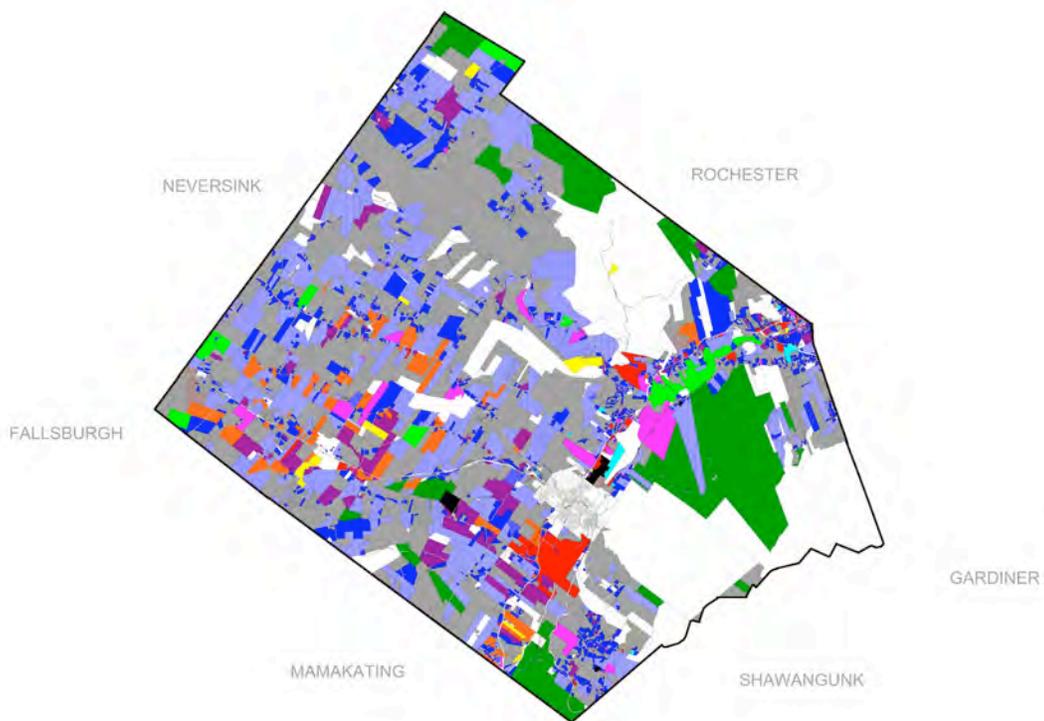


**Town of Wawarsing  
Ulster County, New York**

**ZONING LAW**



**January 5, 2009**

# Town of Wawarsing Zoning Law

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# Town of Wawarsing Zoning Law

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## Article 1 General Provisions

### § 112-1 Authority, Conflict, Interpretation and Separability.

- A. Authority. This Chapter, which shall be known as the Town of Wawarsing Zoning Law, is enacted under the authority of Section 264 of the New York State Town Law and Section 10 of the New York State Municipal Home Rule Law. The Town of Wawarsing hereby exercises its authority under said Municipal Home Rule to specifically supersede the following provisions of New York State Town Law:
- (1) Section 265 of the New York State Town Law is superseded to permit voiding of a zoning change involving a planned unit development district, as provided under § 112-25 hereof, without resorting to further re-zoning procedures.
  - (2) Section 265 of the New York State Town Law is further superseded to permit the Town Board to classify unlisted uses, as provided under § 112-8 hereof, without resorting to a zoning amendment.
  - (3) Section 261-b of the New York State Town Law is superseded by § 112-30 hereof, so as to not only offer a system of bonuses and incentives for affordable housing, but also to mandate its use in the case of owner-occupied residential dwelling projects of 25 dwelling units or more in total.
  - (4) Section 271 of the New York State Town law is superseded by § 112-48.E hereof, to permit the Town of Wawarsing Planning Board, following a public hearing in conjunction with other matters before the Board, to modify the standards of this law to the extent of 10% of the stated criteria where the circumstances otherwise meet the tests for an area variance as set forth in § 112-65 hereof.
  - (5) Sections 274-a and 274-b of the New York State Town law are superseded by § 112-46 hereof, to permit the Town of Wawarsing Planning Board to review preliminary site plans and, if a preliminary site plan demonstrates the proposed activity involves one-time additions of less than 10% and 200 square feet in floor area or consists solely of accessory uses or structures, the Building Department may review and approve the site plan on its own.
  - (6) Sections 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 are superseded 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.
- B. Interpretation. The provisions of this Law, in their interpretation and application, shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- C. Conflict. This Law is not intended to interfere with, abrogate, or annul any other law, rule or regulation statute or provision of law. Where any of the provisions of these regulations impose restrictions different than any other law, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. This Law, however, shall repeal and replace in its entirety the existing Town of Wawarsing Zoning Law.
- D. Separability. If any part or provision of these regulations is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of these regulations even without such part or provision or application.

## Town of Wawarsing Zoning Law

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### § 112-2 Purposes.

It is the legislative intent of this Zoning Law to provide standards and procedures to guide land use and new development. This Law is specifically intended to implement the Town of Wawarsing Comprehensive Plan, including but not limited to the following purposes:

- A. Preserve the Town's character and appearance;
- B. Allocate ample sites for future residential growth in hamlets, leaving the majority of the land in large lot residential, agricultural, resort and forest uses;
- C. Provide a system of flexible zoning regulations designed to encourage physically attractive and socially desirable development;
- D. Protect and enhance natural waterways (Rondout Creek, Sandburg Creek and tributaries, Rondout Reservoir and lakes and ponds) and scenic areas (Shawangunk Mountains and Catskill Mountains);
- E. Encourage creation of attractive and effective signage;
- F. Provide a system of open spaces and park and recreation facilities;
- G. Preserve important historic sites and resources;
- H. Create an orderly pattern of growth through concentrations of new residential developments in areas which presently are or which can conveniently be serviced with public facilities and avoid intensive residential development in scattered rural areas and areas of difficult accessibility that, if developed, would involve excessive costs for road improvements, road maintenance, school bus transportation and utility installation;
- I. Regulate population densities to reflect the desired character of the Town;
- J. Prevent intrusion of incompatible uses in residential areas, by requiring good standards of improvements in new residential developments and by preserving, protecting and using natural beauty wherever possible;
- K. Encourage cluster development;
- L. Provide a variety of living environments and housing types to suit a range of incomes, tastes and needs.
- M. Require adequate amounts of off-street parking for both residential and non-residential uses;
- N. Discourage further strip business development on frontage access highways;
- O. Provide for safe convenient access to resort areas;
- P. Encourage development of Route 209 in a way that addresses coordinated planning among hamlets, improved access management and the creation of appropriate alternative routes for local traffic.
- Q. Improve the Town's economic base by providing sites for further resort development, compatible industries and other business development; and
- R. Preserve and enhance the natural beauty and man-made environment, assuring the maintenance and increase

## Town of Wawarsing Zoning Law

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of property values and continued resort activity.

- S. Protect groundwater sources that supply drinking water in the Town.
- T. Protect surface water quality with riparian buffers and related measures.
- U. Protect and promote agriculture.
- V. Recognize the importance of the Village of Ellenville as the economic center of the Town of Wawarsing and integrate Town and Village planning.
- W. Protect the scenic character of the Shawangunk Ridge.
- X. Protect all watersheds from pollution, including those portions of the Town within the New York City Water Supply System watershed.

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## Article 2 Definitions

### § 112-3 Word Usage.

- A. Unless otherwise listed below, the numbers, abbreviations, terms and words used herein shall have the meanings of common usage as set forth in the Merriam-Webster Dictionary.
- B. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular 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.
- C. 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.
- D. The word "lot" includes the word "plot."
- E. 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."
- F. "Shall" is always mandatory.

### § 112-4 Specific Definitions.

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.

Active Adult Retirement Community — Housing intended and operated for occupancy by persons 55 years of age or older, as provided under 42 U.S.C. § 3607(b)(2)(C).

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.

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. 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.

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**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.

**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.

**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.

**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 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** — A new or 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 Department or Inspector** — The person(s) charged by the Town Board with responsibility for administration and enforcement of this Law. Also known as Code Enforcement Officer.

**Bus Storage Facility** — An indoor or outdoor area for the storage of passenger buses for primary use off site.

**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 or Conference Center** — A site and group of structures facilitating the gathering of children, youth, adults or families for educational or recreational purposes; including day camps and sites employed for short-term events with overnight accommodations in permanent or semi-permanent structures.

**Camping** — The use of a property as a site for sleeping outside, or; the parking of travel trailers or similar equipment, the erection of tents or other shelters, to serve as temporary residences.

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Campground or Recreational Vehicle (RV) Park — The development or use of a lot, tract or parcel of land for the purpose of providing a site for travel trailers, truck campers, camper trailers, motor homes, tents, park model recreational vehicles (as defined by the Recreational Vehicle Industry Association) or permanent cabins of less than 500 square feet footprint size that represent less than 20% of such accommodations as are offered, that is owned and managed as a resort for camping purposes. "Campsites, "campgrounds" or "recreational vehicle parks," tent camping facilities and other similar facilities regardless whether rights to occupy a campground lot are conveyed by lease, rent, sale or any other means shall be included in this definition. Also, this definition shall include those situations where camping occurs with no specific rights of occupation offered but the use nonetheless permitted by the owner's direct or indirect action or lack thereof.

- A. Transient Campground or Recreational Vehicle (RV) Parks — Publicly operated facilities or businesses offering 3 or more campground or RV park lots with or without the usual accessory recreational and service facilities, for use for tent camping and/or recreational vehicle camping by the public at large on a transient basis. Sites are rented on a daily or weekly basis or otherwise permitted by the owner to be used for camping on a temporary short-term basis.
- B. Nontransient Campground or Recreational Vehicle (RV) Parks — Planned private communities with recreational and service facilities, including central water and sewer facilities and usually a restaurant and/or bar, lounge, chapel and community hall, for use only by occupants of tent and/or recreational vehicle sites within the campground. Sites may be owned in common, or individually by membership or may be leased on an annual, monthly or other seasonal basis.

Campground Lot — A lot or space within a campground or RV park used for tent camping or as a site for recreational vehicles; or an area of land otherwise offered by the developer or operator through sale, lease, rent, membership or any other means for camping purposes regardless whether or not done for pecuniary gain.

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.

Central or Community Sewage — Facilities serving 10 or more dwellings or properties with collection and treatment of wastewater prior to discharge to an approved disposal location.

Central or Community Water — Facilities providing 10 or more dwellings with a common water supply.

Charitable or Retreat Institution — Institutions offered by nonprofit or eleemosynary organizations to provide services beneficial to the general public, including but not limited to retreat houses, but excluding rehabilitation centers, camps and similar facilities covered by other definitions.

Cluster Development — See Conservation Subdivision definition.

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.

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

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

Commercial Recreation — Any and all amusement and recreation uses and associated facilities and structures used for sports and leisure activities on a fee basis, excluding adult uses and racetracks.

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.

Conservation Subdivision — 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 Cluster Development).

Convenience Retail Store — A retail store containing less than 2,500 square feet of gross floor area that is designed and stocked primarily to sell gasoline, 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.

Cross Access Drive — A service drive providing vehicular access between two or more contiguous sites so that the driver need not reenter the public street system

Curblin Opening — The overall opening dimension at the curblin, measured between the points of tangency of the driveway radii if curbing exists, or the maximum width of opening at the curblin if curbing does not exist.

