Restaurant, Fast Food** - Deleted by Amendment 3/19/13

**Retail Café** – Deleted by Amendment 3/19/13

**Retail Food Establishment** – Deleted by amendment 5/20/08

**Retail Store** - A building or part thereof in which foods, wares, merchandise, substances, articles or things are offered or kept for sale to the public at retail. All activities associated with a retail store shall occur within a building.

**Retaining Wall** – (See Wall, Retaining)

**Ridge Height** – The vertical distance measured from the average elevation of the existing grade or the proposed grade (whichever is lower) at the perimeter of the building (based on the average elevation of the grades at the four or more principal building corners) to the highest roof ridgeline.

*(Amended 9/21/04)*

**Road, Public** - All public thoroughfares however designated, whether reserved or dedicated which afford the principal means of access to abutting property.

**Road, Private** - A way open to vehicular ingress and egress established as a special tract for the benefit of certain adjacent properties. This definition shall not apply to driveways.

**Satellite Earth Station** - Any parabolic or spherical dish type antenna the purpose of which is to receive, but not transmit, microwave or other electronic signals from satellites or other sources for television or radio reception, data transmission, teleconferencing or other types of telecommunication.

**Senior Assisted Care Facility** – Deleted by Amendment 9/21/04

**Senior Housing Development** – One or more residential buildings and accessory structures designed and operated to include affordable and age-restricted housing in accordance with Section 12.H.30 of this local law. A minimum of 15 percent of units in a Senior Housing Development must be “affordable” to senior citizens earning less than 80 percent of the area median income (“AMI”) for Westchester County, as defined annually by HUD (hereinafter “80% AMI”); such eligible household

referred to herein as a “Qualifying Household”.

**Solar Energy Collector** - A device or combination of devices which relies upon solar radiation as an energy source and that is employed for the purposes of heating or cooling a building, the heating of water or the generation of electricity.

**Stable** - An accessory building or portion of a main building in which horses are kept, whether for private use or for hire, remuneration or sale.

**Story** - That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above, subject to the following exceptions:

1. A basement shall be considered a story only if the finished surface of the floor above the basement is more than 5 feet above the average finished grade at the perimeter of the building (based on the average elevation of the grades at the 4 or more principal building corners);

2. An attic shall be considered a story only if 50 percent or more of the floor area has a floor-to-ceiling height of 7 feet or more. (*Amended 9/21/04*)

**Story, Half** – The uppermost story of a building within which less than 50 percent of the floor area has a floor-to-ceiling height of 7 feet or more. If 50 percent or more of the floor area has a floor-to-ceiling height of 7 feet or more, it shall be considered a full story. (*Amended 9/21/04*)

**Street, Public** - A public thoroughfare, however designated, whether reserved or dedicated, which affords the principal means of access to abutting property.

**Streetscape** - The scene as may be observed along a public street, composed of natural and man-made components including buildings, paving, planting, street hardware and miscellaneous structures.

**Studio**- A school or studio conducted for profit or gain which provides instruction in any subject including those that have an academic curriculum, a business school, secretarial school, dance

school or studio, school of music, modeling school, charm school, ceramics studio, but not including a

private or public school, nor regulated by the State Board of Regents.

**Structure** - Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

**Structure, Accessory** – A permanent structure subordinate to and either attached or detached from the principal building on a lot, the use of which is incidental to and customarily associated with that of the principal building. (*Amended 5/20/08*)

**Subdivision** - (See Section 9)

**Swimming Pool, Spa** - Any body of water or receptacle for water having a depth of 2 feet or more at any point or which may accommodate over 100 cubic feet of water used or intended to be used for swimming or bathing or landscaping, or installed or maintained wholly or partially in or above the ground outside any building, including but not limited to all appurtenant equipment, stairs, ladders, walks, all pool decking, and whether same is permanently affixed to the ground or capable of being moved from place to place or wholly or partially collapsible. (*Amended 9/21/04*)

**Theater** - A building or part thereof used for the presentation of motion pictures or for dramatic, musical or live performances, presentations or displays.

**Townhouses** – Single-family attached units in a structure housing two or more dwelling units, contiguous to each other by the sharing of one or more common bearing walls, in which each dwelling unit has a separate and individual front entrance or in which two units share a common front entrance. (*Amended 5/20/08*)

**Travel Trailer** - A vehicular portable device built on a chassis, designed to be used primarily as a temporary abode for travel, recreation and vacation use. See also “Camper Trailer”, “Mobile

Home”, “Motor Home” and “Pick-up Coach”.

**Use** - The specific purpose for which a lot or building is designed, arranged, intended, or for which it is or may be occupied or maintained. (*Amended 9/21/04*)

**Use, Accessory** - A use which is customarily incidental and subordinate to the principal use of lot or a building and located on the same lot therewith, except as hereinafter otherwise provided. (*Amended 9/21/04*)

**Use, Continuous** - The continuous use of any lot, building or structure notwithstanding a change in ownership of the property where the use is located. Use shall further be deemed to be continuous if , after having ceased, the same use recommences within a period of six months from the date of the cessation.

**Use, Non-conforming (See Non-Conforming Use)**

**Wall** – A structure of wood, stone, brick concrete or other masonry materials or any combination thereof, more than two feet high, erected to enclose, separate, divide or define a lot or a portion thereof. (*Amended 9/21/04*)

**Wall, Retaining** – A wall designed to retain or resist the lateral displacement of earth or other materials. (*Amended 9/21/04*)

**Wholesale Business** - A business engaged in the sale of commodities in quantity, usually for resale or business use, chiefly to retailers, other businesses, industries and institutions.

**Wireless Communication Services** - The provision of wireless communications services, including those more commonly referred to as “cellular telephones”, which services are regulated by the Federal Communications Commission in accordance with the Communications Act of 1934 (47 U.S.C. ss 151-613 1988), as it may hereinafter from time to time be amended.

**Wireless Communication Installation** - Any commercial equipment used in connection with the

operation of Wireless Communication Services to transmit and/or receive frequencies, including but not limited to antenna(s), accessory telecommunications equipment and supporting masts, but excluding support towers or monopoles. Such Wireless Communication Installation shall be permitted to be operated on any property, building or structure in the Town, whether or not dedicated to another use provided that such Wireless Communications Installation meets the requirements of this Law.

**Wireless Communication Towers and Monopoles** - Any free standing tower or monopole on which a Wireless Communication Installation is located in connection with the provision of Wireless Communication Services.

**Yard** - A required open area of a lot, unoccupied and unobstructed by any building or portion of a structure except as hereinafter provided.

**Yard, Front** - A yard extending across the required full width of the lot along an approved street and lying between the front line of the lot and the nearest point or line of the building.

**Yard, Rear** - A yard extending across the required full width of the lot and lying between the rear line of the lot and the nearest point or line of the building.

**Yard, Side** - A yard between the side line of the lot and the nearest point or line of the building and extending from the front building point or line to the rear building point or line, or, in the absence of either of such yards, to the front or rear lot line, as may be.

**Yard Adjoining a Street, Side** – A yard between the side lot line adjoining a street and the nearest point or line of the building and extending from the front building point or line to the rear building point or line, or in the absence of either of such yards, to the front or rear lot line, as may be.

*(Amended 9/21/04)*

### **SECTION 3.**

This section has intentionally been left blank.



## SECTION 4. DISTRICTS, MAP AND SCHEDULES

### A. *Districts*

For the purpose of this local law the unincorporated area of the Town of Eastchester is hereby divided into the following classes of districts:

One Family Residence District	R 20	
One Family Residence District	R 15	
One Family Residence District	R 10	
One Family Residence District	R 7.5	
One Family Residence District	R 6	
One Family Residence District	R 5	
One Family Cluster Residence District	R 1.5C	
Two Family Residence District	R 3	
Multi-Family Residence District	M 2000	(M2)
Multi-Family Residence District	M 1500	(M1.5)
Multi-Family Residence District	M 1000	(M1)
Multi-Family Residence District	M 700	(M.700)
Multi-Family Residence District	M 350	(M.350)
Residential Transition District	RTD	
Designed Shopping Center	DSC	
Open Retail Business	ORB	
Retail Business	RB	
General Business	GB	

*(Amended 9/21/04)*

## **B. Map**

### **1. Establishment**

The boundaries of such districts and special building lines are hereby established as shown on the map entitled “Zoning Map of the Town of Eastchester, adopted July 27, 1955, as amended up to and including May 1, 1995,” which map accompanies and is hereby made a part of this local law.

### **2. Boundaries**

a. Except where referenced to a street line or other designated line shown on such map by distance in feet therefrom, the district lines are intended to follow lot lines, or the center lines of streets, railroads, streams, or aqueducts, or the boundaries of the Town, and where any such district abuts upon the Bronx or Hutchinson Rivers, the boundary lines thereof shall be deemed to extend outward to the boundary of the Town in such river. In un-subdivided land, or where a district boundary divides a parcel or lot, the location of such boundary, if not indicated by dimensions shown upon such map, shall be determined by the use of the scale appearing thereon. If the district classification of any property is in question, it shall be deemed to be in the most restrictive adjoining district.

b. Where a lot is divided by one or more municipal boundary lines, any building or land use established thereon shall comply with the regulations of the district in which such building or land use is located. All requirements of this chapter, including yards and other dimensional requirements shall be met on the property located within the Town. (*Amended 9/21/04*)

## **C. Schedules Controlling Lands and Buildings**

### **1. Establishment**

The accompanying Schedules of Regulations (Sections 4.C.5 and 4.C.6) list and define the use of land and buildings, the height of buildings, the yards and other open space to be provided in connection with buildings, the area of lots, and other matters. The regulations listed for each district as designated are hereby adopted and prescribed for each such district, subject to other provisions of this local law and, unless otherwise indicated, shall be deemed to be the minimum requirements in every instance of their application.

### **2. Uses**

Only the uses set forth for each district shall be permitted in that district. Uses not listed are not permitted.

### **3. Interpretation of Schedule**

Wherever in such schedule there appear the words “Same as in (Symbol of District) above” such words shall be construed to include the specific limitations set forth in the same column for the district thus referred to. Otherwise, all limitations as to use, percentage of area, permissible height, required yards and minimum size thereof, required off-street parking and loading spaces, minimum sizes of dwellings, and all other requirements shall be those set forth in such schedule for the district in which the use will be located, which for each district named shall be read across the schedule from left to right. *(Amended 3/20/01)*

### **4. Order of Restrictiveness**

In the order of their placement in the schedule from top to bottom, districts shall

be deemed to be more restrictive than those appearing below them and less restrictive than those appearing above them.

**5. Schedule of Residential District Regulations**

(See schedule inside back cover.) (*Amended 8/14/01*)(*Amended 9/21/04*)

**6. Schedule of Non-Residential District Regulations**

(See schedule inside back cover.)

## **SECTION 5. ADMINISTRATION AND ENFORCEMENT**

### **A. General**

1. The provisions of this chapter shall be administered and enforced by the Building Department, pursuant to Section 268 of the Town Law, and by a Building Inspector and other enforcement officers, pursuant to Section 138 of the Town Law, as appointed by the Town Board, or by such other officer as the Town Board may, from time to time, designate. Such appointees to the Building Department shall have charge of the enforcement of such codes, local laws, rules and regulations of the Town and of this Zoning Chapter of the Town as directed by the Town Board and by this chapter. The Building Department shall have the special authority to serve appearance tickets pursuant to Section 150.20, Subdivision 3, of the Criminal Procedure Law. The Building Inspector and other enforcement officers are hereby authorized to enforce the New York State Uniform Fire Prevention and Building Code, the Town Local Laws and/or Ordinances, Town site plan requirements, special conditions attached to variances and special use permits and other applicable Federal, State or Town laws, rules or regulations pertaining to property located within all of the zoning districts of the Town.

2. This local law shall be enforced and interpreted by the Building Inspector or his/her duly authorized representative. No permit, certificate of occupancy, or other authorization for any construction, reconstruction, alteration, enlargement or moving of a building from one site to another, including special permits and variances, shall be issued except in compliance with the provisions of this local law.

3. The Building Inspector shall maintain files of all applications for building permits and plans submitted therewith and for certificates of occupancy, and records of all such permits and

certificates issued by him/her, orders of the Zoning Board of Appeals and complaints received in writing by his/her office. Each month the Building Inspector shall report in summary form to the Town Board all action taken by him/her thereon. All source documents relating thereto shall be public records open to public inspection. *(Amended 9/21/04)*

4. Complaints to the Building Inspector as to alleged violations shall be made in writing and signed by the complainant.

## **B. Building Permits**

### **1. Applications**

Application for building permits shall be made in the manner prescribed in the Building Code and the forms shall provide spaces for information essential to the administration of this local law.

The Building Inspector, at his/her discretion, may require that all required permits and approvals from other involved agencies related to an application for a building permit be obtained prior to the issuance of such building permit. *(Amended 9/21/04)*

### **2. Permits**

Each permit shall show the use for which it is granted. No permit shall be issued for a variance, a special permit, or for a purpose for which site plan approval (or amendment) is required as set forth in Section 11 hereof, until such variance, special permit or site plan approval (or amendment) has been granted by the approving agency and any conditions imposed by such agency in relation thereto shall be recorded on the face of such permit. *(Amended 9/21/04)*

If construction under a building permit is not begun within six months from its date of issue such permit shall automatically expire, except that the Building Inspector may authorize an

extension of the permit, not to exceed six months, upon submission of an application for an extension and the payment of the appropriate application fee. Such application and fee must be filed with the Building Department a minimum of 10 days prior to the expiration of the original permit. Authorization for the extension must be in writing and signed by the Building Inspector. If construction under the original building permit is not begun within the extended time frame authorized by the Building Inspector, the building permit shall automatically expire and no further extensions shall be authorized. However, the applicant may reapply for a building permit in accordance with Section 5.B.1. herein.

If construction has begun but is not completed within one year from the issuance of a building permit, then such permit shall expire and no further work shall be done thereunder until a new building permit has been obtained, except that the Building Inspector may authorize an extension of the permit, not to exceed six months, upon submission of an application for an extension and the payment of the appropriate application fee. Such application and fee must be filed with the Building Department a minimum of 10 days prior to the expiration of the original permit. Authorization for the extension must be in writing and signed by the Building Inspector. If construction under the original building permit is not completed within the extended time frame authorized by the Building Inspector, the building permit shall automatically expire and no further extensions shall be authorized. However, the applicant may reapply for a building permit in accordance with Section 5.B.1. herein. *(Amended 9/21/04)*

### **3. Applications and Fees for Extensions of Building Permits**

Applications for extensions of Building Permits shall be available in the Building Department. A fee schedule indicating all application fees shall be posted in the Building

Department. (*Amended 9/21/04*)

### **C. Certificate of Occupancy**

#### **1. Applications**

Application for a certificate of occupancy or certification of compliance collectively referred to as "Certificate of Occupancy" shall be made in the manner prescribed in the Building Code.

#### **2. Occupancy Prohibited without Certificate**

No occupancy or use of new construction or change of use in existing construction shall take place until a certificate of occupancy has been issued setting forth that such building or premises or part thereof, and the proposed use thereof are in conformity with the provisions of this local law or are duly excepted therefrom under provisions specified in such certificate or are in conformity with the requirements of all approving agencies.

#### **3. Certificate for Variance and Special Permit**

No certificate of occupancy for a variance, or for a use for which a special permit is required, shall be issued except in accordance with such variance or such special permit, and shall set forth in detail upon its face the conditions attached thereto as determined by the approving agency.

#### **4. Recording Status of Non-Conforming Uses**

For the purpose of recording the character and extent of any lawful non-conformity existing as of the effective date of this local law the owner or lessee of any structure or lot may apply for a certificate of occupancy, specifying in such application the character and extent of such non-conformity of structure or use and its conformity to the regulations applicable thereto at the time of its construction or the creation of such use. The Building Inspector after inspecting the premises and verifying the facts set forth may issue a certificate of occupancy showing upon its face the character



and extent of each lawful non-conformity so found and the authority therefore, and shall issue such orders as the circumstances may require as to any lawful non-conformities so found.

#### ***D. Interpretation***

In the interpretation and application of the Building Inspector or his/her duly authorized representative, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, convenience, comfort and general welfare and more particularly for the purposes set forth in Section 1. It is not intended by this local law to repeal, abrogate, annul or in any way to impair or interfere with any other existing provisions of law or ordinance, or with any rules, regulations or permits previously adopted, or issued or which shall be adopted or issued, pursuant to laws relating to the use of buildings or premises; nor is it intended by this local law to interfere with or abrogate or annul any easement, covenant or other agreement between parties, provided, however, that where this local law imposes a greater or lesser restriction upon the use of buildings or premises or upon the height or size of buildings, or requires larger yards, courts or other open spaces or makes any other greater or lesser requirements than are imposed or required by such existing provisions of law or ordinance or by any other rules, regulations, or permits adopted or issued at any time or by any easement, covenant or agreement the more restrictive provisions shall govern.

#### ***E. Violations, Penalties, and Enforcement***

Any person who violates or is an accessory to the violation of any provision or portion of this local law shall be guilty of an offense, and shall be punishable in accordance with the provisions of NY Town § 268:

1. The Town Board may provide by local law or ordinance for the enforcement of this article and of any local law, ordinance or regulation made thereunder. A violation of

this article or of such local law, ordinance or regulation is hereby declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars or imprisonment for a period not to exceed six months or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally violations of this article or of such local law, ordinance or regulation shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

2. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used, or any land is divided into lots, blocks, or sites in violation of this article or of any local law, ordinance or other regulation made under authority conferred thereby, the proper local authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent any illegal act, conduct, business

or use in or about such premises; and upon the failure or refusal of the proper local officer, board or body of the Town to institute any such appropriate action or proceeding for a period of ten days after written request by a resident taxpayer of the Town so to proceed, any three taxpayers of the Town residing in the district wherein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as such local officer, board or body of the Town is authorized to do so.

Nothing in this local law shall be construed as depriving the Town or the Town Board or any duly authorized official or representative thereof of the right to apply for an injunction to prevent any violation of this local law or of the right to employ any other available remedy for its enforcement.

## **SECTION 6. NON-CONFORMITY**

### **A. *Continuing Non-Conforming Uses***

Except as otherwise provided herein, any use lawfully existing under the provisions of the zoning law in effect immediately prior to the date on which this local law becomes effective, although not conforming with the provisions of this local law for the district in which it is situated, may be continued subject to compliance with the conditions set forth below. Similarly, whenever the provisions of this local law shall be changed hereafter, any use lawfully existing at the time of the passage of such change may be continued, subject to compliance with the conditions set forth below.

### **B. *Special Permit Uses***

Any use for which a special permit is required under this local law, which use was lawfully in existence at the time of the enactment of this local law or any amendment thereof, in a district in which such special permit is required, shall be deemed to be a conforming use in that property and for the term of which said special permit was granted in such district.

### **C. *Dimensional Non-Conformity***

A building or structure that is conforming in use but does not conform to the lot dimension, yard dimension, height, building coverage, floor area ratio, off-street parking, loading, or similar dimensional requirements of this local law, shall be deemed to be dimensionally non-conforming. No permit shall be issued that will result in the increase of any such dimensional non-conformity, but any building or structure or portion thereof may be altered to decrease its dimensional non-conformity, or may be altered in a manner that does not affect such dimensional non-conformity.

*(Amended 9/21/04)*

## **D. Non-Conforming Use of Land, Buildings or Structures**

### **1. Non-Conforming Use of Land**

The non-conforming use of land may be continued, provided however that no such non-conforming use shall be physically enlarged or intensified, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of this local law, unless specifically allowed by other provisions in this local law, nor shall any such non-conforming use be moved in whole or in part to any other portion of the lot or parcel of land occupied by such non-conforming use at the time of the adoption of this local law.

### **2. Change to Building or Structure**

A building or structure, the use of which does not conform to the use regulations for the district in which it is situated, shall not be enlarged or extended unless the use therein is changed to a conforming use, or except to conform to an order of the Building Inspector to either correct an unsafe condition or to conform to the requirements of applicable laws or ordinances.

### **3. Non-Conforming Use of a Building or Structure**

No non-conforming use of a building or structure shall be enlarged or extended, except that after notice and hearing the Zoning Board of Appeals may grant a use variance and permit any such non-conforming use to be extended throughout any parts of the building, structure or site.

### **4. Cessation of Non-Conforming Use**

If a non-conforming use ceases for any reason for a total of 6 months during any 12-month period, or is changed to a conforming use, any future use of the land, building or structure shall be in conformity with the provisions of this local law. Substantial cessation of activities consistent with or

required for the operation of such non-conforming use, or substantial vacancy of the building or structure in which the non-conforming use was conducted, together with substantial cessation of activities consistent with or required for the operation of such non-conforming use, shall be deemed to constitute a discontinuance thereof within the meaning of this local law irrespective of whether an intention to abandon the non-conforming use may exist. On application however, and after notice and hearing, the Zoning Board of Appeals may extend the period not to exceed one (1) year upon a finding that this provision is not reasonable in its application to the particular premises, taking into consideration the characteristics of the use, the investment which has previously and lawfully been made in it, the circumstances of the discontinuance and the suitability of the structure for a permitted or special permit use. No more than one (1) extension may be granted.

## **5. Removal of Building**

If any building or structure in which any non-conforming use is conducted or maintained is hereafter removed, the subsequent use of the land on which such building or structures was located, and the subsequent use of any building or structure thereon, shall be in conformity with the standards specified by this local law for the district in which such land is located.

### ***E. Reconstruction***

#### **1. Over Fifty Percent**

Should a building or structure, the use of which or the use of a portion of which is non-conforming, or which is dimensionally non-conforming, be destroyed or damaged by any means to the extent, as determined by the Building Inspector, of over fifty (50%) percent of the volume of such building or structure above the foundation, it shall not thereafter be reconstructed or used except in conformity with the provisions of this local law.

**2. Fifty Percent and Under**

Should a building or structure, the use of which or the use of a portion of which is non-conforming or which is dimensionally non-conforming, be destroyed or damaged by any means to the extent as determined by the Building Inspector, of fifty (50%) percent or less of the volume of such building or structure above the foundation, it may be reconstructed and any accompanying non-conforming use continued, provided that the reconstruction is commenced within six months of the date of such damage and completed within one year of said date.

***F. Change to Another Non-Conforming Use***

No non-conforming use shall be changed to another non-conforming use except that the Zoning Board of Appeals after notice and hearing may grant a variance for a new non-conforming use within the same structure provided it shall comply with Section 9 herein and shall further find that:

- (1) The proposed new non-conforming use will be more in keeping with the character of the neighborhood than the former non-conforming use; and
- (2) It will generate less traffic; and
- (3) It will tend to facilitate the later conversion of the structure to a conforming use.

**SECTION 7. EXCEPTIONS AND MODIFICATIONS**

**A. As to District Boundaries**

Where the boundary of a district divides a lot, the Planning Board may, by Special Permit in accordance with the requirements of Section 11, permit the extension of any lawful conforming use permitted on that portion of the lot lying in the less restricted district, for a distance not to exceed 75 feet measured at right angles from such district boundary provided all other requirements of the more restricted district are met.

**B. As to Use**

1. Nothing in this local law shall be deemed to prohibit the following necessary uses, in addition to those specified in the Schedule:

(a) Customary recreational, refreshment, and service uses and buildings in any publicly owned playground or other publicly owned recreational area incidental to the recreational use of such area.

(b) A temporary construction office and tool sheds, portable sanitary facility, dumpsters and temporary storage of material to be used only in the construction of a building or structure for which a building permit was issued. Temporary storage of scaffolding material and equipment, cement mixer, and other required portable equipment shall also be permitted on the premises covered by such permit.

None of the above shall be closer than 10 feet to any street or property line, and shall only be maintained on such premises for such period is reasonably necessary. Said distances and time period shall be determined by the Building Inspector or other Town Official designated by the Town Board. Such temporary buildings, equipment and unused material shall be removed from such



premises immediately after their use is no longer required.

2. a. Between the hours of 8:00 a.m. and 9:00 p.m., only one of the following vehicles: truck, semi-trailer, snow plowing vehicle, tractor, bus or vehicle used for commercial purpose, or vehicle bearing commercial license plates or vehicle bearing commercial advertising and not exceeding three-quarter (3/4) ton carrying capacity, shall be parked or stored in or on a residential premises except that any vehicle may be stored in a garage with the garage doors closed. However, any commercial vehicle which is making a temporary stop, delivery or pick-up or performing a service in connection with a valid building, plumbing or electrical permit or making or being used in connection with legal repair work or other similar use on the premises shall be permitted.

b. Between the hours of 9:00 p.m. and 8:00 a.m. in or on any residential premises, only one of the following vehicles: truck, semi-trailer, snow plowing vehicle, tractor, bus or vehicle used for commercial purpose, or vehicle bearing commercial license plates or vehicle bearing commercial advertising and not exceeding three-quarter (3/4) ton carrying capacity, shall be stored in a garage with the garage doors closed.

3. Only one boat, mobile home, snow plowing vehicle, pick-up coach, motor home, travel trailer, camper trailer or other recreational trailer may be stored or parked in any district, and must be stored in a garage with the garage doors closed except that temporary use of such devices for offices is permitted for highway or municipal construction projects or for construction projects for which a building permit has been issued. The General Business District is exempt from this provision.

4. No more than one (1) unregistered passenger, non-commercial vehicle shall be stored, garaged, or parked on any residential property. (*Amended 5/20/08*)

5. No dumping or storage of litter, garbage, ashes, cans, broken glass, landscaping materials, construction material, rubbish or other refuse or debris of any kind, nature or description, which is or may become injurious to the health and comfort of residents of nearby properties, shall be permitted on any lot, nor shall any fill be used which contains flammable or explosive material, or material hazardous to health.

6. No permit shall be required for a garden or other storage shed with a floor area that does not exceed 8' x 10' in one and two family residence districts, provided the shed is not located on a permanent foundation. In no event shall there be more than one shed and such shed may not have a floor area that exceeds 10' x 12'. However, no sheds shall be erected in any portion of any front yard and all sheds shall comply with the applicable setbacks and coverage requirements for the district within which they are located. (*Amended 9/21/04*)

**C. As to Height**

1. Necessary mechanical appurtenances and enclosures thereto may be erected on a building to a height ten feet greater than the limit established for the district in which the building is located; provided that no such exception shall cover at any level more than 25% of the area of the roof on which it is located; provided, further, that no such exception shall be used for any other purpose. The height limitations of this local law shall not apply to chimneys, church spires, belfries and cables of public utilities. No radio or television receiver antennae shall be more than ten feet above the maximum height of the building to which it is appurtenant.

