

Chapter 345

ZONING CODE

ARTICLE I Purposes

- § 345-1. Establishment of plan; purpose.
- § 345-1.1. Adoption of Greenway Compact Plan.
- § 345-1.2. Catering and events establishments.
- § 345-1.3. Dance halls and cabarets.

ARTICLE II Definitions

- § 345-2. Word usage; terms defined.

ARTICLE III Districts, Boundaries and Application of Regulations

- § 345-3. Districts classified.
- § 345-4. District boundaries.
- § 345-5. Application of regulations.

ARTICLE IV Supplementary Regulations

- § 345-6. Accessory buildings, structures and uses.
- § 345-7. Usable open space.
- § 345-8. Minimum residential floor area.
- § 345-9. Lot requirements.
- § 345-10. Yards and courts.
- § 345-11. Height regulations.
- § 345-12. Spacing between buildings on the same lot.
- § 345-13. Nonconforming uses and nonconforming buildings and structures.
- § 345-14. Off-street parking, truck loading and vehicular access.
- § 345-15. Sign regulations.
- § 345-16. **Building Height and Floor Area Bonus Program**
- § 345-17. Specific prohibited uses and special limitations on land use.

- § 345-18. Set-asides for moderate-income housing.

ARTICLE V Administration and Enforcement

- § 345-19. Interpretation of provisions.
- § 345-20. Relation of provisions to other laws and to private covenants and agreements.
- § 345-21. Enforcement.
- § 345-22. Building permits: general procedure.
- § 345-23. Site plan review procedure and standards.
- § 345-26. Violations; penalties for offenses; remedies.
- § 345-26.1. Procedure to revoke certificate of occupancy or building permit.

ARTICLE VI Board of Appeals

- § 345-27. Organization and general procedure.
- § 345-28. Application and public hearing procedure.
- § 345-29. Appeals on interpretation of the Zoning Regulation and Map.
- § 345-30. Variances.
- § 345-31. Guiding principles.
- § 345-32. General standards.
- § 345-33. Specific types of variances.

ARTICLE VII Miscellaneous

- § 345-34. Procedure for amendment.
- § 345-35. (Reserved)
- § 345-36. Short title.
- § 345-37. (Reserved)
- § 345-38. Additional regulations for particular uses.

ARTICLE VIII
Use and Dimensional Regulations for
Residence Districts

- § 345-39. R20 One-Family Residence District.
- § 345-40. R7 One-Family Residence District.
- § 345-41. R5 One-Family Residence District.
- § 345-42. R2F Two-Family Residence District.
- § 345-43. RA2 Multifamily Residence District.
- § 345-44. RA3 Multifamily Residence District.
- § 345-45. RA4 Multifamily Residence District.
- § 345-46. ~~(Reserved) PTD Planned Tower Development District.~~

ARTICLE IX
Use and Dimensional Regulations for
Nonresidence Districts

- § 345-47. C1 Neighborhood Retail District.
- § 345-48. C2 ~~Main Street Business District.~~
~~Central Business District~~
- § 345-49. C3 ~~Design~~ Office and Commercial District.
- § 345-50. C4 General Commercial District.
- § 345-50.1. ~~C5 Train Station Mixed Use District.~~
- § 345-50.2. ~~C5T Downtown Mixed Use Transitional District.~~
- § 345-51. CD Design Shopping Center District.
- § 345-52. CDS Special Design Commercial District.
- § 345-53. PD Design Professional Building District.
- § 345-54. DW Design Waterfront District.
- § 345-55. M1 Light Industrial District.
- § 345-56. M2 General Industrial District.
- § 345-57. ~~PMU Planned Mixed Use District.~~
~~PRSP Planned Railroad Station Plaza Development District.~~
- § 345-57.1. M2D Designed Industrial District.
- § 345-57.2. Village Center Redevelopment Area Light Industrial/Research Use District.

ARTICLE X
Special Exception Use Regulations

- § 345-58. Delegation of authority.
- § 345-59. General procedure and conditions.
- § 345-60. General standards.
- § 345-61. Special conditions and safeguards for certain special exception uses.

- ARTICLE XI
~~Planned Mixed Use District~~
~~Planned Railroad Station Plaza Development~~
§ 345-62. ~~Planned Mixed Use District.~~
~~PRSP Planned Railroad Station Plaza Development District.~~

ARTICLE XII
Planned Residential Development

- § 345-63. PRD Planned Residential Development District.

ARTICLE XIII
Residential Office Overlay District

- § 345-64. ROO Residential Office Overlay District.

ARTICLE XIV
Limitations on Use

- § 345-65. Security grills.

ARTICLE XV
Transitional Residential Development
District

- § 345-66. TRD Transitional Residential Development District.

ARTICLE XVI
Marina Redevelopment Project Urban
Renewal District

- § 345-67. MUR Marina Redevelopment Project Urban Renewal District.
- § 345-68. Special maps.
- § 345-69. Effect on Village Law.

ARTICLE XVII
Storage of Hazardous Materials

- § 345-70. Terms defined.
- § 345-71. Site plan required.
- § 345-72. Office of Planning and Development and Building Department procedure.
- § 345-73. Review and approval by Board of Trustees.
- § 345-74. Treatment as accessory use prohibited.
- § 345-74.1. Propane-powered forklifts.
- § 345-75. Survival clause.

ARTICLE XVIII
Wireless Telecommunications Facilities

- § 345-76. Legislative intent.
- § 345-77. Definitions.
- § 345-78. Special exception use permit; policies and goals.
- § 345-79. Procedure for special exception use permit application; fee.
- § 345-80. Information required for wireless telecommunications antennas.
- § 345-81. Facility service plan.
- § 345-82. Requirements applicable to all wireless telecommunications antennas.
- § 345-83. Location of wireless telecommunications facilities.
- § 345-84. Antenna locations where public exposure is likely.
- § 345-85. Roof-mounted antennas.
- § 345-86. New wireless telecommunications towers.
- § 345-87. NIER measurements and calculations.
- § 345-88. NIER monitoring and enforcement.
- § 345-89. Bulk regulations and height.
- § 345-80. Visual impact.
- § 345-91. Landscaping requirements.
- § 345-92. Color and lighting standards.
- § 345-93. Fencing and NIER warning signs.
- § 345-94. NIER exposure standards.
- § 345-95. Registration of antenna operators.
- § 345-96. Performance standards for new antennas.
- § 345-97. Expiration of special exception use permit.
- § 345-98. Existing installations.

§ 345-99. Severability.

ARTICLE XIX
Reimbursement of Professional Fees

- § 345-100. Purposes.
- § 345-101. Professional consultant review fees.
- § 345-102. Escrow accounts.
- § 345-103. Environmental quality review.
- § 345-104. Supersession.

ARTICLE XX
Training and Attendance Requirement

- § 345-105. Purpose and intent.
- § 345-106. Training. [Amended 4-2-2007 by L.L. No. 5-2007]
- § 345-107. Attendance. [Amended 4-2-2007 by L.L. No. 5-2007]
- § 345-108. Failure to comply. [Amended 4-2-2007 by L.L. No. 5-2007]
- § 345-109. Alternate members.

ARTICLE XXI
Public Notice Requirements

- § 345-110. Signage; mail notification; public hearings; zoning changes or amendments by Village.
- § 345-111. Additional notification.

ATTACHMENTS

Attachment 1A. Schedule of Regulations for Residence Districts, Part 1, Use Regulations.

Attachment 1B. Schedule of Regulations for Residence District, Part 2, Dimensional Regulations.

Attachment 2. Schedule of Regulations for Designed Industrial District, Part 1, Use Regulations.

Attachment 3A. Schedule of Regulations for Nonresidence Districts, Part 1, Use Regulations (Sheet 1).

Attachment 3A. Schedule of Regulations for Nonresidence Districts, Part 1, Use Regulations (Sheet 2).

Attachment 3B. Schedule of Regulations for Nonresidence Districts, Part 2, Dimensional Regulations.

[HISTORY: Adopted by the Village Board of the Village of Port Chester 4-21-1975 by L.L. No. 4-1975. Amendments noted where applicable.]

GENERAL REFERENCES

Official Map — See Ch. 79.
Planning Commission — See Ch. 90.
Building Code administration and enforcement — See Ch. 151.
Catering and events establishments — See Ch. 155.
Convalescent homes — See Ch. 160.
Dance halls and cabarets — See Ch. 165.
Fees — See Ch. 175.
Flood damage prevention — See Ch. 181.
Lodging and boarding houses — See Ch. 211.
Noise — See Ch. 224.
Property maintenance — See Ch. 245.
Restaurants — See Ch. 254.
Signs and billboards — See Ch. 272.
Swimming pools — See Ch. 285.
Theaters — See Ch. 298.
Towers and antennas — See Ch. 301.
Trees and shrubbery — See Ch. 304.
Underground utilities — See Ch. 312.
Motel standards — See Ch. A401.
Land Subdivision Regulations — See Ch. A402

ARTICLE I
Purposes

§ 345-1. Establishment of plan; purpose.

There is hereby established a comprehensive zoning plan for the Village of Port Chester, New York, which plan is set forth in the text and map which constitute this chapter. This chapter shall be known and may be cited as the Village of Port Chester Zoning Regulation of 1975. This Regulation is adopted for the purposes set forth in Article VII, §§ 7-700 and 7-704 of the Village Law of the State of New York, and more particularly for the protection and the promotion of the health, safety, morals or the general welfare of the community, and in furtherance of the following related and more specific objectives:

A.

Guiding the future growth and development of the Village in accordance with a comprehensive plan of land use and population density that represents the most beneficial and convenient relationships among the residential, commercial, industrial and public areas within the Village, having regard to their suitability for the various uses appropriate to each of them and their potentiality for such uses, as indicated by existing conditions and trends in population, in the direction and manner of use of land, in building development and in economic activity, considering such conditions and trends both within the Village and with respect to the relation of the Village to areas outside thereof, having in mind, among other things, the industrial position of the Village and its service as a trading center both for its own inhabitants and those of the surrounding area.

B.

Providing adequate light, air and privacy, securing safety from fire and other dangers and preventing overcrowding of the land and an undue congestion of population.

C.

Protecting the character and the social and economic stability of all parts of the Village and encouraging their orderly and beneficial development.

D.

Protecting and conserving the value of land throughout the Village and the value of buildings appropriate to the various districts established by this Regulation.

E.

Protecting and preserving the natural environment and its ecological systems.

F.

Bringing about the gradual conformity of the uses of land and buildings throughout the Village through the comprehensive zoning plans set forth in this Regulation and minimizing conflicts among the uses of land and buildings.

G.

Aiding and bringing about the most beneficial relation between the uses of land and buildings and the circulation of traffic throughout the Village, having particular regard to the avoidance of congestion in the streets and the provision of safe and convenient traffic access appropriate to the various uses of land and buildings throughout the Village.

H.

Aiding in providing a guide for public policy and action in the efficient provision of public facilities and services and for private enterprise in building development, investment and other economic activity relating to uses of land and buildings throughout the Village.

§ 345-1.1. Adoption of Greenway Compact Plan. [Added 1-3-2006 by L.L. No. 1-2006]

The Village of Port Chester has adopted the Compact Plan, as amended from time to time, as a statement of policies, principles and guides to supplement other established land use policies in the Village. In its discretionary actions under this chapter, the reviewing agency should take into consideration said statement of policies, principles and guides, as appropriate.

§ 345-1.2. Catering and events establishments. [Added 6-1-2009 by L.L. No. 8-2009]

It is a purpose of this chapter to regulate catering and events establishments in order to promote the health, safety and general welfare of the community. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials.

§ 345-1.3. Dance halls and cabarets. [Added 6-1-2009 by L.L. No. 8-2009]

A.

Purpose. It is a purpose of this chapter to regulate dance halls, cabarets and similar commercial establishments in order to promote the health, safety and general welfare of the citizens of the Village and the patrons of such establishments and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of such establishments within the Village. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials or any form of expression. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to materials protected by the First Amendment or to deny access by the distributors and exhibitors of entertainment to their intended market.

B.

Findings and rationale. Based on evidence of the adverse secondary effects of dance halls, cabarets and similar commercial establishments, including certain kinds of adult entertainment establishments, presented in hearings and in reports made available to the Village Board of Trustees, and on findings, interpretations and narrowing constructions incorporated in the cases of *Dallas v. Stanglin*, 490 U.S. 19 (1989); *Festa v. New York City Dept. of Consumer Affairs*, 820 N.Y.S.2d 452 (N.Y. Sup. 2006), *aff'd with modification*, 830 N.Y.S.2d 133, 37 A.D.3d 343 (N.Y. App. Div. 2007), appeal dismissed by, 872 N.E.2d 870 (N.Y. 2007); *Inc. Village of Babylon v. John Anthony's Water Cafe, Inc.*, 137 A.D.2d 792,

525 N.Y.S.2d 337 (N.Y. App. Div. 1988); Cemco Rest., Inc. v. Ten Park Ave. Tenants Corp., 135 A.D.2d 461, 552 N.Y.S.2d 151 (N.Y. App. Div. 1987); Lyn v. Inc. Village of Hempstead, No. 03-CV-5041, 2007 WL 1876502 (E.D.N.Y. June 28, 2007); and Willis v. Town of Marshall, 426 F.3d 251 (4th Cir. 2005) ; City of Littleton v. Z.J. Gifts D-4, L.L.C., 541 U.S. 774 (2004); City of Erie v. Pap's A.M., 529 U.S. 277 (2000); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); Buzzetti v. City of New York, 140 F.3d 134 (2d Cir. 1998); Gold Diggers, LLC v. Town of Berlin, 469 F. Supp. 2d 43 (D. Conn. 2007); Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003); Daytona Grand, Inc. v. City of Daytona Beach, 490 F.3d 860 (11th Cir. 2007); Sensations, Inc. v. City of Grand Rapids, 526 F.3d 291 (6th Cir. 2008); Richland Bookmart, Inc. v. Nichols, 137 F.3d 435 (6th Cir. 1998); and Gammoh v. City of La Habra, 395 F.3d 1114 (9th Cir. 2005), the Board of Trustees finds:

(1)

Dance halls and cabarets, as a category of commercial uses, are associated with a wide variety of adverse secondary effects, including, but not limited to, personal and property crimes, noise and traffic congestion, prostitution, potential spread of disease, lewdness, public indecency, illicit drug use and drug trafficking and negative impacts on surrounding properties.

(2)

Dance halls and cabarets should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses.

(3)

Each of the foregoing negative secondary effects constitutes a harm which the Village has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the Village's rationale for this section, exists independent of any comparative analysis between subcategories of commercial entertainment establishments. Additionally, the Village's interest in regulating dance halls and cabarets extends to preventing future secondary effects of either current or future businesses that may locate in the Village. The Village finds that the cases and documentation relied on in this section are reasonably believed to be relevant to said secondary effects.

C.

The Village hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of dance halls and cabarets, including the judicial opinions and reports related to such secondary effects.

ARTICLE II

Definitions

§ 345-2. Word usage; terms defined. [Amended 2-7-1983 by L.L. No. 4-1983; 4-27-1988 by L.L. No. 6-1988; 4-26-1989 by L.L. No. 10-1989; 5-29-1991 by L.L. No. 12-1991; 10-30-1991 by L.L. No. 24-1991; 6-30-1993 by L.L. No. 10-1993; 11-29-1995 by L.L. No. 10-1995; 3-4-1996 by L.L. No. 2-1996; 11-4-1996 by L.L. No. 13-1996; 4-2-1997 by L.L. No. 3-1997]

For the purpose of this Regulation, certain words and terms used herein are defined as follows:

A.

Word usage.

(1)

All words used in the present tense include the future tense; all words in the plural number include the singular number and all words in the singular number include the plural number unless the natural construction of the wording indicates otherwise.

(2)

The word "lot" includes the word "plot."

(3)

The word "structure" includes the word "building."

(4)

The word "shall" is mandatory and not directory.

(5)

The word "use" shall be deemed also to include "designed, intended or arranged to be used."

(6)

The word "Village" means the Village of Port Chester, New York.

(7)

The term "Village Board of Trustees" means the Village Board of Trustees of said Village.

(8)

The term "Board of Appeals" means the Zoning Board of Appeals of said Village.

(9)

The term "Planning Commission" means the Village Planning Commission of said Village.

B.

Terms defined.

ALTERATION – As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities; or an enlargement, whether by extending on a side or by increasing in height; or

moving from one location or position to another. The term "alter," in its various modes and tenses and its participial form, refers to the making of an alteration.

APPLICANT – The owner or lessee, contract vendee of the subject premises or other person or entity authorized to make application to an approval body. **[Added 8-3-2009 by L.L. No. 11-2009]**

APPROVAL BODY – The Planning Commission, Board of Appeals and/or Board of Trustees of the Village of Port Chester. **[Added 8-3-2009 by L.L. No. 11-2009]**

ASSEMBLY HALL – Any building, room or space which is occupied or arranged to be occupied by the public for recreational, amusement, social, sports or similar purposes.

AUTOMOBILE DEALERSHIP SERVICE CENTER – A facility that repairs, services and prepares automobiles for sale or resale and is affiliated with an automobile dealership and is duly licensed under the laws of the State of New York. **[Added 1-5-2004 by L.L. No. 3-2004]**

BAR or TAVERN – A business use or establishment which is primarily engaged in the sale and service of alcoholic beverages for on-premises consumption, subject to the regulatory authority of the New York State Liquor Authority. **[Added 6-1-2009 by L.L. No. 8-2009]**

BASEMENT – A story partly underground but having at least 1/2 of its height above the finished grade. A basement shall be counted as a story in determining building height.

BUILDING – Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons.

BUILDING, ACCESSORY – A subordinate building, the use of which is customarily incidental to that of a main building on the same lot.

BUILDING, MAIN – A building in which is conducted the main or principal use of the lot on which said building is situated.

CABARET – A nightclub, bar, juice bar, restaurant, bottle club or similar commercial establishment with an occupancy greater than 25 people, regardless of whether alcoholic beverages are served, which regularly devotes 25% or more of its total floor area to dance floors, live performance areas and/or disc jockey areas, and which is not an adult cabaret as defined in the Village Code. The term "cabaret" shall include establishments customarily called "discotheques." **[Amended 6-1-2009 by L.L. No. 8-2009]**

CATERING AND EVENTS ESTABLISHMENT – Any nonresidential room, place or space in the Village where food and beverages are available for consumption, that is regularly leased or hired out for a particular function, occasion or event, to which the general public is not invited or admitted and wherein music or entertainment is provided. **[Added 7-31-2002 by L.L. No. 13-2002; amended 6-1-2009 by L.L. No. 8-2009]**

CD ACCESSORY GARDEN CENTER – An accessory use to a retail establishment, located in the CD Design Shopping Center District, conducted outdoors in a designated and suitably screened area contiguous to such principal retail use, as shown on an approved site plan, which accessory use shall provide for the display and sale of landscaping materials, including but not limited to plants, pots, soil, gravel, mulch, fertilizer, insecticide, gardening equipment and other customary garden products.

CELLAR – A story partly underground and having 1/2 or more of its clear height below the finished grade. A cellar shall not be counted as a story in determining the building height.

COMMERCIAL INDOOR ATHLETIC TRAINING FACILITIES – Indoor facilities designed and used for active participatory athletic training, including, but not limited to, baseball, softball and other field sports, personal strength and fitness training, gymnasiums, skating rinks, swimming pools and tennis courts. Specifically excluded are health clubs, as defined herein, and facilities intended for spectator activities, such as stadiums and arenas; however, this exclusion shall not apply to the provision of seating intended solely for the observation of training sessions. **[Added 12-1-2008 by L.L. No. 14-2008]**

COURT – An open unoccupied space, other than a yard on the same lot with a building or group of buildings and which is bounded on two or more sides by such building or buildings.

COURT, INNER – Any court which is not an outer court.

COURT, OUTER – A court extending to a street line or opening upon any front, side or rear yard.

DRIVE-IN ESTABLISHMENT – Any business or commercial establishment designed or used for the transaction of business wherein the patrons of such establishments enter and leave the premises from a public highway in vehicles for the purpose of availing themselves of the services or products of such establishments either by standing or sitting outside the enclosed portion of structures or buildings, except in the case of patrons of establishments who might be required to deliver and pick up articles inside of structures or buildings.

DRIVE-IN RESTAURANT – A building or facility with accessory facilities devoted to the preparation and/or sales and service of food, refreshments, edibles or nonalcoholic drink to patrons for consumption on the premises which permits or encourages consumption of such food, refreshments, edibles or drink on the premises in parked or standing vehicles or informally outdoors. A drive-in-restaurant shall be construed to include any form of drive-in, open-front or curbside eating establishment; however, it shall not be construed to include any form of cabaret or similar entertainment establishment.

DRIVEWAY – An access roadway from the street to provide access only to a permitted parking area, garage or building entrance, but not designed to serve an off-street parking area as well or to have excess capacity that would encourage its informal use for both purposes.

DWELLING – A building designed or used exclusively as living quarters for one or more families living independently of each other. The term shall not be deemed to include "motel," "rooming house" or "tourist home."

DWELLING, MULTIFAMILY – A building or portion thereof containing three or more dwelling units.

DWELLING, MULTIFAMILY, COOPERATIVE OR CONDOMINIUM – A building containing three or more dwelling units owned as cooperative or condominium units as provided under enabling statutes of the State of New York.

DWELLING, ONE-FAMILY – A detached building containing one dwelling unit only.

DWELLING, TWO-FAMILY – A detached building containing two dwelling units only.

DWELLING UNIT – A building or portion thereof providing complete housekeeping facilities for one family.

ETHICAL PHARMACY – An establishment having as its primary function the dispensing of drugs and medication and whose stock-in-trade does not include merchandise other than pharmaceuticals, orthopedic appliances, sickroom needs and medications for internal and external use dispensed by prescription or otherwise.

FAMILY – A natural family consisting of a husband and/or wife and their children by birth or adoption, or any number of related or unrelated persons living together as a not-for-profit housekeeping unit which is the functional and factual equivalent of a natural family.

FAST-FOOD RESTAURANT – An eating establishment, excluding bakeries and delicatessens, where the majority of service is available from a counter-type installation and from which quickly prepared or pre-prepared foods are taken away by the customer, whether or not interior seating facilities are provided.

FLOOR AREA RATIO – The figure obtained by dividing the aggregate floor area of the several floors, mezzanine floors and basement of a building and its accessory buildings by the lot area. All floor area dimensions shall be measured horizontally between the exterior faces of walls.

FOOD PROCESSING FACILITY – An establishment which, as its primary business, processes and packages food and beverages for sale on the premises but for consumption off the premises.

GARAGE, AUTOMOBILE BODY REPAIR – A building, other than a private or a parking garage, used for the adjustment, painting, replacement of parts or body repair of motor vehicles, whether or not accessory or incidental to another use.

GARAGE, PARKING – A building, not a private garage, used for the storage of automobiles or trucks and not used for making repairs thereto.

GARAGE, PRIVATE – An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein.

GASOLINE STATION – Any area of land, including structures thereon, or any building or part thereof that is used for the retail sale of gasoline or other motor vehicle accessories and which may include auxiliary facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof or body repair work.

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

HABITABLE ROOM – A room or enclosed floor space arranged for living, eating, cooking or sleeping purposes, but not including bathrooms, water closet compartments, lavatories, laundries, pantries, foyers, hallways and other accessory floor spaces.

HEALTH CLUB – A club which may be utilized by members and/or the general public upon payment of a fee and which contains some or all of the following types of athletic facilities: swimming pool, racquetball courts, squash courts, exercise rooms, gymnasium or similar facilities.

HEIGHT OF BUILDING OR STRUCTURE – The vertical distance between the average finished grade, as measured at the outside corners of the building or structure, and the highest point on the roof surface in the case of roofs having a pitch of less than one foot in 4 1/2 feet; or, in the case of roofs with a greater slope, the average height of the roof.

HOME OCCUPATION – Any gainful occupation customarily conducted entirely within a dwelling solely by owner-residents thereof which is clearly secondary to the residential use and which does not change the character of the structure as a residence, provided that said activity shall not occupy more than 1/2 of the ground floor area of the dwelling or its equivalent elsewhere in the dwelling if so used, and further provided that there shall be no external evidence other than an announcement sign and no display of products shall be visible, that no stock-in-trade shall be kept and that no mechanical or electrical equipment is used except customary household equipment. However, "home occupations" shall not be construed to include such uses as the following: clinics or hospitals, barbershops or beauty parlors, restaurants, breeding kennels, antique dealers, retail sales on the premises or the loading of ammunition and similar occupations.

HOME PROFESSIONAL OFFICE – The office or studio of an owner-resident physician, surgeon, dentist or other person licensed by the State of New York to practice a healing art or a lawyer, architect, artist, engineer, real estate broker or salesman, insurance broker or agent or teacher as herein restricted, provided that no more than two persons are employed who are not members of the family and that such office shall be in the main building and shall not occupy more than the equivalent of 1/2 of the area of one floor of said building. For the purposes of this definition, the term "teacher" shall be restricted to mean a person giving individual instruction in academic or scientific subjects to a single pupil at a time. A home professional office shall not include the office of any person professionally engaged in the purchase or sale of portable economic goods. Dancing instruction, band instrument, piano or voice instruction, tearooms, tourist homes, beauty parlors, barbershops, hairdressing and manicuring establishments, convalescent homes, mortuary establishments and stores, trades or businesses of any kind not herein excepted 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 building or buildings used for the diagnosis, medical treatment or similar care of human ailments. The term "hospital" shall be deemed to include a clinic and such accessory uses as housing for staff members, nurses, interns and resident physicians and their immediate families and service buildings, but it shall not be deemed to include the offices of doctors, dentists or chiropractors or to include sanatoriums, rest homes, nursing homes or convalescent homes.

HOTEL – A building or part thereof which has a common entrance, common heating system and general dining room and which contains seven or more living and sleeping rooms designed to be occupied primarily by transient individuals or groups of individuals for compensation. A hotel shall not provide dwelling units.

HOUSE TRAILER – Any portable or mobile vehicle used or designed to be used for living purposes with its wheels, roller or skids in place.

INTERIOR SIGN – Any sign, except address numbers, that is affixed to or painted on the interior of a window or glass, or any sign located within three feet of the inside face of the window or door, which sign is designed to be visible from the exterior of the window or door.

JUNKYARD – Any land or structure or part thereof exceeding 300 square feet in area used for the collection, storage or sale of wastepaper, rags, scrap metal or other scrap or discarded material or for the collecting, dismantling, storage or salvage of machinery or vehicles not in running condition or for the sale of the parts thereof.

LIMITED-SERVICE HOTEL – A building offering lodging accommodations on a daily rate to business and leisure travelers while providing twenty-four-hour service for receiving and assisting guests. A limited-service hotel may provide business and recreational service and space to guests, including

meeting rooms, swimming pool and an exercise room within the building. It does not include a restaurant on site, on-site catering services, bars, taverns or cabarets or any form of live entertainment, nor does it include kitchen facilities for guest use, and kitchen facilities within guest rooms are prohibited. **[Added 3-28-2001 by L.L. No. 6-2001]**

LOT – A parcel of land occupied or to be occupied by a building or buildings and accessory buildings or by a dwelling group and its accessory building or by a structure or use of land, together with such open spaces as are required under the provisions of this chapter, and having frontage on a street or on such other means of access as may be deemed in accordance with the provisions of law to be adequate as a condition of the issuance of a building permit for a building on such land.

LOT AREA – The total horizontal area included within lot lines, excluding street rights-of-way or water areas.

LOT, CORNER – A lot of which at least two adjacent sides abut streets or public places. For the purposes of this chapter, such lot must have an interior angle of more than 45° and less than 135° at the intersection of the two street lot lines. Any other lot is an interior lot.

LOT DEPTH – The mean horizontal distance between the front and rear lot lines measured along a perpendicular to the front lot line or, in the case of an arc, along the radial lines of that arc.

LOT FRONTAGE – The distance measured along the street right-of-way line at the front lot line.

LOT, INTERIOR – A lot other than a corner lot.

LOT LINE – Any boundary of a lot. Any lot line not a rear lot line or a front lot line shall be deemed a side lot line.

LOT LINE, FRONT – The street right-of-way line at the front of a lot. On a corner lot, the owner may specify the front lot line on the plot plan.

LOT LINE, REAR – The lot line opposite the front lot line.

LOT WIDTH – The dimension measured from side lot line to side lot line, along a line parallel to the front lot line at the required minimum front yard depth.

MOTEL – A group of attached or detached buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building, with garage attached or parking space conveniently located on the lot, and which is designed, used or intended to be used, wholly or in part, for the accommodation of automobile transients. "Motel" shall include auto courts and motor lodges.

NONCONFORMING STRUCTURE – A structure lawfully existing at the effective date of this chapter or any amendment thereto affecting such structure which does not conform subsequently to the provisions of this chapter for the district in which it is situated, irrespective of the use to which such structure is put.

NONCONFORMING USE – Any use of a building, structure, lot or land or part thereof lawfully existing at the effective date of this chapter or any amendment thereto affecting such use which does not conform subsequently to the provisions of this chapter for the district in which it is situated.

NONNUISANCE INDUSTRY – Any industry, including fabricating, processing, converting, altering, assembling or other handling of products, conducted solely within a building which only uses electric power and is not detrimental to the environment in which it is located through causing any dissemination of dust, smoke, observable gas or fumes, odor, noise or vibration beyond the immediate site of the building in which such use is conducted or hazard of fire or explosion or other physical hazard to any adjacent buildings or harmful discharge of waste materials or unusual traffic hazard or congestion due to the type of vehicles required in the use or due to the amount or manner in which traffic enters or leaves the site of the use or outdoor processing of materials or open accessory storage.

NURSERY SCHOOL – A school licensed by the State of New York and designed to provide daytime care or instruction of two or more children from two to five years of age, inclusive.

~~PLANNED TOWER DEVELOPMENT—An area of land or air rights over such land controlled by a single proprietor to be developed as a single entity for one or a combination of the authorized uses as provided in § 345-46. With respect to a planned tower development, a "single proprietor" shall be deemed to include a person or corporation having an enforceable proprietary interest in such land or the air rights over such land.~~

PAWNSHOP – A business that lends money based upon the security of pledged goods left in pawn, or is in the business of purchasing tangible personal property to be left in pawn on the condition that it may redeemed or repurchased by the seller for a fixed price within a fixed period of time, pursuant to the licensing requirements of Chapter 206 of the Village Code. **[Added 3-7-2011 by L.L. No. 4-2011]**

PUBLIC MEETING – A duly convened meeting of an approval body within the meaning of Article 7 of the New York State Public Officers Law and shall include public meetings, public hearings, workshops and site visits. **[Added 8-3-2009 by L.L. No. 11-2009]**

REGULARLY – The consistent and repeated doing of an act on an ongoing basis. **[Added 6-1-2009 by L.L. No. 8-2009]**

RESEARCH INSTITUTE OR LABORATORY – A building for experimentation in pure or applied research design, development and production of prototype machines or devices or of new products and uses accessory thereto. With respect to the application of this chapter, such "research institute or laboratory" shall meet the standards of a non-nuisance industry.

RESTAURANT – An establishment which prepares and serves food and beverages to patrons primarily for consumption at tables or a counter within the building. This includes sidewalk and outdoor cafes as an accessory use. **[Amended 8-4-1997 by L.L. No. 13-1997]**

ROOMING HOUSE – A private dwelling in which at least three but not more than six rooms are offered for rent, payable in money and/or other consideration, whether or not table board is furnished to roomers, and in which no transients are accommodated and no public restaurant is maintained. The term "rooming house" shall be deemed to include lodging houses and boardinghouses but not tourist homes, automobile courts or multifamily dwellings.

SIGN, BILLBOARD – A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is located.

SIGN, IDENTIFICATION – A sign which directs attention to a business or profession conducted upon the same lot where such sign is located, to an apartment building of 50 or more dwelling units or to a public or semipublic use, pursuant to the provisions of § 345-15.

SIGNS – Any material, structure or device, or part thereof, composed of lettered or pictorial matter or upon which lettered or pictorial matter is used, displaying an advertisement, announcement, notice or name, and including any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any person or business or cause when such is placed in view of the general public. The word "sign" shall not be deemed to include any badge or insignia of any government agency or any civic, charitable, religious, patriotic, fraternal or similar organization, nor shall it include directional signs erected and maintained pursuant to law.

SITE PLAN – A map indicating the intended development of a parcel of land. Preliminary and final site plans must be prepared in accordance with § 345-23F. Conceptual site plans submitted in support of rezoning applications need not reflect the level of detail established in § 345-23F but must provide information to adequately describe the intended development.

SPECIAL EXCEPTION USE – A use in one or more districts for which the Planning Commission may grant a permit, subject to review by the Village Board of Trustees, pursuant to the provisions of Article X.

STORY – That portion of a building included between the surface of any floor and the surface of the floor next above it; if there is no floor above it, then the space between the floor and the ceiling next above it. A basement shall be counted as a story.

STORY, HALF – Four feet above the floor of such story and having a ceiling of at least 7 1/2 feet over half the floor area.

STREET – A way, whether public or private, permanently open to common and general use which affords the principal means of access to abutting property.

STRUCTURE – Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

TEMPORARY SALES/CONSTRUCTION OFFICE TRAILER – A temporary structure that is used to generate sales of a development or to serve as the office for the contractor during construction of said development. **[Added 10-3-2011 by L.L. No. 14-2011]**

TEMPORARY SIGN – Any sign which is designated to advertise or announce a particular event or series of events, to solicit political support or to announce the availability for sale of any type of property, good or service intended to be available for a limited period of time and is not permanently mounted.

THEATER – A building or part of a building devoted to the showing of motion pictures, or theatrical or performing arts productions, as a principal use, where audience participation does not occur and where the ancillary provision of food is limited to traditional concession items such as popcorn, candy and soft drinks. **[Added 6-1-2009 by L.L. No. 8-2009]**

TOURIST HOME – A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

USABLE OPEN SPACES – Part of a residential lot required by this chapter to be set aside and designed for outdoor recreational use and for household activities normally carried on outdoors, excluding automobile parking by persons residing on such lot.

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

USE, ACCESSORY – A use which is customarily incidental and subordinate to the principal use of a lot or a building and located on the same lot therewith.

VARIANCE – A modification of the regulations of this chapter specifically provided for in this chapter or granted on the grounds of practical difficulties or unnecessary hardship, not self-imposed, pursuant to the provisions of Article VI.

YARD, FRONT – An open, unoccupied space on the same lot with a building situated between the nearest roofed portion of the building and the rear lot line of the lot and extending from side lot line to side lot line.

YARD, REAR – A space on the same lot with a building situated between the nearest roofed portion of the building and the rear lot line of the lot and extending from side lot line to side lot line.

YARD, SIDE – An open, unoccupied space on the same lot with a building situated between the nearest roofed portion of the building or of any accessory building and the side lot line of the lot and extending through from the front yard or from the front lot line where no front yard exists to the rear yard or to the rear lot line where no rear yard exists.

ARTICLE III Districts, Boundaries and Application of Regulations

§ 345-3. Districts classified. [Amended 6-21-1976 by L.L. No. 4-1976; 11-5-1979 by L.L. No. 17-1979; 2-17-1982 by L.L. No. 7-1982; 5-5-1986 by L.L. No. 2-1986; 5-2-1988 by L.L. No. 8-1988; 6-11-1991 by L.L. No. 13-1991; 9-5-1995 by L.L. No. 6-1995]

For the purposes of this Regulation, the Village of Port Chester is hereby divided into 25 classes of districts, as follows:

- R20 One-Family Residence District
- R7 One-Family Residence District
- R5 One-Family Residence District
- R2F Two-Family Residence District
- RA2 Multifamily Residence District
- RA3 Multifamily Residence District
- RA4 Multifamily Residence District
- ~~PTD Planned Tower Development District~~
- C1 Neighborhood Retail District
- ~~C2 Main Street Business District Central Business District~~
- ~~C3 Design Office and Commercial District~~
- C4 General Commercial District
- C5 Train Station Mixed Use District
- C5T Downtown Mixed Use Transitional District

CD Design Shopping Center District
CDS Special Design Commercial District
PD Design Professional Building District
DW Design Waterfront District
M1 Light Industrial District
M2 General Industrial District
~~PMU Planned Mixed Use District PRSP Planned Railroad Station Plaza Development~~
M2D Designed Industrial District
VCRA/LIR Village Center Redevelopment Area Light Industrial/Research Use District
PRD Planned Residential Development District
ROO Residential Office Overlay District
TRD Transitional Residential Development District
MUR Marina Redevelopment Project Urban Renewal District

§ 345-4. District boundaries.

A.

The boundaries of each of the districts listed in § 345-3 are hereby established as shown on the duly adopted Zoning Map, which accompanies this Regulation and which, with all notations, references and other matters shown thereon, is hereby declared to be a part of this Regulation. A map entitled "Map of Zoning District Boundary of MUR Marina Development Project Urban Renewal District," dated June 11, 1991, is hereby adopted as an amendment to the Zoning Map and shall superimpose on the currently mapped zoning districts a new district, the MUR Marina Redevelopment Project Urban Renewal District. **[Amended 6-11-1991 by L.L. No. 13-1991]**

B.

The district boundary lines, unless shown otherwise, are intended generally to follow street center lines, railroad right-of-way boundary lines or their center lines, other similar right-of-way lines, or lot lines or boundaries of subdivisions, or Village boundary lines, all as shown on the Zoning Map. Where a district boundary line does not follow such a line, but is shown parallel to such a line on the Zoning Map, the distance between the parallel lines shall be as dimensioned on the Zoning Map. Such dimensions shall be construed to read from the outside edge of all rights-of-way rather than from their center lines.

C.

Where the street layout actually on the ground varies from the street layout shown on the Zoning Map, the designation shown on the mapped streets shall be applied in such a way as to carry out the Building Inspector's judgment as to the purpose and intent of the Zoning Map for the particular area in question.

D.

When the location of a district boundary line cannot be otherwise determined, the determination thereof shall be made by the Building Inspector by scaling the distance on the Zoning Map from a line of known location to such district boundary line.

E.

In the case of uncertainty as to the true location of a district boundary line in a particular instance, an appeal may be taken to the Board of Appeals, as provided in Article VI.

F.

When a district boundary line divides a lot in a single ownership at the effective date of this Regulation or a subsequent amendment thereto, the Board of Appeals may permit extension into one district of a lawful conforming use existing in the other district, as hereinafter provided in Article VI.

G.

All lands within the Village that are underwater shall be considered to be zoned in accordance with those district regulations applied to the upland adjacent to them as if any district boundary line shown on the Zoning Map as intersecting the water's edge was projected across such water body to the interception of the Village boundary line or other district boundaries.

§ 345-5. Application of regulations.

A.

The provisions of this Regulation shall be deemed to be specific. Those uses and procedures for which there are no specific provisions in this Regulation shall be deemed to be prohibited.

B.

Use regulations.

(1)

Except as hereinafter provided, no building or structure or part thereof and no lot or land or part thereof shall hereafter be used, except for a purpose specifically permitted by the provisions for the district in which such building or structure, lot or land is located on the Zoning Map.

(2)

Any lawful use that does not conform to the use regulations of this Regulation shall be deemed a nonconforming use.

(3)

A use authorized by a variance from the use regulations of this Regulation, granted by the Board of Appeals, shall be deemed a nonconforming use.

C.

Dimensional regulations.

(1)

Except as hereinafter provided, no building or structure or part thereof shall hereafter be erected, structurally altered, enlarged, rebuilt or moved, except in conformity with the provisions for the district in which such building or structure is located on the Zoning Map.

(2)

Any lawful existing building or structure that does not conform to such dimensional regulations of this Regulation, shall be deemed a nonconforming building or structure, irrespective of the use to which it is put.

(3)

A building or structure or part thereof authorized as a variance from the dimensional regulations of this Regulation, granted by the Board of Appeals, shall be deemed a nonconforming building or structure or part thereof.

(4)

Underwater land shall not be included in the computation of minimum lot area, nor shall underwater land be included within any minimum required front, side or rear yard.

ARTICLE IV Supplementary Regulations

§ 345-6. Accessory buildings, structures and uses.

A.

Nothing in this Regulation shall be deemed to prohibit the following accessory and incidental uses:

(1)

Customary recreation, refreshment and service uses of buildings in any public park, reservation, playground or other public recreational area incidental to the recreational use of such area.

(2)

The excavation of natural materials to permit the construction of a building on a lot.