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.

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Dwelling, Single-family -- A detached building designed or occupied exclusively by one family and erected on a permanent foundation, with/without basement, and equipped for year-round occupancy.

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

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.

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 construction of a building for which application for a building permit has been made.

Family — As many as six 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 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 Produce 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.

Frontage Road (a/k/a "Parallel Access Drive") — A public or private road that generally parallels a public street between the right-of-way and the front building setback line to provide access to private properties.

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 — An enclosed structure 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

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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).

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/Motel — A building or group of buildings containing rooms used for overnight lodging of travelers for stays of less than 30 days.

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.

Joint Access Driveway — A common driveway connecting two or more contiguous sites to the public street system .

Junkyard — 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. This shall include any place where two 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 months or more. The Town of Wawarsing 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 days after notice, that a vehicle is legally operable at the present time if he or she shall disagree with the Building Inspector's determination. A junkyard shall also encompass any ancillary businesses located on a junkyard lot or lots that are part of the same site; 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.

Kennel — A structure used for the harboring of more than four dogs or cats with attendant commercial services that

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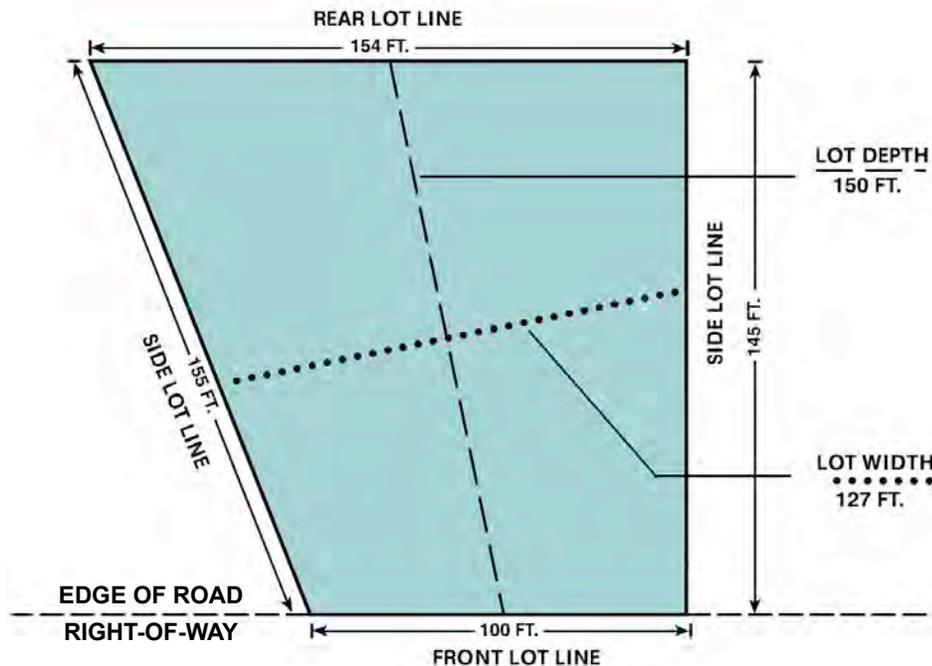
may include boarding, grooming, breeding, raising, and/or veterinary care.

**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. **Nonconforming** — 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.

**Lot Coverage** — That portion of a lot covered by pavement, structures or other impervious surfaces.



**Lot Depth** — The average 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 Line** — The edge of the street right-of-way in the case of the front of any lot; the property boundary generally opposite the street on which a parcel fronts in the case of the rear of any lot; and the property boundaries in the case of the sides of any lots.

**Lot Width** — The average of the distance between side lot lines.

**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 or 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.

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

Minor Impact Industrial Use — A light manufacturing enterprise with no outdoor storage, less than 30 employees and no more than 10,000 square feet of floor area.

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 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.

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.

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.

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.

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.

Place of Worship — Use of land, buildings, and structures for religious observance, including a church, synagogue, or temple and related on-site facilities such as monasteries, convents, rectories, retreat houses, and fellowship or school halls.

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

Public and Semi-public Uses — Structures and uses operated by a governmental agency (whether municipal, county, regional, state or federal), or non-profit fire protection or ambulance service provider in the proper exercise of their jurisdiction.

Receiving Property — A lot(s) that is approved to permit a higher density than would otherwise be permitted as a condition of the restriction of development on the Sending Property through a Conservation Easement.

Recreational Vehicle — A vehicular unit primarily designed as temporary living quarters 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.

## Town of Wawarsing Zoning Law

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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.

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.

Self-storage Warehousing — Commercial structures divided into spaces that are rented to consumers for storage of possessions on a weekly, monthly or other similar periodic basis.

Sending Property — A lot(s) or portion of a lot that is restricted by a conservation easement or farmland preservation easement as a condition of approval of a higher density on the "Receiving Property" than would otherwise be permitted.

Service Establishment — A business, the primary activity of which, is the provision of assistance, as opposed to products, to individuals, business, industry, government, and other enterprises, not including any adult use as defined herein.

Senior Care Project — Age-restricted (62+ years) communities of independent living or congregate care residential units, or any combination of these, that are accompanied by supportive care services in the activities of daily living, including, but not limited to "continuing care retirement communities" and "life care communities," as these are often described where progressive levels of assistance with the activities of daily living are provided, but excluding motels, hotels, group homes, hospitals, clinics or alcohol and drug rehabilitation facilities.

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.

## Town of Wawarsing Zoning Law

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**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.

**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.

- A. **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.
- B. **Commercial Directory** — A combination, on a single structure not exceeding eight 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 20 square feet in surface area on each side to identify a complex or more than 10 square feet on each side to identify a specific business or service.



- C. **Contractor Sign** — A sign of a builder or contractor that is erected and maintained while such persons are working on a property and is immediately removed when the work is complete.
- D. **Freestanding Sign** — A pole sign or ground sign.
- E. **Ground Sign** — A sign rising from a ground foundation and not over eight feet in height. The entire bottom of such sign is in contact with or in close proximity to the ground.
- F. **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.
- G. **Off-premises Advertising Sign** — A sign advertising a business or service located off the premises on which the sign is located.
- H. **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.
- I. **Portable Sign** — A sign not permanently attached to the ground or a structure and designed to be transported,

## Town of Wawarsing Zoning Law

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including signs on wheels, A or T frames or any other movable device or vehicle.

- J. Real Estate Sign — A sign which advertises the availability of land, buildings or spaces within buildings as being for sale or rent.
- K. 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.
- L. 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 18 inches.

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.

Sign Surface Area — The size of any sign, computed by multiplying its greatest length by its greatest height. Sign supports or foundations not exceeding three 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.

Specified Anatomical Areas — 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 human male genitals in a discernible turgid state even if completely and opaquely covered.

Specified Sexual Activities — Human genitals in a state of sexual stimulation or arousal; or acts of human masturbation, sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

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

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 by New York State.

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.

Story — That portion of a building, excluding a basement or cellar not used as living area, between the floor surface and the ceiling above it, having a height of not less than seven feet. Any portion of a building having a height of less

## Town of Wawarsing Zoning Law

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than seven feet at five feet off center shall be considered to be a half-story.

Street — A road shown on the official map of the Town of Wawarsing, 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 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, 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

## Town of Wawarsing Zoning Law

direct access to the space.

**Wireless Communication (Telecommunication) 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.

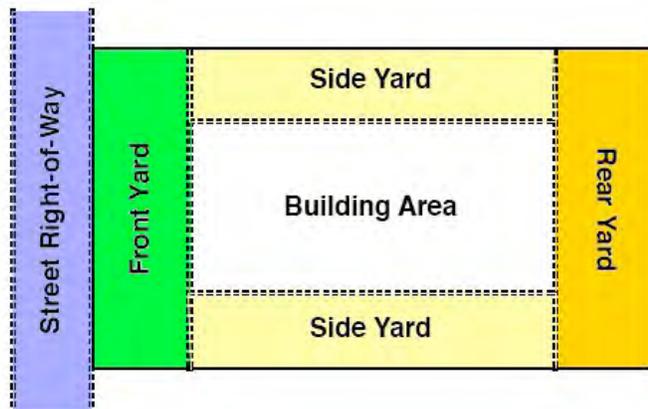
- A. **Minor Wireless Communications Facilities** — Any wireless Communications facility situated (1) on the same property as an existing Wireless Communications Facility designed for co-location and previously approved under this law, or (2) on or in an existing building or other structure; and where 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 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.
- B. **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 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 Communications Towers** — Any freestanding structure including lattice structures or framework and free-standing self-supported vertical pole (commonly known as monopole) on which any equipment is located in connection with the provision of Wires Communications Services.

**Yard** — A required open space 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.

## Town of Wawarsing Zoning Law

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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 Wawarsing Zoning Law

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## Article 3 Basic District Regulation

### § 112-5 Enumeration of Districts.

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

RU	Rural District
RS-1	Low Density Residential Settlement District
RS-2	Moderate Density Residential Settlement District
RMH	Residential Manufactured Housing District
MU	Mixed Use District
NS	Neighborhood Settlement District
BH	Business — Highway District
IND	Industrial District

Special FP Floodplain Overlay and planned unit development districts are also provided for under § 112-16 and § 112-24 hereof, respectively. The latter include PID Planned Industrial Districts and PRD Planned Residential Development Districts and PSD Planned Senior Development Districts.

There is also hereby created a IND-S Special Industrial District sub-zone within the IND Industrial District. All the same standards and shall apply within the IND-S District as in the remainder of the IND District, excepting that the Principal Permitted Uses shall be limited to light industrial uses and minor impact light industrial uses, as defined herein, and Special Uses shall be limited to heavy industrial uses as defined herein. All IND-S uses shall be subject to Site Plan Review.

### § 112-6 Zoning Map.

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

### § 112-7 Interpretation of District Boundaries.

- A. 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.
- B. 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, provided that such extension shall increase the developable lot area for the more intensive use by no more than 50%. This is to permit more flexibility in the use of large parcels.
- C. 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.

### § 112-8 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 Wawarsing. Any use identified as a Principal Permitted Use shall be permitted as a matter of right upon application

## Town of Wawarsing Zoning Law

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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. Any principal use proposed by the Town of Wawarsing itself on public land shall be considered a Principal Permitted Use subject to Site Plan Review by the Town of Wawarsing Planning Board.

If a proposed use is not specifically listed in any category of uses or within any zoning district on the Schedule of District Regulations, the Zoning Board of Appeals shall, following a public hearing, render a formal determination as to whether or not the use is permitted in a given district and if the use is permitted, the Planning Board shall then process the application as a Special Use. The Zoning Board of Appeals shall consult the Planning Board for recommendations in this regard and shall make its determination on the basis of similarities of the use to other specifically listed uses within various districts, taking into consideration the impacts of the use on the community and the neighborhood in which it is proposed. This shall not permit the reclassification of uses that are already listed nor shall the Zoning Board of Appeals permit any use that is not listed in a particular district if that use is already permitted in another district. Any determination made under this section shall be filed with the Town Clerk within five days. Any person aggrieved by the decision of the Zoning Board of Appeals may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules.