2. In any district, public and quasi-public buildings, schools, churches, hospitals, and buildings for other institutional uses permitted in such district, may be erected to a height not exceeding 45 feet, provided that the front, rear, and side yards shall each be increased one foot for

each foot by which such building exceeds the height limit established in the Schedule for such district. *(Amended 9/21/04)*

3. Where no less than 75% of the open ground floor of a building designed, arranged or intended for use within a DSC (Designed Shopping Center), ORB (Open Retail Business), RB (Retail Business), or GB (General Business) District, other than as a dwelling, is used for required off-street open parking accessory to such principal use or uses, the structure shall be enclosed or adequately screened. The off-street open parking area shall be a story. The number of stories of such building or structure shall not exceed the limit as set forth in the Schedule of District Regulations. *(Amended 9/21/04)*

4. Notwithstanding any provision of Section 7.C.3 above, any portion of an ORB (Open Retail Business) RB (Retail Business) or GB (General Business) District, DSC (Design Shopping Center) within 150 feet of a One Family or Two Family Residence District shall be limited to the following:

(a) No principal building shall be closer than 40 feet and no accessory building or parking area shall be closer than 20 feet to a boundary of such One Family or Two Family Residence District.

(b) No portion of any building in the above districts, except as otherwise permitted in Section 7.C. 1-3 of this local law, shall be greater in height than 2-1/2 stories and 30 feet.

(c) The limitations in this section shall not apply to Senior Housing Developments or one and two family dwellings located in these districts.

*(Amended 11/05/09)*

5. The height of a Wireless Communication Installation may exceed the maximum

otherwise applicable to buildings or structures in any given zoning district, but only to the following extent (unless a variance is otherwise granted by the Zoning Board of Appeals):

- (a) Wireless Communication Installation - Up to ten (10') feet above the highest point of a building or structure on which it is installed, by special permit;
- (b) Wireless Communication Towers and Monopoles - Up to a height of one hundred fifty (150') feet above grade, provided that such towers and monopoles shall be limited in height to the minimum necessary to accomplish the purposes they serve by special permit.
- (c) Set backs in all directions shall be equal to 110% of the height of the tower or monopole measured from grade.

**D. As to Area**

1. The following features may extend into any required front yard not to exceed the distances specified:

- (a) Cornices, canopies, eaves, covered porches or any similar features: Four feet.
- (b) Bay or similar type projecting window: Three feet.
- (c) An open terrace, porch or deck, which may or may not be covered by a roof with a floor level no higher than that of the first floor of the building may extend four feet into the front yard but may not exceed 30% of the width of the building. A railing or wall no higher than three feet six inches may be placed around such terrace, porch, or deck. *(Amended 8/14/01) (Amended 9/21/04)*
- (d) A chimney: Three feet.

- (e) A watertable or coping: Three inches.

An opened covered porch may extend not more than four feet into the front yard, the roof of which may be supported by columns, but may not exceed 30% of the width of the building. (*Amended 8/14/01*) (*Amended 9/21/04*).

2. The above listed features may also extend into any required side or rear yard the same distance that they are above permitted to extend into any required front yard, except that:

(1) an open terrace, porch or deck, which is not covered by a roof and which has a floor level no higher than that of the first floor of the building, may extend six (6) feet into a rear yard; (2) the roof of an open, covered terrace, porch or deck, which has a floor level no higher than that of the first floor of the building, may extend six (6) feet into a rear yard; (3) an open terrace, porch or deck, which is not covered by a roof and which has a floor level no higher than that of the first floor of the building, may extend four (4) feet into any required side yard but may not be closer to six (6) feet to any side lot line; (4) the roof of an open covered terrace, porch or deck which has a floor level no higher than that of the first floor of the building may extend four (4) feet into any required side yard, but may not be closer to six (6) feet to any side lot line, and; (5) an outside stairway that is unroofed and unenclosed above and below the steps may extend four (4) feet into any required side yard, but may not be closer to six (6) feet to any side lot line; however, if the side lot line is adjacent to a street on a corner lot, no such setback is required. (*Amended 9/21/04*)(*Amended 5/20/08*)

3. If any accessory building is attached to the main building, directly or by a breezeway or roofed passageway with open or latticed sides and not exceeding 20 feet in length it shall comply in all respects with the requirements of this local law applicable to the main building.

4. Permission may be granted by the Zoning Board of Appeals for the use of a lot for which a valid conveyance has been recorded under the code in effect at the time of the transfer,

notwithstanding that the area or dimensions of such lot are less than that required for the district in which such lot is located, provided that:

- (a) The lot met the zoning requirements at the time the deed to the lot was recorded or the title to the lot was conveyed;
- (b) All yard setbacks and other building-related requirements which are in effect at the time of the obtaining of the Building Permit are complied with;
- (c) Front yard depth shall be no less than the average depth of front yards on the same side of the street,
- (d) Side yards may be reduced in proportion to the ratio of actual lot width to minimum required width except that in any event one side yard with a minimum width of eight feet shall be provided to afford access to the rear yard, and the other side yard may be reduced accordingly, but no side yard shall be less than five (5') feet in width,
- (e) Rear yard shall be not less than 25% of the average depth of the lot, but not less than 20 feet in any event,
- (f) The ownership of such lot was not the same as any other lot or lots contiguous thereto at the time of the adoption of this local law. If the opposite is the case, such other lot or lots, or so much thereof as may be necessary, shall be combined with the first-named lot to make one or more conforming lots, whereupon a permit may be issued, but only for such combined lots,
- (g) The matter is subject to a public hearing before the Board of Appeals, in accordance with the requirements for such hearings in Section 10 of this local

law,

5. In all lots, no accessory structure shall be permitted in any portion of the required yard abutting a public highway.

***E. Open Retail Business Or Retail Business District Or General Business District (ORB, RB, GB)***

In providing a greater depth for business districts than was formerly customary, it is the intent of the Town Board to provide such greater depth for required accessory off-street parking facilities and not to permit such business uses to front upon local streets occupied by or leading to residential uses. Each separate business use shall have its principal frontage upon the principal street or highway on which such business district fronts, but may have entrances to and exits from its required accessory off-street parking facilities upon a side street leading to a residence district, subject to the approval of the Planning Board as a part of its review and approval of the site plan as provided in Section 11. In addition to the standards and requirements of Section 11, the Planning Board shall consider adequacy, safety, the arrangement of curb cuts, entrances and exits, aisles, and turning areas of such entrances and exits. No separate business shall front upon such a side street. Furthermore, no separate business shall front upon a side street or a street approximately parallel to the principal business street, the opposite side of which, in either case, is in a residence district.

## **SECTION 8. FENCES AND WALLS**

### **A. Purpose**

The purpose of this section is to protect the public health, safety and welfare by establishing regulations for the design, construction, and maintenance of fences and walls which, to the maximum extent practicable, would continue the open appearance of the community while allowing residents to have reasonable privacy in the use and enjoyment of their homes. (*Amended 9/21/04*)

### **B. Measuring Height**

**HEIGHT** - The height of fences and walls shall be defined and measured as follows:

The vertical distance between the natural grade of the property measured from the lowest adjacent grade, at the base of the fence, free-standing wall, or retaining wall, and the highest horizontal member at the top. In the case of picket fences, wrought iron fences with decorative elements, fences made of vertical boards with rounded ends or other structure of similar design, the top of the fence shall be a line parallel to the tops of the several points.

The measurement of the height of a fence, free-standing wall, or retaining wall, shall not include the height of an appropriate accessory structure, such as an entrance gate, an archway or a decorative column at the corner of the lot.

The measurement of the height of a fence, free-standing wall, or retaining wall which has a top that is curved with the height of the central portion being higher or lower than the height at the ends, is the vertical distance between the natural grade of the property at the base and an average of the height of the central portion and the height at the ends.

The height of a fence or free-standing wall, erected on a grade approximately equal to



the top of a retaining wall, situated within three feet horizontally from the face of the retaining wall, shall be measured from the bottom at the grade immediately adjacent to the base of the fence or free-standing wall.

### ***C. Fences and Walls in Residential Districts***

#### **1. Front Line Fences**

Except as otherwise provided by this section, no fence or free-standing wall which exceeds four (4') feet in height shall be erected along the front lot line, or anywhere within the front yard.

#### **2. Rear Line Fences**

Except as otherwise provided in this section, no fence or free-standing wall which exceeds six (6') feet in height shall be erected along a rear lot line or anywhere within the rear yard.

*(Amended 9/21/04)*

#### **3. Side Line Fences**

Except as otherwise provided in this section, no fence or free-standing wall which exceeds four (4') feet in height shall be erected along a side lot line or anywhere within the side yard.

#### **4. Enclosing Rear Yard**

Notwithstanding the provisions in this section, a six (6') foot high fence may be erected to enclose a rear yard. The fence may begin at the rear most point of the foundation of the principal building and run generally parallel to the rear lot line to a point on the side lot line or within the side yard (for a fully enclosed rear yard), or the fence may begin at the point on the side lot line or within the side yard that is directly opposite the rear most point of the foundation of the principal building

(for a partially enclosed rear yard). *(Amended 9/21/04)*

**D. Fences and Walls in Non-Residential Districts Excluding the General Business District**

**1. Front Line Fences**

Except as otherwise provided by this section, no fence or free-standing wall which exceeds four (4') feet in height shall be erected along any front lot line or anywhere within the front yard. Notwithstanding the provision in this section, no fence or free-standing wall shall be erected along the front lot line or anywhere within the front yard on any lot where the principal structure does not conform to the front yard setbacks as set forth in the schedule of Non-Residential District Regulations. *(Amended 9/21/04)*

**2. Rear Line Fences**

Except as otherwise provided in this section, no fence or free-standing wall which exceeds six (6') feet in height shall be erected along a rear lot line or anywhere within the rear yard. *(Amended 9/21/04)*

**3. Side Line Fences**

Except as otherwise provided in this section, no fence or free-standing wall which exceeds six (6') feet in height shall be erected along a side lot line or anywhere within the side yard, except that no fence over four (4') feet in height shall be erected in any front yard. *(Amended 9/21/04)*

**4. Enclosing Rear Yard**

Notwithstanding the provisions in this section, a six (6') foot high fence may be erected to enclose the rear yard. Said enclosure shall run from the side lot line generally parallel to the rear yard line, to the rear most point of the foundation of the principal building. *(Amended 9/21/04)*

## **5. Enclosing Side Yard**

Notwithstanding the provisions in this section, a six (6') foot high fence may be erected to enclose the side yard. Said enclosure shall run from the side lot line generally parallel to the front yard line, to the front most point of the foundation of the principal building. *(Amended 9/21/04)*

### ***E. Fences and Walls in General Business District***

1. No fence or free-standing wall that exceeds eight (8') feet in height shall be erected along any lot line or within any yard, and no fence shall be erected along, or within ten (10') feet of the front lot line.

2. Where a non-residential use in the General Business District adjoins a residential use, the height of any fence or free-standing wall at the property boundary line or within the yard between the adjoining properties shall not exceed six (6) feet in height. *(Amended 9/21/04)*

### ***F. Fences in Corner Lots and Flag Lots***

#### **1. Corner Lots**

In all districts, except the General Business District, no fence, wall, plants or other elements exceeding 24 inches in height, measured from the elevation of the curb, shall be located or allowed to remain in the triangular area formed by connecting the points on each curb located 40 feet from the theoretical point of intersection of the curb lines. *(Amended 9/21/04)*

#### **2. Flag Lots**

No fence or free-standing wall over four (4') feet shall be permitted in any portion of the access strip serving a flag lot.

**G. Retaining Walls in All Districts**

(1) All retaining walls in excess of six (6') feet in height which shall be constructed after this local law becomes effective, shall be referred to the Planning Board by the Building Inspector for site plan review in accordance with the requirements of Section 11. In addition, the Planning Board is to consider the size in relation to the adjoining properties and its visual effect on the character of the neighborhood. In making this determination, the Planning Board shall consider appropriate mitigations and safety issues with respect to the design of the wall.

(2) In the case of existing retaining walls, any repairs or replacement in kind are exempt from this provision.

(3) Height of Fence, Free-Standing Wall, or Retaining Wall:

If the height of a retaining wall exceeds six (6') feet, any fence or free-standing wall erected on top of a retaining wall may not exceed four (4') feet in height as measured from the top of the retaining wall. Where the height of a retaining wall is less than six (6') feet, the total height of the retaining wall and the fence or free-standing wall, shall not exceed ten (10') feet. In any case, a fence or free-standing wall on top of a retaining wall shall not exceed the height as set forth in this local law.

**H. Fence Posts or Supporting Members**

In all districts, a fence or free-standing wall shall be erected with the smooth, finished or better side facing out toward the adjoining lot or abutting street; and, all fence posts or supporting members shall be placed on the inside of the fence or wall. In the case of a fence erected on top of a retaining wall, all fence or supporting members must be embedded in the wall. In the case of a fence or wall constructed before the effective date of this section, the requirements of this section shall

apply upon the replacement of that fence or wall.

***I. Duty to Maintain***

Fences, walls and the area between their exterior side and the nearest property line (or the nearest curb line if there is an abutting street) shall be properly maintained at all times; broken, cracked, rotted or rusted structural components shall be removed or repaired promptly. A property owner who fails to provide proper maintenance may, be required to remove the fence or wall.

***J. Persons Eligible to Appeal***

For the purposes of this section, a person who may claim to be aggrieved must be an owner of a lot where a fence or free-standing wall has been erected or is sought to be erected or must be an owner or occupant of a lot which adjoins such lot or is situated on the opposite side of a street across from such lot.

***K. Fences or Walls Prohibited in All Districts***

In all districts, the following are specifically prohibited:

- Metallic, brightly colored, reflective or light in color chain link fences.
- Barbed wire fences or fences using razor wire or any other type likely to cause physical injury to persons or animals;
- Fences or walls erected in such a manner as to inhibit or divert the natural drainage flow or cause the blockage or damming of surface water creating ponding; or
- Fences or walls which may create a fire hazard or other dangerous condition or which may result in obstruction to effective fire fighting;

Use of a fence during temporary construction shall be an exception to this section

provided a permit has been obtained.

**L. Fences and Walls Prohibited in All Residence Districts, RB, DSC, ORB, and RTD**

In all Residence, RB, DSC, ORB, and RTD districts, the following are specifically prohibited:

- Chain link fences having an unfinished or jagged top edge; and, chain link fences having the opening spaces between wires covered by fabric sheeting or by strips of plastic or other material woven through the open spaces; in the case of a fence constructed before the effective date of this section, the requirements of this section shall apply upon the replacement of that fence or wall.
- Temporary fences, such as snow fences or expandable and collapsible fences, unless necessary for use on sites under construction or for snow control; canvas and/or cloth fences, except when necessary for protection of shrubs and vegetation.
- Any type of chain link fence in a front yard or on a front division line.

## **SECTION 9. GENERAL REQUIREMENTS**

### **A. *Conformity Required***

No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located or is to be moved.

### **B. *Completion of Structures for Which Permit Has Been Issued***

Nothing in this local law shall be deemed to require any change in the plans, construction or designated use of any building for which a permit was duly issued and on which actual construction was lawfully begun prior to the adoption of this local law, or any amendment thereto, and upon which building actual construction has been diligently carried on. Actual construction is hereby defined to be the actual placing of construction materials in their permanent position, fastened in a permanent manner; except that where a basement or cellar is being excavated, such excavation shall be deemed to be actual construction; or where demolition or removal of an existing structure has been substantially begun preparatory to rebuilding, such demolition and removal shall be deemed to be actual construction; provided that actual construction work shall be diligently carried on and the building completed within twelve (12) months from the passage of this local law or applicable amendment.

### **C. *Subdivision Of A Lot***

#### **1. Authority**

The Town of Eastchester Planning Board is hereby authorized and empowered to approve plats for subdivisions, with or without new streets or highways, and to pass and approve the development of plats already filed.

## **2. Purpose**

These regulations are established to require that every person or corporation who as owner or agent subdivides real property into lots, plots, blocks or sites, with or without streets, for the purpose of offering such lots, plots, blocks or sites for sale to the public, regardless of how they are conveyed or for what kind of land use they are intended, file in the office of the County Clerk a map thereof. Every such subdivision map of property in the Town of Eastchester before the filing thereof shall have endorsed, in writing, on its face the approval of the Town of Eastchester Planning Board.

## **3. Subdivision Policy**

The Planning Board declares that these regulations for the subdivision of land for various purposes are promulgated to provide for the orderly growth and coordinated development of the municipality and to assure the comfort, convenience, safety, health and welfare of its people, and further, that the approval of such subdivision shall be based on the following considerations:

- A. Conformance with the various parts of the Comprehensive Plan of the Town of Eastchester as adopted on February 18, 1997 and Zoning Law.
- B. Recognition of a desirable relationship to the general land form, its topographic and geologic character, to natural drainage and ecological concerns.
- C. Recognition of desirable standards of subdivision design for pedestrian and vehicular traffic, surface water runoff, utility services and building sites for the land use contemplated.
- D. Encouragement of flexible subdivision design to promote the planning objectives of the Comprehensive Plan of the Town of Eastchester as adopted on February 18, 1997, to realize development and maintenance economies and to provide for a variety of housing types.
- E. Provision of such facilities as are desirable adjuncts to the contemplated use, such as parks, recreating areas, school sites, firehouses and off-street parking.
- F. Preservation of such natural resources and assets as lakes, ponds, streams, marshes, flora, fauna, general scenic beauty and historic features of the municipality.

## **4. Definitions**

As used in this section, the following terms shall have the meanings indicated:

### **CONDITIONAL APPROVAL OF A FINAL PLAT--**

Approval of the final plat subject to conditions set forth by the Planning Board in a resolution conditionally approving such plat. Such conditional approval does not qualify a



final plat for recording nor authorize issuance of building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and recording of the plat in the office of the County

CUL-DE-SAC - A short dead-end street terminating in a vehicular turnaround area.

EASEMENT - A restriction established in a real estate deed or other recordable document to permit the use of private land by a public agency or a public utility for specified purposes or to protect some special quality of the private land for specified purposes.

EASEMENT, LIMITED ACCESS - A restriction established in a real estate deed or other recordable document to control access from private land to public streets or other public areas.

FINAL PLAT APPROVAL - The signing of a final plat by a duly authorized officer of the Planning Board after a resolution granting final approval of the plat or after conditions specified in a resolution granting conditional approval of the plat are completed. Such final approval qualifies the plat for recording in the office of the County Clerk.

LICENSED PROFESSIONAL ENGINEER OR SURVEYOR - A person licensed as a professional engineer or licensed as a land surveyor by the State of New York.

LOT - The unit or units into which land is divided, either as undeveloped or developed sites, regardless of how they are conveyed. "Lot" shall mean parcel, plot, site or any similar term.

MASTER PLAN - A Comprehensive Plan of the Town of Eastchester as adopted by the Town Board for the future growth, protection and development of the municipality, affording adequate facilities for housing, transportation, comfort, convenience, public health, safety and general welfare of its population.

OFFICE OF THE PLANNING BOARD - for the purpose of receiving applications and keeping records, the Building Inspector shall be the "Office of the Planning Board."

PLANNING BOARD - The duly appointed Planning Board of the municipality.

PLAT:

- A. FINAL PLAT - A drawing, ink on linen or Mylar, in final form, showing a proposed subdivision containing such additional detail as required by these regulations for a preliminary plat and the modifications, if any, required by the Planning Board at the time of approval of the preliminary plat, if such preliminary plat has been so approved.
- B. PRELIMINARY PLAT - A drawing clearly marked "PRELIMINARY PLAT,"

prepared in a manner prescribed by these regulations, showing the layout of a proposed subdivision, including but not restricted to road and lot layout, lot size and area and approximate dimensions, key plan, topography and drainage, all proposed facilities, including preliminary plans and profiles, at a scale and detail prescribed by these regulations.

**SKETCH PLAN** - A sketch of a proposed subdivision showing the information specified in of these regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of these regulations.

**STREET AND HIGHWAYS:**

- A. **COLLECTOR STREET** - A street, generally serving several subdivisions or a comparable low-density area, designed to have considerable continuity and to accommodate low to moderate speeds and low to medium traffic volumes and intended to channel traffic from local streets to highways.
- B. **EXPRESSWAY or THOROUGHFARE** - A highway, usually under the jurisdiction of the county or state, designed to have extensive continuity and to accommodate moderate to high speeds and moderate to heavy traffic volumes and intended to connect important centers of development or through traffic.
- C. **LOCAL STREET** - A street, usually within a subdivision, designed to have limited continuity and to accommodate low speeds and very low traffic volumes and intended solely to provide access to abutting properties within a limited area.
- D. **MARGINAL ROAD** - A street, within a subdivision, located on a separate right-of-way parallel and adjacent to a highway designed to provide access to abutting properties without interrupting highway traffic except at widely spaced access points.

**SUBDIVIDER** - Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof, as defined herein, either for himself or others in which latter case their names shall also appear on the application for subdivision.

**SUBDIVISION:**

- A. **MAJOR SUBDIVISION** - A division of land into two (2) or more lots for immediate or future sales or for building development in such a way as to require one (1) or more new streets to be constructed, or a division of land into five (5) or more lots along an existing street or highway.
- B. **MINOR SUBDIVISION** - A division of land into fewer than five (5) lots along an existing public road in such a way as to require no new streets to be constructed.

## **D. Subdivision Procedure**

### **1. Sketch Plan**

- (1) The subdivider familiarizes himself with these subdivision regulations and the Zoning Law. These are available at the office of the Town Clerk.
- (2) The subdivider submits a sketch plan to the Office of the Planning Board.
- (3) Planning Board approves, disapproves or modifies the sketch plan and classifies it as a minor or major subdivision at a regular meeting attended by the subdivider or his representative.

### **2. Major Subdivision**

- (1) The subdivider submits the preliminary plat, together with the fee and supporting material, including topographic map, road and drainage profiles, to the Office of the Planning Board.
- (2) The Planning Board holds a public hearing, as required by law, on the preliminary plat.
- (3) The Planning Board either approves, with or without modification, or disapproves the preliminary plat.
- (4) The subdivider submits the final plat, together with supporting material, to the Office of the Planning Board.
- (5) The Planning Board may hold a public hearing or waive such public hearing on the final plat if it is deemed to be in substantial agreement with approved preliminary plat.
- (6) The Planning Board may either conditionally approve, with or without modifications, disapprove or grant final approval and authorize the signing of the final plat.
- (7) The Planning Board advises the subdivider of required public improvements park dedication provisions and performance bond or letter of credit amount.
- (8) The subdivider posts the required performance bond or letter of credit guaranteeing the installation of required public improvements or furnishes proof of the satisfactory completion of the same.
- (9) The subdivider pays the inspection fee, and in cases where the Planning Board finds that it is in the best interest of the municipality to waive the dedication of land for park purposes, pays the recreation fee in an amount as determined by the Town Board.

- (10) The Planning Board Chairman or Secretary signs final plat.
- (11) The subdivider files the final plat in the office of the County Clerk, and submits a copy of the filed map to the Building Inspector.
- (12) The Building Inspector issues building permits upon proper application by the subdivider.
- (13) The Infrastructure and public improvements shall be installed inspected and approved by those agencies having jurisdiction prior to the issuance of any building permit by the Building Inspector.
- (14) The subdivider requests release of performance bond or letter of credit.
- (15) The Planning Board may permit the subdivider to install the required improvements without posting a bond. In that case, the procedure is the same as that outlined above, in that no building permit will be issued until completion of such improvements and:
  - (a) Instead of posting a performance bond, a subdivider installs required public improvements within a period of time established by the Planning Board, subject to the same inspection fee and procedure as that set forth for public improvements under the performance bond procedure, and the subdivider will be required to obtain a building permit for the installation and post a maintenance bond.
  - (b) Before the Chairman or Secretary signs the final plat, the subdivider must complete all improvements to the satisfaction of the Building Inspector, Superintendent of Highways or any other agency having jurisdiction.

### **3. Resubdivision**

- (1) For resubdivision of already filed unimproved final plats, the procedure shall be the same as outlined above.
- (2) If the filed final plat does not conform with these standards and does not have Planning Board approval, it shall be processed as a new subdivision proposal.

### **4. Minor Subdivision**

- (1) The subdivider submits the minor subdivision plat, together with supporting material, to the Office of the Planning Board.
- (2) The Planning Board approves or disapproves the minor subdivision plat at a regular meeting after public hearing as required by law.

## **E. General Procedures**

- A. Every application or submission to the Planning Board, whether for approval of a sketch plan, site plan, preliminary plat or final plat or for a special permit, shall be accompanied by a letter from the applicant which shall state whether or not the submission is in total conformance with the Zoning Law, the Freshwater Wetlands Protection Law, the subdivision regulations, the Comprehensive Plan of the Town of Eastchester as adopted on February 18, 1997 and all laws of the Town of Eastchester and of all applicable laws of the County of Westchester and of the State of New York; and if the submission is not in such total conformance, the letter shall state in detail each and every item in the submission which is not in conformance.
- B. Any statement or indication of nonconformity which is made on a plat or plan or other document which is part of the submission shall not substitute for the requirement that the applicant's letter must detail each and every item in the submission which is not in conformance.
- C. In the event that the applicant shall fail to set forth any item which is not in such required conformance, the submission shall be deemed to be incomplete and any approval of the submission or any approving action which may be taken by the Planning Board shall be null and void and any subsequent actions taken by any agency or employee of the Town of Eastchester, including but not limited to the issuance of a building permit, shall likewise be null and void.
- D. As part of the application or submission procedure, the applicant shall completely fill out the application form that shall be required by the Planning Board, and no application or submission shall be entertained by the Planning Board if the application form is incomplete.

### **1. Purpose of Sketch Plan**

The sketch plan shall be required to determine if the subdivision shall be processed as either a minor or major subdivision and to enable the subdivider to save time and expense in reaching a general agreement with the Planning Board as to form the layout and objectives of these subdivision regulations.

### **2. Sketch Plan Procedure**

- A. Any owner of land shall, as a first step prior to subdividing or resubdividing land, submit to the Office of the Planning Board, at least twenty-one (21) days prior to the regular meeting of the Planning Board at which the sketch plan is to be discussed, ten (10) copies of a sketch plan of the proposed subdivision, which shall comply with the standards set forth herein, together with an application fee for sketch plan review for the proposed minor subdivision or major subdivision.

- B. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the requirements of these subdivision regulations for street improvements, drainage, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information.
- C. The Planning Board shall determine whether the subdivision is a minor or major subdivision, as defined in these subdivision regulations.
- D. The Planning Board may require, when it deems it necessary for the protection of the public health, safety and welfare, that a minor subdivision comply with all or some of the requirements specified for major subdivisions.
- E. The Planning Board shall determine whether the sketch plan meets the purpose of these subdivision regulations and shall, where it deems it necessary, make specific recommendations, which may be oral or in writing, to be incorporated by the applicant in the next submission to the Planning Board.
- F. Subsequent to the sketch plan classification as to minor or major subdivision, the procedure to be followed by the subdivider shall be as follows:
  - (1) If the subdivision is classified as a minor subdivision, the subdivider shall comply with the procedures outlined herein.

### **3. Expiration of Sketch Plan Approval**

Planning Board classification of a subdivision and approval of the sketch plan shall expire six (6) months after the date of such formal action unless a proper application for a minor or major subdivision has been submitted to the Planning Board. No further Planning Board action will be taken after such expiration until a new sketch plan has been submitted.