(3)

Temporary sales/construction office trailer. **[Added 10-3-2011 by L.L. No. 14-2011]**

B.

An accessory building or structure may be constructed as a structural part of a main building, including those attached by means of a breezeway or a roofed passageway with open or latticed sides, provided that when so constructed, its walls shall be regarded as the walls of the main building in applying the front, rear and side yard regulations of this chapter.

C.

An access driveway may be located within a required yard.

D.

Access driveways and accessory off-street parking areas shall be paved in accordance with Village specifications.

E.

A required accessory off-street parking area or truck loading space shall not be encroached upon by buildings, structures, open storage or any other use.

F.

The storage of manure, or of odor- or dust-producing substances as an accessory use shall not be permitted within 50 feet of any side or rear lot line, or within 100 feet of any front lot line.

G.

The following shall apply to all forms of animal husbandry, except the keeping of animals as household pets or activities related to a veterinary hospital or establishments for the board and care of small animals where such uses are permitted:

(1)

All shelters provided for livestock, fowl or fur-bearing animals shall be at least 100 feet from any property line, except that an existing shelter may remain and be added to, provided that the addition shall not encroach on a required yard.

(2)

The disposal of animal wastes shall be provided for in such a manner as to prevent any nuisance or sanitary problems.

H.

Excavations. Clay, sand, gravel or other natural mineral deposits may be excavated for use on the premises in any district in connection with any use permitted in the district. Permission shall be subject to compliance with the following regulations:

(1)

The final slope of material in any excavation or pit shall not exceed the normal limiting angle of repose of such material.

(2)

A specific plan of the proposed excavation shall be prepared, approved by the Village Engineer and filed with the Building Inspector.

I.

In One- and Two-Family Residence Districts:

(1)

Detached accessory buildings and structures may be located within a required rear yard, provided that they shall be at least five feet from any side or rear lot line, and further provided that they shall not exceed one story or 15 feet in height.

(2)

Accessory buildings and structures, including private garages, shall not be located within a required front yard, nor within a required side yard.

(3)

Accessory off-street parking spaces, other than those which might be incidentally available within an actual access driveway area, shall not be located within a required front yard, nor within a required side yard.

(4)

Access driveways through required front yards and required side yards shall not exceed 10 feet in width, except that in instances where a garage two car spaces wide is set back beyond the required front yard, such garage may have an access driveway as wide as the parking spaces in the garage, which driveway extends not more than 30 feet in front of the access doors to such garage.

(5)

No more than two parking spaces for each dwelling unit in an off-street parking structure accessory to one- and two-family dwellings may be rented to persons living off the premises.

J.

In Multifamily Residence Districts and nonresidence districts:

(1)

Accessory buildings and structures, including off-street parking structures, that are above the finished grade, or so much of such accessory buildings and structures which is above the finished grade, may be located within a required rear yard, provided that they shall be set back from any side or rear lot line a distance equal to 1/2 their height.

(2)

Accessory buildings and structures, including off-street parking structures, which are above the finished grade, or so much of such accessory buildings and structures which is above the finished grade, shall not be located within a required front yard nor within a required side yard.

(3)

Accessory buildings and structures, including off-street parking structures, that are completely below the finished grade may be located in any required front, side or rear yard.

(4)

Accessory off-street parking areas may be located within required front, side or rear yards.

(5)

In off-street parking structures accessory to multifamily dwellings, no required parking space shall be rented to persons living off the premises. All required off-street parking spaces shall be made available to occupants of the dwelling units as an integral part of their occupancy.

(6)

An awning or canopy may be erected and maintained on any building or structure which projects beyond the lot line onto the sidewalk portion of a public street, provided that it shall be at least eight feet above the level of the sidewalk at all points and, further, that it shall not project more than six feet beyond the lot line. Any such awning shall be firmly affixed to and supported by the building wall without any other means of support.

K.

Exterior spotlighting or other illumination of buildings or grounds shall be so designed, installed and maintained that no light source shall be visible from off the premises and that no light beam shall be directed off the premises; further, provision shall be made for adequate screening of vehicular light beams so that they shall not fall on adjacent properties.

L.

Routine, periodic and incidental maintenance of a motor vehicle shall be permitted in residential districts so long as the work is not being conducted in the required setbacks and the said vehicle is owned and registered to the owner and/or tenant(s) of the dwelling. [Added 1-3-2000 by L.L. No. 1-2000]

M.

A temporary sales/construction office trailer shall be permitted in accordance with the following requirements: [Added 10-3-2011 by L.L. No. 14-2011]

(1)

A term for an initial period of six months following the issuance of a building permit, which may be extended for additional six-month periods on a showing by the applicant of business necessity. However, in no event shall the trailer be allowed to remain in excess of the time specified for the underlying building permit issued for the development. The trailer shall be removed prior to the issuance of a certificate of occupancy for the development.

(2)

The installation of the trailer must comply with all applicable provisions of the New York State Uniform Fire Prevention and Building Code.

(3)

The trailer shall not be used or occupied for residential use, nor serve as overnight habitation.

(4)

The trailer and attendant parking and/or storage areas shall be located on site so as not to interfere with safe ingress and egress to developed areas or areas under construction.

(5)

The trailer shall be removed if construction ceases for more than 60 calendar days.

(6)

Any signage shall be compliance with § 345-15F, Sign regulations.

(7)

A bond, in an amount to be fixed by the Village Manager or his/her designee, and in form acceptable to the Village Attorney, shall be posted by the applicant to secure the timely removal of the trailer.

§ 345-7. Usable open space.

A.

Every residential or partial residential use shall be provided with the required area of usable open space noted for that particular use and zone district as listed in Article VIII and Article IX.

B.

Usable open space shall be continually available and usable.

C.

No area of required usable open space shall have any dimension less than 20 feet.

D.

In the RA2, RA3 and RA4 Multifamily Residence Districts, the Village Board of Trustees may accept an offer of cash in lieu of 300 square feet of usable open space based on the appraised value of land on the site.

E.

In the C2, C5 and C5-T Nonresidence Districts, the Village Board of Trustees may accept an offer of cash in lieu of 50 square feet of usable open space per unit or a portion thereof. The value shall be based on 50 percent of the assessed value of the land on the site, calculated by utilizing the 50 square feet of land per unit.

§ 345-8. Minimum residential floor area.

A.

Statement of purpose. The requirements contained in this section are designed to promote and protect the public health, to prevent overcrowded living conditions, to guard against the development of substandard neighborhoods, to conserve established property values, and to contribute to the general welfare.

B.

Minimum schedule. Every dwelling or other building converted in whole or in part to a residential use, which is hereafter erected or converted to accommodate additional families, shall provide a minimum floor area per family on finished floors with a clear ceiling height of not less than seven feet six inches, in conformance with the following schedule and with the other provisions of this section. The minimum stipulated herein shall be deemed to be exclusive of unenclosed porches, breezeways, garage area and basement and cellar rooms or areas, and of public hallways, foyers and service areas.

Type of Residence Building	Minimum Required Floor Area Per Family (square feet)
One- and two-family detached dwelling	900
Dwelling units in converted one-family dwellings	750
Multiple dwelling, except one-room studio apartment	600
Multiple dwelling, one-room studio apartment only (not permitted in PTD District)	400

C.

First-floor area of a one- or two-family dwelling. The minimum first-floor enclosed area of a dwelling, exclusive of garage or other accessory building, shall be 750 square feet, and its least overall dimension shall be 20 feet.

§ 345-9. Lot requirements.

A.

Lots in two districts. Where a district boundary divides a lot in one ownership of record at the time when such line is adopted, regulations for the less restricted portion of such lot may extend not more than 30 feet into the more restricted portion, provided that the lot has frontage on a street in a less restricted district.

B.

Frontage on improved street required. No building permit shall be issued for any structure unless the lot upon which the structure is to be built has a minimum frontage of not less than 20 feet at the front property line on a street or highway as defined in § 7-736 of the Village Law, which street or highway shall have been approved by the Planning Commission as provided in said law, and the lot maintains at least that width to the minimum front yard depth. [Amended 4-27-1988 by L.L. No. 6-1988]

§ 345-10. Yards and courts.

A.

Every part of a required yard shall be open to the sky, unobstructed, except for retaining walls and for accessory buildings and structures in a rear yard and except for the ordinary projection of sills, belt courses and ornamental features as provided in this section.

B.

Terraces. A paved terrace shall not be considered in measuring the required yard depth or as an obstruction in a required yard; provided, however, that such terrace is unroofed and without walls, parapets or other forms of enclosure. Such terrace, however, may have an open guard railing not over three feet high and shall not project into any required side or rear yard to a point closer than five feet to any lot line or into a required front yard to a point closer than 20 feet to the street line or closer than five feet to any other lot line.

C.

Projecting architectural features. The ordinary projection of the windowsills, belt courses, cornices, chimneys, eaves and other architectural features shall not project more than two feet into any required yard.

D.

Bay windows. Bay windows without foundations, including their cornices and eaves, may project into any required yard not more than two feet; provided, however, that the sum of any such projections of any wall does not exceed 1/2 the length of any said wall.

E.

Fire escapes. Open fire escapes may not extend into any required yard more than six feet.

F.

Walls and fences. The yard requirements of this chapter shall not be deemed to prohibit any necessary retaining wall nor to prohibit any fence or wall, provided that in any residence district no fence or wall exceeds four feet in height in any front or side yard, nor six feet in height in any rear yard, measured above the finished grade.

G.

Where a lot extends through from street to street, the applicable front yard regulations shall apply on both street frontages.

H.

On a corner lot in a residence district, there shall be provided a side yard on the side street side equal in depth to the required front yard on said side street. If in complying with the setbacks on both streets the minimum side yard requirement cannot be observed on the interior side, then such building shall be so erected as to comply with the minimum side yard requirement on the interior side, but it may exceed the minimum side yard requirement on the interior side by not more than six inches, and provided further that the setback on the side street side shall not be less than 10 feet.

I.

Exception for existing alignment for buildings. If it shall be proposed to build a building between two existing buildings which have a substantial uniformity of building front and of front yard setback, then the building proposed to be built shall keep and maintain that uniformity. In the case of corner lots, if such substantial uniformity of building front exists in the two next adjacent buildings fronting on the same street, the building on the corner lot shall conform with them as to building front and front yard setback. Nothing contained herein shall require any building to be set back from the street a distance greater than 50 feet. [Amended 3-5-1984 by L.L. No. 3-1984]

J.

If a lot in a nonresidential district adjoins any R District, or is within 50 feet of any R District line on the same block on the same side of the street, the following shall be required minimum yards where they are greater than the required minimum yards in the nonresidential district:

(1)

A front yard equal to 1/2 that required by said R District.

(2)

On a corner lot, a side front yard equal to 1/2 of the front yard required in such R District.

K.

If a lot in a nonresidential district adjoins any R District line, a side yard of at least six feet shall be required.

L.

Visibility at intersections. On a corner lot in any residence district, no fence, wall, hedge or other structure nor planting more than 3 1/2 feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are 30 feet distance from the point of intersection, measured along said street line. The height of 3 1/2 feet shall be measured above the curb level.

M.

Required transitional yards and screening. In order to assure orderly and compatible relationships between residential and nonresidential districts along their common boundary lines, the following required transitional yard and screening shall be provided:

(1)

On the nonresidential district side of such a boundary, a ten-foot-deep transitional yard shall be provided along boundary within which the only use shall be required screening and landscape planting. More specifically, off-street parking and truck loading and outdoor storage or work areas shall be prohibited in such transitional yard.

(2)

Screening of one of the following types shall be provided in the transitional yard in such a manner as to effectively screen uses on the nonresidential district side so that they shall not be observed by a person standing at ground level in the adjacent residential district:

(a)

A six-foot-high masonry wall.

(b)

A six-foot-high stockade fence on metal fence posts fixed in concrete footings with the finished surface of the fence facing toward the residential district.

(c)

An eight-foot-high, six-foot-wide protective planting strip, in accordance with specifications established by the Village Engineer and guaranteed by a maintenance bond.

(3)

In approving site plans for such properties pursuant to § 345-23, appropriate waivers may be made where retaining walls, natural changes in grade or other natural features will serve in whole or in part to meet the screening standard set forth in Subsection M(2) above.

N.

Rear and side yard exceptions. Where property in an industrial district adjoins a railroad right-of-way and is used for industrial purposes, the rear yard or side yard requirements shall not apply, and the buildings may be built up to the line held in common with the railroad.

O.

Courts.

(1)

Inner court. The least dimension of any inner court at the sill level of the lowest windows shall be equal to the greatest height of any wall forming part of such court.

(2)

Outer court. The width of any outer court shall not be less than $\frac{2}{3}$ the greater height of any opposing walls, and the depth shall not be greater than $1 \frac{1}{2}$ times the width.

§ 345-11. Height regulations.

A.

Nothing herein contained shall restrict the height of the following:

(1)

Church spire, cupola, dome, belfry, clock tower, flagpole, chimney flue, elevator or stair bulkhead, water tank, stage tower or scenery loft, or similar structure. Such features, however, shall be erected only to such height as is necessary to accomplish the purposes they are intended to serve.

(2)

A parapet wall or cornice ornament without windows, extending no more than five feet above the maximum height limit.

B.

No building or structure erected, pursuant to § 345-11A above, to a height in excess of the height limit for the district in which it is situated shall:

(1)

Have a lot coverage in excess of 10% of the lot area.

(2)

Be used for residence or tenancy purposes.

(3)

Have any sign, nameplate display or advertising device of any kind whatsoever inscribed upon or attached to such building or structure.

§ 345-12. Spacing between buildings on the same lot.

A.

Accessory buildings and structures, including garages, if detached from a main building or if connected only by an open breezeway-type structure, shall be not less than 10 feet from the main building.

B.

In the layout of a development for a group of buildings on a lot or tract of land, such as a multifamily dwelling project or a shopping center group, a horizontal distance of not less than 35 feet or 2/3 the height of the higher building, whichever is greater, shall be maintained between all main buildings and between main buildings and major detached accessory buildings or groups of accessory buildings, such as a garage compound, having a ground coverage equal to that of a main building; except that when the top of one building is less than eight feet above the level of the first floor of the other building, the horizontal distance need not exceed 35 feet.

(1)

The above requirement shall not apply where a structure is all or partially underground and the underground portion is that portion to be considered in relationship to another main or accessory building.

§ 345-13. Nonconforming uses and nonconforming buildings and structures.

A.

Continuing existing uses. Except as otherwise provided in this section, the lawfully permitted uses of land or buildings and structures existing at the time of the adoption of this Regulation may be continued in accordance with the provisions of this section, although such use does not conform to the regulations specified by this Regulation for the district in which such land or building is located. Said uses, buildings and structures shall be deemed nonconforming uses.

B.

Nonconforming use of land. No such nonconforming use of land shall be enlarged or increased, 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 Regulation, nor shall any such nonconforming use be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of the adoption of this

Regulation, provided, further, that if such nonconforming use of land, or any portion thereof, ceases for any reason for any continuous period of more than 90 days or is changed to a conforming use, any future use of the land shall conform with the provisions of this Regulation.

C.

Nonconforming use of buildings or structures.

(1)

If any building or structure used for a nonconforming use shall be destroyed by any means to an extent of more than 50% of the full value of such building or structure, exclusive of foundations, in the year during which such destruction occurred, no reconstruction or repairs shall be made unless the use of every portion of such building or structure is made to conform with the provisions of this Regulation for the district in which it is located. Where the destruction is less than 50% of the full value of such building or structure, exclusive of the foundations, it may be reconstructed or repaired and the nonconforming use continued, provided that the reconstruction or repair is started within one year and is diligently prosecuted to completion. For the purposes of this Regulation, the full value shall be determined by applying the current state equalization rate to the current assessed value of the building or structure and subtracting the value of the foundations as estimated by the Village Engineer.

(2)

Any such nonconforming use may be extended throughout any parts of the building or structure which were manifestly arranged or designed for such use at the time of the adoption of this Regulation.

(3)

If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use which, in the opinion of the Board of Appeals, either by general rule adopted on a request by the Building Inspector or on a specific finding on appeal of a particular case, is of the same or of a more restricted nature.

(4)

If any nonconforming use of a building or structure ceases for any reason for a continuous period of one year or more or is changed to a conforming use, or if the building or structure in or on which such use is conducted or maintained is moved for any distance whatever, for any reason, then any future use of such building or structure shall conform to the regulations specified by this Regulation for the district in which such building or structure is located.

(5)

If any building or structure in or on which any nonconforming use is conducted or maintained is hereafter removed, the subsequent use of the land on which such building or structure was located and the subsequent use of any building or structure thereon shall conform with the regulations specified by this Regulation for the district in which such land or building or structure is located.

D.

Nonconforming building or structure used for a conforming use.

(1)

A nonconforming building or structure that is not devoted to a nonconforming use may be reconstructed or altered, enlarged or extended, and the provisions of Subsection C, above, shall not apply, except that the degree of nonconformity shall not be increased.

E.

Nonconforming lots. A permit may be issued for the erection of a building or structure on a lot or parcel for which a valid conveyance or contract of sale has been executed or delivered prior to the date of the adoption of this Regulation, notwithstanding the fact that the area or dimensions of such lot or parcel are less than that required for the district in which such parcel or lot lies, provided that all yard setbacks and other requirements are complied with, and further provided that the owner of such lot or parcel does not also own or have under contract to purchase at the time of passage of this Regulation other lots or parcels contiguous thereto. In the latter case, such other lots or parcels, or as much thereof as may be necessary, shall be combined with the original lot or parcel to make a single property, whereupon a permit for the erection of a building or structure may be issued if all yard setbacks and other requirements of this Regulation are complied with.

F.

Compulsory termination of nonconforming structure or use.

(1)

A nonconforming building or structure or nonconforming use may be subject to compulsory termination by the Village Board of Trustees when it is found to be detrimental to the conservation of the value of the surrounding land and improvements or to future development of surrounding lands and, therefore, is tending to deteriorate or blight the neighborhood.

(2)

In ordering the compulsory termination of a nonconforming structure or nonconforming use, the Village Board of Trustees shall establish a definite and reasonable amortization period during which the nonconforming use may continue while the investment value remaining after the date of the termination order is amortized. Determination of the amount to be amortized shall be based on the value and condition of the land and improvements for the nonconforming use less their value and condition for a conforming use, and such other reasonable costs as the termination may cause. The rate of amortization shall be in accordance with reasonable economic practice.

(3)

Anything to the contrary in this Regulation notwithstanding, any nonconforming billboard or any flashing or moving sign, wherever located, shall become an unlawful structure six months from the date of the adoption of this amended Regulation and shall thereupon be removed. **[Amended 10-3-1978 by L.L. No. 9-1978; 3-5-1979 by L.L. No. 5-1979]**

(4)

Any owner of any such nonconforming billboard or flashing or moving sign, who alleges that the period herein provided for amortization of such sign is unreasonable as to a particular sign, may apply to the Village Board of Trustees for an extension of time for amortization of such sign. If the Village Board of Trustees finds that the construction cost of a particular sign would not be reasonably amortized by the aforesaid date, then the Village Board of Trustees shall extend the amortization period to a date which it finds would provide the shortest reasonable amortization period.

G.

Completion of buildings under construction. Any building for which a permit has been duly granted, and the construction of which has been started before the effective date of this Regulation, may be completed in accordance with plans on file with the Building Inspector, provided that such construction is diligently prosecuted and such building is completed within one year of the date of this Regulation.

H.

Existing special permit uses, buildings or structures deemed conforming. Any use, building or structure lawfully existing at the time of the adoption of this Regulation in the district in which such use is classified as a special exception use shall, without further action, be deemed to be a conforming use in such district; provided, however, that any further reconstruction, alteration or extension of such use, building or structure shall be subject to the provisions of Article X.

§ 345-14. Off-street parking, truck loading and vehicular access.

A.

General application of off-street parking and truck loading requirements.

(1)

It is the intention of this Regulation that all structures and land uses be provided with a sufficient amount of off-street automobile parking and truck loading space to meet the needs of persons employed at or making use of such structures or land uses. No permit for the erection or substantial alteration of a structure, or for the development of a land use, nor any certificate of occupancy for a new or changed use, shall be issued unless off-street automobile parking and truck loading facilities shall have been laid out in a plan in accordance with the appropriate requirements for structures and uses as provided in this section.

(2)

Structures and land uses lawfully in existence shall not be subject to the requirements set forth in this section, provided that any existing off-street parking and truck loading facilities serving such structures or uses shall not in the future be reduced, except where they exceed such requirements, in which case they shall not be reduced below such requirements. Required off-street parking and truck loading facilities for such structures or uses, as well as for any enlargement or extension, shall, however, be provided as a condition for the issuance of any building permit for such enlargement or extension in the future. In cases of practical difficulty or unnecessary hardship to such properties arising out of this requirement, appeal may be made to the Board of Appeals, which shall require only such degree of compliance as it may deem

reasonable for that part of the structure or use that is legally nonconforming, but shall not waive any part of the requirement for that part of the structure or use that constitutes an enlargement or extension and shall not permit reduction or elimination of whatever quantity of parking or truck loading spaces may already be in existence, unless it is in excess of such requirements. Required off-street parking and truck loading facilities, which, after development, are later dedicated to and accepted by the Village, shall be deemed to continue to serve the uses or structures to meet the requirements for which they were originally provided.

(3)

Requirements for off-street parking facilities shall be applicable in all districts except the Central Business District, which district shall be defined as all lands located in the **C2 Main Street Business District** ~~Central Business District~~, except that cabarets, catering and events establishments and theaters located in the **C2 Main Street Business District** ~~Central Business District~~ shall provide off-street parking according to the requirements applicable to those uses. **[Amended 6-1-2009 by L.L. No. 8-2009]**

(4)

The off-street parking requirements for buildings and uses in a C1 District may be satisfied if the subject premises are adjacent to or within 600 feet of a municipal parking facility and upon a showing of the availability of parking within such facility. **[Added 3-4-2002 by L.L. No. 3-2002]**

B.

Method of determining off-street parking space requirements.

(1)

The requirement for a single use (e.g. a single-family dwelling or a retail store) shall be determined directly from the schedule of such requirements which is a part of this section.

(2)

The requirement for a combination use made up of several component uses (e.g. a bowling alley combined with an auditorium and a restaurant and bar, or a retail store combined with an office building) shall be determined by establishing the requirement for each component use from the schedule of such requirements, which is a part of this section, and adding them together.

(3)

When the required number of spaces is determined to result in a fraction, it shall be increased to the next highest whole number.

(4)

If the use is not specifically listed in the schedule of such requirements, the requirement shall be the same as for the most similar use listed.

(5)

A garage or carport may be used to meet the requirements of this section. A driveway may only be used to meet the requirements of this section where it serves a single- or two-family dwelling.

(6)

Uses which require approval, pursuant to the special exception use procedure set forth in Article X, may be required to provide off-street parking spaces in excess of the requirements of this section, as indicated in Article X.

(7)

The Board of Appeals may approve the joint use of parking space by two or more establishments on the same lot, the total capacity of which space is less than the sum of the spaces required for each, provided that the Board finds that the capacity to be provided will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees among such establishments; and provided further that such approval of such joint use shall be automatically terminated upon the termination of the operation of any such establishment.

C.

Schedule of off-street parking space requirements. [Amended 1-3-1978 by L.L. No. 2-1978; 6-30-1993 by L.L. No. 10-1993; 11-29-1995 by L.L. No. 10-1995]

(1)

For residential land uses:

Uses	Number of Spaces Required
1-family and 2-family dwelling	2 per dwelling unit, plus 1 per rented room
Multifamily dwelling, including condominium or cooperative dwellings, except in PTD District	1.5 per dwelling
Condominium or cooperative multifamily dwelling in PTD	1.5 per dwelling unit
Residential membership club or fraternity	1 per residence unit, plus 1 per each 4 employees on the premises at one time

(2)

For nonresidential land uses:

Uses	Number of Spaces Required
Animal hospital	1 per 200 square feet of gross floor area
Auditorium, cabaret, catering and events	1 per 3 permanent seats, or 1 per each 40 square feet

establishment, church convention hall, gymnasium, stadium, studio or other place of public assembly not otherwise classified
of seating area where fixed seating is not provided
[Amended 6-1-2009 by L.L. No. 8-2009]

Bank, savings and loan association	Same as office
Bar or tavern [Added 6-1-2009 by L.L. No. 8-2009]	1 per 4 permanent seats at tables, or stools at a bar or 100 square feet of floor area devoted to patron use, whichever is greater
Bowling alley	3 per single alley
CD accessory garden center	1 per each 600 square feet of lot area dedicated to such accessory use
Commercial indoor athletic training facilities [Added 12-1-2008 by L.L. No. 14-2008]	1 per 1,000 square feet of gross floor area
Drive-in facility, including restaurants and banks, outdoor sales lots	1 per each 600 square feet of lot area (queuing space where appropriate)
Funeral home	1 per 40 square feet of public room floor area
Gasoline station, parking garage, repair garage	Sufficient parking spaces for all vehicles stored or being serviced at any one period of time, with minimum of 5 spaces
Home occupation, home professional office	1 for the first 150 square feet of area given over to this component of the land use, plus 1 for each additional 150 square feet or fraction thereof, but in no case less than 2 spaces
Hospital, clinic	4 for every 5 patient beds, excluding bassinets
Hotel, motel, limited-service hotel [Amended 3-28-2001 by L.L. No. 6-2001]	1 per guest bedroom, plus 1 per each 2 employees on the premises at one time
Manufacturing or industrial establishment, research institute or laboratory	Parking area equivalent to the total ground coverage of the use, with a minimum of 1 improved space per 2 employees on the premises at one time, but in no case less than 2 spaces
Nursing home, convalescent home	1 per each 2 beds
Offices, office building	1 per 200 square feet of gross floor area
Public or semipublic art gallery, library or museum	Same as auditorium, etc.
Racquetball facility	4 per court, minimum
Restaurant, club [Amended 6-1-2009 by L.L. No. 8-2009]	1 per 4 permanent seats or 100 square feet of floor area devoted to patron use, whichever is the greater requirement
Theater [Added 6-1-2009 by L.L. No. 8-2009]	1 per 4 permanent seats

D.

Schedule of off-street truck loading requirements.

(1)

Except as provided in Subsection D(2), every building or structure or lot used for nonresidential purposes shall be provided with off-street truck loading spaces in accordance with the following schedule:

Square Feet of Floor Area	Number of Spaces Required
Under 5,000	None, except space for retail business use, restaurant, cabaret or other place serving food and beverages, or private marina or yacht club
5,000 to 14,999	1 space in addition to that required for under 5,000 square feet, if any
15,000 to 40,000	2 spaces, in addition to that required for under 5,000 square feet, if any
Over 50,000	1 space for each additional 80,000 square feet over and above the requirement for the first 40,000 square feet

(2) Every office building, hotel, motel or boatel shall have one space for each 60,000 square feet of floor area, or part thereof.

(3)

Every multifamily dwelling, including cooperative or condominium buildings, shall have one space for each 120 dwelling units.

(4)

Every convalescent home or nursing home shall have one space for each 40,000 square feet used for such purposes.

E.

Design requirements for off-street parking and truck loading facilities.

(1)

All accessory off-street parking and truck loading facilities shall be located on the lot with the use that they serve, in accordance with the provisions of § 345-6.

(2)

The plans for any new building or any replacement or reconstruction of an existing building, or for any change of use, when submitted to the Building Inspector for a building permit or certificate of occupancy, shall show the proposed arrangement of parking areas including access to such areas from the public streets, with sufficient parking spaces to comply with the requirements of this section.

(3)

Generally, the physical improvement of off-street parking lots and truck loading areas shall include curbs, paving, sidewalks, drainage facilities and adequate lighting in accordance with Village standards established in § 345-23 of this law as well as any other applicable laws, regulations and specifications. **[Amended 4-26-1989 by L.L. No. 10-1989]**

F.

Operation and maintenance of off-street parking facilities. 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 at or make use of such structures and land uses, except when dedicated to and accepted by the Village as public parking areas.

G.

Tractor trailers, trucks, vans and pickups. **[Added 12-14-1984 by L.L. No. 18-1984]**

(1)

There shall be no off-street parking or outdoor storage of any tractor trailer or part thereof, truck, van, pickup truck or taxicab in any residence district, as defined in this chapter, between the hours of 6:00 p.m. and 6:00 a.m. on weekdays, all day Saturdays, Sundays and holidays, except that two vans or pickup trucks may be parked on each lot so long as the same are kept and maintained by an occupant of the premises and have no display or advertising signs attached or exhibited and provided that such vans or pickup trucks have a manufacturer's certified gross vehicle weight of less than 6,600 pounds. To take advantage of this exception, the owner must exhibit to any police officer, Building Inspector, Judge or prosecutor requesting the same the most recent registration on said vehicle showing the weight to be less than the exempt weight. Further, two taxicabs may be parked in the driveway of a residence so long as they are registered to an occupant or occupants of the residence. **[Amended 2-4-1985 by L.L. No. 3-1985; 5-25-1988 by L.L. No. 13-1988]**

(2)

This subsection shall not apply to vehicles making deliveries or to service or emergency vehicles while the operator is engaged in such activity on the site.

(3)

This chapter shall take effect six months from the date of its adoption.

H.

Lots containing or restricted to one- and/or two-family dwellings shall be limited to one curb cut per lot. **[Added 4-27-1988 by L.L. No. 6-1988]**

I.

In nonresidence districts, all plots, lots or parcels of land containing 15,000 or more square feet of area or having or proposing a use requiring 20 or more parking spaces, or both, shall comply with the following access requirements: **[Added 8-2-1989 by L.L. No. 17-1989]**

(1)

There shall be provided an accessway running from a public road to the parking area of the lot of not less than 31 feet in width; such way shall have at least 25 feet of drive width and six feet of curbing and planting and three feet in width on each side of the drive. Such planting is to be so arranged and maintained as not to obstruct visibility.

(2)

The way and drive contained therein shall be for the exclusive use of the property and parking area.

(3)

The way at the curblin and throughout its length shall be not less than 15 feet from any other way or driveway providing access to a public street and not less than five feet from any lot line, except a street lot line.

(4)

Any driveway providing ingress or egress to a public street shall not pass through the parking and/or drive area of any other lot.

(5)

Access, but not frontage, may be provided by grant of easement, but the size of the lot impressed with the easement shall be reduced by the area comprising the easement before computing area, setback and special exception requirements.

(6)

The requirements of this section shall be in addition to the frontage and minimum yard dimension requirements of the Code.

J.

Residence districts. **[Added 5-2-1990 by L.L. No. 3-1990]**

(1)

In all residence districts, the parking requirements of § 345-14 shall be complied with before any subdivision can be approved, both for the subdivided lot and for the lot or lots which remain the same.

(2)

In all residence districts, all lots must comply with the requirements of § 345-14. In the event that any lot is unable to comply with these requirements, a variance shall only be granted if alternate off-street parking spaces are provided or if it shall be shown that no such alternate spaces are available and that the lot otherwise complies with the Code and that no economic return can be realized without the grant of variance and that the variance granted is the minimum necessary, then a variance request on the issue may be granted.

(3)

Where two lots are in the same ownership and one of the lots is undeveloped, that lot shall be improved to provide any additional parking spaces needed to bring the other lot, if developed, into conformity with § 345-14 of the Village Code.

(4)

Nothing herein shall be deemed to limit or repeal any preexisting rights held under § 345-13 of the Village Code.

§ 345-15. Sign regulations.

A.

In addition to the provisions of Chapter 272, Signs and Billboards, Article I, General Regulations, the following regulations shall apply to the erection and use of signs.

B.

Schedule of permitted signs. The following schedule of permitted signs shall apply according to the district in which the lot is located on the Zoning Map and whether such lot is used for a permitted use or for a special exception use: [Amended 4-2-1997 by L.L. No. 3-1997]

Village of Port Chester Permitted Signs

Type of District	Professional and Announcement Signs	Identification Signs	Real Estate or "For Rent" Signs and Construction Signs	Temporary Signs
All residence districts	1 on each public street frontage, pursuant to § 345-15C	1 on each public street frontage, pursuant to § 345-15C	1 on each public street frontage for single lots or buildings; 2 subdivision signs on each public street frontage for each approved subdivision, pursuant to § 345-15F	Pursuant to § 345-15G(6)

PD Designed Professional Building District	Prohibited	1 wall sign or 1 detached or ground sign on each public street frontage, pursuant to § 345-15D	1 on each public street frontage for single lots or buildings, pursuant to § 345-15F	Pursuant to § 345-15G(6)
Other commercial and industrial districts	Prohibited	1 wall sign on each public street or municipal off-street parking lot, and 1 detached or ground sign, pursuant to § 345-15E	1 on each public street frontage for single lots or buildings, pursuant to § 345-15F	Pursuant to § 345-15G(6)

C.

Professional signs, announcement signs and special building identification signs.

(1)

A professional sign or an announcement sign for a home professional office or home occupation shall bear only the name and profession or occupation of the resident. Such signs shall have a maximum area of two square feet and may be located on the building wall or in the required front yard, provided that such sign is set back at least 10 feet from all property lines and that such sign is not more than six feet above the natural ground level at its location.

(2)

A professional office building, an apartment building of 50 or more dwelling units or a church or other place of worship may have one identification sign, not over 12 square feet in area, on each public street frontage of its property, either fixed on the main wall of the building or located in the required front yard, provided that such sign is set back at least five feet from the front property line and at least 25 feet from all other property lines.

(3)

A parish house, club, school or public or semipublic building may have one identification sign, not over six square feet in area, on each public street frontage of its property, either fixed on the main wall of the building or located in the required front yard, provided that such sign is set back at least five feet from the front property line and at least 25 feet from all other property lines.

(4)

Such signs may be double-faced.

(5)

Such signs may be lighted only by shielded light sources attached to the sign of an intensity not exceeding 15 watts of power.

D.

PD Designed Professional Building District identification signs.

(1)

A wall identification sign shall be attached to or incorporated in a building wall. Such sign shall not:

(a)

Exceed eight square feet in total area.

(b)

Project more than one foot from such wall.

(2)

A detached or ground identification sign may only be erected where the building is set back from the street line a distance of 10 feet or more. A detached or ground identification sign may be double-faced. Such sign shall not:

(a)

Exceed eight square feet in total area.

(b)

Exceed three feet in height, measured from the ground level.

(c)

Be set back not less than five feet from any street right-of-way line and at least 25 feet from all other property lines.

(3)

Business identification signs may be interior-lighted with non-glaring lights or may be illuminated by shielded floodlights or shielded neon tubing using a transformer with a maximum of 30 milliamperes; provided, however, that red and green lights shall be set back at least 75 feet from the point of intersection of the street lines at a street corner, and further provided that intermittent or flashing lights shall not be used on or in any sign. Moving or animated signs shall be prohibited.

E.

Other commercial and industrial district identification signs. [Amended 4-2-1997 by L.L. No. 3-1997]

(1)

A wall identification sign shall be attached to or incorporated in a building wall. Such sign shall not:

(a)

Exceed two square feet in total area for each horizontal foot of such wall on which it is mounted up to a maximum of 100 horizontal feet and an additional one square foot for each horizontal foot. ~~provided, however, that in the PTD District the sign area may be applied separately to both the base structure and to the individual tower buildings projecting from the open top deck of the base structure.~~

(b)

Be located above the second story of the building wall. ~~except that in the PTD District this may be applied separately to the base structure and to the individual tower buildings projecting from the open deck of the base structure; and further provided that a symbol, not exceeding 10% of the permitted sign area, designed to identify a building, may be located higher on the building wall.~~

(c)

Exceed in width 75% of the horizontal measurement of the wall on which it is mounted, except that where such measurement is 20 feet or less the maximum width may be 90% of such measurement.

(2)

A detached or ground identification sign may only be erected where the building is set back from the street line a distance of 40 feet or more. A detached or ground identification sign may be double-faced. Such sign shall not:

(a)

Exceed 80 square feet in total area.

(b)

Exceed 18 feet in height, measured from the ground level.

(c)

Have less than three feet of clear space between the ground level and the bottom of the sign board, provided that necessary supports may extend through such clear space.

(d)

Be set back less than 20 feet from any property line, except that if the average front setback of existing buildings within the same block is less than 10 feet, then the average setback so established shall be applied to such sign.

(3)

No interior sign shall be erected or maintained in the window of a building which is visible from outside except as follows:

(a)

One permanent, durably constructed and approved sign no greater than 20% of the window area or eight square feet, whichever is smaller.

(b)

One permanent sign indicating the hours of the establishment not greater than one square foot in area.

(c)

No window signs shall be so arranged as to prevent the viewing of displays or the interior of the space, except for temporary use of window space for town or civic functions.

(4)

Business identification may be interior-lighted with non-glaring lights or may be illuminated by shielded floodlights or shielded neon tubing using a transformer with a maximum of 30 mill amperes; provided, however, that red and green lights shall be set back at least 75 feet from the point of the intersection of the street lines at a street corner, and further provided that any intermittent or flashing lights shall not be used on or in any sign. Moving or animated signs shall be prohibited.

F.

Real estate and construction signs.

(1)

Real estate and construction signs shall be set back at least 20 feet from any property line, except that in districts in which the required front yard depth is less than 20 feet the lesser dimension shall determine the requirement in relation to the front lot line.

(2)

In One- and Two-Family Residence Districts such signs shall have a maximum area of six square feet, except that subdivision signs shall have a maximum area of 24 square feet. They shall not be illuminated.

(3)

In a Multifamily Residence District real estate and construction signs shall have a maximum total area of thirty-two square feet on buildings under construction through the initial occupancy period until the building either achieves 90% occupancy or one year has expired after completion of construction. After such initial period no such signs shall exceed six square feet.

(4)

In nonresidential and design districts, real estate and construction signs shall have a maximum area of 100 square feet for each 100 lineal feet of front lot line.

(5)

Real estate and construction signs shall be considered temporary signs and shall not be used as a means to circumvent the provisions of this Regulation.

G.

General provisions. **[Amended 10-2-1989 by L.L. No. 19-1989; 11-4-1996 by L.L. No. 13-1996; 4-2-1997 by L.L. No. 3-1997]**

(1)

The area of a sign shall be determined by the smallest rectangle that encompasses all of the letters or symbols that make up the sign, together with the area of any background or a different color or material than the general finish of the building, whether painted or applied.

(2)

The outlining by direct illumination of all or part of a building such as a gable, roof, wall, side or corner is prohibited, except during the Christmas season.

(3)

No flashing or moving signs, except time and temperature information, nor any rooftop signs shall be permitted in any district.

(4)

Illumination of signs shall be accomplished by means of shielded light sources and in such a manner that no glare shall extend beyond the property lines, disturb the vision of passing motorists nor constitute a hazard to vehicular traffic.

(5)

Temporary or permanent signs resting on or attached to vehicles shall not be used as a means to circumvent the provisions of this Regulation.

(6)

Temporary signs for special events and the activities of nonprofit institutions or political organizations shall be permitted without a permit, provided that such signs shall be removed within one week after such event or activity, and further provided that they shall not be displayed for a total time period of more than 60 days in a one-hundred-twenty-day period. Temporary interior signs are permitted, provided that the total percentage of window space that may be used for such signs is 25% of the window area to which

they are affixed or displayed. Pennants, streamers and other similar eye-catching devices shall be permitted only in nonresidential districts where they may only be displayed flat against the wall of the building and are likewise restricted in the time that they may be maintained. All existing temporary interior signs must be removed within six months of the effective date of this section.

(7)

Signs designed only to direct traffic within a property or to ensure safety incidental to the use of the property shall be permitted on approval of the Building Inspector, provided that no such signs shall exceed four square feet in area, and further provided that they may be lighted only by shielded, non-flashing light sources.

(8)

No private property owner nor any other individual shall erect, post or maintain any sign within the right-of-way of a street or highway.

(9)

Billboards shall be prohibited in all districts; except as specifically authorized by § 345-15H(9).

(10)

Nothing contained in this Regulation shall be construed to prohibit the Village of Port Chester or any other governmental agency from erecting and maintaining public signs deemed to be necessary in the public interest.

(11)

All nonpublic signs, except for residence nameplates and street number signs not exceeding two square feet, which are accessory to one- and two-family residence buildings shall have an approved sign permit and permit number issued by the Building Inspector.

(12)

Except as specifically permitted in this section in connection with lawful signs, neon lighting or other illumination is prohibited.

H.