# Town of Wawarsing Zoning Law

Town of Wawarsing Zoning Law - Schedule of District Regulations																																																																
District Intent	Principal Permitted Uses	Special Uses	Accessory Uses	Development Standards																																																												
<p><b>RU Rural District:</b> This district is intended to conserve large areas of open space while allowing for very low density development and accommodation of larger land uses of an agricultural, rural or recreational nature.</p>	<p>Agriculture Bed and breakfasts* Conservation subdivisions Farm produce stands* Greenhouses* Mining and extractive uses* Nurseries* Places of worship* Public and private parks Public and semi-public uses Single-family dwellings (except manufactured homes) Timber harvesting* Two-family dwellings</p> <p>* Site plan review by Planning Board required</p>	<p>Adult uses Campgrounds and recreational vehicle parks Charitable or retreat institutions Commercial recreation Hotels and motels Kennels Minor impact light industrial uses Private nonprofit clubs PUD's Sawmills Schools, colleges &amp; education facilities Telecommunications facilities per §112-28</p>	<p>Accessory dwellings Home occupations Off-street parking areas Parish/parsonage houses Private garages Private greenhouse, boathouse, etc. Private swimming pool Signs Other customary residential accessory uses</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: left;"><b>Minimums:</b></td> <td style="text-align: center;"><b>A</b></td> <td style="text-align: center;"><b>B</b></td> <td style="text-align: center;"><b>C</b></td> <td style="text-align: center;"><b>D</b></td> </tr> <tr> <td>Lot area (sq. ft.):</td> <td style="text-align: center;">120,000</td> <td style="text-align: center;">120,000</td> <td style="text-align: center;">120,000</td> <td style="text-align: center;">120,000</td> </tr> <tr> <td>Lot width (feet):</td> <td style="text-align: center;">200</td> <td style="text-align: center;">200</td> <td style="text-align: center;">200</td> <td style="text-align: center;">200</td> </tr> <tr> <td>Lot depth (feet):</td> <td style="text-align: center;">250</td> <td style="text-align: center;">250</td> <td style="text-align: center;">250</td> <td style="text-align: center;">250</td> </tr> <tr> <td>Front yard:</td> <td style="text-align: center;">50</td> <td style="text-align: center;">50</td> <td style="text-align: center;">50</td> <td style="text-align: center;">50</td> </tr> <tr> <td>Side yard:</td> <td style="text-align: center;">50</td> <td style="text-align: center;">50</td> <td style="text-align: center;">50</td> <td style="text-align: center;">50</td> </tr> <tr> <td>Rear yard:</td> <td style="text-align: center;">50</td> <td style="text-align: center;">50</td> <td style="text-align: center;">50</td> <td style="text-align: center;">50</td> </tr> <tr> <td><b>Maximums</b></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Lot coverage:</td> <td style="text-align: center;">25%</td> <td style="text-align: center;">25%</td> <td style="text-align: center;">25%</td> <td style="text-align: center;">25%</td> </tr> <tr> <td>Building stories:</td> <td style="text-align: center;">2.5</td> <td style="text-align: center;">2.5</td> <td style="text-align: center;">2.5</td> <td style="text-align: center;">2.5</td> </tr> <tr> <td>Building height (feet):</td> <td style="text-align: center;">35</td> <td style="text-align: center;">35</td> <td style="text-align: center;">35</td> <td style="text-align: center;">35</td> </tr> <tr> <td colspan="5">A = On-site sewage and water B = Central water only C = Central sewage only D = Central sewage &amp; water</td> </tr> </table>	<b>Minimums:</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	Lot area (sq. ft.):	120,000	120,000	120,000	120,000	Lot width (feet):	200	200	200	200	Lot depth (feet):	250	250	250	250	Front yard:	50	50	50	50	Side yard:	50	50	50	50	Rear yard:	50	50	50	50	<b>Maximums</b>					Lot coverage:	25%	25%	25%	25%	Building stories:	2.5	2.5	2.5	2.5	Building height (feet):	35	35	35	35	A = On-site sewage and water B = Central water only C = Central sewage only D = Central sewage & water				
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<p><b>RS-1 Low Density Residential Settlement District:</b> This district is intended to allow for very low density development of a generally residential character.</p>	<p>Agriculture Bed and breakfasts* Conservation subdivisions Farm produce stands* Places of worship* Public and semi-public uses Single-family dwellings (except manufactured homes) Two-family dwellings</p> <p>* Site plan review by Planning Board required</p>	<p>Day care and nursery school facilities Libraries and museums Private nonprofit membership clubs Schools, colleges and education facilities Timber harvesting</p>	<p>Accessory dwellings Home occupations Off-street parking areas Parish/parsonage houses Private garages Private greenhouse, boathouse, etc. Private swimming pool Signs Other customary residential accessory uses</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: left;"><b>Minimums:</b></td> <td style="text-align: center;"><b>A</b></td> <td style="text-align: center;"><b>B</b></td> <td style="text-align: center;"><b>C</b></td> <td style="text-align: center;"><b>D</b></td> </tr> <tr> <td>Lot area (sq. ft.):</td> <td style="text-align: center;">80,000</td> <td style="text-align: center;">80,000</td> <td style="text-align: center;">80,000</td> <td style="text-align: center;">40,000</td> </tr> <tr> <td>Lot width (feet):</td> <td style="text-align: center;">150</td> <td style="text-align: center;">150</td> <td style="text-align: center;">150</td> <td style="text-align: center;">125</td> </tr> <tr> <td>Lot depth (feet):</td> <td style="text-align: center;">150</td> <td style="text-align: center;">150</td> <td style="text-align: center;">150</td> <td style="text-align: center;">125</td> </tr> <tr> <td>Front yard:</td> <td style="text-align: center;">35</td> <td style="text-align: center;">35</td> <td style="text-align: center;">35</td> <td style="text-align: center;">30</td> </tr> <tr> <td>Side yard:</td> <td style="text-align: center;">25</td> <td style="text-align: center;">25</td> <td style="text-align: center;">25</td> <td style="text-align: center;">20</td> </tr> <tr> <td>Rear yard:</td> <td style="text-align: center;">35</td> <td style="text-align: center;">35</td> <td style="text-align: center;">35</td> <td style="text-align: center;">25</td> </tr> <tr> <td><b>Maximums</b></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Lot coverage:</td> <td style="text-align: center;">25%</td> <td style="text-align: center;">25%</td> <td style="text-align: center;">25%</td> <td style="text-align: center;">25%</td> </tr> <tr> <td>Building stories:</td> <td style="text-align: center;">2.5</td> <td style="text-align: center;">2.5</td> <td style="text-align: center;">2.5</td> <td style="text-align: center;">2.5</td> </tr> <tr> <td>Building height (feet):</td> <td style="text-align: center;">35</td> <td style="text-align: center;">35</td> <td style="text-align: center;">35</td> <td style="text-align: center;">35</td> </tr> <tr> <td colspan="5">A = On-site sewage and water B = Central water only C = Central sewage only D = Central sewage &amp; water</td> </tr> </table>	<b>Minimums:</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	Lot area (sq. ft.):	80,000	80,000	80,000	40,000	Lot width (feet):	150	150	150	125	Lot depth (feet):	150	150	150	125	Front yard:	35	35	35	30	Side yard:	25	25	25	20	Rear yard:	35	35	35	25	<b>Maximums</b>					Lot coverage:	25%	25%	25%	25%	Building stories:	2.5	2.5	2.5	2.5	Building height (feet):	35	35	35	35	A = On-site sewage and water B = Central water only C = Central sewage only D = Central sewage & water				
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<p><b>RS-2 Moderate Density Residential Settlement District:</b> This district is intended to allow for very low density development of a generally residential character.</p>	<p>Agriculture Bed and breakfasts* Conservation subdivisions Farm produce stands* Places of worship* Public and semi-public uses Single-family dwellings (except manufactured homes) Two-family dwellings</p> <p>* Site plan review by Planning Board required</p>	<p>Day care and nursery school facilities Libraries and museums Private nonprofit membership clubs</p>	<p>Accessory dwellings Home occupations Off-street parking areas Parish/parsonage houses Private garages Private greenhouse, boathouse, etc. Private swimming pool Signs Other customary residential accessory uses</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">A</th> <th style="text-align: center;">B</th> <th style="text-align: center;">C</th> <th style="text-align: center;">D</th> </tr> <tr> <td><b>Minimums:</b></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Lot area (sq. ft.):</td> <td style="text-align: center;">40,000</td> <td style="text-align: center;">30,000</td> <td style="text-align: center;">20,000</td> </tr> <tr> <td>Lot width (feet):</td> <td style="text-align: center;">125</td> <td style="text-align: center;">100</td> <td style="text-align: center;">75</td> </tr> <tr> <td>Lot depth (feet):</td> <td style="text-align: center;">150</td> <td style="text-align: center;">125</td> <td style="text-align: center;">100</td> </tr> <tr> <td>Front yard:</td> <td style="text-align: center;">35</td> <td style="text-align: center;">35</td> <td style="text-align: center;">30</td> </tr> <tr> <td>Side yard:</td> <td style="text-align: center;">25</td> <td style="text-align: center;">20</td> <td style="text-align: center;">15</td> </tr> <tr> <td>Rear yard:</td> <td style="text-align: center;">25</td> <td style="text-align: center;">20</td> <td style="text-align: center;">15</td> </tr> <tr> <td><b>Maximums</b></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Lot coverage:</td> <td style="text-align: center;">50%</td> <td style="text-align: center;">50%</td> <td style="text-align: center;">50%</td> </tr> <tr> <td>Building stories:</td> <td style="text-align: center;">2.5</td> <td style="text-align: center;">2.5</td> <td style="text-align: center;">2.5</td> </tr> <tr> <td>Building height (feet):</td> <td style="text-align: center;">35</td> <td style="text-align: center;">35</td> <td style="text-align: center;">35</td> </tr> <tr> <td colspan="5">A = On-site sewage and water      C = Central sewage only B = Central water only                D = Central sewage &amp; water</td> </tr> </table>	A	B	C	D	<b>Minimums:</b>				Lot area (sq. ft.):	40,000	30,000	20,000	Lot width (feet):	125	100	75	Lot depth (feet):	150	125	100	Front yard:	35	35	30	Side yard:	25	20	15	Rear yard:	25	20	15	<b>Maximums</b>				Lot coverage:	50%	50%	50%	Building stories:	2.5	2.5	2.5	Building height (feet):	35	35	35	A = On-site sewage and water      C = Central sewage only B = Central water only                D = Central sewage & water				