### **4. Required Sketch Plan Data**

The sketch plan shall be based on Tax Map information or land survey and other available data, at a scale not less than 1" = 20' to the inch, to enable the entire tract to be shown on one (1) sheet. The sketch plan shall be submitted showing the following information:

- A. The location of sections to be subdivided and their priority in relation to the entire subdivision tract, and the distance to the nearest existing street intersection.
- B. All existing structures, wooded areas, marshes, lakes, ponds, streams, wetlands and other significant physical features, including contours of not more than two (2) intervals in the subdivision and within two hundred (200') feet of its boundaries.
- C. The name of the landowner and subdivider, including members of any corporation or

similar agency; and the name of all adjoining property owners as disclosed by the most recent municipal tax records.

- D. The Tax Map sheet, block and lot numbers, or signed land survey.
- E. All utilities available, and all streets which are either proposed, mapped, or built.
- F. The proposed pattern of lots, including typical lot width and depth, street layout, recreation areas, systems of drainage, sewerage and water supply within the subdivided area.
- G. All existing restrictions on the use of land, including easements, covenants or zoning district lines.
- H. A tabulation of the requirements of the Zoning Law indicating compliance with requirements of the Zoning Law or areas that do not comply with the minimum requirements of the Zoning Law and locations of those specific areas of noncompliance.

*(Amended 5/20/08)*

## **5. Purpose of Preliminary Plat**

- A. The preliminary plat and supporting material for the proposed subdivision constitute the material to be officially submitted to the Planning Board. They show the general design of the subdivision and its public improvements to the extent necessary for the Planning Board, after holding a public hearing, to indicate to the subdivider that the proposal is either approved, with or without modifications, and thus serve as a basis for detailed design of the final plat, or is disapproved.
- B. Where the application has been denied by the Board, a new application cannot be submitted for at least six (6) months, unless new pertinent facts are presented. Where such a new application is submitted, it shall meet all the requirements for an original application.
- C. Approval of the preliminary plat does not constitute an approval of the final plat, nor is it a valid basis for the construction of site improvements or other commitments which depend upon its design characteristics.
- D. The preliminary plat shall serve as a key map to final plats subsequently laid out in sections.
- E. If a revision of the proposed subdivision is found necessary, the preliminary plats shall be revised accordingly to keep the files of the Planning Board current.

## **6. Preliminary Plat Procedure**

- A. The submission of a preliminary plat shall consist of the following items:
  - (1) Application for the subdivision of land.
  - (2) The preliminary plat, ten (10) paper prints.
  - (3) Subdivision application fee.
- B. The subdivider shall file his complete submission for the preliminary plat, including the application fee, at the Office of the Planning Board. A proposed submission which does not include all the required drawings and documents will not be accepted by the Planning Board. (*Amended 5/20/08*)
- C. The Office of the Planning Board shall deliver one (1) copy of the preliminary plat to a Building Inspector or Town Engineer, and the Building Inspector or Town Engineer shall report his evaluation of the tentative drainage plan and street profiles to the Planning Board.
- D. If the subdivision fronts on a county road, a copy of the preliminary plat shall be referred to the County Department of Public Works under Section 239 of the General Municipal Law, and/or if the subdivision proposes a new road which intersects with a county or state highway, a copy shall be referred to the county Department of Planning under Section 239 of the Westchester County Administrative Code. The Office of the Planning Board shall deliver copies of the preliminary plat and such other materials as may be required fifteen (15) days prior to the public hearing.
- E. The Planning Board shall hold a public hearing within sixty-two (62) days of the date of submission. (*Amended 5/20/08*)
- F. The Planning Board shall either approve, with or without modifications, or disapprove the preliminary plat within sixty-two (62) days after the public hearing on such plat. When approving a preliminary plat, the Planning Board shall state, in writing, the modifications, if any, deemed necessary for submission of the final plat.

## **7. Subdivision Application Fee**

Each application for preliminary subdivision approval shall be accompanied by an application fee as set forth in the fee schedules of the Town's local laws.

## **8. Expiration of Preliminary Plat Approval**

Planning Board approval of a preliminary plat shall expire six (6) months after the date of such formal action unless a proper application for approval of the final plat has been submitted to the



Planning Board prior thereto. If the subdivision is to be platted in sections, the approval of the preliminary plat shall expire in the event that the second section and the remaining sections are not submitted within a reasonable period of time, in the judgment of the Planning Board. No Planning Board action will be taken after such expirations until new applications and filing fees are submitted.

## **9. Preliminary Plat Mapping Requirements**

The preliminary plat shall be prepared by a licensed professional engineer or land surveyor in accordance with and shall show the information noted in this section.

- A. Size and type of drawing.
  - (1) Sheet size shall be either:
    - (a) Twenty-four by eighteen (24 x 18) inches;
    - (b) Thirty-six by twenty-four (36 x 24) inches; or
    - (c) Forty-two by thirty (42 x 30) inches.
  - (2) The original drawing may be done with pencil on vellum tracing paper, with scaled dimensions and freehand lettering.
  - (3) The scale of the drawing shall be not more than one hundred (100') feet to the inch, and shall be a common engineering scale.
- B. Title block.
  - (1) Name of proposed subdivision.
  - (2) Location by postal district.
  - (3) Name and address of the subdivider.
  - (4) Name, address, license number and seal of the professional engineer and land surveyor preparing the drawings.
  - (5) Total acreage for the entire tract.
  - (6) Total number of proposed lots.
  - (7) "Preliminary Plat" must show on map.
- C. Other notations to be included.
  - (1) Date of original preparation and of each subsequent revision.
  - (2) Scale and North point.

- (3) Certification by the licensed land surveyor that the topography and boundary shown resulted from an actual survey and the date of that survey.
- D. Key map at a scale of six hundred (600') feet to the inch.
- (1) Proposed subdivision streets.
  - (2) Surrounding streets, existing, and proposed.
  - (3) Relationship to nearby highway or collector street.
  - (4) Any municipal boundary within five hundred (500') feet of the premises.
- E. Approximate boundaries and owners of adjacent properties and boundaries and names of adjacent subdivisions.
- F. Subdivision boundary line (heavy solid line) and survey data.
- G. Other boundary lines to be shown.
- (1) Zoning districts.
  - (2) School districts.
  - (3) Incorporated Towns.
- H. Topographic contours at two-foot intervals in the United States Coast and Geodetic Survey datum of mean sea level, or where impractical to use a mean sea level datum, an assumed elevation may be used at the discretion of the Planning Board.
- (1) Larger intervals may be used in cases where the terrain is unusually steep.
  - (2) Contours shall extend two hundred (200') feet beyond the boundaries of the subdivision.
- I. Existing site conditions to be shown.
- (1) All street rights-of-way on the subdivision and within two hundred (200') feet of its boundaries, giving:
    - (a) Location, name and width.
    - (b) Center-line elevation at intersections and other critical points.
    - (c) Designation whether highways are state, county, town or village.
    - (d) Proposed state, county, town or village highways as of that date.
  - (2) Other rights-of-way and easements on the subdivision and those within two hundred (200') feet of its boundaries which will influence the subdivision

design to be shown:

- (a) Location, identification and width.
  - (b) Restrictions of use, if any.
- (3) All drainage structures on the subdivision and within two hundred (200') feet of its boundaries, indicating:
    - (a) Location and type of structure.
    - (b) Invert elevations and similar data where applicable.
  - (4) Other utility structures, such as water mains and gas mains and power lines, on the subdivision and those within two hundred (200') feet of its boundaries which will influence the subdivision design.
  - (5) All marshes, lakes, ponds, streams, wetlands, land subject to periodic or occasional flooding and similar features located on the subdivision or within two hundred (200') feet of its boundaries.
  - (6) Wooded areas and single trees with a diameter of four (4") inches or more, measured three (3') feet above the base of the trunk.
  - (7) Test hole data.
    - (a) Date, location and graphic representation of findings for all test holes, including groundwater level.
    - (b) Locations shall include critical points and areas where drainage structures requiring seepage are to be constructed.
  - (8) State, county or town parks, schools or other public lands and historic sites and buildings.
  - (9) Buildings and structures located on the subdivision and those within two hundred (200') feet of its boundaries which will influence the subdivision design.
- J. Proposed site conditions. The proposed street and lot layout and drainage plan shall cover the entire holding of the subdivider, indicating:
- (1) Street layout:
    - (a) Location, name and right-of-way width.
    - (b) Center-line elevation at intersections and at principal changes in gradient.

- (c) Center-line gradient shown in percent slope.
  - (d) Center-line profile at a scale of not less than one (1") inches equals fifty (50') feet horizontally and one (1") inch equals five (5') feet vertically.
  - (e) Roadway width.
- (2) Lot layout:
- (a) Lot lines and dimensions to the nearest foot.
  - (b) Identification of lots or parcels for special uses, whether they are to be offered for dedication or not.
  - (c) Layout for all reserved parcels, in conformance with existing zoning regulations, shown in a broken line.
- (3) Preliminary stormwater drainage system plan:
- (a) Locations, types and designs of catch basins and manholes.
  - (b) Locations, diameters and types of connecting pipes.
  - (c) Both plan and profile shall be shown.
- (4) Preliminary sanitary sewer system plan:
- (a) Locations, types and designs of manholes.
  - (b) Locations, diameters and types of connecting pipes.
  - (c) Both plan and profile shall be shown.
- (5) Stormwater retention plan:
- (a) Computations of existing and proposed stormwater runoff data for two-, five-, ten-, twenty-five-, fifty- and one-hundred-year storms.
  - (b) Proposals for water retention and/or control so as not to increase the rate of runoff for all of the above listed storms.
- (6) Integrated plot plan:
- (a) Indicate existing and proposed grades on the property.
  - (b) Indicate existing trees to be saved and trees to be removed.
  - (c) Show provisions for protection of trees during construction and

special construction details for saving trees in cut and fill areas.

**10. Purpose of Final Plat**

- A. The final plat and supporting material for a proposed subdivision constitute the complete development of the subdivision proposal and include any modifications resulting from Planning Board approval of the preliminary plat as well as the detailed layout drawings for the public improvements. Upon final approval by the Planning Board, this complete submission becomes the basis for the construction of the subdivision. The plat itself must be recorded at the office of the county Clerk to have legal status.
- B. The final plat shall be an accurate survey of the properties resulting from the subdivision.

**11. Final Plat Procedure**

- A. The submission of a final plat shall consist of the following items:
  - (1) Application for final plat approval.
  - (2) The final plat, ten (10) paper prints, including signed approval by the County Department of Health.
  - (3) The drainage and stormwater retention plan, integrated plot plan, erosion control plan, street profiles and improvement plans, eight (8) paper prints.
  - (4) Letters directed to the Planning board and signed by a responsible official of the electric power agency and water service agency which have jurisdiction in the area, assuring provision of necessary services to the proposed subdivision, if applicable.
  - (5) Letters, in appropriate cases, directed to the Planning Board, signed by a responsible official of the State Department of Transportation or the County Department of Public Works, approving proposed construction on state or county rights-of-way.
  - (6) Schedule of lot areas for all lots measured accurately to the nearest square foot, three (3) copies.
  - (7) Offers of dedication for all properties, including street rights-of-way, to be conveyed to the municipality, or payment of funds in lieu of an offer of dedication of park or playground land.
  - (8) All easement agreements shall be submitted in a form ready for filing.

- B. The subdivider shall file his complete submission for the final plat at the Office of the Planning Board within six (6) months after the date of the approval of the preliminary plat by the Planning Board. A proposed submission which does not include all the required drawings and documents will not be accepted by the Planning Board. A submission shall be filed at least twenty-one (21) days prior to the regular meeting of the Planning Board at which the final plat is to be discussed. The date of the submission of the final plat shall be considered to be the date of such Planning Board meeting.
- C. The Office of the Planning Board shall deliver one (1) copy of the final plat, together with two (2) copies each of the drainage plan, grading plan, street profiles and other technical data to the Building Inspector, and the Building Inspector or Town Engineer when required, shall report his approval to the Planning Board by returning one (1) signed copy of his approval, or if disapproved, a written statement indicating the reasons for his disapproval.
- D. The Building Inspector or Town Engineer shall prepare a performance bond estimate and shall deliver the same to the Planning Board, along with his approval of the drainage plan, street profiles, grading plan and other technical submittals.
- E. The Planning Board may hold a public hearing on the final plat or may waive such public hearing if the final plat is deemed to be in substantial agreement with the approved preliminary plat.
- F. If the final plat is not in substantial agreement with the approved preliminary plat, and a public hearing is to be held and if the subdivision fronts on a county road, a copy of the final plat shall be referred to the County Department of Public Works under Section 239 of the General Municipal Law and/or if the subdivision proposes a new road which interacts with a county or state highway, a copy shall be referred to the county Department of Planning under Section 277.61 of the Westchester county Administrative code. The Office of the Planning Board shall deliver copies of the final plat and such other materials as may be required fifteen (15) days prior to the public hearing.
- G. If the public hearing is held, it must be held within sixty-two (62) days of the date of submission of the final plat. The subdivider shall advertise the public hearing at least five (5) days prior to the hearing date as required by Section 276 of Article 16 of the Town Law.
- H. Within sixty-two (62) days after the date of the public hearing, if one is held, or within sixty-two (62) days after the date of submission of the final plat, the Planning Board shall grant either approval, disapproval or conditional

approval with or without modifications.

- I. If the final plat is approved or receives conditional approval, with or without modifications, the subdivider shall carry out the following steps prior to obtaining the signature of the Chairman or Secretary of the Planning Board:
  - (1) Make all required corrections or modifications to the satisfaction of the Planning board within one hundred eighty (180) days of the Planning Board decision.
  - (2) Pay the required inspection/schedule fee at the Office of the Planning Board.
  - (3) Submit copies of the corrected final plat as follows:
    - (a) Two (2) opaque cloth litho prints in reproducible Mylar.
    - (b) One (1) tracing cloth litho print in a reproducible Mylar.
    - (c) The original drawing in black India ink on tracing cloth or Mylar.
  - (4) Obtain a performance bond or letter of credit in the amount of the bond estimate and submit the same to the Town Attorney for approval.
- J. The Chairman or Secretary shall sign the final plat for the Planning Board indicating approval. Such signature shall not be given until the form of the performance bond has been approved by the Town Attorney and until the inspection fee and recreation fee, if any, has been paid.
- K. The subdivider shall file the two (2) opaque cloth litho prints of the approved final plat (excluding supporting drawings and documents) in the office of the County Clerk or as required by that office.
- L. Planning Board approval of the final plat shall not be deemed an acceptance by the municipality of any street or other land shown as offered for dedication to public use.
- M. If the public improvements are to be installed without the posting of a bond, the Planning board approval shall be a conditional resolution and shall specify the time period within which the improvements are to be installed. The Planning Board shall finalize the resolution after the Building Inspector certifies that the public improvements shall be inspected and an inspection fee shall be required as in the case of improvements covered by a performance bond. For improvements installed without posting a performance bond, a building permit will be required for such improvements

along with the posting of a restoration bond.

## **12. Expiration of Final Plat Approval**

Planning Board approval of the final plat shall expire within thirty (30) days after the date of signing by the Chairman or Secretary of the Planning Board unless within such time the final plat shall have been filed in the office of the County Clerk. Expiration of an approval shall mean that any further action will require a new public hearing as well as a review of previous findings.

## **13. Final Plat Mapping Requirements**

The final plat shall be prepared by a licensed professional engineer or land surveyor in accordance with and shall show the information noted in this section:

- A. Size and type of drawing.
  - (1) Sheet size shall be either:
    - (a) Twenty-four inches by eighteen (24 x 18) inches;
    - (b) Thirty-six by twenty-four (36 x 24) inches; or
    - (c) Forty-two by thirty (42 x 30) inches.
  - (2) If more than one (1) sheet is required to accommodate a large subdivision, a clearly drawn match line shall be shown on both sheets and on the key map.
  - (3) The original drawing shall be done with India ink on linen tracing cloth or Mylar, with computed dimensions and careful lettering.
  - (4) Sufficient survey data shall be shown to determine readily the location, bearing and length of every street line, lot line, easement line and boundary line and to reproduce such lines upon the ground. The elements of such survey data shall be as determined by the Building Inspector or Town Engineer.
  - (5) Accurate dimensions shall be shown to the nearest hundredth of a foot.
  - (6) The survey shall be tied in to the nearest established monument.
  - (7) The scale of the drawing shall be not more than eighty (80') feet to the inch and shall be a common engineering scale.
- B. Title block. The title block shall be the same as that required for the preliminary plat.
- C. Other notations to be included.



- (1) Date of original preparation and of each subsequent revision.
- (2) Scale and North point.
- (3) Offer of dedication as follows:

"The subdivider has irrevocably offered to cede title to the Town of Eastchester of the land areas designated for streets and all street improvements, including without limitation lights, light poles, storm, and sanitary sewers, signs, water mains and fire hydrants, widening of streets, drainage easements, parks, recharge basins and any other lands noted on this plat for dedication to the Town. Approval of this final plat does not constitute acceptance by the Town of the offer for dedication."

- (4) Certification of compliance with zoning as follows:

"This is to certify that all lots and parcels shown on this plat comply with the requirements of the Zoning Law of the Town of Eastchester.

Signature of Engineer/Surveyor

Date \_\_\_\_\_"

- (5) Certification of approval as follows:

"This is to certify that this subdivision final plat has been approved by the Planning Board of the Town of Eastchester by resolution of approval dated

By:  
(Chairman's or Secretary's signature)

Date: \_\_\_\_\_"

D. Key map of the entire subdivision shall be the same as that required on the preliminary plat, except that the area being submitted for final plat approval shall be shaded if it is only one (1) section of the entire subdivision.

E. Boundary lines to be shown.

- (1) Subdivision boundary line.
- (2) Zoning district(s).
- (3) School and fire district(s).

- (4) Incorporated village(s).
- F. Streets, lots and easements to be shown.
  - (1) Street rights-of-way and widening of street rights-of-way:
    - (a) Location, name and right-of-way width.
    - (b) Notation of offer of dedication on widenings.
  - (2) Lots:
    - (a) Lot lines and accurate dimensions.
    - (b) Identification numbers by a suitable system of consecutive numbers.
  - (3) Drainage easements and recharge basins:
    - (a) Location and identification.
    - (b) Width and other dimensions necessary for description.
  - (4) Special parcels:
    - (a) Description of proposed action and use, including a note where an officer of dedication is being made.
    - (b) Boundary lines with accurate dimensions.
- G. Water supply system to be shown.
  - (1) Locations and sizes of water mains.
  - (2) Locations of shutoff valves.
  - (3) Locations of fire hydrants.
  - (4) Additional information as required by the County Department of Health.
- H. Sanitary waste disposal system: such information as required by the County Department of Health and the municipality.
- I. Monuments to be shown.
  - (1) Location of each monument, existing and proposed, shall be shown by this symbol «
  - (2) One (1) monument shall be located at each corner of the subdivision boundary and at each change in direction of the boundary, or as determined

by the Building Inspector or Town Engineer.

- (3) Monuments shall be located at each street intersection and at each point of curvature and points of tangency, or as determined by the Building Inspector or Town Engineer.
- (4) Additional monuments shall be placed at points determined by the Building Inspector or Town Engineer.

#### **14. Drainage Plan and Street Profiles**

- A. The drainage plan and street profiles are declared to be an integral part of the final plat submission.
- B. The performance bond and the inspection service shall be based on the subdivision improvement plans, the final plat itself and these subdivision regulations.
- C. The design of the drainage plan and street profiles shall comply with the design standards set forth in these subdivision regulations and the specifications established by the Building Inspector or Town Engineer.
- D. Drainage plan requirements.
  - (1) Sheet size shall be either:
    - (a) Twenty-four by eighteen (24 x 18) inches;
    - (b) Thirty-six by twenty-four (36 x 24) inches; or
    - (c) Forty-two by thirty (42 x 30) inches.
  - (2) A complete drainage system for the entire subdivision, with development stages for each of the final plat sections.
  - (3) The outline of all street rights-of-way, drainage easements, recharge basins and other related features.
  - (4) Precise street center-line gradients, in percentages, indicated with arrows to establish the direction of flow.
  - (5) Critical street center-line elevations.
  - (6) Boundaries of stormwater runoff watersheds for each major drainage facility and their area in acres.
  - (7) Identification of drainage structures by type and whether existing or proposed.
  - (8) All appropriate details and dimensions necessary to clearly explain the

proposed construction, including type of construction, material, size, pitch and invert elevations, among other things, in accordance with good engineering practice.

- (9) Locations of test holes, description of soil conditions and water level at recharge basin locations and such other points as required by the Municipal Engineer.
- (10) Data for recharge basins, which shall include bottom elevation and high-water elevation, water capacity and elevations along tops of berms.
- (11) Erosion control plan, during and after construction.
- (12) Listing of construction sequence on the erosion control plan.

E. Street profile requirements.

- (1) Drawings shall be made on standard profile paper with the following scales:
  - (a) Horizontal scale: not less than one (1) inch equals fifty (50') feet.
  - (b) Vertical scale: not less than one (1") inch equals five (5') feet.
- (2) A profile for each proposed street and for any existing street in the subdivision or within two hundred (200') feet of its boundaries.
- (3) The center-line profile, existing or natural and proposed, the typical cross-section and a system of survey stations.
- (4) Notations as to percent of gradient, critical elevations and vertical curve data.
- (5) Locations and invert elevations of all drainage structures in streets rights-of-way.
- (6) Profiles of all stormwater and sewer lines passing through easements.

**F. Performance and Maintenance Bond**

**1. Purpose of Performance Bond**

A performance bond is to be posed by the subdivider to guarantee to the municipality that he will faithfully construct or cause to be constructed the required public improvements which were an integral part of his approved final plat; and, further, that the construction shall be completed within a reasonable specified period of time, which shall not exceed two and one-half (2 1/2) years from the date of approval.

## **2. Procedure for Performance Bond**

- A. A performance bond estimate shall be prepared by the Building Inspector or Town Engineer.
- B. The Planning Board shall pass a resolution either approving or modifying the performance bond estimate.
- C. The subdivider shall present his performance bond, executed on the standard performance bond form, to the Town Attorney for review as to form and sufficiency.
- D. The Town Attorney shall approve or disapprove the performance bond. If the performance bond is approved, it shall be filed with the Town Clerk, and the Town Clerk shall notify the Planning Board, in writing, of such filing.
- E. The chairman or Vice Chairman of the Planning Board shall not sign a final plat until notification by the Town Clerk of the filing of the performance bond.
- F. After construction of the public improvements covered by the performance bond and prior to release of the bond, the subdivider shall prepare a set of the approved drainage plans and street profiles amended to indicate as-constructed information. The subdivider then may apply to the Building Inspector or Town Engineer for a final inspection of the work. When the work has been completed to the satisfaction of the Building Inspector or Town Engineer, he shall recommend to the Town Attorney that the performance bond be released.
- G. In the event that the term of the performance bond expires prior to the completion of the public improvements, the Building Inspector or Town Engineer shall recommend to the Planning Board either that the term of the bond be extended to permit completion of the work by the subdivider or that the bond be declared in default. The Planning Board shall advise the Town Attorney by resolution if its recommendation is for default of the bond.
- H. The Town Attorney shall act on the release of or declaring of default on the performance bond.

## **3. Maintenance Bond**

- A. The maintenance bond is posted by the subdivider to guarantee to the Town its performance for the public improvements for two (2) years.
- B. The Building Inspector or Town Engineer will prepare the maintenance bond estimate for submission to the Town Attorney. The Town Attorney shall act with respect to the maintenance bond at such time as the Town Board considers dedication of the public improvements of any subdivision.

#### **4. Public Improvements Specifications**

- A. The following public improvements will be required and bonded, except where these subdivision regulations specifically waive the requirement or when the Planning Board waives the requirement by specific resolution:
  - (1) Street pavement.
  - (2) Curbs.
  - (3) Sidewalks.
  - (4) Storm drainage facilities.
  - (5) Street signs.
  - (6) Street trees.
  - (7) Water mains.
  - (8) Fire hydrants as specified by the Fire Commission (only when water mains are to be installed).
  - (9) Sewage disposal facilities as specified by the County Health Department and other appropriate agencies.
  - (10) Streetlights.
- B. Public improvements for which the subdivider has been bonded shall be constructed in accordance with the construction specifications for subdivisions as adopted by the Town Board. Said specifications shall be drawn up by the Engineering Consultant for the Town for street illumination and sanitation facilities. The Building Inspector or Town Engineer shall be the Enforcement Officer thereof.

#### **5. Inspection**

- A. All public improvements shall be inspected by the Building Inspector or Town Engineer to ensure satisfactory completion.
- B. At least forty-eight (48) business hours notice shall be given to the Building Inspector or Town Engineer prior to any major construction or installation so that a representative of the Town may be present at the time the work is performed.
- C. The Building Inspector or Town Engineer shall be notified after each of the following preparatory phases of the work has been completed so that a representative of the Town may inspect the work:

- (1) Road subgrade.
  - (2) Curb forms.
  - (3) Sidewalk forms.
  - (4) Drainage pipe and other drainage structures, before backfilling.
  - (5) Water mains and hydrant connections, prior to backfilling.
- D. A final inspection of all improvements shall be made by the Building Inspector or Town Engineer to determine whether the work is satisfactory and in substantial agreement with the approved final plat drawings and the construction specifications for subdivisions. The general condition of the site shall also be considered.
- E. Testing of completed sewage facilities, with reports to the Westchester County Department of Health, shall be performed by the Building Inspector or Town Engineer at the expense of the developer.

## **6. Fees**

An inspection fee of four percent (4%) of the amount of the performance bond shall be paid to the municipality prior to the time that the Chairman or Vice Chairman of the Planning Board signs the final plat. If the public improvements are to be installed without the posting of a bond, the inspection fee shall be four percent (4%) of the estimated amount of a performance bond for the required public improvements.

### ***G. Minor Subdivision Plat***

#### **1. Purpose**

- A. The minor subdivision plat and supporting materials constitute the complete submission for such a subdivision and should include the recommendations resulting from the Planning Board's review of the sketch plan as well as the details of any public improvements. After public hearing and approval by the Planning Board, this complete submission becomes the basis for the construction of the subdivision. The subdivision plat must be recorded at the office of the County Clerk to have legal status.
- B. The subdivision plat shall be an accurate survey of the properties resulting from the subdivision.

#### **2. Procedure**

- A. In the case of a minor subdivision only, the submission of a minor subdivision plat shall consist of the following items:

- (1) Application for the subdivision of land.
- (2) The minor subdivision plat, sixteen (16) paper prints, including signed approval by the County Department of Health.
- (3) Subdivision application fee.
- (4) A copy of such covenants or deed restrictions as are intended to cover all or art of the tract.
- (5) Detailed information is required as determined by the Planning Board and the Building Inspector or Town Engineer.

B. The procedure for a minor subdivision plat shall be the same as that for a major subdivision final plat, where applicable, as set forth in these subdivision regulations.

### **3. Fees**

Each application for preliminary subdivision approval shall be accompanied by an application fee as set forth in the Zoning Law. At the time of submittal for a final subdivision approval, the applicant shall pay an application fee as set forth in the Zoning Law for each lot in the proposed subdivision, including all reserved parcels.

### **4. Expiration of Approval**

The provisions with regard to expiration of approval for a major subdivision final plat apply.

