

# Town of Deerpark

## Orange County, New York

# ZONING LAW

This project is made possible in part, with funds from the County of Orange  
and the Orange County Planning Department



This project was assisted by a grant from the  
Upper Delaware Council, Narrowsburg, NY 12764

Logo is copyrighted by the Upper Delaware Council. All rights reserved.  
Logo may not be copied or reproduced without written permission from the UDC.

# Town of Deerpark Zoning Law

---

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 - ENACTMENT AND INTENT	
§ 1.1 Enactment.	1
§ 1.2 Intent.	1
ARTICLE 2 - DEFINITIONS	
§ 2.1 Word Usage.	2
§ 2.2 Specific Definitions.	2
ARTICLE 3 - BASIC DISTRICT REGULATIONS	
§ 3.1 Enumeration of Districts.	11
§ 3.2 Zoning Map.	11
§ 3.3 Interpretations of District Boundaries.	11
§ 3.4 Schedule of District Regulations.	11
§ 3.5 Applicability of Regulations.	15
§ 3.6 Lot Development Standards.	15
§ 3.7 Height Restrictions.	16
§ 3.8 Yard Regulations.	16
§ 3.9 Accessory Structure and Use Standards.	16
ARTICLE 4 - GENERAL SUPPLEMENTARY REGULATIONS	
§ 4.1 Parking, Loading, Access and Traffic Standards.	19
§ 4.2 Floodplain Development Standards.	22
§ 4.3 Home Occupation Regulations.	22
§ 4.4 General Commercial and Industrial Standards.	23
§ 4.5 Minimum Lot Size Standards.	25
ARTICLE 5 - SUPPLEMENTARY REGULATIONS APPLICABLE TO PARTICULAR USES	
§ 5.1 Recreational Vehicles, Campgrounds and RV Parks.	27
§ 5.2 Manufactured Homes and Parks.	31
§ 5.3 Planned Residential Developments.	33
§ 5.4 Multi-Family Residential Uses.	37
§ 5.5 Conversions of Residential or Non-Residential Structures.	41
§ 5.6 Sand, Gravel and Quarrying Questions.	42
§ 5.7 Tele-communications Facilities.	42
§ 5.8 Signs.	51
§ 5.9 Cluster Development (Conservation Subdivisions).	58
§ 5.10 Upper Delaware River Provisions.	59
§ 5.11 Animal Husbandry, Animal Hospitals and Commercial Agriculture.	59
§ 5.12 Camps and Conference Centers.	60
§ 5.13 Hotels, Motels and Resorts.	60
§ 5.14 Adult Uses.	61
§ 5.15 Vehicle Junkyard and Wrecking Facilities.	63
§ 5.16 Continuing Care Facilities.	66

# Town of Deerpark Zoning Law

---

## ARTICLE 6 - NONCONFORMING USES AND STRUCTURES

§ 6.1	Rights to Continue Nonconforming Uses.	71
§ 6.2	Normal Maintenance and Repairs.	71
§ 6.3	Restoration, Reconstruction or Re-establishment.	71
§ 6.4	Changes and Additions.	72
§ 6.5	Use of Existing Non-conforming Lots of Records.	73

## ARTICLE 7 - SPECIAL USE AND SITE PLAN REVIEW PROCEDURES

§ 7.1	Preliminary Site Plan.	74
§ 7.2	Application and Site Plan Required.	74
§ 7.3	Waivers.	75
§ 7.4	Hearing and Decision.	75
§ 7.5	Conditions.	75
§ 7.6	Referrals.	76
§ 7.7	Appeals.	76
§ 7.8	Effect of Site Plan Approval.	76
§ 7.9	Renewal of permits.	76
§ 7.10	Conformity with Other Plans, Laws and Ordinances.	76
§ 7.11	Special Use Review Criteria.	77
§ 7.12	Landscaping Standards Applicable to Special Uses.	78
§ 7.13	Bonding for Site Improvements Related to Special Uses	80

## ARTICLE 8 - ADMINISTRATION AND ENFORCEMENT

§ 8.1	Building Inspector.	82
§ 8.2	Permit Requirements.	82
§ 8.3	State Environmental Quality Review Act Compliance.	83
§ 8.4	Violations and Penalties.	84
§ 8.5	Fees.	84

## ARTICLE 9 - ZONING BOARD OF APPEALS

§ 9.1	Establishment and Membership.	85
§ 9.2	Powers and Duties.	85
§ 9.3	Procedures.	86

Official Zoning Map	87
---------------------	----

# Town of Deerpark Zoning Law

---

## Article I Enactment and Intent

### § 1.1 Enactment.

There is hereby established a zoning plan for the Town of Deerpark, which plan is set forth in the text and map that constitute this Zoning Law.

### § 1.2 Intent.

It is the legislative intent of this Zoning Law to provide for the orderly and desirable development and use of land. This Law provides specifications, procedures, and a precise plan designed to guide new development while improving, conserving, or facilitating desirable change in existing portions of the Town. As provided in Sections 261, 263 and 281 of Article 16 of the Town Law of the State of New York, this Law is to serve the purpose of protection and promoting the general welfare which is intended to include the following:

1. To protect and preserve the rights of all landowners to enjoy and make economic use of their property.
2. To assure conditions that encourage the most productive use of land throughout the Town.
3. To assure adequate sites for present and future local and regional needs for residence, industry, and commerce.
4. To encourage flexibility in the design and development of land in such a way as to promote the most appropriate use of lands, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open land.
5. To enhance the general appearance of the Town.
6. To provide for the privacy of family residences.
7. To facilitate the adequate and efficient provision of community facilities, services, and utilities.
8. To promote the safe and efficient circulation of vehicles and pedestrians.
9. To require the adequate provision for off-street parking and loading.
10. To restrain the overcrowding of land with persons or structures in relation to open spaces, circulation, and neighboring land uses.
11. To prevent and eliminate other hazards and nuisances.

# Town of Deerpark Zoning Law

---

## Article 2 Definitions

### § 2.1 Word Usage.

1. Unless otherwise listed below, the numbers, abbreviations, terms and words used herein shall have the meanings of common usage as set forth in the latest edition of Merriam-Webster's Collegiate Dictionary (currently 11th Edition). Terms of law shall have the meanings as set forth in the latest edition of Black's Law Dictionary.
2. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular include the plural; words used in the plural include the singular; the word "herein" means in this law; the word "requirements" means the minimum requirements necessary for the purposes set forth in Article 1; and the words "this law" shall mean this local law and the schedules and maps included herein as enacted or subsequently amended.
3. The word "person" as used in this chapter, shall be defined to include, but not be limited to, an individual, a partnership, a joint venture, a corporation, an unincorporated association, a firm or any other form or entity, contractors, subcontractors, or journeymen.
4. The word "lot" includes the word "plot."
5. The term "occupied" or "used", as applied to any land or building, shall be construed to include the words "intended", "arranged", or "designed to be occupied or used."
6. "Shall" is always mandatory.

### § 2.2 Specific Definitions.

Access Area - A property used as an area of entry to a stream or other body of water for the purpose of launching or landing of watercraft. The access area may also include ancillary services or facilities other than base operations for watercraft rentals and may be operated as a private business.

Accessory Use, Building or Structure - A subordinate use, building or structure customarily incidental to and located on the same lot occupied by the main use, building or structure. The term "Accessory Building" may include a private garage, garden shed, a private playhouse, and a private greenhouse.

Agricultural Use - A use involving the production, keeping, or maintenance for sale, lease or personal use of plants and animals useful to man, including but not limited to forages, grain and seed crops, dairy animals, poultry, beef, sheep, horses, pigs, bees, fur animals, trees, food of all kinds, vegetables, nurseries, and lands devoted to soil conservation or forestry management programs.

Alteration - A change, enlargement or rearrangement in the structural parts of a structure, whether by extending on a side or by increasing in height; or moving from one location or position to another.

Arena, or Sports Arena - A coliseum, stadium, arena or other place of public assembly for purposes of sport, equestrian and other animal, entertainment, athletic, recreational, craft fairs, shows, or other similar purposes and events (see definition of Event).

Bait and Tackle Shop - A retail establishment in which hunting and fishing equipment, supplies and accessories are sold to the public.

Basement - A story in a building having a floor below the finished grade at any point on the periphery of the building

## Town of Deerpark Zoning Law

---

and having a structural ceiling at least four feet above the average finished grade along each side of the building facing the street. (See cellar.)

Bed and Breakfast - An existing residence which is used, in the manner of a home occupation, to provide overnight lodging with breakfast as part of the consideration and involving shared bath and dining facilities; also including youth hostels.

Building Inspector - The person charged by the Town Board with responsibility for administration and enforcement of this Law. Also known as Code Enforcement Officer.

Business Service - Establishment primarily engaged in rendering services to businesses on a fee or contract basis, such as advertising and mailing, building maintenance, unemployment service, office equipment rental and leasing, commercial research, development and testing, photofinishing, and business supplies.

Building - (See structure.)

Building Contractor's Storage Yard - A building or area of land where persons, firm or corporations engaged in the construction business, or a related field, store building materials, equipment and supplies used exclusively in that contracting business. Retail and wholesale sale of any contractor's materials or supplies is prohibited.

Building Height - The vertical distance measured from the average elevation of the proposed finished grade to the highest point of the roof for flat roofs; to the deckline of mansard roofs; and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Camp and Conference Center - A site and group of structures facilitating the gathering of people, whether children, youth, adults or families; whether via pickup and delivery (as in the case of a "day camp" of multi-day duration); a one-day event; or a short-term event requiring the provision of overnight accommodations in permanent or semi-permanent structures. Food service, specialized facilities and staff support are provided promoting the particular purposes of the gathering, whether athletic, recreational, outdoor education, religious, cultural, or the sharing of information, and the conduct of organizational business. Year-round accommodations for staff may be provided.

Campground - A tract of land providing two or more sites (for rent or sale) for the temporary parking of recreational vehicles or the erection of tents or other portable sleeping accommodations.

Car Wash - A building, portion of a building, and/or area arranged, intended or designed to be used for the washing, spraying, waxing, polishing or drying of motor vehicles, and/or the vacuum or dry-cleaning of same, on a commercial basis.

Cellar - A space in a building with structural ceiling level less than four feet above the average finished grade along any side of the building facing a street.

Cemetery - A place used for burials, whether in the ground or in mausoleums, provided that no new cemetery shall result in in-ground burials within a 100-year floodplain area or the construction of any mausoleum structure of greater than five-hundred (500) square feet in size any closer than one-hundred (100) feet from the perimeter of the cemetery.

Community Wastewater System - Facilities serving two or more dwellings or properties with collection and treatment of wastewater prior to discharge to an approved disposal location.

Club, Membership - An organization catering exclusively to members and their guests, which is not conducted primarily for gain, provided there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club. Accessory uses and/or structures may include such subordinate purposes as administration, operation, accommodations, and the sale of food and drink primarily to members and their guests.

# Town of Deerpark Zoning Law

---

Cluster Development - Grouping of buildings (whether on individual lots or in condominium ownership) in proximities closer than permitted by the existing zoning and subdivision regulations in order to preserve open space and to minimize infrastructure improvements (also known as "conservation subdivision").

Code Enforcement Officer - The person charged by the Town Board with responsibility for administration and enforcement of this Law. Also known as Building Inspector.

Community Center - A meeting house for the residents of a development (whether the homeowners of a large-scale residential development, the seasonal residents of a bungalow colony or resort, or the residents of a mobile home park), for such occasions and purposes as social, cultural, recreational, and community governance. Such a structure may be owned and operated either by the management of the development or a homeowners association, and shall be considered to be an accessory building.

Condominium - A mode of ownership wherein each unit of enclosed space may be owned in fee simple individually and separately from all others, but where all such owners have an indivisible interest in the common areas. Thus, they share ownership and attendant responsibilities for the provision, maintenance and/or repair of common internal facilities, utilities, services, exterior building surfaces, land, landscaping, parking, lighting and other outdoor facilities.

Convenience Retail Store - A retail store containing less than two thousand (2,000) square feet of gross floor area that is designed and stocked primarily to sell food, beverages, and household supplies to customers who purchase only a relatively few items.

Cooperative - A mode of ownership for which title is held jointly by a group of cooperators, each member owning a given number of shares in the corporation, each member owning a given number of share in the corporation, in proportion to the value of his individual dwelling unit, which he "owns" under an occupancy agreement. Each cooperator is assessed, according to the number of shares owned, for maintenance of common areas.

Custom Work, Shop for - A business premises used for the making of clothing, millinery, shoes or other personal articles to individual order and measure, for sale at retail on the premises only, not including the manufacture of "ready-to-wear" or standardized products.

Customary Residential Accessory Uses - Garden house, playhouse, tool house, greenhouse, swimming pool, satellite dish antennas and private garage; the keeping domestic animals as pets; the raising of field and garden crops, vineyards, and orchard farming, provided such crops or produce are for the sole and exclusive use of the occupant or owner of the premises, and not for resale.

Density - The number of families, individual dwelling units or principal structures per unit of land.

Dwelling - A building designed or used as the living quarters for one or more families. The term "dwelling" shall include seasonal homes and mobile homes provided that they meet all the requirements of this law, the building code, and all other regulations or ordinances applicable to dwellings.

Dwelling, Multi-family - A building or portion thereof containing more than two dwelling units but intended for single ownership. Single ownership is not intended to preclude cooperative or condominium ownership.

Dwelling, One-family -- A detached building designed or occupied exclusively by one family and having two side yards, with at least 1,000 square feet of living area, the shortest dimension, longitudinally or transversely, of which must be at least 24 feet, erected on a permanent foundation, with/without basement and equipped for year-round occupancy.

Dwelling, Two-family - A structure containing two dwelling units.

## Town of Deerpark Zoning Law

---

Dwelling Unit - A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit.

Event - With reference to the Arena or Outdoor Recreational Activity uses incorporated into this Chapter, an activity or occasion that is planned and intended for general public attendance.

Essential Services - The construction and maintenance of underground, surface or overhead electrical, gas, telephone, water and sewage collection systems along with normal accessory activities.

Extractive Uses (Mining) - A lot or land, or part thereof, used for the purposes of extracting stone, sand or gravel, as an industrial operation, and including quarries, stone crushers, screening plants, concrete product plants, storage of quarry screenings, accessory to such uses. This definition shall not encompass the process of grading a lot preparatory to the constructions of a building for which application for a building permit has been made.

Family - As many as six (6) persons living together as a single, permanent and stable nonprofit housekeeping unit, using all rooms in the dwelling and housekeeping facilities in common and having such meals as they may eat at home generally prepared and eaten together with sharing of food, rent, utilities or other household expenses. Households or groups of more than six (6) persons living together shall not be considered families for purposes of this Law unless affirmative evidence is presented to indicate to the satisfaction of the Building Inspector that the household or group meets the other criteria contained herein.

Farm Stand - A building, whether fully or partially enclosed, that is intended for the display and sale of primarily locally raised agricultural produce and products.

Floor Area - The sum of the gross horizontal areas of the several floors of the building or buildings on a lot measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings, excluding cellar and basement areas used only for storage or for the operation and maintenance of the building.

Floor Area Ratio - The floor area in square feet of all buildings on a lot divided by the area of such lot in square feet.

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 nor space for more than one car leased to a nonresident off the premises.

Greenhouse, Commercial - An enclosed structures of a permanent or temporary nature within which is conducted a commercial agricultural operation, generally the propagation of one or more horticultural species from seeds or cuttings to a stage fit for transplanting elsewhere or sale, including retail as well as wholesale operations.

Hazardous - Any material defined by the United States Environmental Protection Agency (EPA) as hazardous or toxic due to its characteristics, including but not limited to direct or indirect toxicity, radioactivity, explosivity, and flammability, or other characteristics as the EPA or its successors may revise from time to time.

Health Care, Rehabilitative and Medical Facilities - Any land use or facility that is devoted to human health care and maintenance, treatment of substance abuse problems or the provision of medical services, whether offered in a residential setting or as day-treatment.

Home-energy Generation Device - A device, used at a residence. for the purpose of providing a power source for the residence, whether driven by the wind, supplied from the sun or generated from some other resource (e.g. geothermal).



## Town of Deerpark Zoning Law

---

Home Occupation - Any use customarily conducted entirely within the principal structure and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the principal use and does not change the character thereof. Such occupations may include, but are not limited to, professions and trades, real estate and insurance offices, and beauty and barber shops.

Hospital - Unless otherwise specified, the term "hospital" shall be deemed to include sanatorium, nursing home, convalescent home, and any other place for the diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments

Hospital, Animal - An establishment for the medical and surgical care of sick or injured animals.

Hotel - A building containing rooms used for overnight accommodations of those in transit, or for a short-term business or personal stay and where meals and other services are provided within the building or in an accessory building. Single-room occupancy residential projects shall be considered multi-family dwellings.

Hunting Club - A privately held area of open space used by a non-profit organization for the purposes of recreational hunting and/or fishing on a non-commercial basis, which may be accompanied by a clubhouse, cabin, shooting range and similar accessory uses.

Industrial Park - A highly restricted type of planned industrial development in which special emphasis and attention are given to aesthetics and community compatibility and the property is developed according to a comprehensive plan which includes detailed provisions for streets and all necessary utilities as well as serviced sites for a community of industrial and industry-oriented uses.

Industrial Uses - Uses involving manufacturing or processing involving changing the nature, size, or shape of substances of raw materials, or recombining raw materials. Industrial uses may involve the use of chemical applications, heat, pressure or other mechanical processing methods.

Junkyard - An area of land with or without buildings used for or occupied by a deposit, collection or storage, outside a completely enclosed building, of used or discarded materials, such as waste paper, rags, scrap metal, or discarded material; tires; or used building materials, house furnishings, machinery, or parts thereof; with or without dismantling, processing, salvage, sale or use or disposition of same; including Vehicle Junkyard and Wrecking facilities as further defined herein.

Kennel - A structure used for the harboring of more than five dogs or cats with attendant commercial services that may include boarding, grooming, breeding, raising, and/or veterinary care.

Lot - A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.

(a) Conforming - a lot having not less than minimum area and dimensions required by this law for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of State law to be adequate as a condition of the issuance of a building permit for a building on such land.

(b) Non-conforming - a parcel of land owned individually and separately, and separated in ownership from any adjoining tracts of land, which has a total area and/or dimensions less than prescribed by this law for a lot in the district in which such land is situated.

Lot, Corner - A lot at the junction of, or abutting on, two or more intersecting streets where the interior angle of intersection does not exceed 135 degrees. A lot abutting a curved street shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect on an interior angle of less than 135 degrees.

## Town of Deerpark Zoning Law

---

Lot Depth - The mean distance from the street line of a lot to the rear lot line of such lot, not to include the street or road right of way.

Lot Width - The shortest distance between side lot lines measured at the front yard setback line.

Lot Line, Rear - The lot line generally opposite the street line.

Manufacturing, Light - Industrial uses such as manufacturing, processing and assemblage that are of a nonpolluting nature, particularly in regard to reservoir and ground water resources, and in regard to ambient air quality, noise and light radiation.

Manufactured (Mobile) Home - A structure, transportable in one of more sections, which is built on a permanent chassis and designed to be used as a dwelling unit when affixed to a permanent foundation or placed on a concrete slab and connected to the required utilities. Manufactured home does not include a modular home.

Manufactured Home Park - A parcel of land under single ownership which has been planned and approved for the commercial renting of manufactured home sites.

Modular Home - Factory-manufactured housing, subject to the requirements and regulations of the New York State Uniform Fire Prevention and Building Code, in which prefabricated components assembled at the plant are sent to a housing site in two (2) or more pieces, depending on the size and style of said housing, to be joined together to form a complete house on a permanent foundation.

Motel - A building containing overnight accommodations intended or designed to be used or which are occupied for sleeping purposes by transients and where meals may be served and which caters to the motoring public. The ordinary length of stay is overnight, but may extend as long as one week under unusual circumstances.

Nursery - A place where trees, shrubs, vines and/or flower and vegetable plants are propagated or grown for a period of at least six months and/or where flowers and vegetables of an annual variety are germinated before being offered for sale and transplanting. (Such definitions shall not encompass those retail establishments that buy the majority of their horticulture stock wholesale, not propagating it themselves.)

Nursery School - A facility designed to provide daytime care or instruction for two or more children from infancy to five years of age inclusive, and operated on a regular basis.

Nursing and Senior Care Facilities - Any dwelling where persons are housed or lodged and furnished with meals and nursing care for hire.

Office, Business and Professional - A place or establishment used for the organizational or administrative aspects of a trade, or used in the conduct of a profession or business, and not involving the manufacture, storage, display or direct retail sale of goods. This may include, but is not limited to, offices of salesmen, sales representatives, architects, engineers, physicians, dentists, attorneys, insurance brokers, real estate brokers and persons with similar occupations.

Permitted Use - A specific main use of a building, structure, lot or land, or part thereof, which this Law provides for in a particular district as a matter of right. Any use that is not listed as a Permitted, Special Use or Accessory Use shall be considered a Prohibited Use, unless a use variance shall have been granted by the Zoning Board of Appeals.

Personal Services - An establishment primarily engaged in providing services involving the care of a person or personal apparel, such as a beauty parlor, barber shop, health and fitness center, tailor, or custom cleaning services.

Principal Structure - A building in which is conducted the main or principal use of the lot on which it is located.

## Town of Deerpark Zoning Law

---

Public Buildings and Uses - Structures and uses operated by a governmental agency (whether municipal, county, regional, state or federal) in the proper exercise of their jurisdiction.

Research, Design and Development Laboratory - A building for experimentation in pure or applied research, design, development and production of prototype machines or of new products, and uses accessory thereto, wherein products are not manufactured for wholesale or retail sale, wherein commercial servicing or repair of commercial products is not performed, and wherein there is no outside display of any materials or products.

Resort - A parcel of land providing lodging, recreation and entertainment primarily to vacationers. A primary place of residence, a medical or other rehabilitative facility or a single-room occupancy residential project shall not be considered a resort.

Restaurant - A business enterprise engaged in preparing and serving food and beverages selected from a full menu by patrons seated at a table or counter, served by a waiter or waitress and consumed on the premises, with takeout food (if any) as an accessory use, but excluding fast food establishments.

Restaurant, Fast Food - A business enterprise primarily engaged in the sale of quickly prepared food and beverages selected by patrons from a limited line of prepared specialized items such as hamburgers, chicken, pizza, tacos, and hot dogs, for take-out and/or on-premises consumption (in the latter case, where orders are placed at a counter as opposed to table service via a waiter/waitress, in a facility where the floor area available for dining is less than one-half (1/2) of the gross floor area, and a major portion of the sales to the public is at a drive-in or standup type counter. The term "Fast Food Restaurant" shall not include bakeries, delicatessens, or similar types of retail establishments. See also "Restaurant".

Retail Establishments - Stores and shops where goods are sold primarily at retail. Such sales are primarily made directly to the consumer and include, but are not limited to, goods such as food and beverages; florists; shoes and clothing; hardware, paint and wallpaper; carpeting; hobby and crafts; books; furniture; antiques; art supplies; music; pharmacies; jewelry; photographic supplies; pets; gifts; stationery; sporting goods; fabrics; optical goods; launderette/laundromat, and appliances; but excluding lumber yards, restaurants and fast-food restaurants. Outside storage or display of goods for such is permitted only with Site Plan approval by the Planning Board.

River Related Recreational Facilities - Recreational facilities which are principally oriented toward river users including but not limited to boat accesses and bases, bait and tackle shops, campgrounds, swimming areas, comfort areas, snack stands if part of a larger recreational facility, and other facilities which offer an array of recreational activities and services, but not including hotels, motels, restaurants, amusement parks, amenities installed for use by individual residents, and the like.

Room, Habitable - A room separated from other rooms by walls and doorways, but not including kitchens, bathrooms, or similar utility spaces, foyers or halls.

Satellite Earth Stations - Dish-shaped antennas designed to receive television broadcasts relayed by microwave signals from earth orbiting communications satellites.

Setback, Existing or Established - The median setback (front, rear or side) of all existing structures located on the same side of the street and within the same block and same zoning district.

Setback, Front - The required minimum distance from the building or use to the front lot line.

Setback, Rear - The required minimum distance from the building or use to the rear lot line.

Setback, Side - The required minimum distance from the building or use to any lot line other than to the front or rear lot lines.

Social Hall - A structure used for periodic non-profit social events such as church dinners, weddings, penny socials and

# Town of Deerpark Zoning Law

---

other public gatherings.

Soil Scientist - An individual with; 1) a Bachelor's degree from an accredited institution in soil science or a related field with a minimum of two years professional experience in natural resources management, or 2) a Master's degree in soil science or a related field.

Special Use - A use which, because of its unique characteristics, requires individual consideration through a site plan review process by the Planning Board as established by Section 274A of the Town Law of the State of New York. Such a use may require the meeting of certain conditions and safeguards before being permitted.

Stable, Private - An accessory structure in which horses are kept for private use and not for hire, remuneration or sale.

Stable, Public - A building in which any horses are kept for remuneration, hire or sale.

State Building Construction Code - Rules and regulations relating to building construction as promulgated in the New York State Uniform Building and Fire Prevention Code.

Storage, Bulk - The accumulation of wholesale quantities of raw or finished materials (solids, liquids and gases) preparatory to use in a manufacturing process, or to retail sales, a permanent reserve being maintained. Junk and scrap materials do not qualify for inclusion in this category.

Street - A street improved to the satisfaction of the Superintendent of Highways and one of the following: A street shown on the official map of the Town of Deerpark, or an existing town, county, state highway or street shown on an approved subdivision plat, or a street shown on a plat filed with the County Clerk (in accordance with Section 280A of the Town Law) prior to the Planning Board's authorization to review subdivision.

Street Line - The dividing line between a lot and a street right of way.

Structure - Structure means a combination of materials to form a building or other construction that is safe and stable and includes, among other things, stadiums, radio towers, sheds, storage bins, billboards and display signs.

Trade Shop - A work shop of any person employed in a skilled trade such as, but not limited to plumbing, electrical, heating and ventilating, painting, woodworking, carpentry and upholstery, printing and copying, machine printing and general repair shops.

Utility, Private - Those normal and customary services to a building or group of buildings within a corporate park or subdivision necessary to provide heat, electric power, water, sanitary waste disposal, and/or fire protection.

Utility, Public - Any person, firm, corporation, or municipal agency, duly authorized to furnish to the public, under public regulation, electricity, gas, water, sewage treatment, steam, cable TV, telephone or telegraph.

Variance - A relief from the regulations of this law, granted on grounds of practical difficulties or unnecessary hardships, not self-imposed, by the Zoning Board of Appeals.

Vehicle and Equipment Sales - A building and/or area arranged, intended or designed to be used for the rental, lease, sale and/or resale of motor vehicles, new or used; boats or trailers; shipping containers and other equipment. A selection of motor vehicles, boats or trailers or other equipment may be displayed within a totally enclosed building but still others may require an outdoor area for their storage.

Vehicle Junkyard and Wrecking - An area of land, with or without buildings, used for or occupied by a deposit, collection or storage outside a completely enclosed building of used or discarded motor vehicles, or parts thereof, with or without the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled,

## Town of Deerpark Zoning Law

---

partially dismantled, obsolete or wrecked vehicles and their parts. A deposit, collection or storage on a lot of two or more motor vehicles no longer in condition for legal use on the public highways, or parts thereof, for sixty days or more in a residential district, or for ninety days or more in a non-residential district, shall constitute a motor vehicle junk yard. Farm machinery and off-highway vehicles and equipment utilized in agricultural operations shall not be deemed to constitute a motor vehicle junk yard.

Vehicle, Recreational - A vehicular unit or structure primarily designed as temporary housing for recreational camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper and motor home.

Vehicle Service Establishment - A building, or a portion of a building, arranged, intended or designed to be used for making repairs to motor vehicles, their mechanical systems and their body structure (including painting). This category is intended to include, but is not limited to, "jiffy lubes", and such repair shops as specialize in transmissions, mufflers, tires, as well as the sale of gasoline or any other motor vehicle fuel or oil or other lubricating substances.

Warehouse - A building, or part of a building, for storing of goods, wares, and merchandise whether for the owner or for others, and whether it is public or private warehouse.

Warehouse, Self-storage - a compartmentalized warehouse in which the renter of a self-contained storage unit has direct access to the space.

Worship, Place of - A structure used for religious observances, such as a church, a synagogue or a temple, including a church school building, a parish office, a social hall and a storage building. A rectory or parsonage of no more than 3,000 square feet of floor area for a single family may also be included on the same lot but shall meet the requirements applicable to a single-family dwelling and be limited to occupancy by clergy and their family.

Yard - A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward, provided however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitation and requirements limiting obstruction of visibility.