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<p><b>RMH Residential Manufactured Home District:</b> This district is intended to provide areas for manufactured home park, development and associated uses.</p>	<p>Agriculture Farm produce stands* Manufactured homes Places of worship* Public and private parks Public and semi-public uses Single-family dwellings Two-family dwellings</p> <p>* Site plan review by Planning Board required</p>	<p>Bed &amp; breakfasts Charitable or retreat institutions Commercial recreation uses Day care and nursery school facilities Hospitals, nursing or convalescent homes Libraries and museums Manufactured home parks Multi-family dwellings Private nonprofit membership clubs Schools, colleges and education facilities Timber harvesting</p>	<p>Accessory dwellings Home occupations Off-street parking areas Parish/parsonage houses Private garages Private greenhouse, boathouse, etc. Private swimming pool Signs Other customary residential accessory uses</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">A</th> <th style="text-align: center;">B</th> <th style="text-align: center;">C</th> <th style="text-align: center;">D</th> </tr> <tr> <td><b>Minimums:</b></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Lot area (sq. ft.):</td> <td style="text-align: center;">40,000</td> <td style="text-align: center;">40,000</td> <td style="text-align: center;">20,000</td> </tr> <tr> <td>Lot width (feet):</td> <td style="text-align: center;">125</td> <td style="text-align: center;">100</td> <td style="text-align: center;">75</td> </tr> <tr> <td>Lot depth (feet):</td> <td style="text-align: center;">150</td> <td style="text-align: center;">125</td> <td style="text-align: center;">100</td> </tr> <tr> <td>Front yard:</td> <td style="text-align: center;">35</td> <td style="text-align: center;">35</td> <td style="text-align: center;">30</td> </tr> <tr> <td>Side yard:</td> <td style="text-align: center;">25</td> <td style="text-align: center;">20</td> <td style="text-align: center;">15</td> </tr> <tr> <td>Rear yard:</td> <td style="text-align: center;">25</td> <td style="text-align: center;">20</td> <td style="text-align: center;">15</td> </tr> <tr> <td><b>Maximums</b></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Lot coverage:</td> <td style="text-align: center;">50%</td> <td style="text-align: center;">50%</td> <td style="text-align: center;">50%</td> </tr> <tr> <td>Building stories:</td> <td style="text-align: center;">2.5</td> <td style="text-align: center;">2.5</td> <td style="text-align: center;">2.5</td> </tr> <tr> <td>Building height (feet):</td> <td style="text-align: center;">35</td> <td style="text-align: center;">35</td> <td style="text-align: center;">35</td> </tr> <tr> <td colspan="5">A = On-site sewage and water      C = Central sewage only B = Central water only                D = Central sewage &amp; water</td> </tr> </table>	A	B	C	D	<b>Minimums:</b>				Lot area (sq. ft.):	40,000	40,000	20,000	Lot width (feet):	125	100	75	Lot depth (feet):	150	125	100	Front yard:	35	35	30	Side yard:	25	20	15	Rear yard:	25	20	15	<b>Maximums</b>				Lot coverage:	50%	50%	50%	Building stories:	2.5	2.5	2.5	Building height (feet):	35	35	35	A = On-site sewage and water      C = Central sewage only B = Central water only                D = Central sewage & water				
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<p><b>MU Mixed Use District:</b> This district is intended to create centers in the Town for development of compact mixed-use neighborhoods.</p>	<p>Farm produce stands* Neighborhood stores* Places of worship* Public and semi-public uses Single-family dwellings Two-family dwellings</p> <p>* Site plan review by Planning Board required</p>	<p>Banks Bed &amp; breakfasts Business, professional office buildings Charitable or retreat institutions Day care and nursery school facilities Hospitals, nursing or convalescent homes Hotel and motels Libraries and museums Minor impact light industrial uses Multi-family dwellings Private nonprofit membership clubs Restaurants Retail stores, shops Schools, colleges and education facilities Self-storage warehousing Senior care projects Telecommunications facilities per §112-28 Timber harvesting</p>	<p>Accessory dwellings Home occupations Off-street parking areas Parish/personage houses Private garages Private greenhouse, boathouse, etc. Private swimming pool Signs Other customary residential accessory uses</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;"><b>A</b></td> <td style="text-align: center;"><b>B</b></td> <td style="text-align: center;"><b>C</b></td> <td style="text-align: center;"><b>D</b></td> </tr> <tr> <td><b>Minimums:</b></td> <td>40,000</td> <td>30,000</td> <td>20,000</td> </tr> <tr> <td>Lot area (sq. ft.):</td> <td>125</td> <td>100</td> <td>75</td> </tr> <tr> <td>Lot width (feet):</td> <td>150</td> <td>125</td> <td>100</td> </tr> <tr> <td>Lot depth (feet):</td> <td>35</td> <td>35</td> <td>30</td> </tr> <tr> <td>Front yard:</td> <td>25</td> <td>20</td> <td>15</td> </tr> <tr> <td>Side yard:</td> <td>25</td> <td>20</td> <td>15</td> </tr> <tr> <td>Rear yard:</td> <td>50%</td> <td>50%</td> <td>50%</td> </tr> <tr> <td><b>Maximums</b></td> <td>50%</td> <td>50%</td> <td>50%</td> </tr> <tr> <td>Lot coverage:</td> <td>3.5</td> <td>3.5</td> <td>3.5</td> </tr> <tr> <td>Building stories</td> <td>45</td> <td>45</td> <td>45</td> </tr> <tr> <td>Building height (feet)</td> <td colspan="3">C = Central sewage only D = Central sewage &amp; water</td> </tr> <tr> <td colspan="4">A = On-site sewage and water B = Central water only</td> </tr> </table>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>Minimums:</b>	40,000	30,000	20,000	Lot area (sq. ft.):	125	100	75	Lot width (feet):	150	125	100	Lot depth (feet):	35	35	30	Front yard:	25	20	15	Side yard:	25	20	15	Rear yard:	50%	50%	50%	<b>Maximums</b>	50%	50%	50%	Lot coverage:	3.5	3.5	3.5	Building stories	45	45	45	Building height (feet)	C = Central sewage only D = Central sewage & water			A = On-site sewage and water B = Central water only			
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<p><b>NS Neighborhood Settlement District:</b> This district is intended to create small centers in the Town for development of generally residential neighborhoods of relatively low density with convenience and other supporting services of a light commercial nature.</p>	<p>Farm produce stands* Places of worship* Public and semi-public uses Single-family dwellings Two-family dwellings</p> <p>* Site plan review by Planning Board required</p>	<p>Bed &amp; breakfasts Business, professional office buildings Convenience retail stores Day care and nursery school facilities Libraries and museums Minor impact light industrial uses Multi-family dwellings Private nonprofit membership clubs Restaurants Specialty shops Telecommunications facilities per §112-28 Timber harvesting</p>	<p>Accessory dwellings Home occupations Off-street parking areas Parish/personage houses Private garages Private greenhouse, boathouse, etc. Private swimming pool Signs Other customary residential accessory uses</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;"><b>A</b></td> <td style="text-align: center;"><b>B</b></td> <td style="text-align: center;"><b>C</b></td> <td style="text-align: center;"><b>D</b></td> </tr> <tr> <td><b>Minimums:</b></td> <td>40,000</td> <td>40,000</td> <td>30,000</td> </tr> <tr> <td>Lot area (sq. ft.):</td> <td>125</td> <td>125</td> <td>100</td> </tr> <tr> <td>Lot width (feet):</td> <td>150</td> <td>150</td> <td>125</td> </tr> <tr> <td>Lot depth (feet):</td> <td>35</td> <td>35</td> <td>30</td> </tr> <tr> <td>Front yard:</td> <td>25</td> <td>25</td> <td>20</td> </tr> <tr> <td>Side yard:</td> <td>35</td> <td>35</td> <td>25</td> </tr> <tr> <td>Rear yard:</td> <td>25%</td> <td>25%</td> <td>25%</td> </tr> <tr> <td><b>Maximums</b></td> <td>25%</td> <td>25%</td> <td>25%</td> </tr> <tr> <td>Lot coverage:</td> <td>2.5</td> <td>2.5</td> <td>2.5</td> </tr> <tr> <td>Building stories</td> <td>35</td> <td>35</td> <td>35</td> </tr> <tr> <td>Building height (feet)</td> <td colspan="3">C = Central sewage only D = Central sewage &amp; water</td> </tr> <tr> <td colspan="4">A = On-site sewage and water B = Central water only</td> </tr> </table>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>Minimums:</b>	40,000	40,000	30,000	Lot area (sq. ft.):	125	125	100	Lot width (feet):	150	150	125	Lot depth (feet):	35	35	30	Front yard:	25	25	20	Side yard:	35	35	25	Rear yard:	25%	25%	25%	<b>Maximums</b>	25%	25%	25%	Lot coverage:	2.5	2.5	2.5	Building stories	35	35	35	Building height (feet)	C = Central sewage only D = Central sewage & water			A = On-site sewage and water B = Central water only			
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<p><b>IND Industrial District:</b> This district is intended to provide area for the development of industry and heavy commerce in locations where residential uses will not conflict with such activity.</p>	<p>Airports* Banks* Bulk fuel storage* Business, professional office buildings* Drive-in theaters* Flea markets* Hotels and motels* Laundry and dry cleaning establishments* Light industrial uses* Minor impact light industrial uses* Places of worship* Public and semi-public uses* Restaurants* Retail stores, shops* Self-storage warehousing* Transportation terminals* Vehicle and equipment sales, repair and service* Wholesale businesses*</p> <p>* Site plan review by Planning Board required</p>	<p>Adult uses Senior care projects Single-family dwellings Telecommunications facilities per §112-28 Multi-family dwellings Industrial uses</p>	<p>Off-street parking areas Signs Other customary accessory uses to principal and special uses permitted in District</p>	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">A</th> <th style="text-align: center;">B</th> <th style="text-align: center;">C</th> <th style="text-align: center;">D</th> </tr> </thead> <tbody> <tr> <td><b>Minimums:</b></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Lot area (sq. ft.):</td> <td style="text-align: center;">40,000</td> <td style="text-align: center;">30,000</td> <td style="text-align: center;">20,000</td> <td style="text-align: center;">10,000</td> </tr> <tr> <td>Lot width (feet):</td> <td style="text-align: center;">100</td> <td style="text-align: center;">100</td> <td style="text-align: center;">100</td> <td style="text-align: center;">100</td> </tr> <tr> <td>Lot depth (feet):</td> <td style="text-align: center;">150</td> <td style="text-align: center;">150</td> <td style="text-align: center;">150</td> <td style="text-align: center;">150</td> </tr> <tr> <td>Front yard:</td> <td style="text-align: center;">50</td> <td style="text-align: center;">50</td> <td style="text-align: center;">50</td> <td style="text-align: center;">50</td> </tr> <tr> <td>Side yard:</td> <td style="text-align: center;">0</td> <td style="text-align: center;">0</td> <td style="text-align: center;">0</td> <td style="text-align: center;">0</td> </tr> <tr> <td>Rear yard:</td> <td style="text-align: center;">25</td> <td style="text-align: center;">25</td> <td style="text-align: center;">25</td> <td style="text-align: center;">25</td> </tr> <tr> <td><b>Maximums</b></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Lot coverage:</td> <td style="text-align: center;">75%</td> <td style="text-align: center;">75%</td> <td style="text-align: center;">75%</td> <td style="text-align: center;">75%</td> </tr> <tr> <td>Building stories</td> <td style="text-align: center;">3.5</td> <td style="text-align: center;">3.5</td> <td style="text-align: center;">3.5</td> <td style="text-align: center;">3.5</td> </tr> <tr> <td>Building height (feet)</td> <td style="text-align: center;">45</td> <td style="text-align: center;">45</td> <td style="text-align: center;">45</td> <td style="text-align: center;">45</td> </tr> <tr> <td>A = On-site sewage and water</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>B = Central water only</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>C = Central sewage only</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>D = Central sewage &amp; water</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	A	B	C	D	<b>Minimums:</b>				Lot area (sq. ft.):	40,000	30,000	20,000	10,000	Lot width (feet):	100	100	100	100	Lot depth (feet):	150	150	150	150	Front yard:	50	50	50	50	Side yard:	0	0	0	0	Rear yard:	25	25	25	25	<b>Maximums</b>					Lot coverage:	75%	75%	75%	75%	Building stories	3.5	3.5	3.5	3.5	Building height (feet)	45	45	45	45	A = On-site sewage and water					B = Central water only					C = Central sewage only					D = Central sewage & water				
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## Town of Wawarsing Zoning Law

### § 112-9 Applicability of Regulations.

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

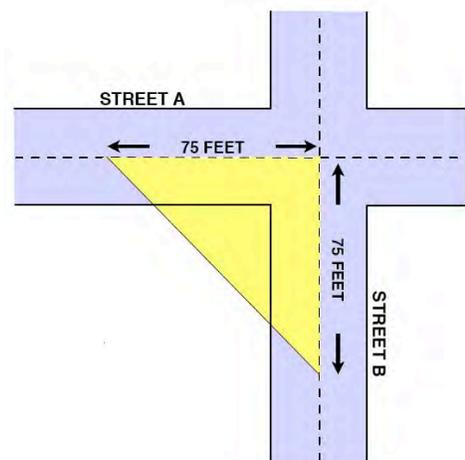
- A. establish a new use,
- B. clear, excavate or grade more than 10,000 square feet of land,
- C. change an existing use,
- D. make permanent structural improvements to a property,
- E. erect a new building, or
- F. move, alter, add to or enlarge any existing land use or building;

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 and tilling shall be exempt from all permit requirements.