### **5. Mapping Requirements**

The provisions with regard to map requirements for a major subdivision final plat shall apply where applicable.

## ***H. Design Standards***

### **1. Land Use**

- A. The purposed land uses shown on a plat, whether they are for residential, business, industrial or any other land use, shall conform to the Comprehensive Plan of the Town of Eastchester as adopted on February 18, 1997 and the planning objectives on which it is based, as well as to the requirements of the Zoning Law of the Town.
- B. The arrangements of streets, building lots and other land uses shall be of such character that they can be used safely without danger to health or peril from fire, flood or other menace. (*Amended 9/21/04*)



- C. Subdivision designs shall indicate consideration for suitable separation and protection of different types of land uses, including highways. (*Amended 9/21/04*)

## **2. Dedication of Park Land**

- (1) Each plat shall have a park site in the proportion of not less than ten percent (10%) of the gross area of such plat, suitably located for playground or other recreational purposes, including passive recreational uses, unless the Planning Board shall determine that such park requirement, in whole or in part, cannot be properly located in any such plat or is otherwise not practical. In making such determinations, the Planning Board shall refer to the Comprehensive Plan of the Town of Eastchester as adopted on February 18, 1997 as well as to the terrain and the quality of alternate sites within the same local planning areas.
- (2) The Planning Board may require the subdivider to grade such park site in a manner appropriate for its projected use and compatible with its surroundings.
- (3) Where such park site incorporates a unique natural feature or a landmark, the subdivider shall be responsible for the protection of such feature or landmark from any destructive action during the course of the plat development.
- (4) In cases where the Planning Board determines that a suitable park site cannot be properly located within the plat, in whole or in part, the subdivider shall be required to pay a park fee to the Town equal in amount to ten (10%) per cent of the appraised value of the subdivided lot as per an appraiser acceptable to the Town Attorney. All such payments shall be held by the Town in a trust fund to be used by the Town exclusively for park, playground or other recreational purposes, including the acquisition of property.

## **3. Streets and Highways**

- A.
  - 1. Location, width and improvement of streets. Streets shall be suitably located, of sufficient width and adequately improved to accommodate prospective traffic and to afford satisfactory access to police, fire-fighting, snow removal or other road maintenance equipment, and shall be coordinated so as to compose a convenient system. Where a street connection is necessary for the appropriate development of adjoining land, the arrangement of streets shall include such provisions.
  - 2. No private road, street or highway shall be permitted.
- B. Widths of right-of-way. Each street shall be the right-of-way prescribed in the schedule in Subsection C(1) below.

C. Standards for street design.

(1) Streets shall meet the following design standards:

<b><i>STREET CLASSIFICATION</i></b>			
<b>Widths &amp; Grades</b>	<b>Local</b>	<b>Secondary</b>	<b>Business</b>
Minimum width of right-of-way (feet)	50	60	60
Minimum width of pavement, excluding curbs or gutters (feet)	30, except 36 where located in a multifamily residence district and 24 in R1.5; also see Subsection C(3) of this section		
Ordinary minimum radius of horizontal curves of street line (feet)	200	400	400
Ordinary minimum length of vertical curves at surface of pavement (feet)	Not less than 20 for each 1% algebraic difference in grade	Not less than 30 for each 1% algebraic difference of grade	200
Ordinary minimum length of tangents between reverse curves (feet)	50	150	200
Ordinary maximum grade	10%	8%	6%
Ordinary maximum grade	1.5%	1.5%	1.5%
Minimum sight distance (feet)	150	250	250

(2) Easements shall be fifteen (15') feet wide or more where specified.

(3) Grades of a cul-de-sac shall not exceed five percent (5%).

(4) The length of a dead-end cul-de-sac is limited to six (6) times the minimum lot width for the Zoning District. The Planning Board, at its discretion, may allow this length to be increased, provided that adequate provisions are made

for a secondary access for emergency vehicles to the site.

- D. Local streets shall be laid out so that their use for through traffic will be discouraged. Particular attention shall be given to eliminating possible bypasses around traffic signals and major intersections.
- E. Collector streets shall be provided to give easy access to and between local streets.
- F. Cul-de-sac.
  - (1) The use of cul-de-sac streets in a subdivision layout shall be minimized.
  - (2) The minimum radius for the right-of-way at the turnaround shall be sixty (60') feet and the curb radius shall be forty (40') feet, and the pavement shall be extended to the curb.
- G. Intersections.
  - (1) No more than two (2) streets shall intersect or meet at any one (1) point.
  - (2) Streets shall intersect one another at an angle of ninety degrees (90), where practicable.
  - (3) Intersections of major streets by other streets shall be at least eight hundred (800') feet apart, if possible. Cross streets (four-cornered intersections) shall be avoided in general. A distance of at least one hundred fifty (150') feet shall be maintained between center lines of offset intersecting streets. Within one hundred (100') feet of an intersection, streets shall be at approximately right angles. Grades shall be limited to no more than three percent (3%) within fifty (50') feet of an intersection. All street intersection corners shall be rounded by curves at the property line. In order to provide visibility for traffic safety, that portion of any corner lot shall comply with Section 8 (G)1 of this local law.
- H. Curves.
  - (1) The minimum center-line radius for a street curve shall be two hundred (200') feet on a local street and four hundred (400') feet on a collector street.
  - (2) Tangent distance of at least fifty (50') feet shall be provided between reverse curves.
- I. Corners.
  - (1) The corners of each street intersection shall be rounded.
  - (2) The minimum radius at a corner shall be twelve (12') feet at the property line

at the intersection of local streets, twenty-five (25') feet at an intersection of a local street with a collector street and forty (40') feet at an intersection of a local or collector street with a highway.

- J. Width, pavement and curbs and sidewalks. Street improvements shall be laid out in accordance with the general cross-section standards set forth in the approved standards of the Town of Eastchester and shall be constructed in accordance with the specifications established by the Town.

#### **4. Lots and Blocks**

- A. All building lots shall at least comply with the requirements of the Zoning Law of the Town.
- B. Where a subdivision abuts a highway or in the case of certain collector streets designated by the Planning Board, the streets and lots shall be laid out so that there is no direct access from the lots to such highway or collector street. The lots shall either back on such highway or collector street, fronting on an interior street, or, alternately, fronting on a marginal road.
  - (1) In the case of reversed lots, a limited access easement across the rear of the lot shall prohibit ingress or egress from the lot to the highway or collector street, and the subdivider shall provide fencing and screen plantings as required by the Planning Board.
  - (2) In the case of a marginal road, the subdivider shall construct said road.
- C. Block dimensions.
  - (1) Maximum length shall be one thousand six hundred (1,600') feet. Minimum length shall be four hundred (400') feet.
  - (2) Width shall relate to the zoning district requirements and shall provide for two (2) tiers of lots, if practicable.
- D. Special attention shall be given to corner lots to ensure sufficient size for front yards on each street, one (1) rear yard and one (1) side yard and leaving adequate building area for an average house.

#### **5. Preservation of Natural Environment**

- A. Subdivision design shall preserve, insofar as is possible, the natural terrain and natural drainage pattern and endeavor to prevent the degradation or destruction of any lake, pond, stream and any groundwaters or wetlands found on the site or adjacent to it.

- B. If lakes, ponds, streams, unusual vegetative cover, wetlands or other natural or historic features are located on the site, they shall be considered for park land as
- C. A conscious effort shall be made to preserve all worthwhile trees and shrubs existing on the site as determined by the Planning Board.

## **6. Public Utilities**

Local electric power and telephone wires shall be placed underground. Utility companies shall place special emphasis on preserving the vitality and appearance of trees in the vicinity of their aboveground installations.

### ***1. Miscellaneous Provisions***

#### **1. Required Notification and Signs**

The subdivider shall comply with the notification and signage requirements set forth in this local law.

#### **2. Authority to Modify Provisions**

The Planning Board shall have the authority to modify or waive, subject to appropriate conditions, any provision of these subdivision regulations as, in its judgment of the special circumstances of a particular subdivision, is not requisite in the interest of the public health, safety, and general welfare, except where such authority would be contrary to other local laws or state laws.

#### **3. Notes on Filed Plats**

- 1. The Town of Eastchester is not responsible for the mathematical correctness of this map.
- 2. Any piping of brooks or subdrainage in these lots by the present and future owners of the property must be constructed under the supervision of the Building Inspector or Town Engineer and must meet the specifications and requirements of the Building Inspector or Town Engineer and must obtain a regarding permit.
- 3. Proposed monuments shall be set in accordance with the Building Inspector's or Town Engineer's specifications; indicates location of proposed monuments.
- 4. The present or future owner or owners of the property shown hereon relieves the Town of Eastchester from any liability for damage due to drainage onto adjoining properties.
- 5. In the event of the sale of any property shown upon this map, the new owner(s) shall be obligated to comply with the building and zoning requirement of the Town of Eastchester in any construction which may be undertaken on such property.

Minimum lot area \_\_\_\_\_

Maximum lot coverage \_\_\_\_\_

Lot width \_\_\_\_\_

Yards:

Front \_\_\_\_\_

Minimum one side \_\_\_\_\_

Total two sides \_\_\_\_\_

Rear \_\_\_\_\_

6. No shrubbery or trees or plants of any type shall be permitted within the right-of-way of the roads, except by written permission of the Superintendent of Highways.
7. Seeding will be permitted from either curbs or gutters to the property line if grading is done in accordance with the approval of the Building Inspector, Town Engineer or the Superintendent of Highways.

#### **4. General**

- 1G. No shrubbery, trees or plants of any type will be permitted within the right-of-way of the roads, unless required by the Planning Board and authorized in writing by the Superintendent of Highways. (*Amended by 9/21/04*)
- 2G. Seeding will be permitted from either the stone curbing or concrete gutters to the property line if the grading is done in accordance with the approval of the Building Inspector, Town Engineer or Superintendent of Highways.
- 3G. All lots shall have lateral connections with the mains to the property line for sewers, water and gas before the final pavement is placed.
- 4G. Any piping or filling of brooks or subdrainage on these lots by the present certified owners of the property must be constructed under supervision of the Building Inspector, Town Engineer or Superintendent of Highways and to meet specifications of the Building Inspector, Town Engineer and Superintendent of Highways.
- 5G. The cost of supervision and inspection of all improvements within the limits of the approved subdivision and adjacent areas shall be borne by the owner of the property, and said cost shall be included in the amount of the construction bond as provided by the

owner and approved by the Town Board.

- 6G. Upon completion of all the work, including public utilities, the owner shall submit "as-built drawings" to the Building Inspector or Town Engineer, for the Town's records. "As-built drawings" shall be on reproducible Mylar, including all requirements as set forth by the Building Inspector or Town Engineer.
- 7G. The Building Inspector or Town Engineer or the Superintendent of Highways is authorized to make any changes whatsoever to improvements shown on or not shown on improvement drawings to meet field conditions. The developer shall provide, install and pay for any changes or additions made to improvements within the subdivision.

## **5. Roadways**

- 1R. Roadway sections may be modified to meet subgrade conditions of pavement at the discretion of the Building Inspector or Town Engineer or Superintendent of Highways.
- 2R. Thickness of pavement as per details is to be maintained after compaction.
- 3R. The subgrade shall be well compacted and shall conform to the finished crown of road.
- 4R. Selected material may be required for the subbase when soft ground is encountered.
- 5R. The thickness of the subbase material shall be determined by the Building Inspector or Town Engineer or Superintendent of Highways.
- 6R. The crown of the roadway may be changed if so directed by the Building Inspector or Town Engineer or Superintendent of Highways.
- 7R. Depressed curbs shall be provided wherever required, as directed by the Building Inspector or Town Engineer or Superintendent of Highways.
- 8R. The crown of the road shall be a minimum of thirty-one thousandths (.031) foot per foot of road width.
- 9R. The use of plant or plat-mix pavement shall be at the discretion of the Building Inspector or Town Engineer or Superintendent of Highways.
- 10R. All utilities must be extended two (2') feet beyond the property lines before the road pavement section is constructed.
- 11R. The owner is held responsible for construction of proposed roads shown on the Subdivision Map so that they blend with general field conditions of the properties within the subdivision.

- 12R. Underdrains shall be placed along roadways if required by the Building Inspector or Town Engineer or Superintendent of Highways.

## **6. Sanitary Sewers**

- 1S. All structures pertaining to the sewer system, such as pipes, manholes, building connections and all other work, shall be carried out in accordance with requirements of rules and regulations as set forth by the Building Inspector, Town Engineer or Superintendent of Highways.
- 2S. All connections to existing Town or County manholes shall be carried out in accordance with the requirements of the agency having jurisdiction thereto.
- 3S. All crossings of watercourses or wetland areas shall be made with ductile iron pipe encased in concrete; all sanitary sewer pipe shall have concrete cradles where directed by the Building Inspector, Town Engineer or Superintendent of Highways.
- 4S. No sanitary sewer within the subdivision or development shall be activated until an exfiltration/infiltration test is made and has met requirements and standards as set forth by the Building Inspector or Town Engineer or Superintendent of Highways. All sewer pipes must meet an infiltration test rate of one hundred (100) gallons per day/mile/inch diameter or any other requirement set forth by either the Westchester county Department of Health, Division of Environmental Quality, or the Westchester County Department of Public Works.
- 5S. All building connections (sewer) shall be extended two (2') feet beyond the property line of each lot before pavement construction.
- 6S. No building connections shall be made on newly constructed sewers within the subdivision or development until newly constructed sewer has been officially accepted and approved by the Building Inspector or Town Engineer or the Superintendent of Highways and infiltration and exfiltration tests have been approved by the Westchester County Department of Health.
- 7S. For sanitary sewer mains, ductile iron pipe or PVC pipe may be used, provided that the following classifications of pipes are used for eight-inch pipes only; ductile iron pipe Class 50; PVC SDR-35 minimum requirement.
- 8S. The bed for sanitary sewer pipe shall consist of a minimum of six (6") inches of selected material. No pipes shall be installed unless the selected material has been previously approved.
- 9S. Exfiltration/infiltration tests shall be observed and certified to the Westchester County Health Department and Building Inspector or Town Engineer by the developer's licensed professional engineer.



- 10S. Sanitary sewers which have a velocity of over ten (10') feet per second shall be ductile iron pipe. The pipe system must be anchored along the slope and the sanitary sewer manholes must be increased in strength. Design pertaining to the above structures must be approved by the Building Inspector or Town Engineer and the Westchester County Department of Health, Division of Environmental Quality.
- 11S. Any existing sanitary sewer lines which are to be dedicated to the Town of Eastchester shall first be subjected to tests and inspection as required by the Building Inspector, Town Engineer or the Superintendent of Highways.
- 12S. On all newly constructed sewer lines in the Town of Eastchester, the developer/owner is required to tie the sewer lines immediately prior to the town accepting dedication of the road. The tapes shall be submitted to and reviewed by the Superintendent of Highways. All necessary repairs shall be performed by the developer/owner and approved by the Town prior to dedication.
- 13S. All manholes greater than ten (10') feet in depth shall be constructed with five-foot inside diameter manholes.

**7. Water Mains**

- 1W. All work shall be carried out in accordance with the requirements of the local authority or utility having jurisdiction and in accordance with the requirements and specifications as set forth by such local authority or utility having jurisdiction.
- 2W. The minimum cover for water mains shall be four (4') feet zero (0") inches or as directed by the local authority or utility having jurisdiction to meet field conditions.
- 3W. Hydrants are to be located in accordance with the local authority or utility having jurisdiction, and the requirements of the Town Eastchester Fire Marshal.
- 4.W. The decision of the local authority or utility having jurisdiction shall be final on any construction disputes to meet field conditions.
- 5W. Water main passes under sewer. A minimum of eighteen (18") inches of vertical clearance is required. All work must be carried out in accordance with the requirements of the water supply company of the Town and the Westchester County Department of Health.
- 6W. All water mains shall be the type and weight as specified by the local authority or utility having jurisdiction.
- 7W. Water pressure tests on all new mains shall be performed and certified to the Westchester County Department of Health by the developer's Engineer.

## **8. Drainage**

- 1D. All reinforced concrete pipe shall conform to the requirements of ASTM C-76, Class III Standard Specifications (New York State Department of Public Works) and shall be approved by the Building Inspector or Town Engineer and Superintendent of Highways.
- 2D. All structures, such as catch basins, manholes, headwalls, etc., shall be constructed in accordance with the requirements as set forth by the Building Inspector or Town Engineer or the Superintendent of Highways.
- 3D. The minimum size pipe for drainage design and construction shall be fifteen (15") inches in diameter, unless otherwise specified by either the Superintendent of Highways or Building Inspector or Town Engineer.
- 4D. All drainage pipes shall be of reinforced concrete. Other types of drainage pipes may be used if so approved by either the Superintendent of Highways, Building Inspector or Town Engineer under special conditions.
  - (a) Minimum size stub pipe: fifteen (15") inches diameter.
  - (b) Minimum size main line: eighteen (18") inches diameter.

## **9. Miscellaneous**

- 1M. All utility systems within the bounds of the subdivision and adjacent areas shall be installed underground in accordance with the requirements of the responsible utility company (i.e., Con Edison, telephone company, cable television company, etc.).
- 2M. All appurtenances, such as gas pipes, valves, tees, electrical wiring, generators, meters, telephone distribution boxes, cable television connections, etc., and other miscellaneous materials, shall be approved by the engineer in charge representing the responsible public utility.
- 3M. The developer shall provide, install and pay for all streetlights and street signs. All work and material shall meet the Town of Eastchester specifications, subject to the final approval of the Superintendent of Highways.
- 4M. The Superintendent of Highways of the Town of Eastchester shall coordinate the work pertaining to the poles and streetlight installation with the representative of the developer and the engineer representing the responsible public utility.

## **J. Cluster Subdivision**

### **1. Purpose**

The purpose of this Article is to encourage flexibility and innovation in the design of residential development that cannot be achieved through adherence to traditional zoning and subdivision regulations. Further, the application of the cluster development technique is intended to achieve:

- (a) Maximum reasonable conservation of land and protection of natural resources.
- (b) Variety in type and cost of residential development, thus increasing the choice of housing types available to town residents.
- (c) Preservation of trees and outstanding natural features, prevention of soil erosion, creation of usable open space and recreation areas and preservation of scenic qualities of open space.
- (d) A shorter network of streets and utilities and more efficient use of energy than would be possible through strict application of standard zoning.

### **2. Applicability**

- (a) Should the Town Board approve cluster development as authorized by the Town Law, all conditions of the Town Law as may be amended from time to time, shall be met and further upon the submission of plat or plats of to the Planning Board, the Planning Board has authority to set forth conditions which shall include the following and such other conditions as they may later require.
- (b) Clustering may be permitted subject to the following conditions:

- (1) The residential use will be single-family detached or attached houses.
  - (2) The density of these homes will be as specified as below.
- (c) Determination of density and zoning modifications.
- (1) An application for cluster development shall include a map or maps showing the proposed cluster design or designs offered for consideration by the Planning Board, together with a map which shall be prepared for consideration as a standard subdivision conforming to all requirements of the Zoning Code and Subdivision Regulations of the Town of Eastchester.
  - (2) The total building lot yield of the standard subdivision shall be used to determine the yield of building lots which the Planning Board may grant in a cluster development. A cluster development design may be prepared for any contiguously owned holdings, whether or not they are separated by an existing street offering direct access to such holdings. In all other cases, the holdings shall be considered as separate parcels.
  - (3) In a cluster development, lot area, width, depth, front yard, rear yard and side yards may be reduced to less than the minimum requirements set forth in the Schedule of District Regulations controlling land, provided that such modification or changes shall not result in a greater average density or coverage of dwelling units than is permitted in the zoning district wherein the land lies.
- (d) The area of a cluster development shall be in a single ownership or under unified control.
- (e) Prior to the issuance of a building permit in a cluster development, a site plan

shall be submitted to and approved by the Planning Board in accordance with Section 11 of this chapter and the following conditions:

- (1) Said site plan shall include areas within which structures may be located, the height and spacing of buildings, the location of open spaces and their landscaping, off-street open and enclosed (if any) parking spaces and streets, trails, site easements and recreation facilities, driveways and any other physical features relevant to the proposed plan and determined to be necessary by the Planning Board.
- (2) Said site plan shall include a statement setting forth the nature of all proposed modifications of existing zoning provisions.

(f) Nothing contained in this chapter shall relieve the owner or his agent or the developer of a proposed cluster development from receiving final plat approval in accordance with the Town Subdivision Regulations. In approving the final plat for a cluster development, the Planning Board may modify the acreage requirement for recreation areas as set forth in the town's rules governing subdivision review, provided that the common land dedicated meets all other requirements of the Town Subdivision Regulations.

(g) Common areas.

(1) The Planning Board shall establish such conditions on the ownership, use and maintenance of common areas including open space, as it deems necessary to assure the preservation of such areas for their intended purpose. Common areas and/or open space may either be retained by a condominium corporation or it may be deeded to a homeowners' association comprised of the residents of the subdivision

and reserved for their use or other mechanism acceptable to the Planning Board and Town Attorney. Said common areas may be used for recreational uses, for visual amenity or for necessary accessory uses.

(2) A cluster development shall be organized as one (1) of the following: condominium corporation; a homeowners' association approved by the State Attorney General, the Town Attorney and Planning Board; and which shall be filed with the Town Clerk including any and all amendments thereto; or any other arrangements required and approved by the Town Attorney and Planning Board as satisfying the intent of this chapter. Whenever a homeowners' association is proposed, the Planning Board shall retain the right to review and approve the Articles of Incorporation and the charter and bylaws of said homeowners' association and any amendments or revisions thereof and to require whatever conditions deemed necessary to ensure that the intent and purpose of this chapter is carried out.

(h) Covenants shall be established, limiting all lots to one-family use and all common lands to open space uses approved by the Planning Board. No structures may be erected on such common lands except as shown on the approved site plan and approved by the Planning Board. Such deed restriction or covenant shall specifically prohibit any development for other than open space or agricultural use on the specified open land and/or conservation area.

(i) Each deed to each lot sold shall include by reference all recorded declarations and other restrictions, including assessments and the provision for liens for nonpayment of such. The foregoing shall be subject to any further requirements of the Planning Board.

(j) The homeowners' association shall be perpetual; it shall purchase insurance, pay taxes, specify in its charter and bylaws an annual homeowner's fee, make provision for assessments and provide that all such charges become a lien on each lot in favor of said association. The association shall have the right to proceed in accordance with all necessary legal action for the foreclosure and enforcement of liens, and it shall also have the right to commence action against any member for the collection of any paid assessment in any court of competent jurisdiction.

(k) The developer shall assume all responsibilities as previously outlined for the homeowners' association until a majority of the dwelling sites are sold, at which time the homeowners' association shall be automatically established by the developer at the developer's expense and title to the common area conveyed by the developer to the homeowners' association.

(l) Prior to plat approval, the developer shall file a performance bond or irrevocable letter of credit with the Town to ensure the proper installation and payment of all required improvements, including recreation improvements, and a maintenance bond to ensure the proper maintenance of all common lands until the homeowners' association is established and title to the common lands is conveyed to the homeowners' association. The amount and terms of said bonds or letters of credit and the form, sufficiency, manner of execution and sufficiency of the surety or financial institution shall be approved by the Town Attorney.

(m) The Town Board, in order to ensure that the open space will be used for its intended purposes, shall have the continuing right to impose building controls and restrictions on the use and maintenance of the common open space lands.

(n) Notwithstanding the foregoing, the Town Board may, in its discretion, accept an offer for dedication to the town of the open space and/or common lands created by use of the provisions of this section.

**K. Accessory Building Or Structures**

No accessory building or structure shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building or structure shall be used for dwelling purposes.

**L. Projection Beyond Building Line Prohibited**

The foundation wall or any other portion of a building above or below the ground shall not project beyond the building line, except as otherwise specifically permitted in this local law.

**M. Landscaping, Screening and Buffer Areas**

The following standards based on Westchester County Best Management Practices for Construction are intended to enhance the appearance and natural beauty of the town and to protect property values through preservation and planting of vegetation, screening and landscaping material. Specifically, these standards are intended to enhance the appearance of major travel corridors, business and residential areas; to reduce excessive heat, glare and accumulation of dust; to provide privacy from noise and visual intrusion; and to prevent the erosion of the soil, runoff of stormwater and the pollution of water courses.

1. The following provisions shall apply to any use in all zoning districts:



a. All portions of lots subject to site plan review under Section 11 of this local law or special permit review under Section 12 of this local law which are not used for the location of building, structures, parking lots, loading spaces, sidewalks or similar purposes, shall be suitably landscaped and permanently maintained with planting of ground cover, grass, trees and shrubbery, in accordance with specifications approved as a part of the site plan or special permit.

b. Landscaping trees and plants required by this local law shall be planted in a growing condition according to accepted horticultural practices, and they shall be maintained in a healthy growing condition. Any landscaping, trees and plants which are in a condition that does not fulfill the intent of this local law shall be replaced by the property owner during the next planting season for the particular plant material.

c. Landscaping, trees, plants or a screening fence or wall required by this section shall be maintained by the property owner in good condition throughout the period of the use of the lot, subject to the following conditions:

(i.) Any land that is or has been designated or required to be a landscaped area, screening area or buffer area, pursuant to approval by the Planning Board or Zoning Board of Appeals of any grant of an application or which is required by ordinance or local law must be maintained by the owner of the property or any of the owners successors of interest or assignees.

(ii.) When it is determined by the Building Inspector or other authorized agent of the town that any land is not maintained pursuant to such grant or law, the Building Inspector shall notify the owner of record of such land to erect, replace, repair or maintain fences, trees, plantings, shrubbery or other landscaping or screening pursuant to plan or law.

(iii.) In the event the owner of record does not comply with the notice within thirty (30) days of the date of said notice, or in instances of emergency as determined by the Building Inspector, the Building Inspector upon direction by the Town Board shall take the appropriate action to erect, replace, repair or maintain fences, trees, plantings, shrubbery or other landscaping on the designated land. The Building Inspector shall certify by affidavit the costs incurred by the town. The Town Board shall, by resolution, instruct the Town Clerk to publish a notice that a public hearing will be held for the purpose of adding to the assessment roll of the described lot or parcel the costs incurred and that, at the public hearing, the Town Board will hear and consider any objection which may be made to such roll. The publication of such notice shall not be less than ten (10) days before the time specified for such hearing. The Town Board, after public hearing, may then cause such assessment to become a lien and may direct the Town Assessor to place it on the assessment roll.

d. All landscaping, trees and planting material adjacent to parking areas,

loading areas or driveways shall be properly protected from vehicular damage by barriers, curbs or other means.

e. To the extent possible, existing trees, vegetation and unique site features, such as stonewalls, shall be retained and protected. Existing healthy, mature trees, if properly located, shall be fully credited against the requirements of these regulations.

f. Where lot size, shape or existing structures do not make it feasible to comply with these requirements of this section, the Planning Board or Building Inspector may approve planters, plant boxes or pots containing trees, shrubs and/or flowers to comply with the intent of these regulations.

g. In cases where the edge of the pavement within public right-of-way does not coincide with the front lot line, the property owner shall landscape the area between the front lot line and the edge of the street pavement and shall assume full responsibility for all such landscaping. Such planting shall be subject to the issuance of a permit by the Highway Department, and failure to obtain said permit shall be deemed a violation of this ordinance.