Yard, Front - A yard extending between side lot lines across the front of a lot adjoining a public street. In the case of through lots or corner lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages.

Yard, Rear - A yard extending across the rear of the lot between inner side yard lines. In the case of through lots, there will be no rear yard, but only front and side yards.

Yard, Side - A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of required front yards. In the case of corner lots, one of the yards remaining after the designation of front yards shall be considered the side yard, and the other the rear yard.

# Town of Deerpark Zoning Law

---

## Article 3 Basic District Regulation

### § 3.1 Enumeration of Districts.

The Town of Deerpark is hereby divided into the following types of districts:

RS	Residential Settlement District
RR	Rural Residential District
NR	Neighborhood Residential District
HM-U	Hamlet/Mixed Use District
IB	Interchange Business District
I-I	Industrial District
RRC	Recreational River Corridor District

PRD Planned Residential Development Districts and floodplain overlay districts are also provided for under § 5.3 and § 4.3 hereof, respectively.

### § 3.2 Zoning Map.

The location and boundaries of said districts are hereby established as shown on the Official Zoning Map of the Town of Deerpark, as amended this date or hereafter, which is attached hereto and made a part of this law.

### § 3.3 Interpretation of District Boundaries.

1. Zoning district boundary lines are intended generally to follow or connect the center lines of rights-of-way; existing lot lines; the mean water level of rivers, streams and other waterways; or town boundary lines, all as shown on the Zoning Map; but where a district boundary line does not follow such a line, its position is shown on said Zoning Map by a specific dimension or relationship to such a line.
2. Where a district boundary line divides a lot of record at the time such line is established, the Planning Board may allow the extension of activities permitted in one district to the other as a Special Use. This is to permit more flexibility in the use of large parcels.
3. When the specific location of a zoning district boundary line cannot be ascertained, the Building Inspector, Planning Board or Town Board, as the case may be, shall request the Zoning Board of Appeals to render an interpretation which shall then be used as the basis for applying zoning standards.

### § 3.4 Schedule of District Regulations.

The restrictions and controls intended to regulate development in each district are set forth in the following Schedule of District Regulations which is then supplemented by other sections of this Law and other laws of the Town of Deerpark. Any use identified as a Principal Permitted Use shall be permitted as a matter of right upon application to the Building Inspector, provided the proposed use is in compliance with these regulations. Special Uses are subject to site plan review and, specifically, Planning Board approval as prerequisites to the Building Inspector issuing a permit for their establishment. Accessory Uses are permitted to accompany or precede Principal Permitted and Special Uses and permits for these uses shall be issued directly by the Building Inspector.

## Town of Deerpark Zoning Law - Schedule of District Regulations

District Intent	Principal Permitted Uses	Special Uses	Accessory Uses	Development Standards																										
<p><b>RR Rural Residential District:</b> This district is intended to protect the rural character of that portion of Deerpark which is subject to natural limitations or in public or semi-public use as open space and to provide for wildlife, recreation, forestry and conservation uses in general.</p>	<p>One-family dwellings Two-family dwellings Agricultural uses Equestrian uses Hunting clubs Public and semi-public uses</p>	<p>Animal hospitals, kennels and veterinary offices Bait and tackle shops Bed and breakfast facilities Camps and campgrounds Cemeteries Commercial greenhouses Essential services Extractive uses Funeral homes Home occupations Hotels, motels and resorts Nursery schools Places of worship Planned residential developments Residential conversions Saw and planing mills Shooting ranges and clay targets Social halls Tele-communication facilities</p>	<p>Garages Home-energy generation devices Parking areas Private swimming pools Private stables Signs Storage sheds Other activities or structures customarily accessory to permitted principal or special uses.</p>	<p>Minimum average lot width/depth: 200 feet Minimum yards: Front 50 feet Side 50 feet Rear 50 feet Maximum bldg. height 35 feet Min. floor area (§ 3.6): 1,000 sq. ft. Maximum bldg. coverage 20% Minimum lot area: See Table above and § 4.5 for application</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Soil Types</th> <th style="text-align: left;">Lot Area</th> </tr> </thead> <tbody> <tr><td>CnA,CnB,CnC</td><td>2.0 acre</td></tr> <tr><td>OtB,OtC,OkA,OkB</td><td>2.0 acre</td></tr> <tr><td>HoA,HoB,HoC</td><td>2.0 acre</td></tr> <tr><td>RhA,RhB,RhC</td><td>2.0 acre</td></tr> <tr><td>CgA,CgB,SwB,SwC</td><td>2.0 acre</td></tr> <tr><td>WuB,WuC,MdB,MdC</td><td>2.0 acre</td></tr> <tr><td>ScA,ScB,BnB,BnC,SX</td><td>2.0 acre</td></tr> <tr><td>Fd,ErA,ErB,Ra,ESB</td><td>3.0 acres</td></tr> <tr><td>FaC,LdB,LdC,RSB,AN</td><td>3.0 acres</td></tr> <tr><td>All "D" slope soils</td><td>3.0 acres</td></tr> <tr><td>Ha,Ab,Ca,AC,OVE,Rk</td><td>6.0 acres*</td></tr> <tr><td>All other soils</td><td>10.0 acres*</td></tr> </tbody> </table>	Soil Types	Lot Area	CnA,CnB,CnC	2.0 acre	OtB,OtC,OkA,OkB	2.0 acre	HoA,HoB,HoC	2.0 acre	RhA,RhB,RhC	2.0 acre	CgA,CgB,SwB,SwC	2.0 acre	WuB,WuC,MdB,MdC	2.0 acre	ScA,ScB,BnB,BnC,SX	2.0 acre	Fd,ErA,ErB,Ra,ESB	3.0 acres	FaC,LdB,LdC,RSB,AN	3.0 acres	All "D" slope soils	3.0 acres	Ha,Ab,Ca,AC,OVE,Rk	6.0 acres*	All other soils	10.0 acres*
Soil Types	Lot Area																													
CnA,CnB,CnC	2.0 acre																													
OtB,OtC,OkA,OkB	2.0 acre																													
HoA,HoB,HoC	2.0 acre																													
RhA,RhB,RhC	2.0 acre																													
CgA,CgB,SwB,SwC	2.0 acre																													
WuB,WuC,MdB,MdC	2.0 acre																													
ScA,ScB,BnB,BnC,SX	2.0 acre																													
Fd,ErA,ErB,Ra,ESB	3.0 acres																													
FaC,LdB,LdC,RSB,AN	3.0 acres																													
All "D" slope soils	3.0 acres																													
Ha,Ab,Ca,AC,OVE,Rk	6.0 acres*																													
All other soils	10.0 acres*																													
<p><b>RS Residential Settlement District:</b> This district is intended to protect the integrity of single-family residential areas of the Town from commercial and industrial intrusions that could cause a decline in the quality of life within these generally single-purpose sections of the Town.</p>	<p>One-family dwellings Public and semi-public uses Agricultural uses Equestrian uses</p>	<p>Bed and breakfast facilities Essential services Home occupations</p>	<p>Garages Home-energy generation devices Parking areas Private stables Private swimming pools Signs Storage sheds Other activities or structures customarily accessory to permitted principal or special uses.</p>	<p>Minimum average lot width/depth: 200 feet Minimum yards: Front 50 feet Side 35 feet Rear 50 feet Maximum bldg. height 35 feet Minimum floor area: 1,000 sq. ft. Maximum bldg. coverage 20% Minimum lot area: See Table above and § 4.5 for application</p>																										

## Town of Deerpark Zoning Law - Schedule of District Regulations

District Intent	Principal Permitted Uses	Special Uses	Accessory Uses	Development Standards
<p><b>NR Neighborhood Residential District:</b> This district is intended to provide for commercial and mixed-use development within key neighborhoods and at relatively high density for the purpose of meeting the needs of residents for goods and services.</p>	<p>One-family dwellings Two-family dwellings Public and semi-public uses</p>	<p>Cemeteries Convenience stores without gasoline Home occupations Nursery schools Places of worship Residential conversions River-related recreation Social halls</p>	<p>Garages Parking areas Private stables Private swimming pools Signs Storage sheds Other activities or structures customarily accessory to permitted principal or special uses.</p>	<p>Minimum average lot width/depth: 100/200 feet* Minimum yards: Front 20/50 feet* Side 35 feet Rear 20/50 feet* Maximum bldg. height 35 feet Min. floor area (§ 3.6): 1,000 sq. ft. Maximum bldg. coverage 20% Minimum lot area: 1/2 acre/ 1 acre*</p> <p>* with/without community wastewater</p>
<p><b>HM-U Hamlet/Mixed-Use District:</b> This district is intended to provide areas for moderate to high density residential development and compatible commercial and industrial uses.</p>	<p>One-family dwellings Two-family dwellings Agricultural uses Equestrian uses Public and semi-public uses</p>	<p>Animal hospitals, kennels and veterinary offices Bed and breakfast facilities Building contractor yards Building supply/lumber yards Business service and trade shops Business/professional offices Camps and campgrounds Cemeteries Commercial greenhouses Continuing care facility Essential services Extractive uses Funeral homes Health care, rehabilitative &amp; medical facilities Home occupations Hotels, motels and resorts Indoor/outdoor recreation facilities Light manufacturing Manufactured home parks Multi-family dwellings Nursery schools Nursing and senior care facilities Personal service shops Places of worship Planned residential developments Restaurants Retail stores and shopping centers Saw and planing mills Self-storage warehouses Social halls Shooting ranges and skeet facilities Tele-communication facilities Vehicle and equipment sales Vehicle service establishments Wholesale establishments</p>	<p>Garages Home-energy generation devices Parking areas Private swimming pools Private stables Signs Storage sheds Other activities or structures customarily accessory to permitted principal or special uses.</p>	<p>Minimum average lot width/depth: 100/200 feet* Minimum yards: Front 20/35 feet* Side 20/35 feet* Rear 20/35 feet* Maximum bldg. height 35 feet Minimum floor area: 1,000 sq. ft. Maximum bldg. coverage 20% Minimum lot area: 1 acre</p> <p>* with/without community wastewater</p>



## Town of Deerpark Zoning Law - Schedule of District Regulations

District Intent	Principal Permitted Uses	Special Uses	Accessory Uses	Development Standards
<p><b>IB Interchange Business District:</b> This district is intended to provide for the general development of business at significant highway interchange areas and attracting business from within both the region and the Town.</p>	None	Animal hospitals, kennels and veterinary offices Building contractor yards Building supply/lumber yards Business service and trade shops Business/professional offices Clubhouses/fraternal uses Commercial greenhouses Essential services Extractive uses Health care, rehabilitative & medical facilities Home occupations Indoor/outdoor recreation facilities Light manufacturing Motels and resorts Movie houses and outdoor theatres Nursing and senior care facilities Personal service shops Restaurants Retail stores and shopping centers Self-storage warehouses Vehicle and equipment sales Vehicle service establishments Wholesale establishments	Bulk storage Dwellings accessory to commercial uses Garages Parking areas Private swimming pools Signs Storage sheds Other activities or structures customarily accessory to permitted principal or special uses.	Minimum average lot width/depth: 200/400 feet* Minimum yards: Front 20/35 feet* Side 20/35 feet* Rear 20/35 feet* Minimum Side/Rear Yard Adjoining Residential District: 50 feet Maximum bldg. height 35/40 feet* Min. floor area ratio: 0.50 Minimum lot area: 1 acre/2 acres* * involving non-industrial/industrial uses
<p><b>I-1 Industrial District:</b> This district is intended for industrial and like uses which are of large scale or involve intense activity which could generate more substantial impacts on surrounding properties than would be the case in the IB District or HM-U District.</p>	None	Adult uses (see § 5.14) Building contractor yards Building supply/lumber yards Business services Business/professional offices Essential services Extractive uses Industrial parks Light manufacturing with outside storage areas Tele-communications facilities Vehicle junkyard and wrecking Wholesale establishments	Bulk storage Garages Parking areas Signs Storage sheds Other activities or structures customarily accessory to permitted principal or special uses.	Minimum average lot width/depth: 150/200 feet Minimum yards: Front 20/35 feet* Side 20/35 feet* Rear 20/35 feet* Maximum bldg. height 40 feet Minimum lot area: 2 acres
<p><b>RRC Recreational River Corridor District:</b> This district is intended to complement designation of the Upper Delaware River as a National Scenic and Recreational River and to help implement the River Management Plan to which the Town is a party.</p>	One-family dwellings Two-family dwellings Agricultural uses Equestrian uses Hunting clubs Public and semi-public uses	Bait and tackle shops Camps and campgrounds Cemeteries Essential services Home occupations Hotels, motels and resorts Membership clubs Nursery schools Places of worship Residential conversions River-related recreational facilities Social halls  See Section 5.10 for additional standards applicable in District	Garages Home-energy generation devices Parking areas Private swimming pools Private stables Signs Storage sheds Other activities or structures customarily accessory to permitted principal or special uses.	Minimum average lot depth/width: 200 feet* Minimum yards: Front 50 feet Side 50 feet Rear 150 feet Minimum setback from River 150 feet Maximum bldg. height 35 feet Min. floor area (§ 3.6): 1,000 sq. ft. Maximum bldg. coverage 20% Minimum lot area: 2 acres * A minimum of 150 feet River frontage is required

# Town of Deerpark Zoning Law

---

## § 3.5 Applicability of Regulations.

Whenever any owner or occupant of any property in the Town of Deerpark shall, for any purpose or in any manner;

- (a) establish a new use,
- (b) commercially clear, excavate or grade land for purposes of making permanent structural improvements to a property,
- (c) change an existing use,
- (d) make permanent structural improvements to a property,
- (e) erect a new building,
- (f) move, alter, add to or enlarge any existing land use or building;

such owner or occupant shall first comply with the requirements of this Law and obtain a building/zoning permit, unless specifically exempted from such requirements by this Law. A building/zoning permit shall be required whenever a change in land use occurs, regardless whether any new construction is involved or not, excepting that agricultural harvesting, grazing, tilling and crop rotation shall be exempt from all permit requirements.

## § 3.6 Lot Development Standards.

1. Minimum development standards. The development standards contained herein are minimums and shall apply to each dwelling unit unless otherwise specifically provided. A two-family dwelling shall, for example, require the equivalent of two minimum sized lots insofar as lot area, as will any two dwelling units on the same property. Single studio apartments occupied by immediate family members shall, however, be exempt from this requirement.
2. Minimum dwelling standards. All detached dwellings shall provide at least 1,000 square feet of living area, possess a minimum dimension of 24 feet, longitudinally or transversely, be erected on a permanent foundation with/without basement and be equipped for year-round occupancy. Detached dwellings of less than 1,000 square feet in dwelling area that do not serve as the principal permitted use on a lot or are used for seasonal purposes only may be individually permitted as Special Uses.
3. Corner lots. No obstruction to vision (other than an existing building, post, column or tree) exceeding thirty (30) inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between points along such street lot lines seventy-five (75) feet distant from their points of intersection.
4. Through lot requirements. A through lot shall be considered as having two (2) street frontages, both of which shall be subject to the front yard requirements of this law.
5. Minimum lot frontage. All residential lots shall have a front lot line with a minimum length of fifty (50) feet.
6. Flag lots. The development of interior lots with limited lot frontage consisting of only an access right-of-way shall be permitted provided:
  - (1) The right-of-way is a minimum of fifty (50) feet in width, is improved according to Section 4.9.18 of the Town of Deerpark Subdivision Law and meets the requirements of the Town of Deerpark's Standard Driveway Entrance and Exit Crossing Requirements (Local Law No. 2 of 1996, as amended).
  - (2) The lot area shall be exclusive of that portion used as a right-of-way for purposes of meeting minimum

## Town of Deerpark Zoning Law

---

lot area and all other development standards for the District.

- (3) No right-of-way shall be established over an existing parcel of land to reach a new lot to the rear which would reduce the length of the front lot line of the existing parcel to less than one-hundred-fifty (150) feet. Such front lot shall also front on the right-of-way serving the lot or lots to the rear.
- (4) All flag lot access right-of-ways shall be titled in fee-simple ownership to the flag lot property owner and shall not be used to access any property not part of the original tract. Such owner shall bear responsibility for maintenance of the improvements.
- (5) No more than one such lot shall be created from an existing parcel, a cumulative total of two lots including the original. This restriction shall be incorporated in deed covenants and placed on the recorded plat map at the time any flag lot is created.

### § 3.7 Height Restrictions.

No building or structure shall exceed in building height the number of feet permitted as a maximum on the Schedule of District Regulations for the district where such building or structure is located.

### § 3.8 Yard Regulations.

1. Side yard exception. Where the side wall of a building is not parallel with the side lot line or is irregular, the side yard may be varied. In such case, the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such yard shall not be narrower at any point than one-half (1/2) the otherwise required minimum width.
2. Front yard exception. When an unimproved lot is situated adjacent to or between improved lots already having a principal building within the required front yard, the front yard for the unimproved lot may be reduced to the average depth of the front yards for the two (2) nearest adjoining improved lots, but not less than thirty (30) feet from the centerline.
3. Provision of yard or other open space. No yard or other open space provided about any buildings for the purpose of complying with the provisions of the law shall be considered as providing a yard or open space for any other building, and no yard or other open space on another lot shall be considered as providing a yard or open space for a building on any other lot.
4. Waterfront yards. Any yard which borders on a New York State Department of Environmental Conservation classified lake, stream or body of water shall be not less than one-hundred (100) feet in depth except for boathouses and docks.

### § 3.9 Accessory Structure and Use Standards.

The location, limitation and coverage of accessory buildings shall be as follows:

1. No accessory building permitted by this law shall be placed in any required side or front yard except as provided in this Article.
2. The aggregate ground area covered by any accessory buildings in any rear yard shall not exceed fifty percent (50%) of the rear yard area.
3. Accessory structures not attached to a principal structure shall:
  - (a) Be located not less than ten (10) feet from any side or rear lot line or in such a fashion as to prevent

## Town of Deerpark Zoning Law

---

emergency firefighting access or to shade a residential structure on an adjoining lot. Any structure over 500 square feet in floor area shall meet setbacks for principal structures.

- (b) Be no closer to the street than any principal structure on the lot, except in the case of farm buildings. Accessory buildings to principal structures located more than one-hundred (100) feet from a lot line shall also be exempt. Accessory structures may, in these situations, be located in front of residences but not in required front yard areas.
- 4. Accessory structures of more than 1 story in height within required side or rear yards shall be Special Uses.
  - 5. When an accessory structure is attached to the principal building, it shall comply with requirements for principal buildings.
  - 6. Railroad cars, mobile home units and recreational vehicles shall not be used for purposes of accessory or principal structures in connection with any use. The use of storage trailers or bulk/shipping containers as an accessory use in connection with a commercial or institutional use shall be permitted on a Special Use basis where the trailers or containers can be substantially screened from view with evergreen plantings, fencing or earthen berms as may be required to accomplish the purpose.
  - 7. Above ground or inground swimming pools, incidental to the residential use of the premises and not operated for gain shall require permits if more than two (2) feet deep. A private swimming pool shall not be located, constructed or maintained on any lot or land area, except in conformity with the following requirements:
    - (a) Such pool shall not be located in any required side yard.
    - (b) The entire portion of the premises upon which any pool of less than four feet in height above the ground is located shall be entirely enclosed with a good quality chain link wire or equally sturdy fence of not less than four feet in height.
    - (c) Every gate or other opening in the fence enclosing such pool shall be kept securely closed and locked at all times when said pool is not in use.
    - (d) Such pool shall be not less than 10 feet from side and rear lot lines, and on lots with a width of 50 feet or less the pool shall be located midway between the side lot lines.
    - (e) If the water for such pool is supplied from a private well, there shall be no cross-connection with the public water supply system.
    - (f) If the water for such pool is supplied from the public water supply system the inlet shall be above the overflow level of said pool.
    - (g) Such pool shall be constructed, operated and maintained in compliance with the applicable provisions of the New York State Sanitary Code relating to public swimming pools.
    - (h) No loudspeaker or amplifying device shall be permitted which can be heard beyond the bounds of the property lot where said pool is located.
    - (i) Underwater lighting shall only be installed in accordance with the provisions of the National Electrical Code for such lighting.
  - 8. Keeping of a reasonable number of domestic animals for household purposes, or as pets, and private stables shall be permitted in every district subject to the requirements of the Town of Deerpark Dog Law (Local Law No. 13 of 2000, as amended) and the following conditions:

## Town of Deerpark Zoning Law

---

- (a) Not more than four dogs over six months old, nor more than one litter under six months shall be kept unless permitted as a commercial or not-for-profit kennel.
  - (b) Not more than 25 fowl, nor more than four domestic animals other than dogs and cats shall be kept on any lot unless permitted as a commercial agricultural operation. See also Section 5.11 hereof.
  - (c) There shall be no stable or similar animal or fowl housing or storage of manure within 200 feet of any adjacent dwelling.
  - (d) All animals, except dogs (see Town Dog Law), shall be contained by fence or leash within the boundaries of the owner's property. Any penning area less than one acre in size shall be set back 25 feet from any lot line.
9. Permanent fences erected for purposes other than confinement of farm livestock shall be located a minimum of 18 inches from property lines and require permits under this Law. Vegetative fences shall be setback a distance sufficient to maintain all growth on the property affected. Fences erected in front yards and along side lot lines outside of rear yards shall be a maximum of four feet in height, except in RR Rural Residential Districts where six feet high fences may be permitted. Fences erected in rear yards shall be a maximum of six feet in height. Fences erected in I-1 Industrial District rear yards or for commercial uses within HM-U Hamlet Mixed-Use Districts shall be a maximum of eight feet in height.

# Town of Deerpark Zoning Law

## Article 4 General Supplementary Regulations

### § 4.1 Parking, Loading, Access and Traffic Standards.

1. Off-street parking, loading and unloading facilities shall be provided as necessary in connection with every use. One-family and two-family residential uses shall be provided with two (2) off-street parking spaces per dwelling unit. Parking needs with respect to all other uses shall be determined in conjunction with site plan review. The amount of parking required shall be based on the following factors:

- (a) Industry studies of parking needs for the type of use proposed or actual case-study comparisons for projects of similar character. The Planning Board may require the developer or applicant to gather and submit such data in support of its proposed parking provisions. The National Parking Association and the Urban Land Institute are examples of such industry sources.
- (b) The characteristics of the proposed customers, residents, occupants or visitors to a given facility. Housing for the elderly would, for example, require fewer spaces per dwelling unit than time-shared recreational units, though the number of dwelling units might be the same.
- (c) The expected occupancy rates, traffic levels and numbers of employees in connection with any enterprise and the degree to which these directly relate to parking requirements.
- (d) Recommendations, if any, from other public agencies or information sources which suggest, based on experience, the appropriate amount of parking in connection with a given use.
- (e) The likelihood that parking will be shared with adjoining facilities, the impact of daily peak visitation or use periods on demand and the hours of operation as compared to other neighborhood activities.
- (f) Where industry standards are inadequate for the particular use or site involved or such standards are unavailable, the following standards may be applied by the Planning Board or the Building Inspector, as the case may be:

Home-occupations	1 space per 100 sq. ft. of floor area devoted to use
Hotels/motels	1 space per rental room
Industrial uses	1 space per 400 sq. ft. floor area
Commercial uses	1 space per 250 sq. ft. floor area
Places of public assembly	1 space per 5 seats
Offices	1 space per 300 sq. ft. floor area
Restaurants	1 space per 50 sq. ft. floor area
Vehicle service establishments	4 spaces plus 1 per employee

- 2. Each parking space shall consist of not less than an average of two hundred seventy (270) square feet of usable area for each motor vehicle, including interior driveways, driveways connecting the garage, or parking space, with a street or alley. Garages, carports, and driveways not in the public right-of-way may be considered parking spaces. Parking stalls shall be a minimum of 9 feet wide and 18 feet deep.
- 3. Any lighting used to illuminate any off-street parking shall be so shielded as to deflect the light away from adjoining premises and public right-of-ways and avoid light spillage onto adjacent properties.
- 4. All parking areas which are designed to accommodate twelve (12) or more vehicles shall be landscaped using materials of sufficient growth and height to aesthetically balance the impact of the open paved area and provide effective stormwater control. The following are guideline standards the Planning Board may apply:

## Town of Deerpark Zoning Law

---

- (a) No more than twelve (12) parking spaces should be allowed in a continuous row uninterrupted by landscaping.
  - (b) No parking areas should be designed such that a vehicle might directly back out onto a public highway or through road within the development. Traffic flows through a parking area should be minimized and limited to connections from one lot to another and to the public highway or through road.
  - (c) Commercial parking areas, where possible, should generally be located in the rear yard of any use, with the principal building situated near the front lot line as permitted by Schedule of District Regulations. This is for the purpose of maintaining the continuity of the building line along any highway and avoiding the effective merger of parking areas along a highway into one mass of pavement where entrances and exits become difficult to identify.
5. Any building erected, converted or enlarged for commercial, office, manufacturing, wholesale, institutional or similar uses shall, in addition to the off-street parking space required above, provide adequate off-street areas for loading and unloading of vehicles. Public rights-of-way shall, under no circumstance, be used for loading or unloading of materials. The minimum size loading space shall be sixty (60) feet in depth and twelve (12) feet in width, with an overhead clearance of fourteen (14) feet.
6. Access to and from all non-residential off-street parking, loading and vehicle service areas along public rights-of-way shall consist of well defined separate or common entrances and exits and shall comply with the following provisions:
- (a) Access drives shall comply with all requirements of Local Law 2 of 1996 (Town of Deerpark Driveway Law). Access drives onto State and County highways shall be subject to New York Department of Transportation and Orange County standards, as the case may be.
  - (b) Each entrance and exit shall be clearly defined with curbing, fencing or vegetative screening so as to prevent access to the area from other than the defined entrance and exits.
  - (c) All access drives shall be subject to the requirement of obtaining a driveway permit from the Town of Deerpark Highway Superintendent, the Orange County Department of Public Works or the New York State Department of Transportation, as the case may be, and approval of any permits hereunder may be conditioned upon the application for and/or receipt of such permits from these authorities.
  - (d) No use shall be permitted which requires year-round access from a Town highway which has been designated by the Town of Deerpark Town Board as a low volume or minimum maintenance seasonal highway pursuant to Section 205-a of the New York State Highway Law.
  - (e) For reasons of traffic and pedestrian safety, both on and off the street, as well as to provide for possible future road widening or other improvements, all new driveways and sidewalk crossings entering onto any street shall comply with all the requirements of this chapter, including but not limited to obtaining the appropriate permits and the payment of any and all fees for said permits, and shall be subject to the approval of the Superintendent of Highways, except where such are part of a use subject to special permit or site development plan approval, in which case they shall also be subject to Planning Board approval.
  - (f) No driveway center line shall intersect a street line less than seventy (70) feet from the intersection of any two (2) street lines.
  - (g) Driveway grades:
    - (1) The maximum grade for new subdivisions, concerning a driveway accessory to a single-family dwelling and connecting its off-street parking area to a street shall be ten percent (10%),

## Town of Deerpark Zoning Law

---

except where it can be demonstrated to the satisfaction of the approving authority that, because of unreasonable hardship affecting a particular property, the construction of a driveway shall be permitted, provided that the increase in driveway grade is the minimum increase required, and further provided that in no case shall such driveway grade be permitted to exceed twelve percent (12%).

- (2) The maximum grade for new driveways accessory to uses other than single-family dwellings and connection the required off-street parking area to the street shall not exceed seven percent (7%), except that the approving authority shall have the same power to permit increased grades here as above, provided that such grades shall in no case exceed ten percent (10%).
- (3) Notwithstanding the maximum permitted grades specified above, all driveways shall have a negative 2 percent (-2%) grade within fifty (50) feet of the center line of the traveled way of the street, or within twenty-five (25) feet of the property line of the street, whichever distance is greater. The Planning Board may require increased platform areas of this type in situations where, because of the nature of the proposed use, substantial traffic volumes are anticipated.
- (h) Clear visibility shall be provided in both directions at all exit points so that the driver of an automobile stopped on the platform portion of any new driveway will have an unobstructed view of the highway for a reasonable distance (commensurate with the speed and volume of traffic on such highway) and so that there is a similar view of the automobile in the driveway.
7. All non-residential parking and loading areas and parallel circulation and service lanes shall be separated from the paving edge of a public thoroughfare or adjoining property lines by a planting strip at least twenty (20) feet in depth landscaped according to § 7.12.
8. Traffic study. The Planning Board, at its discretion, may require a traffic impact study by an independent engineer with any Special Use application involving an activity likely to generate more than five-hundred (500) trip-ends per day based on the following daily rates:

Residential uses	9.6 trip-ends per dwelling unit
Industrial uses	3.3 trip-ends per employee
Restaurants	7.9 trip-ends per seat
Fast-food restaurant	23.9 trip-ends per seat
Convenience market	605.6 trip-ends per 1,000 sq. ft. gross floor area
Supermarket	177.6 trip-ends per 1,000 sq. ft. gross floor area
Car wash	108.0 trip-ends per car stall
Offices	6.0 trip-end per employee
Other commercial uses	50.0 trip-ends per 1,000 sq. ft. gross floor area
Institutional uses	4.0 trip-ends per employee
Other uses	See "Trip Generation" - Institute of Transportation Engineers

The study shall examine existing and projected traffic flows before and after development and generally follow the guidelines set forth for such studies by the Institute of Transportation Engineers. Its purpose shall be to ensure that proposed developments do not adversely affect the transportation network and to identify any traffic problems associated with access to the site from the network. It shall identify solutions to potential problems and any improvements needed. The scope of the study shall be approved in advance by the Planning Board with the final product incorporated in the SEQRA submission.