Notwithstanding the above, complete applications pending at the time of this law's enactment shall be subject to such regulations as existed when such applications were made.

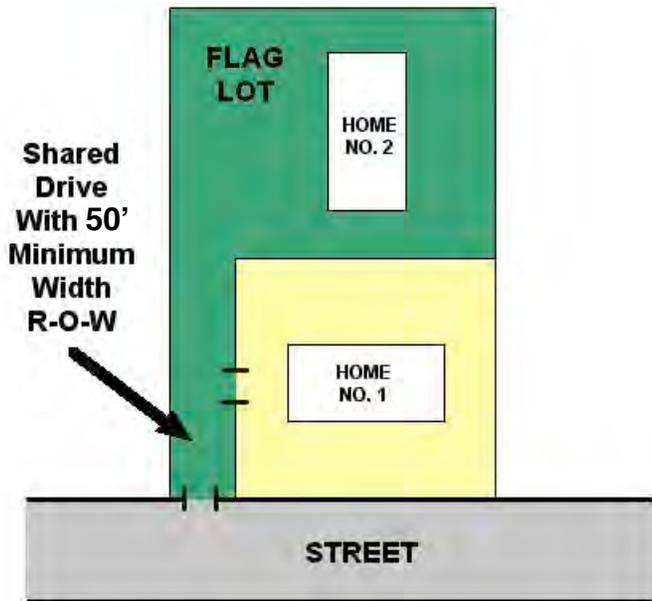
### § 112-10 Lot Development Standards.

- A. 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. Multiple uses are permitted on a given lot, provided development standards for the combined uses are met, including the combined lot area and lot coverage. Yard requirements shall apply to the lot perimeter in such instances, provided that building separations, if any, meet State Building Code requirements.
- B. Corner lots. No obstruction to vision (other than an existing building, post, column or tree) exceeding 30 inches in height and less than 8 feet 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 75 feet distant from their points of intersection.
- C. Through lot requirements. A through lot shall be considered as having two street frontages, both of which shall be subject to the front yard requirements of this law.
- D. Minimum lot frontage. All residential lots shall have a front lot line with a minimum length of 50 feet.
- E. Flag lots. The development of interior lots with limited lot frontage consisting of only an access right-of-way shall be permitted provided:



## Town of Wawarsing Zoning Law

- (1) The right-of-way is a minimum of 50 feet in width. See illustration.
- (2) The lot area shall be exclusive of that portion used as a right-of-way for purposes of meeting minimum 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 150 feet.
- (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.



- F. Conversions of seasonal residential communities. Existing seasonal residential communities may be converted to permanent single-family, two-family or multi-family dwellings subject to the following standards:
- (1) Such applications shall be processed as Special Uses and also be subject to the applicable provisions of the Town of Wawarsing Subdivision Regulations.
  - (2) The number of new dwellings permitted shall be limited to 50% of existing seasonal residential units in the case of new single-family dwellings, 65% of existing seasonal residential units in the case of new two-family dwellings and 80% of existing seasonal residential units in the case of new multi-family dwellings, provided that any such property shall be entitled to no less density than would otherwise be permitted within that zoning district for a new use of the same nature.
  - (3) New dwellings and other improvements shall not further violate any lot development standards of the zoning district in question along a given property line.
  - (4) All sewage and water supply systems for any such conversion shall meet current standards. Existing systems intended for re-use shall be inspected and certified as meeting current standards by a Professional Engineer and approved by the Town of Wawarsing.

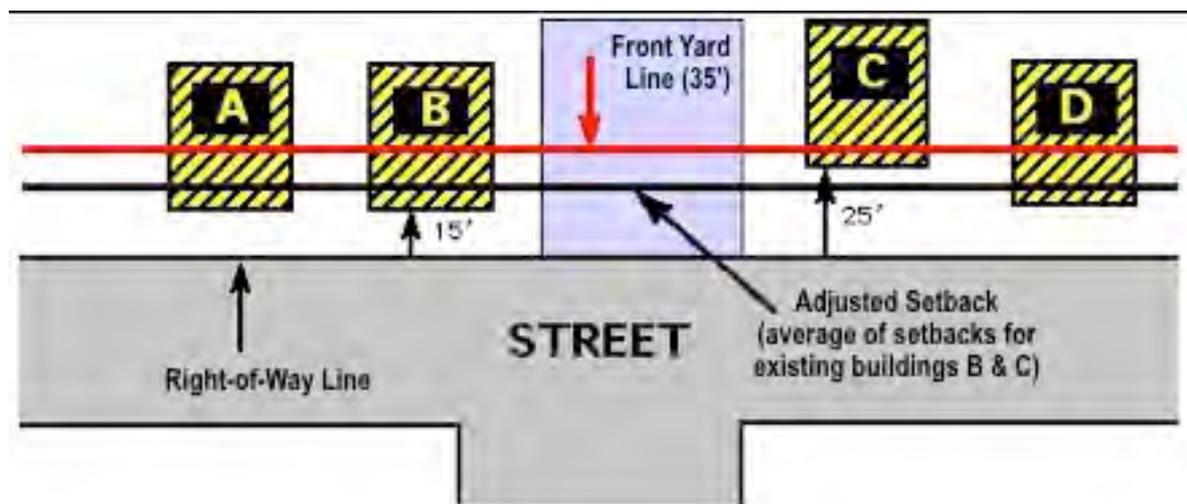
### § 112-11 Height Restrictions.

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.

## Town of Wawarsing Zoning Law

### § 112-12 Yard Regulations.

- A. 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, provided the average width of the side yard shall not be less than the otherwise required minimum width and such yard shall not be narrower at any point than one-half the otherwise required minimum width. The Building Department shall have discretion to interpret and clarify this provision as it applies to individual structures of an irregular nature.
- B. 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.
- C. Waterfront yards. Any yard bordering on a New York State Department of Environmental Conservation classified lake, stream or body of water shall be not less than 100 feet in depth except for boathouses and docks.
- D. 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 nearest adjoining improved lots, but not less than 10 feet. See illustration following.



### § 112-13 Accessory Structure and Use Standards.

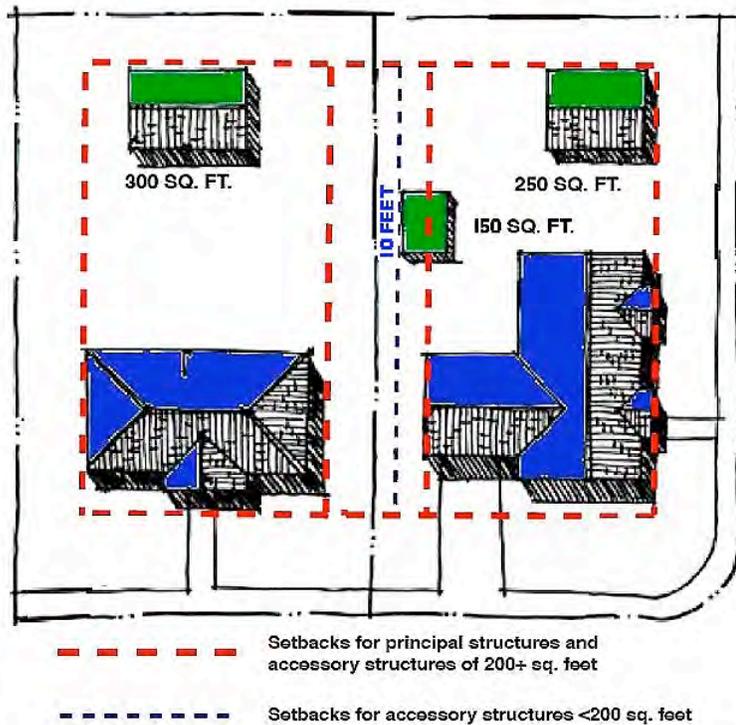
The location, limitation and coverage of accessory buildings shall be as follows:

- A. No accessory building permitted by this law shall be placed in any required side or front yard except as provided in this Article. See illustration following for examples of these principles.
- B. The aggregate ground area covered by any accessory buildings in any rear yard shall not exceed 25% of the rear yard area.

## Town of Wawarsing Zoning Law

C. Accessory structures not attached to a principal structure shall:

- (1) Be located not less than 10 feet from any side or rear lot line or in such a fashion as to prevent emergency firefighting access or to shade a residential structure on an adjoining lot. Any structure over 200 square feet in floor area shall meet setbacks for principal structures.
- (2) 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 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.



- D. When an accessory structure is attached to the principal building, it shall comply with requirements for principal buildings. All unattached structures shall be separated by a minimum of 10 feet.
- E. Railroad cars, retired 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 on a 5-year renewable permit basis in connection with a commercial or institutional use may be permitted with Site Plan Review by the Planning Board. Such trailers or containers shall be substantially screened from view with evergreen plantings, fencing or earthen berms as may be required to accomplish the purpose. Wheels and the chassis shall be removed from any storage trailers.
- F. 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 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:
- (1) Such pool shall not be located in any required side yard.
  - (2) 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.
  - (3) 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.
  - (4) 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

## Town of Wawarsing Zoning Law

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less the pool shall be located midway between the side lot lines.