2. Front Landscaped Area - A front landscaped area shall be required for all uses in all zoning districts. The required landscaped area shall be covered with grass or other ground cover found to be suitable by the Planning Board or Building Inspector and shall include appropriate trees and shrubs. At a minimum, in all multi-family residential and non-residential districts, one (1) shade tree having a caliper of four (4) inches at breast height shall be planted within the front landscaped area for each thirty (30') feet or fraction thereof of lot frontage, or other plantings as deemed appropriate by the Planning Board. The purpose of the landscaping is to enhance the appearance of

the use on the lot but not necessarily to screen the use from view. (*Amended 5/20/08*)

3. Transition Buffer Area - The purpose of the transition buffer area is to provide privacy from noise, headlight glare and visual intrusion to residential dwellings from non-residential and multi-family residential uses. A buffer area shall be required along all boundaries of a non-residential or multi-family residential lot abutting any lot in a one or two-family residential district. Such buffer area shall comply with at least the following minimum standards:

- a. The buffer area shall be located within the boundaries of the subject property.
- b. The minimum width of buffer areas shall be not less than ten (10') feet in width.
- c. The buffer area shall be of evergreen planting of such type, height, spacing and arrangement that will effectively screen the activity on the lot from the neighboring residential area. At a minimum, the planting shall consist of a staggered double row of evergreen trees six (6') feet in height planted at intervals of eight (8') feet on center, or other plantings as deemed appropriate by the Planning Board. Deciduous plantings may be included to supplement evergreen planting, but not to take its place. (*Amended 5/20/08*)
- d. Where existing topography walls, fences, landscaping, and or other conditions provides adequate screening, the Planning Board may accept the existing planting and/or buffer area as the required planting.

**N. Exterior Lighting**

1. All outdoor lighting shall be shielded so that the light source is focused and directed

in such a manner as to contain the light and glare within property boundaries.

2. In residential districts, lights shall be turned off or reduced in intensity between 11:00 p.m. and 6:00 a.m.

3. Recreational lighting shall be so located on the subject property with reference to surrounding properties that it shall be reasonably screened from view and compatible with the existing or potential use of neighboring properties.

**O. Effective Square**

Every lot in a one- and two-family residential district created by final subdivision plat approved by the Planning Board after the effective date of this law shall be capable of containing a square wholly within its boundaries, the dimensions of which shall correspond to the dimensions listed in the Schedule of Residential District Regulations for the district, and some portion of the effective square shall touch the minimum required front yard setback line.

**P. Coverage – Impervious Surface**

Lots improved with one and two family dwellings, wherever located, shall comply with the following table (*Amended 5/20/08*):

<u><i>Lot Area</i></u>	<u><i>Maximum Impervious Surface Coverage</i></u>
≥ 20,001 sq ft	6,500 sq ft, plus 20% of lot area in excess of 20,000 sq ft
15,001 sq ft to 20,000 sq ft	5,500 sq ft, plus 20% of lot area in excess of 15,000 sq ft
10,001 sq ft to 15,000 sq ft	4,000 sq ft, plus 20% of lot area in excess of 10,000 sq ft

<u>Lot Area</u>	<u>Maximum Impervious Surface Coverage</u>
7,501 sq ft to 10,000 sq ft	3,375 sq ft, plus 25% of lot area in excess of 7,500 sq ft
6,001 sq ft to 7,500 sq ft	3,000 sq ft, plus 25% of lot area in excess of 6,000 sq ft
Up to 6,000 sq ft	50%

*(Amended 5/20/08)*

**Q. Maximum Permitted Gross Floor Area (One- and Two- Family Residences)**

The maximum permitted gross floor area for all one- and two-family residences shall be in accordance with the following table:

<u>Zone</u>	<u>Minimum Permitted Lot Area (Square Feet)</u>	<u>Maximum Permitted Gross Floor Area One- and Two-Family Residences (Square Feet)</u>
R-20	20,000	5000
R-15	15,000	4200
R-10	10,000	3500
R -7.5	7500	3000
R -6	6000	2500
R -5	5000	2300
R -3	3000 per unit for 2-family residences	1175
R-3	5000 per unit for 1-family residences	2000
R -1.5C	1500	1575

*(Amended 9/21/04)*

Subject, however, to the following exceptions and limitations:

1. The maximum permitted gross floor area for residences on lots which exceed the minimum permitted lot size for the district in which they are located may be increased as follows:

a. The lot area in excess of the minimum permitted lot area shall be multiplied by 10 percent (0.10) and the resulting number shall be added to the maximum permitted gross floor area for the district.

b. For example, the maximum permitted gross floor area for a residence in an R5 District on a 7500 square foot lot shall be calculated as follows:

i.  $7500 \text{ square feet} - 5000 \text{ square feet} = 2500 \text{ square feet.}$

ii.  $2500 \text{ square feet} \times 0.10 = 250 \text{ square feet.}$

iii.  $2300 \text{ square feet} + 250 \text{ square feet} = 2550 \text{ square feet.}$

iv. Maximum permitted gross floor area for a one-family residence in an R5 District on a 7500 square foot lot = 2550 square feet.

2. Land under water shall not be included in calculating the maximum permitted gross floor area. (*Amended 9/21/04*)

3. Building permits may be obtained to enclose all existing decks associated with residences located in the R1.5C District, regardless of the maximum permitted gross floor area or minimum required setbacks for that district. (*Amended 5/20/08*)

**R. Lot Frontage on a Cul-De-Sac**

In instances when a lot fronts on a cul-de-sac, the frontage requirement established in the applicable column in the Schedule of Dimensional Regulations may be reduced by no greater than 20%.

**S. *Swimming Pools, Residential***

Except as provided hereinafter, no swimming pool shall be located, constructed or maintained on any lot or land area, except in conformity with the following requirements:

(1) Said pool may be installed or maintained in any residential district where specifically permitted.

2) Said pool shall be used as an accessory use to a dwelling or group of dwellings.

(3) When accessory to a one or two family dwelling, such pool shall be located in a rear yard only.

(4) The portion of the premises upon which such pool is located shall be entirely surrounded and enclosed with a good quality security fence which, any other provision of this code notwithstanding, shall have a height of not less than four (4') feet. Said fence shall be of a type in accordance with the requirements as set forth herein in Section 8 and New York State Uniform Fire Prevention and Building Code, approved by the Building Inspector of the Town of Eastchester.

(5) Every gate or other opening in the fence enclosing such pool shall be self-closing and self-latching and shall be kept securely locked at all times when said pool is not in use. Said security fence, or a temporary fence suitable to the Building Inspector, shall be erected prior to the commencement of construction of such pool and shall be kept in place at all times that such pool is maintained on the property, to be removed only after demolition of such pool is complete and the area restored to a nonhazardous condition.

(6) Such pool shall not be located less than ten (10') feet from the side and rear lot lines. Any patio or deck surrounding such pool shall be subject to all the otherwise applicable yard requirements for buildings or structures.



(7) Such pool shall be chemically treated in a manner sufficient to maintain the bacterial standards established by the provisions of the New York State Sanitary Code relating to public swimming pools.

(8) No loudspeaker or amplifying device shall be permitted which can be heard beyond the lot lines of the lot on which said pool is located.

(9) No lighting or spotlighting shall be permitted which will project light rays beyond the lot lines of the lot on which said pool is located.

(10) Where the proposed pool is of such height or design that protective fencing is not required or is impractical, the Building Inspector may, at his/her discretion, issue a permit for the erection of said pool without such fencing. The Building Inspector shall, however, first make a finding to the effect that, in his/her opinion, said pool has protection from entry equivalent to that afforded by the erection of a fence.

(11) Such pool shall be equipped with an integral filtration system and filter pumps or other mechanical devices which shall be so located and constructed as not to interfere with the peace, comfort and repose of the occupant of any adjoining property.

(12) No permission shall be granted for the installation of any swimming pool unless the plans thereof meet the minimum Town of Eastchester construction requirements. The plans shall show the method of disposal of filter backwash material and the method of draining the pool, and such methods and points of discharge shall be satisfactory to the Town of Eastchester and to the Westchester County Health Department, Division of Environmental Health Services.

(13) If unenclosed, the area of the swimming pool itself shall not be included within the limitations of percentage of coverage of land impervious surface coverage allowed for permitted accessory buildings.

(14) Decks and structures, surrounding or appurtenant to all aboveground pools shall comply with all lot limitations as set forth in the schedule of residential district regulations.

**T. Tennis Courts, Sports Courts, Sports Apparatus, Basketball Courts, On Lots**

On lots of fifteen thousand (15,000) square feet or greater tennis courts, sports courts, sports apparatus and basketball courts are permitted, subject to the following:

- (1) Such facilities shall be deemed to be a structure and shall not be located less than twenty (20') feet from the side and rear lot lines.
- (2) Such facilities shall be located in rear yards only.
- (3) No illumination of the facility of any kind shall be allowed.
- (4) Fences of a maximum of twelve (12') feet in height may be allowed around a tennis court only, notwithstanding the provisions of Section 8.
- (5) An evergreen planting strip of ten (10') feet in width and ten (10') feet in height shall be provided to screen the recreation use from the view of adjacent properties.
- (6) No loudspeaker or amplifying device shall be permitted.

*(Amended 5/20/08)*

**U. Portable Storage Units**

A temporary permit may be issued for a portable storage unit in any zoning district in accordance with the following:

(1) In no event shall there be more than one portable storage unit, having a storage capacity not to exceed 1,024 cubic feet, on the premises.

(2) A portable storage unit may only be located on private property and on a paved driveway surface and may not be located within a public right of way.

(3) A portable storage unit shall be permitted for a period not to exceed 14 consecutive days within a six month period; however, in cases where a dwelling has been damaged or destroyed, an extension of this time limitation may be granted as deemed necessary by the Building Inspector.

*(Amended 5/20/08)*

**V. Solar Energy Collectors** *(Amended 5/20/08)*

1. Solar energy collectors shall be permitted only to provide power for use by owners, lessees, tenants, residents or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit the sale of excess power through a “net billing” or similar program in accordance with the New York Public Service Law or similar state or federal statute.

2. Solar energy collectors shall be located in areas and in ways that most

minimize their visibility from surrounding properties.

3. Solar energy collectors shall be considered to be an accessory structure for the purpose of compliance with all Town laws and ordinances and shall require a building permit and certificate of compliance issued by the Building Inspector.

4. Solar energy collectors mounted on the roof of a building:

a. Shall be installed in a manner that minimizes their visibility from public locations but still maintains their functional integrity and viability;

b. Shall not extend beyond the highest point of the roof, if mounted on a pitched roof;

c. Shall not extend above any roof cornice, if mounted on a flat roof.

5. Free standing solar energy collectors:

a. Shall not be permitted within any side yard or front yard;

b. Shall comply with rear and side yard setback requirements for accessory structures;

c. Shall be screened when possible and practicable through the use of architectural features, earth berms, landscaping, or other screening elements that will harmonize with the character of the property and surrounding area;

6. The plan submitted to the Building Inspector as a requirement for the issuance of a building permit for any such collector shall indicate all existing and proposed grading, excavating, filling, paving, fencing and screening as it may relate to the proposed collector, shall indicate the location of all property lines and neighboring buildings, and shall comply with the requirements and standards of this section.

7. The Building Inspector may refer any such application to the Architectural Review Board for review and comment, but nothing contained in any such review or comment shall limit or otherwise affect the authority of the Building Inspector for issuance or denial of the permit.

*(Amended 5/20/08)*

**W. Lot Mergers** *(Amended 5/20/08)*

The following provisions shall be effective as of September 1, 2008:

1. If two or more adjacent lots, at least one of which is unimproved and which have not received subdivision approval on or after September 1, 2008, have been in common ownership at any time on or after September 1, 2008, and any one of these lots are dimensionally non-conforming with regard to the rear or side yard setback adjacent to the unimproved and commonly owned lot or is non-conforming with regard to the maximum permitted gross floor area (GFA), those said lots shall be merged to form one lot.

2. If a building or structure, excluding fences, which rests on a permanent foundation, sits on two or more adjacent lots, those said lots shall be merged to form one lot.

3. If any accessory structure which rests on a permanent foundation is constructed on a lot separate from the lot on which the principal structure is built, all contiguous parcels involved shall be merged to form one lot on which the principal and accessory structures sit.

***(Amended 5/20/08)***

## **SECTION 10. ZONING BOARD OF APPEALS**

The Zoning Board of Appeals heretofore established pursuant to Town Law is hereby continued with all powers and duties prescribed by law and by this local law. Such powers and duties are summarized and more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of the Zoning Board of Appeals conferred by general law:

### ***A. Interpretation***

The Zoning Board of Appeals on appeal from an order, requirement, decision, or determination made by the Building Inspector or his/her duly authorized representative upon request by a party designated in Town Law Section 267(a)(4) as may be amended from time to time, may decide any question involving the interpretation of any provision of this local law, including the determination of the exact location of any district boundary if uncertainty with respect thereto remains after exhausting the rules specified in Section 4.B.2. (*Amended 8/14/01*)

### ***B. Variances***

The Zoning Board of Appeals on appeal from an order, requirement, decision or determination made by the Building Inspector or his/her duly authorized representative or on referral of an applicant to the Zoning Board of Appeals by the Planning Board acting pursuant to Sections 11 or 12 of this local law the Zoning Board of Appeals is authorized to vary or modify the strict letter of this local law as follows:

**1. Use Variances:**

a. The Board of Appeals, on appeal from the decision or determination of the Building inspector, shall have the power to grant use variances, as defined herein.

b. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

i. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

ii. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.

iii. That the requested use variance, if granted, will not alter the essential character of the neighborhood.

iv. That the alleged hardship has not been self-created.

c. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

## 2. Area Variances

a. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Building Inspector, to grant area variances as defined herein.

b. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:

i. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

ii. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

iii. Whether the requested area variance is substantial.

iv. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

v. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.



c. The Board of Appeals, in granting area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

### **3. Conditions and Safeguards**

1. The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

#### **C. Special Permits**

The Zoning Board of Appeals is authorized to hear and decide applications for certain special permits in accordance with the procedures and standards set forth in Section 12 of this local law.

#### **D. Non-Conformity**

As more fully set out in Section 6 of this local law the Zoning Board of Appeals is authorized to allow the extension of a non-conforming use in accordance with the requirements of Section 6.D.3. of this local law; extend the permitted period for cessation of a non-conforming use in accordance with the requirements of Section 6.D.4 of this local law; and to permit the change of a non-conforming use to another non-conforming use in accordance with Section 6.F.

of this local law.

***E. Undersized Lot***

The Zoning Board of Appeals is authorized to grant permission for the use of an undersized lot, in accordance with the requirements of Section 7.D.5 of this local law.

***F. Rules and Regulations***

The Zoning Board of Appeals may adopt such rules and regulations as are necessary or proper to the performance of its powers and duties hereunder, and may amend or repeal the same.

***G. Procedure***

**1. Appeals and Applications**

All appeals and applications made to the Zoning Board of Appeals shall be in writing on forms prescribed by the Zoning Board of Appeals. An appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Town. Each appeal or application shall specify the provisions of the local law involved and shall set forth exactly the decision of the Building Inspector which is appealed from, the full circumstances or conditions involved therein, the variances sought, the ruling sought from the Zoning Board of Appeals, the details of any variance applied for and the grounds on which it is claimed that the same should be granted. The applicant shall search all records, publish and mail such notices and file such affidavits thereof as may be required in connection therewith by the Town Law, by this local law or by the rules of the Zoning Board of Appeals. The Notices referred to hereinabove shall be mailed by the applicant to all landowners within a 200-foot radius of the boundaries of the subject premises by certificate of

mailing in an official depository under the exclusive care and custody of the United States Postal Service. Proof of mailing shall be provided by way of an affidavit of service, in the form provided by the Planning & Building Department, and submission to the Planning & Building Department of the original certificates of mailing. (*Amended 5/20/08*)

**2. Public Hearing**

The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it. Upon the hearing, any party may appear in person or by agent or by attorney.

**3. Quorum and Decision**

The presence of three members of the Zoning Board of Appeals shall be necessary for a quorum. The concurring vote of three members shall be necessary to effect any variation or variance in this local law to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant any matter before the Zoning Board of Appeals. An application that fails to obtain three votes to approve the application shall therefore be denied. The Zoning Board of Appeals shall decide any matter before it within sixty days after the final hearing.

**4. Minutes and Records**

The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member on every question, or if any member is absent or fails to vote, indicating that fact, and shall also keep records of its examinations and other official actions. Every rule, regulation, amendment or repeal thereof, and every order, requirement, decision or determination of the

Zoning Board of Appeals shall immediately be filed in the office of the Town Clerk.

## **5. Review by Other Agencies**

Upon receipt of a completed appeal or application, the Zoning Board of Appeals shall forward complete copies to such officials and agencies of the Town as it deems appropriate, for review and report. All such agencies shall have thirty (30) days from the date of forwarding to submit a report. The Zoning Board of Appeals shall also, where required, forward copies to the Westchester County Planning Board and the Clerk of any abutting municipality, in accordance with the General Municipal Law and the Westchester County Administrative Code.

### ***H. Expiration of Variance***

A variance granted under this local law shall automatically expire if a building permit has not been obtained within six (6) months of: (1) the grant of such variance or such other time limit as may be chosen by the Zoning Board of Appeals in connection with its decision, or; (2) from the date of the grant of any other Planning Board approval, whichever is later, or; (3) if judicial proceedings to review the Zoning Board of Appeals' decision shall be instituted, from the date of entry of the final order in such proceedings, including all appeals. However, the Building Inspector may authorize an extension of the approval, not to exceed six (6) months, upon submission of an application for an extension and the payment of the appropriate application fee. Such application and fee must be filed with the Building Department a minimum of 10 days prior to the expiration of the original permit. Authorization for the extension must be in writing and signed by the Building Inspector. If a building permit has not been obtained within the extended time frame authorized by the Building Inspector, the variance shall automatically expire and no further extensions shall be authorized.

A variance granted under this local law shall automatically expire if substantial construction, in accordance with the plans for which such variance was granted, has not been accomplished: (1) within one year of the grant of such variance or such other time limit as may be chosen by the Zoning Board of Appeals in connection with its decision; or (2) from the date of the grant of any other Planning Board approval, whichever is later; or (3) if judicial proceedings to review the Zoning Board of Appeals' decision shall be instituted, from the date of entry of the final order in such proceedings, including all appeals. However, the Building Inspector may authorize an extension of the approval, not to exceed six (6) months, upon submission of an application for an extension and the payment of the appropriate application fee. Such application and fee must be filed with the Building Department a minimum of 10 days prior to the expiration of the original approval. Authorization for the extension must be in writing and signed by the Building Inspector. If substantial construction has not been accomplished within the extended time frame authorized by the Building Inspector, the variance shall automatically expire and no further extensions shall be authorized. *(Amended 9/21/04)*

## **SECTION 11. PLANNING BOARD, SITE PLAN APPROVAL, AND ARCHITECTURAL REVIEW**

### ***A. Establishment***

The Planning Board and the Architectural Review Board (“ARB”) heretofore established pursuant to Town Law are hereby continued with all powers and duties prescribed by law and by this local law. Such powers and duties are summarized and more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of the Planning Board or the ARB. (*Amended 9/21/04*)

### ***B. Special Permits***

The Planning Board is authorized to hear and decide applications for certain special permits in accordance with the procedures and standards set forth in Section 12 of this local law.

### ***C. Rules and Regulations***

The Planning Board and ARB may adopt such rules and regulations as are necessary or proper to the performance of its powers and duties hereunder, and may amend or repeal the same. (*Amended 9/21/04*)

### ***D. Quorum and Decision***

The presence of a majority of the members of the Planning Board and ARB shall be necessary to decide any matter before it. The concurring vote of three members of either the Planning Board or ARB shall be necessary to effect any decision or determination in favor of the applicant. An application to the Planning Board that fails to obtain three votes to approve the application shall therefore be denied. The Planning Board and ARB shall decide any matter before it

within sixty-two (62) days after the close of a public hearing. However, the Planning Board shall not be required to hold a public hearing on an application prior to receiving a recommendation from the ARB. *(Amended 9/21/04)*

**E. Site Plan Approval and Architectural Review**

No building permit where site plan approval is required shall be issued for a structure, no structure or use shall be established, and no site and its permitted accessory structures and uses shall be changed unless it is in conformity with approval by the Planning Board in accordance with this section. No Certificate of Occupancy for such structure or use shall be issued until all the requirements of such approval and any conditions attached thereto have been met. All requirements of approval and conditions shall be set forth on the issued Certificate of Occupancy. The continued validity of any Certificate of Occupancy shall be subject to continued conformance with such approved site plan and conditions. Revisions of approved plans shall be subject to the same approval procedure.

**1. Multi-Family and Non-Residential:**

Any application for a building permit to construct, erect, or alter a multi-family or non-residential structure, shall be referred by the Building Inspector to the Planning Board for review in accordance with this section.

Upon submission for site plan and architectural review and after preliminary review, the Planning Board shall refer such application to the ARB for its recommendation. In addition to all standards set forth in Section 11 H hereof, the Planning Board shall consider the following architectural standards, which shall also be considered by the ARB: *(Amended 9/21/04)*

- a. Monotonous similarity to any other structure or structures located or

proposed to be located on the same street or a corner thereof and within two hundred (200') feet of the site of the structure for which a building permit is requested, in respect to one (1) or more of the following features of exterior design and appearance:

1. Substantially identical façade, disregarding color;

2. Substantially identical size and arrangement of either doors, windows, porticos, porches or garages or other openings or breaks or extensions in the façade, including reverse arrangements; or

3. Other substantially identical features, such as but not limited to setbacks from street lines, heights, widths and lengths of elements of the building design and exterior materials and treatments.

b. Striking dissimilarity, visual discord or inappropriateness with respect to other structures located or proposed to be located on the same street or a corner thereof and within two hundred (200') feet of the site of the structure for which a building permit is requested, in respect to one (1) or more of the following features of exterior design and appearance.

1. Façade, disregarding color;

2. Size and arrangement of doors, windows, porticos, porches or garages or other openings or breaks or extensions in the façade; or

3. Other significant design features, such as but not limited to heights, widths and lengths of elements of design, exterior materials and treatments, roof structures, exposed mechanical equipment, service and storage areas, retaining walls, landscaping, signs, light posts,



parking areas and fences and service and loading areas.

c. Visual offensiveness or other poor qualities of exterior design, considerations of the harmony or discord of colors, or incompatibility of the proposed structure with the terrain or in the case of an extension or addition, the existing building on which it is to be located, including but not limited to excessive divergences of the height or levels of any part of the structure from the grade of the terrain.

d. Any characteristic which impairs the health, safety, and welfare of the community and to the existing surrounding residences, the Planning Board shall set forth in detail, its findings in the event it shall disapprove the submitted plans under the standards set forth in Section 11 E. (*Amended 9/21/04*)

**2. One or Two Family Dwellings:**

(a) Any application for a building permit to erect a one or two family residence shall be referred by the Building Inspector to the Planning Board for review in accordance with this section. (*Amended 8/14/01*)

(b) Any application to construct an alteration or addition on any front elevation to the extent that said alteration or addition exceeds 30% of the square footage of that existing structure's front elevation, not including roof, except as to those exceptions listed in Section 7D1, shall be referred by the Building Inspector to the Planning Board for review in accordance with this section. (*Amended 8/14/01*)

Upon submission for site plan and architectural review of a one or two family dwelling, and after preliminary review, the Planning Board shall refer such application to the ARB for its recommendation. In addition to all standards set forth in Section 11 H hereof, the Planning Board

shall consider the following architectural standards, which shall also be considered by the ARB:

a. Monotonous similarity to any other structure or structures located or proposed to be located on the same street or a corner thereof and within two hundred (200') feet of the site of the structure for which a building permit is requested, in respect to one (1) or more of the following features of exterior design and appearance.

1. Substantially identical façade, disregarding color;
2. Substantially identical size and arrangement of either doors, windows, porticos, porches or garages or other openings or breaks or extensions in the façade, including reverse arrangements; or
3. Other substantially identical features, such as but not limited to setbacks from street lines, heights, widths and lengths of elements of the building design and exterior materials and treatments.

b. Striking dissimilarity, visual discord or inappropriateness with respect to other structures located or proposed to be located on the same street or a corner thereof and within two hundred (200') feet of the site of the structure for which a building permit is requested, in respect to one (1) or more of the following features of exterior design and appearance.

1. Façade, disregarding color;
2. Size and arrangement of doors, windows, porticos, porches or garages or other openings or breaks or extensions in the façade; or
3. Other significant design features, such as but not limited to

heights, widths and lengths of elements of design, exterior materials and treatments, roof structures, exposed mechanical equipment, service and storage areas, retaining walls, landscaping, signs, light posts, parking areas and fences and service and loading areas.

c. Visual offensiveness or other poor qualities of exterior design, considerations of the harmony or discord of colors, or incompatibility of the proposed structure with the terrain or in the case of an extension or addition, the existing building on which it is to be located, including but not limited to excessive divergences of the height or levels of any part of the structure from the grade of the terrain.

d. Any characteristic which impairs the health, safety, and welfare of the community and to the existing surrounding residences, the Planning Board shall set forth in detail, its findings in the event it shall disapprove the submitted plans under the standards set forth in Section 11 E.

3. Where the Building Inspector finds some questions as to the conformity of the plans for an exterior alteration or addition anywhere on the existing structure or accessory structure, or the construction or erection of any accessory structure in excess of 150 square feet, to the standards set forth in Section 11 H herein and the criteria hereinabove, he/she may, in his/her sole discretion, require site plan and/or architectural review in accordance with this section and may refer the application to the Planning Board and/or the ARB for a recommendation. (*Amended 9/21/04*)

#### ***F. Application***

A site plan shall demonstrate that the standards of Section 11 of this local law can be met

and shall include at least the following requirements, except that the Planning Board Chairman may waive such requirements as he/she deems to be not pertinent or necessary.

**1. General**

- (a) Site plans shall be drawn to a convenient scale, but not less than 1" = 20'.
- (b) Such plan shall be prepared and signed by a professional architect, landscape architect, land surveyor or engineer licensed to practice in the State of New York, as required by the Building Inspector.

**2. Legal Data**

- (a) Name and address of applicant and written authorization of owner of demised property if different from applicant.
- (b) Original duly executed lease, or duly certified true copy thereof, if applicant is tenant or original recorded and stamped deed, if applicant is owner. Original or certified copy of a fully executed contract of sale to be provided if applicant is contract vendee.
- (c) Section, block and lot numbers of the property taken from the official tax records.
- (d) Name, address, signature and seal of the professional preparing the site plan.
- (e) Title of the development, date prepared and the date of revision, if any.
- (f) North arrow, scale and location map drawn to a scale of not less than 1" = 800'.
- (g) Certified survey depicting existing state of facts and conditions of site.