## Town of Deerpark Zoning Law

---

### § 4.2 Floodplain Development Standards.

There is hereby created a special zoning district, the boundaries of which shall be congruent with those areas identified as Special Flood Hazard Areas on the Flood Hazard Boundary Maps for the Town of Deerpark, as issued by the Federal Insurance Administration or its successor. This district shall be an overlay zone, within which the normal provisions of the zoning districts as mapped on the Official Zoning Map shall apply, except that no development shall be permitted which does not comply with the provisions of the Town of Deerpark Flood Damage Prevention Law, as amended. Floodplain land shall be deducted from any density or other lot development standard calculation provided under this Law.

### § 4.3 Home Occupation Regulations.

- I. Home occupations, including businesses which rely upon attraction of the general public (e.g. retail sales) are permitted as Special Uses in certain districts, provided they do not detract from the residential character, appearance (handicapped access notwithstanding), or make-up of the neighborhood in which the business is located. Because of the need these types of businesses may have for advertising and display, and the unpredictability of traffic generation, owners of such businesses must be very cautious about how they operate their business to ensure they do not adversely impact the surrounding neighborhood. The following factors shall be used to determine if a home occupation will comply with or is in violation of this Law. The determination can be made on any one, or a combination, of these factors and shall be made by the Building Inspector.
  - (a) Extent of the business - whether or not the residential use is still the primary use of the property. Factors that shall be used to determine the primary use of the property shall include, but are not limited to, the area of the property used for the business and the amount of time the business is operated on a daily basis. Employees on-site shall be limited to two (2) other than immediate family members.
  - (b) Appearance from an adjacent street - whether or not the use of the property as a business is distinguishable from an adjacent street. Except for a non-illuminated, permanent identification sign no larger than six (6) square feet in size attached to the principle structure and occasional deliveries, there shall be nothing that occurs on the property that can be observed from adjacent streets that make it readily apparent that a business is being operated on the premises. In cases where the principal structure is obscured from the street, or the structure is setback more than fifty (50) feet from the property line, a non-illuminated ground sign not to exceed twelve (12) square feet may be used. Factors for evaluating this standard shall be that the residential dwelling not be altered to change its residential appearance, and no activity related to the conduct of the home occupation shall be permitted to occur in such a manner as to be obtrusive to the neighborhood, attract attention to the business or adversely impact the residential character of the neighborhood.
  - (c) Impact on the neighborhood - whether or not the business activity is causing a nuisance to surrounding property owners; is adversely impacting the peace, health, or safety of neighborhood residents; and/or is causing a deviation from the residential character of the neighborhood. Factors for evaluating this standard shall be:
    - (1) Traffic - whether or not the business is generating traffic that is excessive and/or detrimental to the neighborhood. A home occupation will be allowed to generate no greater than twenty-five (25) vehicle trips per day, based on estimates provided by the Institute of Transportation Engineers. However, based on the characteristics of a specific neighborhood, these amounts may be lowered or raised, at the discretion of the Planning Board. The factors which shall be used for such a determination include, but are not limited to, pertinent characteristics of the neighborhood such as width of properties, width of the streets, hills, curves, and the number of children present.
    - (2) Parking - whether or not parking problems could result from the business use. Factors which shall be used to evaluate this criteria include, but are not limited to the following: 1) parking

# Town of Deerpark Zoning Law

required for the business shall be provided on-site; 2) parking on the property shall be on a surface equal in quality to the paving surface of any existing driveway unless there is no surface other than the ground, in which case a gravel surface shall be provided at a minimum; and 3) no home occupation shall be permitted which requires parking of tractor-trailer combinations along the street on a continuing basis.

(3) Nuisance - whether or not the business activity is causing a nuisance to surrounding property owners or is deviating from the residential character or appearance of the neighborhood.

2. No home occupation, having once been permitted or established, shall be added to, expanded, enlarged or otherwise increased or changed substantially in character without complying with this law and such permission or establishment shall not be a basis for a later application to establish a principal commercial use. Moreover, the conversion of a residence with a home occupation to a commercial use by the abandonment of the residence or sale, rent or transfer of the business to a party which does not reside on-site is strictly prohibited unless the business is then moved offsite.

## § 4.4 General Commercial and Industrial Standards.

Wherever commercial, manufacturing or other non-residential uses, with the exception of agricultural activities and home occupations, are proposed, the following performance standards shall apply. The Building Inspector shall ensure these standards are met prior to issuing Certificates of Occupancy for such uses and may require the applicant(s) to provide documentation of compliance.

1. Commercial/residential buffers. Where a commercial or manufacturing use is contiguous to an existing residential use in any RS District (including those situated on the opposite side of a highway) or any approved residential lot in an RR or NR District, the Planning Board may require that the minimum front, side and rear yards be increased by up to fifty percent (50%). The Board may also require, for purposes of separating incompatible activities or shielding the residence from negative impacts, that a buffer consisting of a solid fence of wood and/or a twenty (20) feet wide dense evergreen planting not less than six (6) feet high be maintained, unless the properties are in the same ownership or the full width of the yard is already wooded. See also § 7.12.
2. Inflammables. All activities involving the manufacturing, production, storage, transfer or disposal of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion. Firefighting and fire suppression equipment and devices shall be provided pursuant to National Fire Protection Association guidelines. Burning of waste materials in open fires is prohibited. Details of the potential hazards and planned safety and accident response actions shall be provided by the applicant and the Planning Board may require greater front, side and rear yards and/or fencing.
3. Electrical disturbances. No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.
4. Noise. The maximum sound pressure level radiated by any non-transportation use or facility at the property line shall not exceed the values given in Table I below after applying adjustments as provided in Table 2 below: The sound pressure shall be measured with a sound level meter and associated Octave Band Analyzer conforming to standards prescribed by the American National Standards Institute.

TABLE I

<u>OCTAVE BAND RANGE CYCLES PER SECOND</u>	<u>MAXIMUM SOUND PRESSURE LEVEL DECIBELS (0.002 DYNE/2CM)</u>
20-300	60
300-2,400	40
2,400+	30

## Town of Deerpark Zoning Law

---

If the noise is not smooth and continuous and is not radiated between the hours of 10:00 PM and 7:00 AM, the adjustments in Table 2 shall be applied to the decibels levels given in Table 1. Where more than one adjustment is applicable, the largest adjustment only shall apply.

TABLE 2

<u>TYPE OF LOCATION OR NOISE CHARACTER</u>	<u>ADJUSTMENT IN DECIBELS PERMITTED</u>
1) Daytime operation only	+5
2) Noise source operates <20% of any given hour	+5
3) Property is located in HM-U District at least 500 feet from any Residential District boundary	+10
4) Noise of impulsive character (hammering, etc.)	-5
5) Noise of periodic character (hum, screech, etc.)	-5

Motor vehicle racetracks shall employ noise control suppression mechanisms as provided in the Town of Deerpark Local Regulating Motor Vehicle Racetracks (Local Law No. 1 of 1991, as amended)..

5. Vibration. No vibration shall be permitted on a regular or continuing basis which is detectable without instruments at the property line.
6. Lighting. All lighting shall be designed so as to avoid unnecessary or unsafe spillover of light and glare onto operators of motor vehicles, pedestrians and land uses in proximity to the light source. Light sources shall comply with the following standards:

<u>TYPE OF LIGHT SOURCE</u>	<u>MAXIMUM ILLUMINATION PERMITTED AT PROPERTY LINE</u>	<u>MAXIMUM PERMITTED HEIGHT OF LIGHT</u>
Globe light	0.20 Foot-candles	15 Feet
>90% Cutoff	0.75 Foot-candles	25 Feet
<90% Cutoff	2.00 Foot-candles	30 Feet

No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or other sources, so as to be visible at the property line on a regular or continuing basis, shall be permitted.

7. Smoke. No emission shall be permitted on a regular or continuing basis from any chimney or otherwise, of visible gray smoke of a shade equal to or darker than No. 2 on the Power's Micro-Ringlemann Chart, published by McGraw-Hill Publishing Company, Inc., and copyright 1954.
8. Air pollution. No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted on a regular or continuing basis which can cause any damage to health, to animals, vegetation, or other forms of property, or which can cause any excessive soiling.
9. Water pollution. All activities involving the possible contamination of surface or ground water shall be provided with adequate safety devices to prevent such contamination. Details of the potential hazards (including the groundwater characteristics of the area in which the use is proposed) and planned safety devices and contamination response actions shall be provided by the developer.
10. Vehicle and equipment sales. Whenever a vehicle and equipment sales, mechanical and body repair use is proposed as a Special Use, or as an expansion of an existing non-conforming use, the following additional performance standards shall apply:

## Town of Deerpark Zoning Law

---

- (a) All mechanical and body repair work shall be performed within buildings.
- (b) All automobile or vehicle parts, new or used, shall be stored within buildings.
- (c) Vehicles which are temporarily on the property awaiting to be repaired, shall be stored in an area which meets the minimum yard and buffer requirements applicable for the district and the use.

### § 4.5 Minimum Lot Size Standards.

The Schedule of Development Regulations which accompanies this Zoning Law provides for the determination of minimum lot sizes in certain districts according to soil types and establishes minimum lot areas per dwelling or principal use for various groups of soils. The following provides for the application of these minimums:

- I. Procedure for determining the maximum number of dwelling units permitted on a multi-acre parcel:
  - (a) Identify the soil type(s) composing the site. (This information may be found on the maps within the Soil Survey of Orange County, New York, as prepared by the Soil Conservation Service, the U.S. Department of Agriculture, unless a more detailed soil survey has been made of the site by a Professional Engineer or soil scientist and verified by the Town Engineer).
  - (b) Measure the acreage for each soil type found on the site.
  - (c) Ascertain the soil group(s) of which the soil type(s) is/are a part, noting the Minimum Lot Area assigned to each soil group in the table found on the Schedule of District Regulations.
  - (d) Divide the acreage within each soil group by the Minimum Lot Area assigned to each and total for all soil types. The maximum number of lots permitted may be increased by a maximum of 10% in any instance where alternative sewage treatment technologies designed by a consulting Professional Engineer, approved by the County Department of Health and verified by the Town Engineer are employed to directly address the soil limitations of a particular site, provided that density shall, in no instance, exceed two units per acre.
  - (e) If the site is zoned HM-U District and is to be served with a community wastewater system, multiply the number derived from step "d" by 3.0.
  - (f) The resulting nearest whole number is the maximum number of dwelling units permitted on the site. Should other than community wastewater and water services be proposed, each and every lot shall conform to the minimum lot size as derived from Subsection 4.5.2 following.
- 2. Procedure for determining the minimum lot size per dwelling unit for lots that are dependent on a private well and septic system:
  - (a) The minimum lot size shall be determined by the soil type on which the proposed septic system is to be located.
  - (b) If the proposed septic system is to be located on two or more different soil groups, the minimum lot size for the most restrictive soil group shall be utilized.
  - (c) As stated in the Soil Survey of Orange County, New York as prepared by the Soil Conservation Service, the U.S. Department of Agriculture, there are some soil types on which septic systems should not be allowed unless the soil's severe limitations can be satisfactorily overcome. If such is proposed, the septic system design must be approved by the Town Engineer. Alternative sewage disposal systems that apply new and innovative technologies may also be permitted consistent with the requirements of the Orange

## Town of Deerpark Zoning Law

---

County Department of Health and the Town Engineer.

- (d) Identify the soil type(s) which compose(es) the site. This information may be found on the maps within the Soil Survey of Orange County, New York, as prepared by the Soil Conservation Service, the U.S. Department of Agriculture, unless a more detailed soil survey has been made of the site by the Soil Conservation Service or a qualified soil scientist and verified by the Town Engineer).
- e) Apply the Minimum Lot Area assigned to each soil group in the table found on the Schedule of District Regulations, identifying the minimum lot size on the basis of the soil type and soil group on which the septic system is proposed to be located.
- (f) Irrespective of the minimum lot size(s) derived from the procedure followed as outlined above, no more dwelling units may be created (whether through subdivision or condominium) than that allowed in Section 4.5.1 above.

## Town of Deerpark Zoning Law

---

- (a) All mechanical and body repair work shall be performed within buildings.
- (b) All automobile or vehicle parts, new or used, shall be stored within buildings.
- (c) Vehicles which are temporarily on the property awaiting to be repaired, shall be stored in an area which meets the minimum yard and buffer requirements applicable for the district and the use.

### § 4.5 Minimum Lot Size Standards.

The Schedule of Development Regulations which accompanies this Zoning Law provides for the determination of minimum lot sizes in certain districts according to soil types and establishes minimum lot areas per dwelling or principal use for various groups of soils. The following provides for the application of these minimums:

- I. Procedure for determining the maximum number of dwelling units permitted on a multi-acre parcel:
  - (a) Identify the soil type(s) composing the site. (This information may be found on the maps within the Soil Survey of Orange County, New York, as prepared by the Soil Conservation Service, the U.S. Department of Agriculture, unless a more detailed soil survey has been made of the site by a Professional Engineer or soil scientist and verified by the Town Engineer).
  - (b) Measure the acreage for each soil type found on the site.
  - (c) Ascertain the soil group(s) of which the soil type(s) is/are a part, noting the Minimum Lot Area assigned to each soil group in the table found on the Schedule of District Regulations.
  - (d) Divide the acreage within each soil group by the Minimum Lot Area assigned to each and total for all soil types. The maximum number of lots permitted may be increased by a maximum of 10% in any instance where alternative sewage treatment technologies designed by a consulting Professional Engineer, approved by the County Department of Health and verified by the Town Engineer are employed to directly address the soil limitations of a particular site, provided that density shall, in no instance, exceed two units per acre.
  - (e) If the site is zoned HM-U District and is to be served with a community wastewater system, multiply the number derived from step "d" by 3.0.
  - (f) The resulting nearest whole number is the maximum number of dwelling units permitted on the site. Should other than community wastewater and water services be proposed, each and every lot shall conform to the minimum lot size as derived from Subsection 4.5.2 following.
2. Procedure for determining the minimum lot size per dwelling unit for lots that are dependent on a private well and septic system:
  - (a) The minimum lot size shall be determined by the soil type on which the proposed septic system is to be located.
  - (b) If the proposed septic system is to be located on two or more different soil groups, the minimum lot size for the most restrictive soil group shall be utilized.
  - (c) As stated in the Soil Survey of Orange County, New York as prepared by the Soil Conservation Service, the U.S. Department of Agriculture, there are some soil types on which septic systems should not be allowed unless the soil's severe limitations can be satisfactorily overcome. If such is proposed, the septic system design must be approved by the Town Engineer. Alternative sewage disposal systems that apply

## Town of Deerpark Zoning Law

---

new and innovative technologies may also be permitted consistent with the requirements of the Orange County Department of Health and the Town Engineer.

- (d) Identify the soil type(s) which compose(es) the site. This information may be found on the maps within the Soil Survey of Orange County, New York, as prepared by the Soil Conservation Service, the U.S. Department of Agriculture, unless a more detailed soil survey has been made of the site by the Soil Conservation Service or a qualified soil scientist and verified by the Town Engineer).
- e) Apply the Minimum Lot Area assigned to each soil group in the table found on the Schedule of District Regulations, identifying the minimum lot size on the basis of the soil type and soil group on which the septic system is proposed to be located.
- (f) Irrespective of the minimum lot size(s) derived from the procedure followed as outlined above, no more dwelling units may be created (whether through subdivision or condominium) than that allowed in Section 4.5.1 above.

# Town of Deerpark Zoning Law

---

## Article 5 Supplementary Regulations Applicable to Particular Uses

### § 5.1 Recreational Vehicles, Campgrounds and RV Parks.

1. License requirement. No person, partnership, association, limited liability or other company or corporation, being the owner, user, operator or occupant of any land within the Town of Deerpark, shall use or allow the use of such land for a campground or RV park or any other form of camping regulated herein unless a license has been obtained as herein provided.
  - (a) The Town Clerk after review by the Building Inspector shall issue a license after approval of the application by the Planning Board pursuant to Special Use procedures.
  - (b) No license shall be issued until the Building Inspector has received a written application from the applicant, the required fee and evidence of approval from the New York State Department of Health.
  - (c) The license may be transferred to a new owner of a campground or RV park, provided that an application for transfer of the existing license is made and the prospective new owner/operator shall document that all of the requirements of this law are met.
  - (d) Any person holding a license for a campground or RV park who desires to add additional lots or spaces to such park shall file an application for a supplemental license.
  - (e) All licenses issued hereunder shall be valid until March 31 of the following year prior to which time applicants shall request or apply for renewal of such licenses and the Building Inspector shall inspect the premises to ensure continued compliance with this law. No facility shall open for business for the new year unless a renewal has been granted. Renewal applications shall be filed by January 31.
  - (f) The applicant for any new license, renewal or transfer shall pay the town an annual or other fees as may be established and modified from time to time by resolution of the Town Board.
  - (g) Each application for a campground or RV park license shall be in writing, signed by the applicant and submitted in quadruplicate along with all plans required to the Building Inspector. The Building Inspector shall promptly transmit copies of the application and plans to the Planning Board, which shall review and act upon the application pursuant to Special Use requirements. The Building Inspector, within thirty (30) days of the filing of the Planning Board action, shall issue the license, provided all other requirements are met.
2. Design standards and general requirements.
  - (a) A campground or RV park shall have a gross area of at least ten (10) contiguous acres of land in single ownership or under unified control.
  - (b) All campgrounds and RV parks shall maintain front and rear yards of one-hundred (100) feet minimum, side yards of fifty (50) feet minimum, stream setbacks of one-hundred (100) feet and provide and maintain a screening strip of planted natural materials along all property boundary lines, fully complying with the landscaping standards herein. Such screening shall be a depth of not less than twenty (20) feet, and designed to effectively screen the area within a period of 3 to 5 years. A planting plan specifying types, size and location of existing and proposed plant materials shall be required.
  - (c) Lot and siting requirements.



## Town of Deerpark Zoning Law

---

- (1) RV park or campground campsites shall be at least fifty (50) feet wide and thirty-five hundred (3,500) square feet in area. Gross density, however, shall not exceed a total of six (6) campsites per acre for the development. All lots within campgrounds and RV parks that are intended to be conveyed to individual owners shall, however, fully comply with subdivision and zoning standards applicable to conventional subdivisions including lot size and yards.
- (2) Campground or RV park campsites shall be separate from service building structures by a minimum distance of fifty (50) feet. The minimum spacing between campsite pads shall be eighty (80) feet (extremity to extremity).
- (d) At least one (1) off-street parking space shall be provided for each site, in addition to the site for placement of the recreational vehicle or tent. Such space shall be a minimum of 12 feet by 30 feet in dimensions.
- (e) Recreational land development streets shall be improved to a twelve (12) feet width for one-way traffic and twenty (20) feet width for two-way traffic to accommodate regular vehicular traffic. Grades shall not exceed 12%.
- (f) No individual on-site sewerage or water supply shall be permitted, and all systems for the common use of campground occupants shall fully comply, as evidenced by approved plans, with standards imposed by the New York State Departments of Conservation and Health and the Town of Deerpark Engineer. At least one recreational vehicle sanitary dumping station shall be provided for every one-hundred (100) campsites or less.
- (g) No permanent external appurtenances, such as expandable rooms, carports, or patios, may be attached, adjoined or placed on the same property with any recreational vehicle parked in a campground or RV park, and the removal of wheels or placement of the unit on a foundation in such a park is prohibited.
- (h) A minimum of two-hundred (200) feet of frontage along a public highway shall be required. Entrances and exits to campgrounds or RV parks shall be designed for safe and convenient movement of traffic into and out of the park and to minimize friction with traffic on adjacent streets. No entrance or exit shall require a turn at an acute angle and the radii of curbs and pavements at intersections shall facilitate easy turning for vehicles with trailers attached. Every intersection of an entrance or exit with a public highway shall have at least five hundred (500) feet of sight distance in both directions along the public highway and be located a minimum of one hundred-fifty (150) feet from any other intersection. Two accesses shall be ordinarily be required.
- (i) A minimum of fifty percent (50%) of the gross site area of the campground or RV park shall be set aside and developed as open space or common use recreational facilities.
- (j) Parking, loading, or maneuvering incidental to parking or loading shall not be permitted on any public right-of-way. Each campground or RV park operator shall provide off-street parking and loading areas and shall be responsible for violations of these requirements.
- (k) Campground or RV park campsites shall be used only for camping purposes. No improvement or living unit designed for permanent residential occupancy shall be erected or placed on any campground or RV park campsite excepting a single-family home intended for the use of an owner or resident manager. Specifically:
  - (1) All recreational vehicles in the development shall be maintained in a transportable condition at all times and meet all requirements which may be imposed by the State of New York. Any action toward removal of wheels or to attach the recreational vehicle to the ground for stabilization purposes is hereby prohibited.

## Town of Deerpark Zoning Law

---

- (2) No campground or RV park site shall be occupied for more than four (4) consecutive months, and no campground or RV park site shall be the primary residence of the individual lot owner or any other occupant; each site shall be used and occupied (excepting for occasional guests) for camping and recreational purposes and only by a single household. All campgrounds shall close annually between December 15 and March 15. All buildings and recreational vehicles, other than the home of a resident manager or owner shall be locked and made unavailable for occupancy during this period.
  - (3) The Town Building Inspector may require any owner to remove a recreational vehicle from the campground for a period of seven (7) days, unless such owner can establish a prior removal or storage without occupancy within the immediately preceding six (6) months. These requirements shall be included in restrictive covenants for nontransient campgrounds or RV parks.
  - (4) The management of every campground or RV park shall be responsible for maintaining accurate records concerning the occupancy of all campground or RV park campsites. The term "management" shall include associations of property owners when such are responsible for maintenance and operation of common facilities. The Building Inspector shall have access to, and the right to inspect, records for evidence of permanent residency. The Town Board and/or Building Inspector shall, in addition, have the authority, when any provision of this law is violated, to prohibit the occupancy of any and all campground or RV park campsites until the owners and/or management comply.
- (l) No owner or occupant of any campground or RV park campsite shall permit or allow the dumping or placement of any sanitary or other waste anywhere upon any campground or RV park lot or elsewhere within the development, except in places designated therefor. No outside toilets shall be erected or maintained on any campground or RV park campsite. Sanitary facilities, including toilets, urinals and showers, shall be provided in separate buildings located not less than one-hundred (100) feet or more than three hundred (300) feet from each campground or RV park campsite and all State health regulations shall be fully met.
  - (m) All property lines within the development shall be kept free and open; and no ledges, walls or fences, except as may be required for screening or as may exist naturally, shall be permitted.
  - (n) No noxious or offensive activities or nuisances shall be permitted within any campground or RV park. Such nuisances shall include, but not be limited to; (1) excessive noise ; (2) any burning which results in smoke or noxious fumes emanating beyond the property line; and (3) any other nuisance activity which would cause impacts beyond the property line. Responsibility for meeting such requirements shall extend to occupants of campground or RV park campsites as well as owners and operators. Public address systems shall not be permitted.
  - (o) No animals shall be kept or maintained on any campground or RV park campsite except for the usual household pets which shall be kept confined.
  - (p) No person shall burn trash or refuse on any campground or RV park campsite. All such refuse shall be placed in closed receptacles which shall be provided by the owners of the campground or RV park campsites and must be removed at least weekly. No owner or occupant shall permit the accumulation of any refuse or junk vehicles on a campground or RV park campsite.
  - (q) Picnic tables, grills and similar items of personal property may be placed on a campground or RV park campsite provided they shall be maintained in good condition.
  - (r) Each owner shall keep drainage ditches and swales located on his campground or RV park campsite

## Town of Deerpark Zoning Law

---

unobstructed and in good repair and shall provide for the installation of such culverts upon his campground or RV park campsite as may be reasonably required for proper drainage.

- (s) No water wells shall be permitted on any individual campground or RV park campsite. The campground or RV park shall be serviced by a central or community water system capable of delivering a minimum of one-hundred (100) gallons per day per site at a minimum pressure of twenty (20) pounds per square inch at peak demand. Potable water drinking supplies shall be provided within two-hundred-fifty (250) feet of each campground or RV park campsite and be operational during any period of occupancy. One water spigot shall be provided for each ten (10) campsites without water facilities. Other water sources supplied to toilets and urinals shall not be physically connected with the drinking supply or be available for public use. Service buildings housing sanitation facilities shall be heated when the campground is occupied between November 1 and March 31.
- (t) A public phone or similar arrangement for emergency communication shall be available 24 hours per day at each rest room facility within each campground or RV park.
- (u) Every campsite shall be accessible by fire and emergency equipment and shall be maintained in such condition, free of obstacles to access.
- (v) The operational standards contained in this section shall be incorporated in restrictive covenants attached to the deeds for campsites in nontransient campgrounds or RV parks and shall be made part of a management plan for any transient campgrounds or RV parks, which covenants and/or plan shall be approved by the Planning Board during site plan review. A plan or set of covenants which does not adequately provide for conformance with this section shall not be approved. The plan and/or covenants shall also provide the Town with the right to periodically inspect the development for continued compliance with the plan and/or covenants.
- (w) Each campsite (except designated primitive tent camping areas) shall be provided with a 30 amp, 120 volt electrical service. Sufficient exterior illumination shall also be provided for convenience and safety. All lighting shall be shielded from the direct view of surrounding properties and streets.
- (x) Campground stores are permitted to be located within the campground and may be part of the office.
- (y) All ancillary facilities such as stores, offices, pools, service buildings and the like shall be subject to site plan review and special use approval.
- (z) All campgrounds shall provide a children's playfield of at least one acre in size (not including the pool if provided) with at least one acre of playfield for each 25 campsites. All pools shall be setback a minimum of Two-hundred (200) feet from any exterior property line and all other recreational facilities shall be setback at least one-hundred (100) feet. Setbacks for lighted facilities shall be twice these figures.

### 3. Enforcement.

- (a) The Building Inspector shall enforce all of the provisions of this Law and shall have the right, at all reasonable times, to enter and inspect any campground or RV park or other premises used as a campground or RV park or for the parking or place of recreational vehicles.
- (b) If the Building Inspector finds that a campground or RV park for which a license has been issued is not being maintained in a clean and sanitary condition or is not being operated in accordance with the provisions of this law, he may service personally or by certified mail upon the holder of the license a written order which will require the hold of the license to correct the conditions specified in such order within ten (10) days after the service of such order. Such order may also be posted on the property if the licensee is otherwise unable to be reached.

## Town of Deerpark Zoning Law

---

- (c) If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order, the Building Inspector may revoke such license and the holder of the license shall thereupon immediately terminate the operation of such campground or RV park and held to be in violation of this law.
- (d) If the owner or operator of such facility shall thereafter correct such conditions and bring the facility into compliance with this law, such owner may then apply for a new license.
- (e) None of the provisions of this law shall be applicable to the following:
  - (1) The business of recreational vehicle sales.
  - (2) The storage of a recreational vehicle on a property used as the principal residence by the owner of such recreational vehicle; provided, however, that such recreational vehicle shall be unoccupied and not be parked or located between the street line and the front building line of such premises.
  - (3) Camping by the owner on his or her own property provided a permit of no more than 2 weeks in consecutive days has been issued by the Building Inspector pursuant to this law, appropriate sanitary facilities and/or sewage disposal systems are in place to serve the unit and the lot on which the unit is to be placed is a minimum of fifty (50) feet in width. The Building Inspector shall develop and enforce a permit system which shall be applicable to all such camping. No permit, however, shall be required for tent camping by owners in the rear or side yard of any residence for more than fourteen (14) continuous days.
- (f) This law shall apply to any extension of existing campgrounds or RV parks, including increases in the number of lots or available spaces, even if no addition to total land area is involved.
- (g) The operational standards of this section shall also apply to existing parks. However, existing parks shall be assumed to have conformed to the formal license and renewal procedure if they have either a use permit from the Town pursuant to this Zoning law or a permit from the New York State Department of Health. Any existing park which does not have a permit from the Department of Health or approval from the Town shall not qualify for this treatment and shall be required to make a new submission.