- (5) If the water for such pool is supplied from a private well, there shall be no cross-connection with the public water supply system.
  - (6) 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.
  - (7) 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.
  - (8) No loudspeaker or amplifying device shall be permitted which can be heard beyond the bounds of the property lot where said pool is located.
  - (9) Underwater lighting shall only be installed in accordance with the provisions of the National Electrical Code for such lighting.
- G. Keeping of a reasonable number of domestic animals for household purposes, or as pets, and private stables shall be permitted as provided below:
- (1) The keeping of not more than one adult or fully grown horse, cow, beef animal, sheep, goat or other four-legged domestic farm animal or combinations thereof per one acre of land shall be permitted on any RU Rural or RS-1 Low Density Residential Settlement District lot of one acre or more in lot area.
  - (2) The keeping of adult or fully grown fowl such as chickens, ducks, geese or other birds, excluding pet birds kept within a dwelling, on more than three acres of land in a RU Rural District, provided that no more than 25 birds per acre are maintained.
  - (3) The keeping as pets of not more than four dogs and four cats over the age of 12 months and/or the keeping of bees, rabbits or other small animals normally capable of being domesticated shall be permitted in any district.
  - (4) Keeping of animals in greater numbers than those permitted above for personal enjoyment, not including any commercial or institutional uses, may be permitted by the Planning Board with Site Plan Review as provided herein. All animals shall be adequately housed, fenced and otherwise maintained in a sanitary and safe manner so as, on the finding of the Planning Board, not to create a nuisance, health or safety hazard to nearby property, property owners, inhabitants of the neighborhood or the animals themselves. Additional requirements for commercial or institutional kennels or facilities for raising, breeding, training, care and boarding of dogs, cats and other domestic animals, where permitted, may be found in § 112-37 of this code.
- H. Permanent fences and walls 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 set-back a distance sufficient to maintain all growth on the property affected. Residential fences and walls shall be a maximum of six feet in height and commercial fences shall be a maximum of eight feet in height.
- I. Burning barrels shall not be permitted in RS-1 or MU Districts.

### § 112-14 RESERVED.

# Town of Wawarsing Zoning Law

## Article 4 General Supplementary Regulations

### § 112-15 Parking, Loading, Access and Traffic Standards.

A. 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 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 as follows:

- (1) The following parking standards shall apply to all applications for new, expanded or modified land uses, and apply cumulatively in the case of mixed-use projects such as resorts, provided that adjustments may be made by the Planning Board to reflect the likelihood of shared parking within the project:

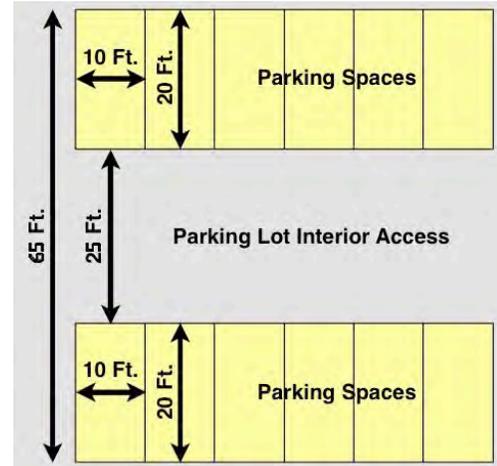
Basic Parking Requirements	
Land Use	Parking Requirement
Home-occupations	1 space per 100 sq. ft. of floor area devoted to use
Hotels/motels	1 space per rental room plus 1 for each 4 employees
Industrial uses	1 space per 400 sq. ft. floor area
Commercial uses	1 space per 175 sq. ft. floor area
Places of public assembly	1 space per 4 seats
Offices	1 space per 200 sq. ft. floor area
Restaurants	1 space per 50 sq. ft. floor area
Vehicle service establishments	4 spaces plus 1 per employee

- (2) Any applicant may also request a modification of parking standards. The amount of parking may, in such instances, or others where the above standards are not directly applicable, be reduced or increased by the Planning Board based upon the following criteria:
- (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, even though the number of dwelling units is 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 Town consultants, other public agencies or information sources that 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) The availability of reserve areas designated on the site plan for future parking development in the event of demonstrated need, as determined and directed by the Building Inspector or Planning Board.

## Town of Wawarsing Zoning Law

The Planning Board shall apply a similar approach in determining parking needs in cases of unlisted uses.

- B. Garages, carports, and driveways not in the public right-of-way may be considered parking spaces. Parking spaces shall be a minimum of 10 feet wide and 20 feet deep. Perpendicular parking spaces shall be accessed by an interior drive of no less than 25 feet in width for turning purposes (see illustration). This distance may be reduced to 20 feet for 60 degree angle parking, 15 feet for 45 degree angle parking and 13 feet for 30 degree angle parking.



- C. 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.

- D. All parking areas which are designed to accommodate 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:

- (1) No more than 12 parking spaces should be allowed in a continuous row uninterrupted by landscaping. Maintenance guarantees may be required to ensure replacement of damaged or dead landscape materials.
- (2) 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. Circular drives shall be discouraged.
- (3) 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.



- E. 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

## Town of Wawarsing Zoning Law

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unloading of materials. The minimum size loading space shall be 60 feet in depth and 12 feet in width, with an overhead clearance of 14 feet. It shall be accessible by driving in and not require backing in from off the public right-of-way.

- F. 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:
- (1) Access drives shall comply with all requirements of the Town of Wawarsing. Access drives onto State and County highways shall be subject to New York Department of Transportation and Ulster County standards, as the case may be.
  - (2) 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.
  - (3) All access drives shall be subject to the requirement of obtaining a driveway permit from the Town of Wawarsing Highway Superintendent, the Ulster 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.
  - (4) The Town of Wawarsing Planning Board may, in conjunction with Site Plan Review, establish additional requirements pertaining to highway access permits on County and State roads, providing such additional requirements do not conflict with County or State requirements. The Planning Board shall be specifically authorized to require any on-site or off-site road improvements demanded to mitigate traffic impacts where the existing Level of Service is LOS D or worse or the project would result in LOS D conditions.
  - (5) 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.
  - (6) No driveway center line shall intersect a street line less than 100 feet from the intersection of any two street lines (150 feet on Route 52 or 209), including intersections on the opposite side of the street.
  - (7) Driveway grades:
    - (a) 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 10%, 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 12%.
    - (b) 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 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 10%.
    - (c) Notwithstanding the maximum permitted grades specified above, all driveways shall have a negative

## Town of Wawarsing Zoning Law

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2% grade within 50 feet of the center line of the traveled way of the street, or within 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.

- (8) 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.

### G. Access to Routes 52 and 209.

- (1) No tract shall be provided direct access to Routes 52 or 209 if adequate alternate access can be provided by way of another road, a frontage or parallel access drive or a cross access drive.
- (2) No driveway shall be permitted within 100 feet of a public highway intersection on Routes 52 or 209. Spacing between driveways on Routes 52 and 209 shall be as follows, measured from the midpoint of each driveway or intersecting roadway:

Required Driveway Spacing	
Posted Speed (Mph)	Minimum Spacing (feet)
30	125
35	150
40	175
45	200
55	250

- (3) Required driveway spacings on Routes 52 and 209 are based on average vehicular acceleration and deceleration rates and are considered necessary to maintain safe stopping distances and traffic operations. Spacing will be measured from the midpoint of each driveway or intersecting roadway. Should a particular parcel lack sufficient frontage on Route 52 or 209 to accommodate adequate spacing, the landowner shall have the following options (in addition to the right to seek a variance from the Zoning Board of Appeals):
  - (a) The landowner may establish a joint access driveway with an adjoining property. The driveway midpoint in such cases shall be the property line between the two parcels. Alternatively, the landowner may gain access from a cross access drive or frontage road that connects the subject property and the adjoining property or properties. A joint easement agreement shall, in either of these two cases, be executed and filed with the deed of the participating properties prior to an access permit being granted.
  - (b) The landowner may seek an exception from these requirements when the above cannot be fulfilled at the time of application. The landowner shall, in such case, provide proof of an attempt to secure access from a common driveway or cross access drive. The Planning Board shall impose the condition in such instance that the approved driveway is a temporary driveway and the landowner shall submit a deed agreement with the Town of Wawarsing agreeing to close the driveway and to seek to establish a joint driveway or cross access driveway, if feasible, when an adjoining property is developed or redeveloped.
- (4) All land owners submitting a subdivision or site plan for property on Route 52 or 209 shall address the feasibility of the use of joint access driveways, cross access drives and linked or shared parking lots. Use of such techniques shall be required wherever feasible.

## Town of Wawarsing Zoning Law

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- (5) Retail and service businesses subject to Site Plan Review review shall, where practical, be required to provide pedestrian connections to adjoining retail and service properties along the frontage of regulated routes.
  - (6) No tract shall be provided with more than one point of direct access to Route 52 or 209, except for secondary emergency only accesses. However, if determined to be in the best interest of traffic operations, one driveway solely for ingress and one driveway solely for egress may be considered as one access point. Tracts with frontage of at least six-hundred (600) feet may be permitted two access points in those instances where traffic operations will be demonstrably improved by such a design. Such driveways shall be separated from each other and from any intersecting street or driveway on an adjoining property by a minimum of 350 feet, as measured along the frontage of Route 52 or 209, unless physical circumstances prohibit such separation.
  - (7) Any landowner of a tract adjoining the regulated routes who files a subdivision or site plan application shall submit, at the time of initial application, an overall development sketch plan. This sketch plan shall establish future access locations along Routes 52 and 209. Final approval shall establish the number of access ways permitted for the tract regardless of any future subdivision or development plan. No individual dwelling unit within any tract to be subdivided or developed for two or more dwelling units shall be provided with direct access to Route 52 or 209.
  - (8) A curblin opening along Route 52 or 209 for other than single-family residences shall be between 24 and 50 feet. However, the curblin opening for high volume uses generating more than 1,500 vehicles per day may be greater than 50 feet, if the opening conforms to New York State Department of Transportation standards.
  - (9) Access points may be restricted to right-turn in, right-turn out if determined to be in the best interest of traffic operations.
  - (10) When two adjacent landowners agree to combine access points, the Planning Board may grant an incentive bonus. The total lot size and road frontage normally required may be reduced by 15% for both landowners. The required number of parking spaces may, in addition, be reduced by 15% for each development. However, if the adjoining land uses are determined to have the same peak hour for parking generation, the Planning Board may withdraw the incentive bonus or require the developer set aside land, clearly indicated on the site plan for future paving for parking, to meet statutory requirements if an analysis conducted within one year after occupancy determines parking is insufficient.
- H. 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 landscaped planting strip at least 15 feet in depth (also see landscaping standards).
- I. 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 250 trip-ends per day based on the daily rates set forth in the table following. 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. This requirement shall apply in the case of County or State, as well as Town roads.

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Traffic Study Criteria	
Land Use	Criteria
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-ends 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 <i>Trip Generation</i> . Institute of Transportation Engineers

### § 112-16 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 Wawarsing, 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 Wawarsing Flood Damage Prevention Law, as amended. Floodplain land shall be deducted from any density or other lot development standard calculation provided under this Law. The Planning Board shall also be authorized to withhold any bonuses or incentives provided herein in the case of development in the floodplain.

### § 112-17 Home Occupation Regulations.

- A. 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, who may consult the Planning Board in making such determination.
- (1) 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 other than immediate family members. No more than 500 square feet of any dwelling shall be used for a home occupation.
  - (2) 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 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 50 feet from the property line, a non-illuminated ground sign not to exceed 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

## Town of Wawarsing Zoning Law

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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. No such sign shall impede driver sight distance.

- (3) 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:
  - (a) 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 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.
  - (b) 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 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.
  - (c) 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.
- B. 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 that does not reside on-site is strictly prohibited unless the business is then moved offsite.
- C. Home occupations involving the use of contractor equipment (e.g., lawn maintenance and landscaping businesses) and similar enterprises requiring storage of materials or equipment shall provide inside storage area for all such materials and equipment, which such inside storage area shall be confined to the principal structure or an accessory building not exceeding 25% of the total living space involved.