Billboard regulations. **[Added 11-5-1979 by L.L. No. 18-1979]**

(1)

Definitions. As used in this Regulation, the following terms shall have the meanings indicated:

ATTACHED BILLBOARD – Any billboard fastened to the front or face of a building.

BACK-TO-BACK BILLBOARD – A structure with two parallel and directly opposite billboards with their faces oriented in opposite directions located not more than three feet apart.

BUILDING INSPECTOR or INSPECTOR OF BUILDINGS – The Inspector of Buildings of the Village of Port Chester or other officer, person or persons, duly authorized to perform his duties.

FRONT OR FACE OF A BUILDING – The general outer surface of the building abutting or fronting upon any street, highway, parking area or vacant area.

GROUND BILLBOARD – A billboard supported by one or more uprights upon the ground with or without braces and not attached to a building or structure.

PERSON – One or more persons, corporations, partnerships, associations, joint- stock companies, societies and all other entities of any kind capable of being sued.

ROOF BILLBOARD – A billboard erected upon or above the roof of a building.

(2)

Permit required. After the effective date of this Regulation and except as otherwise herein provided, it shall be unlawful and a violation of this Regulation for any person to erect, construct, paint, alter, relocate, reconstruct, display or maintain within the Village of Port Chester any billboard structures without first having obtained a written permit from the Building Inspector for such billboard or billboards and without having complied with the provisions of this Regulation and with any other regulations of the law.

(3)

Application for permit. Any person desiring to procure a permit for a sign or signs shall file with the Building Inspector of the Village of Port Chester a written application which shall contain:

(a)

An accurate scale drawing showing the lettering and pictorial matter composing the billboard, including a cross section indicating depth and relation to the face of the building, a description of the construction details of the sign structure, type of lettering and the intensity and type of lighting to be provided; a location plan showing the position of the sign on the building premises; and such other information as the Building Inspector may require to show compliance with the provisions of this Regulation.

(b)

A written statement showing the name of the owner or of the person in control of the building or premises where such sign is to be located and the right or authority of the applicant to obtain a permit.

(4)

Appeal. Any person aggrieved by the action of the Building Inspector in denying said application for a billboard permit may take an appeal therefrom to the Board of Trustees.

(5)

Fees. Except as otherwise provided herein, no billboard permit shall be issued by the Building Inspector until the applicable fee listed below is paid to the Village Treasurer: **[Amended 11-3-1997 by L.L. No. 17-1997]**

(a)

A fee for erecting, placing or painting a new sign as set forth in Chapter 175, Fees.

(b)

A fee for altering, relocating, reconstructing or enlarging an existing sign as set forth in Chapter 175, Fees.

(c)

An annual fee per billboard as set forth in Chapter 175, Fees.

(d)

A fee on an application for a variance as set forth in Chapter 175, Fees.

(6)

Revocation of permit. The Building Inspector may, at any time for a violation of this Regulation, revoke any billboard permit. Notice of such revocation and the reason or reasons therefor, in writing, shall be served by the Building Inspector upon the person named in the application by mailing the same to the address given in the application and upon the last known owner of the premises on which the sign is placed by mailing the same to his name and address as shown on the assessment roll of the Village and by filing a copy of said notice immediately in the office of the Village Clerk.

(7)

Unsafe, unlawful and unsightly signs.

(a)

Whenever it shall appear to the Building Inspector that any sign has been constructed or erected or is being maintained in violation of any of the terms of this Regulation, is unsafe and insecure, has been allowed to deteriorate in appearance and/or maintenance or is in such condition as to be a menace to the safety of the public, he shall thereupon issue or cause to be issued a notice in writing to the owner, if the whereabouts of such owner is known, informing such person of the violation of this Regulation or the dangerous condition of such sign and directing him to make such alteration or repair thereto, or to do such things or acts as are necessary or advisable to place such structure in a safe, substantial and secure condition, and to make the same comply with the requirements of this Regulation within such reasonable time as shall be stated in such notice. Upon failure to comply with such notice within the time specified, the Building Inspector may cause such billboard, or such part thereof as is constructed or maintained in violation of this Regulation, to be removed and may charge the expense of such removal to the person so notified; provided, however, that nothing herein contained shall prevent the Building Inspector from adopting such precautionary measures as may be necessary or advisable in case of imminent danger to the

public or to adjoining property to place such sign in a safe condition, the expense of which shall be paid by the owner.

(b)

Every person maintaining a billboard shall, upon vacating the premises where the sign is maintained, forthwith remove such billboard.

(8)

General safety provisions.

(a)

No billboard shall be erected in such a manner as to obstruct free ingress and egress to or from any window, door or fire escape or so as to become a menace to life, health or property.

(b)

All billboards affixed to any wall or building shall be securely fastened thereto.

(c)

All wiring, fittings, materials and electrical or other installations of illuminated or lighted billboards shall be subject to inspection by and approval of the Building Inspector.

(9)

Permitted zones. Billboards shall be permitted in only the following zoning districts:

(a)

C3 ~~Design~~ Office and Commercial District.

(b)

C4 General Commercial District.

(c)

M1 Light Industrial District.

(d)

M2 General Industrial District.

(10)

General provisions.

(a)

Roof billboards are prohibited.

(b)

All ground billboards shall consist of back-to-back billboards having faces of equal size. Ground billboards having faces set at a forty-five-degree angle will be permitted if within five feet of the rear of the ground billboard a wall at least three feet higher than the top of the billboard structure is found. Such a wall must serve to retain earth to a height of not less than three feet from said wall top.

(c)

No billboard shall be located within 300 feet of any structure whose predominate character is residential.

(d)

The general area of any billboard on undeveloped property must be kept free and clear of billboard materials, weeds, debris, trash and other refuse.

(e)

No billboard shall be constructed which resembles any official marker erected by any governmental agency or which by reason of position, shape or color would conflict with or obscure the proper functioning of any traffic sign or signal.

(f)

Irrespective of any other requirements of this Regulation, no more than 50 billboards having a size of 300 square feet, two billboards having a size of 72 square feet and five billboards having a size of 32 square feet are allowed within the Village of Port Chester.

(11)

Size and spacing requirements.

(a)

Billboards shall be spaced at intervals of not less than 1,000 feet.

(b)

No billboard shall exceed a height of 35 feet above ground level.

(c)

A maximum of one attached billboard or one ground billboard shall be permitted at any single location.

(d)

The maximum area for any one billboard shall be 300 square feet inclusive of any border and trim, but excluding the base.

(e)

For purposes of this subsection, a back-to-back billboard shall be considered a single ground billboard.

(12)

Ground billboards.

(a)

Ground billboards shall be set back to the required distance for buildings located within that zoning district, or a distance of not less than that of adjoining properties, or 10 feet, whichever is the greatest.

(b)

All newly constructed billboards shall be of single-pole design.

(13)

Attached billboards. Attached billboards shall be only upon the front or face of a building and must be constructed and maintained flat or parallel with the building wall to which they are attached and shall not extend more than 12 inches from such exterior building wall.

(14)

Lighting.

(a)

No billboard shall be illuminated after 12:01 a.m.

(b)

No billboard shall have intermittent, moving or flashing lighting.

(c)

All lighting shall be of constant color and intensity, white or near-white.

(d)

No lighting devices shall employ exposed light sources. They shall be so designed and located that the light directed therefrom shall not extend beyond the particular billboard boundary, and in no case shall the light source or the beams therefrom be directed into adjoining residential properties or into public streets.

§ 345-16. Building Height and Floor Area Bonus Program

A.

Purpose.

The purpose of the Building Height and Floor Area Bonus Program is to permit increases in allowable density and/or height in exchange for providing a designated community benefit.

B.

General regulations.

(1)

The bonus program is available in the C2 Main Street Business, C5 Train Station Mixed Use, C5T Downtown Mixed Use Transitional and PMU Planned Mixed Use districts (see *Schedule of Regulations for Nonresidence Districts, Attachment 3B*), and is subject to approval by the Village Board of Trustees.

(2)

Only new developments are eligible for the bonuses unless otherwise approved by the Village Board of Trustees.

(3)

Projects in the C5 Train Station Mixed Use, C5T Downtown Mixed Use Transitional, and PMU Planned Mixed Use districts are permitted to use both the building height and floor area option (see *Schedule of Regulations for Nonresidence Districts, Attachment 3B*).

(4)

Buildings using bonus floor area must not exceed the maximum height limits in the applicable district unless eligible for bonus height (see *Schedule of Regulations for Nonresidence Districts, Attachment 3B*).

C.

Bonus floor area option.

In the C2 Main Street Business, C5 Train Station Mixed Use, C5T Downtown Mixed Use Transitional, and PMU Planned Mixed Use districts, additional development potential in the form of floor area can be earned for a project when the project includes any of the specified provisions listed herein. The bonus floor area amount is additional to the maximum floor area ratio in the respective district (see *Schedule of Regulations for Nonresidence Districts, Attachments 3B*).

(1)

Open space provision.

In the eligible zoning districts specified herein, proposals that include an open space monetary contribution in addition to the minimum usable open space requirement of the respective district can receive bonus floor area, as specified in the *Schedule of Regulations for Nonresidence Districts, Attachment 3B* and subject to approval by the Village Board of Trustees. The payment in lieu shall be calculated at 10 percent of the assessed value of the bonusable floor space, as determined by the Village Assessor.

(2)

“Housing Rehabilitation Program” provision.

In the eligible zoning districts specified herein, an applicant who contributes a monetary contribution to the Village Housing Rehabilitation Program can receive bonus floor area for the proposed development, as specified in the *Schedule of Regulations for Nonresidence Districts, Attachment 3B* and subject to approval by the Village Board of Trustees. The payment in lieu shall be calculated at 10 percent of the assessed value of the bonusable floor space, as determined by the Village Assessor.

(3)

“Funding for Downtown Public Parking Garage” provision.

In the eligible zoning districts specified herein, an applicant who contributes a monetary contribution to a Village-designated program used to fund the construction of a public parking garage in the downtown can receive bonus floor area for the proposed development, as specified in the *Schedule of Regulations for Nonresidence Districts, Attachment 3B* and subject to approval by the Village Board of Trustees. The payment in lieu shall be calculated at 10 percent of the assessed value of the bonusable floor space, as determined by the Village Assessor.

(4)

All three funds listed in § 345-67.C.(1), (2) and (3) above shall be kept by the Village as dedicated funds in a separate account to be used only for their respective purposes of open space, housing rehabilitation and public parking.

D.

Bonus building height option.

Bonus building height is also earned in the C5 Main Street Business, C5T Downtown Mixed Use Transitional, and PMU Planned Mixed Use districts in addition to the bonus floor area achieved through the provisions established in §345-67.C. Bonus height is in addition to the maximum building height in the respective district, as specified in the *Schedule of Regulations for Nonresidence Districts, Attachment 3B*. Bonus height is earned by contributing to any of the three provisions specified in § 345-67.C.(1), (2) and (3) above.

~~§ 345-16. Modifications for large subdivision developments. [Amended 11-2-1987 by L.L. No. 17-1987]~~

~~A.~~

~~Where the owner of any tract of land having a total area of not less than 15,000 square feet presents for record a plat for the development of such tract primarily for residential purposes, the Planning Commission, in accordance with the provisions of § 7-738 of the Village Law, may authorize a modification of all yard and area regulations as herein established and such modifications of the dwelling types herein established as are essential to the effective carrying out of such residential development plan, subject to the following limitations:~~

~~(1)~~

~~This section shall apply only in R2F Zoning Districts.~~

~~(2)~~

~~Usable open space of not less than 400 square feet per unit shall be provided and maintained, which open space will be kept in lawn or garden.~~

~~(3)~~

~~Not less than two off street parking spaces per unit shall be laid out and provided.~~

~~(4)~~

~~Where the rear yard of an R2F Zone cluster abuts an R5 or R7 Zoning District, a minimum rear yard of 30 feet shall be maintained in the clustered development.~~

~~(5)~~

~~Where the side yard of an R2F Cluster Zone abuts an R5 or R7 Zoning District, a minimum side yard of 14 feet shall be maintained on the side so abutting.~~

~~B.~~

~~Purpose. The purpose of cluster development is to permit a procedure for development which will result in improved living and working environments, which will promote more economic subdivision layout, which will encourage a variety of types of residential dwellings, which will encourage ingenuity and originality in total subdivision and individual site design and which can preserve open space to serve recreational, scenic and public service purposes and other purposes related thereto within the densities established for the cluster net tract area.~~

~~C.~~

~~Authorization and eligibility. Authorization is granted to the Planning Commission, pursuant to § 7-738 of the Village Law, to apply clustering standards to plans of residential development.~~

~~D.~~

~~Computation of unit density. In any R2F District, the Planning Commission may authorize the subdivision of tracts or parcels of land into lots for residential clustering use in accordance with the density, use, height and parking requirements of the particular district.~~

~~(1)~~

~~For purposes of computing net parcel acreage, the following areas are to be excluded from the gross area of the development:~~

~~(a)~~

~~Bodies of water, including streams, ponds and swamps.~~

~~(b)~~

~~Rock outcroppings of more than 200 square feet each.~~

~~(c)~~

~~Areas with a slope of more than 25%.~~

~~(2)~~

~~For purposes of computing parcel density, the net parcel square footage shall be divided by 2,500 square feet.~~

~~E.~~

~~Subdivision review. Where any development will result in a division of land into two or more lots, plots, sites or parcels, subdivision review and application of clustering standards by the Planning Commission shall be coordinated through the Office of Planning and Development.~~

~~F.~~

~~Application procedure and site plan elements. Application preparation, submission and review shall follow the procedure specified in § 345-23 of this chapter and shall consist of the site plan elements required by § 345-23E. The site plan shall further show:~~

~~(1)~~

~~The disposition of various land uses and the areas covered by each, in acres.~~

~~(2)~~

~~Delineation of the various residential areas, indicating the number of dwelling units by each housing type: single family detached and semidetached, attached quadruplex or townhouse dwellings, multistory multiple dwellings, etc., plus a calculation of the density in lot area provided per dwelling unit.~~

~~(3)~~

~~The common open space system and a statement as to how it is to be preserved as such throughout the life of any portion of the cluster development and how it is to be owned and maintained.~~

~~G.~~

~~General requirements; design objectives and criteria. In reviewing a cluster development, the Planning Commission shall give particular consideration to the objectives set forth in § 345-23 of this chapter and the following design objectives:~~

~~(1)~~

~~Individual lots, buildings, streets and parking areas shall be designed and situated to minimize alteration of the natural site features to be preserved.~~

~~(2)~~

~~The usability of cluster open space intended for recreation or public use shall be determined by the size, shape, topographic and location requirements of the particular purpose proposed for the site.~~

~~(3)~~

~~Cluster open space shall include irreplaceable natural features located in the tract, such as but not limited to stream beds, significant stands of trees, individual trees of significant size and rock outcroppings.~~

~~(4)~~

~~Cluster open space intended for recreation or public use shall be easily accessible to pedestrians, which accessibility shall meet the needs of the handicapped and elderly.~~

~~(5)~~

~~Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between development and the existing topography.~~

~~(6)~~

~~Individual lots, buildings, units and parking areas shall be situated to avoid the adverse effects of shadows, noise and traffic on the residents of the site.~~

~~(7)~~

~~Areas with slopes greater than 15% shall be preserved and not disturbed unless means to mitigate adverse environmental effects are defined in an engineer's, architect's or landscape architect's report and approved by the Planning Commission.~~

~~(8)~~

~~Energy conservation shall be encouraged through the use of southern slopes, where feasible, for passive solar access.~~

~~H.~~

~~Utility placement. All electrical, telephone, cable television and similar equipment shall be installed underground in accordance with the New York Public Service Commission regulations.~~

~~I.~~

~~On-site improvements. The developer shall provide all necessary on-site water and sewer facilities, including but not limited to water storage tanks, if necessary, storm drainage, highway access, paved service streets, curbing, sidewalks, parking and loading facilities, lighting, fire alarm and other necessary support systems, which shall be connected to the municipal systems at the nearest feasible point, and other necessary facilities, making reasonable provision for utility service or connections with adjoining properties in other ownerships. Such proposed improvements shall be subject to revision and approval by the appropriate municipal authority. The Village shall not be obligated to extend existing systems to accommodate the developer.~~

~~J.~~

~~Common lands and facilities.~~

~~(1)~~

~~Where a clustering development approved pursuant to this authorization results in the permanent preservation of open spaces or the creation of other commonly used lands or facilities, their location and use shall be governed by the Planning Commission, using as a guide the Comprehensive Development Plan and the concept of creating a coordinated system of open spaces with public right of way between them, as well as the purposes set forth herein and in § 7-738 of the Village Law.~~

~~(2)~~

~~In cluster developments having more than five acres, the developer may offer at least 25% of the total area of all common open space parcels containing an area greater than one acre each to the Village of Port Chester for dedication for public use. The Planning Commission shall review such offer of dedication during preliminary site plan review and recommend either acceptance or refusal of a part or all of said parcels to the Board of Trustees.~~

~~(3)~~

~~Common lands which are not dedicated in accordance with Subsection J(2) above and any private common facilities shall be owned and maintained by a property owners' association or its successor organization, subject to the following requirements:~~

~~(a)~~

~~The property owners' association shall be a legal entity authorized by the laws of the State of New York. It shall be created by a trust agreement or certificate of incorporation, approved as to form and sufficiency by the Corporation Counsel and designed to assure the permanent preservation and protection of the common lands and any improvements thereon for their intended purposes. The association shall be established prior to obtaining a building permit.~~

~~(b)~~

~~The property owners' association shall be responsible for the continued future maintenance, ownership and use of all such common lands and facilities.~~

~~(e)~~

~~The property owners' association shall be perpetual and shall not dispose of any common land or any improvements thereon or thereunder, by sale or otherwise, except to a successor organization.~~

~~(d)~~

~~The instrument establishing the association shall provide notice that, in the event that it or any successor organization shall at any time after approval of the development fail to maintain the common land or any improvements thereon in accordance with the approved plan, the Village Manager may serve certified or personal notice upon such legal entity or successor organization and upon the property owners as recorded on the assessment rolls within the development, setting forth the manner in which the association has failed to maintain the common land or any improvements thereon, and said notice shall include a demand that such deficiencies be corrected within 60 days. The Village Manager may, upon application and for good cause, extend said period for additional sixty day periods. If the deficiencies are not so corrected, the Village Manager, in order to preserve the taxable values of the property within the development and to prevent the common land and improvements thereon from becoming a public nuisance, may direct that the Village enter upon and take possession of said common land and improvements and maintain the same until such time as the Board of Trustees shall determine that the property owners' association is ready and able to maintain the common land and improvements in property condition. Said entry and maintenance shall not vest in the public any rights to use the common land or improvements. The decision of the Village Manager with respect to the action described in this subsection shall constitute a final administrative decision subject to review in accordance with the provisions of Article 78 of the Civil Practice Law and Rules. The cost to the Village of any such maintenance shall be assessed against the properties within the cluster development affected, and in the event of the failure or refusal of any property owner to pay any such charges when levied, the unpaid amount thereof shall become a lien against the property and, together with interest allowed by state law from the due date thereof, shall be included in the following annual tax levy of the Village upon such property for the following fiscal year, and the amount so levied shall be collected in the same manner as other Village taxes.~~

~~(e)~~

~~The property owners' association agreement shall require that every property owner within the cluster development shall automatically be and become a member of the association and shall be subject to a charge for a proportionate share of expenses of the association's activities, including but not limited to the maintenance and operation of the common land and improvements thereon.~~

~~(4)~~

~~After final site plan approval and before obtaining a building permit, the developer of the cluster development shall file a performance bond to ensure the proper installation of all improvements on common property.~~

§ 345-17. Specific prohibited uses and special limitations on land use.

A.

Among other prohibited uses, the following prohibited uses are specifically identified:

(1)

House trailer, as defined in this Regulation, except that one trailer may be parked or stored in an enclosed garage or accessory building, provided that no living quarters shall be maintained nor any business conducted in connection therewith while such trailer is stored.

(2)

Any building in the rear of the main building on the same lot and used for residence purposes, except for domestic employees of the owners or tenants of the main building, which employees may lawfully occupy such building, provided that it shall not be over two stories or 30 feet in height, shall conform to all open space requirements and shall not be within 30 feet of any main building on the lot.

(3)

Deposit of waste materials or landfill. Except for waste materials deposited in a Village facility for the disposal of such materials, no garbage, rubbish, refuse or other waste material, or any clean soil, gravel, rock or other natural material shall be dumped or deposited in the Village of Port Chester without first obtaining a permit to do so from the Building Inspector and without conforming with the following regulations:

(a)

Such disposition shall comply with all applicable regulations of the Village of Port Chester and of the Westchester County Department of Health.

(b)

It shall be determined that neither the deposited materials nor the manner of their disposition will be objectionable by reason of dust, fumes, smoke or odor, or be otherwise detrimental to the public.

(c)

No garbage, rubbish, refuse or other waste material other than clean soil, gravel, rock or other natural material deposited for the purposes of landfill or regrading of the land on which it is deposited shall be located within 100 feet of any lot line or of any stream or water body.

(d)

No deposit of waste materials or landfill shall be so located as to interfere with drainage to the extent of being injurious to adjacent land or buildings or as to encroach on streams or water bodies, except as provided for by the applicable regulatory bodies.

B.

Business building use and entrances on residential side streets. Where a residence district is bounded by a portion of a business district, then any side street extending through such residence district into such

business district shall be considered a residential side street and shall not be used for any business purposes, except as herein set forth:

(1)

Any business use or any business structure in such business district shall face and open upon the street set aside for business purposes, except that show windows in business structures may be built and exposed on a residential side street within the area set aside as part of said business district.

(2)

A business building entrance may be located at the corner of such business street and residential side streets. All other entrances to such business structure, except to residential parts thereof, must be located on and face the business street, except that any second means of egress required by applicable law and access to the structure from off-street parking facilities shall be permitted.

Editor's Note: Former Subsection C, regarding display windows and glass entry doors on business premises, which immediately followed, as added 11-4-1996 by L.L. No. 3-1996, was repealed 11-17-2003 by L.L. No. 11-2003. See now Ch. 336.

§ 345-18. Set-asides for moderate-income housing. [Added 6-14-2004 by L.L. No. 11-2004]

A.

It is the purpose of this section to enhance the public welfare by requiring the inclusion in all new multifamily dwellings containing 10 or more units provision for moderate-income housing comprising at least 10% of the total number of dwelling units for families and individuals meeting the criteria in Subsection C below. Said units shall remain so affordable in perpetuity.

B.

This section shall apply to all new multifamily dwellings in the following Districts: RA-2, RA-3, RA-4, ~~PTD~~ and PRD.

C.

"Moderate-income housing" is defined as dwelling units constructed for families and individuals whose annual household income does not exceed 80% of the Westchester County median annual income for its household size (based on U.S. Census and as updated by HUD), and the annual rental cost does not exceed 30% of said income, or for homeowners (co-op owners or condo owners), the annual total of the sum of principal, interest, property taxes, home insurance and common charges as applicable does not exceed 30% of said household income. All such units shall be so deed-restricted. The thirty-percent calculation will be based on the HUD Section 8 formula to be certified prior to qualification.

D.

Moderate-income housing units shall be generally distributed evenly throughout the multifamily dwelling(s).

E.

The exterior appearance of moderate-income units shall not be distinguishable as a class from other units.

F.

Moderate-income housing units shall be distributed among one-, two- and three-bedroom units in the same proportion as all other units.

G.

Prior to occupancy or before title is transferred, there shall be an annual certification to the Village that the requisite number of units are so affordable and that the residents of said units meet the income guidelines in Subsection C above.

H.

For-sale moderate-income housing units shall be resold only to purchasers meeting the requirements of Subsection C above for not more than the amount paid plus the cost of living increase (New York City Metropolitan Area Consumer Price Index (C.P.I.) during the time period owned. The Village shall be notified prior to any sale.

I.

The Board of Trustees shall be responsible for administering these regulations and may designate a board or commission to monitor compliance. The Building Inspector shall serve as staff to the Board of Trustees or board or commission so designated.

J.

Preference for moderate-income housing units shall be given to Port Chester residents and employees of the Village of Port Chester, including volunteer firefighters, and the Port Chester School District.

ARTICLE V Administration and Enforcement

§ 345-19. Interpretation of provisions.

In applying and interpreting this Regulation, its provisions shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, comfort, convenience or the general welfare. The following specific regulations shall apply:

A.

A minimum required lot or yard size for one building or structure shall not be used in whole or in part as any part of a required lot or yard for a second structure.

B.

The required lot or yard for an existing building or structure shall not be diminished below the minimum requirements of this Regulation.

C.

Where more than one building exists or is proposed to be constructed on a single lot, the parking requirements and other zoning requirements applicable to single buildings on a lot shall be applicable to each of such buildings. This section shall be subject to any nonconforming rights applicable to existing buildings. **[Amended 4-27-1988 by L.L. No. 6-1988]**

D.

Every building hereafter erected shall be located on a lot as herein defined, and there shall be not more than one main building and its accessory buildings on one lot, except for nonresidential buildings and multifamily dwellings in districts where such uses are permitted.

E.

Should a lot hereafter be formed from the part of a lot already occupied by a building, such separation shall be effected in such manner as not to impair conformity with any of the requirements of this Regulation with respect to the existing building and all yards and other required spaces in connection therewith, and no permit shall be issued for the erection of a building, nor certificate of occupancy for use on the new lot thus created, unless it complies with all the provisions of this Regulation.

§ 345-20. Relation of provisions to other laws and to private covenants and agreements.

A.

Nothing contained in this Regulation shall be taken to repeal, abrogate, annul or in any way impair or interfere with the Building Code [*Editor's Note: See Ch. 151, Building and Fire Prevention*] or any rules or regulations adopted or issued thereunder, or any other provisions of law or ordinance or regulations existing or as may be adopted in the future, when not in conflict with any of the provisions of this Regulation; nor is it intended by this Regulation to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that when this Regulation imposes a greater restriction upon the use of buildings, structures, premises, lots or land, or upon height of buildings or structures, or requires larger lots, yards, courts or other open spaces than imposed or required by such other provision of law, ordinance or regulation, or by such easements, covenants or agreements, the provisions of this Regulation shall control.

B.

Wherever the provisions of any other law or ordinance or regulations impose a greater restriction than this Regulation, the provisions of such other law or ordinance or regulation shall control.

C.

No provisions contained in this Regulation shall be construed as justifying the encroachment of any building or structure within any street lines now or hereafter laid down on any subdivision plat filed in the office of the County Clerk or within any federal, state, county or Village street or highway.

§ 345-21. Enforcement.

A.

No board, agency, officer or employee of the Village may issue, grant or approve any permit, license, certificate or other authorization, including special exceptions by the Planning Commission and variances by the Board of Appeals, for any construction, reconstruction, alteration, enlargement or moving of any building, or for any use of land or building that would not be in full compliance with the provisions of this Regulation. Any such permit, license, certificate or other authorization issued, granted or approved in violation of the provisions of this Regulation shall be null and void and of no effect, without the necessity of any proceedings or revocation or nullification thereof, and any work undertaken or use established pursuant to any permit, license, certificate or authorization shall be unlawful, and no action shall be taken by any board, agency, officer or employee of the Village purporting to validate any such violation.

B.

It shall be the duty of the Building Inspector to administer and, together with code enforcement personnel, to enforce the provisions of this regulation. **[Amended 5-16-2011 by L.L. No. 8-2011]**

C.

No building or structure shall be erected, enlarged, structurally altered or moved until a permit therefor has been issued by the Building Inspector. Except upon a written authorization of the Board of Appeals, no such building permit or certificate of occupancy shall be issued for any building where said construction, addition, alteration, moving or use thereof would be in violation of any of the provisions of this Regulation.

D.

Should said Building Inspector be in doubt as to the meaning or intent of any provision of this Regulation, or as to the location of any district boundary line on the Zoning Map, or as to the propriety of issuing a building permit or a certificate of occupancy in a particular case related to the provisions of this Regulation, he shall appeal the matter to the Board of Appeals for interpretation and decision.

E.

The Building Inspector shall adopt rules of procedure, consistent with this Regulation, for the purpose of assuring efficient and uniform administration of its provisions.

F.

If the Building Inspector should mistakenly issue a building permit or a certificate of occupancy which violates the provisions of this Regulation, that building permit or certificate of occupancy shall be invalid.

§ 345-22. Building permits: general procedure.

A.

All procedure with respect to applications for and issuance of building permits shall be in conformity with the provisions of the Building Code. [*Editor's Note: See Ch. 151, Building Code Administration and Enforcement.*] All such applications shall be accompanied by such other information as may be necessary to determine and provide for the enforcement of this Regulation.

B.

No building permit shall be issued for the erection, construction, reconstruction, structural alteration, restoration, repair or moving of any building or structure or parts thereof, unless the plans and intended use indicate that such building or structure is designed and intended to conform in all respects to the provisions of this Regulation and, in appropriate cases, to the terms of specific authorization by the Planning Commission and the Board of Appeals as provided for herein.

C.

Where a lot is formed from part of an existing lot, whether already improved or not, the separation must be effected in such a manner that neither of the lots, nor any existing or proposed improvements thereon, contravene the provisions or intent of this Regulation; and, further, no building permit shall be issued for construction on such lots until they have been staked out and an adequate surveyed boundary map is submitted with the building permit application.

D.

After completion of footings and establishing of the forms on the first course of the foundation walls, or equivalent structure, the owner shall notify the Building Inspector. If required by the Building Inspector, the owner shall cause a survey to be made by a licensed land surveyor, showing the true location of such foundation walls with respect to the lot lines of the lot, and a copy of such survey shall be filed with the Building Inspector before construction is continued.

§ 345-23. Site plan review procedure and standards. [Amended 5-27-1987 by L.L. No. 4-1987]

A.

Intent and purpose.

(1)

The rules, regulations and standards set forth in this section are intended to promote the health, safety and general welfare of the Village of Port Chester through the implementation of the site plan review process.

(2)

Furthermore, it is the intent of this chapter to ensure the protection preservation, conservation and appropriate development of land within Port Chester through the review and approval of site plans. It is not the design of this section to prohibit land use activities; rather its intent is to allow activities which meet the standards established by the section.

B.

Applicability. [Amended 5-6-1991 by L.L. No. 4-1991]

(1)

In all zoning districts, site plan approval shall be required for:

(a)

The erection or enlargement of all buildings in all districts other than one-family or two-family residences or uses accessory thereto.

(b)

All uses of vacant land.

(c)

Any change in use or intensity of use which will affect the characteristics of the site in terms of parking, loading, access, drainage, utilities or Village service.

(2)

Site plan approval shall be required from the Planning Commission except as otherwise provided in this Chapter 345 of the Village Code where approval shall be required from the Board of Trustees.

C.

Submission procedures. [Amended 11-3-1997 by L.L. No. 17-1997; 8-3-2009 by L.L. No. 11-2009]

(1)

Pre-submission conference.

(a)

Prior to formal submission of the preliminary site plan, a pre-submission conference with the Director of the Office of Planning and Development shall be scheduled. This conference is intended to define problems with the plan and to indicate proposals that may require variances or special permits. The conference will serve to educate the applicant on the process he must follow and the information required to submit a complete site plan application.

(b)

The pre-submission conference can be scheduled at any time by appointment with the Office of Planning and Development. It must be held within six months prior to preliminary site plan submission.

(2)

Preliminary site plan.

(a)

Within six months following the pre-submission conference, 12 copies of the site plan and all supporting material shall be submitted to the Planning Commission Recording Secretary, accompanied by the appropriate submission fee. This submission shall be made at least 20 days prior to the scheduled Planning Commission meeting.

(b)

The fee for submission of a site plan for review shall be based upon the municipal fee schedule as set forth in Chapter 175, Fees.

(c)

The Planning Commission Recording Secretary shall forward one copy of the preliminary site plan to the Director of the Office of Planning and Development for certification that the site plan is complete in accordance with Subsection F and that it addresses all zoning provisions of the Village of Port Chester's Zoning Law. If the site plan is determined to be incomplete, it shall be returned to the Recording Secretary within 10 days of submission and subsequently returned to the applicant for revision. No plan shall be considered for review by the Planning Commission without being certified as complete.

(d)

Upon certification of the site plan as being complete, the preliminary site plan shall be distributed by the Recording Secretary to Village departments and other involved agencies for review and evaluation with regard to Subsection D(2) of this section. All departments or agencies shall submit comments to the Recording Secretary no later than five days prior to the Planning Commission meeting date.

(e)

There shall be no site plan approval at the preliminary plan stage. The Planning Commission shall transmit to the applicant its written review comments and staff comments within 10 days of the Planning Commission meeting where the application was presented.

(3)

Final site plan. The final site plan shall be complete in every detail. Fifteen copies of the final site plan shall be submitted to the Planning Commission Recording Secretary 20 days prior to the regular monthly meeting. The plan shall be certified as complete by the Office of Planning and Development 10 days prior to the meeting date.

(4)

Notification requirements. Any application for site plan approval shall be subject to the public notice requirements set forth in Art. XXI of this chapter.

D.

Review criteria.

(1)

In considering a site plan, the Planning Commission shall take into consideration the public health, safety and general welfare, the comfort and convenience of the public in general and the residents of the immediate neighborhood in particular, the provision of a diverse and balanced housing stock, and shall establish any appropriate conditions and safeguards in harmony with the general purpose and intent of this chapter. **[Amended 6-14-2004 by L.L. No. 11-2004]**

(2)

The Planning Commission shall ensure that each site development plan achieves the following objectives to the maximum extent possible prior to the granting of an approval:

(a)

The proposed development should conform to this chapter, the Master Plan, the Urban Renewal Plan and Coastal Zone Management Plan, if applicable.

(b)

The development should be harmonious with the surrounding neighborhood, functional and aesthetically pleasing. The components of the site should complement each other.

(c)

The plan should provide for safe and convenient vehicular and pedestrian traffic circulation both within and without the site, should not negatively impact the traffic conditions of the surrounding roadway system, and should organize vehicular and pedestrian ingress and egress in a well-defined system in order to avoid conflicts.

(d)

The proposed development should provide for adequate off-street parking and loading for the uses proposed.

(e)

The proposed development should provide adequate facilities for the physically handicapped such as ramps, depressed curbs and reserved parking spaces.

(f)

The proposed development should attempt to preserve the natural features of the site, such as wetlands, unique wildlife habitats, historic structures, major trees and scenic views both from and into the site.

(g)

Adequate storm- and surface water drainage facilities which will properly drain the site while minimizing downstream flooding shall be provided for, as per Subsection G(3) of this section.

(h)

All utility systems, including electric, telephone, cable television, etc., should be placed underground where possible.

(i)

All connections to collector and regional sewage systems must be designed in accordance with local and Westchester County Westchester Treatment Standards.

(j)

Landscape techniques, such as the use of various plantings, water features, earth berms, textures in paving materials and other site amenities, should be used to improve the appearance of the site, and in defining pedestrian areas, provide screening from surrounding uses and ensure harmony with adjacent areas. All accessways, streets and parking areas should be adequately lighted.

(k)

The proposed development should reflect adequate fire safety measures.

(3)

A stormwater pollution prevention plan (SWPPP) consistent with Chapter 281 of the Code of the Village of Port Chester shall be required for preliminary and final site plan approval. The SWPPP shall meet the performance and design criteria and standards of that chapter. **[Added 2-21-2007 by L.L. No. 2-2007]**

E.

Planning Commission actions. **[Amended 6-2-1997 by L.L. No. 8-1997]**

(1)

Public hearing. Before taking action on a site plan, the Planning Commission shall fix a time and place for a public hearing, and such public hearing shall be noticed in compliance with the public notice requirements set forth in Art. XXI of this chapter. **[Amended 8-3-2009 by L.L. No. 11-2009]**

(2)

Approval. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due the Village, the Planning Commission, Planning Consultant and Village Consulting Engineer shall endorse their approval on a copy of the site plan and shall immediately file it with a written statement of approval with the Village Clerk.

(3)

Conditional approval. The Planning Commission may conditionally approve the final site plan. A written statement containing the modifications required by the conditional approval shall be in the form of a resolution by the Planning Commission. A copy of the resolution shall be sent to the applicant within 10 days of its approval. After adequate demonstration to the Planning Commission that all conditions have been met and all fees and reimbursable costs to the Village have been satisfied, the Planning Commission, Planning Consultant and Village Consulting Engineer shall endorse their approval on a copy of the site plan and shall file it immediately with the Village Clerk.

(4)

Disapproval. Disapproval shall be in the form of a resolution by the Planning Commission setting forth the reasons for its disapproval. A copy of the resolution shall be sent to the applicant within 10 days of its passage.

F.

Site plan application information. A site plan shall reflect the standards outlined in Subsection G of this section and shall include at least the following information, except that the Director of the Office of Planning and Development may waive such requirements as deemed unnecessary subject to ratification by the Planning Commission.

(1)

General.

(a)

Site plans shall be drawn to a convenient scale of between one inch equals 10 feet and one inch equals 50 feet.

(b)

Site plans shall be prepared and signed by a registered professional architect, landscape architect, engineer or land surveyor licensed to practice his profession as defined by the State of New York Education Law.

(2)

Legal data. The following information shall be included:

(a)

The name and address of the applicant or the owner of record if different from the applicant.

(b)

The name and address of the firm and or signature and seal of the professional preparing the plan.

(c)

The title of the development, date prepared and date of revisions, if any.

(d)

Section, block and lot numbers of the property taken from the Village of Port Chester/Town of Rye official tax records.

(e)

North arrow, written and graphic scale and a location map drawn to a scale of not less than one inch equals 800 feet.

(f)

Existing zoning of the property and all adjoining properties.

(g)

Ownership intentions, such as purchase options.

(h)

The identification of all adjoining properties, including the owners name, and the section, block and lot numbers.

(i)

Description of all existing and proposed deed restrictions or covenants which apply to the site.

(j)

Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas, dedicated to public use within and adjoining the property.

(3)

Natural features. The following information shall be included:

(a)

Topographic data shown at contour intervals of two feet. Both existing and proposed contours shall be indicated, extended at least 10 feet into adjoining properties. Areas of steep slopes should be delineated as necessary.

(b)

Existing vegetation, including the location of existing wooded areas and significant individual trees with a diameter at breast height of eight inches or more.

(c)

Surface features, such as unique landforms or rock outcrops.

(d)

The extent of flood-prone areas or stormwater overflows, including flood hazard areas as established by the Federal Emergency Management Agency.

(4)

Proposed development. The following information shall be included:

(a)

The location and dimensions (length, width, floor elevations and height in feet and stories) of all proposed structures.

(b)

Floor plans which indicate the types of use proposed for each level of floor space.

(c)

Location, width and finished grade of proposed public and private streets, roads and sidewalks, including pavement type and profiles.

(d)

Location, design, pavement specifications, finished grade, curbing and striping of proposed parking facilities and loading spaces.

(e)

Driveway designs and profiles from the adjacent roadway through the curb cut to the parking lot or garage. Slopes shall be indicated by percent of grade.

(f)

The location and design of all proposed sanitary sewage and water supply systems and other utility facilities.

(g)

Stormwater drainage facilities with details of detention/retention basins, catch basins, swales, dry wells and other related stormwater facilities. Accompanying calculations should support the design of the proposed drainage system and should indicate runoff rates, runoff patterns and storm drain loads.

(h)

A landscaping plan which indicates the species, size, quantity and location of plants or other landscaping material, to be used. The plan shall indicate all existing vegetation to remain and the methods which will be used to protect such vegetation during the course of construction.

(i)

The location, design and proposed screening of outdoor storage and refuse areas.

(j)

Preliminary architectural plans showing exterior elevations and materials to be used.

(k)

Type, location, design, shielding and hours of operation of exterior lighting and public address systems.

(l)

The location and plans for any outdoor signs which must be in accordance with applicable sign regulations (See § 345-15).

(m)

Erosion and sedimentation control measures planned for the project should be shown and described with reference to Westchester County's Best Practices Manual.

(n)

Any other information deemed by the Village to be necessary to determine the conformity of the site plan with the spirit and intent of this Zoning Law.

G.

Site development standards.

(1)

The following standards should be complied with by all applicants submitting site plans to the Village of Port Chester for review. All site plans will be reviewed against these professionally accepted standards. In instances where, in the judgment of the Planning Commission, these standards cannot be achieved due to the practical difficulties of a site condition, the achievement of the standard may be waived by the Commission. Any standard not complied with shall be considered waived by the Commission upon the approval of the final site plan.

(2)

Site grading.