Boundary lines including metes and bounds thereof, cross referenced to the surveyor's map from which taken, including all site utilities and improvements to the center line of any improved street, and ten (10') feet beyond all other lines.

(h) The location of all adjoining properties, and the owners, sections, block and lot numbers of those properties as shown on official tax records.

(i) Description of all existing and proposed easements, deed restrictions or covenants applying to the property.

(j) Existing zoning and land use of the property and all adjoining properties.

(k) Analysis of conformity to applicable standards including any variances required.

### **3. Natural Features**

(a) Topographic data at a minimum contour interval of one foot, showing existing contours, extended at least ten feet into adjoining properties and to the center line of any adjacent street.

(b) Surface features, such as the location of rock outcrops.

(c) Vegetative cover, including the location of existing wooded areas, individual trees and trees on the site and adjacent Town property which are greater than four (4") inches caliper to be measured four (4') feet above grade.

(d) The location of all existing watercourses, waterbodies, intermittent streams, wetland areas and springs.

(e) Boundaries of any area subject to flooding or storm water overflows, including Flood Hazard Areas as established by the Federal Emergency Management

Agency or any other governmental or regulatory agency having jurisdiction.

#### **4. Existing Structures and Utilities**

- (a) Location of all structures on the premises, with distances at right angle to all property lines, and approximate location of all neighboring structures within 100 feet of all lot lines of the premises.
- (b) Location of all existing adjacent streets, ways and roads, paved areas and sidewalks. The names and existing widths of adjacent streets.
- (c) Locations, dimensions, grades and flow direction of existing sewers, culverts, water lines and other underground utilities within the property, to the extent known or relevant. Location of all utilities in the adjacent street and connections to structures on the premises.
- (d) Fences, landscaping and screening.

#### **5. Proposed Development**

- (a) The location and dimensions (length, width, floor elevations and height in feet and in stories) of proposed structures, with a detailed breakdown of all proposed floor space by type of use and floor level, and including the Gross Floor Area, as defined herein, for each floor level. (*Amended 9/21/04*)
- (b) Architectural plans, including but not limited to, exterior elevations and materials to be used.
- (c) Proposed grading plan at a minimum contour interval of one foot, showing existing and proposed contours and including all relevant spot elevations including, but not limited to, proposed elevations at the four or more principal building corners.

*(Amended 9/21/04)*

- (c) The location, width and finished grades of proposed streets, ways, roads and sidewalks, including pavement type and profiles.
- (e) The location, layout, finished grade, pavement specifications and curbing proposed for parking lots and loading spaces, including access drives.
- (f) Driveway profiles from the centerline of the street to the garage floor or parking lot. Indicate slopes by percent of grade. Elevations at centerline of street, top of curb, and at the lot line must also be indicated on the profile. Where there is no curb, the curb elevation is assumed to be equal to the elevation at the centerline of the street and should be so indicated.
- (g) The location, design and proposed screening of outdoor storage areas, including proposed provisions for refuse storage and collection.
- (h) The location, size and design of all proposed water supply, sanitary sewage, valves and hydrants and other utility facilities, including connections to any existing such facilities, with profiles.
- (i) Stormwater drainage systems with details of catch basins, dry wells, retention basins and other related facilities. Calculation of expected storm drain loads and stormwater runoff pattern to be accommodated by the proposed drainage system, to be included based on zero (0) increase in rate of discharge from the site regulated for storms up to fifty (50) year return probability.
- (j) Landscaping plan, to include type, size and quantity and location of plants and other landscaping materials to be used, with English and Latin names. Included in the plan shall be an indication of all existing vegetation to be retained and the

methods to be used to protect such vegetation during the course of construction.

(k) Type, materials to be used, location, design, shielding and hours of operation of exterior lighting, including but not limited to photometric study.

(l) Location, materials to be used, type, size, design, color and illumination of all signs.

(m) Estimate of the quantity of any material to be imported to or removed from the site.

(n) Description of measures planned to assure proper erosion and sedimentation control both during and after construction in accordance with Westchester County Best Management Practices for Construction.

(o) Top and bottom elevations of retaining walls, from both sides, together with typical sections of such wall, and fencing or other safety features.

(p) Any other information determined necessary or appropriate by the Planning Board in order to show sufficient detail of design and to provide for the proper administration and enforcement of this local law.

## **G. *Review Procedure***

### **1. Application**

Applicants are encouraged to submit a preliminary, informal application (pursuant to the Application, Rules and Regulations for Planning Board filings) for review by the Planning Board prior to formal submission of a complete and detailed site plan application. Formal and informal applications for site plan approval shall be submitted to the Building Inspector and to the individual members of the Planning Board. An application shall be considered officially submitted and



received when the Planning Board at a meeting deems it to be complete.

## **2. Review by Other Agencies**

In addition to the ARB, the Planning Board may forward copies for review and report to such other officials and agencies of the Town as it deems appropriate. With the exception of the ARB, all other agencies shall have 30 days from the date of forwarding to submit a report. Such time limit may be extended by mutual agreement with the applicant, but any such extension shall apply equally to the time limits of Section 11. The Planning Board shall, in addition and where required, forward copies to the Westchester County Planning Board and the Clerk of any abutting municipality, in accordance with the General Municipal Law of the Westchester County Administrative Code.  
*(Amended 9/21/04)*

## **3. Public Hearing and Decision on Site Plans**

Within sixty-two (62) days of receipt of a completed application, the Planning Board shall hold a public hearing unless the Planning Board has determined by decision and resolution that a public hearing is not required or unless the time limit is extended by mutual agreement with the applicant. An application before the Planning Board is not deemed complete if there has been no ARB recommendation transmitted to the Planning Board. Within sixty-two (62) days of the determination that a public hearing is not required or within like time following the close of a public hearing, the Planning Board shall approve, approve with modifications, or conditions, or disapprove the application. The Planning Board shall approve the application where it finds that the standards of this section have been met. The Planning Board may approve such application conditionally where it finds that such conditions or modifications are necessary to insure initial and continued conformance with the standards of this section have been met. The decision of the Planning Board

shall immediately be filed with the Town Clerk within thirty (30) business days from the date of determination and a copy thereof mailed to the applicant. Failure by the approving agency to take action within the time limit specified, or as may be extended, shall constitute approval. (*Amended 9/21/04*)

#### **4. Notice**

Written notices of the Public Hearing shall be mailed by the applicant to all property owners within a 200-foot radius of the boundaries of the premises by certificate of mailing in an official depository under the exclusive care and custody of the United States Postal Service. Proof of mailing shall be provided by way of an affidavit of service, in the form provided by the Planning & Building Department, and submission to the Planning & Building Department of the original certificates of mailing. (*Amended 5/20/08*)

#### **5. Variances in Conjunction With a Site Plan**

(a) No application shall be deemed complete unless it complies with all the requirements of this local law and any necessary variances have been granted by the Zoning Board of Appeals.

(b) The Planning Board shall not approve or disapprove an application until any necessary variances have been granted by the Zoning Board of Appeals.

(c) In cases where a use requiring site plan approval also requires one or more variances, application may first be made to the Planning Board at the discretion of the Building Inspector, if it is determined that the site plan issues related to the variance may be significant. The Planning Board after initial review shall then forward the application to the Zoning Board of Appeals. The Planning Board may

include a recommendation, including the planning and land use aspects of the application and requested variances. (*Amended 9/21/04*)

#### **H. Standards**

In considering and approving site plans, the Planning Board shall take into consideration the purposes of this local law, and, as a condition of approval, may require such modifications of the proposed plans as it deems necessary to comply with the provisions of this local law. The Planning Board shall specifically take into account the following:

1. Safe, adequate and convenient vehicular and pedestrian traffic circulation both within and without the site. At least the following aspects of the site plan shall be evaluated to determine conformity to this standard:

- (a) The effect of the proposed development on traffic conditions on existing streets;
- (b) The number, locations, dimensions and construction details of vehicular and pedestrian entrances, exits, drives and walkways. Vehicular access to State, County or Town roads must also be approved by the State Department of Transportation, the County Department of Public Works or the Town Police Department and Department of Highways, as appropriate;
- (c) The visibility in both directions at all exit points of the site. The driver of an automobile exiting the site should have an unobstructed view of the street for that distance necessary to allow safe entrance into the traffic stream;
- (d) The location, arrangement and adequacy of off-street parking lots, which shall, at a minimum, meet the requirements of Section 13 of this local law;

- (e) Inter-connection of parking lots via access drives within and between adjacent lots, in order to provide maximum efficiency, minimize curb-cuts, and encourage safe and convenient traffic circulation;
- (f) The location, arrangement and adequacy of loading areas, which shall, at a minimum, meet the requirements of Section 13 of this local law;
- (g) Patterns of vehicular and pedestrian circulation both within the boundaries of the development and in relation to the adjoining street and sidewalk system;
- (h) The location, arrangement and adequacy of landscaping within and bordering parking lots and loading spaces, which shall, at a minimum, meet the requirements of Section 13 of this local law;
- (i) Adequacy of fire lanes and other emergency zones. The Planning Board may require the providing of fire zones and may also require suitable legal agreements for enforcement of any accompanying parking restrictions.

2. The protection of environmental quality and the preservation and enhancement of property values in the neighboring area. At least the following aspects of the site plan shall be evaluated to determine conformity to this standard:

- (a) The location, height and materials of walls, fences, hedges and plantings so as to insure harmony with adjacent development, screen parking lots and loading spaces, and conceal storage areas, refuse areas, utility installations and other such features. Such walls, fences, hedges and planting shall, at a minimum, meet the requirements of Sections 8, 9, and 13 of this local law.
- (b) The prevention of dust and erosion, both during and after construction, through the planting of ground cover or the installation of other appropriate ground

surfaces;

(c) The preservation of natural features of the site such as wetlands, unique wildlife habitats, historic structures, major trees and scenic views both from the site and onto or over the site;

(d) The conformity of exterior lighting to the requirements of Section 9 of this local law;

(e) The design and arrangement of buildings, (such as air conditioning systems, public address systems, etc.) so as to achieve minimum and acceptable noise levels at the property boundaries.

(f) The provision of adequate storm and surface water drainage facilities so as to properly drain the site while minimizing downstream flooding, including on site retention in compliance with Westchester County's Best Management Practices for Construction sufficient to limit flows from the site based on zero increase in rate of discharge from the site regulated for storms up to a fifty year return probability.

*(Amended 5/20/08)*

(g) Access to sunlight for present and potential solar energy systems both on and off-site, as well as building siting, orientation, and landscaping.

3. A quality of building and overall site design which will enhance and protect the character and property values of the adjacent neighborhood. The Planning Board shall evaluate the architectural features of the proposed design to determine if they are in harmony with the neighborhood, including consideration of architectural style, bulk, dimensions, materials and location on the site and, in relation to development on adjoining properties, the natural terrain and vegetation, where applicable and shall also consider the recommendation from the ARB.

## ***I. Expiration***

Unless other provisions are specifically set forth by the Planning Board in connection with its approval of a site plan, such approval shall automatically expire if substantial construction is not accomplished: (1) within one year of the site plan approval, or; (2) a building permit has not been obtained within six (6) months from the date of the site plan approval, or; (3) if the construction or use shall cease for more than six months (6) in any twelve (12) month period. However, the Building Inspector may authorize an extension of the approval, not to exceed six (6) months, upon submission of an application for an extension and the payment of the appropriate application fee. Such application and fee must be filed with the Building Department a minimum of 10 days prior to the expiration of the original approval. Authorization for the extension must be in writing and signed by the Building Inspector. If substantial construction has not been accomplished or the building permit has not been obtained within the extended time frame authorized by the Building Inspector, the site plan approval shall automatically expire and no further extensions shall be authorized. (*Amended 9/21/04*)

## ***J. Amendments***

### **1. Minor Amendments**

During the review of final construction documents, the Building Inspector may, at his discretion, authorize minor adjustments to the approved plans, if it is determined that such adjustments are minimal and not material to the approved plans and are consistent with the concepts of the approved plans. (*Amended 9/21/04*)

During construction, the Building Inspector may authorize minor adjustments to the approved plans, when such adjustments appear necessary in light of technical or engineering

consideration, the existence of materiality of which was first discovered during actual construction, provided that such adjustments do not affect the aesthetic conditions of the site. Such minor adjustments shall be consistent with the concepts of the approved plans.

## **2. Substantial Amendments**

Where unforeseen conditions are encountered which require any change to an approved site plan, or where the applicant wishes to modify the approved plan for other reasons, an amended site plan shall be filed for review and approval in accordance with the same procedures required for initial applications.

### ***K. Guarantee of Completion***

Where in the opinion of the Building Inspector, the elements of an approved site plan are substantially complete with the exception of final landscaping, and the structure or use meets the requirements of all other applicable codes and ordinances, the Building Inspector may issue a temporary Certificate of Occupancy for a period of up to ninety (90) days, subject to a suitable assurance that all required elements of the approved site plan will be completed as soon as practicable. Where the Building Inspector finds good cause, he may extend such temporary Certificate of Occupancy for two additional periods of not to exceed ninety (90) days each. The applicable fees for the issuance of any temporary Certificate of Occupancy as set forth by the Town Board from time to time, shall be imposed. Any applicant requesting a temporary Certificate of Occupancy beyond two hundred and seventy days (270) must petition the Planning Board for an additional extension and substantiate to the Planning Board the need by factual evidentiary record. The Planning Board shall determine the period of any subsequent extension and the requisite fee. Such petition shall be considered a new application.





## **SECTION 12. SPECIAL PERMITS**

### **A. General Provisions**

Special permit uses, for which conformance to additional requirements is mandated by this local law, shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the conditions and standards set forth in this section in addition to all other requirements of this local law. All such uses are declared to possess characteristics of such unique and special form that each specific use must be considered as an individual case.

### **B. Approving Agencies**

The approving agency for the following listed special permit uses shall be the Zoning Board of Appeals:

- a. Day Care Facility - Commercial
- b. Day Care Facility - Home Based
- c. Day Care Facility - Intermittent
- d. Hospitals.
- e. Non-Profit Community Service Facility
- f. Nursery Schools
- g. Private Parking lot
- h. Private School
- i. Place of Worship, etc.
- j. Veterinary Hospital
- k. Wireless Communications Installation

*(Amended 5/20/08)(Amended 3/19/13)*

Upon any approval of a Special Permit by the Zoning Board of Appeals, under this section the application shall be referred to the Planning Board for site plan review. *(Amended 9/21/04)*

The approving agency for the following listed special permit uses shall be the Planning Board:

- a. Assembly Shop
- b. Car Washing Establishment.
- c. Drive-In Establishment
- d. Hotel.
- e. Outdoor Dining
- f. Private Learning Center
- g. Public Utility Facility
- h. Radio or Television Broadcasting Studio or Station.
- i. Recreation and Family Entertainment Facility (Indoor)
- j. Recreation and Family Entertainment Facility (Outdoor)
- k. Recreation/Social Club/Lodges and other Recreational Facilities.
- l. Satellite Earth Station.
- m. Transportation Facility
- n. Extension of a Use Over a District Boundary Dividing a Lot
- o. Senior Housing Development
- p. Food Service Establishment (for all Type I Food Service Establishments, regardless of size; and for Type II and Type III Food Service Establishments with

a gross floor area greater than 1800 square feet.)

*(Amended 9/21/04)(Amended 5/20/08)(Amended 11/05/09)(Amended 3/19/13)*

**C. Review Procedure**

**1. Application**

Applications for a special permit shall be submitted to the Building Inspector, in the number of copies as determined by such official. An application shall include a site plan, as well as a written statement describing the nature of the proposed use and how it will serve to implement the purposes of this local law.

When determined to be complete by the Building Inspector, the application shall be forwarded by him/her to the appropriate board designated as approval agency.

**2. Review By Other Agencies**

The approving agency may forward copies for review and report to such officials and agencies of the Town as it deems appropriate. In all cases herein, where the Zoning Board of Appeals is the approving agency, it shall forward six (6) copies to the Planning Board for site plan approval. All agencies shall have 30 days from the date of forwarding to submit a report. Such time limit may be extended by mutual agreement with the applicant, but any such extension shall apply equally to the time limit of Section 12. The agency shall, in addition and when required, forward copies to the Westchester County Planning Board and the Clerk of any abutting municipality, in accordance with Section 239-m of the General Municipal Law or Sections 277.61 and 277.71 of the Westchester County Administrative Code.

### **3. Public Hearing**

A public hearing on an application for a special permit shall be held by the approving agency within sixty-two (62) days of the date the complete application is received. No public hearing may be held until all requested reports have been received by the approving agency, or the thirty (30) days specified in Section 12.C2 above have elapsed, whichever is first.

### **4. Notice**

Written notices of the Public Hearing shall be mailed by the applicant to all property owners within a 200-foot radius of the boundaries of the premises by certificate of mailing in an official depository under the exclusive care and custody of the United States Postal Service. Proof of mailing shall be provided by way of an affidavit of service, in the form provided by the Planning & Building Department, and submission to the Planning & Building Department of the original certificates of mailing. (*Amended 5/20/08*)

### **5. Action**

Within sixty-two (62) days of the close of the public hearing, unless such time limit is extended by mutual agreement with the applicant, the approving agency shall approve, approve with modifications, or disapprove the application. The agency shall approve the application where it finds that the standards of Section 12.D have been met. The agency may approve such application conditionally where it finds that such conditions or modifications are necessary to insure initial and continued conformance with the standards of Section 12.D. Failure by the approving agency to take action within the time limit specified, or as may be extended, shall constitute approval. The decision of the agency shall immediately be filed with the Town Clerk and the Building Inspector and a copy

thereof mailed to the applicant. When the Planning Board is not the approving agency, any applications approved shall be returned to the Planning Board for site plan approval.

#### **6. Extensions of Time Periods**

The applicant may grant extensions of any of the above stipulated time limits, provided however that any extension of time granted to an official or agency making a report to the approving agency shall equally extend any subsequent time limit for the approving agency.

#### **7. Variances in Conjunction With a Special Permit**

a. No application shall be deemed complete unless it complies with all the requirements of this local law and any necessary variances have been granted by the Zoning Board of Appeals.

b. The approving agency shall not approve or disapprove an application until any necessary variances have been granted by the Zoning Board of Appeals.

c. In cases where a use requiring a special permit also requires one or more variances, and the Planning Board is the approving agency, the application shall first be made to the Planning Board. The Planning Board shall complete a preliminary review of the site plan and shall then forward the application to the Zoning Board of Appeals. The Planning Board may include a recommendation, including the planning and land use aspects of the application and requested variances. (*Amended 9/21/04*)

#### ***D. Standards***

All special permit uses shall comply with the following standards, in addition to the site plan standards of Section 11. The approving agency shall attach such additional conditions and safeguards to any special permit as are, in its opinion, necessary to insure initial and continual conformance to all applicable standards and requirements of this local law.

1. The location and size of the special permit use, the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development and use of the area in which it is located.

2. The location, nature and height of buildings, walls and fences and the nature and extent of existing or proposed plantings on the site are such that the special permit use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

3. Operations in connection with any special permit use will not be more objectionable to nearby properties by reason of noise, traffic, fumes, vibration or other characteristics than would be the operations of permitted uses not requiring a special permit. Parking areas will be of adequate size for the particular special permit use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum convenience and safety.

#### ***E. Expiration***

A special permit shall be deemed to authorize only the particular use specified in the permit and unless other provisions are specifically set forth by the approving agency, shall expire if said use shall cease for more than an aggregate of six months within one (1) year for any reason, or if

substantial construction, in accordance with the special permit, has not been completed within one (1) year from the date of issue or if all such required improvements are not maintained and/or all conditions and standards as set forth in the approval are not complied with throughout the duration of the special permit use.

#### ***F. Revocation***

Upon issuance by the Building Inspector of a second violation notice on a repeated violator which sets forth non-compliance of provisions or conditions under a special permit, it shall be referred by the Building Inspector to the approving agency who shall set a time, date, and place for a hearing to revoke the permit. Upon receipt of the complaint, the approving agency shall direct the Building Inspector to give notice to the violator by certified mail, return receipt requested of the hearing. The notice shall set forth the date, time, and place of hearing and shall include in detail, the provisions or conditions which have been violated. In the event the approving agency shall determine that a violation was committed and revoke the special permit, the permittee shall be entitled to file with the Supreme Court an Article 78 in accordance with the time limitation as set forth in the applicable provisions of the Town Law.

#### ***G. Change***

Any change in use or reduction in lot size requires amendment to the special permit, following the application and review requirements of this section, except that the approving agency may waive the requirement for a public hearing, where it finds that there is no change in the use, or that the use proposed falls within the definition of the existing special permit use, and that the change would require less than 10 parking spaces.

#### ***H. Individual Standards and Requirements for Certain Special***

## ***Permits***

The following individual standards and requirements are hereby established for certain special permit uses. They must, if applicable, be met before issuance of a special permit. These individual standards shall apply in addition to the applicable dimensional requirements established for the district within which the property is located, such as lot and bulk, landscaping, signage, lighting and off-street parking requirements established in Section 13, and all other requirements and provisions established in this local law.

### **1. Assembly Shop**

- a. Adequate off-street loading areas shall be provided, at minimum in conformance with Section 13.
- b. All assembly operations shall occur within the building.
- c. No discernable noise, dust, smoke, light, heat or any other nuisance shall be generated so as to extend beyond the property line.
- d. No outside storage of stock or materials incidental to the operator of the business.
- e. Hours of operation and frequency and time of deliveries shall be determined by the approving agency.

### **2. Car Wash**

- a. All washing, vacuuming and other related activities shall be conducted within a fully enclosed structure.
- b. All waste and water operations shall be carried off by suitable drains to a public sewer and shall contain an oil separator. There shall be no accumulation of ice



on public streets or sidewalks as a result of drainage.

c. Not less than 10 off-street queuing spaces shall be provided for each washing stall.

d. The location of the washing facilities on the lot and the associated vehicular circulation patterns shall be approved by the Chief of Police.

e. No car wash shall be located within one-thousand (1,000') feet of the property line of another.

f. The minimum lot frontage along a public street shall be one-hundred and fifty (150') feet with a lot depth of no less than one-hundred (100') feet.

g. The site is not within two-hundred (200') feet of the boundary of a residential district and/or residential property line.

h. All washing facilities shall be located within a completely enclosed building that meets all yard setback requirements of the district in which it is located.

i. All exterior lighting shall be designed and oriented so as to minimize the visual impact upon adjacent and nearby residential properties.

j. Landscaping, screening and buffer areas shall be provided in accordance with the local law herein.

k. Off-street parking shall be provided in accordance with Section 13 of this local law. When such use is accessory to a motor vehicle filling or service station, off-street parking shall be provided to meet the cumulative demand of such uses.

l. The hours of operation shall be limited from 8:00 a.m. to 8:00 p.m.

m. The applicant shall file with the Board a traffic study prepared by a traffic

engineer showing the effects of the proposed project on the surrounding public transportation system, which shall be subject to review and approval by the Chief of Police, and New York State or County Department of Transportation, where applicable.

### **3. Day Care Facility - Commercial**

- a. The site on which the facility is located shall be a minimum of 15,000 square feet in area.
- b. Pick-ups and drop offs shall be supervised by parent or adult and shall occur on the premises or within the public street directly in front of the premises. Inconveniencing neighboring properties shall be prohibited.
- c. The facility shall not operate before 7:00 a.m. or after 9:00 p.m., Monday through Friday, inclusive.
- d. No playground facility which shall be provided shall abut a public street.
- e. Overnight accommodations are prohibited. Any play area shall be enclosed by a fence.
- f. Bathrooms and cooking facilities shall be provided.
- g. Adequate off-street parking shall be provided in accordance with the requirements of Section 13.
- h. The criteria of this facility shall be dictated and licensed by the State Department of Education or the State Department of Social Services and Department Of Health other appropriate agency, if a license for its operation is required by law.

#### **4. Day Care Facility - Home Based**

- a. No more than eight children at any one time, including the children of any adult present on the premises are permitted.
- b. Overnight accommodations are prohibited.
- c. The entire yard of such Home based day care facility shall be enclosed by a fence.
- d. The Home based day care facility shall comply with all applicable zoning requirements for the district within which it is located.
- e. No playground facility which shall be provided shall abut any public street.
- f. The facility shall not operate before 7 a.m. or after 9:00 p.m. Monday through Friday inclusive.
- g. Pick-ups and drop-offs shall occur on the premises or within the public street directly in front of the premises. Inconveniencing neighboring properties shall be prohibited.
- h. Pick-ups and drop-offs shall be supervised by parent or adult.
- i. Bathrooms and cooking facilities shall be available.
- j. Adequate off-street parking shall be provided in accordance with the requirements of Section 13.
- k. The criteria for this facility shall be dictated and licensed by the State Department of Education or the State Department of Social Services and Department of Health or other approving agencies if such license is required.

**5. Day Care Facility – Intermittent**

- a. The site on which the facility is located shall be a minimum of 5,000 square feet in area.
- b. No more than 25 children at any one time shall be permitted.
- c. The site shall contain at least 50 square feet of fenced outdoor play area per child on the site at any one time, with a minimum of 750 square feet of fenced outdoor play area.
- d. No playground facility which shall be provided shall abut any public street.
- e. No playground facility shall be provided abutting any public street.
- f. The facility shall not operate before 7 a.m. or after 9:00 p.m. Monday through Friday inclusive.
- g. Pick-ups and drop offs shall be supervised by parent or adult.
- g. Bathroom and cooking facilities shall be available.
- h. Adequate off-street parking shall be provided in accordance with the requirements of Section 13.
- i. The criteria for this facility shall be dictated and licensed by the State Department of Education or the State Department of Social Services and Department of Health, or other approving agencies if such licenses is required.

**6. Drive-In Accessory Use**

- a. There shall be access for queuing a minimum of five (5) cars.
- b. Traffic condition must be safe and orderly and at no time shall vehicles block streets, sidewalks, or other parked vehicles.

- c. Lighting/Amplification - There shall be adequate lighting but lighting shall not interfere with adjoining properties. There shall be no outdoor amplification .
- d. All means of ingress and egress shall be subject to approval by the Chief of Police, Fire Chief, and Highway Department Superintendent.
- e. Such other conditions as the Planning Board deem necessary under the circumstances shall be addressed.

**7. Extension of a use over a District Boundary Dividing a Lot**

In addition to requirements set forth in Section 7A, the approving agency shall address any issues and conditions as may be necessary to comply with the intent and requirements of this local law.

**8. Hospital**

- a. Off-street parking shall be provided in accordance with the provisions of Section 13 for each component use within the hospital.
- b. The entrance to all off-street parking and loading areas shall be from an internal driveway system and not from a public street.
- c. Spacing between separate buildings on a hospital shall be at least two-thirds (2/3) of the height of any opposing wall.
- d. The minimum lot area shall be five (5) acres.
- e. The facility shall be licensed by the State Department of Health and any other mandatory licensing agencies as required by law.

**9. Hotel**

- a. The lot shall be not less than 5 acres in area.
- b. There shall be not less than 1500 square feet of land area per guest sleeping room.
- c. Building coverage shall not exceed 20 percent.
- d. Off-street parking shall be provided in accordance with the provisions of Section 13 for each component as within the hotel.