### § 112-18 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.

- A. Commercial/residential buffers. Where a commercial or manufacturing use is contiguous to an existing residential use (including those situated on the opposite side of a highway) or any approved residential lot, the Planning Board may require that the minimum front, side and rear yards be increased by up to 50%. The Board may also require, for purposes of separating incompatible activities or shielding the residence from negative impacts,

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that a buffer consisting of a solid fence of wood and/or a 20 feet wide dense evergreen planting not less than six feet high be maintained, unless the properties are in the same ownership or the full width of the yard is wooded.

- B. 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.
- C. 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.
- D. Noise.
- (1) No land use shall generate sound levels, at or beyond any lot line, that exceeds the ambient noise level by more than 10 decibels. Any sound of 5 to 10 decibels above the ambient noise level shall be attenuated or mitigated to the maximum degree practical, as shall be determined by the Planning Board during Site Plan Review. The ambient noise level shall be determined for all lot lines of any the site where the project is to take place and any other locations as shall be specified by the Planning Board. It shall be measured on an equivalent sound level basis, as defined by the New York State Department of Environmental Conservation (see *Assessing and Mitigating Noise Impacts* Program Policy) over a 12 hour period, 7:00 AM – 7:00 PM, on a Sunday at the site of the proposed project.
  - (2) Regardless of the ambient noise level, the maximum sound pressure level radiated by any use or facility, at or beyond any lot line, shall, in addition not exceed the maximum values in the designated octave bands listed below:

Maximum Noise Limits	
Frequency Band (cycles per second)	Sound Pressure level (decibels)
20 — 75	69
76 — 150	60
151 — 300	56
301 — 600	51
601 — 1,200	42
1,201 — 2,400	40
2,401 — 4,800	38
4,801 — 10,000	35

These minimum standards apply to any noise radiated continuously from any facility or activity between the hours of 7:00 PM and 7:00 AM. If the noise is not radiated between the hours of 7:00 PM and 7:00 AM the above decibel level limits may be increased by 5 decibels. Such limits shall be reduced by 5 decibels, however, for any noise of an impulsive or periodic character (hammering, screech, etc.). These standards shall also apply to amplified loudspeakers, compressors and similar devices outside BH and IND Districts.

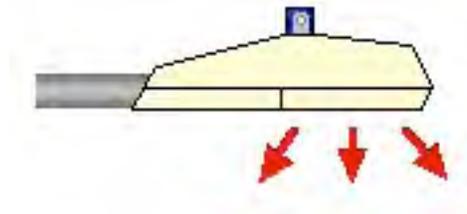
- (3) The sound pressure level shall be measured with a Sound Level Meter and associated Octave Band Analyzer conforming to standards prescribed by the American Standards Association, Inc. (ANSI). The Planning Board may, as a condition of Site Plan Review, require additional setbacks, buffers and fencing, or limit the hours of operation to attenuate or mitigate any potential noise impacts of any proposed use. No loudspeaker or amplifying device shall be permitted, in connection with any use, which can be heard be-

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yond the bounds of the property lot where such use is located.

- (4) The maximum permissible sound levels of this section shall not apply to emergency or security alarms, repair or construction work to provide public utilities, construction operations between the hours of 7:00 AM and 9:00 PM, emergency repairs, agricultural activities other than kennels, motor vehicles when used on public streets in accord with state regulations, aircraft, government authorized public celebrations, un-amplified human voices or routine ringing of bells or chimes by a place of worship or similar facility.
- E. Vibration. No vibration shall be permitted on a regular or continuing basis which is detectable without instruments at the property line.
- F. Lighting.
- (1) Lighting for all commercial, residential, institutional and industrial uses shall be shielded to prevent glare and spillover of light onto adjoining properties.
  - (2) 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.
  - (3) 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.
  - (4) Lighting contours shall be required on site plans for purposes of determining compliance with this section. Average foot-candles at the property line shall be less than 1.0 except at site entrances.
  - (5) Globe lights shall not be permitted.
  - (6) Light pole heights shall not exceed building heights and none shall exceed 25 feet in height.
  - (7) All lighting over 2,000 lumens in strength shall meet the full cut-off standard of the Illuminating Engineering Society of North America (IESNA).
  - (8) All site activity areas, including parking lots and walkways, shall meet minimum IESNA standards and exceed those standards by no more than 25%.
  - (9) All gasoline canopy lighting shall be fully recessed and the average light level under the vehicular canopy shall not exceed 20 horizontal maintained foot candles.
- G. 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.
- H. 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.



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- I. 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 nonconforming use, the following additional performance standards shall apply:
- (1) All mechanical and body repair work shall be performed within buildings.
  - (2) All automobile or vehicle parts, new or used, shall be stored within buildings.
  - (3) 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) Vehicle and equipment sales shall not be combined with other uses, including vehicle and equipment repair or services (e.g., gasoline sales), without first obtaining separate Special Use and Site Plan Review approval for the sales operation. Such sales shall be limited to those districts specified on the Schedule of District Regulations and be subject to the following additional regulations:
    - (a) A site plan designated and improved parking space meeting the standards contained herein shall be provided for each vehicle or piece of equipment displayed.
    - (b) The Planning Board shall require landscaping of all vehicle and equipment sales operations, as provided herein, to separate and buffer them from the public right-of-way and adjoining properties.
    - (c) Display areas for vehicles and pieces of equipment shall comply with front and side yard setbacks applicable to principal structures.
    - (d) Signs connected with vehicle and equipment displays shall be limited to permanent or temporary signs otherwise permitted hereunder.
    - (e) Additional off-street parking areas shall be provided for the use of customers at the rate of one space for each 10 vehicles or pieces of equipment displayed outdoors. No on-street parking shall be permitted.
    - (f) Lighting of outdoor vehicle and equipment sales areas shall be limited to pole or wall lighting meeting the standards contained herein for commercial lighting.
    - (g) All vehicle and equipment sales operations shall provide a permanent (suitable for year-round use), heated sales office of no less than 150 square feet in size and rest room facilities.

All existing vehicle and equipment sales uses that do not possess a valid zoning permit from the Town of Wawarsing or which cannot establish their existence as a legal nonconforming use, as provided hereunder, shall fully comply with these provisions within a period 12 months of the enactment of this section.

### **§ 112-19 Stormwater Management.**

Every application for a new or substantially modified Special Use or any other use requiring Site Plan Review by the Town of Wawarsing Planning Board shall include provisions for storm water management as required by the New York State Department of Environmental Conservation (DEC) and the standards of this section. Additionally, should any person intend to make land changes by grading, filling, excavating or the removal or destruction of the natural topsoil or vegetative covering thereon in accordance with a site plan submitted to the Town, the same shall only be approved and accomplished after the developer has submitted to the Town a Storm Water Pollution Prevention Plan in compliance with the DEC regulations. Applicants shall, when required by the Town Planning Board, submit the following for review and approval by the Town:

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- A. An Erosion and Sedimentation Control Plan (Basic SWPPP) prepared in accordance with DEC requirements. The plans shall illustrate those measures to be employed during construction and as may be necessary to prevent loss of soil from erosion and to prevent resulting property damage, siltation and contamination of water courses or impoundments.
- B. A Storm Water Pollution Prevention Plan (SWPPP) prepared in accordance with the "New York State Stormwater Management Design Manual" published by DEC. Such plan shall be subject to review by both the Town of Wawarsing and New York State DEC and meet both sets of standards. Where such standards conflict the higher standard shall apply. The SWPPP shall identify those practices employed after construction and as may be necessary to prevent property damage by and pollution of associated water courses or impoundments.
- (1) Proposed areas of disturbance shall be drawn to scale and quantified in support of applicable SWPPP requirements (including a Basic SWPPP).
  - (2) Post construction stormwater practices shall reduce stormwater peak runoff to 75% of the preconstruction peak runoff for the 10 year event. The Planning Board shall be authorized to modify these criteria if immediate discharge is appropriate.
  - (3) Post construction stormwater practices shall reduce stormwater peak runoff to 90% of the preconstruction peak runoff for the 100 year event. The Planning Board shall be authorized to modify these criteria if immediate discharge is appropriate.
  - (4) A certified copy of a completed the notice of intent to proceed (NOI), signed by the applicant and certified by the applicant's professional representative shall be supplied. A copy of the New York State DEC reply to the NOI shall also be supplied when issued.
  - (5) Storm drainage facilities shall be designed to handle the anticipated peak discharge from the applicable catchment for a 10 year event with one foot of freeboard remaining at peak flow.
  - (6) All drainage structures required to accommodate stream flows with a cross sectional area less than 25 square feet during a 10 year rainfall event, shall be designed and constructed to provide one foot of freeboard during the 10 year rainfall event.
  - (7) All drainage structures required to accommodate stream flows with a cross sectional area greater than 25 square feet during a 10 year rainfall event, shall be designed to provide two feet of freeboard during a 50 year rainfall event, and safely pass a 100 year rainfall event. Drainage structures in this category shall have a design life of at least 50 years, be designed by a licensed Professional Engineer and be approved by the Town Highway Superintendent or the Superintendent's designee.
  - (8) Applicants shall use infiltration practices whenever acceptable under DEC guidelines. Applicants shall provide deep test pits and percolation tests in support of this or demonstrate infiltration is not a viable practice for the site in question. Dry grass swales and other similar measures shall also be encouraged wherever practical.
  - (9) All storm water management improvements shall be properly maintained so as to continue to perform in their intended manner. Sediment shall, at a minimum, be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent. The Town Building Inspector, upon observing that such improvements are not being so maintained, may direct a property owner to undertake such maintenance. Failure to comply after a minimum of 30 days notice shall constitute a violation of this law.

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- (10) No person shall allow, or cause to allow, storm water discharges, into any separate storm sewer systems of the Town or Village, that are not composed entirely of storm water, discharges from fire fighting, water from foundation drains, flows from natural sources and flows from other similar uncontaminated sources. No drain or conveyance, whether on the surface or subsurface, that allows any other water discharge or wastewater (including floor drains and the like) to enter such a separate storm sewer system shall be permitted.

### § 112-20 Landscaping Requirements.

- A. 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.
- B. The landscape plan, if required, shall specify locations of all mature shade trees or other species of six 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.
- C. 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:
- (1) 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.
  - (2) The plan should use landscaping to delineate or define vehicular and pedestrian ways and open space.
  - (3) 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.
  - (4) 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.
  - (5) 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.

- D. Landscaping Guidelines. The following minimum specifications are suggested guidelines that the Planning Board may apply when new landscaping is required:
- (1) The minimum branching height for all shade trees should be six feet.
  - (2) Shade trees should have a minimum caliper of three inches (measured 4 feet above grade) and be at least 12 feet in height when planted.

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- (3) Evergreen trees should be a minimum of six feet in height when planted.
  - (4) Shrubs should be a minimum of 24" in height when planted. Hedges shall form a continuous visual screen within two years after planting.
  - (5) A buffer screen at least 15 feet in width along any residential lot line should be provided. It shall include, at a minimum, an opaque wooden stockade fence six feet in height and one evergreen tree for every 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.
  - (6) A landscape strip at least 15 feet in width, that includes at least one 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.
  - (7) All lot area (except where existing vegetation is preserved) should be landscaped with grass, ground cover, shrubs, or other appropriate cover.
  - (8) 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.
- E. A performance guarantee in a form acceptable to the Town Attorney in the amount of 125% of the cost of materials and installation may be required to assure that all landscaping survives in a healthy condition one 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.
- F. 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.