(a)

Grading design. Grading design shall be considered in the following principal objectives:

[1]

Development of attractive, suitable and economical building sites.

[2]

Provision of safe, convenient and functional access to all areas for use and maintenance.

[3]

Disposal of surface runoff from the site area without erosion or sedimentation, or its collection as needed for water features, debris basins or irrigation storage.

[4]

Diversion of surface and subsurface flow away from buildings and pavements to prevent undue saturation of the subgrade that could damage structures and weaken pavements.

[5]

Preservation of the natural character of the site by minimum disturbance of existing ground forms and meeting of satisfactory ground levels at existing trees to be saved.

[6]

Optimum on-site balance of cut and fill; stockpiling for reuse of existing topsoil suitable for the establishment of ground cover or planting.

[7]

Avoidance of filled areas that will add to the depth or instability of building foundations and pavement subgrades.

[8]

Avoidance of wavy profiles in streets and walks and of steps in walks.

[9]

Avoidance of earth banks requiring costly erosion control measures, except where these are needed in place of costly retaining walls.

[10]

Keeping finished grades as high as practicable where rock will be encountered close to the surface, thus reducing the cost of utility trenching and other excavation and improving conditions for vegetation.

[11]

Avoidance of runoff water over roadways. Ice forms during freezing weather and a hazardous driving situation results.

(b)

Areas adjacent to buildings. Unpaved areas adjacent to buildings shall be sloped to direct surface water and roof drainage, including snowmelt, away from buildings at a minimum slope of six inches in the first 10 feet of horizontal distance and not across sidewalks. Surfaces paved with portland cement concrete shall have a slope of not less than 0.5% and bituminous pavements a slope of not less than 1.5% to assure adequate drainage without ponding or "birdbaths."

(c)

Unoccupied site areas. Portions of the site not occupied by buildings or pavement shall have adequate continuous slopes to drain toward watercourses, drainage swales, roadways and the minimum necessary storm drainage inlets. Drainage swales or channels shall be sized and sloped to accommodate design runoff. The runoff should be carried under walkways in pipes with diameters of not less than eight inches or of larger sizes if clogging by debris or grass cuttings is a problem. Swales should be used to intercept water at the top and bottom of banks where large areas are drained. To provide positive drainage, a slope of not less than 2% for turfed areas is usually desirable, but more permeable soils may have adequate drainage with a lesser slope. Turf banks, where required, should be graded to permit the use of gang mowers, provided that a maximum slope of one vertical to four horizontal and, if feasible, a slope of one vertical to four horizontal. The tops and bottoms of all slopes should be gently rounded in a transition curve for optimum appearance and ease of maintenance.

(3)

Site drainage.

(a)

Drainage design and exposure to flood hazards.

[1]

Drainage shall be designed to accommodate storm runoff, calculated on the basis of the ultimate foreseeable developed conditions of contributory site and off-site drainage areas.

[2]

The minimum grades at buildings and at openings shall be at elevations that will prevent adverse effects by water or water entering basements from flood levels equivalent to a fifty-year return frequency. The floor elevations of all habitable space shall be above flood levels equivalent to a one-hundred-year return frequency.

[3]

Provisions shall be made for the best available routing of runoff water to assure that buildings or other important facilities will not be endangered by a major emergency flood runoff that would become active if the capacity of the site's storm drainage system were exceeded.

[4]

Paved areas shall be usable during runoff equivalent to a twenty-five-year return frequency. Streets shall be made passable for local commonly used emergency vehicles during runoff equivalent to a twenty-five-year return frequency except where an alternative access street not subject to such ponding is available.

[5]

Site drainage shall be routed to permanent surface or subsurface outfall adequate to dispose of present and future anticipated runoff from the site and from contributing off-site watershed areas.

[6]

Drainage swales shall not carry runoff across walks in quantities that will make them undesirable to use. Walks shall not be designed as drainageways.

[7]

Developed portions of a site that can be adversely affected by a potentially high groundwater table shall be drained where possible by subsurface drainage facilities adequate for the disposal of excess groundwater.

[8]

Stormwater drainage shall be connected only to outfall approved by the Village Engineer.

(b)

Primary storm sewer. The pipe size for the primary storm sewer system shall have an inside diameter based on design analysis for a twenty-five-year storm but not less than 15 inches. The minimum gradient shall be selected to provide for self-scouring of the conduit under low-flow conditions and for the removal of foreseeable sediments from the drainage area.

(c)

Secondary drains. Pipe drains of adequate size from minor runoff concentration points shall be provided and connected to appropriate disposal lines when analysis indicates that they are necessary.

(d)

Storm drainage systems must be designed by licensed professional engineers and plans must be sealed and signed by the engineers.

(4)

Sewage system. All connections to local collector and regional systems must be designed in accordance with local and Westchester County wastewater treatment standards. A licensed professional engineer must design the site collection system and obtain the approval of same from Westchester County and the Village Engineer prior to final site plan approval.

(5)

Utilities. All utility systems, including electric, telephone, television cable, etc., must be placed underground. The design of these systems must be coordinated by the applicant with the private utility responsible for their maintenance. Concurrence of the design indicated on the final site plan must be obtained by the applicant prior to final approval.

(6)

Traffic circulation.

(a)

Street and driveways.

[1]

Four-way intersections should be avoided where possible.

[2]

Intersections should be as close to right angles as possible, have twenty-five-foot radii, and have as flat a grade as possible.

[3]

Offset jogs should be at least 150 feet, center line to center line.

[4]

At all street intersections, no obstruction to vision (other than existing buildings, post, columns or trees) exceeding 30 inches in height above street level shall be erected or maintained on any lot within the triangle formed by the street lines of such lot and a line drawn between points along such street lines 40 feet distant from their point of intersection.

[5]

Standards, widths and profiles for municipal and private streets and driveways shall be provided.

[6]

Driveways should be located on the least trafficked street serving the site. The access should be located 50 feet from an intersection where possible or as close to the 50 feet desired standard as possible given the location and configuration of the lot.

[7]

The number of driveways should be minimized for traffic safety.

[8]

Where driveways are required on collector or major streets, they should be designed to provide for a turnaround to avoid backing into the street.

(b)

Parking areas.

[1]

Parking dimension standards. Parking dimension standards shall be as follows: **[Amended 7-14-1999 by L.L. No. 8-1999]**

Parking Angle (degrees)	Stall Width	Minimum Stall Depth	Aisle Width
0	8'0" to 10'0"	10'0"	12'0"
30	8'0" to 10'0"	18'8"	11'0"
45	8'0" to 10'0"	21'4"	13'0"
60	8'0" to 10'0"	22'5"	18'0"
90	8'0" to 10'0"	18'0"	24'0"

[2]

Access ramps. The ramps leading from the street to parking areas should be at least 24 feet wide for two-way traffic and 12 feet wide for one-way traffic.

[3]

Curbs. Curbs should be made of granite or concrete at heights between six inches and eight inches above the elevation of the road. They should have a width of at least six inches.

[4]

Curb cuts and returns. Curb cuts should be 30 feet in width for two-way access and 15 feet for one-way access. **[Amended 4-26-1989 by L.L. No. 10-1989]**

[5]

Landscaping of parking area. A minimum of 5% of the parking area should be landscaped. Wherever three or more parking spaces adjoin a lot line or street right-of-way, a planting area five feet in width with plantings three to five feet on center should be provided. Notwithstanding the foregoing, provided that at least 5% of the parking area is landscaped, the Planning Commission, pursuant to its jurisdiction to

review and approve site plans, may waive the requirement of providing the five-foot-wide planting area and parking areas which are either: **[Amended 4-26-1989 by L.L. No. 10-1989; 6-30-1993 by L.L. No. 9-1993; 11-29-1995 by L.L. No. 10-1995]**

[a]

Situated along lot lines which adjoin a railroad right-of-way; or

[b]

Located along lot lines which are common to adjoining parcels shown as part of a single site plan.

[6]

Distance from structure served. Parking should be located as close as possible to the structure which it services. Parking spaces for occupant use should not be more than 300 feet from the structure served. Visitor or occasional parking may be up to 500 feet from the structure.

[7]

Pedestrian separation. Sidewalks should be provided from parking areas to structure.

[8]

General. Parking areas should be paved, landscaped, drained and lighted in accordance with the site plan development standards provided herein.

(c)

Off-street loading. Off-street loading spaces should be provided for each delivery bay, loading dock or delivery entrance shown on the plan. Off-street loading spaces shall be 15 feet wide by 25 feet long and 14 feet high. Any additional space contiguous to and not separated from such first truck loading space need not be wider than 12 feet. Truck loading spaces shall be serviceable at all times without conflict with any other element of the plan. **[Amended 4-26-1989 by L.L. No. 10-1989]**

(d)

Compact cars, all parking areas which provide for at least 50 cars may accommodate up to 30% utilization by compact cars, if the Planning Commission determines that such utilization will advance the objectives of the Site Plan Review Ordinance. Compact car spaces must be separately signed and marked in distinct separate areas. The dimensional requirements for compact car spaces are as follows:

Angle of Parking (degrees)	Width of Space (feet)	Length of Space (feet)	Aisle Width (feet)
45	7.5	17	12
60	7.5	18	15
90	7.5	16	21

(7)

Residential building relationships. Residential buildings should be spaced from other buildings in conformance with the New York State Uniform Fire Prevention and Building Code or at the following intervals:

(a)

End wall to end wall: 1/2 height of highest wall (minimum 12 feet).

(b)

Any building face to street curb: height of highest wall. (minimum 20 feet).

(c)

Any building face to parking area: 1/2 height of highest wall (minimum 12 feet).

(d)

End wall to window wall: 1 1/2 times the height of highest wall (minimum 30 feet).

(e)

Window wall to window wall: three times the height of highest wall (minimum 60 feet).

(8)

Landscaping.

(a)

For all uses other than one-, two- or three-family houses, the entire lot, except areas covered by buildings or surfaced as parking or service areas, but in no case less than 10% of the lot area shall be suitably landscaped. In landscaped areas, not less than 25% shall be covered with non-deciduous shrubs, trees or ground cover. Where lot lines coincide with one residence district boundaries, there shall be planted evergreen trees of such type and spacing as may be required by the Planning Commission, of an initial height of not less than five feet and adequate ultimately to screen all operations on the lot from the view of properties in the adjoining residence district. All landscaping shall be properly maintained throughout the life of any use on any lot. Existing walls or trees with diameter of eight inches as measured three feet from the base of the trunk within 30 feet of any street line or 50 feet of any residence district boundary shall not be removed except with the approval of the Planning Commission.

(b)

All plantings must be appropriate for the environmental conditions of their location.

(c)

A maintenance bond lasting one year must be provided for all plantings.

(d)

The landscaping plan must reflect sizes of plantings to achieve their objective at the time they are planted. The plan should provide for year-round screening and decoration. The plan should assure that mature plantings will not conflict with any other elements of the plan or other plantings.

(9)

Lighting.

(a)

Areas to be lighted. All accessways, streets and parking areas should be lighted.

(b)

Lighting standards or poles. Standards or poles should be located to provide a minimum of one footcandle of illumination for parking areas. Illumination should not exceed one footcandle at any property line. A standard should be of a height and design consistent with the surrounding area buildings but in no event higher than 30 feet. Standards should be located at distances about four times their height. **[Amended 7-14-1999 by L.L. No. 8-1999]**

(c)

Lighting must be provided for passage from parking areas to the structure they serve.

(d)

Spotlights on buildings to serve the lighting requirements of the lot should be avoided since they create glare and blind spots.

(10)

Signage.

(a)

Compliance with sign ordinance. All signage must be in accordance with the Village of Port Chester Sign Ordinance. [Editor's Note: See Ch. 272, Signs and Billboards.]

H.

Miscellaneous provisions.

(1)

Appeal procedure. Any person aggrieved by any decision of the Planning Commission or any officer, department, board or bureau of the Village may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within 30 days after the filing of a decision in the office of the Village Clerk.

(2)

Enforcement.

(a)

No building permit shall be issued for any structure requiring site plan review until the Planning Commission has approved a final site plan. This site plan must be signed by the Chairman or Secretary, Director of the Office of Planning and Development and Village Engineer as in compliance with all provisions of the Commission's approval including performance bonding requirements and shall be filed with the Village Clerk.

(b)

Any person, corporation, partnership, association or other legal entity who shall violate any of the provisions of this chapter, or any conditions imposed by a permit pursuant hereto shall be guilty of an offense and subject to a fine of not more than \$250 per day, to be recovered by the Village in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

(3)

As-built plan. Upon completion of construction, an as-built site plan shall be submitted to the Building Department and Office of Planning and Development. The as-built plan shall show all elements of the plan as actually constructed, and shall include a survey of all new structures, easements and boundaries. No certificate of occupancy may be issued until the as-built plan has been reviewed and has been found to be in compliance with the approved site plan. A deposit may be required by the Planning Commission to cover the cost of having an as-built plan prepared should the applicant refuse to prepare it.

(4)

Coordination with other approvals. When the site plan requires other approvals, such as variances or special exception use permits, the applicant shall identify in the site plan application all approvals which he is seeking. He shall refer a preliminary site plan to the Planning Commission and obtain their recommendation prior to making application for any other approval.

(5)

Performance bonding.

(a)

Upon final site plan approval the applicant shall file with the Village Clerk a performance bond to cover the full cost of required public facility improvements in an amount set by the Planning Commission. If the

value of the improvements is less than \$5,000, the Planning Commission may waive the bonding requirement.

(b)

Said bond shall be conditioned upon the property owners or developer's completing the required public facility improvements enumerated on the approved site plan in a manner satisfactory to the Village of Port Chester, and said systems functioning properly for a period of one year from their completion, and in default thereof, said bond shall be forfeited, and the Village shall be entitled to the full amount and shall use the amount necessary to complete the work not done. If any amount of money remains after the Village has completed the said work, such excess money shall be returned to the surety or person putting up the required bond.

(c)

The security or bonds to be deposited as herein provided may consist of bonds of the kinds and nature authorized in § 106 of the General Municipal Law.

(6)

Validity. Final approval of a site plan by the Planning Commission shall be valid for a period of 120 days from the date of approval. Upon application and for good cause shown, the Planning Commission shall have the right to extend the period of approval to not more than two years from the date of the original approval. **[Amended 7-7-1997 by L.L. No. 10-1997]**

§ 345-24. Validity of permits issued prior to effective date of provisions.

A.

Nothing in this Regulation shall require any change in the plan, construction or designated use of a building or structure for which a lawful building permit has been issued prior to the effective date of this Regulation or any amendment thereto affecting such building or structure or the use thereof, provided that:

(1)

The construction of such building or structure shall have been begun and diligently prosecuted within three months from the date of such permit.

(2)

The entire building or structure shall be completed according to such filed and approved plans upon which the issuance of such permit was based, within one year from the effective date of this Regulation or any such amendment thereto.

B.

In the event that either Subsection A(1) or (2) of this section is not complied with, such building permit shall be revoked by the Building Inspector.

§ 345-25. Certificates of occupancy.

A.

It shall be unlawful to use or to permit the use of any building, structure, premises, lot or land, or part thereof, hereafter erected or altered, enlarged or moved, or put into use, in whole or in part, after the effective date of this Regulation, any building, structure, premises, lot or land, or part thereof, of which the use, tenancy or ownership is changed, until a certificate of occupancy has been obtained by the owner, as provided for under the Building Code.

[Editor's Note: See Ch. 151, Building and Fire Prevention.]

B.

No certificate of occupancy shall be issued for any building, structure, premises, lot or land, unless the erection, construction, reconstruction, structural alteration, restoration, repair or moving of such building or structure or part thereof and the intended use thereof specifically are in conformity in all respects with the provisions of this Regulation.

C.

The Building Inspector shall obtain a written order from the Planning Commission before issuing a certificate of occupancy in a case involving a special exception use, pursuant to Article XII, and shall obtain a written order from the Board of Appeals before issuing a certificate of occupancy involving a variance from the provisions of this Regulation, pursuant to Article VI.

D.

The Building Inspector shall require the obtaining of a written certificate from the Municipal Engineer or Engineering Department, certifying that all curbs, gutters, sidewalks and other street improvements fronting on the lot for which a building permit was obtained have been restored to the condition existing before issuance of such building permit as a condition to the issuance of any certificate of occupancy.

E.

Under such rules and regulations as may be established by the Building Inspector, a temporary certificate of occupancy for part of a building may be issued.

F.

No nonconforming use shall be maintained, renewed, changed or extended without a certificate of occupancy specifying the exact nature and extent of such use having first been issued therefor by the Building Inspector.

G.

A certificate of occupancy shall be deemed to authorize and is required for both initial and continued occupancy and use of the building or land to which it applies, as provided in this section, and shall continue in effect as long as such building and the use thereof or such land is in full conformity with the

provisions of this Regulation and any requirements made pursuant thereto. On the serving of the notice of any violation of any of the said provisions or requirements in respect to any building or the use thereof or of land, the certificate of occupancy for such use shall thereupon become null and void, and a new certificate of occupancy shall be required for any further use of such building or land.

H.

The Building Inspector shall maintain a record of all certificates, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected. Upon written request from the owner, and by payment by him to the municipality of the required fee, the Building Inspector shall issue a certificate of occupancy for any building or premises existing at the time of the enactment of this Regulation certifying, after inspection, the extent and kind of use and conformity with the provisions of this Regulation.

§ 345-26. Violations; penalties for offenses; remedies. [Amended 4-5-1982 by L.L. No. 20-1982; 8-4-1986 by L.L. No. 12-1986; 12-1-1986 by L.L. No. 18-1986]

A.

Where a violation of this Regulation is determined to exist, the Building Inspector, a police officer or a constable of the Village may serve a notice of violation on the owner, agent or contractor of the building, structure or lot where such violation has been committed to exist and on the lessee or tenant of the part of, or of the entire, building, structure or lot where such violation has been committed or shall exist and/or on the agent, architect, contractor or any other person who takes part or assists in such violation or who maintains any building structure or lot in which any such violation shall exist.

B.

The notice of violation may be served by certified mail, return receipt requested, or by personal service. If by certified mail, the violation shall be corrected not later than five days after the time of mailing or, if by personal service, within two days after such service. If the violation is one of those for which the premises may or must be vacated, such fact shall be stated in the notice, and a notice to that effect shall be affixed to the front of the premises giving notice thereof.

C.

Notice; failure to comply.

(1)

If the violation shall be one of the following and if those persons notified shall fail to remove such violation within the allotted time period, the Building Inspector and/or any police officer of the Village of Port Chester shall charge them with such violation of this Regulation before the appropriate court of law. Such charge may be made by an appearance ticket, which they or any of them are authorized to issue.

(a)

No building permit and/or no certificate of occupancy.

(b)

Building permit and/or certificate of occupancy has been revoked.

(c)

The building or structure, in the opinion of the Building Inspector, constitutes an immediate danger to health or a fire hazard. An immediate danger to health shall consist of:

[1]

No heat or heat below 50° F. in the months of December, January, February or March.

[2]

Defective electrical connections or wires as verified by the underwriting inspector.

[3]

Inoperable plumbing facilities.

[4]

Structural instability.

[5]

No water service to the building or applicable part thereof.

[6]

Heating units, systems or venting not in conformity with the requirements of the New York State Uniform Building and Fire Prevention Code.

(2)

Other provisions of this Zoning Law, Chapter 345, notwithstanding, no notice shall be required by the Building Inspector or a Village police officer prior to the issuance of an appearance ticket for violations of §§ 345-14G, 345-15H(2) or 345-25.

D.

In the event that any person shall feel aggrieved by the determination of the Building Inspector to close the building, said person may file a written request for a review by the Building Inspector, together with a fee as set forth in Chapter 175, Fees, within the time provided to correct the defect, and the right to remove shall be stayed until one day after personal service or three days after mailing, by certified mail, of his decision or, if he shall grant an extension to correct, until the end of that extension. If the person so served shall still feel aggrieved, then, at or prior to the expiration of the one-day, three-day or extension period, as the case may be, said person may file a written appeal with the Village Manager, together with

a fee as set forth in Chapter 175, Fees, and the right to remove shall be stayed until three days after notice of the decision of the Village Manager has been mailed to the petitioner at the address shown on the appeal. **[Amended 11-3-1997 by L.L. No. 17-1997]**

E.

In addition, if those persons notified shall fail to correct any violation within two days after service of a notice of violation by personal service or certified mail, the Building Inspector or any police officer may serve an appearance ticket by personal service on any person so notified, charging a violation of this regulation before the appropriate court of law.

F.

Each day a violation of this chapter is allowed to exist after the allotted time for its cure, if any, shall constitute a separate and distinct violation. **[Amended 10-3-2006 by L.L. No. 7-2006]**

(1)

Persons found guilty of a first offense shall be subject to a fine not exceeding \$700 for each violation and/or imprisonment up to 15 days, and each such violation shall constitute a violation.

(2)

Persons found guilty of a second offense, both of which were committed within a period of 10 years, shall be subject to a fine of not less than \$700 nor more than \$1,400 and/or imprisonment up to one year, and each such violation shall constitute a misdemeanor.

(3)

Upon conviction of a third or subsequent offense, all of which were committed within a period of 10 years, violators shall be subject to a fine not less than \$1,400 nor more than \$2,000 and/or imprisonment up to one year, and each such violation shall constitute a misdemeanor.

G.

In addition to other remedies provided by law, any appropriate action or proceeding, whether by legal process or otherwise, may be instituted or taken to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or lot or to prevent any illegal act, conduct, business or use in or about such premises.

§ 345-26.1. Procedure to revoke certificate of occupancy or building permit. [Added 12-1-1986 by L.L. No. 18-1986]

A.

In the event that the Building Inspector shall determine that a violation exists or that one or more of the terms of any building permit or certificate of occupancy are not being complied with, he shall give notice of noncompliance to the owner, as shown on the latest assessment roll of the Village, by certified mail

addressed to the address shown thereon, requiring that the specified violations be corrected within five days of the mailing of the notice and that, in the event that the violations are not corrected within that time, the Building Inspector will revoke the certificate of occupancy and/or building permit.

B.

On or after said fifth day, the Building Inspector shall reinspect the site, and, if the violations still exist, he shall revoke the building permit or certificate of occupancy, post a notice of revocation on the property or building and mail a notice, by certified mail, to the owner thereof as shown on the latest Village assessment roll.

C.

In the event that any person shall feel aggrieved by the revocation, he shall have 10 days from the mailing of the notice of revocation to file an appeal specifying the objections, together with a twenty-dollar filing fee, with the Village Manager, who shall review the same and give a decision, by certified mail, to the applicant at the address shown on the application. The revocation shall be stayed by the appeal from the date of filing until three days after any notice of denial shall be sent by the Village Manager.

D.

A return receipt or refusal of certified mail shall create a presumption of compliance with the mailing requirements hereof.

ARTICLE VI Board of Appeals

§ 345-27. Organization and general procedure. [Amended 7-27-1988 by L.L. No. 15-1988; 12-1-2008 by L.L. No. 12-2008]

There shall be a Board of Appeals. Said Board shall consist of five members and one alternate member. The alternate member shall be appointed for a three-year term by the Board of Trustees, shall attend and participate at meetings of the Board of Appeals and shall vote as a regular member of that Board whenever one or more of the regular members are absent or unable to vote. The method of appointment, terms of office and tenure of its five regular members and alternate shall be as prescribed by law.

§ 345-28. Application and public hearing procedure.

A.

Applications for any action by the Board of Appeals shall be submitted in the form required by the Board and filed in the municipal office.

B.

The Board shall fix a time and place for a public hearing, and such public hearing shall be noticed in compliance with the enhanced public notice requirements set forth in Article XXI of this chapter. **[Amended 4-27-1988 by L.L. No. 6-1988; 8-3-2009 by L.L. No. 11-2009]**

C.

At least 10 days' notice of the public hearing and a description of the applicant's proposal shall be mailed to the Westchester County Planning Board in any case where the provisions of Section 451 of the Westchester County Administrative Code are applicable.

D.

No action shall be taken on applications referred to the Westchester County Planning Department until the Department's recommendation has been received or 30 days have elapsed after the Department received the full statement on the applicant's proposal.

E.

A record shall be established of all variances granted pursuant to action of the Board of Appeals under this Regulation. Each case shall be identified by a sequential numbering system and alphabetically by applicant's name. Said files shall be available for public inspection.

F.

The Board shall keep minutes of its proceedings showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact. The Board shall keep records of its examinations and official actions, all of which shall be filed in the Village Clerk's office and shall be a public record.

G.

Building permits authorized by Board of Appeals' actions on variance cases shall be obtained within 90 days and shall automatically expire if construction under the permit is not started within six months of issuance and completed within one year. Extensions of these periods may be granted by the Board of Appeals where good cause is shown.

H.

The fee for variance applications to the Board of Appeals shall be as set forth in Chapter 175, Fees. [Amended 4-5-1982 by L.L. No. 21-1982; 11-3-1997 by L.L. No. 17-1997]

§ 345-29. Appeals on interpretation of the Zoning Regulation and Map.

The Board of Appeals shall, upon appeal, hear and decide:

A.

Any matter where the applicant alleges that the Building Inspector, in refusing to issue a building permit or certificate of occupancy, as a result of misinterpreting the meaning, intent or application of any section or part of this Regulation, is in error.

B.

Any matter where the appellant alleges that the Building Inspector, in his determination as to the exact location of a district boundary line on the Zoning Map that forms a part of this Regulation, is in error.

C.

Any matter which the Building Inspector appeals on grounds of doubt as to the meaning or intent of any provision of this Regulation or as to the location of a district boundary line on the Zoning Map.

D.

Notification requirements. Any application for site plan approval shall be subject to the public notice requirements set forth in Art. XXI of this chapter.

[Added 8-3-2009 by L.L. No. 11-2009]

§ 345-30. Variances. [Amended 8-3-2009 by L.L. No. 11-2009]

The Board of Appeals shall have the power in passing on appeals where, as a result of exceptional physical conditions connected with a particular site, there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Regulation that would deprive the owner of the reasonable use of the land or building involved, to vary or modify the application of the regulations or provisions of this Regulation. Any application for a variance shall be subject to the enhanced public notice requirements set forth in Article XXI of this chapter.

§ 345-31. Guiding principles.

A.

Every decision by the Board of Appeals granting a variance shall clearly set forth the nature and extent of such variance.

B.

Every variance granted by the Board of Appeals may be made subject to such conditions and safeguards as the Board shall deem to be applicable to the particular case. Violations of such conditions or safeguards that are a part of the Board's decision shall be deemed a violation of this Regulation punishable under the provisions of Article V.

C.

Any variance granted by the Board of Appeals pursuant to the provisions of this section shall be construed to be a nonconforming use.

§ 345-32. General standards.

For every such variance in the strict application of any provision of this Regulation, the Board of Appeals shall determine that:

A.

Strict application of the Regulation would cause practical difficulties or unnecessary hardships, which under the circumstances would deprive the applicant of the reasonable use of such land or buildings.

B.

Such practical difficulties or unnecessary hardships are unique and are not shared by all properties in the vicinity.

C.

Such practical difficulties or unnecessary hardships are not self-imposed.

D.

Such variance is the minimum variance that will relieve such practical difficulties or unnecessary hardships.

E.

Such variance is in the spirit of the general purposes and intent of this Regulation as stated in Article I.

F.

Such variance is so designed as to provide reasonable consideration to, among other things, the character of the neighborhood or district, the conservation of property values in the vicinity and the guidance of building development in accordance with the comprehensive plan.

G.

Such variance does not involve substantial detriment to the public welfare, nor substantially impair the intent and purpose of the zone plan and of this Regulation.

§ 345-33. Specific types of variances.

In the instances of the following types of variances, the Board of Appeals is hereby specifically empowered to grant the variance, pursuant to the guiding principles and general standards stated in §§ 345-31 and 345-32 and to the following provisions:

A.

With respect to lots lying across district boundary lines:

(1)

To grant a permit, in appropriate cases, where a tax lot of an appellant, as such tax lot existed on the effective date of this Regulation, lies across the boundary of two districts, for the extension into the more restrictive district of a lawful conforming use permitted in the less restrictive district, but for a distance not exceeding 50 feet measured at right angles to such district boundary line.

B.

With respect to nonconforming uses, buildings and lots:

(1)

To grant a permit for the enlargement or extension of a nonconforming use or building on the lot occupied by such use or building on the effective date of this Regulation, provided that:

(a)

Such enlargement or extension was arranged, intended or designed for such nonconforming use or building on the effective date of this Regulation.

(b)

Such enlargement or extension shall not exceed, in all, 50% of the full value of the legally existing building, exclusive of foundations, on the filing date of an application. For the purposes of this Regulation, full value shall be determined by applying the current state equalization rate to the current assessed value of the building or structure and subtracting the value of the foundations as estimated by the Village Engineer.

(c)

All parking and truck loading requirements of § 345-14 are complied with.

(2)

To grant a permit for the reconstruction, structural alteration, restoration or repair of a building or structure used for a nonconforming use, to an extent exceeding, in aggregate, 50% of the full value of such building or structure, exclusive of foundations. For the purposes of this Regulation, full value shall be determined by applying the current state equalization rate to the current assessed value of the building or structure and subtracting the value of the foundations as estimated by the Village Engineer.

C.

With respect to yard requirements:

(1)

To grant a variance modifying the yard requirements of a nonconforming lot which qualified under the terms of § 345-13E as to ownership, but where compliance with the dimensional provisions of the Regulation is unfeasible.

D.

With respect to accessory parking and truck loading spaces:

(1)

Do waive the requirements of § 345-14 for off-street parking and/or truck loading spaces, in whole or in part, after making a finding that the normal application of such requirements is unfeasible, because:

(a)

The lot has too restricted an area, unusual dimensions, shape or topographic character.

(b)

No other suitable and adequate lot can reasonably be put to such use within 500 feet of the property to which said parking and/or truck loading spaces are accessory.

(2)

To permit a reduction in the number of off-street spaces and/or truck loading spaces originally required and installed for a particular use, pursuant to § 345-14, in cases where the Board of Appeals determines that, by reason of diminution in number of dwelling units or residents or in floor area, seating capacity or area, number of employees or change in other factors determining the demand for such spaces, the proposed reduction in available spaces will be consistent with the requirements of § 345-14, and further provided that the area so withdrawn from these uses remains in reserve for potential future increases in need.

E.

With respect to temporary building permits:

(1)

To grant a temporary building permit for a period not to exceed one year for a nonconforming building, structure or use incidental to a building or other construction project, including such uses as the storage of building supplies and machinery, a real estate office or model houses located on or near a tract of land where individual properties are being offered for sale, provided that:

(a)

Such temporary permit shall be issued only upon written agreement by the owner or his agent to remove such building, structure or use or to convert it to a conforming use upon the expiration of the permit.

(b)

Such permit shall be subject to such reasonable conditions as the said Board of Appeals shall determine to be necessary to protect the health, safety, morals or general welfare of the community.

(2)

Such permits may be renewed annually, at the discretion of the Board of Appeals, provided that they are maintained and continue in active use.

ARTICLE VII
Miscellaneous

§ 345-34. Procedure for amendment.

A.

The Village Board of Trustees may from time to time, on its own motion or on petition or on recommendation of the Planning Commission, amend, supplement or repeal the regulations and provisions of this Regulation, including the Zoning Map, after public notice and hearing. Every zoning law and every amendment thereto, including any map incorporated therein, adopted shall be entered in the minutes of the Village Board, and a short-form synopsis thereof, exclusive of any map incorporated therein, shall be published once in the regular newspaper. A copy of such local law or amendment, together with a summary or abstract of any map incorporated therein, shall be posted conspicuously at or near the main entrance to the office of the Village Clerk, and affidavits of the publication and posting thereof shall be filed with the Village Clerk. Such local law shall take effect 10 days after such publication and posting, but such local law or amendment shall take effect from the date of its service as against a person served personally with a copy thereof, certified by the Village Clerk and showing the date of its passage and entry in the minutes. **[Amended 5-29-1991 by L.L. No. 11-1991]**

B.

Petitions for amendments shall be submitted in quadruplicate to the Village Clerk with an application fee as set forth in Chapter 175, Fees. Any petition for a change in the Zoning Map shall include the following: **[Amended 4-5-1982 by L.L. No. 22-1982; 11-3-1997 by L.L. No. 17-1997; 8-3-2009 by L.L. No. 11-2009]**

(1)

The name of the property owner.

(2)

A map accurately drawn to an appropriate scale, showing the proposed one district boundary changes, property lines, tax lot identification, the calculated areas affected in acres or square feet, the street rights-of-way in the immediate vicinity and the lands and names of owners immediately adjacent to (and extending within 100 feet of) all boundaries of the property to be rezoned.

C.

The Village Board of Trustees, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendments, and such public hearing shall be noticed in compliance with the public notice requirements set forth in Article XXI of this chapter. **[Amended 8-3-2009 by L.L. No. 11-2009]**

D.

Every such proposed amendment or change, whether initiated by the Village Board of Trustees or by petition, shall be referred to the Planning Commission for report before the public hearing is held thereon. **[Amended 8-3-2009 by L.L. No. 11-2009]**

E.

Any application for zoning change or amendment shall be subject to the public notice requirements set forth in Art. XXI of this chapter. **[Amended 8-3-2009 by L.L. No. 11-2009]**

F.

At least 10 days' notice of the public hearing and a description of the applicant's proposal shall be mailed to the Westchester County Planning Board in any case where the provisions of Section 451 of the Westchester County Administrative Code are applicable.

G.

The Village Board of Trustees may require a petitioner to give additional forms of public notice or notice to adjacent property owners.

H.

The Village Board of Trustees shall reserve decision on all zoning amendments or changes that must be referred to the County Planning Board until its report has been presented, provided that such report is presented within a period of 30 days after the County Planning Board receives such referral.

§ 345-35. (Reserved)

§ 345-36. Short title.

This Regulation shall be known as and may be cited as the "Port Chester Zoning Regulation of 1975."

§ 345-37. (Reserved)

§ 345-38. Additional regulations for particular uses. [Added 6-1-2009 by L.L. No. 8-2009]

A.

Cabaret.

(1)

No cabaret shall be located within 300 feet of any church or other place of worship, school, playground or park.

(2)

No cabaret shall be located within 100 feet of any residence district boundary line.

B.

Bar or tavern.

(1)

No bar or tavern shall be located within 300 feet of any church or other place of worship, school, playground or park.

(2)

No bar or tavern shall be located within 100 feet of any residence district boundary line.

ARTICLE VIII Use and Dimensional Regulations for Residence Districts

Within any residence district, a building, structure or lot shall only be used for the uses indicated for that specific district in which it is located on the Zoning Map and in accordance with the specific classification of that use in that district, as shown in the Schedule of Regulations for Residence Districts; *[Editor's Note: The Schedule of Regulations for Residence Districts is included at the end of this chapter.]* and, further, any such building, structure or lot shall only be utilized in conformance with the dimensional regulations set forth on the same Schedule of Regulations for Residence Districts. In addition, such use shall also comply with all other applicable provisions of this Regulation. **[Amended 4-27-1988 by L.L. No. 6-1988]**

§ 345-39. R20 One-Family Residence District.

[Editor's Note: See the Schedule of Regulations for Residence Districts (Attachments IA and IB) at the end of this chapter.] **[Added 9-5-1995 by L.L. No. 6-1995]**

[Editor's Note: This local law added the R20 District and redesignated former §§ 345-39 and 345-40 as §§ 345-40 and 345-41, respectively.]

§ 345-40. R7 One-Family Residence District.

[Editor's Note: See the Schedule of Regulations for Residence Districts (Attachments IA and IB) at the end of this chapter.]

§ 345-41. R5 One-Family Residence District.

[Editor's Note: See the Schedule of Regulations for Residence Districts (Attachments IA and IB) at the end of this chapter.]

§ 345-42. R2F Two-Family Residence District.

[Editor's Note: See the Schedule of Regulations for Residence Districts (Attachments IA and IB) at the end of this chapter.]

§ 345-43. RA2 Multifamily Residence District.

[Editor's Note: See the Schedule of Regulations for Residence Districts (Attachments IA and IB) at the end of this chapter.]

§ 345-44. RA3 Multifamily Residence District.

[Editor's Note: See the Schedule of Regulations for Residence Districts (Attachments 1A and 1B) at the end of this chapter.]

§ 345-45. RA4 Multifamily Residence District.

[Editor's Note: See the Schedule of Regulations for Residence Districts (Attachments 1A and 1B) at the end of this chapter.]

§ 345-46. (Reserved) ~~PTD Planned Tower Development District.~~

~~[Editor's Note: See the Schedule of Regulations for Residence Districts at the end of this chapter.]~~

**ARTICLE IX
Use and Dimensional Regulations for Nonresidence Districts**

Within any nonresidence district, a building, structure or lot shall only be used for the uses indicated for that specific district in which it is located on the Zoning Map and in accordance with the specific classification of that use in that district, as shown in the Schedule of Regulations for Nonresidence Districts; *[Editor's Note: The Schedule of Regulations for Nonresidence Districts is included at the end of this chapter.]* and further, any such building, structure or lot shall only be utilized in conformance with the dimensional regulations set forth on the same Schedule of Regulations for Nonresidence Districts. In addition such use shall also comply with all other applicable provisions of this Article. **[Amended 4-27-1988 by L.L. No. 6-1988; 7-5-1988 by L.L. No. 14-1988]**

§ 345-47. C1 Neighborhood Retail District.

[Editor's Note: See the Schedule of Regulations for Nonresidence Districts (Attachments 3A and 3B) at the end of this chapter.]

§ 345-48. C2 Main Street Business District. ~~Central Business District~~

[Editor's Note: See the Schedule of Regulations for Nonresidence Districts (Attachments 3A and 3B) at the end of this chapter.]

§ 345-49. C3 ~~Design~~ Office and Commercial District.

[Editor's Note: See the Schedule of Regulations for Nonresidence Districts (Attachments 3A and 3B) at the end of this chapter.]

§ 345-50. C4 General Commercial District.

[Editor's Note: See the Schedule of Regulations for Nonresidence Districts (Attachments 3A and 3B) at the end of this chapter.]

§ 345-50.1. C5 Train Station Mixed Use District.

[Editor's Note: See the Schedule of Regulations for Nonresidence Districts (Attachments 3A and 3B) at the end of this chapter.]

§ 345-50.2. C5T Downtown Mixed Use Transitional District.

[Editor's Note: See the Schedule of Regulations for Nonresidence Districts (Attachments 3A and 3B) at the end of this chapter.]

§ 345-51. CD Design Shopping Center District.

[Editor's Note: See the Schedule of Regulations for Nonresidence Districts (Attachments 3A and 3B) at the end of this chapter.]

§ 345-52. CDS Special Design Commercial District.

[Editor's Note: See the Schedule of Regulations for Nonresidence Districts (Attachments 3A and 3B) at the end of this chapter.]

§ 345-53. PD Design Professional Building District.

[Editor's Note: See the Schedule of Regulations for Nonresidence Districts (Attachments 3A and 3B) at the end of this chapter.]

§ 345-54. DW Design Waterfront District.

[Editor's Note: See the Schedule of Regulations for Nonresidence Districts (Attachments 3A and 3B) at the end of this chapter.]

§ 345-55. M1 Light Industrial District.

[Editor's Note: See the Schedule of Regulations for Nonresidence Districts (Attachments 3A and 3B) at the end of this chapter.]

§ 345-56. M2 General Industrial District.

[Editor's Note: See the Schedule of Regulations for Nonresidence Districts (Attachments 3A and 3B) at the end of this chapter.] **[Amended 10-30-1991 by L.L. No. 22-1991]**

A.

In M-2 Districts, shooting ranges, with or without accessory sales of guns and equipment, shall only be permitted as special exception uses and shall be subject to the general procedure set out in § 345-59 of the Village Code, to the general standards set out at § 345-60 and to the following special conditions and safeguards which are added to § 345-61.

B.

Automobile dealership service centers are a special exception in M-2 Zoning Districts. **[Added 1-5-2004 by L.L. No. 3-2004]**

~~§ 345-57. Planned Mixed Use District. PRSP—Planned Railroad Station Plaza Development District.~~

[Editor's Note: See § 345-62 and the Schedule of Regulations for Nonresidence Districts (Attachments 3A and 3B) at the end of this chapter.]

§ 345-57.1. M2D Designed Industrial District.

[Editor's Note: See the Schedule of Regulations for Nonresidence Districts (Attachment 2) at the end of this chapter.] [Added 6-21-1976 by L.L No. 4-1976]

A.