### § 5.2 Manufactured Homes and Parks.

Manufactured homes and manufactured home parks shall be subject to the requirements of the Town of Deerpark Manufactured Home Law and the following standards and review criteria.

1. Permitted locations. Manufactured homes shall be permitted only within mobile home parks (where permitted) excepting that doublewide units shall be permitted in the same locations as other single-family residences, subject to the standards of subsection 2 below.
2. Standards applicable to individual manufactured homes.
  - (a) A doublewide manufactured home may be placed in the Town only after obtaining a manufactured home/building permit and shall require a Certificate of Occupancy before initial occupancy.
  - (b) Doublewide manufactured homes located outside of manufactured home parks shall comply with all area and bulk requirements that apply to one-family houses in the same zoning district.
  - (c) All doublewide manufactured homes shall be connected to an adequate supply of potable water; shall

## Town of Deerpark Zoning Law

---

be connected to a community wastewater system or septic system constructed to all State and local requirements; and shall be connected to all applicable utilities including but not limited to electric power, telephone, propane gas and fuel oil. All the foregoing connections or services shall be provided to the manufactured home within ninety (90) days of permit issuance for placement of the home.

- (d) All doublewide manufactured homes hereafter erected in the Town shall have been manufactured no less than ten (10) years earlier than the date of application; be Underwriter Laboratory certified; and bear the seal of the U.S. Department of Housing and Urban Development. The Zoning Board of Appeals may waive this requirement for just cause and attach conditions to protect public health and safety.
- (e) All doublewide manufactured homes shall have peaked roofs, with a minimum pitch of three (3) feet vertical to twelve (12) feet horizontal.
- (f) Doublewide manufactured homes, outside of manufactured home parks, shall be installed on a load-bearing foundation complete with footings, such as a crawl space or full basement meeting New York State building code standards.
- (g) Structure frames of doublewide manufactured home must be securely attached to the foundation as provided by New York State building code standards.
- (h) Permanent steps and hand rails shall be constructed at all access points of the doublewide manufactured home to ensure a safe means of ingress/egress into the dwelling unit.
- (i) Exceptions to Permanent Placement Requirements.
  - (1) Construction Field Office. A single manufactured home unit may be temporarily located in any zoning district for use as a construction field office, real estate sales office or manufactured home sales office provided a building permit has been issued under the New York State building code. Such offices may not be installed prior to thirty (30) days before the commencement of the relevant project and must be removed within thirty (30) days after the completion of the relevant project, a maximum of one year, with a one-year extension subject to approval of the Planning Board.
  - (2) Temporary Placement of Manufactured Homes. It shall be unlawful to store any mobile home on any property within the Town of Deerpark for a period in excess of thirty (30) days.
- (j) Prohibited Uses for Manufactured Homes. Manufactured homes shall be used for single family dwelling purposes, only. All other uses, including but not limited to use as a warehouse, storage shed, tool shed, outbuilding or garage are prohibited.
- (k) Non-Conforming Manufactured Homes. Any manufactured home lawfully in existence at the time of the adoption of this local law which is not in full compliance with this Law may remain in its existing location but may not be otherwise relocated within the Town except with respect to relocation on the same lot. No manufactured home previously occupied as a dwelling may be converted to a use prohibited by this Law, however.

### 3. Manufactured Home Park Special Use and Site Plan Review Criteria

The Planning Board shall, in reviewing and acting upon Special Use applications for manufactured home parks, apply the requirements of the Town of Deerpark Manufactured Home Law and the following standards and review criteria:

- (a) The location of the park shall be one demonstrably suitable for such use, with proper drainage and provisions for stormwater control such that the amount of water leaving the site after development shall

## Town of Deerpark Zoning Law

---

not be greater than prior to development.

- (b) There shall be documentation of the availability and adequate capacity of all utility providers to service the park. Offsite or centralized water facilities shall be provided.
- (c) The park shall be designed to provide maximum open space consistent with the minimum manufactured home lot size requirements of the Manufactured Home Law and offer buffering of individual manufactured homes from each other and from other adjoining lot owners. It shall be landscaped so as to develop and maintain a high quality aesthetic environment and neighborhood character for prospective new and existing residents.
- (d) Adequate provisions shall be made for outside storage space and these shall not in any way interfere with emergency access.
- (e) Adequate provisions shall be made to control potential nuisance situations such as accumulation of unused materials or vehicles.
- (f) Recreational facilities sufficient to accommodate the number of dwellings proposed shall be provided.
- (g) There shall be adequate groundwater supplies to support the proposed water system without causing a detrimental impact on adjoining water supplies and evidence of this shall be provided and professionally reviewed.
- (h) The management and operations plan for the park shall provide for maintenance of all common facilities and ensure the purposes and requirements of this law are met. It shall also provide for limitation of occupancy to manufactured homes meeting U.S. Department of Housing Urban Development regulations under the Manufactured Housing Act.
- (i) The manufactured home park shall not result in an over-concentration of such uses in a particular area of the Town such that two-hundred (200) or more mobile homes are placed on contiguous properties, for example.

### § 5.3 Planned Residential Developments.

#### I. Purposes.

- (a) It is the purpose of this section to permit but not require, upon receipt and approval by the Town Board of an application made by the landowner(s), the establishment of a zoning classification entitled "Planned Residential Development (PRD) District." Such district may be permitted for the following purposes:
  - (1) A maximum choice in the types of housing, lot sizes and community facilities available to present and future town residents or visitors at all economic levels.
  - (2) More usable open space and recreation areas.
  - (3) More convenience in location of certain accessory commercial and service areas.
  - (4) The preservation of trees, outstanding natural topography and geological features and the prevention of soil erosion.
  - (5) A creative use of land and related physical development which allows an orderly transition from rural to urban uses.

## Town of Deerpark Zoning Law

---

- (6) An efficient use of land resulting in small networks of utilities and streets and thereby lower housing costs.
  - (7) A development pattern in harmony with objectives of the Town of Deerpark Comprehensive Plan.
  - (h) A more desirable environment than would be possible through the strict application of other Articles of this law or the Town Subdivision Ordinance.
- (b) Generally, these floating districts (permitted within HM-U and RR zones) are intended to provide landowners who wish to develop functionally integrated residential or resort communities or complexes with the flexibility to do so, provided that sufficient open space will be preserved and the development is designed with safeguards to protect the public health, safety and welfare.
2. Procedures. The Town Board shall establish PRD Districts in the following manner:
- (a) The owner(s) of the land in a proposed PRD District shall initially apply to the Town of Deerpark Planning Board for the establishment of a PRD - Planned Residential Development District. The application shall be in writing and include a sketch plan.
    - (1) Said sketch plan shall be drawn to scale, though it need not be to the precision of a finished engineering drawing, and it shall indicate the following information:
      - [a] The location and types of the various uses and their areas in acres.
      - [b] Delineation of the various residential areas, indicating for each such area its general location, acreage and composition in terms of total number of dwelling units, approximate percentage allocation of dwelling units by type and the calculation of the residential density in dwelling units per gross acre of site area.
      - [c] The general outlines of the interior roadway system and all existing public and private rights-of-way and easements.
      - [d] The location and area of the common open space.
      - [e] The overall drainage system.
      - [f] A location map showing uses and ownership of abutting lands.
      - [g] Provisions of sewers, water and other required utilities.
    - (2) In addition, the following documentation shall accompany the sketch plan:
      - [a] Evidence that the proposal is compatible with the goals of the Town of Deerpark Comprehensive Plan.
      - [b] How common open space is to be owned and maintained.
      - [c] If the development is to be staged, a general indication of how the staging is to proceed. The sketch plan shall show the total project whether or not the proposed development is to be staged.
  - (b) The Planning Board shall review the sketch plan and related documents and render a report to the

## Town of Deerpark Zoning Law

---

applicant on the acceptability of the proposal along with recommendations for changes or improvements, if any. An unfavorable report shall state clearly the reasons therefor and, if appropriate, advise the applicant what revisions are necessary to receive acceptance.

(c) Upon receipt of the Planning Board's report, which shall be made within sixty-two (62) days of the meeting at which the sketch plan is initially presented, the applicant shall submit a preliminary development plan for the project to the Planning Board, including but not limited to all information required under the Town of Deerpark Subdivision Law and for purposes of compliance with the State Environmental Quality Review Act ("SEQRA"). The applicant shall also submit, in the form of a letter or brief, information indicating how the development will specifically comply with or meet the special use and site plan review criteria contained in this Law and the following additional information:

- (1) An area map showing the property proposed for PRD and adjacent property, if any, owned by the applicant and all other properties, roads and easements within five hundred (500) feet of the applicant's property.
- (2) The preliminary development plan shall show the location, proposed uses and height of all buildings; locations of all parking and truck loading areas, which egress thereto; location and proposed development of all open spaces; location of all existing or proposed site improvements; description and location of water supply, sewerage system and storm drainage system; location of all signs and designs of lighting facilities; the extent of building area proposed for nonresidential uses, if any; the location of existing watercourses and wetlands; and the location of municipal and fire, light and school district boundaries.

(d) Action on preliminary plan.

(1) Within sixty-two (62) days of the receipt of a completed preliminary development plan, the Planning Board shall review such submission, act upon the SEQRA submission, conduct a public hearing on the development plan and recommend action to the Town Board regarding establishment of a PRD District to accommodate the proposed project. It shall concurrently approve, disapprove or approve with the modifications the preliminary development plan, conditioning any approval on action of the Town Board with respect to the PRD District.

(2) The Planning Board shall approve the plan if it finds that:

- [a] The proposed uses will not be detrimental to present and potential uses in the area surrounding the proposed district.
- [b] Existing and future highways are suitable and adequate to carry anticipated traffic associated with the proposed district.
- [c] Existing and future utilities are or will be adequate for the proposed development.
- [d] The development plan complies with the requirements of this Law and is consistent with the Town of Deerpark Comprehensive Plan.

(3) Preliminary approval by the Planning Board shall be in the form of a written statement to the applicant and may include recommendations to be incorporated in the final site plan. If the preliminary development plan is disapproved, the statement of the Planning Board shall contain the reasons for disapproval. The Planning Board may recommend further study and resubmission of a revised preliminary development plan.

(e) When the Planning Board has approved a development plan for a proposed district, the plans shall be filed in the office of the Town Clerk, and the Town Board shall then proceed to consider amendment



## Town of Deerpark Zoning Law

---

of the law in accord with the Town Law, conducting a hearing and acting upon the same within ninety (90) days of the meeting at which the Planning Board's recommendation is received. The Town Board shall, where appropriate, provide for County Planning Department review of the proposal and may attach conditions to its approval. When any planned district is not substantially developed in accordance with the approved preliminary development plan for a period of three (3) years from the effective date of its establishment, and provided that it shall then appear that rights vested in persons acting in good faith in reliance on such zoning classification will not be prejudiced thereby, the Town Board, upon resolution and no earlier than sixty-two (62) days following written notice to the applicant and general publication in a newspaper of general circulation, the Town may declare the same, by which action the change in classification to a PRD District shall be voided. The Town hereby exercises its authority under Section 10 of the Municipal Home Rule to supersede Section 264 of the New York State Town Law so as to permit voiding of a zoning change without resorting to further re-zoning procedures.

- (f) Final approval.
- (1) After the Planning Board has approved the preliminary development plan, and provided the Town Board has approved the establishment of the PRD District, the applicant shall prepare a final development plan, including all information required under the Subdivision Ordinance, and submit it to the Planning Board for final approval.
  - (2) Where more than twelve (12) months have elapsed between the date of preliminary approval and the time of submission of the final development plan, and where the Planning Board finds that conditions affecting the plan have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary development plan for further review and possible revision prior to accepting the proposed final development plan for approval by the Planning Board. The applicant(s) may, or the Planning Board may require the applicant to, submit the final development plan in stages.
  - (3) The final development plan shall conform substantially to the preliminary development plan approved by the Planning Board and meet all requirements set forth in the Subdivision Ordinance pertaining to final plans. It shall incorporate any revisions or other features that may have been recommended by the Planning Board and/or the Town Board at the time of preliminary review.
  - (4) Within sixty-two (62) days of the receipt of a completed application for final development plan approval, the Planning Board shall review and act on such submissions and so notify the Town Board. If no decision is made within sixty-two (62) days, the final development plan shall be considered approved.
  - (5) Upon approving an application, the Planning Board shall endorse its approval on a copy of the final development plan and shall forward it to the Building Inspector, who may then issue a building permit to the applicant if the project conforms to all other applicable requirements of the town.
  - (6) If the application is disapproved, the Planning Board shall notify the applicant and Town Board of its decision, in writing, and its reasons for disapproval.
  - (7) Final development plan approval shall constitute final Development Plan approval under the Town Subdivision Ordinance and the provisions of § 276 of the Town Law, and a copy shall be filed in the Orange County Clerk's office.
  - (8) No building permits shall be issued for construction within a PRD District until all requirement improvements are installed or a performance bond is posted in accordance with the procedures

# Town of Deerpark Zoning Law

---

provided by the Town Subdivision Law and § 277 of the Town Law.

## 3. General requirements.

- (a) Location. A PRD District may be permitted within HM-U Hamlet Mixed Use and RR Rural Residential Districts.
- (b) Minimum site area. A PRD District should comprise at least eight-hundred (800) contiguous acres of land, except for retirement housing projects, which shall require two-hundred (200) contiguous acres of land, although lesser-sized tracts may be approved at the discretion of the Planning Board and Town Board.
- (c) Density and open space. The density and open space standards applicable to conservation subdivisions shall also apply to all PRD projects.
- (d) Utilities. All uses situated in a PRD District shall be served by community water and sewerage systems. All water, sewer and gas lines (where available) and all other lines providing power and communication service shall be installed underground in the manner prescribed by the appropriate state and local agency and/or utility company having jurisdiction.
- (e) Permitted uses. All residential uses, except mobile homes, hotels, motels and resorts shall be permitted in PRD Districts.
- (f) Other zoning regulations. With the exception of lot and yard requirements which may be waived or modified by the Planning Board, the PRD District shall comply with all other provisions of this Law. No modification or waiving of density standards generally applicable to PRD Districts shall be permitted. Density for nonresidential uses shall be determined on the basis of projected sewage flows, with an equivalent dwelling unit being that amount of flow normally associated with a one-family residential dwelling.
- (g) Ownership. The land proposed for a PRD District may be owned, leased or controlled either by an individual, corporation or by a group of individuals or corporations. PRD District applications shall be filed by the owner or jointly by all owners of the property included in the application. In the case of multiple ownership, the approved plan shall be binding on all owners.
- (h) Organization. A PRD District may be organized as a condominium, a cooperative, a leasehold or held in individual or corporate ownership. If a property owners' association (POA) is to be established, and one shall be required if any property is to be held in common, such POA shall be organized as provided for conservation subdivisions in the Town Subdivision Law.

## § 5.4 Multi-Family Residential Uses.

- I. Multi-family dwelling projects shall be considered major subdivisions. This "major subdivision" classification shall apply to all subdivisions of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision. Application for preliminary approval of multi-family dwelling projects, accordingly, will be made to the Town in the manner provided under the Town Land Subdivision Law. The subdivider shall also submit all information required by such Regulations plus the following additional data:
  - (a) An application for approval on a form to be supplied by the Town or, in the absence of such form, by a letter or brief from the developer or his or her representative indicating how the development will specifically comply with or meet the criteria set forth herein.

## Town of Deerpark Zoning Law

---

- (b) A proposed plot plan showing the approximate (generally within five feet) locations of all buildings and improvements including parking areas, planting strips (if any), signs, storm drainage facilities, water supply, sewage treatment and collection systems and the specific areas provided as open space in connection with the requirements of this Law. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas (apart from the open space referenced below), lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards which may be applicable in Town of Deerpark. Setbacks from property lines, improvements and other buildings shall also be indicated.
  - (c) A schedule or plan and proposed agreement(s) either with the Town or a property owners' association for the purpose of dedicating, in perpetuity, the use and/or ownership of the recreation area and open space required by this Law to the prospective dwelling owners or occupants. Such agreement may be incorporated in the applicant's proposed covenants and restrictions, but shall in any event, provide to the satisfaction of the Town that maintenance and use of the property, regardless of ownership, be restricted to either; (1) activities intended for the sole benefit of the occupants of the particular project proposed or, (2) permanent open space as hereinafter provided.
- 2. The Planning Board shall act on the Preliminary Development Plan and Special Use application concurrently provided an Environmental Assessment is also conducted pursuant to the New York State Environmental Quality Review Act. No building permit shall be issued to the applicant, however, until all conditions attached to the approval of any preliminary Development Plan, shall have been satisfied and nothing herein shall be construed as permitting the issuance of a building permit prior to Preliminary approval. This requirement notwithstanding, the building permit application shall be made with the Preliminary Development Plan and shall, if granted, be valid for a period equal to that for Preliminary Development Plan approval. If the Preliminary Development Plan shall be rejected no building permit shall be granted.
- 3. Following Preliminary Plan approval, the developer shall provide for the installation of required or proposed improvements including but not limited to streets, parking areas, storm drainage facilities, recreational facilities and lighting. Building improvements shall similarly be completed or guaranteed prior to the applicant's request for Final Development Plan approval. No Certificate of Occupancy (where the same is required) shall, however, be issued until such time as; (1) Final Development Plan approval shall have been granted in accordance with the procedures and requirements of this Law and (2) buildings have been completed and inspected by the Town Building Inspector.
- 4. Complete final building plans shall also be submitted as part of the Final Development Plan Application.
- 5. No person shall sell, transfer, lease or agree or enter into an agreement to sell or lease any land and/or buildings or interests in the individual dwelling units to be created, or erect any building thereon except in accord with the provisions of this Law, unless and until Final Development Plan approval shall have been granted (unless the improvements shall have been guaranteed), and the Plan has been recorded in the Office of the Orange County Clerk.
- 6. Multi-family dwelling density shall be granted a 100% density bonus above the number of dwelling units per acre which would be permitted within the district if the parcel on which the units are to be constructed were to be developed for one-family residential use. Density shall be calculated by taking the total acreage of the development and deducting the following acreages:
  - (a) Land contained within public rights-of-way;
  - (b) Land contained within the rights-of-way of existing or proposed private streets. (where formal rights-of-way are not involved, the width shall be assumed to be fifty (50) feet);
  - (c) Land contained within the boundaries of easements previously granted to public utility corporations

## Town of Deerpark Zoning Law

---

providing electrical or telephone service;

- (d) All wetlands, floodplains, slopes of 15% or greater grade, water bodies and other undevelopable areas; and dividing by the number of proposed units.
7. All areas of a multi-family development not conveyed to individual owners; and not occupied by buildings and required or proposed improvements shall remain as permanent open space or be dedicated to recreation area to be used for the sole benefit and enjoyment of the residents of the particular units being proposed. No less than 50% of the tract shall be used for this purpose and fees in lieu of dedication may not be substituted for such space. Such open space shall be subject to the following regulations:
- (a) No less than 50% of the open space to be provided (25% of the total tract) shall be dedicated to recreational area for the sole benefit and enjoyment of the residents of the particular units proposed. Recreation areas (as distinct from other open space) shall be immediately adjacent (part of the same parcel and contiguous) to the proposed units and freely and safely accessible to all residents of the development. They shall not be used to fulfill open space requirements or provide recreational areas for residents of other units, excepting as provided for in subsection (2) below. They shall be usable for active recreational activities and shall not include wetlands, quarries, slopes over 15% in grade, water bodies or acreage used for improvements such as storm drainage facilities or sewage effluent disposal areas.
- (b) Land designated as open space shall be permanently maintained as such and not be separately sold, used to meet open space or recreation area requirements for other developments, subdivided or developed excepting that a holding zone may be reserved for future development pursuant to density and other zoning requirements as they presently exist, provided such lands are specifically defined and indicated as "reserved for future development" on all Development Plans. Such lands shall not be included in calculating permitted density for the proposed development. These provisions, however shall not be construed as granting or reserving to the developer any rights or privileges to develop on the basis of a "pre-approved plan" if density or other zoning requirements shall have been modified to preclude such development.
- (c) Open space areas shall be permanently maintained so that their use and enjoyment as open space are not diminished or destroyed. Such areas may be owned, preserved and maintained by dedication to a property owners association which assumes full responsibility for maintenance of the open space and/or deed-restricted private ownership which shall prevent development of the open space, provide for its maintenance and protect the rights of owners or occupants of dwelling units to use and enjoy, in perpetuity, such portion of the open space as shall have been dedicated to recreation area for the project. This is intended to allow the owner/developer to retain ownership and use of a portion of the property (for hunting, fishing, etc.) provided the permanence of the open space is guaranteed.
- (d) Whichever maintenance mechanism(s) is used, the developer shall provide, to the satisfaction of the Town Attorney and prior to the granting of any Final Development Plan approval, for the perpetual maintenance of the open space and also the use and enjoyment of the recreation area by residents of the units being approved. No lots shall be sold nor shall any building be occupied until and unless such arrangements or agreements have been finalized and recorded.
- (e) Developments of 50 units or more shall provide one-half acre of playground area per 50 units unless restricted to adult occupancy only.
8. All multi-family developments shall be served with community wastewater facilities and water supplies. Effluent disposal areas shall also be subject to the setback requirements applicable to other multi-family buildings and structures as a minimum.
9. The following design criteria shall apply to multi-family developments;

## Town of Deerpark Zoning Law

---

- (a) There shall be no more than ten (10) dwellings in each multi-family building.
  - (b) No structure shall be constructed within fifty (50) feet of the edge of any access road to or through the development or within ten (10) feet of the edge of any parking area.
  - (c) Access roads through the development shall comply with minor street requirements as specified in this Law and no parking space shall be designed such that a vehicle would be backing or driving out onto a through road. Instead, there shall be a defined entrance and exit to and from each parking area.
  - (d) No multi-family development shall be served by more than one entrance and one exit from any public highway, unless topography or other physical circumstances would preclude the use of a single entrance in a safe manner.
  - (e) Parking spaces of two (2) per unit shall be provided plus, for every two (2) units intended for rental or other transient occupancy, one additional space to accommodate parking needs during sales and other peak visitation periods.
  - (f) No more than sixty (60) parking spaces shall be provided in one lot, nor more than fifteen (15) in a continuous row without being interrupted by landscaping. All off-street parking shall be adequately lighted and so arranged as to direct lighting away from residences.
  - (g) No structure shall be erected within a distance equal to its own height of any other structure.
  - (h) All multi-family structures shall be a minimum of 100 feet from any of the exterior property or boundary lines of the particular project involved and 75 feet from any public right-of-way.
  - (i) Where a property line is not wooded, a planting strip of fifty (50) feet in width shall be required to buffer adjoining property owners and ensure privacy. Similar buffering of areas adjoining County and State highways shall be required. A landscaping plan shall also be prepared and submitted to the Planning Board for approval.
  - (j) Multi-family developments shall be subject to the stormwater management requirements of this Law. Facilities shall be designed to accommodate storms of a 25 year average frequency unless a more stringent standard shall be recommended by the Town Engineer. The general performance standard shall be that the amount of uncontrolled stormwater leaving the site along any property line after development shall not exceed that estimated for the site prior to development.
  - (k) All electrical and other utilities shall be placed underground and buried to a depth determined by the Town Engineer as sufficient for safety purposes.
10. Maintenance of a multi-family project shall be vested in (1) an association or other legal entity organized prior to the offering of the first unit for occupancy, or (2) a manager, who may be the developer, or a person designated by the developer before the developer offers a unit for occupancy, or (3) the owners or occupants of units themselves if the total number of owners or occupants within the development is not more than five (5). If the developer shall opt to manage the project or designate a manager, the preliminary application shall include financial statements, a description of previous management experience and other data sufficient for the Planning Board to ascertain the financial responsibility of the manager.
11. The association or manager, as the case may be, shall be responsible for maintenance, repair and replacement of the common areas of the development including buildings and, if applicable, the furniture, fixtures and equipment within the units. The project instruments shall specify the expenses that the maintenance organization may incur and collect from purchasers as a maintenance fee and secure maintenance of the project and enforcement of applicable covenants and restrictions in perpetuity. The Planning Board may require that a

## Town of Deerpark Zoning Law

---

Certified Public Accountant review such financial data to determine proposed fees are, in fact, adequate to secure maintenance on a continuing basis.

12. The developer shall, in filing a Preliminary Development Plan, provide a narrative description of how responsibility for maintenance and care of the units and common areas will be assured and a pro forma operating budget for the maintenance organization including a breakdown of the common expense to be borne by the maintenance organization and a separation of long-term maintenance costs from on-going routine maintenance costs. There shall also be provided a narrative description of how the developer proposes to assure maintenance of the units and common facilities during any sales program. The Planning Board may require additional temporary facilities to accommodate service demands. Copies of all applicable instruments shall be provided, for purposes of determining that long-term arrangements for maintenance of common facilities have, in fact, been made by the developer.
13. Any developer who proposes to construct multi-family dwellings and convey the common elements of said multi-family dwelling project, including recreation areas, to an association of purchasers of units therein shall submit a maintenance bond or other performance guarantee acceptable to the Town Board and Town Attorney ensuring long-term maintenance and repair of said common elements. Such maintenance bond or other guarantee shall:
  - (a) Be for a period of not less than fifteen (15) years from the date of the final approval of said multi-family dwelling-transient use by the Town;
  - (b) Be in an amount equal to the amount collected or to be collected for long-term maintenance (as indicated in the budget referenced above) by the developer or other responsible parties from each purchaser during the first year after sales to such purchases begin, multiplied by the total number of expected purchasers.
14. If the development shall be subject to the New York State statutes governing the sale of real property used for multi-family occupancy, the developer shall certify as to his or her compliance with said statutes. To the extent the provisions of such statutes conflict with this subsection such certification shall suffice as to conformance with these requirements.
15. Conversions of motels, hotels or other existing structures to multi-family dwelling use regardless of whether such conversions involve structural alterations, shall be considered subdivisions and, moreover, be subject to the provisions of this Law. If the proposed project does involve structural alterations, the Preliminary Development Plan shall include a certification of a registered architect or engineer to the effect that the existing building is structurally sound and that the proposed conversion will not impair structural soundness. However, the conversion of an existing one-family detached dwelling or single family semi-detached dwelling into not more than three residential units shall be exempt from these requirements, unless such units are intended to be a condominium. This shall not, however, exempt an owner from any requirements of the State Building Code or the Town Zoning Law as they may pertain to such activities.

### § 5.5 Conversions of Residential or Non-Residential Structures.

Any conversion of a residential structure to a more intensive residential use or a non-residential use shall require a Special Use permit. Similarly, the conversion of any non-residential use to multi-family dwellings shall require a Special Use Permit. The following additional review criteria shall apply in both instances:

1. There shall be adequate parking to accommodate the new use in combination with other activities on the property or in the vicinity.
2. There shall be demonstrated sewage treatment and water supply capacity to serve any increased needs connected with the new use.

## Town of Deerpark Zoning Law

---

3. The conversion shall not result in increased residential density exceeding that permitted within the district. If, for example, the minimum lot size is two acres then no more than one equivalent dwelling unit shall be permitted per two acres of lot area.
4. Conversion of a residential structure to a non-residential use shall not be permitted where the new use is not otherwise allowed. Adaptations of any such structure should preserve its architectural integrity and residential character, except for minimal signage, required parking and other features mandated by the nature of the business.

### § 5.6 Sand, Gravel and Quarrying Operations (Extractive Uses).

1. Sand, gravel and other quarrying and excavation industries shall be permitted as Special Uses in the RR and the I-I District provided the limits of such operations shall extend no closer than five-hundred (500) feet to any existing residence, institution, public water supply source or other public or semi-public facility as mapped by the Town. In the case of blasting operations, this distance may be increased by the Planning Board. The Board may also limit the extension of such operations within or into any aquifer or watershed protection overlay zone that may be designated by the Town of Deerpark to protect a public water supply.
2. All extraction industries shall comply fully with the Mined Land Reclamation Law and provide evidence of such compliance in connection with any Special Use application.
3. The manufacturing or processing of asphalt shall not be considered part of any extraction industry and proposals for such uses, if and where permitted, shall be fully subject to the requirements of this law, notwithstanding pre-emptions of authority under the Mined Land Reclamation Law.
4. All sand, gravel and quarrying operations shall be subject to the provisions of § 4.3 hereof relating to traffic and the Planning Board may require traffic studies to determine the need for special entrance designs, the construction of acceleration and deceleration lanes and the like.