**10. Non-Profit Community Service Facility**

- a. Outdoor storage of equipment or materials is prohibited.
- b. Permanent or transient housing facilities are prohibited.
- c. Emergency housing shall be permitted as an accessory use, but shall in no instance constitute more than ten percent (10%) of the facility, except in cases of disaster.
- d. Vehicles carrying identification signs or logos shall be stored so as to not be visible for any public street or surrounding neighborhood.
- e. The Planning Board may require the provision of additional off-street parking spaces, beyond that required in Section 13, to accommodate peak use demand.
- f. The Building Department and Fire Department shall review and comment on all Non-Profit Community Service Facilities prior to approval.
- g. Hours of operation may be extended by permission of the Building Inspector, Chief of Police or Fire Chief during times of emergency.

## 11. Nursery Schools

- a. The lot shall be a minimum of one (1) acre in area.
- b. The site shall contain at least two hundred (200) square feet of outdoor play space per child with minimum play space of one thousand (1,000) square feet for any nursery school. The play space shall be located in rear or side yards at least fifty (50') feet from any non-residential lot line and seventy-five 75 feet from any residential lot line. The outdoor play area shall be screened with a fence not to exceed six (6') feet in height to protect the children and to avoid any nuisance to adjoining properties. Hedges, plantings and other living fencing that may be installed in addition to the forgoing required fencing, shall not exceed six (6') feet in height, if used for further screening purposes.
- c. There shall be no more than one (1) pupil for each one thousand five hundred (1500) square feet of lot area.
- d. The entire play area of such facility shall be enclosed by a fence.
- e. The facility shall comply with all applicable zoning requirements for the district within which it is located.
- f. No playground facility shall be provided abutting any public street.
- g. The facility shall not operate before 7 a.m. or after 9:00 p.m. Monday through Friday inclusive.
- h. Play or instructional space within a building shall be located on the first floor only and contain at least thirty five (35) square feet of area for each pupil, exclusive of cloakrooms, lavatories, storage rooms and hallways.
- i. No play or instructional space shall be located below grade.

- j. There shall be at least one (1) toilet and one (1) washbasin for each fifteen (15) pupils, with separate facilities for boys and girls.
- k. Adequate off-street parking shall be provided in accordance with the requirements of Section 13.
- l. Nursery schools shall be licensed by either the State Department of Education or the State Department of Social Services, if a license for its operation is required by law, and shall be subject to all requirements of any federal, state, county or local regulatory agency.

## **12. Outdoor Dining**

- a. All outdoor dining areas must include a minimum of three tables and 12 seats. After considering issues related to site location, site conditions, traffic, parking, etc., the Planning Board, at its discretion, may limit the maximum permitted number of tables and seats.
- b. The Chief of Police, Fire Chief, Superintendent of Highways, and Building Inspector shall review all applications for outdoor dining areas with regard to emergency service and safety issues.
- c. When an outdoor dining area adjoins a residential property the Planning Board shall ensure that a sufficient buffer is provided adjacent to the residential property and that the area is appropriately landscaped and screened by proposed fencing and or landscaping.
- d. If provided, outdoor lighting shall be shielded and directed into the outdoor dining area. No lighting shall extend beyond the perimeter of the outdoor dining area.



e. Signage, separate from that permitted on the principal use, shall be prohibited on the outdoor dining facility except that a menu stand is permitted not exceeding 24" x 24".

f. The hours of outdoor dining shall be as follows: Sunday through Thursday until 10:00 p.m., and Friday and Saturday until 11:00 p.m. However, the Planning Board may prohibit or limit the hours of operation if it is determined that the activities associated with the outdoor dining will have an adverse impact on adjacent or nearby residential properties.

g. Music, amplification systems, or other types of entertainment activities shall be prohibited in the outdoor dining area.

h. The applicant shall submit a site plan of the entire site as well as a detailed site plan of the proposed outdoor dining area to the Planning Board which shall include, but not necessarily be limited to, all proposed setbacks, paved areas, landscaped areas, fencing, lighting, tables, chairs, service stations, trash enclosures etc. Construction details of all proposed site elements shall be provided as well.

i. The applicant shall provide catalogue cut sheets of all proposed tables and chairs, which shall be substantial and constructed of a heavy gauge metal, wood, or other durable material deemed appropriate by the Planning Board.

j. All site furniture shall be stored inside after operating hours or shall be permanently affixed to the ground.

k. In reviewing an application for the special permit, the Planning Board must consider traffic and parking conditions in the area and the potential impact on such conditions as a result of the outdoor dining and may require that the applicant

provide additional parking and/or limit the number of permitted seats in the outdoor dining area.

1. The special permit for Outdoor Dining shall be contingent upon the continued compliance with the special permit requirements and any conditions of approval. The Building Inspector, at any time, may require that the application reappear before the board for a reconsideration of the special permit in the event that the applicant fails to comply with one or more of the special permit requirements or conditions of approval, if there is a significant change in site conditions or upon the recommendation of the Chief of Police.

*(Amended 5/20/08)(Amended 3/19/13)*

### **13. Private Parking Lot**

- a. Parking shall be solely for private passenger cars.
- b. No commercial enterprise shall be established on said parking area, and no service of any kind shall be rendered to any vehicle or occupants, except that of a guard or parking attendant.
- c. No signs shall be erected in the lot except those necessary for orderly parking and one sign at each entrance indicating the operator and purpose of such lot. Such sign at each entrance shall not exceed 24 inches by 12 inches and the top thereof shall not be more than four feet above the ground level and shall otherwise comply with all local sign ordinances.
- d. Such parking area shall be suitably paved with asphalt or other suitable impervious pavement with provision for drainage sufficient to dispose of all surface

water.

e. Such parking area may be used during the hours of operation of the business, except as otherwise provided by the Board.

f. Parking space and traffic lanes shall be suitably marked and wheel stops or bumper guards shall be placed along the inside perimeter of the parking area.

g. Where the parking area abuts a residence district, there shall be erected a planting screen not less than five feet in width nor less than six feet in height consisting of dense shrubbery of which one half shall be evergreens. Said planting screen shall be set back not less than 15 feet from any residential property line. Where the parking area abuts a street in a residence district, the rear edge of the planting screen shall be set back in accordance with the front yard requirements for said residence district, and at least 75 percent of such front yard shall be landscaped with grass or evergreen ground cover and maintained in good condition, and any space between a planting screen and adjoining property in a residence district shall be similarly treated. The approving agency may impose additional landscaping as necessary and in accordance with this local law.

h. Any lighting used to illuminate the parking area shall be so arranged as to reflect away from the adjoining residence property.

i. Entrances and exits to the parking area so far as practicable shall be over property zoned for business or from streets on the boundaries between a business district and the residence district.

**14. Place of Worship**

- a. Exterior lighting shall be limited and characteristic of the surrounding neighborhood. Places of worship shall not be illuminated after 11:00 p.m. except for security lighting and when the place of worship is conducting services.
- b. Adequate off-street parking shall be provided in accordance with the provisions of Section 13.
- c. Adequate roads for ingress and egress shall be provided, which roads shall create no unusual traffic hazards or traffic congestion and shall be subject to approval by the Chief of Police, Fire Chief, Superintendent of Highways, and Building Inspector.
- d. The approving agency may impose additional landscaping as necessary to buffer any adjoining residential areas in addition to any other requirements set forth in this local law.
- e. Exterior amplifying public address systems or other electronic devices shall be prohibited.

**15. Private School**

A campus Comprehensive Plan of the Town of Eastchester as adopted on February 18, 1997 shall be required that includes a facility-wide master site plan, and related narrative at a suitable level of detail to describe specific land uses within the campus that are existing and a schedule for development for those uses that are proposed. The site plan shall include the graphic illustration of major buildings, internal roadways (including circulation pattern), parking areas, open spaces, recreational

fields, dormitories, classrooms that includes a tabular calculation of building square footage, number of parking spaces, and percent of open space. The following additional standards shall also apply:

1. The lot shall not be less than two (2) acres in area.
2. Private schools that provide general education in the arts and sciences shall be chartered by the Board of Regents of the State of New York.
3. Outdoor playing fields shall be screened from public view by trees, hedges or other suitable shrubbery. When located in or abutting a residential premises, no field lighting, public address system or other amplification device shall be permitted.
4. Adequate roads for ingress and egress shall be provided, which roads shall create no unusual traffic hazards or traffic congestion and shall be subject to approval by the Chief of Police, Fire Chief, Superintendent of Highways, and Building Inspector.
5. The site shall contain at least 200 square feet of fenced outdoor play area per child on the site at any one time, with a minimum of 1,000 square feet of outdoor play area.
6. There shall be one toilet and one washbasin for each 15 children with separate facilities for boys and girls.
7. Adequate off-street parking shall be provided in accordance with the requirements of Section 13.

**16. Private Learning Center**

- a. The premises in which the facility is located shall be a maximum of 2,000 square feet in area.
- b. The maximum capacity shall be regulated by public assembly requirements of New York State Uniform Fire Prevention and Building Code.
- c. The facility shall not operate before 7:00 a.m. or after 9:00 p.m., Monday through Friday inclusive, and Saturday not before 9:00 a.m. or after 6:00 p.m. The facility shall not operate on Sundays or legal holidays.
- d. For facilities servicing children under the age of sixteen (16), pick-ups and drop-offs shall be supervised by parent or adult and shall occur on the premises or within the public street directly in front of the premises. Inconveniencing neighboring property shall be prohibited.
- e. Overnight accommodations are prohibited.
- f. Bathroom facilities shall be provided with separate facilities for males and females.
- g. Adequate off-street parking shall be provided in accordance with the requirements of Section 13.
- h. Adequate roads for ingress and egress shall be provided which roads shall create no unusual traffic hazards or traffic congestion and shall be subject to approval by the Chief of Police, Fire Chief, Superintendent of Highways and Building Inspector.
- i. When located in or abutting a residential premises, no field lighting, public address system or other amplification device shall be permitted.

j. The criteria of this facility shall be dictated and licensed by the State Department of Education or other appropriate agency if a license for its operation is required by law.

**17. Public Utility Facility**

- a. Public utility facilities shall be permitted in non-residence districts only.
- b. Such facilities shall not include repair services or outdoor storage of equipment or supplies.
- c. The minimum lot area and dimensional requirements of district within which the facility is located shall apply.
- d. Outdoor installations shall be adequately fenced and landscaped.
- e. Outdoor lighting shall be limited to that necessary for operational and security reasons and shall be so designed as to not be incompatible with surrounding land uses.
- f. No single transformer capacity exceeds 10,000 Kilovolt Amps (KVA) and the maximum voltage of any connecting transmission line does not exceed 66,000 Kilovolt Amps (KVA).
- g. Electric transformer or booster stations shall not exceed 50 feet by 75 feet.
- h. The property on which a electric transformer or booster station it is situated shall not be less than 10,000 square feet in area with a minimum width of 75 feet.
- i. Electric transformer or booster stations shall be enclosed by protective fencing and gates which are locked except when necessary to provide temporary access.

- j. The whole property must be suitably landscaped and maintained.
- k. Adequate off-street parking shall be provided in accordance with Section

**18. Radio or Television Broadcasting Studio or Station**

- a. No tower shall exceed 150 feet in height.
- b. There shall be no interference with radio, telephone, television, or wireless transmission etc., reception in adjacent neighborhoods.
- c. Towers and ancillary equipment shall be designed and located so as to minimize negative visual and aesthetic impacts to the maximum extent practicable.
- d. Transmission facilities shall be located no closer than 250' from a residential property line.
- e. Adequate landscaping shall be provided.
- f. Exterior amplifying public address systems or other electronic devices shall be prohibited.

**19. Recreation and Family Entertainment Facility (Indoor)**

- a. Such Principal uses under this Special Permit use shall include:
  - 1. Swimming pools.
  - 2. Health and Fitness facility.
  - 3. Instructional Batting and golf.
  - 4. Court Sports.
  - 5. Arts and Crafts.
  - 6. Day Camp.



7. Skating/Roller and Ice.
8. Skate Boarding
9. Children's Playground

Accessory uses under this Special Permit shall be limited to the following uses and shall not exceed 10% of the gross floor area of the principal use:

1. Arcade
  2. Billiards, pool.
  3. Batting cage.
  4. Bowling alley.
  5. Pistol range.
  6. Video games.
  7. Food and non-alcoholic beverages and other incidental retail items.
- b. Any facility shall be located at such distance from any lot line as the approving agency shall find to be necessary in a particular case, but in any event, not less than 100 feet from any such lot line.
- c. Illumination shall be shielded and the light source shall not be visible from adjoining properties.
- d. Exterior amplification, public address systems or other electronic devices shall be prohibited.
- e. There shall be no live or mechanical entertainment outdoors.
- f. The hours of operation shall be as follows: Sunday through Thursday

from 9:00 a.m. until 10:00 p.m. Friday, and Saturday from 9:00 a.m. until 11:00 p.m.

g. Landscaping, screening and buffer shall be provided as required under this local law.

h. Pick-up and drop off shall be provided on site and shall be supervised by parent or guardian.

i. Adequate roads for ingress and egress shall be provided, which roads shall create no unusual traffic hazards or traffic congestion and shall be subject to approval by the Chief of Police, Fire Chief, Superintendent of Highways, and Building Inspector.

j. Adequate off-street parking shall be provided in accordance with provisions of Section 13.

k. The State and County Departments of Health shall certify that any swimming pool installation shall comply with their respective codes or regulations.

These provisions shall not apply to swimming pools located at private residences.

## **20. Recreation and Family Entertainment Facility (Outdoor)**

a. Where a recreational facility is located outdoors, the lot shall be a minimum of two acres and shall otherwise follow the requirements of Indoor Recreation and Family Entertainment, where applicable.

## **21. Recreation/Social Club/Lodge**

a. Such Principal uses under this Special Permit use shall include:

1. Swimming pools.

2. Health and Fitness facility.
3. Instructional Batting and golf.
4. Court Sports.
5. Arts and Crafts.
6. Day Camp.
7. Skating/Roller and Ice.
8. Skate Boarding
9. Children's Playground

b. Accessory uses under this Special Permit shall be limited to the following uses and shall not exceed 10% of the gross floor area of the principal use:

1. Pool/Billiards.
2. Food and non-alcoholic beverages.
3. Video games.
4. Bowling alley.
5. Arcade.
6. Games of Chance.
7. Bingo.

Any facility shall be located at such distance from any lot line as the approving agency shall find to be necessary in a particular case, but in any event, not less than 100 feet from any such lot line and shall otherwise follow the requirements of Indoor Recreation and Family Entertainment, where applicable.

**22. Food Service Establishment** (For all Type I Food Service Establishments, regardless of size; and for Type II and Type III Food Service Establishments with a gross floor area greater than 1800 square feet.)

Under this section, the Planning Board is given broad authority to regulate proposed architecture, signage, and site plan elements, as well as certain operation procedures, for all Food Service Establishments that require a special permit. This authority is given to the Planning Board to ensure that all proposed building, façade, signage, site plan and landscape improvements are designed, and business operations are implemented, in such a way to “preserve and enhance the predominantly residential character of the community, while concurrently strengthening the Town’s commercial areas” in accordance with the Comprehensive Plan of the Town of Eastchester. The intent of these requirements is to avoid against generic and formulaic architecture and signage, to promote thoughtful and attractive development that contributes to the established and desired residential character of the community, and to protect the quality of life and well-being of the Town’s residents.

a. The Planning Board shall consider the following for all applications for Food Service Establishments:

1. Site access and circulation for automobiles, delivery trucks and pedestrians.
2. Location of curb cuts and impact on traffic patterns in the surrounding area.
3. Location and design of ventilation, exhaust, and HVAC systems.
4. Location of above ground utility infrastructure facilities.
5. Location and design of waste and recyclables storage areas and receptacles.

6. Location and design of delivery, loading and service areas.

7. Hours of operation. As a condition of approval, the Planning Board may limit the permitted hours of operation if it finds that extended hours of operation may adversely impact adjacent residential properties or the character of the neighborhood within which the establishment is located.

8. Availability of off-street parking, access to municipal parking areas, potential for shared parking and potential for valet services.

9. The character and design of proposed architecture, storefronts and signage. Proposed architecture, storefronts and signage shall be responsive to local context and contribute to aesthetic identity of the community. Applied treatments, that are not fully integrated with the building architecture or that are utilized primarily to express corporate identity, are discouraged.

10. Landscaping and screening. To the maximum extent practicable, landscaping shall be integrated into the overall design concept. Special consideration shall be given to providing landscaped islands within parking areas, to enhancing the streetscape, to providing buffers adjacent to residential areas and to using sustainable plant materials. Landscape plans must be prepared by a landscape architect licensed in the State of New York.

11. Exterior lighting. The Planning Board may require a lighting plan including, but not necessarily limited to: type of lighting equipment, the lamp source and wattage, fixture locations, mounting height, shielding, mounting details and photometric data. All illumination of the site, even that from architectural lighting, shall be taken into account in the lighting plan.

12. In accordance with the Local Law entitled: “Escrow Accounts for Professional Consultation Fees within the Unincorporated Town of Eastchester”, the Planning Board may refer any application presented to it to such engineering, planning, legal, technical or environmental consultant, or professional(s) employed by the Town, as it shall deem reasonably necessary to enable it to review such application as required by law. Fees for such services shall be from an escrow account funded by the applicant and maintained by the Town.

b. The following features are prohibited for any Food Service Establishment:

1. Drive-in or drive-through windows;
2. Interior or exterior play areas;
3. Music, amplification systems or other types of entertainment activities on

the exterior of the premises.

4. Overly bright, busy, garish or otherwise unattractive building design and/or signage;

5. More than two cashier stations available to patrons;

6. Video and arcade games;

c. Miscellaneous Requirements

1. Any application which includes a bar shall be subject to the following limitations:

i. The bar shall be an accessory use to the Food Service Establishment;

ii. Approval of the bar, as an accessory use, shall be subject to approval by the State Liquor Authority. (*Amended 3/19/13*)

**23. Satellite Earth Station**

- a. Ground stations shall be restricted to the rear yard, not exceed 15 feet in height (measured from highest part of antenna to ground level) and shall have the same setbacks as required in the zone for accessory structures.
- b. Roof stations shall not extend more than six feet above the roof and shall be located and screened to minimize visual impact.
- c. Illumination shall be shielded and the light source shall not be visible from adjoining properties.
- d. Exterior amplification, public address systems or other electronic devices shall be prohibited.
- e. There shall be suitable screening so as to reduce to a minimum the visual impact on surrounding properties.
- f. All receive only satellite dishes twenty - four (24) inches in diameter or less shall be exempt from the requirements to obtain an approval or permit.

**24. Transportation Facility**

- a. There shall be no loading or unloading of any bus, taxi limousine, or hired vehicle, in a public street.
- b. Sufficient loading and unloading areas adjacent to any covered platform of the terminal shall be provided to accommodate the maximum number of hired vehicles operating at anytime.
- c. Sufficient off-street parking space shall be provided to accommodate all hired vehicles within the terminal area actually in use at any one time, and sufficient off-

street parking space shall be provided to accommodate private cars delivering or waiting to pick up passengers arriving or departing by hired vehicles at peak operations, which shall be considered in accordance with Section 13.

d. The location of all entrances and exits, the adequacy of all approach and turning areas and of all off-street parking and loading areas shall also be subject to the joint approval of the Chief of Police and the Town Superintendent of Highways.

**25. Veterinary Hospital**

a. The use shall be limited to the treatment and care of small animals.

b. No part of any building, kennel or outdoor enclosure in which such animals are housed, fed, treated or exercised shall be less than 50 feet from any residentially zoned property and 25 feet from any property line.

c. The approving agency may set forth conditions on issues including but not limited to waste removal, noise, noxious fumes, hours of operation, lighting and fencing.

d. Any outdoor activity including areas for dog runs are prohibited.

e. Adequate off-street parking shall be provided in accordance with Section 13.

f. Adequate roads for ingress and egress shall be provided, which roads shall create no unusual traffic hazards or traffic congestion and shall be subject to approval by the Chief of Police, Fire Chief, Superintendent of Highways, and Building Inspector.

**26. Wireless Communication Installation**

a. A Wireless Communication Installation shall be permitted as a Special



Permit Use to be located on any property in the Town, whether or not such property is occupied by another use, if and only if the operator of the Wireless Communication Service establishes proof that such Wireless Communication Installation:

- i. Is necessary to meet the current or expected demands of such Wireless Communication Service provider;
  - ii. Conforms with applicable regulations promulgated by the Federal Communications Commission;
  - iii. Is sited to minimize its visibility from surrounding public streets and adjacent properties;
  - iv. Is designed and finished in a manner which aesthetically minimizes its visual impact; and
  - v. Complies with all dimensional requirements, including the lot and building limitations set forth in Schedule of Residential District Regulations, and Schedule of Non-Residential District Regulations, for the district in which the installation is located except that the height of such installation shall be governed by Section 7.C.5 of the Zoning Law.
  - vi. That it has surveyed and considered all available sites in non-residential areas and has found them unacceptable for the installation of wireless communication systems.
- b. Prior to the issuance of any Special Permit for a Wireless Communication Installation, the Wireless Communication Service provider shall submit proof that reasonable efforts have been made to co-locate such Wireless Communication

Installation with an existing Wireless Communication Installation (the “Existing Cell Site”), including the following considerations:

i. Can adequate and reliable Wireless Communication Service be provided from such Existing Cell Site(s) in a financially and technologically feasible manner consistent with the Wireless Communication Services’ systems requirements?

ii. Can the Existing Cell Site accommodate the proposed Wireless Communication Installation due to structural or other engineering limitations (e.g., frequency incompatibilities)?

iii. Has the owner of the Existing Cell Site agreed to permit another Wireless Communication Installation to be situated at the Existing Cell Site? Whenever any of the above considerations required to be addressed are answered in the negative, co-location of the Wireless communication Installation shall not be required.

c. Any application for the approval of a Special Permit for a Wireless Communication Installation shall include a report by a qualified professional engineer and/or health physicist as determined by the Zoning Board, which calculates the maximum amount of non-ionizing electromagnetic radiation (“NIER”) which will be emitted from the proposed Wireless Communication Installation upon its installation and demonstrates that the facility will comply with the applicable NIER standard set forth below:

i. the standard for public exposure to NIER established by the Institute of Electrical and Electronics Engineers/American National Standards Institute

(1992 ANSI/IEEE C95.1), as same may hereinafter be revised; or

ii. if a regulation establishing standards for NIER has been promulgated by the Federal Communications Commission, in accordance therewith.

iii. the Wireless Communications Provider shall by its qualified professional engineer and/or health physicist, certify to the Building Inspector on an annual basis that there has been no modification or change which will affect the emissions. The date shall run from the time of the special permit approval.

d. Upon completion of Sections 31a, 31b and 31c above, the Zoning Board of Appeals shall refer the application to the Planning Board for review of the site plan and architectural features, i.e., the visual and aesthetic aspects of the application. The Planning Board shall base its review upon the criteria set forth in Section 11 of the Zoning Law without regard to the issues reserved herein for the Zoning Board of Appeals. *(Amended 3/20/01)*

e. Upon furnishing the Zoning Board of Appeals with a copy of the Planning Board approval of the application, the Zoning Board of Appeals shall grant the special permit with or without any conditions it deems necessary.

f. A condition of this Special Permit shall be that Permittee shall upon termination of the use of the Facility must at its sole cost and expense remove the Installation in its entirety.

## **27. Senior Housing Development**

A. Special Permit Authorized. A Senior Housing Development shall be permitted as a Special Permit Use in the GB, General Business District as follows:

- a. A Senior Housing Development shall consist of one or more residential buildings containing a minimum of 15 percent affordable dwelling units for rent or for-sale limited to occupancy by senior households, as defined below. A Senior Housing Development may be comprised of any combination of types of multifamily buildings, excluding attached “townhouse” style buildings, provided that the buildings are arranged to function as one integrated development.
- b. Senior Housing Development shall not include nursing homes, convalescent homes, private proprietary homes, homes for the aged, assisted living facilities or other facilities regulated and licensed by the New York State Department of Health under the Public Health Law of the State of New York.
- c. Permitted Accessory Uses. Permitted accessory uses shall include accessory uses incidental to the Senior Housing Development which are reasonably necessary for the maintenance, administration and security of the Senior Housing Development, but which are subordinate to the residential character of the development, including but not limited to accessory buildings, off-street parking areas or structures, fences, and utilities. The following accessory uses are expressly permitted provided that such uses are managed as part of the Senior Housing Development and restricted to use by, or for the benefit of, residents of the Senior Housing Development:
  - i. Meeting rooms, multipurpose rooms, lounges, libraries, lobby areas, or other similar common spaces.
  - ii. A convenience shop for daily needs such as food items, nonprescription drugs, newspapers and small household items and similar items, provided that the maximum floor area devoted to such use is no more than 400 square feet.
  - iii. A coin operated vending machine room, provided that the maximum floor area devoted to such use is no more than 150 square feet.
  - iv. Security office and/or management office.
  - v. Indoor and/or outdoor recreation facilities, including sitting areas, walking trails, pool, exercise room and other recreation and leisure facilities.
  - vi. Common kitchen and dining room.
  - vii. Beauty and/or barber shop.
  - viii. Office for a doctor, medical infirmary or clinic and/or social service delivery for use exclusively by residents of the facility.
  - ix. Other accessory uses as permitted by the Planning Board.
- d. Occupancy of Dwelling Units. Dwelling units in a Senior Housing Development shall be occupied for residential purposes only. Unless otherwise provided herein,

occupancy of a dwelling unit shall be limited to a senior household and guests as set forth below:

- i. Senior Household. A “senior household” shall consist of:
    - (a) One or more persons, all of whom are 55 years of age or older; and
    - (b) A spouse (over or under the age of 55) of a qualified resident 55 years of age or older; and
    - (c) One person 18 years of age or older, residing with at least one person who is 55 years of age or older, provided that the presence of such person 18 years of age or older is required for the physical care of persons listed in (a) and (b) above, as certified by a physician licensed in the State of New York.
  - ii. All Dwelling Units to be “Affordable”. A minimum of 15 percent of dwelling units in a Senior Housing Development shall be offered as “affordable” to senior citizens earning less than 80 percent of the area median income for Westchester County, as defined annually by HUD (hereinafter “80% AMI”), such eligible household referred to herein as a “Qualifying Household”.
  - iii. Distribution of Affordable Units. Affordable units shall generally be distributed evenly throughout the development; shall not be distinguished as a class from other units based on size or design; shall be distributed among efficiency, one and two bedroom units in the same proportion as the market-rate dwelling units.
  - iv. Maximum Occupancy. The maximum permitted number of persons who may reside in a dwelling unit shall be two persons for efficiency and one-bedroom units, and three persons for two bedroom units.
  - v. Guests. Temporary occupancy by guests of residents shall be permitted, provided that such occupancy does not exceed 30 total days in any calendar year. Residents shall notify the manager or superintendent of any guests staying at the Senior Housing Development for more than three consecutive nights. A log shall be maintained, by the project superintendent or manager, of all guests and such log shall be available for review by the Town Attorney.
- e. Preferences.
- i. The owner or authorized manager of the senior housing development shall be responsible for selecting tenants. The owner or authorized manager of the development shall be responsible for selecting new dwelling unit owners upon resale. A general waiting list for prospective tenants or purchasers shall be maintained by the owner or authorized manager. Subject to the right of the owner or authorized manager to reject a prospective tenant or prospective purchaser for good cause shown, selection of tenants, original owners or owners on resale for all dwelling units shall be made upon the following priorities:

(a) Residents of the Town of Eastchester.