Any lot or contiguous lots which are situated in a General Industrial (M2) District and which, in the aggregate, constitute a minimum of 15 acres may be designated by the Board of Trustees of the Village as a Designed Industrial (M2D) District.

B.

Any lot or lots situated within a Designed Industrial District shall be subject to the same regulations applicable to a lot or lots within a General Industrial District except as hereinafter set forth:

(1)

Minimum lot area: 40,000 square feet.

(2)

Off-street parking:

(a)

Offices and research laboratories: one for each 400 square feet of gross floor area.

(b)

Manufacturing, including wholesaling and warehousing: one for each 1,000 square feet of gross floor area or one for each two employees for which the building is designed, whichever is greater.

C.

A Designed Industrial (M2D) District may be divided into separately owned or leased lots without the requirement of any further approval by the Planning Commission or by the Architectural Board of Review of the Village of Port Chester, including but not limited to site plan review pursuant to § 345-23 of the Code of the Village of Port Chester, provided that each such separate lot shall comply with all other ordinances and regulations of the said Village, and provided further that any building permit application shall be accompanied by 10 copies of a site plan drawing as more particularly described in § 345-23B of the aforesaid Code and a certificate by an architect or professional engineer licensed in the State of New York certifying that, in the opinion of such certifying architect or engineer, the said site plan complies with the specific requirements hereinafter set forth and with the general purposes and intent of Chapter 345, Zoning, of the Code of the Village of Port Chester, particularly with regard to the following objectives:

(1)

Harmonious relationship between proposed uses and existing adjacent uses.

(2)

Maximum safety or vehicular circulation between the site and the street network.

(3)

Maximum adequacy of interior circulation and parking and loading facilities, with particular attention to vehicular and pedestrian safety.

(4)

Adequacy of landscaping and setbacks in regard to achieving maximum compatibility and protection to adjacent residential districts.

D.

Each such site plan shall also comply with the following specific requirements:

(1)

Utility connections. All public and municipal utility connections, including but not limited to water, storm and sanitary sewers, electric, gas and telephone lines, conduits, cables, mains and pipes, shall be located underground.

(2)

Screening and planting. The front yard of each lot shall be screened and separated from any public streets on the perimeter of the district by trees which shall be planted by the respective lot owners within the sidewalk area of the public right-of-way at intervals of not less than 35 feet. If such plantings would interfere with presently existing overhead utility wires, or for any other good and valid reason of a similar nature, they may be planted on the front yard perimeter of the lot owner's property. The said trees, which shall be of the pin oak variety, shall have a caliper of not less than three inches at a point 12 inches from the base of the tree. All parking lots and loading areas shall be visually screened by a screening hedge, fence or wall, or a combination thereof, which shall be at least four feet high. The respective lot owners within the district shall be responsible, at their sole cost and expense, for the maintenance and replacement of any required screening and planting.

(3)

Loading and unloading. All loading and unloading shall be performed entirely within each lot. Loading units shall be designed to ensure that vehicles serving the lot shall do so without backing into or out of any public street. Loading bay doors shall be appropriately screened from any public street.

(4)

Storm drainage. Plans for the development of each lot shall provide for adequate storm drainage by the use of catch basins and on-site stormwater retention facilities.

(5)

Sidewalks and curbs. Sidewalks and curbs shall be constructed of concrete or similar material, but asphalt shall be prohibited.

(6)

Exterior lighting. Exterior lighting shall be provided by pole-mounted down-light fixtures. Poles shall be bronze or dark brown aluminum. Fixtures shall be of the improved mercury vapor type. Poles shall be no greater than 27 feet in height above finished grade.

(7)

Mechanical equipment. Building and services mechanical equipment shall be shielded from public view by enclosing such equipment within the principal structure, or by screening the equipment with shrubbery or appropriate architectural devices.

(8)

Building exteriors. All exterior walls of any building shall be architecturally finished with materials such as face brick, glass, ornamental stone or other decorative materials. Concrete or cinder block, corrugated or sheet steel and aluminum may be used, provided that the materials are of an architectural grade and are designed and manufactured as building facade finished products.

(9)

Access for the handicapped. Every building constructed in the industrial park shall be designed to ensure that at least one entrance thereto is suitable for access for any person or persons required to use a wheelchair or similar aid.

(10)

Collection and storage of waste. Facilities for the collection and temporary storage of rubbish, garbage and waste shall be provided within each building or in a secured container in an accessory structure.

E.

Planning Commission procedure.

(1)

The Planning Commission shall, solely as a ministerial function, review the site plan to ensure that it has complied with the objectives and requirements hereinabove, set forth. Within 30 days from the date of submission of the site plan to it or within 45 days from the date of filing of the building permit application and site plan, whichever is earlier, the Planning Commission shall advise the applicant in writing:

(a)

That the site plan complies with the objectives and requirements hereinabove set forth; or

(b)

That the site plan does not comply with the said objectives and requirements, in which event, it shall be set forth with particularity and specificity, in what respects the site plan does not so comply.

(2)

In the event that the Planning Commission finds that the site plan does not comply with the said objectives and requirements, the applicant may, within 30 days from the receipt of notice thereof, submit an amended site plan reflecting such modifications as may be necessary or desirable to remedy the findings of noncompliance by the Planning Commission. The amended site plan shall be subject to review in the same manner as hereinabove set forth.

(3)

Upon a finding by the Planning Commission that the site plan or amended site plan, as the case may be, complies with the aforesaid objectives and requirements, or in the event that the Planning Commission fails to act within the aforesaid period, the Building Inspector shall issue the building permit, provided that the application otherwise complies with the Building Code of the Village of Port Chester.

[Editor's Note: See Ch. 151, Building and Fire Prevention.]

§ 345-57.2 Village Center Redevelopment Area Light Industrial/Research Use District. [Added 2-17-1982 by L.L. No. 7-1982]

A.

Any lot or contiguous lots which are situated in the Village Center Redevelopment Area and which are designated for light industrial use under the Urban Renewal Plan land use map may be designated by the Board of Trustees of the Village of Port Chester as a Village Center Redevelopment Area Light Industrial/Research Use District.

B.

Any lot or lots so designated by the Board of Trustees as a Village Center Redevelopment Area Light Industrial/Research Use District shall be subject to the following regulations and controls:

(1)

Permitted uses. The only permitted uses in areas so designated shall be as follows:

(a)

Primary uses.

[1]

Light industrial operations.

[2]

Wholesale businesses and associated retail operations.

[3]

Storage buildings.

[4]

Warehouses.

[5]

Offices incidental to the principal use.

[6]

Research and development and laboratory facilities.

[7]

Creameries.

[8]

Ice cream plants.

[9]

Bakery plants.

[10]

Laundries and dry-cleaning plants.

[11]

Non-nuisance industries, provided that in nonindustrial districts, equipment is used that has a rating of no more than five horsepower.

[12]

Motor vehicle filling stations.

[13]

Printing plants.

[14]

Public utilities.

[15]

Signs accessory to an establishment located on the same parcel; no flashing, moving or intermittently illuminated advertising devices are permitted.

[16]

Architectural, engineering and land surveying offices, not to exceed 20% of the total building gross floor area.

(b)

Other permitted uses.

[1]

Municipal or private off-street parking and loading facilities.

[2]

Business, professional or banking offices.

(2)

Prohibited uses. No building or land shall be used and no building shall be erected or altered which is arranged, intended or designed to be used for any of the following trades, industries or uses:

(a)

Slaughtering or processing of animals, fowl or fish, or component parts thereof, or manufacture of any commodity, the major part of which is animal or fish matter.

(b)

Junkyards.

(c)

The manufacture of heavy chemicals.

(d)

The manufacture of basic or semifinished chemicals.

(e)

The manufacture or production of metals and alloys in ingot or stock form; the manufacture or production of any use or purpose which would create or would be likely to create waste gases, liquids or effluents or conditions of hazard, smoke, fumes, noise, vibration, odor or dust detrimental to the health, safety, convenience or general welfare of the community.

(3)

General planning criteria respecting other uses permitted or required in predominant land use categories. In addition to the predominant land uses permitted in each land use district, the following supporting or accessory uses shall be permitted and/or required as follows:

(a)

Professional offices, studios and loft spaces which are customary to and compatible with residential developments may be permitted in residential buildings.

(b)

Open space for recreation and outdoor living shall be provided and permitted in quantities sufficient to meet the requirements of the residential occupants. Such open space need not duplicate facilities provided in other areas of the Village which may be readily available to the area occupants.

(c)

Community meeting and/or recreation rooms may be provided at a scale commensurate with the demand for such space by the residential occupants of the site.

(d)

Customary home occupations may be permitted that are fully compatible with residential development on the site.

(e)

Off-street parking. Parking facilities shall be provided in accordance with the potential demand of the proposed uses and in keeping with customary parking standards and may be provided in the form of separate parking lots or structures or as part of the parcel they are intended to serve. Such parking areas shall be designed to be aesthetically pleasing and shall be planted in such a manner as to visually break up any large masses of paved area. Off-street parking facilities to serve residences and professional offices which are permitted in residential buildings shall be sufficient to accommodate the parking demand generated by the residences and any permitted offices.

(f)

Off-street loading facilities. Off-street loading facilities, for the uses covered in Subsection B(1) and (2), shall be permitted and provided in accordance with the needs of such uses so as to avoid the congestion of adjoining streets due to parked vehicles being loaded or unloaded. Such off-street loading facilities shall be located so as not to interfere with pedestrian or other vehicular activity.

(g)

Neighborhood retail and service facilities shall be located so as not to adversely affect adjacent residential uses, either visually or functionally. Such uses may be located on the ground floor of residential buildings, offices or public buildings, if provided with completely separate entrances, service facilities and direct access to an adjacent street.

(4)

Regulations and controls for the Light Industrial/Research Use District.

(a)

Maximum coverage shall not exceed 60% of the total area of the parcel.

(b)

Maximum gross building floor area shall not exceed 1.5 times the area of the parcel on which such building or buildings stand.

(c)

Maximum height of any structure shall be three stories or 50 feet.

(d)

Minimum yard dimensions shall be the following:

[1]

Front yards: 10 feet.

[2]

One side yard: 20 feet.

[3]

Two side yards on interior lot: 40 feet.

[4]

Rear yard: 20 feet.

[5]

If abutting a residential use area, the rear yard should be increased to 25 feet.

[6]

In those cases where yard requirements cannot be met as a result of physical site conditions such as rock outcropping or irregularly shaped disposition parcels or the conformance with yard requirement is not consistent with good planning practice, minimum yard dimensions may be varied or eliminated at the discretion of the Board of Trustees.

(e)

Uses in enclosed buildings. All permitted uses other than off-street accessory parking or loading, whether principal, incidental or accessory, shall be carried on in buildings fully enclosed on all sides.

(f)

Sign regulations. No flashing, moving or intermittently illuminated advertising devices are permitted. All signs must be integrated with the architectural design of the structure. No sign shall project above the roof of the structure.

(g)

Screening of property use. Where the property line of a parcel in a Light Industrial Use Area abuts or is opposite from a parcel in a Residential Use Area or a Park or Playground Use Area, there shall be provided along said property line a screen consisting of any combination of hedges, walls or trees having a minimum height of eight feet above the elevation of the finished grade of the Light Industrial Use Area.

(5)

Regulations and controls for all land uses in the Village Center Redevelopment Area.

(a)

Regulations and controls applying to all sections of the Redevelopment Area.

[1]

The site plan and exterior design of all buildings and development proposed for the Redevelopment Area, including landscaping, color and type of material of all exterior portions of structures, shall be subject to the approval of the Village of Port Chester Board of Trustees or an agency authorized by the Board of Trustees to make said approvals. Such plans and designs shall be reviewed with respect to architectural style, general design, arrangement, location and materials affecting the exterior appearance.

[2]

Unless paved, all open areas which are visible from the street shall be landscaped.

[3]

All buildings, developments, streets, sidewalks and recreational facilities proposed for the area shall be free of architectural barriers in order to provide access for senior citizens and the handicapped.

[4]

No rooming or boarding houses shall be permitted in any portion of the project area. This exclusion does not apply to residential accommodations in hotels or motels.

[5]

The Village of Port Chester Board of Trustees or an agency authorized to execute the Redevelopment Program may establish such interim uses in the area as it deems feasible and desirable in the public interest on property which has been acquired and not yet sold to a developer.

[6]

No use shall be permitted which is noxious or offensive by reason of emission of odor, dust, noise, smoke, gas, fumes or radiation, or which in any other way presents a nuisance and hazard to the public health and safety.

[7]

There shall be no restriction of occupancy or use of any part of the project area on the basis of race, creed, color, sex or national origin.

[8]

Off-street parking shall be provided as follows:

[a]

Residential structures: 1 1/2 spaces per dwelling unit; senior citizen units, five spaces per dwelling unit.

[b]

Retail stores or personal service stores: one space per 300 square feet of gross floor area.

[c]

Business, professional or banking offices, radio or television studios: one space per 300 square feet of gross floor area.

[d]

Theaters: one space per three permanent seats or one space per each 40 square feet of seating area where a fixed area is not provided.

[e]

Restaurants, lunchrooms or other places serving food or drink: one space for each four seats or 100 square feet devoted to patron use, whichever is the greater requirement.

[f]

Hotels or motels: one space per guest bedroom plus one per each two employees on the premises at one time.

[g]

Government buildings: one space per 300 square feet of gross floor area.

[h]

For motor vehicle filling stations: three parking spaces shall be provided for each interior automotive service space plus one parking space for every two major shift employees.

[i]

Manufacturing, light industrial, research or laboratory: one parking space shall be provided for every three major shift employees, or two spaces per 1,000 square feet of gross building floor area, whichever is greater, except in such instances where more than 75% of the building is devoted to storage use, in which case one off-street parking space shall be required for every three major shift employees.

[j]

Public or semipublic art galleries, libraries or museums: one space per three permanent seats or one per each 40 square feet of seating area where fixed seating is not provided.

[k]

Auditoriums, convention halls, theaters, studios or other places of public assembly not otherwise classified: same as public or semipublic art galleries, libraries or museums.

[l]

All parking spaces shall be paved and have a minimum width of 8 1/2 feet and a minimum area of 175 square feet, exclusive of driveways and aisles.

[9]

Off-street loading shall be performed entirely within the parcel and shall be designed so that vehicles serving the site can do so without extending into the public right-of-way. All truck loading spaces shall be not less than 14 feet wide, 25 feet long and 14 feet high and have direct usable access to a street or alley, except that where one such truck loading space has been provided, any additional space contiguous to and not separated from such first truck loading space need not be wider than 12 feet. Off-street loading spaces shall be provided as follows:

Floor Area (square feet)	Number of Spaces Required
-------------------------------------	----------------------------------

Under 5,000	None, except 1 for retail business use, restaurant, cabaret or other place serving food and beverages, or private marina or yacht club
5,000 to 14,999	1, in addition to that required for under 5,000 square feet, if any
15,000 to 40,000	2, in addition to that required for under 5,000 square feet, if any
Over 50,000	1 for each additional 80,000 square feet over and above the requirement for the first 40,000 square feet

ARTICLE X
Special Exception Use Regulations

§ 345-58. Delegation of authority. [Amended 5-29-1991 by L.L. No. 12-1991]

The Planning Commission and the Village Board of Trustees as herein provided are hereby authorized to act on proposed special exception uses which are specifically provided for in this Regulation. Such action may include approval, conditional approval or disapproval based on the standards set forth in this Article. The specific special exception uses to be reviewed by each body are set out in § 345-59D.

§ 345-59. General procedure and conditions. [Amended 4-5-1982 by L.L. No. 23-1982; 5-29-1991 by L.L. No. 12-1991]

A.

The Planning Commission and/or Board of Trustees, as applicable, may establish general and special rules, effective upon being filed in the office of the Village Clerk, for the conduct before it of such procedures. Such rules shall be consistent with law and the purposes and objectives of this Regulation.

B.

The Secretary of the Planning Commission and/or Board of Trustees, as applicable, shall keep minutes of the Commission proceedings showing the vote upon every question. The Secretary and/or Clerk shall also keep records of examinations and official actions, all of which shall be immediately filed in the office of the Village Clerk and shall be a public record.

C.

Applications for a special exception use shall be made to the Building Inspector on forms supplied by his office and shall include a site plan. Applications for a special exception use shall be subject to the public notice requirements set forth in Art. XXI of this chapter. **[Amended 8-3-2009 by L.L. No. 11-2009]**

D.

Jurisdiction to hear specific applications is as follows:

(1)

Board of Trustees:

(a)

Church or other place of worship.

(b)

Assembly hall.

(c)

Hospital.

(d)

Membership club.

(e)

Automobile body repair garage.

(f)

(Reserved)

Editor's Note: Former Subsection D(1)(f), Cabaret, was repealed 6-1-2009 by L.L. No. 8-2009.

(g)

Drive-in bank facility or drive-in establishments other than drive-in banks and restaurants.

(h)

Drive-in and fast-food restaurant.

(i)

Automobile service station.

(j)

Hotel or motel, including limited-service hotel. **[Amended 3-28-2001 by L.L. No. 6-2001]**

(k)

Marina or yacht club.

(l)

(Reserved) *[Editor's Note: Former Subsection D(1)(l), Bar or tavern, was repealed 6-1-2009 by L.L. No. 8-2009.]*

(m)

(Reserved) *[Editor's Note: Former Subsection D(1)(m), Catering and events facility, was repealed 6-1-2009 by L.L. No. 8-2009.]* **[Added 7-31-2002 by L.L. No. 13-2002]**

(2)

Planning Commission:

(a)

Multifamily.

(b)

Convalescent home or nursing home.

(c)

Day camp, day-care center or nursery school.

(d)

Public utility facility.

(e)

Bowling alley.

(f)

Food processing facility.

(g)

Funeral home.

(h)

Health club.

(i)

Motion-picture or other theater.

(j)

Motor vehicle sales lot.

(k)

Veterinary hospital.

(l)

Open storage of equipment and vehicles.

(m)

Retail accessory to warehouse.

(n)

Satellite earth stations (any communication device, which shall be considered a structure under this Zoning Code, used to transmit, relay or receive microwave signals by satellite; it shall also include signals from ground stations where the same forms part of an internal corporate enterprise or communication system). **[Added 7-1-1992 by L.L. No. 7-1992; amended 10-28-1992 by L.L. No. 14-1992]**

(o)

Tower (any structure, whether attached to another structure or freestanding, which is designed to be used for the support of any device to transmit or receive radio frequency signals). **[Added 7-1-1992 by L.L. No. 7-1992]**

(p)

Satellite earth stations and towers shall be deemed special exception uses in all districts. **[Added 9-8-1992 by L.L. No. 12-1992]**

(q)

Medical and dental office including x-ray and therapy room. **[Added 11-3-2003 by L.L. No. 9-2003]**

(r)

Automobile dealership service center. **[Added 1-5-2004 by L.L. No. 3-2004]**

(s)

Ground floor office as accessory use to multifamily development. **[Added 3-23-2006 by L.L. No. 6-2006]**

(t)

Pawnshops. **[Added 3-7-2011 by L.L. No. 4-2011]**

E.

On receipt of an application, the Building Inspector shall promptly transmit it to the body having jurisdiction to hear and decide the same as set out in § 345-59D.

F.

On receipt of the application, the Planning Commission or Board of Trustees, as the case may be, shall promptly schedule a public hearing on the matter and give notice of the same.

G.

The Planning Commission or Board of Trustees shall: **[Amended 7-1-1996 by L.L. No. 3-1996; 8-3-2009 by L.L. No. 11-2009]**

(1)

Conduct a public hearing within 62 days from the date an application is received on any matter referred to it under this section. Such public hearing shall be noticed in compliance with the public notice requirements set forth in Art. XXI of this chapter:

(a)

By publishing a notice in a newspaper of general circulation in the Village.

(b)

By certified mail, return receipt requested, to all property owners within 100 feet of the boundary of the subject property and those directly opposite the subject property across the street and within 100 feet of that street line.

(2)

Decide upon the application within 62 days after the hearing. The time within which the Commission or Board may reach a decision may be extended upon mutual consent. The decision on the application shall be filed in the office of the Village Clerk within five business days after it is rendered with a copy thereof mailed to the applicant.

H.

At least 10 days' notice of the Planning Commission and/or Board of Trustees meeting and a description of the applicant's proposal shall be mailed to the Westchester County Planning Board in any case where the provisions of Section 451 of the Westchester County Administrative Code are applicable.

I.

The Planning Commission and/or Board of Trustees shall not approve a special exception use unless it shall determine that, under the conditions and limitations to be imposed pursuant to § 345-60, General standards, and § 345-61, Special conditions and safeguards for certain special uses, and any other provisions of law have been complied with and that:

(1)

The use will not prevent or substantially impair either the reasonable and orderly use or the reasonable and orderly development of other properties in the neighborhood.

(2)

The hazards or disadvantages to the neighborhood from the location of such use at the property are outweighed by the advantage to be gained either by the neighborhood or the Village by authorizing the special exception use permit.

(3)

The health, safety, welfare, comfort, convenience and order of the Village will not be adversely affected by the authorized use.

(4)

Such use will be in harmony with and promote the general purposes and intent of this Regulation as stated in § 345-1.

J.

In cases where applications must be referred to the Westchester County Planning Board, the Planning Commission and/or Board of Trustees shall reserve decision for the report from the county, provided that such report is presented within a period of 30 days after the County Planning Department receives such referral.

K.

No foundation or building permit shall be issued by the Building Inspector for a special exception use unless the Planning Commission or Village Board of Trustees has approved the same. The authorization for such building permit shall expire 90 days after the Board of Commission has approved the same. In the event that such permit has not been applied for within the ninety-day period, it shall expire. Extensions of such authorization period may be granted by resolution of the Planning Commission or Village Board of Trustees having jurisdiction for additional ninety-day periods but not exceeding three such extensions.

L.

A special exception use for which a building permit is authorized, pursuant to the provisions of this Article shall be construed to be a conforming use.

M.

Any violation of the limitations or special conditions and safeguards established by the Planning Commission and/or Village Board of Trustees with respect to specific authorization for a special exception use shall be deemed a violation of this Regulation, punishable under the provisions of § 345-26, and no certificate of occupancy shall be issued until such violations are corrected.

N.

A special exception use and certificate of occupancy shall lapse automatically without the need for any action by the Village when the authorization is changed to a different use, regardless of whether or not such different use is deemed to be a higher or lower use, or when any violation under the provisions of § 345-59L occurs.

O.

The fee for special exception use applications to the Planning Commission or Village Board of Trustees shall be as set forth in Chapter 175, Fees. **[Amended 11-3-1997 by L.L. No. 17-1997]**

P.

A stormwater pollution prevention plan (SWPPP) consistent with Chapter 281 of the Code of the Village of Port Chester shall be required for an application for a special exception use. The SWPP, shall meet the performance and design criteria and standards of that chapter. **[Added 2-21-2007 by L.L. No. 2-2007]**

§ 345-60. General standards.

A.

For every such special exception use the Planning Commission shall determine that:

(1)

Such use will be in harmony with and promote the general purposes and intent of this Regulation, as stated in § 345-1.

(2)

The plot area is sufficient, appropriate and adequate for the use and the reasonably anticipated operation and expansion thereof.

(3)

The proposed use will not prevent the orderly and reasonable use of adjacent properties in adjacent use districts.

(4)

The site is particularly suitable for the location of such use in the community.

(5)

The characteristics of the proposed use are not such that its proposed location would be unsuitably near to a church, school, theater, recreational area or other place of public assembly.

(6)

The proposed use, particularly in the case of a non-nuisance industry, conforms with the Regulation definition of the special exception use where such definition exists, or with the generally accepted definition of such use where it does not exist in the Regulation.

(7)

Access facilities are adequate for the estimated traffic from public streets and sidewalks, so as to assure the public safety and to avoid traffic congestion; and further, that vehicular entrances and exits shall be clearly visible from the street and not be within 75 feet of the intersection of street lines at a street intersection except under unusual circumstances.

(8)

All proposed curb cuts have been approved by the street or highway agency which has jurisdiction.

(9)

There are off-street parking and truck loading spaces at least in the number required by the provisions of § 345-14, but in any case an adequate number for the anticipated number of occupants, both employees and patrons or visitors; and further, that the layout of the spaces and driveways is convenient and conducive to safe operation.

(10)

Adequate buffer yards, walls, fences and screening are provided where necessary to protect adjacent properties and land uses.

(11)

Adequate provisions will be made for the collection and disposal of stormwater runoff from the site, and of sanitary sewage, refuse or other waste, whether liquid, solid, gaseous or of other character.

(12)

The proposed use recognizes and provides for the further special conditions and safeguards required for particular uses in § 345-60, if any.

B.

All special exception uses in the Design Waterfront District shall meet the following additional general standards:

(1)

All structures shall be set back at least 30 feet from the water's edge at mean high water or from a bulkhead, where such bulkhead exists.

(2)

There shall be no pollution of the natural water body by waste disposal, surface water runoff or any other means.

(3)

A twenty-foot-wide landscaped area, including a public accessway, shall be provided along the water's edge or bulkhead where such bulkhead exists within which no off-street parking or truck loading, storage of materials, buildings or similar encroachments shall be located.

(4)

Particular concern shall be shown for enhancing the quality of the waterfront and for the compatibility of existing and proposed uses.

§ 345-61 Special conditions and safeguards for certain special exception uses. [Amended 1-31-1980 by L.L. No. 1-1980; 12-30-1987 by L.L. No. 20-1987; 4-26-1989 by L.L. No. 9-1989; 7-5-1989 by L.L. No. 15-1989; 8-2-1989 by L.L. No. 17-1989; 5-29-1991 by L.L. No. 12-1991]

No authorization for a building permit shall be granted by the Planning Commission or Board of Trustees for any use listed in this section unless the Commission shall specifically find that, in addition to meeting all the general standards set forth in § 345-59, the proposed special exception use also meets the special conditions and safeguards required in this section.

A.

(Reserved) *[Editor's Note: Former Subsection A, Bar or tavern, as amended, was repealed 6-1-2009 by L.L. No. 8-2009.]*

B.

(Reserved) *[Editor's Note: Former Subsection B, Cabaret, as amended, was repealed 6-1-2009 by L.L. No. 8-2009.]*

C.

Church or other place of worship, etc.

(1)

The site shall have an area of at least 1/2 acre with a frontage of at least 100 feet on a public street having at least a sixty-foot right-of-way and a forty-foot paved roadway.

(2)

All buildings and structures shall be set back from all property lines a depth equal to that of the required front yard in the district in which it is located.

(3)

Off-street parking shall be provided in accordance with the provisions of § 345-14 in all zones.
[Amended 3-4-1996 by L.L. No. 2-1996]

D.

Drive-in bank facility, drive-in restaurant or other drive-in establishment.

(1)

The operator or the owner of such drive-in establishments shall furnish to the Village of Port Chester a public liability and property damage insurance policy naming the Village of Port Chester as assured or coassured, in the sum of \$500,000 for each person, \$1,000,000 per accident and \$50,000 property damage limits, and covering all operations of said drive-in establishment, including adjoining sidewalks and roadways, said policy to be approved by the Corporation Counsel.

(2)

The layout of any such establishment shall be in accordance with recommendations thereon by any designated consulting engineer and the Traffic Commission regarding engineering and traffic considerations, including peak-hour and vehicular storage space requirements.

(3)

The operator or owner shall provide sufficient storage space outside the limits of the highway right-of-way in order that the paved surface of the highway and roadway shoulders will be not obstructed by cars or patrons.

(4)

If requested to do so by the Chief of Police, the operator or owner shall furnish a deputized officer or officers to direct traffic entering and leaving the establishment in order that dangerous or illegal traffic movements may be avoided, and, further, should dangerous traffic conditions caused by approach roads occur, the operator or owner shall take such steps as may be determined by the Chief of Police in order to correct such conditions.

(5)

The operator or owner shall perform at his own cost and expense the revision, relocation or removal of driveways if required by the construction or maintenance in subsequent developments of the public highway.

(6)

All buildings shall be set back at least 20 feet from any street lot line and at least 30 feet from the boundaries of any residential district.

(7)

There shall be no more than two driveways on any street nor shall any driveway be more than 35 feet nor less than 20 feet wide at the curblin nor shall any driveway be closer together than 15 feet at the lot line nor shall any driveway be located less than five feet from any lot line other than a street lot line. All driveways, parking and storage space shall be permanently improved with a paved surface.

(8)

The Planning Commission or Board of Trustees may, at its discretion, impose conditions and safeguards, taking into consideration such items as protection from sign and headlight illumination, reduction of noise and fumes and regulation of hours of business.

E.

Funeral home.

(1)

The lot area shall not be less than 1/2 acre.

(2)

In a residence district, the required minimum front, side and rear yard shall be at least three times those required for other buildings in the district, except that where an existing building is connected to such use and the existing yards are even greater than the above requirement, the depth of such yards shall not be reduced.

(3)

In a residence district, a funeral home shall not have more than one sign, which sign shall have a maximum area of 12 square feet and be set back at least 25 feet from the street line. Such sign shall not be lighted with neon or flashing light sources, and, further, there shall be no exterior spotlighting or other illumination such as will be an annoyance to any adjoining land use. Necessary safety lighting on roads and buildings and illumination of the sign shall be permitted.

(4)

Off-street parking shall be provided in accordance with § 345-14. In addition, sufficient off-street storage area shall be provided to accommodate the vehicles utilized by the funeral home.

F.

Gasoline station.

(1)

Use of gasoline filling stations shall be limited to the retail sale of motor fuel, lubricants and other motor vehicle supplies and parts and customary minor repair and service activities, not including body and fender work. There shall be indoor bays or garage space for no more than four motor vehicles. Use of a gasoline filling station for storage or parking of new or used motor vehicles, including limousine and taxi vehicles for sale or hire shall not be permitted.

(2)

All repair and service work other than emergency service shall be conducted entirely within a building. There shall be no outdoor storage of partially dismantled motor vehicles except for temporary parking before and after servicing, not exceeding two days' duration.

(3)

The site of a gasoline filling station shall have a frontage of at least 150 feet on a public street and shall have a depth of at least 100 feet.

(4)

Gasoline pumps and other service equipment shall be set back from a street lot line at least 20 feet. All other buildings and structures shall be set back at least 40 feet from a street lot line and 15 feet from other lot lines, unless larger distances are specified in the Regulations. All buildings, pumps and other service equipment shall be set back at least 30 feet from the boundary of any residence district, and a landscaped area at least 10 feet wide containing a dense screen of evergreens at least eight feet in height shall be maintained between any filling station and a contiguous lot in a residence district. ~~except that in any C2 Central Business District said evergreens need not be provided between any filling station and a contiguous lot in a residence district, but if said screen of evergreens is not provided, there shall be required instead a solid faced fence at least six feet high, with the smooth side facing any contiguous lot in a residence district.~~

(5)

There shall be no more than two driveways entering on any street. Such driveways shall not be more than 35 feet nor less than 20 feet wide at the curblin and shall be at least 20 feet along the lot line from any intersection of public streets. There shall be a curb at least six inches in height separating public sidewalks and automobile service areas except where driveways cross the public sidewalks. All driveways in the sidewalk area of the street right-of-way and automobile service areas around the pumps shall be permanently improved with a paved concrete surface. All other service areas shall be improved with a paved surface as well.

(6)

There shall not be more than four gasoline pumps for every 10,000 square feet of lot area. Storage tanks for gasoline or motor vehicle fuels shall be located underground at least 16 inches below the finished grade, with a six-inch reinforced concrete surface over the tank area. The amount of fuel stored shall be limited to 12,000 gallons, and storage tanks shall be set back at least 15 feet from a lot line and 30 feet from the boundary of a residence district.

(7)

Gasoline filling stations shall be located at least 200 feet from any place of public assembly, such as a church, hospital, library, school, community house, playground or theater.

(8)

Where car wash service is offered, there shall be additional lot area sufficient to accommodate all waiting vehicles on site but, in any case, not less than an additional 10,000 square feet and a drainage system to prevent surface drainage, approved by the Building Inspector.

(9)

All driveways provided shall be for the exclusive use of the gas station and shall at all times be at least 15 feet from any other driveway giving access to a public street.

(10)

Land under easement to another or from another shall not count in determining compliance with the frontage and setback requirements of this section.

(11)

If an automobile service station proposes to include a convenience store operation, there shall be provided sufficient and designated off-street parking to accommodate such use, in addition to the parking required for the service station operations. Access to and from the property and the layout of the site shall be adequate to permit both convenience store and service station patrons to enter and exit the site easily and safely.

(12)

All exterior lighting and signs shall be oriented so as to minimize the visual impact upon adjacent and nearby residential uses.

G.

Health club.

(1)

Off-street parking shall be provided in accordance with § 345-14 in all zones, including **C2 Main Street Business District**. ~~Central Business District~~. The adequacy of the parking shall be determined by considering all of the facilities to be contained within the health club.

(2)

If any other uses (e.g., restaurants) are proposed as part of a health club, they are subject to all of the requirements of the Port Chester Zoning Code which apply to such use, including the provision of adequate off-street parking.

H.

Hospital.

(1)

The following minimum yard dimensions shall be permissible, except as provided in Subsection H(2) below:

(a)

Front: 25 feet. In addition, the setback requirements of Subsection H(2), restricting erection of structures to within 100 feet of a contiguous lot, shall apply to a contiguous lot owned by the sponsoring corporation.

(b)

Side: 1/2 the height of the building to which the yard is related but not greater than 20 feet.

(c)

Rear: 1/2 the height of the building to which the year is related but not greater than 20 feet.

(2)

No structure shall be located within 100 feet of any contiguous lot in a residential district or across the street from any such residential district lot, except that an existing building to be so used may be as close as 50 feet to a street line.

(3)

The following maximum building height shall be permissible:

(a)

In stories: 12.

(b)

In feet: 120.

(4)

Off-street loading spaces shall be provided at the rate of one space for each 40,000 square feet of floor area used for customary hospital services.

(5)

Off-street parking space requirements shall be provided in accordance with the provisions of § 345-14 for each component use, except that the requirement for residential structures on a hospital site shall be reduced to one space for every three dwelling units.

(6)

The entrance of all off-street parking and loading spaces shall be from an internal driveway system and not from a public street.

(7)

Spacing between separate buildings on a hospital site shall be at least $\frac{2}{3}$ the height of any opposing wall.

(8)

Whenever an owner of a corporation formed under the Private Housing Finance Law of the State of New York, the assets of which upon dissolution revert to a sponsoring corporation, provides accessory housing for hospital staff members, nurses, interns and resident physicians and their immediate families on the hospital site, the combined uses shall have a minimum site area of 10 acres. In such case, the land owned by the sponsoring corporation may be considered the land of the owner for purposes of complying with the minimum site area specified in this subsection.

(a)

The minimum permissible usable open space on the immediate site of a residential structure (as required by § 345-7), contiguous with such structure shall be 100 feet for each dwelling unit.

(b)

Where the owner of such accessory housing provides accessory noncontiguous off-site parking area, the access thereto shall be provided from the owner's site, not from a public street.

I.

Hotel or motel.

(1)

Where the hotel or motel abuts a residential use or zone, there shall be a twenty-five-foot landscaped buffer provided.

(2)

Accommodations shall be rented on a daily basis. Occupancy for any guest shall be limited to not more than 30 days in any ninety-day period.

(3)

Off-street parking provided in accordance with § 345-14 shall be sufficient to accommodate the hotel or motel, plus any accessory uses such as a restaurant.

(4)

Motels and hotels shall comply with the requirements of the Motel Standards section of the Port Chester Code.

Editor's Note: See Appendix, Ch. A401, Motel Standards.

J.

Marina or yacht club.

(1)

Adequate off-street parking shall be provided for boat owners, visitors and employees.

(2)

Adequate provisions shall be made for handling of fuel and waste from boats in a manner protective of the public health and safety.

K.

Membership club, fraternal organization, etc., not operated for profit.

(1)

The organization shall be a membership corporation as defined in § 102 of the Not-For-Profit Corporation Law of the State of New York. Its facilities shall be solely for the use of its members and their personal guests.

(2)

No such membership corporation facility shall be used for any purpose not similar to an otherwise listed permitted or special exception use in the district in which it is located. Where it is similar to such an otherwise-listed special exception use, it shall conform to any special conditions and safeguards required of such listed use which are more stringent than those required in this section.

(3)

The site shall have an area of at least 1/2 acre, with a frontage of at least 100 feet on a public street having at least a sixty-foot right-of-way and a forty-foot paved roadway.

(4)

All buildings and structures shall be set back from all property lines a depth equal to that of the required front yard in the district in which it is located.

L.

Motion-picture or other theater.

(1)

Off-street parking shall be provided in accordance with § 345-14 in all zones, including C2 Central Business District.

M.

Motor vehicle sales lot.

(1)

The lot area shall not be less than 20,000 square feet.

(2)

Adequate provisions will be made for the collection and disposal of stormwater runoff from the site to prevent excessive surface drainage.

(3)

All motor vehicle storage areas shall be provided with curb blocks to prevent overrunning of vehicular area boundaries.

(4)

All area lighting fixtures shall be so designed and located that no light source is visible from outside the property line, no direct rays fall outside the property line and no light fixture is more than 20 feet above the finished grade.

(5)

Each such lot shall be provided with an office structure, including all appropriate sanitary facilities.

(6)

There shall be no more than two driveways entering on any street. Such driveways shall not be more than 35 feet nor less than 20 feet wide at the curblin and shall be at least 20 feet along the lot line from any intersection of public streets.

(7)

Protective fencing and screening at least four feet high shall be erected on all boundaries of the lot except along the front lot line, and further provided that such fencing and screening shall be at least eight feet high along any boundary abutting a residence district.

(8)

All servicing and repair of automobiles shall take place within a structure. No painting or auto body repair work shall be permitted.

N.

Nursery school, day camp or day-care center.

(1)

The location, size and character of the center or school shall be such that it will be in harmony with the appropriate and orderly development of the neighborhood in which it is situated and will not be detrimental to the value of the property in the neighborhood.

(2)

The lot on which any school is maintained shall contain at least 1,000 square feet of suitably fenced rear or side yard play area for each five children or part thereof, and each such play area shall be located not less than 30 feet from any lot line, except where the rear or side yard lot line abuts a public street, park or parkway property, and not less than 50 feet from any residential structure on any adjoining lot, and such play area shall be suitably screened with planting or other means to avoid a noise nuisance to adjoining properties.

(3)

The area used for nursery school purposes inside any building shall be on the first floor only and shall not be less than 35 square feet for each child in such school, exclusive of space in cloakrooms, lavatories, storage rooms or hallways. No basement area shall be used for child care or instruction purposes.

(4)

The school shall not have more than 15 children in any case, except if the building is of fireproof or semifireproof construction, as defined by the Building Code of the Village of Port Chester.

Editor's Note: See Ch. 151, Building and Fire Prevention.

O.

Veterinary hospital or board and care of small animals.

(1)

The lot area shall be not less than 1/2 acre.

(2)

The property shall contain adequate space for outdoor exercise areas for any animals boarding and/or being cared for at the facility.

(3)

All buildings and exercise areas shall be set back a minimum of 50 feet from any adjacent residential use or residentially zoned area; such set back shall be suitably landscaped to serve as a buffer area.

(4)

All animals shall be boarded indoors overnight.

(5)

The facility shall be duly licensed as required by New York State law.

P.

Wholesale business, storage building or warehouse.

(1)

Such uses are applicable only in areas where there is an existing land use mix of residential and commercial or industrial within 300 feet of the subject property.

(2)

Such uses must be accessory uses to the primary use of the property.

(3)

Adequate screening must be provided.

(4)

The subject property must meet all applicable off-street parking and truck-loading requirements.

(5)

Retail accessory to warehouse.

(a)

Not more than 25% of the total floor area of a warehouse building shall be utilized as retail space.

(b)

Sufficient off-street parking for both the warehouse and the retail uses shall be provided in accordance with § 345-14.

Q.

Multifamily dwelling.

(1)

The minimum lot size requirement is 20,000 square feet.

(2)

The minimum distance from a two-family or single-family zoning district boundary shall be 500 feet, except that the foregoing restriction shall not apply to developments which, in the discretion of the Planning Commission, meet the following criteria: a) proposed site to be not less than one acre; b) the roadways, circulation and site access are adequate; c) there are utility and other services sufficient to meet the requirements of the site.