### § 5.7 Tele-communication Facilities.

1. Purposes.
  - (a) To establish clear standards for the siting of tele-communication facilities, buildings and structures, equipment, tele-communication towers and monopoles.
  - (b) To promote the health, safety, and general welfare of the residents of Deerpark, through the establishment of minimum standards to reduce the adverse visual effects of tele-communication facilities, including but not limited to, transmission towers and antennas, through the use of advanced technology, care design, siting and screening and buffering.
  - (c) To protect residential areas and land uses and property values from potential adverse impacts of towers and antennas.
  - (d) To encourage the location of tele-communication facilities and communication towers in areas suitably screened, buffered and adequately separated from residential uses.
  - (e) To minimize the total number of tele-communication facilities and communication towers throughout the community.
  - (f) To encourage the joint use of new and existing tele-communication tower sites as a primary option rather than construction of additional single-use communication towers, while recognizing the collocation on higher towers is not always preferable to two (2) less visible, less obtrusive shorter towers;

## Town of Deerpark Zoning Law

---

thereby maximizing the use of existing communication towers or alternative antenna host sites, while not unreasonably limiting competition among communication providers or unreasonably limiting reception of receive-only antenna.

- (g) To require users of tele-communication towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is shown to be minimal.
- (h) To require users of tele-communication towers and antennas to configure them in a way that minimizes adverse visual, aesthetic and community character intrusion impacts caused by the installation and view of communication towers and antennas, through careful design, siting, landscape screening and buffering, sufficient set backs to reduce visual impacts to adjacent properties, and innovative camouflaging techniques such as alternative tower structures, thereby protecting the physical appearance of the community and preserving its scenic and natural beauty.
- (i) To avoid potential damage to adjacent properties from tele-communication towers through careful engineering and appropriate siting of tel-communication towers.
- (j) To enhance the ability of the providers of tele-communications services to provide such services to the community quickly, effectively and efficiently by facilitating the siting of personal wireless communication facilities.

### 2. Special Definitions.

Adequate Coverage - Coverage to the minimum standards set forth by the Federal Communication Commission to permit the applicant to operate wireless communication service within the area.

Antennas - A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, wireless and microwave communications.

Alternative Tower Structure - Man-made trees, clock towers, bell steeples, light poles and similar alternative-designs including structures that camouflage or conceal the presence of antennas or towers.

Co-location - Siting or mounting of multiple tele-communication facilities used by the same provider, or by two or more competing providers, on the same property, antenna support structure or tele-communication tower.

Wireless Communications Services - The provision of personal wireless communications services, including but not limited to, those more commonly referred to as cellular telephone service, regulated by the Federal Communications Commission in accordance with the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332(c)(7)(C), or as hereafter amended.

Wireless Communication (Tele-communication) Facility - Any site containing equipment used in connection with the commercial operation of Wireless Communications Services, as defined herein, and as the term "personal wireless services facility" is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332 (c) (7) (C), or as hereafter amended to transmit and/or receive frequencies, including, but not limited to, antennas, monopoles, equipment, appurtenances and structures.

Minor Wireless Communications Facilities - Any wireless Communications facility situated (1) on the same property as an existing Wireless Communications Facility designed for co-location and previously approved under this law, or (2) on or in an existing building or other structure; and where the equipment consists of a combination of antennas, or other receiving device, necessary in number to facilitate the provision of Wireless Communication Services from such location, provided that such minor installation: (1) comprises antennas, or transmitting and receiving devices which are no more than six feet in height, which are mounted on supports affixed to an existing structure, and (2) operates with all significant equipment accessory thereto (other than the



## Town of Deerpark Zoning Law

---

aforementioned antennas and transmitting or receiving devices, supports and connecting cables), installed in interior space appurtenant to such existing building, tower or structure, or located upon a structure the total combined height of which is less than one-hundred (100) feet from the preconstruction average-finished grades.

Major Wireless Communications Facility - Any Wireless Communications Facility that is not a Minor Wireless Communications Facility, including but not limited to any facilities including any Wireless Communications Towers, as hereinafter defined.

Wireless Communications Towers - Any freestanding structure including lattice structures or framework and freestanding self-supported vertical pole (commonly known as monopole) on which any equipment is located in connection with the provision of Wires Communications Services.

### 3. Compliance with State Environmental Quality Review Act

The application shall be reviewed under the State Environmental Quality Review Act. An application for approval of a Major Wireless Communications Facility shall constitute a Type I action.

### 4. Restrictions on Use

(a) No tele-communications facilities except those approved prior to the effective date of these regulations, shall be used, located, constructed or maintained on any lot, structure or land area unless in conformity with these regulations. No existing structure shall be modified to serve as a tele-communications facility unless in conformity with these regulations.

(1) All communication facilities shall at all times comply with the rules and regulations of any government entity having jurisdiction over such tele-communication facilities and uses, antenna and supporting structures and towers, including, without limitation, the FCC and FAA.

(2) All tele-communication facilities shall be operated and maintained by an FCC licensee only.

(3) All tele-communication facilities shall be demonstrated necessary to provide coverage to an area of Town that currently lacks adequate coverage. Related tele-communication towers or antennas shall also be demonstrated to be the minimum height and aesthetic intrusion possible to provide adequate coverage.

(4) All tele-communication facilities, if proposed for placement on a lot that is within or abuts a residential district, shall prove that adequate coverage cannot be achieved by siting the facility on a lot which is not or does not abut a residential district.

(5) All tele-communication facilities shall be constructed and maintained in conformance with all building, electrical, fire-prevention and other applicable codes.

### 5. Major Wireless Communication Facilities

(a) Approved Zoning Districts

(1) Major Wireless Communications Facilities shall be a use permitted upon Site Plan and Special Use Approval in zoning districts that permit Tele-communications Facilities as Special Uses.

(2) If it can be demonstrated by the applicant that there is no site in the above referenced zoning districts which could provide coverage consistent with federal regulations, the Planning Board may determine that a major wireless communications facility may be permitted as a Special Use in another district in accordance with this Law.

## Town of Deerpark Zoning Law

---

- (b) Conditions Precedent to Granting Site Plan or Special Permit Approval.
- (1) A Service Coverage Map and Report shall be provided - The Coverage Map shall show and describe all existing and proposed areas of service coverage relating to the proposed tele-communications facility. The Service Coverage Map shall locate all existing sites in the Town and in bordering communities which contain tele-communications towers or related facilities. A detailed Report shall accompany the Service Coverage Map and shall indicate why the proposed tele-communications tower, equipment and facility are necessary. The report shall identify locations with the proposed project site Service Coverage Area which are not, and could not be, served by either existing facilities, by co-location, utilization of alternative technology or an alternative tower structure.
  - (2) A long-range Communications Facilities Plan shall be provided, evidencing that the proposed location of the tele-communication facility and supporting buildings and equipment has been planned to result in the fewest number of tele-communications transmission tower locations within the Town. The Plan shall indicate how the applicant intends to provide service throughout the Town, and how the applicant plans to coordinate with all other providers of wireless communication services in the town. The Plan shall address the applicant's planned and possible location of additional tower sites, additional antennas, related service area coverage, and alternative long-range plan scenarios that illustrate the potential effects of multiple towers and tower height, community intrusion impacts and visual and aesthetic impacts.
  - (3) Documentation sufficient to demonstrate that the proposed tele-communication tower height and bulk are the minimum height and bulk necessary, to provide licensed tele-communication services to locations within the Town which the applicant is not able to serve with existing facilities in the project site area, shall be provided, including evidence that visual, aesthetic and community character intrusion impacts have been minimized to the greatest extent practicable.
  - (4) Demonstration that Shared Use is Impracticable - The Planning Board may issue a permit for a Major Wireless Communications Facility only when the applicant demonstrates that shared use of an existing structure or site is impractical. An applicant shall be required to present report inventorying all existing structures within one half mile of the proposed site which are at an elevation which renders them potential sites. The report shall describe opportunities for shared use of these existing facilities as an alternative to a proposed new tower. The report shall demonstrate that the applicant used its best efforts to secure permission for shared use from the owner of each existing facility as well as documentation of the physical, technical and/or financial reasons why shared usage is not practical in each case. The applicant's written request and the property owner's written responses for shared use shall be provided.
  - (5) Commitment for Future Shared Use. New Wireless Communications towers shall be designed to accommodate future shared demand for reception and transmitting facilities. The applicant shall submit to the Town Board and Planning Board an irrevocable letter of intent committing the owner of the proposed new tower and its successors in interest, to permit shared uses of the proposed tower by other tele-communications providers in the future. This letter shall also be filed with the Building Inspector prior to issuance of a Building Permit. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the Site Plan Approval following a hearing and opportunity to be heard. The letter shall commit the new tower owner and its successors in interest to the following:
    - (A) To notify all carriers licensed to provide tele-communication services within the Town of its application and that it will entertain requests for collection.
    - (B) To respond within 90 days to a request for information from a potential shared-use

## Town of Deerpark Zoning Law

---

applicant.

- (C) To use best efforts and negotiate in good faith concerning future requests for shared use of the tower by other tele-communications providers.
  - (D) To allow shared use of the tower if another tele-communications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity and depreciation, and all of the costs of adapting the tower of equipment to accommodate a shared user without causing electromagnetic interference.
- (6) A written certification shall be submitted, prepared by a qualified engineer and/or health physicist which calculates the maximum amount of non-ionizing electromagnetic radiation ("NIER") which will be emitted from the proposed Wireless Communications Facility and demonstrates that any such emissions from the facility will be within the threshold levels adopted by the Federal Communications Commission, as of the day of application and as part of the certification required as part of Section VIII of this Law. The certification shall include a statement or explanation of how compliance was determined; and explanation as to what if any restrictions on access will be maintained to ensure compliance and a statement as to whether other significant transmitting sources are located at or near the transmitting site and, if so, whether their emissions were considered in determining compliance.
- (7) Siting on lands owned by the Town shall be permitted on any Town parcels, in the discretion of the Town Board.

### 6. Additional Required Information

- (a) Procedural - The following procedural information shall be required:
  - (1) Visual impact assessment.
    - (A) A viewshed analysis in order to determine locations where the tower and appurtenant facilities may be visible.
    - (B) Graphic representations of before and after views from key viewpoints located inside and outside of the Town including, but not limited to, State highways and other major roads, State and Local parks, other public lands, preserves and historic sites normally open to the public residential developments and from any other location where the site is visible to a large number of visitors or travelers.
    - (C) Assessment of alternative tower designs and color schemes, as described in Subsection 2, below.
    - (D) Assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead, utility lines from abutting properties and streets.
  - (2) Tower design. A report regarding alternative tower designs which includes lattice and monopole structures and other designs to minimize visual impacts. The Board may request a review of the tower design by a qualified Engineer in order to evaluate the need for, and the design of, any new tower and potential alternatives. All designs to be considered shall be required to include, at a minimum, the following characteristics:
    - (A) Towers shall be designed to accommodate future shared use by other wireless

## Town of Deerpark Zoning Law

---

communications providers;

- (B) Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact;
- (C) No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to company name, phone numbers, banners and streamers;
- (D) Any new tower shall be securely mounted to withstand damage from earthquakes and the wind and ice loads for the place of installation in accordance with New York State Uniform Fire Prevention and Building Code;
- (E) The height of any new tower shall be the minimum height necessary, considering shared use, to meet the minimum requirements of the Federal Communications Commission for coverage of the service area encompassing the Town of Deerpark.

(3) Fully Engineered Site Plan

A site plan showing, at a minimum, all existing roads, buildings, tower(s), guy wires and anchors, antennae, parking and landscaping, and shall include grading plans for new facilities and roads.

(4) Engineer's Report

A report by a New York State licensed professional engineer specializing in electrical engineering with expertise in radio communication facilities and, if a monopole or tower is required or the electrical engineer is not qualified to certify the structural soundness of the installation, a New York State licensed professional engineer specializing in structural engineering. The report shall, in addition to information required by this Law for site plans, contain the following information:

- (A) Approximate location, size and height of all proposed and existing antennae and all appurtenant structures;
- (B) The number, type, make, model, transmission power, maximum effective radiated power, manufacturer and design of the antenna(e) proposed and the basis for the calculations of capacity;
- (C) A description of the proposed antenna(e) and all related fixtures, structures, appurtenances and apparatus, including height above grade, materials, color, grounding and lighting;
- (D) The frequency, modulation and class of service of radio equipment;
- (E) Certification that the proposed antenna(e) will not cause interference with existing tele-communication devices;
- (F) Elevation drawings depicting the front, side and rear of the property, illustrating the proposed antenna, mounting device and structure, if any, on which the antenna(e) is mounted;
- (G) A map depicting and listing all existing sites in the Town and bordering communities containing transmitting antenna(e) used by the operator, owner or applicant;

## Town of Deerpark Zoning Law

---

- (H) All applications, tele-communications and permits submitted to and issued by the Federal Aviation Administration;

The Planning Board may, in a proper case, waive one or more of the foregoing requirements set forth in this section and may require additional reports or evidence that it deems necessary to ensure the health, safety and welfare of the community are adequately addressed.

- (5) Intermunicipal Notification. In order to keep neighboring municipalities informed, and to facilitate the consideration of shared use of existing tall structures in a neighboring municipality, and to assist the continued development of tele-communications for emergency services, the applicant shall provide the following additional notice of the application:
  - (A) Notification in writing to the municipal clerk of any adjoining municipality within one (1) mile of a proposed site or a greater distance if determined by the Board to be impacted by a proposed new tele-communication tower.
  - (B) Notification in writing by certified mail of all landowners within one-thousand (1000) feet of the property line of the parcel on which the new tower is proposed.

### 7. Location, Lot Size and Setbacks

Lot size and setbacks. Any proposed Wireless Communications Towers and its accessory structures shall be located on a single parcel and shall comply with setback requirements as identified below.

- (a) Distance from public facilities. In order to protect the health safety and and welfare of children who may be injured by falling ice or debris, all wireless communication towers shall be a distance of not less than 350 feet from the nearest property line of a school, day-care center, camp, public park, playground or public road.
- (b) Lot size of major Wireless Communications Facilities sites shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased, the entire area required shall be leased from a single parcel.
- (c) Wireless communications towers shall be located with a minimum setback from any property line equal to the height of the tower in any zoning district, except however, if the applicant can demonstrate that the fall zone for the structure can be safely accommodated on a smaller size parcel or with reduced setbacks to no less than the minimum bulk requirements in the underlying Zoning District, the Planning Board shall have the discretion to reduce the size accordingly. The applicant must demonstrate that there is adequate protection to adjoining properties from the dangers of falling ice or debris through either an easement or other safeguards. The Planning Board shall make findings of fact justifying a reduction and shall impose such additional conditions that the Board may deem appropriate to protect the health safety and welfare. Accessory structures shall comply with the minimum setback requirements in the underlying Zoning District.
- (d) Additional setbacks may be required by the Planning Board to contain on-site substantially all ice fall or debris from tower failure and preserve the privacy of any adjoining residential and public properties.

### 8. Vegetative Screening and Fencing

- (a) Landscaping. All tele-communication facilities shall provide landscaping as follows:
  - (1) All tele-communications towers shall be located and designed to have the least possible adverse visual and aesthetic effect on the environment.

## Town of Deerpark Zoning Law

---

- (2) The area surrounding the installation, other than the area necessary to maintain a clear line of site to the signal source, shall be landscaped and maintained with trees, shrubs, and ground cover to maximize screening and visual buffering. An existing natural vegetative buffer which meets or exceeds the above requirements may be substituted or enhanced for said requirements.
  - (3) Screening and buffering utilizing trees of a height and density established by the Planning board that will, over time, reduce visual impacts resulting from the installation of said facility shall be provided.
  - (4) The outside of security fencing shall be screened with evergreen shrubs, trees or climbing evergreen material on the fencing.
  - (5) The base of any tele-communication tower and any accessory structure shall be effectively screened using primarily vegetative screening, including a continuous evergreen screen planted in a natural setting and consisting of native plant species. Existing vegetation shall be preserved to the maximum extent practicable. Additional planting shall be required, as necessary, to screen and buffer all structures from nearby properties or important view sheds of scenic areas. All landscaping shall be properly maintained to ensure continued screening and buffering.
- (b) Security and safety fencing. Security and safety fencing shall be located around all tele-communication towers, equipment and related facilities to restrict unauthorized access. Access to all structures shall be through a locked gate or principal building. Fencing shall be designed to minimize visual and aesthetic impacts and shall be equipped with appropriate anti-climbing devices. Failure to maintain said safety fencing in an appropriate manner shall be grounds for immediate revocation of all permits and certificates of use by the Building Inspector.

In addition:

- (1) All tele-communication towers, antenna towers or monopoles, and other supporting structures shall be made inaccessible to non-authorized persons, particularly children, and shall be constructed or shielded in such a manner that they cannot be climbed.
  - (2) All transmitter controls that could cause the transmitter to deviate from its authorized operating parameters shall be designed and installed in such a manner that they are readily accessible only to persons authorized by the licensee to operate or service them.
  - (3) All transmitters used with in-building radiation systems shall be designed in such a manner that, in the event an unauthorized person does gain access, that person cannot cause the transmitter to deviate from its authorized operating parameters in such a way as to cause interference to other stations.
  - (4) All transmitters (other than hand-carried or pack-carried mobile transmitters) and control points shall be equipped with a visual means of indicating when the control circuitry has been put in a condition that should cause the transmitter to radiate.
  - (5) All transmitters shall be designed in such a manner that they can be turned off independently of any remote circuits.
- (c) Coloring and Marking. Unless otherwise required by the FAA or FCC, all tele-communication facilities, including antenna and tele-communication towers, shall be colored, camouflaged and/or shielded to blend with surrounding areas, provided such coloring, camouflage and/or shielding do not inhibit their effectiveness. The painting or marking of such facilities shall have a finish or coloring which will

## Town of Deerpark Zoning Law

---

minimize visual and aesthetic impacts. Towers and all appendages shall generally have a galvanized finish and shall be painted gray or blue gray, or some other finish or color that is shown to be visually unobtrusive.

- (d) Signals and lights. No tele-communication tower, antenna tower or monopole shall include any signals, lights or illumination unless required by the FAA or other applicable authority. The applicant shall provide evidence mandating any requirement for lighting. If lighting is required, said lighting shall be shown to cause the least disturbance to surrounding properties and views. Any lighting necessary for accessory structures or buildings shall be minimized and shall be properly shielded to prevent light emission and glare onto adjacent properties.
- (e) Signage. No signs, including advertising signs, shall be permitted on any antenna, tele-communication tower, antenna tower or monopole, or antenna support structure, except as follows:
  - (1) Signs specifically required by a federal, state or local agency.
  - (2) Each site shall include a sign containing the name of the owner and operator of any antenna present, including an emergency phone number. In addition, any door having access to a roof-mounted antenna and all entrances to the fenced enclosure shall be similarly signed.
  - (3) Any signage permitted above shall comply with the sign regulations of the Town Code.

### 9. Undergrounding of Electrical Power and Noise Suppression

All electrical power supply to service the on-site buildings and appurtenances supporting the tower antenna operations shall be installed underground. Noise suppression shall be utilized in the structural design and construction of the tower support buildings and appurtenances.

### 10. Access and Parking

- (a) Access. Adequate emergency and service access shall be provided. Maximum use of existing roads shall be provided, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting within the toe of the fill, the tops of cuts or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- (b) Parking. Parking shall be provided on-site in an amount determined by the Board based upon recommendation from the applicant. No parking shall be located in any front yard.

### 11. Minor Wireless Communications Facilities

- (a) The shared use of existing tall structures (e.g. multi-story buildings, church steeples, farm silos, etc.) and placement upon existing approved towers shall be preferred to the construction of Major Wireless Communications Facilities, including new wireless communications towers and monopoles.
- (b) Minor Wireless Communications Facilities shall be a principal permitted use in all zoning districts within the Town of Deerpark, subject to site plan review. The Planning Board shall, in such instances, be authorized to waive application requirements having no direct bearing on public health or safety and to modify applicable standards to accommodate such facilities.

### 12. Requirements of All Approvals.

- (a) Removal. Should any tower cease to be used as a tele-communication facility, the owner or operator or then owner of the land on which the tower is located, shall be required to remove the same within one

## Town of Deerpark Zoning Law

(1) year from the abandonment of use. Failure to do so shall authorize the Town of Deerpark to remove the facility and charge back the cost of removal to the foregoing parties. The Town of Deerpark may also file a municipal lien against the land to recover the costs of removal and attorney's fees.

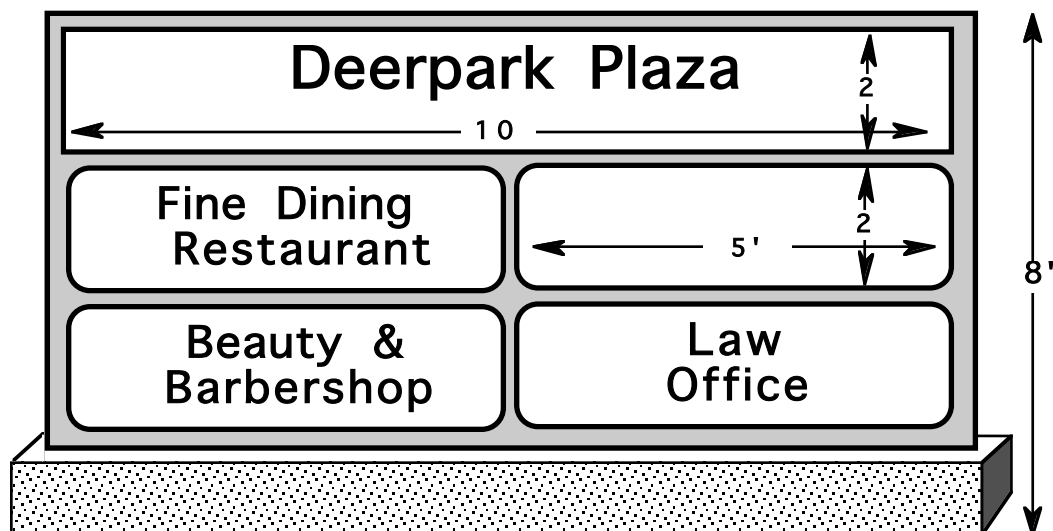
- (b) **Operational Certificate.** The owner or operator of any permitted tele-communications facility shall, within 45 days of initial operation, submit a report from a Professional Engineer certifying that the operation meets all applicable Town, State or Federal regulations and any conditions imposed. Failure to supply such a report shall be cause for immediate revocation of permission to operate the same. The Board may also require periodic inspections and certifications to ensure continued performance.
- (c) **Reimbursement of Review Expenses.** All expenses incurred by the Town of Deerpark in the review of a tele-communications facility application shall be reimbursed by the applicant prior to final approval.

### § 5.8 Signs.

1. **Purpose.** It is the purpose of this section to help residents and visitors find what they need without difficulty; to improve the appearance of the Town; and to promote public safety by regulating the location, quality, construction and maintenance of signs.
2. **Definitions.** The following special definitions shall apply for purposes of this section:

**Business or Institutional Identification Sign** - A sign advertising a business or institution or identifying the business or profession of the owner or occupant of the property on which it is placed.

**Commercial Directory Sign** - A combination, on a single structure not exceeding eight (8) feet in height, of a sign identifying a business complex with other smaller uniform signs listing businesses on a property. Such signs shall replace freestanding signs which the advertisers would otherwise have rights to place on the property and use no more than twenty (20) square feet in surface area on each side to identify a complex or more than ten (10) square feet on each side to identify a specific business or service. (See example - next page)



**Contractor Sign** - A sign of a builder or contractor which is erected and maintained while such persons are working on a property and is immediately removed when the work is complete.

**Freestanding Sign** - A pole sign or ground sign.



## Town of Deerpark Zoning Law

---

Ground Sign - A sign rising from a ground foundation and not over eight (8) feet in height. The entire bottom of such sign is in contact with or in close proximity to the ground.

Incidental Commercial Sign - An advertising sign on which is located a simple message directed only to persons on the lot, such as a gas pump sign, credit card sign or pricing sign placed in a window or on a door.

Off-premises Advertising Sign - A sign advertising a business or service located off the premises on which the sign is located.

Pole Sign - A sign supported by a poles(s) as a structure independent of any building. Pole signs are also separated from the ground by air.

Portable Sign - A sign not permanently attached to the ground or a structure and designed to be transported, including signs on wheels, A or T frames or any other movable device or vehicle.

Real Estate Sign - A sign which advertises the availability of land, buildings or spaces within buildings as being for sale or rent

Sign - Any device, facade, fixture, material, placard or structure that uses any color, form, graphic, picture, illumination, symbol or writing to advertise, announce, declare or identify a purpose or entity or to communicate information of any kind to the public outside of a building, including neon or fluorescent painted building outlines and similar devices.

Sign Height - The height of any sign shall always refer to the height of the topmost portion of the sign from grade level, unless the foundation for such sign shall be positioned below the adjoining road grade, in which case the height shall be measured from the road grade.

Surface Area - The size of any sign, computed by multiplying its greatest length by its greatest height. Sign supports or foundations not exceeding three (3) feet in height and not bearing advertising material shall not be included. The surface area of signs with no definable edges (e.g., raised letters attached to a facade), shall be that area within the perimeter of a single line enclosing the advertising material. The reverse side of any sign may, however, be used without counting toward total sign area.

Traffic Direction Sign- An informational sign on which is located a simple traffic directive directed only to persons on the lot, such as a "no parking," "loading in rear," "one-way" or "office this way" sign.

Wall Sign - A sign painted on or attached flush with a structural wall of a building, including window signs occupying more than 50% of the window or door surface and projecting signs not extending out from the structural wall surface more than eighteen (18) inches.

3. Application. All signs shall meet the standards herein and on the attached Schedule of Sign Regulations. An application for a permit, for any sign requiring one, shall be made on a form supplied by the Building Inspector and submitted with fees required. Applications shall include drawings to scale depicting locations of the signs, methods of illumination, graphic design (including symbols, letter, materials and colors) and visual message, text copy or content. Written consent of property owners shall also be provided. Applications not requiring a Planning Board finding shall be acted upon within fifteen (15) days of receipt. Applications submitted to the Planning Board shall be acted upon within thirty-one (31) days of receipt and such Board shall have the authority to approve, approve with modifications or disapprove the application using the review criteria found in §5.8.4 below. Findings shall be provided to the applicant and set forth in detail the reasons for the action.
4. Sign review criteria. Signs shall be approved, approved with modifications or disapproved based on the specific

## Town of Deerpark Zoning Law

---

requirements contained herein and the following design criteria:

- (a) Signs should be a subordinate part of the streetscape;
- (b) Signs should not interfere with views of other enterprises or residences;
- (c) Whenever feasible, multiple signs should be combined to avoid clutter;
- (d) Signs should be as close to the ground as possible and pole signs shall be discouraged in favor of ground signs wherever possible;
- (e) Signs should blend with and not cover any architectural features and be sized and located in proportion to buildings.
- (f) Vivid colors may be used but should not dominate a building or site.
- (g) Signs should be located so as to not interfere in any way with the clear views required for public safety by highway travelers or pedestrians.
- (h) Signs must not present an overhead danger or obstacle to persons below.
- (i) Sign sizes should achieve ready visibility without becoming an unnecessary distraction from the highway view or detriment to the highway scenery.
- (j) Signs should never block the view of other signs.
- (k) Signs should be easy to maintain and provide for wind resistance such that signs will not deteriorate or collapse after an extended period.
- (l) Sign materials and design should blend with surrounding natural landscapes.
- (m) Freestanding signs shall generally require landscaping around the sign base.
- (n) Signs should generally not be placed on the roof or above the roof line of the building to which they are attached.

5. General regulations. The following regulations shall apply to all signs:

- (a) Signs shall be permitted only in connection with permitted uses or for the purposes of specifically directing travelers to businesses or services. This shall not, however, prohibit off-premises signs erected for these purposes.
- (b) No part of any sign shall project above the top or beyond the ends of the wall surface on which it is located.
- (c) Signs, other than official traffic signs, which exceed twenty-four (24) square feet in surface area shall be setback at least five (5) feet from the side lot line.
- (d) Advertising signs shall not use the words "stop," "danger," or any other word, phrase or symbol in a manner which could be interpreted by a motorist as being a public safety warning or traffic sign.
- (e) No light shall be permitted that by reason of intensity, color, location, movement or directions of its beam may interfere with public safety.