[1] Cumulative length of Town residency.

[2] Date of application.

[3] Lottery.

(b) Relatives of residents of the Town of Eastchester (immediate family: father, mother, son, daughter, brother or sister).

[1] Cumulative length of residency of Town resident.

[2] Cumulative length of former Town residency.

[3] Date of application.

[4] Lottery.

(c) Other residents of Westchester County.

[1] Cumulative length of former residency within the Town of Eastchester.

[2] Cumulative length of former residency in the county.

[3] Date of application.

[4] Lottery.

(d) All others.

[1] Cumulative length of former residency in the Town of Eastchester.

[2] Cumulative length of New York State residency.

[3] Date of application.

[4] Lottery.

i. Notwithstanding the priorities set forth in this subsection, a companion of a senior citizen owner or tenant shall have first priority to rent or purchase a dwelling unit if the companion has resided with the senior citizen for at least one year and at the time of death of such senior citizen. This priority shall only apply to the rental or purchase of the dwelling unit in which the companion resided as a primary or principal residence with the deceased senior citizen owner or tenant, and if such companion shall be otherwise qualified under this section to rent or own a dwelling unit.

ii. In the event that after the exercise of the preferences set forth in this subsection f., there remains vacant units, said units may be offered to non-Senior Households for rental for a term not to exceed one year. Prior to the renewal or re-renting, said units shall once again be offered pursuant to the terms of the preferences.

f. Occupancy by Manager or Superintendent. Notwithstanding the foregoing, one dwelling unit may be occupied by a manager or superintendent and his/her family without regard to the occupancy requirements set forth above, provided that the unit

shall not be in addition to the number of units otherwise permitted under this section and provided that the unit is not considered in the affordable unit count.

- g. Other Dwelling Unit Requirements. Dwelling units in a Senior Housing Development shall comply with the following requirements:
  - i. Dwelling units shall be limited to efficiency, one-bedroom and two-bedroom units.
  - ii. The minimum floor area per dwelling unit in a Senior Housing Development shall be 500 square feet for efficiency units, 600 square feet for one-bedroom units, and 750 square feet for two-bedroom units.
  - iii. All dwelling units shall be designed for independent living and shall contain full bathroom and kitchen facilities, including but not limited to a sink, refrigerator, stove, range or combination unit in the kitchen and a sink, toilet, bathtub and shower in the bathroom.
- h. Lot and Bulk Requirements. The following lot and bulk requirements shall apply to Senior Housing Developments:
  - i. Minimum lot area. The minimum lot area shall be 40,000 square feet.
  - ii. Maximum residential density. The maximum permitted density shall be one dwelling unit per 700 square feet of lot area.
  - iii. Maximum impervious surface coverage shall not exceed 70 percent of the lot area.
  - iv. Maximum building coverage shall not exceed 35 percent of the lot area.
  - v. Minimum front yard. The minimum front yard setback for all structures shall be 22 feet.
  - vi. Minimum side yard. The minimum side yard setback shall be 22 feet.
  - vii. Minimum rear yard. The minimum rear yard setback shall be 30 feet.
  - viii. Maximum building height. The maximum building height shall not exceed 4 stories or 45 feet to the highest point of a flat roof or 50 feet to the ridge of a hip or gable roof, with the exceptions specified in Section 7.C.1 of this Law. The building height shall be measured from the finished grade along the building elevation fronting on a street. If a building fronts on more than one street, then no elevation fronting on any street shall exceed the maximum permitted building height.
- i. Miscellaneous Requirements.

- i. Parking spaces shall be provided at the ratio of 1.2 spaces per dwelling unit plus an additional 10 percent of the total number of required parking spaces shall be provided as guest parking.
- ii. The minimum number of accessible parking spaces shall be two times that required by the Building Code of the State of New York. The manager of a senior housing development may, at his/her discretion, designate additional spaces near building entrances for the exclusive use of certain residents that may have limited mobility or other disabilities that require parking spaces proximate to building entrances.
- iii. The minimum number of accessible units, including the minimum number of units requiring a roll-in-shower, shall be two times that required by the Building Code of the State of New York.
- iv. Sidewalks, which may include handrails when appropriate and/or required by the New York State Building Code, shall be provided so as to allow residents of each unit to access all other units and components of the development and adjoining properties, the neighborhood sidewalk network and transit stops. The Planning Board shall consider the health and recreational needs of the future residents in evaluating the adequacy of the sidewalk/pathway network.
- v. Suitable landscaping as required by the standards contained in Section 11.H of this Law, or as otherwise required by the Planning Board, shall be provided.
- vi. Building identification signs and number/letter identification shall be provided in accordance with the applicable sections of this Law, and as recommended by the Office of the Fire Inspector, to ensure efficient and timely identification for residents, visitors and emergency personnel.
- vii. All areas within a Senior Housing Development shall be suitably lighted, sufficient for the convenience and safety of older persons.
- viii. Adequate facilities shall be provided for the removal of snow, trash and garbage and for general maintenance of the Senior Housing Development. Adequate on-site space shall be provided for source separation and storage of recycle materials in accordance with county and local regulations. If located outside of the building(s), trash and recycle facilities shall be contained in an enclosed structure. ix. Laundry facilities (washers and dryers) or service adequate to serve the occupants of the Senior Housing Development shall be provided and maintained. Facilities shall be located in each building, in a convenient location.
- ix. Designed open space, suitable for passive recreation, shall be provided.
- x. Pick-up and drop-off area adequate to accommodate larger vehicles providing transportation for residents for group activities.



- xi. Principles of sustainable design and energy efficiency shall be incorporated into the design of all senior housing developments to the greatest extent practicable.

B. Enforcement.

- a. Covenants. The developer shall provide a covenant running with the land, binding upon heirs, successors and assigns, which shall be filed by the owner and recorded in the office of the County Clerk, which form and substance shall be satisfactory to the Town Attorney ensuring that the project will be maintained as a “senior housing development” and that the priority system as set forth above will be established and administered correctly, and that the minimum number of approved affordable units has been provided. Proof of such recording shall be provided to the Town Attorney prior to the issuance of the Building Permit. The covenant shall provide that the property approved as a senior housing development under this section shall be utilized for that purpose in accordance with the provisions of this section, and for no other purpose.

Furthermore, the restrictive covenant shall include a provision requiring that every deed for an Affordable Housing Unit and every lease for an Affordable Housing Unit shall include, in substance, the following paragraph so as to inform all future tenants, sellers and buyers that the unit is an Affordable Housing Unit subject to the conditions of this Local Law:

“This Affordable Housing Unit has been constructed for use by a Qualifying Household. This Unit’s sale (including resale) or rental must be to one or more persons who meet the requirements of a qualifying household as defined in the Zoning Law of the Town of Eastchester.”

- b. Notices to Town. The owner or authorized manager shall provide (under oath if requested) at least the following notices and information to the Town:
  - i. Waiting lists and a list of any unoccupied dwelling units shall be provided to the Town’s Housing Choice Voucher Program Office.
  - ii. A notice of rental or sale shall be provided to the Town’s Housing Choice Voucher Program Office upon the initial rental or sale of every dwelling unit and upon each renewal or resale.
  - iii. A copy of the certified rent roll shall be provided to the Town’s Housing Choice Voucher Program Office at least four times a year (January 15<sup>th</sup>, April 15<sup>th</sup>, July 15<sup>th</sup>, and October 15<sup>th</sup>).

The Town’s Housing Choice Voucher Program Office or Building Inspector, or authorized agent of either of them, may from time to time require the submission of such other notices and information as may be deemed pertinent. At all reasonable times the Building Inspector or authorized agent of the Town Board may visit and inspect the premises and all relevant books,

records and accounts of the senior citizen housing development, the authorized manager and owner, including on-site audits and inspections, for the purpose of determining compliance with this section.

- iv. Penalties for offenses. Any person violating the provisions of this section shall, upon conviction, be guilty of an offense and shall be liable for a fine not exceeding \$1,000. for each offense or by imprisonment not exceeding 30 days, or by both fine and imprisonment. Each day an offense continues shall be deemed a separate offense.
  - v. Injunction. The Town Board may apply in a court of competent jurisdiction for injunctive relief to enjoin any continuing violation of the provisions of this section. In such application, irreparable injury shall be deemed to exist.
- C. Additional requirements. The Planning Board may require additional provisions or conditions as the Planning Board may, in its discretion, determine to be appropriate to serve the health, safety and welfare of the Town. The Planning Board may adopt rules and regulations to carry out the provisions of this section.
- D. Conversion to Cooperative or Condominium Ownership. Notwithstanding the foregoing, the owner of the of the senior housing development shall have the right to convert the Senior Housing Development to cooperative or condominium ownership, provided that the developer or owner shall otherwise comply with the requirements set forth in this Section 12.

## **SECTION 13. PARKING, LOADING AND DRIVEWAYS**

### **A. *Required For All New Buildings and Uses***

For every building hereafter erected or altered or use hereafter established, there shall be provided, without charge to the user, off-street parking and off-street loading areas. Off-street parking area shall be sufficient to accommodate the number of vehicles customarily used for conveying occupants and visitors to such structure and shall be based on the hours of average maximum use. It is not intended hereby to require provision for abnormal peak loads but for normal average maximum hour requirements. Off-street parking and off-street loading areas shall conform to the requirements as hereinafter set forth:

### **B. *Existing Structures and Uses***

Structures and land uses in existence, or for which building permits have been approved as of the effective date of this local law shall not be subject to the parking or loading space requirements of this local law provided that any parking and loading facilities then existing to serve such structures or uses shall not in the future be reduced, or redesignated to serve other structures or uses except where they exceed such requirements. Required parking and loading facilities for the existing portion of such uses shall, however, be provided at the time of any enlargement of such existing structures or uses or the further development of the property upon which they are located in the future.

### **C. *Location, Improvement, Use, Design and Maintenance***

#### **1. Location**

Required off-street parking facilities shall be provided on the same lot or premises with the structure or land use they serve. For multi-family dwellings, parking shall not be permitted

anywhere within the front yard.

## **2. Improvement of Parking Facilities**

Required off-street parking facilities may be enclosed in a structure or may be open, provided that all required parking facilities shall be marked, graded, surfaced, drained, and suitably maintained as necessary to avoid nuisances of dust, erosion, or excessive water flow across public ways or adjacent lands. All approved facilities shall be properly maintained.

## **3. Waiver of Improvement**

Where the Planning Board determines, in connection with its action on a site plan or special permit, that stone or concrete curbs are not appropriate, said Board shall determine a suitable alternative.

## **4. Size of Parking Spaces**

Each parking space shall be at least nine (9') feet wide and eighteen (18') feet long if unenclosed and at least ten (10') feet wide and twenty (20') feet long if bordered by walls or columns on two (2) or more sides.

## **5. Aisles**

Backup and maneuvering aisles between rows of parking spaces shall be at least twenty-five (25') feet wide, except:

- a. If the parking angle is between 80 degrees and 90 degrees and the parking spaces are at least ten (10') feet wide, aisles shall be at least twenty-four (24') feet wide.
- b. If the parking angle is less than 80 degrees and aisles are designed for one-

way traffic only, aisle width shall conform to at least the following standards:

Parking Angle	0 - 44	45 - 49	60 - 79
Minimum Aisle Width	15'	18'	21'

**6. Access**

- a. Unobstructed access to and from a street, so designed as to not require the backing of any vehicle across a sidewalk or into the street right-of-way, shall be provided for all parking and loading spaces. Such access shall consist of at least one (1) twelve (12) foot wide lane for parking areas with less than thirty (30) parking spaces and at least two (2) ten (10) foot wide lanes for parking areas with thirty (30) parking spaces or more.
- b. For one and two family dwellings, one of the minimum required parking spaces for each dwelling unit may have its access obstructed by the other parking spaces provided for that same dwelling unit. In addition, access for such dwellings shall be designed so that it does not require the backing of a vehicle across a sidewalk or into a street, except for major streets.

**7. Landscaping**

In addition to the front landscaped area and buffer area requirements, parking areas, except for parking spaces accessory to one or two family dwellings, shall comply with the following minimum standards:

- a. All off-street parking and loading areas shall be curbed and landscaped with appropriate trees, shrubs, and other plant materials and ground cover.
- b. Landscaping shall be provided in a safe, convenient, and attractive manner

needing a minimum amount of maintenance, including plant care, snow plowing, and the removal of leaves and other debris.

c. Wherever possible, raised planting islands, shall be provided to guide vehicle movement, and to separate opposing rows of parking spaces so as to provide adequate space for plant growth, pedestrian circulation and vehicle overhang. Such raised planting islands and the landscaping within them shall be designed and arranged in such a way as to provide vertical definition to major traffic circulation aisles, entrances and exits, to channel internal traffic flow and prevent indiscriminate diagonal movement of vehicles, and to provide relief from the visual monotony and shadeless expanse of a large parking area. Curbs of such islands shall be designed so as to facilitate surface drainage and prevent vehicles from overlapping sidewalks and damaging landscaping materials.

d. All uses required to provide fifteen (15) or more off-street parking spaces shall have at least ten (10) square feet of interior landscaping within the paved portion of the parking area for each parking space and at least one (1) tree with a four (4) inch caliper at breast height for every six (6) parking spaces or fraction thereof. Each separate landscaped area shall contain a minimum of one hundred (100) square feet, shall have a minimum dimension of at least eight (8') feet, shall be planted with grass or shrubs and shall include at least one (1) tree of not less than four-inch caliper at breast height, or equivalent plant materials as determined and required by the Planning Board. (*Amended 9/21/04*)

e. A landscaped area shall also be provided along the perimeter of any parking area except that portion of the parking area which provides access to a street or

parking facility on an adjacent lot. The landscaped area shall be planted with grass or shrubs and shall include at least one (1) tree of not less than four-inch caliper at breast height for every thirty (30') feet along the perimeter of the parking area, or equivalent plant materials as determined and required by the Planning Board. In cases where the parking area adjoins a public sidewalk, the required landscaped area shall be extended to the edge of the sidewalk.

f. To prevent obstruction to driver vision, the Planning Board shall require that no landscaping shall be erected or maintained on any parking lot within the triangle formed by the street line of such lot, the outer edge of the access driveway to the parking area, and a line drawn between points along such street line and access drive seventy-five (75') feet distant from their point of intersection which would cause obstruction to a driver or pedestrian's vision.

## **8. Grades and Marking**

The maximum slope within a parking area shall not exceed seven percent (7%). In multi-family and non-residential districts, the Planning Board shall require the provision of suitable markings to indicate individual parking spaces, maneuvering areas, entrances, and exits.

## **9. Interconnection of Parking Areas**

In order to provide maximum efficiency, minimize curb cuts, and encourage safe and convenient traffic circulation, the Planning Board may require the interconnection of parking areas via access drives within and between adjacent lots. The Board shall require written assurance, satisfactory to the Town Attorney, binding the owner and his heirs and assignees to permit and maintain such internal access and circulation and inter-use of parking facilities.

**10. Operation and Maintenance**

Required off-street parking facilities shall be maintained as long as the use or structure exists which the facilities are designed to serve. Required parking areas developed for specific structures and uses shall be reserved at all times to those persons who are employed or make use of such structures and land uses. Parking areas shall be designed to optimize on-going operation and maintenance, including snow removal and storage, and refuse storage and removal.

**11. Reserved Parking for Handicapped Persons**

Any handicapped persons' spaces shall be guided by the provisions of the American Disabilities Act.

**12. Shared Parking**

When any lot contains two (2) or more uses, the parking requirement for each use shall apply to the extent of that use. When it can be conclusively demonstrated that one (1) or more such use will generate a demand for parking spaces primarily during periods when the other use or uses are not in operation, the Planning Board may reduce the total number of parking spaces required to the minimum number required for the greater of the two (or any other) uses, and then may permit the combined use of these spaces. In making this determination, the Planning Board must establish the hours of combined use of the parking area for each use.



**D. Schedule of Off-Street Parking Requirements**

Where a lot contains more than one use, the minimum requirements must be satisfied for each and every such use except as otherwise provided for in this section. Off-street parking spaces shall be provided as follows:

<b><u>RESIDENTIAL USES</u></b>	<b><u>MINIMUM OFF-STREET PARKING</u></b>
1 and 2 family dwellings	2 spaces for each dwelling unit.
Multi-family dwelling	1 ½ spaces for 1 bedroom plus ½ space for each additional bedroom.
Professional office or home occupation permitted in a residential district	2 spaces in addition to spaces required for the residential use except that there shall be 4 spaces for each medical or dental practitioner in addition to that required for the residential use, except that if there is a non-resident, an additional space on site shall be required.
Borders or Lodgers	1 space for each 2 borders or lodgers in addition to spaces required for residential use.
<b><u>NON-RESIDENTIAL USES</u></b>	<b><u>MINIMUM OFF-STREET PARKING</u></b>
Non-Profit Community Service Facility	1 space for each 200 square feet of gross floor area.
Nursery Schools	5 spaces per classroom plus 1 space for each staff member.
Public Utility Facility	1 space for each employee.
Radio or Television Broadcasting Studio or Station	1 space for each employee and 1 additional space for every 250 square feet.
Transportation Facility	1 space for each vehicle used in the business and 1 additional space for each 2 on site employees.
Greenhouse/Nursery	1 space per employee on the maximum shift but not less than 1 space per 1200 square feet of gross floor area, plus 1 space for each commercial vehicle kept on the lot.

NON-RESIDENTIAL USES	MINIMUM OFF STREET PARKING
Hotel	One (1) space for each guest room, one space for every three employees, one space for every four seats in permanent dining rooms, one space per fifty square feet devoted to assembly or conference rooms which may be used for dispensing food or drink, and one space per three hundred square feet of floor area devoted to retail use.
Places of Worship	1 space for each 4 seats or, in places without seats, 1 space for each 50 sq. ft. of floor space used for public assembly.
Theater	1 space for each 3 seats or, in places without seats, 1 space for each 50 sq. ft. of floor space used for public assembly.
Hospital	1 space for each 3 patient beds and 1 space for each employee on the maximum shift, including medical, and service staff.
Private Recreational Facility Golf or Country Club	1 space for each membership plus 1 space for each 50 sq. ft. of public assembly area.
Health & Fitness Establishment	1 space per 50 sq. ft. of gross floor area.
Social Clubs/Lodge	1 space for each family membership, or 1 space for each 50 sq. ft. of gross floor area used for public assembly, whichever is greater.
Retail Store	1 space for each 150 sq. ft. of gross floor area.
Personal Service Establishment	1 space for each 150 sq. ft. of gross floor area.
Bank	5 spaces per pedestrian teller station.
Food Service Establishment (Types I, II and III)	1 space for each 150 sq. ft. of gross floor area.
Office	1 space for each 200 sq. ft. of gross floor area.
Motor Vehicle Sales Agency	1 space for each 500 sq. ft. of gross floor area, for patron parking and one space per 2 employees.
Garage or Repair Shop	1 space for each 500 sq. ft. of gross floor area or 3 spaces per work station, whichever is greater.
Funeral Home/Mortuary	1 space per employee, plus 1 space per 50 sq. ft. of gross floor space in public assembly rooms, plus 1 space for each commercial vehicle kept on the lot.
Veterinary Hospital	1 space per employee on the maximum shift plus 1 space per 400 sq. ft. of gross floor area.
Wholesale Business, Assembly Shop	1 space per employee on the maximum shift, but

NON-RESIDENTIAL USES	MINIMUM OFF STREET PARKING
	not less than 1 space per 750 sq. ft. of gross floor area, plus 1 space for each commercial vehicle kept on the lot.
Warehouse or Storage Use (other than vehicular)	1 space per employee on the maximum shift, but not less than 1 space per 1,200 sq. ft. of gross floor area, plus 1 space for each commercial vehicle kept on the lot.
Day Care Facility – Commercial and Intermittent	One space per employee plus a pick-up and drop-off area and short term parking spaces in sufficient number to support the number of children at the facility during any time, but in no instance less than 1 space for each 500 sq. ft. of gross floor area.
Day Care Facility – Home Based	1 space for every non-resident adult in addition to spaces required for the residential use.
Printing Business	1 space per 500 sq. ft. of gross floor area.
Laundry/Dry Cleaner	.75 spaces per washing machine in a laundromat or 1 space per 200 sq. ft. of customer floor area plus 1 per employee in a dry cleaners.
Private School/Studio	5 spaces per classroom or teaching station plus 1 space per staff member.
Recreation & Family Entertainment Facility (Indoor and Outdoor)	1 space per 150 square feet of gross floor area and where applicable, 5 spaces for indoor court facility or swimming pool.

*(Amended 9/21/04)(Amended 3/19/13)*

Reasonable and appropriate off-street parking requirements for structures and land uses which do not fall within the categories listed above shall be determined by the approving agency upon consideration of all factors entering into the parking needs of each such use.

### **E. Off-Street Loading Requirements**

Off-street loading and unloading facilities shall be located on the same site with the use to be served and shall be provided as follows:

#### **1. Size**

Each off-street loading space shall be at least fifteen (15') feet in width, at least forty (40') feet in length, and at least fourteen (14') feet in height, exclusive of access and turning areas, except that adjacent loading spaces may be each twelve (12') feet in width.

#### **2. Location**

Off-street loading spaces may be located within any structure, within a side or rear yard, or within a required off-street parking area provided such spaces do not bar access to such parking area or any parking space.

#### **3. Required Number of Spaces**

(a) For retail and service business establishments, restaurants, cafeterias, fast-food restaurants, cabarets and bars, a minimum of one (1) space for gross floor area in excess of 3,000 square feet or major portion thereof and one (1) additional space for each additional 10,000 square feet of gross floor area or major portion thereof.

(b) For office establishments, a minimum of one (1) space for buildings over 10,000 square feet of gross floor area, plus one (1) space for each additional 75,000 square feet of gross floor area or major part thereof.

(c) For wholesale business, industry, storage, warehouse, and other commercial establishments, a minimum of one (1) space for each establishment of over 1,500

square feet of gross floor area or major portion thereof.

(d) Upon consideration of all factors entering into the loading and unloading needs of each use, the approving agency may, as a part of a site plan or special permit review, determine reasonable and appropriate loading requirements for structures and uses which do not fall within the categories listed above.

#### **4. Improvement of Loading Facilities**

Off-street loading and unloading facilities shall be subject to the same minimum improvement requirements as set forth for parking facilities in Sections 13, except that the Planning Board may require the surfacing of all or part of any such loading area to consist of reinforced poured concrete, and may require signage to mark such area.

#### ***F. Driveways***

For reasons of traffic and pedestrian safety, both on and off street, as well as to provide for possible future road widening or other improvements, all new driveways and sidewalk crossings entering onto any street shall comply with the following requirements:

##### **1. Driveway Grades**

(a) The maximum grade for any new driveway connecting an off-street parking area to a street shall be fourteen (14%) percent for a driveway accessory to a single-family dwelling, and seven (7%) percent for a driveway accessory to a use other than a single-family dwelling.

(b) Notwithstanding the above, no driveway serving a one or two-family dwelling shall have a grade in excess of five (5%) percent in the platform area, which

is that portion of the driveway which is within fifteen (15') feet of the edge of pavement of the street.. (*Amended 5/20/08*)

(c) Notwithstanding the above, no driveway serving a use other than a one or two-family dwelling shall have a grade in excess of five (5%) percent in the platform area, which is that portion of the driveway which is within twenty (20') feet of the edge of pavement of the street, or within fifteen (15') feet of the right-of-way line of the street, whichever distance is greater. The Planning Board may require increased platform areas of this type in situations where, because of the nature of the proposed use, substantial traffic volumes are anticipated.

## **2. Driveway Alignment and Location**

Any driveway entering into a street shall be located and aligned in such a way as to create the minimum possible traffic hazard. The platform portion of the driveway shall be aligned at approximately right angles to the street, but not less than eighty (80) degrees.

## **3. Driveway Surfacing**

All driveways shall be paved and suitably maintained to the extent necessary to avoid nuisances of dust, erosion, or excessive water flow across public ways or adjacent lands.

## **4. One and Two-Family Driveways**

Driveways for one and two-family dwellings shall be limited to one driveway and one curb cut, except as herein provided. Driveway pavement width shall not exceed twenty (20') feet, and curb cut length shall not exceed twenty-two (22') feet. Driveway pavement or any other pavement, stones or gravel shall not be closer than three (3') feet to any side property line. The Building Inspector may require planting buffer zones between driveway and property lines. Circular

driveways may be permitted if the driveway pavement width does not exceed 12 feet in width, the curb cuts are limited to a maximum of two (2) not exceeding twelve (12') feet each, and such curb cuts are at least seventy-five (75') feet apart measured from centerline to centerline. The parking of motor vehicles shall be limited to paved areas only. The Building Inspector may approve turn around areas where the site traffic conditions are of a different nature and backing out of motor vehicles onto the street would be hazardous or prohibited. (*Amended 9/21/04*)

## **5. Sight Distance**

All driveway intersections shall have adequate sight distance in the direction of oncoming traffic, and shall comply with current AASHTO (American Association of State Highway & Transportation Officials) design policy recommendations including horizontal and vertical alignment.

## **SECTION 14. AMENDMENTS**

### ***A. General***

The Town Board may from time to time on its own motion, on petition, or on recommendation of any board, agency or official of the Town, after public notice and hearing, amend, supplement, repeal or change the regulations and districts established under this local law. Amendments shall be permitted as provided in Section 265 of the Town Law.



## **SECTION 15. SEVERABILITY**

Should any section, sub-section, paragraph, sentence, clause, provision or phrase of this Local Law be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect any other portion of this Local Law.

## **SECTION 16. EARLIER ORDINANCES REPEALED**

Upon the effective date of this local law, the Zoning Ordinance of the Town of Eastchester adopted by the Town Board on June 3, 1987, and any and all amendments thereto are hereby repealed. Such repeal shall not affect or impair any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes effect, but the same may be enjoined, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such repeal had not been affected.

## **SECTION 17. RELATION TO OTHER PROVISIONS**

This ordinance shall not repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law or ordinance or any rules or regulations previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of building, structures, lots or land, provided that where this chapter imposes greater restriction upon the use of buildings, structures, lots or land, or upon the height of structures, or requires larger lots or yards than are imposed or required by such existing provisions or regulations, the provisions of this ordinance shall control.

## **SECTION 18. EFFECTIVE DATE**

This Local Law shall take effect immediately upon filing in the Office of the Secretary of State in accordance with section twenty-seven of the Municipal Home Rule Law. Notwithstanding the effective date of the Local Law, it shall not apply to any application for a building permit that has received all necessary land use approvals and/or zoning variances on or before such effective date.

*(Amended 9/21/04)*

**DATED:**                    **March 19, 2013**