[Amended 3-23-2006 by L.L. No. 6-2006]

(3)

The applicant shall submit traffic analysis which indicates that the proposed project will generate peak-hour traffic flows which can be handled by the existing street system and/or proposed improvements to the street system at satisfactory levels of service.

(4)

Capacities.

(a)

The applicant shall submit an engineer's report certifying to the satisfaction of the Village that existing infrastructure systems, together with project improvements, will have sufficient capacities for the following:

[1]

Water fire flows to meet the appropriate standards of the Board of Fire Underwriters for the type of project proposed.

[2]

Sanitary sewer service which can be transmitted from the site to the treatment plant without exceeding system capacities.

[3]

A drainage system which will not increase the rate or volume of stormwater runoff presently coming from a site.

[4]

Access to and from the site which shall be a major thoroughfare.

(b)

The applicant must demonstrate that the development would not generate school-age children who could not be absorbed into the existing school capacity.

(5)

The project shall include adequate recreation areas, either as outdoor open space as prescribed in § 345-7 or as a functionally equivalent amount of indoor space.

(6)

Adequate laundry facilities shall be provided within the building to serve the needs of the residents.

(7)

Each building shall have a trash compactor capable of handling the volume of trash expected to be generated therein.

R.

Shooting ranges, with or without accessory sales of guns and equipment.

[Added 10-30-1991 by L.L. No. 22-1991]

(1)

No such range shall be closer than 500 feet to the property line of any residential district, school, church or establishment serving alcoholic beverages.

(2)

Parking shall be provided on site at the rate of one space per 200 square feet of gross floor area.

(3)

Shooting ranges shall be fully enclosed and no shooting shall take place outside of the building.

(4)

The site shall have an area of at least 1/2 acre with a frontage of at least 100 feet and all buildings and structures shall be set back from all property lines a depth of 30 feet.

S.

Satellite earth stations. **[Added 7-1-1992 by L.L. No. 7-1992]**

(1)

Location. A satellite earth station or tower shall not be located in any portion of a front yard and shall be no closer than the minimum distance established for accessory structures for the district within which it is to be located. Either use may be excluded from a side yard if it is determined to be visible from a street. A satellite earth station or a tower shall not be mounted on a roof or attached to a structure or building in any single- or two-family residential district. A satellite earth station shall not be permitted within 18 feet of the rear or side yard boundary of any lot located in a single-family or two-family residential district.

(2)

Size. The dish component of the satellite earth station shall not be greater than 10 feet.

(3)

Height. A ground-mounted satellite earth station shall not exceed 15 feet in height above ground level. A satellite earth station mounted on a building, structure or roof shall not exceed 12 feet in height. The height of a satellite earth station shall be measured from the bottom of its base or pad to the highest point of the station when in its most vertical position.

(4)

Material. All satellite earth stations shall be of materials and colors which conform to surrounding areas and buildings. Stations cannot be reflective, brightly colored or otherwise obtrusive.

(5)

Screening. All satellite earth stations, including any attachment thereto, shall be reasonably located and screened to minimize visibility from streets and surrounding properties by using fencing, landscaping and architectural features.

(6)

Other requirements.

(a)

No more than one satellite earth station shall be located within any lot located within any residential district or within 100 feet of any residential district line or residential structure in nonresidential districts.

(b)

A satellite earth station in a single-family residential district shall be designed for the exclusive use of the residents of the lot within which the station is located.

(c)

All satellite earth stations shall be designed, constructed and installed in conformance with all building, electrical, fire prevention, noise and other applicable codes of the Village of Port Chester as well as any other construction or performance standards, rules and regulations of any governmental entity having jurisdiction over such devices, including, without limitation, the Federal Communication Commission (FCC).

(d)

No application for a special exception use permit shall be deemed complete until a detailed design has been submitted showing and justifying the location, elevation, the maximum swing of the operating arc and screening. The Planning Commission may, after initial review, require additional data as it deems necessary.

(e)

All approved special exception use permits shall include language which limits the rights of the permit holder to use the satellite earth station under existing conditions. The Village provides no assurances to the permit holder that any future development within the area will not limit his or her ability to receive, relay or transmit any or all microwave signals. Should a permit holder's use of the satellite earth station be diminished by future development in the vicinity of his property, he may reapply for a new location on his property under the conditions provided herein.

T.

[Editor's Note: Former Subsection T, Towers, added 7-1-1992 by L.L. No. 7-1992, was repealed 2-1-1999 by L.L. No. 4-1999. See Article XVIII of this chapter. Limited-service hotel.] [Added 3-28-2001 by L.L. No. 6-2001]

(1)

A limited-service hotel shall have a minimum lot area of one acre.

(2)

When a limited-service hotel abuts a residential zone or use, a minimum twenty-five-foot landscaped buffer shall be provided.

(3)

Loading, service and refuse disposal areas shall be screened from adjacent properties and shall not be located adjacent to residential zones or uses.

(4)

HVAC and mechanical equipment shall be enclosed and screened. Noise generated by this equipment shall not exceed the surrounding ambient background noise level, or 60 dBA measured at the property line.

(5)

Off-street loading spaces shall be provided at a rate of one space for each 100,000 square feet of gross floor area.

(6)

The entrance to all off-street parking areas shall be from an internal driveway system, and not from a public street.

(7)

An enclosed short-term parking/dropoff area shall be provided. This area shall be located on an interior driveway, and not on a public street. This area shall be of sufficient width to allow unobstructed vehicular circulation when a vehicle is standing.

(8)

High-intensity security lighting in parking areas shall be prohibited.

U.

Medical and dental offices including x-ray and therapy room. **[Added 2-1-1995 by L.L. No. 1-1995; amended 11-3-2003 by L.L. No. 9-2003]**

(1)

The use shall not be permitted on a lot having an area of less than 12,500 square feet.

(2)

The site must be located within 500 feet of an M-1 Zone.

(3)

The site must be located no more than .6 mile from a hospital.

(4)

Adequate emergency access shall be assured through access to a major thoroughfare.

(5)

A site plan is to be provided for approval by the Planning Commission, showing compliance with the above conditions and the site plan regulations.

V.

[Editor's Note: Former Subsection V, Catering and events facility, was repealed 6-1-2009 by L.L. No. 8-2009. Pawnshops.] [Added 3-7-2011 by L.L. No. 4-2011]

(1)

Any pawnshop located within the Village of Port Chester must be operated by a pawnbroker, licensed in accordance with the provisions of Chapter 206 of the Village Code.

(2)

The establishment, maintenance, or operation of any pawnshop shall not be detrimental to or endanger the public health, safety, morals, comfort and general welfare.

(3)

Pawnshops shall not be injurious to the use and enjoyment of other property in the immediate vicinity, nor substantially diminish property values within the neighborhood.

(4)

No alcohol is allowed to be sold or consumed on the premises of a pawnshop.

(5)

There shall be no other pawnbroker, secondhand goods dealer, auction house dealer, or consignment house within 1,000 feet.

(6)

No pawnshop shall be located within 1,000 feet of a school, church or other place of public assembly.

(7)

No pawnshop shall be located within 250 feet of a residential zoning district (measured from the principal entry of the pawnshop).

(8)

No pawnshop shall be permitted to purchase, repurchase, redeem, service, repair or conduct any other transaction concerning firearms (including antique firearms) or weapons as regulated under Article 265 of the New York Penal Law, Firearms and Other Dangerous Weapons.

(9)

Parking ratio: at least one off-street parking space shall be provided for each 150 square feet of gross floor area. An additional off-street parking space shall be provided for each 1,000 square feet of area devoted exclusively to merchandise storage.

(10)

All trash or garbage receptacles must be located in the rear or side yard and be totally screened from view from any public right-of-way. Provisions must be taken to protect screening from vehicle damage.

W.

Automobile dealership service center. **[Added 1-5-2004 by L.L. No. 3-2004]**

(1)

All servicing and repair of automobiles shall take place entirely within the building, and no servicing or repair of vehicles shall be visible from any adjacent public street. No painting or auto body repair work shall be permitted. There shall be no outdoor storage of vehicles being serviced or repaired except for temporary parking of such vehicles before and after servicing. On-site storage of vehicles for sale or resale shall be permitted at the site, provided that such storage of vehicles is solely contained within the building.

(2)

The minimum gross floor area utilized by the facility within the building shall be 80,000 square feet of which portions of such floor area shall be utilized exclusively as office space and/or employee utility space together having a floor area ratio of more than .10 with reference to the total service area, and any area utilized exclusively as a customer service area shall not exceed 70% of the total gross floor area.

(3)

A retail accessory use shall be permitted at the site, provided not more than 5% of the gross floor area is utilized for such retail use.

(4)

Sign regulations. In addition to the requirements of § 345-15 herein, no flashing, moving or intermittently illuminated advertising devices are permitted. All signs shall be integrated with the architectural design of the structure. No sign shall project above the roof of the structure.

(5)

Gas pump. One gas pump may be installed at the site, provided it is used solely for the vehicles being serviced or repaired therein, and it is not utilized for sale to the general public and it is installed as required by the State of New York.

(6)

Such facility must be duly licensed as an authorized repair facility as required by the State of New York.

(7)

The applicant shall submit a traffic analysis which indicates that the proposed project can be accommodated by the existing roadway system and/or proposed improvements to the roadway system at satisfactory levels of service.

(8)

All plots, lots or parcels of land containing 15,000 or more square feet of area or having or proposing a use requiring 20 or more parking spaces, or both, shall comply with the following requirements:

(a)

The requirements of § 345-14I(1) shall not apply to this use, except that there shall be provided an accessway running from a public road to the parking area of the lot.

(b)

The way and drive contained therein shall be for the exclusive use of the property and parking area.

(c)

The way at the curbline and throughout its length shall be not less than 15 feet from any other way or driveway providing access to a public street and not less than five feet from any lot line, except a street lot line.

(d)

Any driveway providing ingress and egress to a public street shall not pass through the parking and/or drive area of any other lot.

(e)

Access, but not frontage, may be provided by grant of easement, but the size of the lot impressed with the easement shall be reduced by the area comprising the easement before computing area, setback, and special exception requirements.

(f)

The requirements of this section shall be in addition to the frontage and minimum yard dimension requirements of the Code.

(g)

Any modification to the curbs cuts at the site shall be approved by the New York State Department of Transportation.

(9)

The site must be located no more than .33 mile from an accessway to a New York State or U.S. highway.

(10)

Parking. There shall be provided at the site sufficient parking spaces for all vehicles stored or being serviced at any one period of time. In addition, sufficient parking for the office space and any retail space shall be provided in accordance with § 345-14, except that there shall be no parking requirement for any retail space containing less than 500 square feet.

(11)

Loading and unloading. Loading spaces shall be provided at the site in accordance with § 345-14. All loading and unloading shall be performed entirely within the lot. Loading units shall be designated to ensure that vehicles serving the lot shall do so without backing into or out of any public street. Loading bay doors shall be appropriately screened from any public street.

(12)

Collection and storage of waste. Facilities for the collection and temporary storage of rubbish, garbage, and waste shall be provided within the structure or in secured containers on the site, which are appropriately screened from any public street. Disposal of waste shall be performed in accordance with the standards promulgated by the State of New York.

(13)

Fencing. The site shall be fenced or otherwise secured in a manner which prevents unauthorized access by the general public to areas where vehicles are stored; however, no electrified and/or razor ribbon fencing shall be permitted.

X.

Ground floor office as accessory use to multifamily development. **[Added 3-23-2006 by L.L. No. 6-2006]**

(1)

The purpose of this special exception use is to permit ground floor office use in a C-2 Zone as a component of and in connection with a special exception use permitting multifamily development. For purposes of this section "office use" shall be defined as professional offices, including but not limited to medical, legal, architectural, real estate, insurance or other similar professional uses. The use as a ground floor office shall be in addition to the currently permitted C2 ~~Main Street Business~~ ~~Central Business~~ uses. This section provides criteria in which such use is to be permitted so that said special exception use may be planned and developed in an orderly manner on parcels of land which are appropriate for such use. It is further the intent to:

(a)

Encourage residential development, in a commercially zoned area, by maximizing the flexibility of uses for accessory ground floor space;

(b)

Provide control of any such uses through the Planning Commission under § 345-59D(2).

(2)

In addition to the general standards, set forth in §§ 345-59 and 345-60, for the granting of a special exception use, the Planning Commission shall also consider the following criteria:

(a)

The relationship of the proposed or existing multifamily use, including, but not limited to:

[1]

Size of the parcel;

[2]

Nature of the structure;

[3]

Nature of the occupancy;

[4]

Sufficient off-street parking for both the multifamily and office use must be provided in accordance with § 345-14;

[5]

Adequacy and ease of access to the space.

ARTICLE XI Planned Mixed Use District

§ 345-62. Planned Mixed Use District

A.

Purpose of district.

(1)

It is the purpose of the Planned Mixed Use (PMU) District to provide the opportunity for creation of an environmentally sound and visually attractive mixed use area to replace the de-commissioned hospital located at 406 Boston Post Road (Section 141.052, Block 1, Lot 2) and the adjacent 12-story residential apartment building located at 999 High Street (Section 141.052, Block 1, Lot 2). This section provides the criteria so that such mixed use development, incorporating a variety of commercial, office, residential

and community facility uses, may be planned and developed in a unified manner. The creation of a mixed use development shall be comprised of one or a combination of the following uses:

B.

Permitted principal uses.

(1)

Multi-family dwellings containing efficiency, one-bedroom and two-bedroom units only; age restricted housing (e.g., 55+); convalescent home or nursing home.

(2)

Hotel or motel.

(3)

Bar or tavern; catering and events establishment; cabaret; table service restaurant, no drive-in, open front, fast-food or curbside service types.

(4)

Assembly hall; membership club, fraternal organization or similar social institution not operated for a profit.

(5)

Health club, including racquetball facilities and indoor swimming pools; commercial indoor athletic training facility; bowling alley.

(6)

Theater.

(7)

Retail store or personal service shop.

(8)

Office, office building; bank, excluding drive-in.

(9)

Off-street parking lot or garage for motor vehicles; minimum requirements shall be in accordance with §345-14.

C.

Permitted accessory uses.

(1)

Private garage or private off-street parking area, in accordance with § 345-14.

(2)

Sign, in accordance with § 345-15.

D.

Special Exception Uses.

(1)

Church or other place of worship, parish house, rectory, Sunday school, convent, seminary; customary accessory structure or use, including cultural, recreational or athletic facility, meeting room or similar accessory structure or use related to a school, church or other place of worship.

(2)

Hospital; medical and dental offices; ethical pharmacy.

(3)

School, elementary or high, public, private or parochial, having a curriculum equivalent to that ordinarily given in public schools; nursery school, day camp or day-care center.

(4)

Funeral home.

(5)

Radio or television station studio, excluding transmission tower.

(6)

Veterinary hospital or board and care of small animals.

(7)

Ground-floor office as accessory use to multi-family development.

E.

Dimensional standards and requirements.

(1)

The maximum floor area ratio (FAR) for all uses shall be 0.80, excluding any incentive density increases which may be granted pursuant to the requirements set forth in §345-67 and with approval by the Village Board of Trustees.

(2)

The maximum floor area ratio (FAR) for hotel/conference uses shall be 0.40.

(3)

The maximum floor area ratio (FAR) for commercial uses shall be 0.20.

(4)

The maximum floor area ratio (FAR) for residential uses shall be 0.20.

(5)

The maximum floor area ratio (FAR) for age restricted (e.g., 55+) and/or assisted living uses shall be 0.30.

(6)

The maximum floor area ratio (FAR) for community facility uses shall be 0.10.

(7)

The maximum site coverage (buildings, access roads and parking, but excluding walkways) shall be seventy percent (70%).

(8)

The maximum building height for hotel uses shall be eight (8) stories or eighty-five (85) feet.

(9)

The maximum building height for mixed use (commercial/residential) structures shall be five (5) stories or fifty-five (55) feet. A maximum building height of eight (8) stories, or eighty-five (85) feet shall be allowable by special exception, subject to approval by the Village Board of Trustees and excluding any incentive density increases which may be granted pursuant to the requirements set forth in §345-67.

(10)

A building height bonus of two (2) stories, or fifteen (15) feet over the maximum building height allowable by special exception is available pursuant to the requirements set forth in §345-67 and with approval by the Village Board of Trustees.

(11)

With respect to mixed use (commercial/residential) structures, the ground floor space shall consist only of commercial uses; upper floor space shall consist only of residential uses.

~~§ 345-62. PRSP Planned Railroad Station Plaza Development District.~~

~~A.~~

~~Permitted principal uses.~~

~~(1)~~

~~Village parking lot or garage for passenger motor vehicles.~~

~~(2)~~

~~Village offices or recreation facilities.~~

~~B.~~

~~Permitted accessory uses.~~

~~(1)~~

~~Any accessory building or use customarily incident to a permitted use.~~

~~C.~~

~~Planned railroad station plaza development, subject to approval by the Village Board of Trustees, after a public hearing and pursuant to the following procedures and requirements.~~

~~(1)~~

~~The planned railroad station plaza development may include one or a combination of the following uses:~~

~~(a)~~

~~Any of the uses listed in Subsections A and B above.~~

~~(b)~~

~~Membership club, fraternal organization and similar social institutions not operated for profit.~~

~~(c)~~

~~Office, office building; bank, excluding drive-in facilities.~~

~~(d)~~

~~Railroad passenger station, bus and taxi passenger facilities.~~

~~(e)~~

~~Restaurant or other places serving food or beverages, other than a drive-in restaurant.~~

~~(f)~~

~~Retail store or personal service shop not exceeding 1,200 square feet of floor area; further provided that the total floor area devoted to such uses shall not exceed 1% of the total floor area of the principal uses in the district, excluding off-street parking, Village offices and recreation facilities, and all accessory uses.~~

~~(2)~~

~~The planned railroad station plaza development application shall be submitted as a modification of the Village Comprehensive Plan and shall include the following:~~

~~(a)~~

~~Proposed land use plan, including land area, total floor area by use and floor area by use for each building level.~~

~~(b)~~

~~Proposed horizontal and vertical circulation plan for vehicles, pedestrians and service deliveries; and an analysis of the impact of the projected traffic generation on the surrounding community.~~

~~(c)~~

~~Proposed drainage and utility service analysis and plan.~~

~~(d)~~

~~Proposed plan for coordination of the planned railroad station plaza development proposal with projected land uses, circulation, community facilities and utilities in the vicinity, including any proposed agreements regarding such coordination.~~

~~(e)~~

~~Such other supporting documentation as the Village Board of Trustees shall request.~~

~~(3)~~

~~Prior to taking action on the proposed planned railroad station plaza development, the Village Board of Trustees shall hold a public hearing after public notice.~~

~~(4)~~

~~The planned railroad station plaza development approval by the Village Board of Trustees shall be adequately documented to provide a definitive basis for the issuance of building permits. Such approval and building permits shall expire two years after such authorization if substantial work has not been completed within such period. Extension of the approval and building permits may be granted by the Village Board of Trustees.~~

~~(5)~~

~~Planned railroad station plaza development uses shall be construed to be conforming uses.~~

~~(6)~~

~~Any violation of the limitations or special conditions and safeguards established by such specific authorization and approval shall be deemed to be a violation of this Regulation punishable under the provisions of § 345-26.~~

~~(7)~~

~~The fee for a planned railroad station plaza development zoning permit application shall be as set forth in Chapter 175, Fees. Such fee shall not be refundable. [Amended 11-3-1997 by L.L. No. 17-1997]~~

~~(8)~~

~~In approving such an application, the Village Board of Trustees shall determine that:~~

~~(a)~~

~~Such use will be in harmony with and tend to promote the general purposes and intent of this Regulation and the Village Comprehensive Plan.~~

~~(b)~~

~~The district site area is sufficient, appropriate and suitably situated for the uses and the reasonably anticipated operation and expansion thereof.~~

~~(c)~~

~~The proposed uses will not prevent the orderly and reasonable use of adjacent properties in adjacent zoning districts.~~

~~(d)~~

~~Access facilities are adequate for the estimated traffic from public streets, sidewalks and public transportation, so as to assure the public safety and to avoid undue traffic congestion; and further that vehicular entrances and exits shall be clearly visible from the street and not be within 75 feet of the intersection of street lines at a street intersection, except under unusual circumstances.~~

~~(e)~~

~~All proposed curb cuts and signalization shall have been approved by the street or highway agency which has jurisdiction.~~

~~(f)~~

~~There are off-street parking and truck loading spaces at least equivalent in number to those required in this section, but in any case sufficient for the anticipated number of occupants, both employees and patrons or visitors; and further, that the layout of the spaces and driveways is convenient and conducive to safe operation.~~

~~(g)~~

~~There are adequate yards, walls, fences and screening where necessary to protect the public and adjacent properties.~~

~~(h)~~

~~Adequate provisions have been made for the collection and disposal of stormwater runoff from the site, and of sanitary sewage, refuse or other wastes, whether they be liquid, solid, gaseous or of any other character.~~

~~(i)~~

~~Public open spaces are so designed and landscaped as to enhance the environment of the Central Business District of the Village.~~

~~D.~~

~~Maximum floor area ratio. (See definition, § 345-2.) The maximum floor area ratios set forth herein shall apply to the aggregate of all buildings and structures on the district site:~~

~~(1)~~

~~Parking garage structure on the east side of the railroad tracks only shall have a floor area ratio not exceeding 1.80 with reference to the total district land area, provided that no one story shall exceed 0.45 and that the top floor level shall be an open deck except for a potential covered walkway.~~

~~(2)~~

~~Parking garage structure on the west side of the railroad shall generally be below grade; nevertheless its floor area ratio shall not exceed 1.20 with reference to the total district land area, provided that no one story shall exceed 0.40 and that the top floor level shall be an open deck developed as the plaza setting for the proposed buildings, including only short-term off-street parking with an area not exceeding 50% of the total plaza area.~~

~~(3)~~

~~The aggregate floor area of any aboveground structures on the west side of the railroad tracks shall not exceed a floor area ratio of 2.0 with reference to the total district land area, provided that no one story shall exceed 0.25.~~

~~E.~~

~~Minimum size of lot.~~

~~(1)~~

~~Area: 6 1/2 acres.~~

~~(2)~~

~~Width: none.~~

~~(3)~~

~~Depth: none.~~

~~F.~~

~~Minimum yard dimensions:~~

~~(1)~~

~~Front: none, except as required by the Village Board of Trustees.~~

~~(2)~~

~~Side:~~

~~(a)~~

~~Least one: none, except as required by the Village Board of Trustees.~~

~~(b)~~

~~Total of two: none, except as required by the Village Board of Trustees.~~

~~(3)~~

~~Rear: none, except as required by the Village Board of Trustees.~~

~~G.~~

~~Maximum height of buildings:~~

~~(1)~~

~~East side of the railroad: 45 feet.~~

~~(2)~~

~~West side of the railroad: 235 feet.~~

~~H.~~

~~Maximum usable open space on lot, as required by § 345-10C: none.~~

~~I.~~

~~Mandatory off-street loading space (as defined in § 345-14): for all buildings other than parking garages: one space for each 60,000 square feet of floor area or part thereof, plus one additional space for railroad-related use.~~

~~J.~~

~~Other provisions and requirements.~~

~~(+)~~

~~Required off-street parking shall be computed on the basis of 3.0 parking spaces for each 1,000 square feet of net floor area, plus 500 parking spaces for railroad commuters and employees.~~

ARTICLE XII
Planned Residential Development District
[Added 11-5-1979 by L.L. No. 17-1979]

§ 345-63. PRD Planned Residential Development District.

A.

Purpose of district.

(1)

It is the purpose of this planned residential development (PRD) section to provide performance criteria as the basis for flexible use and design regulations so that residential developments incorporating a variety of residential types and containing both individual building sites and common property may be planned and developed in a unified manner on those large tracts of vacant or predominantly vacant land that are appropriate for such use.

(2)

It is further the intent:

(a)

To encourage innovations in residential development so that the growing demands for housing of different types at all economic levels may be met by greater variety in type, design and siting of dwellings.

(b)

To encourage the maximum reasonable conservation and the most efficient possible use of large tracts of land.

(3)

These objectives cannot be achieved through the use of rigid and uniform traditional bulk and use zoning and subdivision regulations.

B.

Rezoning to PRD. Where PRD techniques are deemed appropriate, the rezoning of land to a Planned Residential Development District by the Board of Trustees replaces the use and dimensional specifications contained elsewhere in this Regulation by an approval process in which an approved plan becomes the basis for continuing land use controls. Among the specific objectives which are to be achieved through the use of PRD techniques are the following:

(1)

An increase in choices of housing types (one-family detached, semidetached, attached and multifamily dwellings) available to Village residents.

(2)

More usable open space and recreation areas.

(3)

Preservation of trees and outstanding natural topographic and geological features and prevention of soil erosion.

(4)

A smaller network of utilities and streets which would lower housing and public maintenance costs.

(5)

A more desirable environment than would be possible through the strict application of other provisions of this Regulation.

C.

Standards and general requirements for planned residential developments.

(1)

The minimum area to qualify for a PRD District shall be 10 contiguous acres of land. Where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this section, plans covering lesser acreage may be considered.

(2)

A PRD shall have access to an arterial street.

(3)

The following shall be permitted uses:

(a)

Dwelling units of all types subject to the requirements of Subsection C(5) of the within regulations.

(b)

Public and semipublic recreational facilities where such uses are limited and scaled to serve the residents of the PRD Development.

(4)

Accessory uses permitted in the PRD shall be:

(a)

Home professional office or studio of a physician, dentist, architect, engineer or similar professional person, only if such person is a resident on the premises. (Special exception use.)

(b)

Private garage or private off-street parking space, in accordance with § 345-14. (Permitted use.)

(c)

Signs, in accordance with the applicable provisions of § 345-15, only at the main entrance road to the development.

(5)

Residential density and standards.

(a)

The gross density, measured over the entire tract but exclusive of any land to be occupied by public recreational facilities whose use is not limited to the residents of the PRD (and such land shall not be included in the gross measure of the tract), shall be based upon the following minimum lot area formula:

Dwelling Size

Efficiency and 1 bedroom

Lot Area (square feet)

5,000

2 bedrooms	6,500
3 bedrooms	9,000

(b)

In no case shall one dwelling size (zero, one, two or three bedrooms) exceed 70% of the total number of dwelling units.

(c)

There shall be off-street parking facilities provided as follows, and further, they shall be in accordance with § 345-14 of this Regulation:

**Schedule of Off-Street Parking
Space Requirements
(For Residential Land Uses)**

Uses	Number of Spaces Required
Planned residential development (PRD District)	2 per dwelling unit

(d)

Required minimum usable open space shall be provided as follows: for each dwelling unit, 3,500 square feet.

(e)

Maximum height of buildings shall be 2 1/2 stories or 35 feet.

(6)

Common areas and facilities.

(a)

Common areas and facilities in a PRD are a parcel or parcels of land, together with all improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual sites or dwelling units. Where common areas or facilities exist, the ownership of such property may be either public or private. Where such areas or facilities are not dedicated to the Village of Port Chester or other public agency, the owner shall provide for and establish an organization for the continued ownership and maintenance thereof. Such organization shall not be dissolved nor shall it dispose of any common areas or facilities by sale or otherwise.

(b)

In the event that the organization established to own and maintain common areas or facilities, or any successor organization, shall, at any time after establishment of the planned residential development, fail

to maintain the common areas or facilities in reasonable order and condition in accordance with the approved plan, the Village of Port Chester may serve written notice upon such organization or upon the residents and owners of the PRD setting forth the manner in which the organization has failed to maintain the common areas or facilities in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within 30 days thereof and shall state the date and place of a hearing thereon which shall be held within 15 days of the notice. At such a hearing, the Village may extend the time within which the deficiencies shall be cured. If the deficiencies set forth in the original notice shall not be cured within said 30 days or extension thereof, the Village, in order to preserve the taxable values of the property within the PRD and to prevent the common property from becoming a public nuisance, may enter upon said common areas or facilities and maintain the same. Said entry and maintenance shall not vest in the public any rights to use the common areas or facilities except when the same is voluntarily dedicated to the public by residents or owners. The cost of such maintenance by the Village shall be assessed equally against the properties within the PRD that have a right of enjoyment of the common areas or facilities and shall become a tax lien on said properties. The Village, at the time of entering upon said common areas or facilities for the purpose of maintenance, shall file a notice of such lien in the office of the County Clerk upon the properties affected by such lien within the PRD.

D.

Site and structure requirements.

(1)

It shall be the Village policy to preserve and incorporate into the landscaping of the development natural features such as streams, rock outcrops, trees and shrubs. All trees with a diameter of eight inches or more, measured three feet from the base of the tree, shall be preserved to the fullest extent possible, consistent with good design, engineering and reasonable development of the site. Permission to remove any such trees shall be subject to approval by the Planning Commission.

(2)

Where adequate surface drainage is not possible by grading alone, a supplementary drainage system approved by the Village Engineer shall be required.

(3)

All electric, telephone, cable television and similar equipment shall be installed underground in accordance with the New York State Public Service Commission regulations.

(4)

Lot sizes and dimensions, and structure locations thereon, may be freely disposed and arranged in conformity with the overall density standards set forth herein. In reviewing any application for a PRD, the Planning Commission shall be guided by standards set elsewhere in this Regulation for comparable uses and by common good planning practice, to the end that the resulting development shall be compatible with the surroundings and to assure the stability of the uses proposed to be developed on the site.

(5)

The right-of-way and pavement widths for internal roads serving multifamily dwellings shall be adequate and sufficient in size, location and design to accommodate the maximum traffic, parking and loading needs and the access of fire-fighting equipment and police or emergency vehicles. The pavement of the main access road into and through the interior of the PRD shall be not less than minimum standards for public roads and shall be subject to all applicable Village standards. The pavement of the interior roads shall meet such standards as shall be approved by the Planning Commission and the Board of Trustees, and such requirements shall be made part of the final site plan.

(6)

The developer shall provide all necessary on-site water and sewer facilities including, if necessary, water storage tanks, storm drainage, highway access, paved service streets, sidewalks, parking and loading facilities, lighting, fire alarm system and other necessary facilities making reasonable provision for utility service connections with adjoining properties in other ownerships. Such proposed improvements shall be subject to review and approval by the appropriate Village or private authority having jurisdiction thereof.

(7)

A buffer strip shall be provided along any property line and along any street line. Said strip shall be at least 50 feet in depth measured inward from the street line and any property line and shall be suitably landscaped with grass and shrubs, trees or other ground cover or such screening as the Planning Commission may prescribe. No parking shall be permitted in this area.

(8)

Maximum land coverage of the site shall be 30%. Said calculation of coverage will include buildings, roads and parking.

(9)

Park land. It shall be a condition of development plan approval that the applicant shall provide for recreational facilities in accordance with § 14-A of the Land Subdivision Regulations of the Village of Port Chester.

Editor's Note: See Appendix, Ch. A402, of this Code.

(10)

No more than eight dwelling units may be attached, semiattached, grouped or clustered into a contiguous structure.

E.

Application procedure and approval process.

(1)

Submission of a preliminary site plan and rezoning application.

(a)

In order to allow the Planning Commission and the developer to reach an understanding on basic design requirements and the appropriateness of rezoning at the earliest opportunity, the developer shall submit a preliminary plan of his proposal to the Commission. The preliminary plan, which shall be accompanied by a rezoning application, shall be approximately to scale, though it need not be to the precision of a finished engineering drawing, and it shall clearly show the following:

[1]

The disposition of various land uses and the areas covered by each, in acres.

[2]

The general outline of the interior road system and all existing and proposed rights-of-way and easements, whether public or private.

[3]

Delineation of the various residential areas indicating the number of dwelling units by each housing type and size, plus a calculation of the density in accordance with the formula described in Subsection C(5)(a) above.

[4]

The interior common open space system and a statement as to how it is to be owned and maintained.

[5]

The interior drainage system and how it is proposed to be connected to the drainage systems of adjoining areas.

[6]

If the development is to be staged, clear indication of how the staging is to proceed.

[7]

Evidence of how the proposal would meet the planning objectives of the PRD as set forth in Subsections A and B of this section.

[8]

Evidence in the applicant's own behalf to demonstrate his competence to carry out the plan and his awareness of the financial and organizational scope of such a project.

(b)

The Planning Commission shall review the preliminary site plan and all related documents and shall render either a favorable report to the Board of Trustees or an unfavorable report to the applicant within

45 days. If no report has been rendered after 45 days, the applicant may proceed as if a favorable report were given to the Board of Trustees.

[1]

A favorable report shall include a recommendation to the Board of Trustees that a public hearing be held for the purpose of considering the desirability of mapping the subject property as a PRD Zoning District.

[2]

If there is an unfavorable report on the preliminary site plan, the Planning Commission's statement shall contain the reasons for such findings. In such case, the Planning Commission may recommend further study of the site plan and a resubmission of the preliminary site plan after it has been revised or redesigned.

(2)

Amendment of Zoning Map.

(a)

Upon receipt of a favorable report from the Planning Commission, the Board of Trustees shall conduct a public hearing for the purpose of considering an amendment to the Zoning Map to place the subject property in a Planned Residential Development District, said public hearing to be conducted within 30 days of the receipt of the favorable report.

(b)

The Board of Trustees shall follow referral procedures for zoning amendments.

(c)

The Board of Trustees shall act on the rezoning application within 90 days of the authorization for a public hearing. Approval of the PRD District application shall be duly noted on the Zoning Map of the Village of Port Chester.

(d)

PRD zoning districting shall not take effect until final site plan approval has been secured in accordance with the provisions set forth in § 345-23 of this Regulation.

(3)

Application for final site plan approval.

(a)

Following rezoning of a property to the PRD Zone, the applicant shall submit an application for final site plan review in accordance with § 345-23 of this Regulation. The application for final site plan shall be made within three months from the date of the Board of Trustee's approval for the rezoning.

(b)

The final detailed site plan shall conform substantially to the approved preliminary site plan. It should incorporate any appropriate revisions or other features that may have been recommended by the Planning Commission and the Board of Trustees.

(c)

The final site plan shall be endorsed with the necessary agreements in connection with required easements or other releases.

(d)

As a condition of final site plan approval and forming a part thereof, the developer of a PRD shall be required to file with the Board of Trustees of the Village of Port Chester a bond in an amount estimated by the Board of Trustees to secure the Village the actual and satisfactory construction and installation of required improvements. The period within which required improvements shall be constructed shall be specified by the Board of Trustees and expressed in the bond. Such performance bond shall comply with the applicable provisions of the Village Law and shall be approved by the Corporation Counsel as to form, sufficiency and manner of execution. The bond shall provide that an amount determined by the Board of Trustees to be adequate shall be retained for a period of two years from the date of completion of the required improvements to insure the satisfactory condition of the initial improvements. The estimated cost of Village inspections of required improvements shall be included in the amount of such bond.

ARTICLE XIII
Residential Office Overlay District
[Added 5-5-1986 by L.L. No. 2-1986]

§ 345-64 ROO Residential Office Overlay District.

A.

Purpose. The purpose of a Residential Office Overlay District (ROO) is to encourage the adaptive reuse of industrial land and buildings of historic significance for residential purposes in a manner which will preserve the integrity of the historic character of the property and provide suitable residential units and appropriate amenities.

B.

Qualification and procedure. A lot or lots which are situated within Light Industrial (M1) or General Industrial (M2) Districts on the Official Zoning Map of the Village of Port Chester may be classified as a Residential Office Overlay District by the Board of Trustees of the Village of Port Chester, provided that the principal structure thereon has been certified, in whole or in part, as an historic structure by the United States Department of the Interior pursuant to the authority of applicable laws and regulations, and

provided that the subject lot or lots are deemed to be otherwise suitable for such classification by said Board.

C.

Uses.

(1)

In addition to the uses authorized pursuant to §§ 345-55 and 345-56 hereof, the following shall be permitted uses:

(a)

Multifamily dwelling units of all types.

(b)

Cultural, recreational and athletic facilities for use by residents of the multifamily dwelling units and their authorized guests.

(c)

Private garages or similar structures or private off-street parking areas in accordance with § 345-14 hereof.

(2)

The following shall be accessory uses: **[Amended 6-2-1986 by L.L. No. 6-1986; 7-30-1986 by L.L. No. 11-1986]**

(a)

Signs, in accordance with the applicable provisions of § 345-15C hereof.

D.

Regulations. Any lot or lots so classified shall be subject to the following regulations:

(1)

Dimensional: **[Amended 6-2-1986 by L.L. No. 6-1986; 7-30-1986 by L.L. No. 11-1986]**

(a)

Maximum floor area ratio: 2.25.

(b)

Minimum size of lot: one acre.

(c)

Frontage: 100 feet.

(d)

Depth: 40 feet.

(e)

Maximum height of building:

[1]

In stories: seven.

[2]

In feet: 110.

(f)

Minimum average floor area per family for all residential units within a multiple dwelling (square feet) (provided that the aggregate number of units does not exceed 200): 750 square feet.

(g)

Fences shall be permitted as approved by the Board of Trustees during site plan review, but such fences shall in no event exceed four feet in height on any front or side yard nor six feet in height in any rear yard, measured above the finished grade.

(h)

The minimum height of the lowest windowsill facing an inner court within the ROO District shall be 30 feet.

(i)

The minimum open space on any lot shall be 100 square feet for each dwelling unit. For purposes of computing open space areas set aside for general resident use, lobbies, sitting rooms and recreational and athletic facilities within the structure shall be included.

(2)

Parking:

(a)

For residential uses, 1.50 parking spaces per dwelling unit shall be required.

(b)

For offices and office building uses, three parking spaces per 1,000 square feet of gross floor area shall be required.

(c)

Compact or small car spaces.

[1]

Up to 30% of the required parking spaces may be provided as compact or small car spaces in accordance with the following standards:

Angle of Parking (degrees)	Dimension (length in feet)	Minimum Width of Bay Curb to Curb Parking on One Side (feet)	Minimum Width of Bay Curb to Curb Parking on Both Sides (feet)
90	16	37	52
60	18	32	45
45	17	24	35

[2]

The width of compact or small car parking spaces shall be 7.5 feet, and the length shall be as specified in the above table.

(d)

The amount of off-street parking spaces required for two or more different uses within a ROO District may be 10% less than the sum of the minimum number of parking spaces required for each separate use therein, provided that the Board of Trustees finds that the capacity to be provided will substantially meet the intent of the requirements by reason of variations in the probable time of maximum use by residents, visitors and employees among such users, and further provided that such approval of such joint use may be terminated by the Board of Trustees upon the permanent discontinuance of either one or more of any such uses.

(e)

The required amount of parking may be met, in whole or in part, by utilizing a noncontiguous lot or lots owned by the owner(s) or occupant(s) of the premises within the ROO District, provided that such lot or lots are within 500 feet from the subject premises, as measured from lot line to lot line.

(f)

The provisions of § 345-14E hereof shall be inapplicable to the extent that they are inconsistent with the provisions hereof.

E.

Site plan review.

(1)

The procedure and standards set out in § 345-23 shall apply to Residential Office Overlay Districts, except that:

(a)

On completion of its review of any site plan submission, the Planning Commission shall not approve or disapprove the site plan. Instead it shall make a recommendation to approve or disapprove to the Village Board of Trustees and remit the same, together with all relevant documents, to the Village Board of Trustees, and the Village Clerk shall stamp such submission on the date received.

(b)

On receipt of such documents, the Village Board of Trustees shall promptly set a public hearing on such site plan and shall review the same based on the standards set out in § 345-23 of the Code.

(c)

No later than 90 days after receipt by the Village Clerk, the Village Board of Trustees shall approve or disapprove the site plan. If the Village Board of Trustees shall fail to approve or disapprove the site plan within the ninety-day period, the recommendation of the Planning Commission shall become final.

ARTICLE XIV
Limitations on Use
[Added 11-3-1986 by L.L. No. 14-1986]

§ 345-65. Security grills. [Amended 5-28-2003 by L.L. No. 2-2003]

A.

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

SECURITY GRILLS – Solid metal or open grated metal grills designed to be pulled down, folded over, or attached in front of or behind the entrance door or doors, vestibule, window display, storefront, or any other openings that face the public streets and sidewalks to prevent entry to the premises. A solid metal grill shall not be defined to include solid metal garage doors that face public streets and sidewalks and act as a primary entrance to a building rather than a security device.

B.

Solid metal grills. Solid metal grills are hereby prohibited in all districts in the Village of Port Chester.

C.