## Town of Deerpark Zoning Law

---

- (f) No sign shall be attached to a tree, utility pole or object not so intended, except for "no trespassing" signs placed on trees.
  - (g) Portable signs shall be subject to all freestanding sign regulations.
  - (h) No sign shall exceed in height one-half its distance from the highway right-of-way, notwithstanding any other height limitations.
  - (i) Traffic directional signs shall be exempt from these regulations.
  - (j) Signs shall be illuminated only by a steady, stationary (except for time and temperature reading) and shielded light source directed solely at the sign, without causing glare for motorists, pedestrians or neighboring premises.
6. Temporary signs. Temporary signs, including signs advertising yard sales or other noncommercial events may be allowed subject to the following:
- (a) Such signs shall be limited to twelve (12) square feet each in surface area and not be illuminated.
  - (b) Yard sales and comparable events shall be advertised with signs for no more than twenty-one (21) days per year.
  - (c) Other temporary signs shall be erected no sooner than forty-five (45) days before the event they advertise and be removed within three (3) days after such event. A general permit encompassing all signs to be placed in regard to such event (excepting yard sales conducted no more than twice per calendar year), shall be required prior to the placement of any such signs. The applicant shall pay a fee as shall be established by the Town Board plus a Twenty-Five Dollar (\$25) refundable deposit to cover the cost of timely removing said signs. Such signs shall:
    - (1) Not be placed on any utility pole or public structure, except for "no trespassing" signs.
    - (2) Be erected only with express consent of property owners.
7. Non-conforming signs. Existing non-conforming signs may be repaired or reconstructed on the same site, but shall not be relocated or increased in size except as provided herein. Any non-conforming sign connected with a change of use, abandoned for sign purposes for more than ninety (90) days, damaged to the extent of 50% or more of the replacement cost value or illegally established, shall be immediately removed. In the event such a sign is not removed within thirty (30) days after written notice has been given to the owner of the sign or lessee of the land upon which the sign is located, the Town Board may institute appropriate civil or criminal actions to prevent the violation, abate the nuisance and assess the costs associated therewith to the violator by attachment to the real property tax bill for the parcel in question.
8. Sign maintenance.
- (a) No owner of any sign or lessee or owner of any land upon which the sign is located shall permit such sign to become unsafe, unsightly or in disrepair so as to endanger the public or to become a public nuisance as shall be determined by the Town Board. Also, any sign referencing a location, business, operation, service or product which no longer exists or continues to offer service to the public shall be removed within six (6) months of such discontinuance, unless a waiver shall be granted by the Town Board, as the case may be.
  - (b) In the event such a sign is not repaired or properly restored or removed within thirty (30) days after written notice has been given to the owner of the sign or lessee of the land upon which the sign is located, the governing body may institute appropriate civil or criminal actions to remedy the violation,

## Town of Deerpark Zoning Law

---

abate the nuisance and assess the costs associated therewith to the violator by attachment to the real property tax bill for the parcel in question. The Town Board may also establish annual inspection and licensing requirements for the purpose of ensuring sign maintenance.

## TOWN OF DEERPARK ZONING LAW § 5.8 - SCHEDULE OF SIGN REGULATIONS

	Prohibited Signs	Signs Allowed Without Permits	Signs Allowed With Permits from Enforcement Officer	Maximum Sign Surface Area Allowed for All Lot Signs Combined		Signs Permitted Upon Review by Planning Board
				Freestanding	Wall Signs	
<b>RESIDENTIAL DISTRICTS (NR, RRC and RS)</b>	<p>Roof signs Signs extending above the top or the end of exterior walls by any means Freestanding signs over 10 feet in height from grade level Portable sign structures Signs extending over public rights-of-way Signs resembling traffic signals or official traffic signs Signs unrelated to permitted uses on a property Signs not specifically allowed or permitted in this district Flashing, oscillating and neon signs and signs with spotlights directed away from the sign Revolving or moving signs</p>	<p>Two (2) non-illuminated real estate signs of sixteen (16) sq. ft. per front lot line Trespassing signs of two (2) sq. ft. Traffic directional signs of two (2) sq. ft. Two (2) contractors' signs of sixteen (16) sq. ft. per property Two (2) farm products or yard sale signs of twelve (12) sq. ft. Temporary signs of twelve (12) sq. ft. One (1) home occupation sign of four (4) sq. ft. (up to 8 sq. ft. if ground sign is used) One (1) folding sandwich board signs of twelve (12) sq. ft. per side Traffic directional signs</p>	<p>All other signs require Planning Board approval.</p>	<p>One (1) sq. ft. per five (5) feet of lot frontage or fifty (50) sq. ft. total for both sides combined for all signs, whichever is less.</p>	<p>Five percent (5%) of the building facade area or twenty-five (25) sq. feet, whichever is less. No more than 10% of any single building face shall be occupied with signs, however.</p>	<p>Subject to maximum sign surface area limits for all signs combined, any sign may be permitted following review and approval by the Planning Board using criteria found in §5.8.4.</p>
<b>RURAL RESIDENTIAL DISTRICT (RR)</b>	<p>Roof signs Signs extending above the top or the end of exterior walls by any means Freestanding signs over 10 feet in height from grade level Portable sign structures Signs resembling traffic signals or official traffic signs Signs unrelated to permitted uses on a property Signs not specifically allowed or permitted in this district Flashing and oscillating signs and signs with spotlights directed away from the sign Revolving or moving signs</p>	<p>Two (2) non-illuminated real estate signs of sixteen (16) sq. ft. per front lot line Trespassing signs of two (2) sq. ft. Traffic directional signs of two (2) sq. ft. Two (2) contractors' signs of sixteen (16) sq. ft. per property Two (2) farm products or yard sale signs of twelve (12) sq. ft. Temporary signs of twelve (12) sq. ft. Incidental commercial signs of one (1) sq. ft. Replacement banners. One (1) home occupation sign of four (4) sq. ft. (up to 8 sq. ft. if ground sign is used) Two (2) folding sandwich board signs of twelve (12) sq. ft. per side</p>	<p>Two temporary or event advertising signs of thirty-two (32) sq. ft. erected no sooner than 45 days before an event and removed no later than 7 days following it. Non-event banners limited to 60 days each and thirty-two (32) sq. ft. total for all banners at any one time. Replacement banners require no permits.</p>	<p>One (1) sq. ft. per one (1) feet of lot frontage or seventy-five (75) sq. ft. total for both sides combined for all signs, whichever is less.</p>	<p>Ten percent (10%) of the building facade area or fifty (50) sq. ft., whichever is less. No more than 25% of any single building face shall be occupied with signs, however. Multiple business locations on a single property with a commercial directory shall each be limited to twenty-five (25) sq. ft. sign surface total.</p>	<p>Subject to maximum sign surface area limits for all signs combined, any sign may be permitted following review and approval by the Planning Board using criteria found in §5.8.4.</p>

## TOWN OF DEERPARK ZONING LAW § 5.8 - SCHEDULE OF SIGN REGULATIONS

	Prohibited Signs	Signs Allowed Without Permits	Signs Allowed With Permits from Enforcement Officer	Maximum Sign Surface Surface Area Allowed for All Lot Signs Combined		Signs Permitted Upon Review by Planning Board
				Freestanding	Wall Signs	
<b>ALL OTHER COMMERCIAL/INDUSTRIAL DISTRICTS (HMU, IB and I-1)</b>	<p>Roof signs Signs extending above the top or the end of exterior walls by any means</p> <p>Freestanding signs over 10 feet in height from grade level</p> <p>Portable sign structures</p> <p>Signs resembling traffic signals or official traffic signs</p> <p>Signs unrelated to permitted uses on a property</p> <p>Signs not specifically allowed or permitted in this district</p> <p>Flashing and oscillating signs and signs with spotlights directed away from the sign</p> <p>Revolving or moving signs</p> <p>Signs extending over public rights-of-way</p>	<p>Two (2) non-illuminated real estate signs of sixteen (16) sq. ft. per front lot line</p> <p>Trespassing signs of two (2) sq. ft.</p> <p>Traffic directional signs of two (2) sq. ft.</p> <p>Two (2) contractors' signs of sixteen (16) sq. ft. per property</p> <p>Two (2) farm products or yard sale signs of twelve (12) sq. ft.</p> <p>Temporary signs of twelve (12) sq. ft..</p> <p>Incidental commercial signs of one (1) sq. ft.</p> <p>Replacement banners</p> <p>One (1) home occupation sign of four (4) sq. ft. (up to 8 sq. ft. if ground sign is used)</p>	<p>One commercial directory sign of twenty (20) sq. ft. per side plus individual business signs of ten (10) sq. ft. each. Not to exceed eight (8) feet high. Replaces other freestanding signs but not wall signs.</p> <p>Two temporary or event advertising signs of thirty-two (32) sq. ft. erected no sooner than 45 days before an event and removed no later than 7 days following it. Non-event banners limited to 60 days each and thirty-two (32) sq. ft. total for all banners at any one time. Replacement banners require no permits.</p>	<p>One (1) sq. ft. per two (2) feet of lot frontage or one-hundred (100) sq. ft. for both sides combined for all signs, whichever is less.</p>	<p>Ten percent (10%) of the building facade area or one-hundred (100) sq. ft., whichever is less, provided that multiple business locations on a single property with a commercial directory shall each be limited to twenty-five (25) sq. ft.. No more than 25% of any single building face shall be occupied with signs.</p>	<p>Subject to maximum sign surface area limits for all signs combined, any sign may be permitted following review and approval by the Planning Board using criteria found in §5.8.4. Neon striping or other similar brightly painted strips or building borders which are used to highlight or extend a sign shall not be counted in the sign surface area but shall be subject to review.</p>

## Town of Deerpark Zoning Law

---

### § 5.9 Cluster Development (Conservation Subdivisions).

1. The Town of Deerpark Planning Board shall be authorized, pursuant to § 278 of the Town Law and simultaneously with the approval of Development Plans under the Town of Deerpark Subdivision Regulations, to modify applicable provisions of this Zoning Law so as to accommodate conservation subdivision projects. Also known as "cluster development," conservation subdivisions offer flexibility in design, facilitate the economical provision of streets and utilities and preserve open space. They shall be allowed anywhere within the Town of Deerpark and be processed pursuant to subdivision Development Plan approval procedures.
2. The Planning Board may require conservation/cluster subdivisions, as a form of development, in those instances where conventional subdivisions or residential developments would cause significant loss of open space or otherwise result in significant negative environmental impacts.
3. Conservation/cluster subdivisions provide for one-family or two-family dwelling units wherein dwelling units are grouped in sections in order to maximize the amount of common open space and to preserve the natural settings. Proposed developments shall be processed in the same manner as a major subdivisions and in accord with the standards below.
4. Conservation/cluster subdivisions shall include at least five (5) lots and the Planning Board shall have the authority to require an alternative Sketch Development Plan, for any subdivision of ten (10) lots or more, depicting how the property might be developed using this technique. If this alternative Sketch Development Plan is determined to provide a superior design in accord with the purposes of this Law and the same density can be achieved the Planning Board may than require use of this technique.
5. The maximum permitted number of dwelling units shall be determined by deducting from the total tract area:
  - (a) All areas within the rights-of-way of any existing or proposed streets; and
  - (b) All areas occupied by public utility easements.
  - (c) All wetlands, floodplains, slopes of 15% or more, water bodies and other undevelopable areas.

The net figure shall then be divided by the minimum lot size applicable and rounded to the nearest whole number of dwelling units permitted.
6. Only one-family detached and two family dwellings shall be employed in this concept. All other dwelling types shall be considered multi-family dwellings.
7. Development standards for lot size, lot width and lot depth may be reduced, provided no dwelling structure (one-family or two-family) is located on less than 43,560 square feet of land where on-site sewer and water facilities are to be provided or 10,000 square feet of land where community wastewater and water facilities are to be provided; and further provided the total density (in individual dwelling units) for the tract shall not exceed that which would result from a conventional subdivision plan designed in accord with this Law plus a bonus of up to 20%, as determined from the basic Sketch Plan submission. Yard requirements may also be reduced, but in no instance to less than twenty (20) feet.
8. No individual parcel of common open space shall be less than one (1) acre except as to roadway median strips, traffic islands, walkways, trails, courtyards, play areas, recreation facilities, drainageways leading directly to streams, historic sites or unique natural features requiring common ownership protection. No less than 50% of the total land area of the conservation subdivision shall be dedicated to permanent open space and at least 50% of the such open space shall be usable for active recreational activities by residents of the subdivision and not include water bodies, wetlands, floodplains, slopes over 15% in grade or other undevelopable areas.

## Town of Deerpark Zoning Law

---

9. The open space resulting from conservation subdivision design shall be permanently protected through a conservation easement titled to a property owner's association (POA), land conservancy, municipality or similar entity, prior to the sale of any lots or dwelling units by the subdivision. Membership in any POA shall be mandatory for each property owner within the subdivision and successive owners with voting of one vote per lot or unit and the subdivider's control, therefore, passing to the individual lot/unit owners on sale of the majority of the lots or units. All restrictions on the ownership, use and maintenance of common open space shall be permanent and the POA shall be responsible for liability insurance, local taxes, and maintenance of all open space, recreational facilities and other commonly held amenities. Each property owner must be required to pay their proportionate share of the POA's cost and the POA must be able to file liens on the lot/unit owner's property if levied assessments are not paid. The POA must also have the ability to adjust the assessment to meet changing needs.

### § 5.10 Upper Delaware River Provisions.

Areas within the boundaries of the RRC Recreational River Corridor District or the Upper Delaware National Scenic and Recreational River shall be subject to the following requirements:

1. Potential impacts on the River from stormwater runoff and waste disposal shall be assessed in connection with any Special Use proposed within the corridor.
2. Junkyards and salvage operations, airports, solid waste disposal sites and manufacturing shall not be permitted in the RRC Recreational River Corridor District.
3. New outdoor recreation facilities shall be limited to those which are designed for relatively short use periods and do not provide other than rudimentary visitor services or include infrastructure development other than as required to meet State health codes. Major commercial recreational development which could have significant impacts on land and water resource values, including but not limited to amusement parks, drive-in theaters, auto race tracks, sports arenas, etc. shall not be permitted in the corridor.
4. Where permitted, small hotels and motels (those with 12 or fewer rooms) within the corridor shall be located adjacent to arterial roads and designed to be compatible with the natural and scenic characteristics of the River corridor.
5. Buildings shall not be located so close to the ridgeline of the River valley as to create potential erosion, sedimentation or landslide conditions.
6. All Special Uses shall be subject to a determination by the Planning Board that the proposed activity will conform with the recommendations of the Upper Delaware River Management Plan.
7. All lots shall be a minimum of two (2) acres in lot area.

### § 5.11 Animal Husbandry, Animal Hospitals and Commercial Agriculture.

The following additional standards must be met in conducting animal husbandry and commercial agricultural operations:

1. No offensive odor or dust producing substance or any use producing incessant odor or dust may be permitted within 100 feet of any property line.
2. In districts where animal husbandry is allowed a Special Use permit is necessary where animal husbandry is in excess of one livestock unit per acre of land. A livestock unit shall, for purposes of this Law, be one cow, two calves, two horses, two ponies, two pigs, two goats, two sheep, one-hundred fowl or fifty rabbits. Livestock units for unspecified animals shall be determined by the Planning Board on a case by case basis, using these numbers as a guide.



## Town of Deerpark Zoning Law

---

3. Any animal husbandry use shall require a minimum of three (3) acres and minimum front, rear and side yards of fifty (50) feet each.
4. Boarding or livery stables, riding academies and breeding farms shall require a minimum of 10 acres and minimum front, side and rear yards of 200 feet. Within the Recreational River Corridor District, such uses shall conform to the River Management Plan and shall be subject to Special Use review.
5. Animal hospitals, veterinary offices, commercial or not-for-profit kennels shall be prohibited in the Recreational River Corridor District and in those districts where permitted shall be subject to the Town of Deerpark Dog Control Law (Local Law No. 13 of 2000, as amended) and the following standards:
  - (a) The minimum lot size for an animal hospital and a veterinary office shall be two acres.
  - (b) The minimum lot size for a commercial or a not-for-profit dog kennel (a structure used for harboring 5 or more dogs or cats with or without attendant commercial services such as grooming, breeding or veterinary care) shall be 10 acres.
  - (c) No kennel, runway or exercise pen shall be located within 200 feet of any lot or street line.
  - (d) No building or part thereof shall be erected nearer than 50 feet of any lot line.
  - (e) Animals shall be kept within a totally enclosed and suitably ventilated building between the hours of sundown and sunrise.
  - (f) The keeping or boarding of any dogs by a veterinarian shall conform to the requirements for a commercial kennel.

### § 5.12 Camps and Conference Centers.

1. Camps shall provide a minimum of 10,000 square feet per cabin site and the same for each principal building.
2. No tent, activity area or recreational facility shall be located nearer than 100 feet from any public road and 100 feet from any adjoining property line.
3. Buildings and sleeping quarters (except tents) shall be set back 30 feet distance from each other; and tents shall be set a minimum of ten feet apart.
4. Accessory recreational facilities shall be set back 200 feet from all lot lines and shall be effectively screened along lot lines as required by the Planning Board.
5. If floodlighting is used, exterior lighting shall be restricted to that essential for the safety and convenience of the users of the premises. The source of illumination shall be shielded from the view of surrounding streets and lots.
6. The Planning Board may permit the use of outdoor public address systems, provided that no more sound shall carry beyond the limits of the camp site than would be inherent in the ordinary residential use of the property.
7. All provisions of the Sanitary Code or such other regulations of the County Health Department pertaining to camps and their sanitary facilities must be met.

### § 5.13 Hotels, Motels and Resorts.

Hotel, motel and resort establishments, where permitted, shall require Special Use review by the Planning Board and be

# Town of Deerpark Zoning Law

---

subject to the following standards:

1. A site to be used for a motel, hotel or resort establishment shall include an office and lobby and may include accessory uses as follows: Restaurants, coffee shop or cafeteria providing food and drink, amusement and sport facilities such as a swimming pool, children's playground, tennis or other game sports, and game or recreational rooms.
2. Individual hotel, motel and resort rooms shall not contain kitchen facilities of any nature, and shall not be used as apartments for nontransient tenants or other single-room occupancy residential uses.
3. No hotel, motel or resort use shall be permitted which is intended to accommodate activities of a health care, rehabilitative or medical nature. Such facilities shall be considered separate uses and limited to those zoning districts where specifically permitted by listing on the Schedule of District Regulations.

## § 5.14 Adult Uses.

1. Findings. There is presently in Orange County a substantial growth in the number of adult entertainment uses and an increasing trend toward the concentration of adult entertainment establishments. Based upon recent studies evaluating the nature and extent of adverse secondary effects caused by adult uses in residential and commercial areas, including a 1996 study by the City of Newburgh, a 1994 study by the City of New York, and a 1980 study by the City of Islip, the Town Board hereby finds that adult uses have negative secondary impacts such as a deterioration of community character and quality of life, depreciation of property values, increase in crime rates, and the blighting or downgrading of surrounding neighborhoods and commercial uses.
2. Purpose. In the development and execution of this Section, it is recognized that there are some adult uses which, because of their very nature, are recognized as having serious objectionable characteristics. The objectionable characteristics of these uses are further heightened by their concentration in any one area, thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of surrounding neighborhoods or land uses, increase crime or police calls, contribute to the spread of prostitution and AIDS, increase the quantity of transients in residential and commercial areas, cause a deterioration in the quality of life in residential neighborhoods, increase the accessibility of adult oriented material and entertainment to minors, and encourage residents and businesses to locate elsewhere.
3. Definitions. As used in this Law, the following terms shall have the meanings indicated:

(a) Adult Use

A use of a building or property for a business has adult materials as a significant portion of its stock-in-trade or involves the sale, lease, trade, gift or display of drug paraphernalia. Adult materials include any literature, book, magazine, pamphlet, newspaper, paper, comic book, drawing, computer or other image, motion picture, sound recording, article, instrument, display or any other written or recorded material which depicts or describes: a) any nudity; or b) the specific sexual activities listed herein. The Town shall also rely upon the general meaning given to these two terms by the State of New York and in the various decisions of the U.S. Supreme Court referenced herein, should further clarification be required.

For purposes of this law, adult oriented businesses shall also mean any nightclub, bar, tavern, restaurant, eating and drinking establishment, arcade, theater, motel, hotel, or any other establishment that regularly features, for economic gain or other consideration, entertainment in any form which is characterized by nudity or the depiction or display of specified sexual activities. This shall not exempt such a business from any requirements of this law or limitations on public displays of personal nudity.

## Town of Deerpark Zoning Law

---

Nothing in this definition shall be construed to incorporate breast-feeding, single-sex rest rooms and showers or items and displays of recognized artistic merit as previously interpreted by the U.S. Supreme Court or activities in a private residence by the occupants thereof.

(b) Nudity

The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(b) Specified Sexual Activities

- (1) Human genitals in a state of sexual stimulation or arousal; or
- (2) Acts of human masturbation, sexual intercourse or sodomy; or
- (3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

(c) Specified Anatomical Areas

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately about the top of the areola; or
- (2) Human male genitals in a discernible turgid state even if completely and opaquely covered.

4. Separation Requirements Applicable to Adult Uses. Adult uses shall be limited to existing I-1 Industrial Districts. They shall be considered Special Uses subject to Site Plan Review. Because adult uses can lend themselves to ancillary unlawful and unhealthy activities, they shall also be separated from other uses that could be severely impacted by their presence or that, in combination with the adult uses, accentuate the negative impacts on the area. These distances shall be measured in a straight line, without regard to intervening obstacles, from the nearest portion of the structure incorporating any aspect of the adult use to the nearest property line of the premises incorporating any of the above listed uses.

- (a) No adult use shall be located within a two hundred (200) foot radius of any other residential or commercial zoning district or another adult use.
- (b) No adult use shall be located within a one thousand (1,000) foot radius of the property of any residence, residential facility, institution, health facility, child care center, church, synagogue, other place of religious worship, school, public or semi-public use, public park or recreation facility, youth oriented center, playground or playing field, cemetery or any establishment that sells alcoholic beverages.

5. Exterior Display Prohibited. No adult use shall be conducted in any manner that allows the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way. This provision shall apply to any display, decoration, sign, show window or other opening.

6. Signage. Adult use signage shall be limited to one (1) approved ground sign not to exceed a surface area of thirty-six (36) square feet for both sides combined.

7. Non-Conforming Buildings. No non-conforming building or lot shall be used for an adult use.

8. Activities. Because they are known to encourage prostitution, increase sexual assaults and attract criminal activity, the following activities shall not be permitted in any adult oriented or other business or any other public

## Town of Deerpark Zoning Law

---

place within the Town of Deerpark:

- (a) Public appearance by a person knowingly or intentionally engaged in specified sexual activities.
  - (b) The knowing and intentional public appearance of a person in a state of nudity.
  - (c) Touching of patrons or the performance by any entertainer in an adult use facility within six (6) feet of the nearest patron.
  - (d) Sale of alcoholic beverages.
9. Loudspeakers. No loudspeaker or similar audio equipment used to describe or discuss specified anatomical areas or specified sexual activities shall be audible beyond the exterior of the structure in which it is located.

### § 5.15 Vehicle Junkyard and Wrecking Facilities.

1. Purposes. These regulations are enacted for the purpose of establishing minimum health and safety standards for junkyards in the Town of Deerpark as well as controlling their location. They are enacted pursuant to the authority granted towns by § 136 of the General Municipal Law and § 136.1 of the Town Law.
2. Scope. These regulations shall apply to all junkyards now existing or hereafter proposed in the Town of Deerpark. No junkyard shall be created except in conformance with the standards herein, and all junkyards shall be required to conform to said standards or be removed at the owner's expense.
3. Exemptions. The following land uses shall be exempt from these requirements provided they are not maintained in the manner of a junkyard and do not include a junkyard operation:
  - (a) Storage areas for officially recognized and operable antique or classic automobiles or other operable special purpose vehicles.
  - (b) Agricultural equipment which is utilized as part of an active farming operation or contractors' construction equipment which is part of an active contracting business.
  - (c) Automobile repair businesses or automobile, vehicle and equipment sales operations managed by State licensed dealers.

No right to establish or continue a junkyard operation shall be conveyed by the existence of a State license or the presence of any of the above activities on a site.

4. Definition. The term "junkyard" shall mean:
  - (a) An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of used materials, including but not limited to wastepaper, rags, metal, glass, building materials, house furnishings, machines, wire, pipe, mobile homes, recreational vehicles, appliances, automotive vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other disposition of the same.
  - (b) Any place where two (2) or more old, secondhand, abandoned, partially disassembled, dilapidated or unlicensed vehicles or parts of vehicles, no longer intended or in condition for legal operation on the public highways, are stored outside for any purpose for a period of six (6) months or more. The Town of Deerpark Building Inspector(s) shall determine when a vehicle or part thereof shall meet these conditions and it shall be the burden of the landowner in such instance to demonstrate conclusively, within a period of seven (7) days after notice, that a vehicle is legally operable at the present time if he

## Town of Deerpark Zoning Law

---

or she shall disagree with the Building Inspector's determination.

- (c) Ancillary businesses located on a junkyard lot or lots that are part of the same site and site plan if one is a matter of record; including but not limited to vehicle and equipment sales, rental operations, repair operations, other sales activities, services and processing operations; whether or not directly related to the primary junkyard function.
5. License Required. No person, partnership, association or corporation, being the owner or occupant of any land within the Town of Deerpark, shall use or allow the use of such land for a junkyard unless a license has been obtained and maintained as herein provided, which license shall be applied for concurrently with application for site plan review and Special Use approval hereunder. The Building Inspector shall issue a license within ten (10) days after approval of the application by the Town Planning Board pursuant to these criteria. Said license shall be effective from the date of issuance until surrendered by the licensee or revoked by the Building Inspector and shall be renewed annually based on inspection by the Building Inspector and approval by the Town Board as to continued compliance with these standards. No license shall be issued until the Building Inspector has received;
- (a) A written application from the applicant on the form provided by the Town Building Inspector.
  - (b) The required fee as herein provided. Such fees shall be set by resolution of the Town Board.
6. Transfers of License. The license may be transferred to a new owner of a junkyard provided all of the requirements of this Law pertaining to new junkyards are met and a new application is submitted.
7. Disapprovals. Any disapprovals shall be in writing and include the reasons therefore. The Building Inspector shall not issue a license in any instance where the Planning Board has not approved the site plan and given special use approval.
8. Right to Enter and Inspect. The Building Inspector shall enforce all of the provisions of this Law and shall have the right, at all reasonable times, to enter and inspect any junkyard. The Town Board shall specify the frequency of such inspections, but no less than four times per year, and set fees by resolution to cover costs involved.
9. Orders to Correct. If the Building Inspector finds that a junkyard for which a license has been issued, is not being operated in accordance with the provisions of this Law, he may serve, personally or by certified mail to the holder of the license, a written order which will require the holder of the license to correct the conditions specified in such order within ten (10) days after the service of such order.
10. Suspension of License. If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order within ten (10) days after the service of such order, the Building Inspector may suspend such license and the holder of the license shall thereupon terminate the operation of such junkyard.
11. Expiration of License. Any license which is not used for the purpose intended within twelve (12) months of the date of issuance shall automatically expire and the junkyard shall be removed in its entirety.
12. Standards Applicable to New Junkyards. All new junkyards shall conform to the following standards:
- (a) No part of any junkyard shall be located closer than five-hundred (500) feet to an existing public right-of-way or adjoining property line, or one-thousand (1,000) feet to a church, school, health care facility, public building or place of public assembly.
  - (b) New junkyards shall, moreover, be permitted only in the Industrial (I-1) District.
  - (c) All new junkyards must erect and maintain a eight (8) foot fence or dense natural screening along the boundaries of the property adequate to discourage the entrance of children or others into the area and

## Town of Deerpark Zoning Law

---

to contain, within such fence, all materials in which the owner or operator deals. Such fence or screening shall also substantially screen the junkyard from public view at all times of the year and otherwise comply with the requirements of § 136 of the General Municipal Law. The fencing or screening shall, in the case of properties that are upslope or downslope from the grade level of the adjoining highway, be adjusted in height and density so as to accomplish the purpose of screening the the junkyard from view. Any material within the junkyard shall be screened from view from adjoining highway(s) and properties.

- (d) No junkyard shall be used as a dumping area for refuse or as a place for the burning or disposal of trash.
- (e) All dismantling operations shall take place inside an enclosed structure and any parts of vehicles or equipment shall similarly be stored inside an enclosed structure. All vehicles awaiting dismantling or retained for sale or use intact shall be stored in paved surface parking areas specifically designated for this purpose, which areas shall be buffered as required in this section for the junkyard as a whole.
- (f) The Planning Board, in acting upon the Special Use application for any new junkyard, shall consider aesthetics and the impact on surrounding property consistent with the demands of § 136.7 and 8 of the General Municipal Law.
- (g) All waste oils and similar waste products shall be stored and/or disposed of consistent with local and State requirements and best industry practices.

13. Standards Applicable to Existing Junkyards. All existing junkyards shall conform to the following standards to be administered by the Town Board based on the inspection and report of the Building Inspector as to compliance with the standards of this Law:

- (a) Existing nonconforming junkyards shall, within a period of one (1) year following the effective date of this Law, be removed unless a license shall have been obtained for continued operation and the facility has been made to conform to the regulations provided below.
- (b) Applications for licenses to continue operating existing non-conforming junkyards shall, unless the owners thereof have indicated in writing their intention to discontinue operations as provided above, be made within one (1) year following the effective date of this Law. All licenses shall, thereafter, be renewed by April 1 of each calendar year.
- (c) Applications for licenses to continue operation of existing non-conforming junkyards shall include a site plan depicting the existing operation and any planned improvements as may be required by this Law.
- (d) All existing junkyards shall include an eight (8) foot high fence along the side and rear boundaries of the property adequate to discourage the entrance of children or others into the area and to contain, within such fence, all materials in which the owner or operator deals. Fencing and screening shall fully comply with all requirements applicable to new junkyards. Yards requirements applicable to new junkyards shall not be further violated.
- (e) All fencing must be approved by the Town Board and produce a screen through which one generally cannot see. Various materials, including evergreen screening, may be used. The Town Board shall also take measures, such as securing injunctive relief, to ensure maintenance of such fencing or screening.
- (f) The license application shall include other information as may be required to determine compliance with these regulations. The Town Board, in acting upon the application, shall consider the following:
  - (1) Impacts of the use on the enjoyment and use of adjoining properties and the community.

## Town of Deerpark Zoning Law

---

- (2) The effectiveness of screening available or to be provided, visibility from the highway and the extent to which the operator's plans address various health, safety and aesthetic concerns.
  - (3) The extent to which dismantling operations can or do take place inside an enclosed structure and whether or not all parts of vehicles or equipment are similarly stored inside an enclosed structure. Likewise, the Town Board shall consider whether or not vehicles awaiting dismantling or retained for sale or use intact are or will be stored in paved surface parking areas specifically designated for this purpose.
14. Existing junkyards shall not be expanded except in conformance with the regulations contained herein for new junkyards, and in no case will any change in an existing junkyard that would lessen its conformity with these regulations be permitted. Any person or persons proposing to establish or expand a junkyard in the Town of Deerpark shall prepare site plans of the same to be submitted to the Planning Board under special use/site plan review procedures.
15. Junkyard Application Standards. All applications to operate junkyards in the Town of Deerpark shall include criminal records with respect to the applicant(s), including any owner with a 5% or more ownership. Should such criminal records reveal convictions for larceny or receiving stolen property, such application shall be denied. This procedure shall apply to both original license and transfer applications. Applications shall in other respects comply with Special Use and Site Plan Review procedures.

### § 5.16 Continuing Care Facilities.

1. Purposes. The purpose of this section is to permit continuing care facilities as special uses within Hamlet Mixed/Use (HM-U) Districts. This law is intended, under the authority given to the Town of Deerpark by Section 10 of the New York State Municipal Home Rule Law, to supersede the provisions of the New York State Town Law as follows:
  - (a) Sections 274-a, 274-b and 276 of the Town Law are superseded to combine these requirements into a single set of procedures with respect to continuing care retirement communities, where special use, site plan review and subdivision review and approval take place concurrently and both preliminary and final plans are required as provided under Section 276.
  - (b) Sections 274-a and 274-b of the Town Law are superseded to make the established time periods for hearings and actions on plans coincide with those for subdivision plats under Section 276, excepting that Sections 276.5(h) shall also be superseded to change the time to submit a final plat following preliminary plat approval from six months to five years, with extensions subject to approval from the Planning Board to permit phased development.
  - (c) Section 276.7(c) is superseded to change the duration of a conditionally approved final plat from 180 days, with two 90 day extensions, to five years following preliminary plat approval with extensions subject to approval from the Planning Board to permit phased development.
2. Special Definitions:

Continuing Care Facility - a residential development, facility or facilities established with the primary purpose of providing individuals of 60 years or more in age, or households where the head of household is 60 years or more in age, a comprehensive, cohesive living arrangement oriented toward the enhancement of the quality of life and which, pursuant to the terms of a continuing care contract, offers independent living units and board combined with a range of health care and social services subject to the terms of the contract. A continuing care facility may include a continuing care retirement community, as provided under the laws of the State of New York or a combination of the following:

## Town of Deerpark Zoning Law

---

Assisted Living - a single facility offering coordinated array of supportive personal and health services, available 24 hours per day, to project residents of 60 years or more in age who have temporary or periodic difficulties with one or more essential activities of daily living such as feeding, bathing, dressing or mobility. This definition includes adult care facilities licensed by the State of New York.

Enriched Housing - an adult care facility established and operated for the purpose of providing long-term residential care to five or more adults, primarily persons 60 years of age or older, in community-integrated settings resembling independent housing units. Such program shall provide or arrange the provision of room, and provide board, housekeeping, personal care and supervision.

Independent Living - multi-family apartment housing for individuals of 60 years or more in age where residents may receive one or more meals per day in congregate dining facilities, including individual dwelling units with living areas, bedroom areas, kitchen areas and bathrooms.

Nursing Facility - food, shelter and 24 hour nursing and medical care provided to chronic or convalescent patients, including intermediate, skilled and subacute levels of such care and customary accessory uses such as dining rooms, bathing areas, common areas, offices, clinics, therapy areas, medical facilities and other space necessary to provide these services.

### 3. Standards:

- (a) A continuing care facility may, in addition to the facilities required below, include:
  - (1) One bedroom apartments with a minimum of 500 sq. ft. and a maximum of 1,200 sq. ft. in floor area. The one bedroom apartments shall include, but not be limited to, a bathroom, bedroom, dining/living room, kitchen and closet space. Each one bedroom apartment shall have its own separate heating and air conditioning units.
  - (2) Two bedroom apartments with a minimum of 900 sq. ft. and a maximum of 1,350 sq. ft. in floor area. The two bedroom apartments shall include a bathroom, 2 bedrooms, dining/living area, kitchen and closet space. Each two bedroom apartment shall have its own separate heating and air conditioning units.
  - (3) Concierge services, housekeeping, laundry, banking, dry cleaning pick up and delivery, 24 hour security service and temperature controlled indoor courtyard.
  - (4) Recreation, cultural and medical facilities for the sole use of residents of the community and their guests, which may include dining rooms, a library, arts and crafts studios, a business/computer center, pool, bistro, hairdressing facilities, lounges, a theater, inside convenience store, indoor and outdoor recreational facilities, a fitness or wellness center, courtyards, pavilions, picnic facilities and other customary accessory uses. Nothing herein, however, shall restrict the use of continuing care facility facilities for public purposes such as community events, use as a local library or recreation activities of a noncommercial nature.
- (b) Area, yard and building requirements. No building, structure or land shall be used or erected, altered, enlarged or maintained except for continuing care facility within the area which is in accordance with a preliminary site plan and/or subdivision plan approved by the Planning Board. Such site development plan shall meet at least the following minimum requirements:
  - (1) Minimum area. The minimum area for a continuing care facility shall be 20 acres, provided that an area of less than 20 acres may be added to an existing continuing care facility if contiguous and otherwise in compliance with these regulations.



## Town of Deerpark Zoning Law

---

- (2) Residential density. Gross density for a continuing care facility shall not exceed eight dwelling units per acre of buildable land for independent living units. Additionally, no less than two and no more than three beds each of assisted living and long term care shall be provided for each ten independent living dwelling units permitted onsite, provided the total number of dwelling units and beds for the continuing care facility does not exceed 12 units or beds per acre of buildable land. No more than 40% of slopes over 25% in grade, 10% of floodplain areas and 10% of wetland areas shall be included in calculating buildable for purposes of density calculations
- (3) Impervious coverage. No more than fifty percent (50%) of the gross area shall be covered by impervious surfaces.
- (4) Maximum building height: Three stories or 35 feet, except mechanicals, elevator shafts and the like. Elevators shall be required for all structures of two or more stories in height.
- (5) Fire Protection and Ambulance Services: No application for a continuing care facility shall be approved unless and until the appropriate officer of the applicable Town fire district(s) shall have; 1) reviewed the plans and the site, 2) determined the district firefighting equipment can provide adequate coverage for the community, and 3) found there are no major obstacles in the design or layout of the facility to providing fire protection. The applicant shall document to the fire district and the Planning Board, that there is a water supply, storage and distribution system with sufficient capacity to meet the firefighting needs associated with the development in accordance with ISO or other guidelines established by the Planning Board. These facilities shall be located on the site and convenient for easy access. A fire lane of no less than 12 feet in width shall be provided surrounding all assisted living, independent living and long term care buildings.

If the fire district, or any other department of the Town of Deerpark, lacks the specific equipment, facilities or training needed to serve the continuing care facility, the Town shall be authorized, through its Planning Board, to require as a condition of special use and site plan approval, a financial contribution from the applicant toward providing that equipment, facilities or training. Such contribution shall be reasonable and directly related to the costs of serving the community. Ambulance services for residents of any continuing care facility shall be provided by and paid for by the applicant.

- (6) Setbacks from tract boundary. No building or structure, other than entrance gatehouses, walls or fences, shall be located within one-hundred (100) feet of any exterior boundary line of the tract, except that the Planning Board may modify this requirement where existing topography, vegetation and landscaping or improvements such as planted earthen berms mitigate any impacts on neighboring properties.
- (7) Building separation. All principal buildings shall be separated by a distance equal to their height, with a minimum separation of twenty-five (25) feet.
- (8) Water and sewerage facilities. No individual wells or individual sewage disposal systems shall be permitted, and each building shall be serviced with said utilities by a community wastewater or disposal system approved by the Board of Health, New York Department of Environmental Conservation and other controlling agencies. Such system facilities shall be subject to design review and buffering to minimize aesthetic impacts. No building permit shall be issued unless and until plans for such facilities have been approved by the proper authorities and adequate provisions are made to ensure that such necessary facilities shall be installed.

The water and sewer facilities shall not adversely affect the groundwater supply and quality in the area or on nearby properties. Pump tests demonstrating that there will be no adverse

## Town of Deerpark Zoning Law

---

impact on nearby wells shall be submitted to the Town of Deerpark by the applicant prior to construction of the project. Any water tanks shall be located at least 500 feet from any existing residential structures. Should a property owner within 500 feet of the development boundary request or require water connection because their well has been affected and the pump test documentation to this effect is satisfactory to the Planning Board, then the applicant shall connect them at no cost.

The potential for sewer connections to adjoining properties shall be investigated at the time the application is reviewed and the Planning Board shall be authorized to require provision of reserve capacity to serve such owners.

- (9) Building size. No building within a continuing care facility shall exceed 300 feet in length or width. Buildings in excess of 150 feet in dimension shall include breaks in the building planes and ridges every 100 feet.
  - (10) Parking and loading requirements. No less than one parking space per independent living unit and one parking space per employee on the largest shift shall be provided for the continuing care facility. These requirements may be modified by the Planning Board where evidence, submitted from a competent authority regarding projects of similar design, indicates a greater or lesser number of spaces may be needed. Loading spaces shall comply with requirements of this Law pertaining to commercial uses.
  - (11) Accessory structures. Accessory structures shall not be permitted in front yard areas. No accessory structure shall a building height of 35 feet or be located within 25 feet of any principal structure, except for garbage containers, tool sheds and similar structures that do not obstruct a fire lane.
- (c) Occupancy restrictions. A continuing care facility shall be restricted in occupancy to persons of 60 years or more in age and immediate members of their household who are at least 18 years of age. This restriction shall be a condition of approval and incorporated into restrictive covenants and management plans for the continuing care facility. Copies of such restrictive covenants, which shall not be changed without the approval of the Town of Deerpark, and management plans shall be submitted as part of the special use application.
  - (d) Environmental review. A continuing care facility, because of its large scope by definition, shall be considered a Type I action for purposes of review under the New York State Environmental Quality Review Act (SEQRA) and to have a significant impact on the environment, requiring the preparation of an Environmental Impact Statement. A public hearing on the Draft Environmental Impact Statement shall take place prior to action on the special use application so as to permit the attachment of any specific conditions required to mitigate environmental impacts.
  - (e) Health care requirements. A continuing care facility shall operate in strict accordance with any applicable health care requirements of New York State, as shall be evidenced by possession of any required licenses from controlling State agencies. The lack of such licenses, where required, shall render special use approval from the Town of Deerpark null and void. The revocation of such licenses shall terminate any rights an applicant or owner of a continuing care facility may have to operate in the Town of Deerpark and require the resubmission of plans in the form of a new special use application. A continuing care facility shall have a medical director licensed to provide services in the State of New York.
  - (f) Phasing and renewal of approval. A continuing care facility project may be phased. Special use, site plan review and subdivision review and approval shall, with the exception of any minor subdivisions required at the outset to create the parcel(s) being developed, take place concurrently, provided that preliminary site plans and plats shall be acted upon within the time periods provided under Section 276

## Town of Deerpark Zoning Law

---

of the New York State Town Law. Final site plans and plats and conditionally approved site plans and plats shall be valid for a period of three (3) years from the date of approval unless extended by the Planning Board subject to a phasing plan. The Planning Board may also require periodic renewal of special use approvals granted to continuing care facility projects to ensure that any operational standards or conditions imposed are being met. Special use approval for any phases not completed or financially guaranteed, as provided below, within such three (3) year period, as may be extended by the Planning Board, shall immediately expire.

- (g) Installation of improvements and financial guarantees. The provisions of Section 277 of the New York State Town Law shall apply to installation or financial guarantee of all road and driveway improvements, parking areas, utility infrastructure and outdoor recreational facilities connected with a continuing care facility, but not to the principal or accessory buildings or any other indoor improvements of a similar nature.

# Town of Deerpark Zoning Law

---

## Article 6 Nonconforming Uses and Structures

### § 6.1 Rights to Continue Nonconforming Uses.

1. A use, building or structure lawfully in existence as of the effective date this law and non-conforming with it or any subsequent amendment may be continued, except as otherwise provided herein with respect to specific uses. Upon request, the Building Inspector may issue Certificates of Nonconformance to owners or operators of bona fide non-conforming uses, buildings or structures who desire confirmation of their rights hereunder.
2. It is the purpose of this Article to limit the injurious impact of non-conforming uses, buildings, lots and structures on other adjacent properties within a particular district and the community as a whole, while recognizing that alterations, continuations and extensions of non-conforming uses, buildings or structures may not be contrary to the public interest or the general purpose of this Zoning Law, when failure to allow such alteration, continuation or extension would itself lead to neighborhood or district deterioration.
3. It is further the purpose of this Article to set forth those standards which are to be applied by the Town in determining the reasonableness of proposals to alter, continue or extend a non-conforming use and to establish when Town review and approval shall be required for such actions.
4. The protections extended by this Article to existing non-conforming uses, buildings, lots or structures, commonly known as "grandfathering", shall not extend to any non-conforming activity occurring subsequent to the effective date of this law, as amended.

### § 6.2 Normal Maintenance and Repairs.

1. Normal maintenance and repair activities, such as painting, replacing a roof or fixing gutters, shall be permitted. Also permitted are alterations, such as adding or removing windows, and interior renovations that do not structurally alter buildings, add living areas or result in extended or increased non-conforming use of a building, lot or structure.
2. Increases in outside storage or display of retail or wholesale inventory, which in the ordinary course of business would be sold within one year, shall be permitted, provided they do not eliminate parking spaces, unoccupied open spaces or accesses required by this law. Notwithstanding this provision, however, the Planning Board, in reviewing any Special Use application for expansion or upon determining, with respect to any present use, that a condition exists which requires remedies, may establish limits on such storage or display or require removal of inventory (altogether or to another location on the site) to preserve adequate sight distances and residential buffers or otherwise protect public health, safety and welfare.

### § 6.3 Restoration, Reconstruction or Re-establishment.

1. If less than 75% of the floor area of any non-conforming use, building or structure is damaged, it may be restored or reconstructed by building permit issued within twelve (12) months of the date of the damage. If more than 75% is affected, then the replacement or reconstruction shall be permitted by Special Use permit. Single-family dwellings shall be exempt from this requirement provided a building permit is obtained.
2. A non-conforming use, building or structure may be re-established within a period of twelve (12) months after it has been discontinued or vacated, with an extension of six (6) months allowable where proven necessary to the Building Inspector.
3. A non-conforming use, building or structure shall be considered abandoned under any one of the following circumstances:

## Town of Deerpark Zoning Law

---

- (a) The intent of the owner to discontinue the use is made obvious by the posting of signs, boarding up of windows, failure to pay taxes or assessments or other measures which demonstrate the enterprise is going out of business or the use is otherwise ending; or
  - (b) The building has not been occupied for twelve (12) months or more; or
  - (c) The non-conforming use has been replaced by a conforming use or changed to another use under permit from the Town; or
  - (d) The equipment and furnishings used in furtherance of the non-conforming use have been removed from the premises.
4. The Building Inspector, on determining these circumstances exist, shall, by certified mail, so notify the property owner of record, informing the owner the use is considered abandoned and may not be re-established once a period of twelve (12) additional months has expired. If an owner cannot be reached through the mail, the Building Inspector shall publish the notice once in a newspaper of general circulation in the Town and/or post the property and the owner shall be presumed to have been notified.

### § 6.4 Changes and Additions.

Excepting for activities provided for in § 6.3 above and accessory uses, all changes and additions to non-conforming uses shall be considered Special Uses, and permits for alterations, changes in use or additions shall be granted only after a determination by the Planning Board that the following conditions have been, or will be, satisfied.

1. There shall be no expansion in the amount of land area outside a non-conforming facility (outdoor area) used for storage of materials, supplies and/or products, excepting with respect to those types of uses outlined in § 6.2.2 above and § 6.4.3 below.
2. Where the non-conforming activity is one which necessarily results in the storage of large quantities of material, supplies or products outside (such as a lumberyard), the Planning Board may require dense evergreen screening sufficient to shield all such materials from the view of adjacent landowners and/or the traveling public.
3. No addition, change or expansion of a non-conforming use shall further violate setback and/or height regulations of the district in which it is located. Moreover, no change of use shall be to one of a more intensive classification (e.g. one with more employees, more traffic, more parking). A non-conforming retail enterprise could be converted to a barber shop, for example, but not to an industrial use.
4. There shall be no increase in the amount of storm water runoff for the site over what was existing as of the date of the enactment of this law. The U.S.D.A. Soil Conservation Service, a Professional Engineer or other appropriate professional may be relied upon to recommend appropriate measures to control storm water runoff. Such measures shall be attached as conditions of approval by the Planning Board.
5. In no case will a change, addition or extension of a non-conforming use be allowed which would result in a traffic increase that would decrease the Level of Service for the highway, the diversion of traffic closer to a nearby residence or a reduction of any of the parking and unloading requirements of this law where additional parking or loading would otherwise be required due to the change, addition or expansion. If the total number of parking spaces for the site is to be increased more than 25% over those available as of the date of this law, the Planning Board may require vegetative screening of the parking area from nearby residential areas.
6. The use may only be expanded or extended onto another property of record if; that property is immediately adjacent to the lot on which the original structure or use was located as of the effective date of this law or amendments hereto and the use is not one which has been altogether prohibited as a new use under this law.

## Town of Deerpark Zoning Law

---

7. Should the use proposed for expansion or extension be one which is specifically prohibited as a new use in the Town or is determined by the Planning Board to be one similar to such a use or of such a nature as to impose health, safety or welfare concerns which cannot be satisfied by the imposition of the conditions permitted under this law, the requested expansion or extension shall be denied.

### § 6.5 Use of Existing Non-conforming Lots of Record.

A structure may be erected on any existing lot of record, providing the owner does not own adjoining property; no front yard is reduced in size and no side yard is reduced to less than fifty (50) percent of the requirement for the district in which it is located or twenty (20) feet, whichever is greater; and a sewage disposal system meeting New York State standards, including well and septic isolation distances, can be placed on the lot should public facilities be unavailable.

# Town of Deerpark Zoning Law

---

## Article 7 Special Use and Site Plan Review Procedures

The Town of Deerpark Planning Board is authorized, in accordance with Sections 274-a and 274-b of the New York State Town Law, to review and approve, approve with modifications or disapprove Special Uses and site plans connected therewith. Site plan review shall be required for all Special Use permits and such other uses as the Town Board may from time to time designate by local law. The following procedures shall apply:

### § 7.1 Preliminary Site Plan.

An applicant for a Special Use permit may submit a preliminary site plan for review and advice by the Planning Board. Such a preliminary site plan should provide locations and dimensions of the proposed use in relation to the property boundaries and adjacent uses. It should also indicate all accesses and improvements both existing and proposed and any site features which could have a bearing on the project including the general topography and existing ground cover. This preliminary plan shall be used by the Planning Board as a basis for advising the applicant regarding information it shall require on the site plan before it conducts a public hearing or takes any action with respect to the plan. The Planning Board shall give no approval or disapproval regarding any preliminary site plan but may use it to schedule a public hearing if sufficient data is available, determine if any provisions of this article should be waived or begin its review of the application under the New York State Environmental Quality Review Act ("SEQRA").

### § 7.2 Application and Site Plan Required.

The Planning Board shall be under no obligation to schedule a public hearing or take any action with respect to a Special Use permit application until formal application has been made on forms provided by the Board and a detailed site plan providing the following information has been submitted:

1. The location of all existing watercourses, wooded areas, rights-of-way, roads, structures or any other significant man-made or natural feature, if such feature has an effect upon the use of said property.
2. The location, use and floor or ground area of each proposed building, structure or any other land use, including stormwater management, sewage disposal and water supply systems.
3. The location of all significant landscaping and ground cover features, both existing and proposed, including detailed planting plans and a visual depiction or rendering of the final appearance of the property after all landscaping and other physical improvements are completed.
4. The location, dimensions and capacity of any proposed roads, off-street parking areas or loading berths, including typical cross-sections for all paving or regrading involved.
5. The location and treatment of proposed entrances and exits to public rights-of-way, including traffic signals, channelizations, acceleration and deceleration lanes, widenings or any other measure having an impact on traffic safety conditions.
6. The location and identification of proposed open spaces, parks or other recreation areas.
7. The location and design of buffer areas and screening devices to be maintained.
8. The location of trails, walkways and all other areas proposed to be devoted to pedestrian use.
9. The location of public and private utilities, including maintenance facilities.
10. The specific locations of all signs existing and proposed, including a visual depiction of the latter.

# Town of Deerpark Zoning Law

---

11. Preliminary architectural plans for the proposed buildings or structures, indicating typical floor plans, elevations, height and general design or architectural styling.
12. A completed SEQRA Environmental Assessment.
13. Any other information required by the Planning Board which is clearly necessary to ascertain compliance with the provisions of this law and limited to such information.

## § 7.3 Waivers.

The Town of Deerpark Planning Board shall, pursuant to Section 274-a(5) of the Town Law, have the right to waive, when reasonable, any of the procedural requirements of this article for the approval, approval with modifications or disapproval of Special Use permits and site plans submitted for approval. This waiver authority may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety, or general welfare or are inappropriate to a particular site plan. Any such waiver shall be subject to the following conditions:

1. No waiver shall result in allowing a use not permitted within the applicable Zoning District.
2. No waiver shall be given with respect to standards outside the scope of this article which would otherwise require a variance from the Zoning Board of Appeals.
3. Waivers shall be limited to those situations where the full application of the requirements contained herein would generate unnecessary data and create unnecessary costs with regard to deciding the matter at hand, due to the scope or nature of the project involved. The proposed enclosure of a deck or a simple change of use with no significant structural modifications in the case of a commercial property, for example, might not require typical cross-sections for proposed regrading or water supply data.
4. An applicant for site plan approval who desires to seek a waiver of certain of the above-referenced requirements pertaining to such applications shall submit a preliminary site plan as provided above. The Planning Board shall review the preliminary site plan, advise the applicant as to potential problems and concerns and determine if any additional site plan information is required. The Planning Board shall consider such site plan as adequate when, in its judgment, the information submitted is sufficient to make a determination of compliance with the development standards contained herein and the intent of site plan review criteria found below.
5. Nothing herein shall authorize the Planning Board to waive State Environmental Quality Review requirements.

## § 7.4 Hearing and Decision.

The Planning Board shall fix a time, within sixty-two (62) days from the day the Board deems complete an application for a Special Use permit or site plan approval is made, for the hearing of any matter referred to under this section. It shall give public notice of such hearing at least five (5) days prior to it in a newspaper of general circulation in the Town and decide upon the application within sixty-two (62) days after such hearing. It shall not, however, grant approval before a decision has been made with respect to environmental impacts pursuant to SEQRA. The decision of the Planning Board shall be filed in the office of the Town Clerk and a copy thereof mailed to the applicant within five (5) business days after such decision is rendered.

## § 7.5 Conditions.

The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental the proposed Special Use permit or site plan. Upon approval of said permit and/or plan, any such conditions shall be met prior to the actual issuance of permits by the Town. These conditions may include requirements of the applicant to provide parkland or to provide fees in lieu thereof pursuant to Section 274-a(6) of the New York State



# Town of Deerpark Zoning Law

---

Town Law for new lots and residential units of any kind.

## § 7.6 Referrals.

The Planning Board is authorized to refer Special Use permit applications and site plans to other agencies, groups or professionals employed or used by the Town for review and comment and to charge the applicant fees for any reasonable expenses connected therewith. The Board shall, in particular, ensure that the requirements of Section 239-m of the General Municipal Law regarding review by the Orange County Planning Department are met. It shall also comply with all requirements of the New York State Environmental Quality Review Act.

## § 7.7 Appeals.

Any person aggrieved by any decision of the Planning Board or any officer, department, board or bureau of the town may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules.

## § 7.8 Effect of Site Plan Approval.

The site plan as approved by the Planning Board shall be binding upon the applicant. Any changes from the approved plan shall require resubmission and reapproval by the Planning Board. The site plan shall remain effective, as an authorization to establish the use, for a maximum of two (2) years from the date of approval unless the Planning Board shall have granted an extension in writing. Absent such an extension the Special Use shall be deemed to have expired. A Special Use which has been discontinued for a period of two (2) or more years shall also be deemed to have lapsed.

## § 7.9 Renewal of Permits.

The Planning Board may require, at the time it is initially granted, that any Special Use approval be renewed periodically. Such renewal shall be granted following public notice and hearing and may be withheld only upon a determination that the conditions attached to any previous approval have not been met. A period of sixty-two (62) days shall be granted the applicant in such cases to make remedies and bring the use into full compliance with the terms of the Special Use approval. Should the applicant fail to make such remedies, the Special Use approval shall be revoked and the use immediately discontinued.

## § 7.10 Conformity with Other Plans, Laws and Ordinances.

The Planning Board, in reviewing the site plan, shall consider its conformity to the Town of Deerpark Comprehensive Plan and the various other plans, laws and ordinances of the Town. Conservation features, aesthetics, landscaping and impact on surrounding development as well as on the entire town shall be part of the Planning Board review. Traffic flow, circulation and parking shall be reviewed to ensure the safety of the public and of the users of the facility and to ensure that there is no unreasonable interference with traffic on surrounding streets. The Planning Board shall further consider the following:

1. Building design and location. Building design and location should be suitable for the use intended and compatible with natural and man-made surroundings. New buildings, for example, should generally be placed along the edges and not in the middle of open fields. They should also be sited so as to not protrude above treetops or the crestlines of hills seen from public places and busy highways. Building color, materials and design should be adapted to surroundings as opposed to adaptation of the site to the building or the building to an arbitrary national franchise concept.
2. Large commercial buildings. Commercial facades of more than one-hundred (100) feet in length should incorporate recesses and projections, such as windows, awnings and arcades, along 20% of the facade length. Variations in rooflines should be added to reduce the massive scale of these structures and add interest. All facades of such a building that are visible from adjoining streets or properties should exhibit features comparable in character to the front so as to better integrate with the community. Where such facades face adjacent

## Town of Deerpark Zoning Law

---

- residential uses, earthen berms planted with evergreen trees should be provided. Loading docks and accessory facilities should be incorporated in the building design and screened with materials comparable in quality to the principal structure. Sidewalks should be integrated into a system of internal landscape defined pedestrian walkways breaking up all parking areas.
3. Lighting and signage. Improvements made to the property should not detract from the character of the neighborhood by producing excessive lighting or unnecessary sign proliferation. Recessed lighting and landscaped ground signs are preferred.
  4. Parking and accessory buildings. Parking areas should be placed in the rear whenever possible and provide for connections with adjoining lots. Accessory buildings should also be located in the rear with access from rear alleys. If placement in the rear is not possible, parking lots should be located to the side with screening from the street.
  5. Drainage systems. Storm drainage, flooding and erosion and sedimentation controls should be employed to prevent injury to persons, water damage to property and siltation to streams and other water bodies.
  6. Driveway and road construction. Whenever feasible, existing roads onto or across properties should be retained and re-sued instead of building new, so as to maximize the use of present features such as stone walls and tree borders and avoid unnecessary destruction of landscape and tree canopy. Developers building new driveways or roads through wooded areas should reduce removal of tree canopy by restricting clearing and pavement width to the minimum required for safely accommodating anticipated traffic flows. All driveways and streets shall be subject to Town of Deerpark requirements and review by the Superintendent of Highways.
  7. Construction on slopes. The crossing of steep slopes with roads and driveways should be minimized and building which does take place on slopes should be multi-storied with entrances at different levels as opposed to regrading the site flat.
  8. Tree borders. New driveways onto principal thoroughfares should be minimized for both traffic safety and aesthetic purposes and interior access drives which preserve tree borders along highways should be used as an alternative. Developers who preserve tree borders should be permitted to recover density on the interior of their property through use of clustering.
  9. Development at intersections. Building sites at prominent intersections of new developments should be reserved for equally prominent buildings or features which will appropriately terminate the street vistas. All street corners should be defined with buildings, trees or sidewalks.
  10. Streets and sidewalks. Cul-de-sac and dead-end streets should be discouraged in favor of roads and drives which connect to existing streets on both ends. Streets within residentially developed areas should be accompanied by on-street parking and a sidewalk on at least one side of the street. Where the area is already served with sidewalks, sidewalk extensions should also be provided from new commercial development areas to adjacent residential areas and pedestrian access should be encouraged.
  11. Impact on the Neversink Aquifer. New Special Use applications and subdivisions of ten (10) lots or more shall be reviewed for impacts on the Neversink Aquifer (see Comprehensive Plan). Hydrogeologic studies may be required to evaluate impacts, condition approvals or determine the permitted density for such projects.