Open grated metal grills. Open grated metal grills are permitted in all districts upon application and approval of the Building Inspector, upon submittal of proper plans and substantial compliance with industry standards. A lockbox shall be installed in order to permit Village emergency service personnel to open the grills to gain access to a building and to prevent undue damage to a property in the case of an emergency. The keys to said lockboxes shall be made available to the appropriate emergency service personnel.

D.

Nonconforming uses.

(1)

All preexisting security grills that are not in compliance with this section shall be terminated, except as provided in this section. Within 30 days of the effective date of this section, a person aggrieved may make application to the Village Manager, or another Village official designated by the Village Manager on a form provided, for additional time to achieve compliance on proof of hardship due to the following factors:

(a)

The nature of an establishment with special security concerns (e.g. banks, drugstores, liquor stores); and

(b)

Official documentation of recent criminal activity against the aggrieved establishment; and

(c)

Significant financial hardship, verified by the date and cost of the original installations that would be incurred by the aggrieved property or business owner as a result of the termination of the prohibited security grill; and

(d)

Any other relevant factor the aggrieved property or business owner is able to demonstrate as a significant hardship.

(2)

Any such extension of time shall run with the occupancy for which it was approved for.

ARTICLE XV
Transitional Residential Development District
[Added 5-2-1988 by L.L. No. 8-1988]

§ 345-66. TRD Transitional Residential Development District.

A.

Purpose. The purpose of this TRD Transitional Residential Development District is to permit the establishment of a residential development zone to serve as a transitional area between districts zoned for high-density development and those zoned for limited or lower density. This section provides the criteria so that such residential development, incorporating a variety of residential types and containing both individual sites and common property, may be planned and developed in a unified manner on parcels of land which are appropriate for such use. It is further the intent to:

(1)

Encourage innovations in residential development so that growing demands for housing of different types at all economic levels may be met by greater variety and type, design and siting of dwellings.

(2)

Encourage the maximum reasonable conservation and the most efficient possible use of tracts of land.

(3)

Permit the achievement of these objectives through means other than the use of rigid and uniform traditional bulk and use zoning and subdivision regulations.

B.

Rezoning to TRD. Where TRD criteria are deemed appropriate and capable of being met, the rezoning of land to a Transitional Residential Development District by the Board of Trustees replaces the use and dimensional specifications contained elsewhere in this regulation by an approval process in which an approved plan becomes the basis for continuing land use controls. Among the specific objectives which are to be achieved through the use of TRD techniques are the following:

(1)

An increase in choices of housing types (one-family detached, semidetached, attached and multifamily dwellings) available to Village residents.

(2)

More usable open space and recreational areas.

(3)

Preservation of trees and outstanding natural, topographic and geological features and prevention of soil erosion.

(4)

A smaller network of utilities and streets, which would lower housing and public maintenance costs.

(5)

A more desirable environment than would be possible through the strict application of other provisions of this Regulation.

C.

Standards and general requirements for transitional residential developments: **[Amended 12-20-1993 by L.L. No. 19-1993; 5-16-1994 by L.L. No. 7-1994]**

(1)

Maximum floor area ratio: 1.6.

(2)

Maximum size lot.

(a)

Area total: 20,000 square feet.

(b)

Average area per dwelling unit: 1,200 square feet.*

(c)

Frontage: 100 feet.

(d)

Depth: 150 feet.

(3)

Minimum yard dimensions.

(a)

Front: 10 feet.

(b)

Side (each): 20 feet.

(c)

Rear: 20 feet.

(4)

Maximum height of building.

(a)

In stories: three.

(b)

In feet: 35.**

(5)

Minimum usable open space on lot.

(a)

For each dwelling unit: 400 square feet.

(b)

Space between buildings on the same lot: minimum 1/2 height of building.***

(6)

Parking requirements (per dwelling unit): 1.5.

(7)

In cases where properties located in a TRD district are contiguous to each other and at the time of application for site plan approval are under common ownership, the combined area of such properties may be considered for Subsections C(1), (3), (5)(a) and (6) of this section of the Port Chester Village Code, provided that the owner of the two properties files such an election with the Port Chester Building Department in a form suitable for recording at the time an application is made to rezone the property to TRD; provided, however, that the owner of an existing TRD may file such election within 30 days of the effective date of this amendment. In all cases where the election is made, notice shall be included in any offering plan and in any contract of sale of all or any part of this property covered by this election that such properties are being treated as one parcel for the purpose of measuring the requirements of Subsection C(1), (3), (5)(a) and (6) of this section of this chapter. **[Added 9-7-1994 by L.L. No. 10-1994]**

NOTES:

* To be determined based upon the total square footage of all dwelling units, but minimum sizes of dwellings required by § 345-8 shall be adhered to.

** Measured from the highest ground elevation at the building corner.

*** This provision shall control over § 345-12B and shall be established at the discretion of the Planning Commission.

D.

Common areas and facilities.

(1)

Common areas and facilities in a TRD are a parcel or parcels of land, together with all improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual sites or dwelling units. Where common areas or facilities exist, the ownership of such property may be either public or private. Where such areas or facilities are not dedicated to the Village of Port Chester or other public agency, the owner shall provide for and establish an organization for the continued ownership and maintenance thereof. Such organization shall not be dissolved, nor shall it dispose of any common areas or facilities by sale or otherwise.

(2)

In the event that the organization established to own and maintain common areas or facilities or any successor organization shall, at any time after establishment of the planned residential development, fail to maintain the common areas or facilities in reasonable order and condition in accordance with the approved plan, the Village of Port Chester may serve written notice upon such organization or upon the residents and owners of the TRD, setting forth the manner in which the organization has failed to maintain the common areas or facilities in reasonable condition, and said notice shall include a demand that such deficiencies or maintenance be cured within 30 days thereof and shall state the date and place of a hearing thereon, which shall be held within 15 days of the notice. At such a hearing, the Village may extend the time within which the deficiencies shall be cured. If the deficiencies set forth in the original notice shall not be cured within said 30 days or extension thereof, the Village, in order to preserve the taxable values of the property within the TRD and prevent the common property from becoming a public nuisance, may enter upon said common areas or facilities and maintain the same. Said entry and maintenance shall not vest in the public any rights to use the common areas or facilities, except when the same is voluntarily dedicated to the public by residents or owners. The cost of such maintenance by the Village shall be assessed equally against the properties within the TRD that have a right of enjoyment of the common areas of facilities and shall become a tax lien on said properties. The Village, at the time of entering upon said common areas or facilities for the purpose of maintenance, shall file a notice of such lien in the office of the County Clerk upon the properties affected by such lien within the TRD.

E.

Site and structure requirements.

(1)

It shall be the Village policy to preserve and incorporate into the landscaping of the development natural features such as streams, rock outcrops, trees and shrubs. All trees with a diameter of eight inches or more, measured three feet from the base of the tree, shall be preserved to the fullest extent possible, consistent with good design and engineering and reasonable development of the site. Permission to remove any such tree shall be subject to approval by the Planning Commission.

(2)

Where adequate surface drainage is not possible by grading alone, a supplementary drainage system approved by the Village Engineer shall be required. In all cases and in any event, drainage, grading and site improvements shall be subject to review and report to the Planning Commission by the Village Engineer.

(3)

All electric, telephone, cable television and similar equipment shall be installed underground in accordance with the New York State Public Service Commission regulations.

(4)

Lot sizes and dimensions and structure locations thereon may be freely disposed and arranged in conformity with the overall density standards set forth herein. In reviewing any application for a TRD, the Planning Commission shall be guided by standards set elsewhere in this Regulation for comparable uses and by common good planning practice, to the end that the resulting development shall be compatible with the surroundings and to assure the stability of the uses proposed to be developed on the site.

(5)

The right-of-way and pavement widths for internal roads serving multifamily dwellings shall be adequate and sufficient in size, location and design to accommodate the maximum traffic, parking and loading needs and the access of the fire-fighting equipment and police or emergency vehicles. The pavement of the main access road into and through the interior of the TRD shall be not less than minimum standards for public roads and shall be subject to all applicable Village standards. The pavement of the interior roads shall meet such standards as shall be approved by the Planning Commission and the Board of Trustees, and such requirements shall be made part of the final site plan.

(6)

The developer shall provide all necessary on-site water and sewer facilities, including, if necessary, water storage tanks, storm drainage, highway access, paved service streets, sidewalks, parking and loading facilities, lighting, fire alarm system and other necessary facilities, making reasonable provision for utility service connections with adjoining properties in other ownerships. Such proposed improvements shall be subject to review and approval by the appropriate Village or private authority having jurisdiction thereon.

(7)

No more than eight first-story dwelling units may be attached, semiattached, grouped or clustered into a contiguous structure. Second-story dwelling units, where applicable, shall not exceed the number of first-story dwelling units.

F.

Application procedure and approval process.

(1)

Submission of a preliminary site plan and rezoning application.

(a)

In order to allow the Planning Commission and the developer to reach an understanding on basic design requirements and the appropriateness of rezoning at the earliest opportunity, the developer shall submit a conceptual plan of his proposal to the Commission. The conceptual plan, which shall be accompanied by a rezoning application, shall be approximately to scale, though it need not be to the precision of finished engineering drawings, and it shall clearly show the following: **[Amended 4-26-1989 by L.L. No. 10-1989]**

[1]

The disposition of various land uses and the areas covered by each in acres.

[2]

The general outline of the interior road system and all existing and proposed rights-of-way and easements, whether public or private.

[3]

Delineation of the various residential areas, indicating the number of dwelling units by each housing type and size.

[4]

The interior common open space system and a statement as to how it is to be owned and maintained.

[5]

The interior drainage system and how it is proposed to be connected to the drainage systems of adjoining areas.

[6]

If the development is to be staged, clear indication of how the staging is to proceed.

[7]

Evidence of how the proposal would meet the planning objectives of the TRD as set forth in Subsections A and B of this section.

[8]

Evidence on the applicant's own behalf to demonstrate his competence to carry out the plan and his awareness of the financial and organizational scope of such a project.

(b)

The Planning Commission shall review the conceptual site plan and all related documents and shall render either a favorable report to the Board of Trustees or an unfavorable report to the applicant within 45 days. **[Amended 4-26-1989 by L.L. No. 10-1989]**

[1]

A favorable report shall include a recommendation to the Board of Trustees that a public hearing be held for the purpose of considering the desirability of mapping the subject property as a TRD Zoning District.

[2]

If there is an unfavorable report on the conceptual site plan, the Planning Commission's statement shall contain the reasons for such findings. In such case, the Planning Commission may recommend further study of the site plan and a resubmission of the conceptual site plan after it has been revised or redesigned.

(2)

Amendment of Zoning Map.

(a)

Upon receipt of a favorable report from the Planning Commission, the Board of Trustees shall conduct a public hearing for the purpose of considering an amendment to the Zoning Map to place the subject property in a Transitional Residential Development District, said public hearing to be conducted within 30 days of the receipt of the favorable report.

(b)

The Board of Trustees shall follow referral procedures for zoning amendments.

(c)

The Board of Trustees shall act on the rezoning application within 90 days of the authorization for a public hearing. Approval of the TRD District application shall be duly noted on the Zoning Map of the Village of Port Chester.

(d)

TRD zoning districting shall not take effect until final site plan approval has been secured in accordance with the provisions set forth in § 345-23 of this Regulation.

(3)

Application for final site plan approval.

(a)

Following rezoning of a property to the TRD zone, the applicant shall submit an application for site plan review in accordance with § 345-23 of this regulation. The application for site plan review is to be made within three months from the date of the Board of Trustees' application for rezoning. **[Amended 4-26-1989 by L.L. No. 10-1989]**

(b)

The final detailed site plan shall conform substantially to the approved preliminary site plan. It should incorporate any appropriate revisions or other features that may have been recommended by the Planning Commission and the Board of Trustees.

(c)

The final site plan shall be endorsed with the necessary agreements in connection with required easements or other releases.

(d)

As a condition of final site plan approval and forming a part thereof, the developer of a TRD shall be required to file with the Board of Trustees of the Village of Port Chester a bond in an amount estimated by the Board of Trustees to secure the Village the actual and satisfactory construction and installation of required improvements. The period within which required improvements shall be constructed shall be specified by the Board of Trustees and expressed in the bond. Such performance bond shall comply with the applicable provisions of the Village Law and shall be approved by the Corporation Counsel as to form, sufficiency and manner of execution. The bond shall provide that an amount determined by the Board of Trustees to be adequate shall be retained for a period of two years from the date of completion of the required improvements to insure the satisfactory condition of the initial improvements. The estimated cost of Village inspections of required improvements shall be included in the amount of such bond.

G.

Rezoning criteria. Before rezoning any property to the TRD zone, the Board of Trustees must determine: **[Added 4-26-1989 by L.L. No. 10-1989]**

(1)

That the site is adequately serviced by infrastructure appropriate to the type and scale of development proposed (water, sanitary, storm).

(2)

That the proposal will not result in degradation of the traffic conditions on the surrounding roadway network to such a degree that the level of service is Level D or lower.

(3)

That the development is appropriate to the character of the neighborhood in which it is located.

ARTICLE XVI

Marina Redevelopment Project Urban Renewal District **[Added 6-11-1991 by L.L. No. 13-1991; amended 7-14-1999 by L.L. No. 9-1999]**

§ 345-67. MUR Marina Redevelopment Project Urban Renewal District.

A.

Purpose; area covered; zoning objectives; proposed actions.

(1)

Area covered. An Urban Renewal Plan for the Village Center Urban Renewal Plan Area was adopted by the Board of Trustees of the Village of Port Chester, New York, on November 1, 1977. An Urban Renewal Plan for the Marina Redevelopment Urban Renewal Plan Area was adopted by the Board of Trustees of the Village of Port Chester, New York, on June 23, 1982. Each of these Urban Renewal Plans has been amended from time to time, the most recent of such amendments having been approved by the Village Board of Trustees on July 14, 1999, on the recommendation of the Planning Commission. The Urban Renewal Plans, as so amended, are sometimes collectively referred to below as the "Urban Renewal Plans." The Urban Renewal Plan Amendment adopted on July 14, 1999, delineates an area referred to in such amendment as the "Modified Marina Redevelopment Project," consisting of contiguous portions of the Village Center Urban Renewal Plan Area and the Marina Redevelopment Urban Renewal Plan Area. The boundaries of the Modified Marina Redevelopment Project correspond to the boundaries of the zoning district designated on the Zoning Map as the "MUR Marina Redevelopment Project Urban Renewal District."

Editor's Note: The Zoning Map is on file in the office of the Village Clerk.

(2)

Zoning objectives. The objectives of the MUR Marina Redevelopment Project Urban Renewal District are to provide for comprehensive planning of redevelopment within the MUR Marina Redevelopment Project Urban Renewal District and to encourage and permit the development of uses which will result in or accomplish the following:

(a)

Eliminate substandard, blighted, deteriorated and deteriorating conditions within the MUR Marina Redevelopment Project Urban Renewal District.

(b)

Attract new businesses, create employment opportunities, generate additional tax revenues and further private investment.

(c)

Develop new commercial uses, including but not limited to retail, wholesale membership warehouse club, multiscreen cinema theater and supermarket uses, within and in the vicinity of the MUR Marina Redevelopment Project Urban Renewal District.

(d)

Preserve and enhance property values within and in the vicinity of the MUR Marina Redevelopment Project Urban Renewal District and provide for protection of neighboring areas from any adverse impacts of redevelopment within such district.

(e)

Provide parking facilities necessary to serve new uses either through the creation of new facilities, the reconfiguration or upgrading of existing facilities or the sharing of facilities.

(f)

Enhance public access to the waterfront and retain public boating opportunities along the Byram River.

(g)

Upgrade and provide all utilities necessary to support redevelopment.

(h)

Improve vehicular access in the area through the realignment and reconstruction of certain streets so that both cars and pedestrians can travel safely.

(3)

Underlying regulations. The land use and development controls set forth in Subsection B below supersede, as provided in said Subsection B below, the controls set forth in this Zoning Regulation for those portions of the C-2 Central Business, DW Design Waterfront Development, M-1 Light Industrial and PTD Planned Tower Development Zoning Districts which are within the MUR Marina Redevelopment Project Urban Renewal District, as well as the controls set forth in §§ 345-14 and 345-15 hereof (all hereinafter referred to as the "underlying controls"). Except during any period in which a special permit is in effect pursuant to Subsection B below in this § 345-67, the underlying controls shall remain in effect for the portions of said zoning districts situated within the MUR Marina Redevelopment Project Urban Renewal District.

B.

Land use and development controls. *[Editor's Note: A resolution adopted 2-28-2001 provided that the permitted height in each of the land use areas contained in § 345-67B(1) would be measured in feet only, not in stories.]*

(1)

Permitted land uses and development controls. Set forth in this Subsection B are land use and development controls for the MUR Marina Redevelopment Project Urban Renewal District. The controls set forth in this Subsection B will, during any period in which a special permit is granted and remains valid and in full force and effect under said Subsection B(4), replace and supersede all of the underlying controls. The land use areas referred to below in this Subsection B are shown on the map referenced in § 345-68, which map is titled "Map of Land Use Areas and Streets Within the Modified Marina Redevelopment Project." *[Editor's Note: Said map is on file in the office of the Village Clerk.]*

(a)

Land Use Area 1.

[1]

Permitted land uses:

[a]

Retail sales, including supermarket with customary accessory uses, retail and personal services or restaurant types of uses, general and professional offices and uses customarily accessory to each of the foregoing uses, parking and loading and open space uses.

[b]

Multiscreen cinema theater, theaters and accessory uses customarily found in such a complex.

[2]

Permitted development: 275,000 square feet of building floor area.

[3]

Permitted height: three stories; 70 feet.

(b)

Land Use Area 2.

[1]

Permitted land uses: the same as Land Use Area 1, except for multiscreen cinema theater, theaters and supermarket.

[2]

Permitted development: 40,000 square feet of building floor area.

[3]

Permitted height: three stories; 45 feet.

(c)

Land Use Area 3.

[1]

Permitted land uses:

[a]

Retail sales, retail, wholesale membership warehouse club, personal services and restaurant uses, neighborhood facilities, general and professional offices, as well as uses customarily accessory to each of the foregoing uses.

[b]

Multiscreen cinema theater, theaters and accessory uses customarily found in such a complex.

[c]

Parking and loading and open space uses.

[2]

Permitted development: 275,000 square feet of building floor area.

[3]

Permitted height: two stories; 65 feet.

(d)

Land Use Area 3A. *[Editor's Note: With the addition of this land use area, former Subsection B(1)(d) and (e) were redesignated as (e) and (f), respectively.]* **[Added 1-5-2004 by L.L. No. 1-2004]**

[1]

Permitted land uses:

[a]

Same as Land Use Area 3.

[b]

Open storage of materials or equipment and uses customarily accessory thereto.

[2]

Permitted development: an aggregate of 275,000 square feet of building floor area, including development on Land Use Area 3.

[3]

Permitted height: same as Land Use Area 3.

(e)

Land Use Area 4.

[1]

Permitted land uses:

[a]

General and professional offices and uses customarily accessory thereto.

[b]

Retail and personal services uses, restaurant and customary accessory uses.

[c]

Parking and loading and open space uses.

[2]

Permitted development: 80,000 square feet of building floor area.

[3]

Permitted height: three stories; 45 feet.

(f)

Land Use Area 5.

[1]

Permitted land uses: open space, park and water-related recreation uses which shall be accessible to the general public.

(2)

Concept Development Plan. Any special permit issued under Subsection B(4) below shall require compliance with the land use and development controls set forth in this Subsection B and with the Amended Concept Development Plan dated May 20, 1999, which map, together with such land use and development controls, set forth the proposed general building layout and disposition of uses, general parking area locations, access, general circulation, densities, number of stories and/or height and public open space. Such map is on file in the office of the Village Clerk and is hereinafter referred to as the "Concept Development Plan."

(3)

Other development controls and prohibited uses. There shall become effective with respect to the entire MUR Marina Redevelopment Project Urban Renewal District, upon the approval of a special permit under Subsection B(4) below and upon the satisfaction of all conditions of the effectiveness of such special permit set forth in this section, the following additional land use and development controls:

(a)

For Land Use Areas 3 and 4, there shall be a continuous pedestrian promenade on the waterfront side of these parcels. The width of the promenade shall be an average minimum of 10 feet and an average width of 30 feet from the bulkhead.

(b)

For Land Use Areas 3 and 4, the building setback on the waterfront side of the parcels shall be a minimum of 15 feet on average, and may be staggered.

(c)

Unless paved, all open areas which are visible from the street shall be landscaped.

(d)

All buildings shall be consistent with the New York State Uniform Fire Prevention and Building Code requirements for handicapped access. All streets and sidewalks shall provide access for the handicapped.

(e)

No use permitted herein shall be noxious or offensive by reason of emission of odor, dust, noise, smoke, gas, fumes or radiation or which in any other way presents a nuisance and hazard to public health and safety.

(f)

There shall be no restriction of occupancy or use of any part of the MUR Marina Redevelopment Project on the basis of race, creed, color, sex or national origin.

(g)

The requirements for off-street parking for uses in the Marina Redevelopment Project Urban Renewal District shall be as follows:

[1]

Parking for all uses shall be provided in a combination of on-street and off-street parking facilities. At least 85% of the parking required for uses in the MUR Marina Redevelopment Project Urban Renewal District, considered on an overall basis, shall be located within the boundaries of the MUR Marina Redevelopment Project Urban Renewal District. The Board of Trustees shall, upon the request of the applicant for the special permit, approve up to 15% of the total number of parking spaces required on an overall basis for all uses in the MUR Marina Redevelopment Project Urban Renewal District, to be located outside of the district boundaries, subject to demonstration, by the applicant for the special permit, of adequate control over such spaces and that all such spaces are within 650 feet of the uses they are intended to serve.

[2]

Minimum parking spaces.

[a]

The minimum number of parking spaces to be provided for each individual category of use in the proposed development shall be computed in accordance with the criteria noted below, and the aggregate number of spaces available to all of the uses at any specific point in time shall be sufficient to meet the combined parking requirements of these uses at such specific point in time, less a reduction for multipurpose trips. The reduction for multipurpose trips shall be computed only when parking demand is generated by two or more categories of nonresidential use and shall not exceed the smaller of the following two numbers:

[i]

That number of parking spaces which shall constitute 12% of the combined parking requirement for all nonresidential uses; or

[ii]

That number of parking spaces which shall constitute 20% of the parking requirement for the retail, wholesale membership warehouse club, service and restaurant category.

[b]

In determining the required minimum number of parking spaces for specific categories of use, the following standards shall be utilized:

Use	Number of Spaces
Retail, wholesale membership warehouse club, service and restaurant	
Weekdays	
Monday through Friday	
Midday	3.23 per 1,000 square feet of gross floor area
6:00 p.m.	2.65 per 1,000 square feet of gross floor area
9:00 p.m.	1.97 per 1,000 square feet of gross floor area
9:00 a.m.	0.12 per 1,000 square feet of gross floor area
Weekends	
Saturday	
Midday	3.97 per 1,000 square feet of gross floor area
9:00 p.m.	1.59 per 1,000 square feet of gross floor area
9:00 a.m.	1.19 per 1,000 square feet of gross floor area
12:00 midnight	0.15 per 1,000 square feet of gross floor area
Cinema	
Weekdays	
Friday	
9:00 p.m.	0.26 per seat
6:00 p.m.	0.21 per seat
12:00 midnight	0.18 per seat
Monday through Thursday	
9:00 p.m.	0.08 per seat
6:00 p.m.	0.06 per seat
Monday through Friday	
Midday	0.12 per seat
Weekends	
Saturday	
9:00 p.m.	0.29 per seat
12:00 midnight	0.20 per seat
Midday	0.09 per seat
Office	
Weekdays	
Monday through Friday	

9:00 a.m.	2.58 per 1,000 square feet of gross floor area	
Midday	2.32 per 1,000 square feet of gross floor area	
6:00 p.m.	0.59 per 1,000 square feet of gross floor area	
9:00 p.m.	0.08 per 1,000 square feet of gross floor area	
12:00 midnight	0.01 per 1,000 square feet of gross floor area	
Weekends		
Saturday		(h)
Midday	0.5 per 1,000 square feet of gross floor area	Parking decks, garages, arcades, covered ways, parking areas, fire access, other accessways, street furniture, sculpture and landscaped areas may be developed within the public rights-of-way so long as access to abutting nonproject properties is maintained.
9:00 a.m.	0.4 per 1,000 square feet of gross floor area	
9:00 p.m.	0.01 per 1,000 square feet of gross floor area	
12:00 midnight	0.01 per 1,000 square feet of gross floor area	
Boat slips		
Weekdays		
Monday through Friday		
6:00 p.m.	0.23 per slip	
9:00 p.m.	0.23 per slip	
9:00 a.m.	0.08 per slip	
Midday	0.08 per slip	
12:00 midnight	0.02 per slip	(i)
Weekends		
Saturday		Notwithstanding anything to the contrary in this zoning regulation, the permitted building floor area set forth in
9:00 a.m.	0.5 per slip	
Midday	0.5 per slip	
9:00 p.m.	0.23 per slip	
12:00 midnight	0.02 per slip	

Subsection B(1) above shall mean the sum of the total horizontal floor areas within a building which are designed for the exclusive use and occupancy of tenants, measured from the interior faces of exterior walls, not including the areas of: **[Added 2-28-2001 [Editor's Note: This resolution also provided that the permitted height in each of the land use areas contained in § 345-67B(1) would be measured in feet only, not in stories.]]**

[1]

Floor space of cellars.

[2]

Floor space designed and intended for the parking of motor vehicles of any kind.

[3]

Elevator shafts.

[4]

Stairwells and exit corridors.

[5]

Floor space used for mechanical equipment having structural headroom of less than seven feet, six inches.

[6]

Floor space of mezzanines and other areas not accessible to the general public.

(4)

Special permit for permitted uses.

(a)

Before a building permit may be issued by the Building Inspector for any use permitted under the preceding provisions of this Subsection B, the Village Board of Trustees must adopt, by majority vote, a resolution granting a special permit for such use. The provisions of Article X of this Zoning Regulation shall not be applicable with respect to special permits or to the procedures pertaining thereto authorized and described in this Subsection B or in Subsection C below.

(b)

An application for such a special permit shall not be made with respect to less than the entire area of the MUR Marina Redevelopment Project Urban Renewal District, and the applicant shall have a reasonable prospect of being able to achieve ownership or control of such area, evidenced by satisfaction of at least one of the following eligibility standards:

[1]

Ownership of not less than 60% of the total area contained within all land use areas, considered in the aggregate, shown on the map referred to in § 345-68, which map is titled "Map of Land Use Areas and Streets Within the Modified Marina Redevelopment Project," which map is dated March 22, 1999.

[2]

Designation of the applicant as a qualified and eligible sponsor for the entire Modified Marina Redevelopment Project pursuant to Article 15 of the General Municipal Law, accompanied by an

executed development agreement between the applicant and the Village of Port Chester setting forth the manner in which the applicant will proceed in conjunction with such designation.

[3]

The existence of an executed land disposition agreement between the applicant and the Village Board, approved by the Village Board pursuant to Article 15 of the General Municipal Law, in connection with the Modified Marina Redevelopment Project.

(c)

An applicant shall apply to the Village Board for a special permit. In deciding whether to approve such application, the Village Board shall consider whether the following preconditions of such approval have been satisfied:

[1]

The proposed development is consistent with the Concept Development Plan, the Urban Renewal Plans, the land use and development controls set forth in Subsection B above and the purposes of the MUR Marina Redevelopment Project Urban Renewal District set forth in Subsection A above.

[2]

The potential impacts of the proposed use have been evaluated and mitigated to the maximum extent practicable as set forth in an environmental impact statement completed for the Modified Marina Redevelopment Project in accordance with the New York State Environmental Quality Review Act and as set forth in a statement of findings which the Village Board of Trustees has adopted with respect to such environmental impact statement.

(d)

Any Village Board resolution approving a special permit pursuant to this Subsection B(4) shall require the applicant to implement those environmental impact mitigation measures for which the applicant is responsible as set forth in the above-mentioned statement of findings.

(e)

After the approval of a special permit under Subsection B(4), the successful applicant therefor or any other person, firm or entity who or which meets any of the eligibility standards set forth in Subsection B(4)(b) above is hereinbelow referred to as the "special permit grantee."

(f)

Conditions:

[1]

Notwithstanding the approval of a special permit by the Village Board under this Subsection B(4), such special permit shall not be effective and a building permit shall not be issued pursuant to such special permit until each of the following conditions has been satisfied:

[a]

A land disposition agreement has been approved by the Village Board of Trustees and duly executed and delivered in accordance with § 507 of the General Municipal Law.

[b]

The entire area within the MUR Marina Redevelopment Project Urban Renewal District is owned in fee by the Village of Port Chester, and/or by the Village of Port Chester Industrial Development Agency, provided that in the event of fee ownership of all or any part of such district by such Industrial Development Agency, such ownership is permitted under the land disposition agreement referred to in Subsection B(4)(f)[1][a] above.

[2]

Upon the satisfaction of each of the conditions set forth above in this Subsection B(4)(f), the restriction on construction activity set forth above in this Subsection B(4)(f) shall automatically terminate, no further Village action being required for such termination. If, after Village Board approval of a special permit under this Subsection B(4) and after satisfaction of the conditions set forth in Subsection B(4)(f)[1][a] and [b] above in this Subsection B(4)(f), the ownership referred to in said Subsection B(4)(f)[1][b] shall cease, such cessation shall not be deemed to cause or require termination of the special permit with respect to any portion of the MUR Marina Redevelopment Project Urban Renewal District.

(g)

In the event that the condition specified in Subsection B(4)(f)[1][a] above is not satisfied within 90 days following the date of Village Board approval of the special permit and if the special permit grantee shall not have negotiated the land disposition agreement in good faith prior to the end of such ninety-day period, or if during the ninety-day period or thereafter the special permit grantee does not negotiate the land disposition agreement in good faith, then the Village Board of Trustees may, upon 15 days' notice to the special permit grantee, terminate the special permit. In the event of such termination, the underlying controls shall remain in effect.

(h)

In connection with the grant of any special permit under this Subsection B(4), the Village Board shall assure that adequate provision is made for the following:

[1]

Within the MUR Marina Redevelopment Project Urban Renewal District, all of the parcels and structures will be acquired by the Village of Port Chester pursuant to Article 15 of the General Municipal Law of the State of New York and the Urban Renewal Plans.

[2]

Redevelopment will include the development of new public infrastructure, including but not limited to streets, sidewalks, curbs, water, sewer and drainage facilities, parking, lighting and other utilities and services, the closing and realignment of portions of public streets, the placement of required fill to raise new buildings above flood levels, development of a new waterfront park at the foot of Westchester Avenue and a new public promenade along the waterfront within the MUR Redevelopment Project Urban Renewal District. Redevelopment within the MUR Marina Redevelopment Project Urban Renewal District also shall include the development of new uses, including commercial, retail, wholesale membership warehouse club, multiscreen cinema theater, restaurant and parking, and may include health clubs and family entertainment centers and general office uses.

[3]

Street alignments and configurations shall generally conform to those shown on the following map titled "Map of Land Use Areas and Streets Within the Modified Marina Redevelopment Project" and dated March 22, 1999, which map is on file in the office of the Village Clerk.

(i)

If, prior to the adoption of this section and the amendment of the Zoning Map in connection therewith, an application for approval of a special permit was submitted in anticipation of such adoption and amendment, then if such application satisfies the requirements of this Subsection B(4), the Village Board may approve such special permit immediately following such reclassification and adoption, either on or after the date or dates on which such reclassification and adoption shall have occurred.

C.

Properties not vacated.

(1)

Modification of controls. If the Village of Port Chester does not complete urban renewal relocation activities, as contemplated in the Urban Renewal Plans, with respect to the entire Modified Marina Redevelopment Project, within any time period specified in the urban renewal land disposition agreement between the Village and a special permit grantee, and consultations between the special permit grantee and the Village result in agreement requiring modifications to the Concept Development Plan and, if necessary, the land use and development controls made applicable through approval of a special permit under Subsection B above and through satisfaction of the conditions thereof, then it is intended that such Concept Development Plan will be modified accordingly and reflected in an amendment to the special permit and to the land disposition agreement. The Village shall enter into such consultations upon the request of the special permit grantee. The term "Concept Development Plan" as used in this Subsection C, shall be deemed to refer collectively to the Concept Development Plan and the above-mentioned land use and development controls.

(2)

Additional modification provisions. If modifications pursuant to Subsection C(1) above do not occur within 120 days following the date of delivery of a request as therein provided, then the following shall be applicable:

(a)

Notice of determination.

[1]

If the special permit grantee determines that compliance with those provisions of the Concept Development Plan, any site plan approval or conditions thereof approved by the Village Board in connection with the Modified Marina Redevelopment Project, the provisions of this Zoning Regulation or any condition of the special permit which specifies or restricts the type and/or building bulk of the uses which may be constructed within the MUR Marina Redevelopment Urban Renewal District or which imposes a time schedule for construction of such uses is rendered impracticable by the failure to achieve vacant possession, then the special permit grantee may give the Village formal written notice of such determination, accompanied by the following:

[a]

A statement containing information, data and analysis supporting the determination;

[b]

A plan setting forth the special permit grantee's proposed modification of the Concept Development Plan;

[c]

A request for concurrence by the Village Board of Trustees in the special permit grantee's determination of impracticability; and

[d]

A request for approval, by the Village Board of Trustees, of a revised Concept Development Plan.

[2]

Within 60 days following the submission of the above to the Village, the Village Board of Trustees will deliver to the special permit grantee a notice of Village Board action granting or denying the requests described in Subsection C(2)(a)[1][c] and [d] above. If the Village's notice indicates nonconcurrence as to impracticability and/or the Village's disapproval of the revised Concept Development Plan, then it shall set forth the reasons for such nonconcurrence as to impracticability and/or the Village's disapproval of the revised Concept Development Plan, and the special permit grantee shall have the right to repeat the procedure described above in this Subsection C(2) on one or more occasions.

(b)

The Village Board of Trustees shall not unreasonably withhold any concurrence and/or approval requested by the special permit grantee under Subsection C(2)(a) above. Notwithstanding any contrary provision of this Subsection C, prior to approval of a revised Concept Development Plan the Village Board of Trustees shall make findings as to compliance with the following criteria:

[1]

The revised Concept Development Plan shall be consistent with the objectives of the Urban Renewal Plans;

[2]

The proposed uses set forth in the revised Concept Development Plan shall consist only of uses permitted to be constructed within the MUR Marina Redevelopment Project Urban Renewal District, under the Urban Renewal Plans; and

[3]

The Concept Development Plan shall conform with the limitations on height, density and floor area set forth, with respect to said district, in the Urban Renewal Plan.

(c)

Upon approving a revised Concept Development Plan as provided above, the Village Board shall be deemed to have modified the special permit and any previously approved site plan in order to reflect said approval and any such special criteria.

(d)

If, after obtaining Village Board concurrence and approval under Subsection C(2)(a) and (b) above, the special permit grantee decides to proceed with construction in accordance with a revised Concept Development Plan, then, except as provided in Subsection D below, the special permit grantee shall not be relieved from compliance with any provisions of this Zoning Regulation (as specified in this § 345-67) which set forth permitted uses, maximum density or maximum floor area or maximum building heights.

(e)

If, within 90 days following the expiration of the one-hundred-twenty-day period set forth in the introductory provisions of this Subsection C(2), a notice and requests are not submitted to the Village in accordance with Subsection C(2)(a) above in this Subsection C(2) or if following the delivery of such notice and requests to the Village and before the granting of the requests such notice and requests are withdrawn by the special permit grantee or if requests submitted in accordance with Subsection C(2)(a) above in this Subsection C(2) are not granted and construction does not commence in compliance with an approved or modified special permit and Concept Development Plan within 90 days following expiration of the aforesaid ninety-day period, the special permit shall terminate and shall be of no further force or effect. In the event of such termination, the land use and development controls applicable within the MUR Marina Redevelopment Project Urban Renewal District shall be the underlying controls, as defined in Subsection A(3) above in this § 345-67, provided that no building permit shall be issued for any proposed development in accordance with such underlying controls until the Village Board shall have approved a revised Concept Development Plan, complying as to content and completeness with the provisions of Subsection B(2) above but implementing such underlying controls.

(f)

Any special permit approved by the Village Board under Subsection B above and any resolution adopted by the Village Board approving a site plan as set forth in Subsection D below shall contain provisions implementing the provisions of this Subsection C(2).

D.

Site plan and Concept Development Plan.

(1)

Contents, submission and approval of plans. The Concept Development Plan and the permitted land uses and development controls specified in Subsection B of this § 345-67 indicate the proposed general layout and disposition of uses, buildings, parking, access, circulation, densities, number of stories and/or height, public open space, public uses and promenades. Any promenade situated along the shore of the Byram River shall, except for railing required for safety of pedestrians, be open and unenclosed on the riverward side of such promenade.

(2)

Site plan approval. Before a building permit may be issued by the Building Inspector for any use for which a special permit has been issued under Subsection C(4) above, a site plan shall be approved therefor in accordance with the provisions of Article V of this Zoning Regulation, as modified by the provisions of this Subsection D. Authority to approve site plans for such uses is vested in the Village Board of Trustees.

(3)

Applications for site plan approval. The special permit grantee under this section may submit applications for site plan approval of all or any part of the Modified Marina Redevelopment Project. The applicant for site plan approval shall submit to the director of the Office of Planning and Development of the Village site plans which show cross sections, elevations grading and other site plan data which carry out all or any part of the Concept Development Plan. Site plans shall comply, as to content and completeness, with § 345-23 of this Zoning Regulation. The site plans shall also show any parking facilities proposed to be located outside of the Modified Marina Redevelopment Project which are intended to serve the development depicted in such site plans, along with documentation showing the applicant's control over these facilities.

(4)

Board action. The Board of Trustees shall not disapprove a site plan submitted under this Subsection D or require that such site plan be revised or amended, by reason of or with respect to general location and disposition of uses, buildings, parking areas and open space, density and height of structures and site access and circulation, provided that the site plan is consistent with the approved Concept Development Plan and the land use and development controls of § 345-67 of this Zoning Regulation. Site plans shall be approved or disapproved within 90 days of the date when submission is deemed complete by the Director of the Office of Planning and Development. Subsequent to site plan approval the developer shall submit detailed construction plans and specifications to the Office of Planning and Development and the Port Chester Building Department, which plans shall be reviewed with respect to their conformance with Chapter 151, Building and Fire Prevention, and approved site plans. Construction plans and specifications must be consistent with approved site plans prior to issuance of a building permit.

(5)

Overall effect of Concept Development Plan. All or any portion of the land area within the MUR Marina Redevelopment Project Urban Renewal District may be subdivided either horizontally or vertically for purposes of sale, lease or mortgage and/or (to the extent permitted by law) tax lot creation without the requirement for any other or further approvals under any law, ordinance, rule or regulation of the Village of Port Chester, including subdivision, zoning or site plan review. All of the requirements set forth herein for the MUR Marina Redevelopment Project Urban Renewal District, including, without limitation, those regulating the use of buildings and land and the height, bulk and arrangement of buildings shall be applied on an overall basis to the MUR Marina Redevelopment Project Urban Renewal District and shall not be applied to any individual areas within said district, notwithstanding the subdivision of the area within said district into two or more separate parcels and/or the separate ownership of such parcels, provided that no development within the MUR Marina Redevelopment Project Urban Renewal District may take place pursuant to a special permit approved under this section except in accordance with a Concept Development Plan and site plans which have been approved by the Village Board.

(6)

Amendment of Concept Development Plan. The Concept Development Plan may be amended by majority vote of the Village Board of Trustees, provided that a minor amendment (which results in less than a ten-percent variation from the overall approved Concept Development Plan) may be granted by a majority vote of the Village Board of Trustees. A substantial change in use or density shall require the same procedure as that required for an amendment to the provisions of this Zoning Regulation, as set forth in Subsection F below and in Article VII of this Zoning Regulation.

E.

Applicability of other codes and ordinances. Except as set forth in Subsection A above and in the following subsections, all other applicable federal, state, county and Village of Port Chester codes and ordinances shall govern the development, ownership and management of all properties within the MUR Marina Redevelopment Project Urban Renewal District.

F.

Amendments to the Zoning Regulation provisions for the MUR Marina Redevelopment Project Urban Renewal District. The zoning provisions set forth in the preceding paragraphs of this § 345-67 may be amended at any time as follows:

(1)

Minor changes. A minor change, as defined below, shall not be deemed to require an amendment of the Zoning Regulation specified in this § 345-67, and approval of any such minor change may be granted by a majority vote of the Village Board of Trustees. A minor change shall be deemed to be:

(a)

One that modifies a dimensional requirement or an overall permitted development floor area or density by 10% or less; or

(b)

One that represents a clarification, refinement or interpretation of the zoning requirements set forth in this § 345-67.

(2)

Other changes. Any change which is not within Subsection F(1)(a) or (b) above shall be deemed to require an amendment of the Zoning Regulation and shall require a procedure identical with that followed in the adoption of zoning amendments as specified in Article VII of this Zoning Regulation.

§ 345-68. (Reserved) Special maps.

The maps titled "Amended Concept Development Plan," dated May 20, 1999, and "Map of Land Use Areas and Streets Within the Modified Marina Redevelopment Project," dated March 22, 1999, both referred to in this Article XVI, § 345-67B(2) and B(4)(h)[3], respectively, of this chapter and annexed hereto as Exhibit B and Exhibit C, respectively, are hereby approved and made a part of the Port Chester Zoning Regulation. Such maps shall be filed in the office of the Village Clerk.

§ 345-69. (Reserved) Effect on Village Law.

To the extent necessary to comply with applicable state law, if the enactment of this chapter pursuant to the Municipal Home Rule Law is deemed to be a supersession or modification of the Village Law, then this chapter shall be deemed to supersede any inconsistent provision or procedure set forth in § 7-706 of the Village Law.

ARTICLE XVII
Storage of Hazardous Materials
[Added 7-10-1995 by L.L. No. 5-1995]

§ 345-70. Terms defined.

AMOUNT — This Article shall not apply to a single cylinder not exceeding nine inches in diameter or 56 inches in height, or to propane cylinders kept for residential use or residential retail sales of no more than 22 inches in height and 45 inches in circumference and weight not exceeding 25 pounds each.

DISTRICTS PERMITTED – The M1 and M2 Districts.

HAZARDOUS MATERIALS – Compressed gases, including acetylene, gaseous and liquid hydrogen and other volatile fuels of a like or similar nature.

STORAGE – The keeping or storage of compressed gases on any site within the Village of Port Chester, irrespective of whether the same is in cylinders, tanks, in the open or in an enclosed area or building.

§ 345-71. Site plan required.

Prior to the keeping or storage of any hazardous materials (both as defined herein), an original plan and seven copies of a site plan, showing the lot or parcel with dimensions on which the storage is proposed, including the location of any buildings on the site, the location of the proposed storage and any support

system, including enclosures, security and planting, duly signed and sealed by an engineer, and such other matters called for by § 345-23 of the Code, shall be filed with the Port Chester Building Department.

§ 345-72. Office of Planning and Development and Building Department procedure.

A.

On receipt of the application, the Office of Planning and Development and the Port Chester Building Department shall review such plans under the procedure set out for site plan review in § 345-23 of the Code.

B.

In addition, the Building Department shall review the plans to determine if the same complies with other provisions of the Zoning Code, including use, setback, electrical, state code and other code requirements. It shall also send a copy of the same to the Fire Chief and Westchester Board of Health for their review and report.

C.

Upon completion, the same shall be sent to the Board of Trustees, which shall be charged with review of the site plan.

§ 345-73. Review and approval by Board of Trustees.

A.

On receipt of the plan, the Board of Trustees shall review the same, and, if the application requires variances or review by other agencies, it will give notice of its proposal that it act as lead agency.

B.

On approval of lead agency status, the Board of Trustees shall hold a public hearing on the application, and, on completion of the same, the environmental review of the same and a finding thereon, the matter shall be referred to the Zoning Board if variances are applied for.

C.

If and when such variances are approved, the matter will return to the Board of Trustees for final approval.

§ 345-74. Treatment as accessory use prohibited.

Other provisions of Chapter 345, Zoning, notwithstanding, storage of hazardous materials shall not be deemed an accessory use permitting such use in districts other than those authorized under Article XVII or permitting avoidance of the procedures set out in this article.

§ 345-74.1. Propane-powered forklifts. [Added 2-4-2002 by L.L. No. 1-2002]

Propane-powered forklifts and the incidental storage of tanks thereto shall be exempt from the provisions of this article, provided that there be compliance with the provisions of RS-NFPA 58.

§ 345-75. Survival clause.

Invalidation of any of the provisions hereof shall not invalidate any of the balance hereof.

ARTICLE XVIII
Wireless Telecommunications Facilities
[Added 2-1-1999 by L.L. No. 4-1999]

§ 345-76. Legislative intent.

A.

The purpose of this article is to provide the Village of Port Chester the authority to accommodate and regulate necessary utility infrastructure for the provision of wireless telecommunications facilities within the Village, to encourage the siting of wireless telecommunications facilities in nonresidential areas on existing structures, to address the safety, visual and aesthetic aspects of wireless telecommunications facilities and to provide for public input in the process of siting wireless telecommunications antenna towers.

B.

The Board of Trustees finds that the regulation of wireless telecommunications facilities is necessary to protect the predominantly suburban residential character of the Village and the property values of the community; such regulation is needed to protect schools, parks, churches, playgrounds and historic structures; to preserve scenic areas; to minimize aesthetic impacts; to preserve the health and safety of residents; and to respect the need of wireless telecommunications service providers to relay signals without electronic interference from other service providers' operations, while not unreasonably limiting competition among them.

C.

The Board of Trustees declares that the protection of residential areas of the Village is of paramount importance and that any local regulations of wireless telecommunications facilities must furnish all possible protection for residential areas, and further declares that the provisions of this article are to be interpreted to favor protection of residential areas. The Planning Commission shall, before issuing a special exception use permit for a wireless telecommunications facility in a residentially zoned area, satisfy itself that all other alternatives have been exhausted.

D.

In general, consolidations, shared use and collocation of antennas and antenna-mounting structures are preferred to the construction of new facilities.

§ 345-77. Definitions.

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

ANSI – The American National Standards Institute.

ANTENNA – A system of electrical conductors for radiating or receiving radio waves.

ANTENNA, WIRELESS TELECOMMUNICATIONS – Any device, including the supporting structure and all related appurtenances, used for the transmission and reception of radio waves as part of wireless two-way communications.

COLLOCATION – The mounting of wireless telecommunications antennas used by two or more competing providers on the same antenna support structure, monopole or antenna tower.

FCC – The Federal Communications Commission.

FREQUENCY – The number of sinusoidal cycles made by electromagnetic radiation in one second; usually expressed in units of hertz (Hz).

NIER (NONIONIZING ELECTROMAGNETIC RADIATION) – Electromagnetic radiation of such frequency that the energy of the radiation does not dissociate electrons from their constituent atoms when an atom absorbs the electromagnetic radiation.

RF – Radio frequency.

WIRELESS TELECOMMUNICATION FACILITIES – Any facility for the receiving or transmitting of wireless signals for commercial purposes, such as cellular telephone services, personal communication services (PCS), specialized mobile radio (SMR), enhanced mobile radio (ESMR), paging, satellite digital audio radio service (SDARS), fleet communication systems and similar commercial facilities, whether operated in support of another business activity or available for the transmission of signals on a sale or rental basis. As used herein the term shall include any necessary support structure, connection cables and equipment buildings as well as towers or monopoles. [Amended 9-7-2004 by L.L. No. 12-2004]

§ 345-78. Special exception use permit; policies and goals.

In order to assure that the placement, construction and modification of wireless telecommunications facilities conforms to the Village of Port Chester's purpose and intent of this article, the Board of Trustees creates a special exception use permit for such facilities. As such, the Board of Trustees adopts a policy with respect to a special exception use permit for a wireless telecommunications facility for the purpose of achieving the following goals:

A.

Implementing an application for person(s) seeking a special exception use permit for a wireless telecommunications facility.

B.

Establishing a policy for examining an application for and issuing a special exception use permit for a wireless telecommunications facility that is both fair and consistent.

C.

Establishing reasonable time frames for granting or not granting a special exception use permit for a wireless telecommunications facility.

D.

Promoting and encouraging, wherever possible, the sharing and/or collocation of a wireless telecommunications facility among service providers.

E.

Promoting and encouraging, wherever possible, the placement of a wireless telecommunications facility in such a manner as to cause minimal disruption to the land, property, buildings and other facilities adjacent to, surrounding and in generally the same area as the requested location of such facility and to minimize any adverse aesthetic impacts to the community.

§ 345-79. Procedure for special exception use permit application; fee.

A.

All applicants for a special exception use permit for a wireless telecommunications facility or any modification of such facility and renewal thereof shall comply with the requirements set forth in this section.

B.

The applicant shall be required to provide sufficient funds to an escrow account to allow the Planning Commission to retain such technical experts as may be necessary to review the proposal, provided that no funds shall be deposited until a scope of work is agreed upon among the applicant, the expert and the Planning Commission. In any event, the initial deposit shall be a minimum of \$3,500. A larger deposit may be required if, in the judgment of the Planning Commission, the complexity and scope of the proposal requires additional expert review. The applicant shall maintain the escrow account at the amount of the initial deposit and replenish same in a timely manner. Payment in full thereto shall be a condition precedent to any approval by the Planning Commission. Any unused funds will be returned to the applicant upon completion of the review. The withdrawal of an application shall not relieve the applicant of the payment obligations of this section. **[Amended 9-7-2004 by L.L. No. 12-2004]**

C.

The Planning Commission is hereby authorized to issue a special exception use permit under the provisions of this article subject to all of the special requirements and conditions herein and any requirements which may be made a part hereof. Every special permit shall also conform to all special findings that are specified herein.

D.

Application to the Planning Commission for a special exception use permit under this article shall be accompanied by a fee in accordance with the current Village fee schedule. *[Editor's Note: See Ch. 175, Fees.]*

E.

Prior to or concurrent with the filing of a formal application to the Planning Commission to obtain a special permit under this article, the applicant shall submit information needed to meet the requirements of the New York State Environmental Quality Review Act (SEQR). The Planning Commission may hold a joint public hearing under the provisions of SEQR and this article whenever practicable. In the event that a final SEQR determination has not been made, no application for a special permit under this article shall be granted. The time periods in which the Commission may take action may be extended with the consent of the applicant.

F.

The owner of the subject property shall be joined as a coapplicant. **[Added 9-7-2004 by L.L. No. 12-2004]**

G.

In addition to the requirements of Article XXI, the applicant shall cause notice of the public hearing by notifying all property owners by certified mail, return receipt requested, within 500 feet of the boundary line of the subject property. **[Added 9-7-2004 by L.L. No. 12-2004; 8-3-2009 by L.L. No. 11-2009]**

§ 345-80. Information required for wireless telecommunications antennas.

A.

For all proposed wireless telecommunications antennas the following information shall be provided:

(1)

Name and address of the property owner and the applicant.

(2)

Address, lot and block and/or parcel number of the property.

(3)

Zoning district in which the property is situated.

(4)

Name and address of the person preparing the plan.

(5)

Size of the property and the location of all lot lines.

(6)

Approximate location of nearest residential structure.

(7)

Approximate location of nearest occupied structure.

(8)

Location of all structures on the property which is the subject of the application.

(9)

Location, size and height of all proposed and existing antennas and all appurtenant structures on the property.

(10)

Type, size and location of all proposed landscaping.

(11)

A report by a New York State licensed professional engineer documenting compliance with applicable structural standards and describing the general structural capacity of any proposed installation.

(12)

The number and type of antennas proposed.

(13)

A description of the proposed antennas and all related fixtures, structures, appurtenances and apparatus, including height above grade, materials, color and lighting.

(14)

A description of the antenna's function and purpose.

(15)

The make, model and manufacturer of the antenna.

(16)

The frequency, modulation and class of service.

(17)

Transmission and maximum effective radiated power.

(18)

Direction of maximum lobes and associated radiation and compliance with FCC regulations.

(19)

Consent to allow additional antennas (for purposes of collocating) on any new antenna towers, if feasible.

(20)

If a collocation, the cumulative impacts, visual and otherwise, of the proposed antenna.

[Added 9-7-2004 by L.L. No. 12-2004]

B.

The items in Subsection A(12) through (18) shall be included in a report prepared by a radio frequency engineer, health physicist or other qualified professional.

§ 345-81. Facility service plan.

All proposals to provide or operate wireless telecommunications facilities shall be accompanied by a facility service plan, which shall include all the information necessary to allow the Planning Commission to understand the existing, proposed and long-range plans of the applicant. The facility service plan shall include at least the following information:

A.

The location, height and operational characteristics of all existing facilities of the applicant in and immediately adjacent to the Village.

B.

A two-to-five-year plan for the provision of additional facilities in and immediately adjacent to the Village, indicating whether each proposed facility is for initial coverage or capacity-building purposes and showing proposed general locations or areas in which additional facilities are expected to be needed. Subsequent applications will confirm or modify the facility service plan so that the Planning Commission may be kept up-to-date on future activities.

C.

A commitment to collocate or allow collocation wherever possible on all existing and proposed facilities.

§ 345-82. Requirements applicable to all wireless telecommunications antennas.

For all proposed wireless telecommunications antennas the following requirements are applicable:

A.

For proposed sites within 100 feet of other sources of RF energy, emanating from other wireless telecommunications facilities, the applicant shall provide an estimate of the maximum total exposure from all nearby stationary sources and a comparison with relevant standards. This assessment shall include individual and ambient levels of exposure. It shall not include such residentially based facilities such as cordless telephones.

B.

All obsolete or unused wireless telecommunications antennas (including tower supports) shall be removed within 60 days of cessation of operations at the site. The Village may remove such facilities upon reasonable notice and an opportunity to be heard and treat the cost as a tax lien on the property.

C.

All antennas shall be identified with signs not to exceed six square feet, listing the owner's or operator's name and emergency telephone number, and shall be posted in a conspicuous place.

D.

New antennas may not be sited within 500 feet of any existing antenna. This restriction does not apply to the siting of new antennas at an existing site.

E.

No source of NIER, including facilities operational before the effective date of this article, shall exceed the federal or state NIER emission standard.

F.

New antennas and supporting towers shall be designed to accommodate additional antennas for purposes of collocating.

§ 345-83. Location of wireless telecommunications facilities.

A.

Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities, including towers and other tall structures, in accordance with the following priorities, one being the highest priority and five being the lowest priority: **[Amended 9-7-2004 by L.L. No. 12-2004]**

(1)

On existing tall structures or telecommunications towers in nonresidential zoning districts.

(2)

Collocation on a site with existing telecommunications towers or structures in nonresidential districts.

(3)

In the M-2 General Industrial, M-1 Light Industrial, CD, Design Shopping Center or C4 General Commercial Zoning Districts, in order of priority.

(4)

In nonresidential areas.

(5)

On other property in the Village.

B.

If the proposed site for a wireless telecommunications facility is not the highest priority listed above, then a detailed explanation must be provided as to why a site of higher priority was not selected. The applicant must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

C.

An applicant may not bypass a site of higher priority by stating that the site presented is the only site selected or secured. An applicant shall address collocation as an option, and, if such option is not proposed, the applicant shall explain why collocation is impracticable. Agreements between providers limiting or prohibiting collocation shall not be considered a valid basis for a claim of impracticability. Notwithstanding the above, the Planning Commission may approve any site located within an area in the above list of priorities, provided that the Planning Commission finds that the proposed site is in the best interests of the health, safety and welfare of the Village and its inhabitants.

D.

The applicant shall submit a report demonstrating the applicant's review of the above priorities demonstrating the technical reasons for the site selection and, if the site selected is not the highest priority, a detailed explanation of why sites of higher priority were not selected.

E.

Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Planning Commission may disapprove an application for any of the following reasons:

(1)

Conflict with safety and safety-related codes and regulations.

(2)

Conflict with traffic needs or traffic laws, or definitive plans for changes in traffic flow or traffic laws.

(3)

Conflict with the historic nature of a neighborhood.

(4)

The use of a wireless telecommunications facility which is contrary to an already stated purpose of a specific zoning or land use designation.

(5)

The placement and location of a wireless telecommunications facility which would create an unacceptable risk, or the probability of such, to residents, the public, employees and agents of the Village or employees of the service provider or other service providers.

(6)

Conflicts with the provisions of this article.

§ 345-84. Antenna locations where public exposure is likely.

For roof-mounted, collocated or other situations in which public exposure is likely, the application shall include:

A.

An assessment of potential public exposure to radio frequency (RF) energy from the proposed facility indicating the facility's compliance with applicable federal or state standards. The applicant shall identify the maximum exposure level, the locations at which this occurs and the estimated RF levels at specific locations of community interest, such as schools, residences or commercial buildings. Assumptions used in the calculations shall be stated, including building heights and topography.

B.

A multiple-source exposure impact assessment shall be prepared if the wireless telecommunications facility is to be situated on the same site as existing facilities, such as a tower or roof.

C.

Evidence that the maximum exposure to the general public will not exceed federal or state standards.

D.

An identification of rooftop areas to which the public may have access. The exposure in these areas shall be in compliance with the standards established by any federal or state agencies.

E.

An identification of how much of the roof, if any, should be designated a "controlled environment" due to RF field levels in accordance with the applicable federal or state standard.

F.

Notification of the building management if any portion of the roof needs to be identified as a "controlled environment" due to RF levels in excess of the guidelines in the applicable federal or state standards.

§ 345-85. Roof-mounted antennas.

Requirements applicable to roof-mounted antennas are as follows:

A.

Antennas shall not be placed more than 15 feet higher than the height limitation for buildings and structures within the zoning district in which the antenna is proposed to be erected.

B.

Antennas may be set back from the outer edge of the roof a distance equal to or greater than 10% of the rooftop length and width, or such antennas may be attached directly to the roof parapet wall, whichever, in the Planning Commission's opinion, will have the minimal visual impact while achieving signal coverage requirements.

C.

If the Planning Commission requests, antennas shall be the same color of the exterior of the top floor or parapet of the building except to the extent required by law.

§ 345-86. New wireless telecommunications towers.

A.

The applicant shall demonstrate to the satisfaction of the Planning Commission that there exists no tower on which the antenna may collocate or that collocation is not feasible for any of the following reasons:

(1)

The applicant has been unable to come to a reasonable agreement to collocate on another tower. The names, addresses, phone and fax numbers of other service providers approached shall be provided, accompanied by a written statement as to the reason an agreement could not be reached.

(2)

The antenna will not unreasonably interfere with the view of or from any park, designated scenic area, historic district, site or structure.

(3)

The radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished.

(4)

The applicant's network of antenna locations is not adequate to properly serve its customers, and the use of facilities of other entities is not suitable for physical reasons.

(5)

Adequate and reliable service cannot be provided from existing sites in a financially and technologically feasible manner consistent with the service providers' system requirements.

(6)

Existing sites cannot accommodate the proposed antenna due to structural or other engineering limitations (e.g., frequency incompatibilities).

(7)

For proposed monopole or tower facilities, there is a report by a New York State licensed professional engineer specializing in structural engineering certifying that the proposed design is structurally sound.

B.

Any application for the approval of a special permit for a wireless telecommunications facility shall include a report by a qualified radio frequency engineer, health physicist or other qualified professional, as determined by the Planning Commission, which calculates the maximum amount of nonionizing electromagnetic radiation (NIER) which will be emitted from the proposed wireless telecommunications facility upon its installation and demonstrates that the facility will comply with the applicable federal or state standards.

§ 345-87. NIER measurements and calculations.

All applicants for wireless telecommunications antennas in any district shall submit calculations of the estimated NIER output of the antenna(s). For antennas mounted on an existing structure not requiring a special permit, the calculations shall be provided to the Building Inspector prior to the issuance of a permit. For antenna applications requiring a special permit, the calculations shall be provided to the Planning Commission at the time of making the application for special permit. NIER levels shall be measured and calculated as follows:

A.

Measuring equipment used shall be generally recognized by the Environmental Protection Agency (EPA), National Council on Radiation Protection and Measurement (NCRPM), American National Standards Institute (ANSI), or National Bureau of Standards (NBS) as suitable for measuring NIER at frequencies and power levels of the proposed and existing sources of NIER.

B.

Measuring equipment shall be calibrated as recommended by the manufacturer in accordance with methods used by the NBS and ANSI, whichever has the most current standard.

C.

The effect of contributing individual sources of NIER within the frequency range of a broadband measuring instrument may be specified by separate measurement of these sources using a narrow band measuring instrument.

D.

NIER measurements shall be taken based on maximum equipment output. NIER measurements shall be taken or calculated when and where NIER levels are expected to be highest due to operating and environmental conditions.

E.

NIER measurements shall be taken or calculated along the property lines at an elevation six feet above grade at such locations where NIER levels are expected to be highest and at the closest occupied structure.

F.

NIER measurements shall be taken or calculated following spatial averaging procedures generally recognized and used by experts in the field of RF measurement or other procedures recognized by the FCC, EPA, NCRPM, ANSI or NBS.

G.

NIER calculations shall be consistent with the FCC, Office of Science and Technology (OST) Bulletin 65 or other engineering practices recognized by the EPA, NCRPM, ANSI, MBS or similarly qualified organization.

H.

Measurements and calculations shall be certified by a New York State licensed professional engineer, health physicist or a radio frequency engineer. The measurements and calculations shall be accompanied by an explanation of the protocol, methods and assumptions used.

§ 345-88. NIER monitoring and enforcement.

A.

The owner and/or operator of the antenna shall perform a NIER level reading as set forth above and shall submit the results of the test to the Village of Port Chester Building Department within 90 days of initially operating the antenna system, and annually thereafter. The owner or operator shall provide a report from a qualified professional who shall certify, under penalties of perjury, that the installation does not expose the general public to NIER standards in excess of those of any federal or state agency regulating RIF-energy.

B.

The Village may measure NIER levels as necessary to ensure that the federal or state standards are not exceeded.

C.

If the standards of any federal or state agency are exceeded at the location of a proposed transmitting antenna, the proposed facility shall not be permitted.

§ 345-89. Bulk regulations and height.

A.

In all zoning districts, all wireless telecommunications facilities shall comply with yard requirements of the Zoning Ordinance for principal buildings. No wireless telecommunications facilities may be located between the principal structure and the street.

B.

In residential districts, wireless telecommunications facilities shall not exceed 50 feet in height unless the requirements of Subsection C below are met. In nonresidential districts, wireless telecommunications facilities shall not exceed 100 feet in height unless the requirements of Subsection C below are met. These height requirements shall supersede those of this chapter.

C.

In the event that applicants propose a height greater than that listed in Subsection B above, the applicant must demonstrate to the satisfaction of the Planning Commission that:

(1)

Alternative means of mounting the antenna have been considered and are not feasible for the applicant.

(2)

The height is the minimum height necessary for adequate operation to meet the applicants' communications needs and the aesthetic intrusion has been minimized to the greatest extent practicable.

(3)

The height does not exceed 50% of the maximum height listed in Subsection C above.

(4)

The site or building on which the facility is proposed to be installed does not become nonconforming or increase in nonconformity by reason of the installation of wireless telecommunications facilities. This includes, but is not limited to, yard, buffer, height, floor area ratio for equipment buildings, parking, open

space and other requirements. The height requirements of this chapter shall apply to buildings and equipment shelters.

D.

Notwithstanding anything stated herein, the Planning Commission shall be permitted to increase the height of any tower beyond any limitations set forth herein in order to accommodate additional users. In reviewing a request for greater height, the Planning Commission shall balance the effect of a greater height against the provision of one or more additional towers, collocating or other alternatives.

E.

In residential districts, wireless telecommunications towers and monopoles shall be separated from residential buildings on adjacent or abutting properties for a distance by not less than two times the height of the tower or monopole. This provision shall apply to the proposed use for wireless telecommunications facilities of towers or monopoles existing at the time of adoption of this article.

§ 345-80. Visual impact. [Amended 9-7-2004 by L.L. No. 12-2004]

A.

For all new wireless telecommunication towers, the applicant shall provide to the Planning Commission a full Environmental Assessment Form (EAF), Part I and Visual EAF Addendum, Appendix A and B, including graphic information that accurately portrays the visual impact of the proposed tower from various vantage points selected by the Planning Commission, such as, but not limited to, parks, designated historic buildings or designated scenic areas. This graphic information may be provided in the form of photographs or computer-generated images with the tower superimposed, as may be required by the Planning Commission.

B.

For all buildings or equipment shelters to be located in a residential zoning district, the equipment shelter shall be treated in an architectural manner compatible with the residences in the vicinity.

C.

The applicant shall employ best industry practices, such as stealth technology, to camouflage antennas and equipment shelters to minimize the visual impact of any installation.

§ 345-91. Landscaping requirements.

For any new wireless telecommunications towers, landscaping shall be provided as follows:

A.

In determining the most appropriate landscaping to be provided, the Planning Commission shall consider the visual impact of the proposed facility in its setting with regard to immediate proximity of observers, the sight lines from major viewing points and from those features identified in § 345-90.

B.

The area surrounding the installation shall be landscaped and maintained with paving, shrubs and ground cover consistent with the surrounding community character.

C.

Any buildings or other equipment shelters associated with the antenna facility shall be landscaped with evergreen trees or shrubs of sufficient size and density to screen, in whole or part, and effectively mitigate the appearance of the structures and buildings. Any antenna facility requiring a tower or pole shall plant trees around the facility of a minimum height of 10 feet at planting that will, over time, reduce the visual impact from the tower or pole.

D.

When a security fence is required, the outside of such fencing shall be landscaped with evergreen shrubs, trees or climbing evergreen material on the fencing or may contain wooden slats woven into the fence so as to mitigate and minimize the industrial character of the fence.

E.

An existing natural vegetative buffer which meets or exceeds the above requirements can be retained to meet the landscape requirements set forth above.

§ 345-92. Color and lighting standards.

Except as specifically required by the Federal Aviation Administration (FAA) or the FCC, antennas, including the supporting structure and all related appurtenances, shall:

A.

Be colored to reduce the visual impact to the greatest degree possible.

B.

Not be illuminated, except that buildings may use lighting required by the New York State Fire Prevention and Building Code or when required for security reasons.

Editor's Note: See Ch. 151, Building and Fire Prevention.

When lighting is used, it shall be compatible with the surrounding neighborhood to the greatest degree practicable.

§ 345-93. Fencing and NIER warning signs.

A.

The area surrounding the facility shall:

(1)

Be fenced or otherwise secured in a manner which prevents unauthorized access by the general public to areas where the standards of any federal or state agency are exceeded.

(2)

Contain appropriate signage to warn of areas of the site where:

(a)

NIER standards are exceeded.

(b)

High risks for shocks or burns exist.

B.

For wall-mounted antennas, the signage shall be placed no more than five feet off the ground.

C.

No other signage, including advertising, shall be permitted at the facility, antenna or tower or supporting structure, unless required by law.

§ 345-94. NIER exposure standards.

No antenna or combination of antennas shall expose the general public to NIER levels exceeding the standard of any federal or state agencies having jurisdiction. In addition, no antenna facility shall emit radiation such that the general public will be exposed to shock and burn in excess of the standards contained in ANSI C-95.1.

§ 345-95. Registration of antenna operators.

The Building Department shall keep a list of the names, addresses, type and maximum emissions of all antenna operators in the Village. This list shall be maintained from applications to the Planning Commission and Building Department and from FCC or similar inventories of facilities in the Village. If the name or address of the owner or operator of the antenna facility is changed, the Building Department shall be notified of the change within 30 days.

§ 345-96. Performance standards for new antennas.

New antennas must comply with the following performance standard that the estimated or measured nonionizing electromagnetic radiation (NIER) from a proposed antenna, when added to existing radio frequency electromagnetic radiation from existing sources, will not exceed the guidelines set forth in the applicable federal and state standards.

§ 345-97. Expiration of special exception use permit.

A.

The special exception use permit shall be issued to the use that was the subject of the application and shall expire upon the termination of such use.

B.

The Building Inspector shall require issuance of a revised or new special exception use permit prior to the issuance of a building permit where the proposal requires a special permit use under this article.

C.

After issuance of a building permit, the applicant shall provide a report to the Building Inspector prepared by a New York State licensed professional engineer certifying that any monopole or tower has been constructed in accordance with the plans approved by the Building Inspector.

D.

All special exception use permits issued for any wireless telecommunications facility shall be renewed every two years from the effective date of the approval of the facility. An application for renewal shall be made to the Planning Commission. The Planning Commission shall review any and all changes in circumstances influencing the wireless telecommunications facility, or the actual facility itself, including its operation and use. If circumstances have materially changed, then the Planning Commission shall reconsider the special permit approval. Failure to renew the special exception permit use, or the denial of the renewal by the Planning Commission, shall result in the removal of the wireless telecommunications facility in accordance with this article.

§ 345-98. Existing installations.

Any wireless telecommunications facility legally existing at the time that this article takes effect shall be permitted to continue, provided that the operator submits proof within six months of the enactment of this article that a valid building permit has been issued for the facility and that the facility complies with the standards adopted by the Federal Communications Commission and all requirements of this article, as certified by a professional engineer with qualifications acceptable to the Village of Port Chester.

§ 345-99. Severability.

Should any section, paragraph, sentence, clause, word or provision of this article be declared void, invalid or unenforceable, for any reason, such decision shall not affect the remaining provisions of this article.

ARTICLE XIX

**Reimbursement of Professional Fees
[Added 4-15-2002 by L.L. No. 4-2002]**

§ 345-100. Purposes.

The Board of Trustees hereby finds that the Village of Port Chester incurs significant expenses related to professional consultant review of site plans and subdivisions. For these types of land use applications, the expertise of professional consultants is necessary to assist the reviewing board in making a reasoned and informed determination in compliance with law. Therefore, it is the purpose of this article to authorize reviewing boards to require applicants to reimburse the Village for the reasonable expenses of

professional consultants, such as an engineer, planner, attorney or other expert, that have been retained. This expense shall be in addition to any fee required by other law, regulation or resolution of the Village.

§ 345-101. Professional consultant review fees.

A.

The expense of such professional consultants shall be in accord with fees usually charged for such services in the metropolitan New York region and pursuant to a contractual agreement the Village and such consultant. All such charges shall be paid by the Village upon submission of a Village voucher.

B.

The applicant shall reimburse the Village for the cost of such services in accordance with the procedures described in § 345-102 herein.

C.

Evidence of payment of all professional consultant review fees shall be provided by the Village Treasurer to the reviewing board having jurisdiction over the application.

D.

Full payment of such fees shall be a condition of final action by a reviewing board.

§ 345-102. Escrow accounts.

A.

At the time of submission of an application, the applicant shall tender an amount as set forth below to allow the Village to establish an escrow account:

Type of Application	Amount
Site plan	\$2,500
Subdivisions	
Three lots	\$2,500
Four lots or more	\$5,000

No application shall be deemed complete until such time as said tender is made.

B.

Withdrawals from the escrow account shall be made to reimburse the Village for the cost of professional consulting services.

C.

When the balance in such escrow account is reduced to 1/3 of its initial amount, the applicant shall deposit additional funds into such account in an amount to be determined by the reviewing board. In no event, however, shall the applicant be required to maintain a balance in the escrow account in excess of the initial amount. If the escrow account is not replenished within 30 days after the applicant is notified in writing of the requirement of an additional deposit, the reviewing board may suspend its further review of the application. In addition, the reviewing board shall not be required to comply with the time periods, if any, by applicable law, if the applicant fails to replenish the account as aforesaid. Any such time periods shall begin to accrue again upon receipt of the required payment.

D.

After all pertinent charges have been paid, and upon final approval or denial by the reviewing board (or withdrawal of the application), the Village shall refund to the applicant any funds remaining on deposit, less any fees incurred for the establishment and maintenance of the escrow account.

§ 345-103. Environmental quality review.

If the reviewing board is the lead agency in the environmental review of an application in accordance with the State Environmental Quality Review Act (SEQRA), the board shall impose those fees authorized by Part 617 of Title 6 of the New York Codes, Rules and Regulations (the implementing regulations pertaining to Article 8 of the Environmental Conservation Law) in connection with the environmental review of an application in place of the fees noted in § 345-102.

§ 345-104. Supersession.

This article shall supersede any inconsistent provisions of the Village Code and Article 7 of the Village Law, § 7-725-a.

ARTICLE XX
Training and Attendance Requirement
[Added 8-6-2002 by L.L. No. 14-2002]

§ 345-105. Purpose and intent.

The proper administration of this chapter requires that members of the Planning Commission and Zoning Board of Appeals have knowledge of both the grants of authority under which they operate and the general principles and practices of land use law. Furthermore, membership on these boards and commissions requires regular attendance. Thus, the Board of Trustees finds and determines that mandatory training and attendance requirements would not only ensure that members have the requisite level of knowledge and participation for them to properly discharge their duties, but also instill confidence in applicants and the general public who are before them that these boards and commissions are acting in accordance with the public interest.

§ 345-106. Training. [Amended 4-2-2007 by L.L. No. 5-2007]

A.

Members of the Zoning Board of Appeals must comply with Village Law § 7-712 as amended and undergo a minimum of four hours of relevant training in each calendar year. Training received by a

member in excess of four hours in any one year may be carried over into the next succeeding year to meet the training requirement of that year.

B.

Members of the Planning Commission must likewise satisfy this training requirement.

C.

The foregoing training requirement may be satisfied by attendance in the classroom or completion of online seminars, workshops or continuing education courses or other forms of distance learning that are approved in advance as appropriate by the Board of Trustees. The costs of such training shall be a Village charge.

D.

Members may also attend a training session at a regular meeting that is conducted by the Village Attorney in satisfaction of a part of their training.

E.

Members shall keep track of their training and submit to the Village Clerk annual statements of compliance, with supporting documentation, prior to the close of each calendar year.

§ 345-107. Attendance. [Amended 4-2-2007 by L.L. No. 5-2007]

Members shall not be absent more than four regular meetings in any given calendar year.

§ 345-108. Failure to comply. [Amended 4-2-2007 by L.L. No. 5-2007]

The failure of a member to comply with this article shall in no way affect the validity of a determination of the Planning Commission or the Zoning Board of Appeals. However, a member who fails to meet the attendance and training requirements shall not be eligible for reappointment. However, such failure shall also be cause for removal of the member by the Board of Trustees after notice and an opportunity to be heard with regard to same.

§ 345-109. Alternate members.

For purposes of this article, the alternate members of the Planning Commission and Zoning Board of Appeals shall be deemed members thereof and shall be subject to the training requirements set out herein.

ARTICLE XXI
Public Notice Requirements
[Added 8-3-2009 by L.L. No. 11-2009]

§ 345-110. Signage; mail notification; public hearings; zoning changes or amendments by Village.

In order to provide enhanced notice to property owners and others affected by applications for zoning changes or amendments, site plan approvals, subdivision approvals, special exception uses, variances and zoning interpretations, the following requirements shall apply:

A.

Signage.

(1)

The applicant shall post one sign per 300 linear feet of frontage on each street upon which the subject property fronts no later than 10 days prior to the initial public meeting on the matter.

(2)

Such sign shall be at least three feet by four feet in size, consist of sturdy and serviceable material containing a white background with black letters, and be placed in a location plainly visible from the most commonly traveled street or highway upon which the property fronts or, in the case of a corner lot, on both streets, but in no case more than 20 feet back from the front lot line. Such sign shall have a heading reading "PUBLIC NOTICE" in legible lettering at least five inches in height. The sign shall then state the following information in legible lettering at least two inches in height: the type of public meeting; the name of the approval body that is holding the public meeting; the date, time and location of such public meeting; a brief description of the project and action sought (for example, "approval for a three-lot subdivision"); and "PORT CHESTER BUILDING DEPT., 939-5203." Below is an example of the format for such sign:

PUBLIC NOTICE:

A PUBLIC MEETING

WILL BE HELD BY THE

PORT CHESTER [Planning Commission / Board of Trustees / Zoning Board of Appeals]

ON [insert date] at [insert time] PM

AT THE [insert location: name of building and street address]

TO CONSIDER [insert project description and action sought]

PORT CHESTER BUILDING DEPT., 939-5203

(3)

At least 24 hours prior to the public meeting, the applicant shall submit to the secretary and/or clerk of the applicable approval body an affidavit stating that the applicant has posted a sign meeting the requirements described in Subsection A(1) and (2) above, along with a photograph of the posted sign.

(4)

In the event that the applicant shall appear before more than one approval body, the sign shall be appropriately revised in accordance with Subsection A(1) through (3).

(5)

The applicant shall maintain the sign and ensure that it remains plainly visible and legible while the application is pending.

(6)

The applicant shall remove and/or revise the sign no later than five days after the applicable determination of the approval body. Signs not removed within such time period shall constitute litter under Chapter 208 of the Code of the Village of Port Chester and shall be subject to the penalties set forth in that chapter.

B.

Mail notification.

(1)

The applicant shall give written notice to the record owner of each property within the notification area defined in Subsection B(2) below. If the address of record set forth on the tax assessment roll is not the property address, notices shall be sent to both the property address and the address of record. Notice hereunder shall be given by U.S. first-class mail, mailed at least 10 days prior to the initial public meeting in which the applicant's matter will be heard. **[Amended 10-17-2011 by L.L. No. 15-2011]**

(2)

Except for applications made under the provisions of Article XVIII, the notification area shall be defined as follows: a radius line measured 500 feet from the property lines of the subject property for an application for a use variance, interpretation or zoning amendment that would result in the establishment of a use that is not currently permitted or the enlargement of a prior legal nonconforming use; for all other matters a radius line measured 200 feet from the property lines of the subject property. Should the radius line extend into the public right-of-way, the lots directly opposite the portion of the radius line within the public right-of-way shall also be included in the notification area. For zoning changes or amendments encompassing multiple parcels, notice shall also be given to all parcels within the area affected by the proposed zone change or amendment, as well as those parcels within the radius line measured from the boundaries of the area affected by the proposed zone change or amendment. **[Amended 10-17-2011 by L.L. No. 15-2011]**

(3)

An area map at a scale of one inch equals 400 feet shall be prepared, using the most current Town of Rye Tax Map and Tax Assessment Roll, depicting the site and surrounding properties, zoning district boundary lines, municipal boundary lines, the notification area and the tax lot identification for each lot wholly or partially within the notification area.

(4)

A public notification list shall be prepared using the most current Town of Rye Tax Map and Tax Assessment Roll, showing the Tax Map section, block and lot number, owner's name and owner's mailing address for each property located wholly or partially within the specified notification area.

(5)

Notification shall consist of a detailed description of the location of the property, the proposed action/approval sought and the date, time and location of the public meeting.

(6)

The applicant shall remove and/or revise the sign no later than five days after the applicable determination of the approval body or the applicant's withdrawal of an application. Signs not removed within such time period shall be grounds for enforcement and the penalties proscribed under this chapter. **[Amended 10-17-2011 by L.L. No. 15-2011]**

(7)

The mail notification requirements set forth in this Subsection B shall be applicable only to the initial public meeting in which the applicant's matter will be heard. However, if the application is adjourned at a public meeting to a date certain in excess of three months, the applicant must comply with the mail notification requirements as if it were the initial public meeting on the application.

(8)

An application before another approval body whose action may be required shall be noticed in compliance with the mail notification requirements in Subsections B and C.

C.

Public hearings.

(1)

Public hearings shall be noticed in compliance with the notification requirements of Subsections A and B of this article.

(2)

Publication. The Village shall place a notification in the official Village newspaper(s) no less than 10 days prior to the initial public hearing in which the matter will be heard. **[Amended 10-17-2011 by L.L. No. 15-2011]**

D.

Zoning changes or amendments; Village as applicant. If the Board of Trustees proposes a zone change or amendment and the posting of signage under this article is not practicable, the Board of Trustees may require such additional notice as it deems appropriate.

§ 345-111. Additional notification.

A.

County notification. If the proposed application affects the interest of the county in accordance with § 277.61 of the Westchester County Administrative Code and/or § 239-m of the General Municipal Law,

the secretary and/or clerk of the applicable approval body shall mail a copy of the notice of the public meeting and a copy of the proposed application with supporting material describing the substance of the application to the County Planning Board at least 10 calendar days prior the public hearing and at least 30 calendar days prior to Village action.

B.

Adjoining municipalities. If the land involved in any application lies within 500 feet of the boundary of any other municipality or entity required to be noticed pursuant to § 239-m of the General Municipal Law, Article 7 of the Village Law or § 277.61 of the Westchester County Administrative Code, the secretary and/or clerk of the applicable approval body shall mail a copy of the notice of the public hearing, along with supporting material describing the substance of the application, to the municipal clerk of such adjoining municipality at least 10 calendar days prior to the public hearing.