### § 7.11 Special Use Review Criteria.

The Planning Board, in acting upon the site plan, shall also be approving, approving with modifications or disapproving the Special Use permit application connected therewith taking into consideration not only the criteria contained above but also the following:

## Town of Deerpark Zoning Law

---

1. Whether the proposed use will result in an overconcentration of such uses in a particular area of the Town or is needed to address a deficiency of such uses. The Board shall, in this regard, consider the suitability of the site proposed for a particular use as compared to the suitability of other sites in the immediate area.
2. Whether the proposed use will have a detrimental or positive impact on adjacent properties or the health, safety and welfare of the residents of the Town of Deerpark.
3. If the proposed use is one judged to present detrimental impacts, whether an approval could be conditioned in such a manner as to eliminate or substantially reduce those impacts.
4. Whether the use will have a positive or negative effect on the environment, job creation, the economy, housing availability or open space preservation.
5. Whether the granting of an approval will cause an economic burden on community facilities or services, including but not limited to highways, sewage treatment facilities, water supplies and firefighting capabilities. The applicant shall be responsible for providing such improvements or additional services as may be required to adequately serve the proposed use and any approval shall be so conditioned. The Town shall be authorized to demand fees in support of such services where they cannot be directly provided by the applicant. This shall specifically apply, but not be limited to, additional fees to support fire-district expenses.
6. Whether the site plan indicates the property will be developed and improved in a way which is consistent with that character which this law and the Town's Comprehensive Plan are intended to produce or protect, including appropriate landscaping and attention to aesthetics and natural feature preservation.

### § 7.12 Landscaping Standards Applicable to Special Uses.

1. The Planning Board may, to assure an acceptable buffer between adjacent residential and non-residential uses and create a healthy, safe and aesthetically pleasing environment in the Town, require a landscape plan be prepared as part of any Special Use application. Such a plan may also be required whenever any non-residential use is proposed in any district so as to buffer parking areas and buildings from the highway, each other and other uses. Where it is determined that a proposed Special Use would not have a significant impact on the natural environment, adjoining landowners or the view from a public highway, these requirements may be appropriately modified by the Planning Board.
2. The landscape plan, if required, shall specify locations of all mature shade trees or other species of six (6) inch caliper or greater and indicate existing vegetation to be removed or preserved. It shall demonstrate how building materials, colors, and textures will be blended with the natural and man-made landscape. It shall also include visual depictions of the proposed landscape from the perspective of persons who will view the site from the highway or adjoining properties. Specific locations, varieties, sizes, winter hardiness, and schedules for all proposed plantings shall, too, be provided as part of the plan.
3. The Planning Board, in reviewing a landscape plan, may employ the assistance of design professionals. The Planning Board shall also specifically consider the following before approving, approving with modifications or disapproving the Special Use:
  - (a) The plan should promote attractive development, preserve existing vegetation to the maximum extent possible, enhance the appearance of the property and complement the character of the surrounding area.
  - (b) The plan should use landscaping to delineate or define vehicular and pedestrian ways and open space.
  - (c) The plant material selected should be of complementary character to buildings, structures and native plant species and be of sufficient size and quality to accomplish its intended purposes.

## Town of Deerpark Zoning Law

---

- (d) The plan should effectively buffer the activity from adjoining land uses as may be necessary and soften the impact of other site development as contrasted with the natural environment.
- (e) The plan should be realistic in terms of maintenance and use materials which, as a minimum, are winter hardy to Zone 4.

Consideration and determination of the adequacy of the above plan requirements are at the Planning Board's discretion.

4. Landscaping Guidelines. The following minimum specifications are suggested guidelines that the Planning Board may apply when new landscaping is required:

- (a) The minimum branching height for all shade trees should be six (6) feet.
- (b) Shade trees should have a minimum caliper of three (3) inches (measured 4 feet above grade) and be at least twelve (12) feet in height when planted.
- (c) Evergreen trees should be a minimum of six (6) feet in height when planted.
- (d) Shrubs should be a minimum of 24" in height when planted. Hedges shall form a continuous visual screen within two (2) years after planting.
- (e) A buffer screen at least fifteen (15) feet in width along any residential lot line should be provided. It shall include, at a minimum, an opaque wooden stockade fence six (6) feet in height and one (1) evergreen tree for every fifteen (15) linear feet of property line. An additional row of evergreens meeting these standards, and offset such that each row serves to place trees between the gaps of the other, should be permitted as a substitute for the stockade fence.
- (f) A landscape strip at least fifteen (15) feet in width, that includes at least one (1) deciduous tree for every 35 linear feet of perimeter lot line should be required for any non-residential use. Such deciduous trees should also be accompanied by smaller shrubs and ground cover as may be required to effectively separate and buffer the activity from the highway but still allow for visibility of the use. The width of this buffer may be reduced along the rear and side lot lines for good cause, but not along the front lot line.
- (g) All lot area (except where existing vegetation is preserved) should be landscaped with grass, ground cover, shrubs, or other appropriate cover.
- (h) The preservation of mature shade trees should be required unless there is no alternative but to remove them. These may be used to meet requirements of this section provided the Building Inspector or Planning Board, as the case may be, determines the purpose of this section is achieved.

5. A performance guarantee in a form acceptable to the Town Attorney in the amount of one-hundred-twenty-five percent (125%) of the cost of materials and installation may be required to assure that all landscaping survives in a healthy condition one (1) full year. The Building Inspector or Planning Board, as the case may be, shall determine the amount of the guarantee and consider financial impacts of this requirement on the project. The Building Inspector shall have the right to enter upon the property to inspect the landscaping and, after notifying the owner of any deficiencies, to require that the guarantee be used to pay for the replacement of any dead, dying, diseased, stunned or infested plant materials.

6. All applicable requirements of these landscaping regulations imposed by the Planning Board shall be fully met prior to the Building Inspector granting a Certificate of Occupancy for a new building or use subject to these regulations.

## Town of Deerpark Zoning Law

---

### § 7.13 Bonding of Site Improvements for Special Uses.

1. Supersession of statutory provisions. This section shall, pursuant to the supersession authority granted by the Municipal Home Rule Law, supersede, in its application to the Town of Deerpark, the provisions of §§ 274-a, 276 and 277 of the Town Law of the State of New York relating to the limitation upon the authority of a town to require the posting of a performance bond or other form of security in connection with the approval of a land subdivision plat, to extend such authority to Planning Board approvals of commercial and residential site plans in accordance with the provisions of § 274-a of the Town Law.
2. Legislative intent. In order to ensure that once a project has been started it shall not be abandoned, partially completed or left in a state which will cause erosion of the soil, improper drainage or any other condition which will result in the deterioration or devaluation of the surrounding land or neighborhood, and in order to ensure that while under construction, the workmanship and materials used shall promote the long life of the project and the health, safety and welfare of the future users of the subject premises and surrounding areas, the Town Board of the Town of Deerpark has determined it to be a proper exercise of authority conferred upon it by the laws of the State of New York to require the posting of adequate security for the performance of necessary site improvements contemplated in connection with a residential or commercial site development.
3. Procedure.
  - (a) Prior to or contemporaneously with the grant of final site plan approval for a particular project, the Planning Board, in considering the recommendation of the engineering authorities available to it, shall establish the amount of performance security to cover the full cost of the required site improvements as shown on such final site plan as enumerated in Subsection D hereof. The Planning Board shall make a referral of the matter regarding the establishment of the amount of performance security of a particular project to the Town Board, which referral shall include its recommendation as to the amount of such performance security. The performance security shall become effective only if and when the Town Board shall have approved it as to form, sufficiency of surety and manner of execution.
  - (b) The performance security shall be in the amount approved by the Town Board in the form of a performance bond issued by a surety company licensed in the State of New York; a letter of credit issued by a federally or state-chartered financial institution; or a savings passbook, money market account or certificate of deposit naming the Town of Deerpark as joint tenant.
  - (c) Such performance security, if in the form of a performance bond or letter of credit, shall run for a term to be fixed by the Planning Board, but in no event for a term longer than three (3) years; provided, however, that the term of such security may be extended by the Planning Board with the consent of the parties thereto. In the event that such security is in the form of a letter of credit, such a letter of credit shall contain a provision requiring automatic renewal thereof unless, not less than thirty (30) days prior to its expiration, the Town of Deerpark is given written notice of the issuing institution's intention not to renew such letter of credit.
  - (d) The performance security in the full amount established by the Town Board shall be posted with the Town Clerk upon grant of final site plan approval. No building permits shall be issued for and no site preparation work shall be commenced on the subject premises unless and until the necessary performance security has been posted.
  - (e) A duly designated official of the town shall inspect the improvements during construction to assure their satisfactory completion. An inspection fee of 5% of the performance bond amount shall be posted by the applicant, to cover the cost of required inspections.
  - (f) During the course of construction, the performance security may be reduced, in the sole discretion of

## Town of Deerpark Zoning Law

---

the Town Board upon the recommendation of the Planning Board, to an amount certified by the Town Engineer or the town's consulting engineer to be the probable cost of completion of the remainder of the required site improvements, but in no event shall such amount be reduced to less than fifty percent (50%) of the original amount of the performance security.

- (g) The performance security shall be released or reduced only by the Town Board and only upon recommendation of the Planning Board after certification by the Town Engineer or the town's consulting engineer that all or part of the required site improvements have been completed in conformance with the approved final site plan and all applicable regulation.
4. Site improvements subject to bonding. The following items are considered essential to the principles stated above and shall be included in the amount of the performance security to be set:
- (a) Site grading, including replacement of topsoil and seeding, and including necessary structural features such as retaining walls and ground cover.
  - (b) Drainage, including waterways, conduits and all necessary appurtenances and structures.
  - (c) Water and sewer systems, including all wells, conduits, structures and appurtenances as may be required by those government agencies having final jurisdiction for approval of those system.
  - (d) Foundation course, pavement, curbs and sidewalks for all roads, drives, parking areas and walkways.
  - (e) Lighting, including all necessary wiring, structures and appurtenances.
  - (f) Landscaping, including all shrubs, trees and screening as may be required to ensure that the final site condition meets with the planning and zoning concepts expressed in the Comprehensive Plan of the Town of Deerpark and this chapter, as well as all drainage and soil erosion measures required to protect the site.
  - (g) The Planning Board shall have the discretion to require only a restoration bond be posted, should it be deemed sufficient to protect the Town's interests. In the event a restoration bond is posted, the inspection fee to be deposited by the applicant shall be 5% of the full performance bond amount otherwise required by this section.
5. Phased projects. In the event that a particular site plan is to be constructed in sections or phases, the Planning Board, in its sole discretion, taking into consideration the importance of the entirety of the site improvements on the section or phase to be constructed, may recommend to the Town Board that the performance security be posted for only so much of the project as is going to be constructed in a particular phase or section; provided, however, that no building permits shall be issued for and site work shall be conducted on any future phase or section unless and until the required performance security is established for such future phase or section and properly posted in accordance with the provisions of this section.
6. Default. In the event that any required site improvements have not been installed as provided in this section within the term of the performance security, the Town Board may thereupon declare said performance security to be in default and collect the sum remaining payable thereunder, and, upon receipt of the proceeds thereof, the town shall install such improvements as are covered by such security and are commensurate with the extent of building development that has taken place on the site. In the event that no building has taken place but site preparation has taken place, the proceeds of the security shall be used, to the extent practicable, to restore the site to its original state and avoid erosion and adverse drainage conditions.

# Town of Deerpark Zoning Law

---

## Article 8 Administration and Enforcement

### § 8.1 Building Inspector.

The Town Board shall provide for the services of a Building Inspector to simultaneously enforce the provisions of this Law and the Uniform Fire Prevention and Building Code Enforcement Law. Such Building Inspector shall examine all applications for permits, issue permits and/or certificates of occupancy for construction and uses which are in accordance with the requirements of this law, record and file all applications for permits with accompanying plans and documents and make such reports as may be required including, at a minimum, a written monthly activity report to the Town Board. Permits requiring site plan review and Special Use approval, however, shall only be issued with approval of the Town of Deerpark Planning Board. Likewise, permits requiring variances of this law shall only be issued with approval of the Town of Deerpark Zoning Board of Appeals.

### § 8.2 Permit Requirements.

1. No person shall construct, erect, alter, convert or use any building or structure, or part thereof, nor change the use of any land, subsequent to the adoption of this law, until a building permit and/or Certificate of Occupancy has been issued by the Building Inspector. This shall specifically include, but not be limited to wells, sewage disposal systems, enlargements, alterations, building demolitions and removals, conversions, electrical installations, plumbing installations, pools, sheds (metal or wood), fences, roofing, siding and signs. Applications for such permits shall be made to the Building Inspector prior to any construction activity and/or change in the use of land. The Officer shall review such applications and act upon them according to the requirements of this law, taking no action, however, until the Planning Board and/or Zoning Board of Appeals has first taken action, should the approval of either Board be required. A building permit shall authorize the applicant to proceed with construction proposed.
2. Prior to use of the structure or the change in use of the land, a Certificate of Occupancy shall be required and shall be issued by the Officer, provided all construction has been in accord with the building permit granted and/or the proposed use is in compliance with this law. The Building Inspector shall be authorized to make such inspections as he deems necessary to ensure that construction does, in fact, comply with this law.
3. The Building Inspector, with approval of the Town Board, may issue a temporary permit for an otherwise non-conforming structure or use which will promote public health, safety or welfare, provided such permit shall be of limited duration and the use or structure shall be completely removed within ninety (90) days of expiration of the activity for which it was granted. A temporary permit shall not be valid beyond this period or three (3) years from the date of issuance, whichever is shorter.
4. The Building Inspector shall ensure that all water supply and sewage disposal facilities proposed in connection with any building permit or Certificate of Occupancy application shall conform with New York State Department of Health guidelines.
5. It shall be the duty of the Building Inspector to issue a building permit, provided that he is satisfied that the structure, building, sign and the proposed use conform with all requirements of this law, and that all other reviews and actions, if any, called for in this law have been complied with and all necessary approvals secured therefor.
6. When the Building Inspector is not satisfied that the applicant's proposed development will meet the requirements of this law, he shall refuse to issue a building permit or Certificate of Occupancy, as the case may be, and the applicant may appeal to the Zoning Board of Appeals.

## Town of Deerpark Zoning Law

---

7. A building permit or Certificate of Occupancy may be revoked by the Building Inspector upon a finding that information provided in the application was inaccurate or invalid or that the construction or use has proceeded in a manner not consistent with the permit(s) granted.
8. No change of use shall be made in any building, structure or premises now or hereafter erected or altered that is not consistent with the requirements of this law. Any person desiring to change the use of his premises shall apply to the Building Inspector for a Certificate of Occupancy. No owner, tenant or other person shall use or occupy any building or structure or premises thereafter erected or altered, the use of which shall be changed after the passage of this law, without first procuring a Certificate of Occupancy; provided, however, that an Certificate of Occupancy, once granted, shall continue in effect so long as there is no change of use, regardless of change in tenants or occupants.
9. Though compliance with the development and use standards of this Law will still be required, the following activities shall not demand permits, except as may be required by the New York State Uniform Fire Prevention and Building Code:
  - (a) Aboveground swimming pools of two (2) feet or less in depth.
  - (b) Portable structures of less than one-hundred-forty-four (144) square feet in size which are unoccupied and intended for storage.
  - (c) Patios, farm livestock fences and landscape improvements.
  - (d) All nonstructural accessory uses of a residential or temporary nature (30 days or less).
10. All applications shall be made on forms as shall be developed and periodically updated by the Building Inspector. Applications shall include plot plans and such other information as is required to determine compliance with the requirements of this law.
11. A zoning permit shall expire after twenty-four (24) months if the applicant fails to complete the improvements as approved. An extension may be approved by the Building Inspector for good cause (such as seasonal weather conditions) provided that any extension of more than twelve (12) months or subsequent extension of any length shall require approval of the Town Board.
12. Accessory building permits shall not be issued in advance of permits for principal permitted or Special Uses or without an existing principal use in place and being operated on an on-going basis. Passive uses such forestry shall not qualify for this purpose. However, accessory uses for other agricultural activities or in connection with seasonal occupations (e.g. structures used to store equipment or hunt camp structures) may be permitted as Special Uses. Accessory uses permitted under such circumstances shall be limited to those with the tangible and primary purpose of serving the principal use.
13. The Building Inspector may issue a Certificate of Occupancy and/or Compliance to any legally existing use, provided the owner thereof so certifies and the Officer's investigations do not indicate otherwise.
14. No permits shall be issued for any new uses where there are unremedied existing violations.

### § 8.3 State Environmental Quality Review Act Compliance.

All actions taken with respect to this law shall comply with the New York State Environmental Quality Review Act ("SEQRA") and applicants shall be responsible for providing such data as may be required to determine the significance of any environmental impacts associated with such actions.



## Town of Deerpark Zoning Law

---

### § 8.4 Violations and Penalties.

1. Whenever a violation of this law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Building Inspector, who shall properly record such complaint and immediately investigate and report thereon to the Town Board. Nothing herein shall, however, restrict the right of the Building Inspector to act on a violation absent a complaint.
2. Should any building or structure be erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land be used in violation of this law, the Town Board or the Building Inspector, in addition to other remedies, may institute an appropriate action of proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.
3. Whenever a violation of this Law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Building Inspector, who shall properly record such complaint and immediately investigate and report thereon to the Town Board. The Town Board shall be responsible for directing further enforcement.
4. Should any building or structure be erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land be used in violation of this Law, the Town Board or the Building Inspector, in addition to other remedies, may institute an appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.
5. A violation of this Law is hereby declared to be an offense punishable by a fine not exceeding three hundred fifty dollars (\$350); for conviction of a second offense, punishable by a fine of not less than three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$700); and, upon conviction for a third or subsequent offense, punishable by a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000). Each day's continued violation shall constitute a separate additional violation.
6. The Building Inspector or acting Building Inspector, as the case may be, is hereby authorized to issue appearance tickets pursuant to the Criminal Procedure Law in the enforcement of this or any related laws of the Town of Deerpark.

### § 8.5 Fees.

The Town Board shall, by resolution, establish and periodically update a schedule of uniform fees, charges and expenses associated with the administration and enforcement of this law. Such schedule may provide for the assessment to applicants of professional costs incurred in the processing and/or review of the applications made pursuant to this law.

# Town of Deerpark Zoning Law

---

## Article 9 Zoning Board of Appeals

### § 9.1 Establishment and Membership.

1. There is hereby established a Zoning Board of Appeals having the powers authorized under the New York State Town Law. Said Board shall consist of five (5) members of staggered 5-year terms, including a chairperson, appointed by the Town Board. Appointments shall be in accordance with the New York State Town Law and an appointment to a vacancy occurring prior to the expiration of a term shall be for the remainder of the unexpired term. In the absence of a Town Board appointment of a chairperson the Board of Appeals may designate a member to serve as acting chairperson. The Town Board may also provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper. In making such appointments, the Town Board may further require Board of Appeals members to complete training and continuing education courses.
2. The Town Board shall also supersede the New York State Town Law pursuant to the Municipal Home Rule Law and, may during the annual reorganization meeting of Town Board, appoint an alternate member of the Zoning Board of Appeals to serve for a term of one (1) year or until a successor is appointed. Such alternate member shall attend meetings and act in the capacity of a full member whenever regular members cannot attend or must recuse themselves due to conflicts of interest. Alternate members shall not participate in the Board's deliberation of any matter in which they are not called upon to act in replacement of a full member.

### § 9.2 Powers and Duties.

1. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official(s) charged with the enforcement of this law and to that end shall have all powers of the administrative official(s) from whose order, requirement, decision, interpretation or determination the appeal is taken.
2. Use variances.
  - (a) The Zoning Board of Appeals, on appeal from the decision or determination of the administrative officials charged with the enforcement of this law, shall have the power to grant use variances, as defined herein.
  - (b) No such use variance shall be granted by a Zoning Board of Appeals without a showing by the applicant that applicable regulations and restrictions of this law have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that:
    - (1) he or she cannot realize a reasonable return, provided lack of return is substantial as demonstrated by competent financial evidence;
    - (2) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
    - (3) the requested use variance, if granted, will not alter the essential character of the neighborhood; and
    - (4) the alleged hardship has not been self-created.

## Town of Deerpark Zoning Law

---

- (c) The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
3. Area variances.
- (a) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative officials charged with the enforcement of this law, to grant area variances as defined herein.
  - (b) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board of Appeals shall also consider:
    - (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
    - (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
    - (3) whether the requested area variance is substantial;
    - (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
    - (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
    - (6) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
4. The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

### § 9.3 Procedures.

- 1. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as such Board may determine. Such Chairperson, or in his or her absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses.
- 2. Meeting of the Zoning Board of Appeals shall be open to the public to the extent provided in Article Seven of the Public Officers Law. 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, and shall also keep records of its examinations and other official actions.
- 3. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or

## Town of Deerpark Zoning Law

---

determination of the Board of Appeals shall be filed in the office of the Town Clerk within five (5) business days and shall be a public record. Every decision of the Zoning Board of Appeals shall be made by resolution and include findings establishing the basis of the decision.

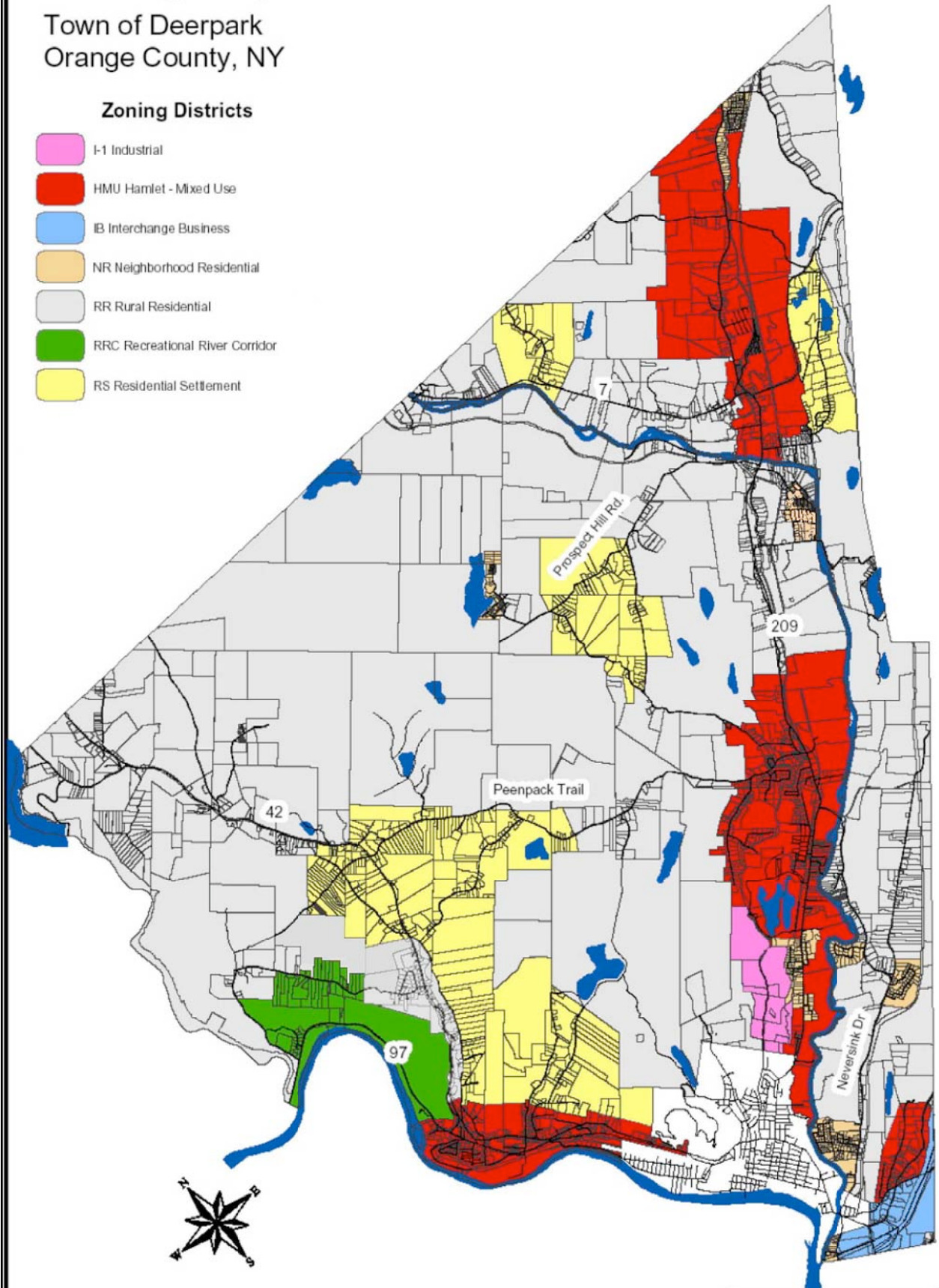
4. The Zoning Board of Appeals shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. It shall also have authority to refer matters to the Town Planning Board for review and recommendation prior to making a decision.
5. Except as otherwise provided herein, the jurisdiction of the Zoning Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative officials charged with the enforcement of this law. The concurring vote of three (3) members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Town.
6. Such appeal shall be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the administrative officials charged with the enforcement of this law by filing with such administrative official and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record for the action appealed.
7. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such ordinance or local law, from whom the appeal is taken, certifies to the Zoning Board of Appeals, after the notice of appeal shall have been filed with the administrative office, that by reason of facts stated in the certificate a stay, would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.
8. The Zoning Board of Appeals shall fix a reasonable time, no more than sixty-two (62) days following application, for the hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the Town at least five (5) days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal shall be borne by the appealing party and shall be paid to the Board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney. The hearing shall be conducted in accordance with rules of the Zoning Board of Appeals. Such rules shall permit cross-examination by parties, provide for evidentiary procedures and allow for rehearings on the unanimous vote of the members present.
9. The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days after the close of said hearing. The time within which the Board of Appeals must render its decision may, however, be extended by mutual consent of the applicant and the Board.
10. The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
11. At least five (5) days before such hearing, the Zoning Board of Appeals shall mail notices thereof to the parties; to the regional state park commission having jurisdiction over any state park or parkway within five hundred (500) feet of the property affected by such appeal; and to the Orange County Planning Department, as required by Section 239-m of the General Municipal Law. No Zoning Board of Appeals decision shall be made except in conformance with such 239-m procedures including requirements for an affirmative vote of no less than four (4) members of the Board if it shall determine to approve an application which the County has recommended it disapprove or modify.

# Zoning Map

Town of Deerpark  
Orange County, NY

## Zoning Districts

- I-1 Industrial
- HMU Hamlet - Mixed Use
- B Interchange Business
- NR Neighborhood Residential
- RR Rural Residential
- RRC Recreational River Corridor
- RS Residential Settlement



GIS Data supplied by  
Orange County Water Authority  
2001

Shepstone Management Company  
Planning & Research Consultants  
100 Fourth St  
Honesdale PA 18431