### **§ 112-21 RESERVED.**

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## Article 5 Supplementary Regulations Applicable to Particular Uses

### § 112-22 Recreational Vehicles, Campgrounds and RV Parks.

#### A. Licenses and fees.

- (1) 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 Wawarsing, 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.
- (2) The Town Code Enforcement Officer of the Town of Wawarsing shall issue a license after approval of the application by the Town Planning Board pursuant to Special Use procedures. Such application shall be also be subject to Site Plan Review. Said license shall be effective from the date of issuance until surrendered by the licensee or revoked by the Code Enforcement Officer.
- (3) No license shall be issued until the Code Enforcement Officer has received a written application from the applicant, the required fee as herein provided and approval of the application, plans and specifications by the Ulster County Department of Health.
- (4) All licenses issued hereunder shall be valid until March 31 of the following year. No later than January 1 of each year, applicants shall request or apply for renewal of such licenses. The Town Code Enforcement Officer shall inspect the premises to ensure continued compliance with this section. A finding of such compliance shall entitle the applicant to an automatic renewal subject only to such fees as may be required. However, the Town Planning Board shall, subject to a public hearing, approve, disapprove or approve with modifications any renewal that involves proposed changes in the facilities or major changes in the operations connected with the RV park or campground.
- (5) 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. The application for such supplemental license must be accompanied by 10 sets of plans and specifications and shall be filed and processed as provided herein for new campgrounds or parks.
- (6) Each application for a new or supplemental campground or RV park license shall be in writing and signed by the applicant. The Code Enforcement Officer shall promptly transmit copies of the application and plans to the Town Planning Board, which shall review the application pursuant to the Special Use and Site Plan Review requirements herein. The Code Enforcement Officer, within 30 days of the filing of the Planning Board's action with respect to Special Use and Site Plan Review, shall issue the license. Each license application shall be accompanied by site plans and other data as shall be required herein for Special Use and Site Plan Review applications.
- (7) The applicant, for any new license or transfer, shall pay the Town a fee as shall be established modified from time to time by resolution of the Town Board.

#### B. Design standards and general requirements.

- (1) A campground or RV park shall have a gross area of at least 15 contiguous acres of land in single ownership or under unified control.
- (2) RV park or campground lots shall meet the following standards for lot area, lot width and density:

## Town of Wawarsing Zoning Law

<b>Campground/RV Park Standards</b>		
<b>Standard</b>	<b>Transient Campgrounds/RV Parks</b>	<b>Nontransient Campgrounds/RV Parks</b>
Minimum Campground Lot Area	1,500 sq. feet	3,000 sq. feet
Minimum Campground Lot Width	30 feet	50 feet
Maximum Density*	8.0	8.0
* Number of campground lots per acre of campground after deducting all slopes in excess of 20% grade, all wetlands and all floodplains.		

- (3) Individual campground or RV park lots shall be separated from service building structures by a minimum distance of 50 feet. Also, notwithstanding other requirements, no recreational vehicle or tent platforms shall be located closer than 50 feet to the street right-of-way or any adjacent property line.
- (4) No less than one off-street parking space shall be provided on each lot, in addition to the site area provided on each lot for placement of the recreational vehicle or tent.
- (5) All campgrounds and RV park streets shall be cleared, graded and improved to a 12 feet width for one-way traffic and 20 feet width for two-way traffic. Such streets shall be improved to a year round passable condition and include periodic speed bumps on each major tangent section to reduce speed.
- (6) No individual on-site sewerage or water supply shall be permitted, and all community systems for the common use of campground occupants shall fully comply, as evidenced by approved plans, with standards imposed by the Ulster County Department of Health and the Town of Wawarsing.
- (7) A campground or RV park shall possess a minimum of 200 feet of frontage on a state, county or town highway.
- (8) A minimum of 20% of the gross site area of the campground or RV park shall be set aside and developed as common use areas for open and enclosed recreational facilities. No recreational vehicle site, required buffer strip, street right-of-way, cartway, storage area or utility site shall be counted as meeting this requirement.
- (11) 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 marginal friction with free movement of traffic on adjacent streets. All traffic into or out of the park shall be through such entrances and exits, which shall be limited to a maximum of two each except where safety demands and the Planning Board has approved the same. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended, and the radii of curbs and pavements at intersections shall be such as to facilitate easy turning movement for vehicles with trailer attached. No intersection of an entrance and/or exit with a state, county or town highway shall be located where less than 500 feet of sight distance exists in either direction along the state, county or town highway, nor shall such intersection be located within one hundred (150) feet of any other intersection.
- (12) No parking, loading, or maneuvering incidental to parking or loading shall be permitted in connection with the use of any campground or RV park on any public street, sidewalk, required buffer, right-of-way or any public grounds, nor any private grounds not part of the campground or RV park unless the owner has given written permission for such use. Each campground or RV park operator shall provide off-street parking, loading and shall be responsible for violations of these requirements.

## Town of Wawarsing Zoning Law

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- (13) Campground or RV park lots shall be used only for camping purposes, except for a maximum of three lots used for staff or similar special circumstances. No improvement or living unit designed for permanent occupancy shall be erected or placed on any campground or RV park lot. All recreational vehicles in the development shall be maintained in a transportable condition at all times, except for temporary removal of a hitch, and meet all requirements that 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. Moreover, no campground or RV park lot shall be occupied for more than 120 days in a transient campground or RV park or 270 days in a nontransient campground or RV Park. No campground or RV park lot, except as provided above, shall be the primary and principal residence of the occupant, each campground or RV park lot to be used and occupied (excepting for occasional guests) for camping and recreational purposes only by a single household.
- (14) The management of every campground or RV park shall be responsible for maintaining accurate records concerning the occupancy of all campground or RV park lots. The term "management" shall include associations of property owners when such are responsible for maintenance and operation of common facilities. The Town Code Enforcement Officer shall have access to, and the right to inspect, records for evidence of permanent residency or lack thereof. The Town Board and/or Code Enforcement Officer shall, in addition, have the authority, when any provision of this chapter is violated, to prohibit the occupancy of any and all campground or RV park lots in a recreational development until the owners and/or management provide evidence of compliance with these provisions.
- (15) No owner or occupant of any campground or RV park lot or within such campground or RV park lot 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 lot. Plumbing fixtures within any recreational vehicles placed upon lots in the campground or RV park shall be connected to the sewage disposal system for the development. Sanitary facilities, including toilets, urinals and showers, shall be provided in separate buildings located not less than 100 feet or more than 500 feet from each campground or RV park lot.
- (16) All property lines within the development shall be kept free and open; and no fences, except as may be required for screening or as may exist naturally, ledges or walls shall be permitted thereon. This shall not, however, preclude the erection of fences around the perimeter of the development.
- (17) No noxious or offensive activities or nuisances shall be permitted on any campground or RV park lot or anywhere within such developments. Such nuisances shall include, but not be limited to; (1) noise which exceeds the limitations set forth herein; (2) uncontrolled fires or repeated burning (except for camp fires) which results in soot, cinders, smoke, noxious fumes, gases or unusual odors emanating beyond the property line of the development; and (3) any other activity that would exceed the limitations of the Town of Wawarsing Code. Responsibility for meeting such requirements shall extend in all circumstances to individual occupants of campground or RV park lots as well as owners and operators.
- (18) No animals shall be kept or maintained on any campground or RV park lot, except the usual household pets (cats, dogs and the like). Pets shall be kept confined so as not to become a nuisance.
- (19) No person shall burn trash, garbage or other like refuse on any campground or RV park lot. All such refuse be placed and kept in airtight receptacles for the same, which shall be provided by the owners of the campground or RV park lots. No owner or occupant shall permit the accumulation of litter or refuse or junk vehicles on a campground or RV park lot.

## Town of Wawarsing Zoning Law

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- (20) Notwithstanding any provisions herein contained to the contrary, picnic tables, benches, storage sheds, fireboxes or fireplaces and similar items of personal property may be placed on a campground or RV park lot. All personal property on a campground or RV park lot shall be maintained in good condition so as not to become unsightly.
- (21) No recreation vehicle shall be parked on any street or roadway within the development.
- (22) Potable water drinking supplies shall be provided within three hundred (300) feet of each campground or RV park lot and be operational during any period of occupancy.
- (23) Every campsite shall be accessible by fire and emergency equipment and shall be maintained in such condition, free of obstacles to access.
- (24) If the use of all-terrain vehicles or other similar sports equipment (including dirt bikes) is permitted within the campground or RV park, such activity shall be strictly limited to designated internal roads or other controlled designated areas within the campground or RV park and further limited to such time periods as will conform with the noise requirements herein. Campground or RV park management as well as individual campground lot owners/users shall be responsible for enforcing these limitations and be subject to the penalties provided herein if they do not and a nuisance situation is created for adjoining landowners.
- (25) The operational standards contained in this section shall be incorporated in the management plan and restrictions for any transient campgrounds or RV parks, which restrictions and/or plan shall be approved by the Planning Board in its review of site development plans for the campground or RV park. A plan or set of restrictions that does not adequately provide for conformance with this section shall not be approved. The plan and/or restrictions shall also provide the Town with the option (but not the obligation) of being a part to their enforcement and include a right for the Town to periodically inspect the development for continued compliance with the plan and/or restrictions.
- (26) No loudspeaker or amplifying device shall be permitted in connection with any camp, campground, RV park or other use which can be heard beyond the bounds of the property lot where the use is located.

### C. Revocation of license.

- (1) If the Code Enforcement Officer 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 chapter, 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 10 days after the service of such order.
- (2) If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order, the Code Enforcement Officer shall 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.
- (3) However, if the owner or operator of such recreational vehicle park shall thereafter correct such conditions and bring the recreational vehicle park into compliance with this chapter, such owner may then apply for issuance of a new license for such park, and if the application is approved and license is granted, the applicant shall pay to the town the fee required by this chapter without any credit for the fee paid for the license which was revoked.

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### D. Penalties for offenses; additional remedies.

The Code Enforcement Officer may, in the case of violations of the foregoing provisions by any campground or RV park lot occupant, and in addition to other remedies available under this Zoning Law and, regardless whether or not such campground or RV park has a current license, remove or cause to be removed all camping facilities and persons associated with such activity. This shall include tents, vehicles, recreational vehicles, personal equipment and other goods. Such person or persons shall also be guilty of a violation and be punished as provided herein. The Code Enforcement Officer shall provide any violator who is not a repeat violator with a warning and order to immediately cease and desist in the violating activity and upon failure of the violator to do so shall institute the actions provided above. He may enter onto the grounds of any property for purposes of determining compliance.

### E. Exceptions. None of the provisions of this chapter shall be applicable to the following:

- (1) The business of recreational vehicle sales.
- (2) The storage of a recreational vehicle not being used on premises occupied as the principal residence by the owner of such recreational vehicle; provided, however, that such unoccupied recreational vehicle shall 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 vacant property for a maximum of 30 days in consecutive days.
- (4) Storage yards within any campground or RV park for vehicles and tents when not in use for camping.

A campground or RV park may also include: a store for sales of camping supplies and other retail goods to campers; areas for musical and similar entertainment events that are also open to the general public, provided such uses are occasional in nature and clearly accessory to the campground or RV park as the principal use of the property; and permanent cabins for camping purposes provided such cabins are limited to a 500 square feet footprint size, are owned and managed by the resort owner and constitute no more than 20% of such camping accommodations as are offered at the facility.

### § 112-23 Manufactured Homes and Parks.

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

- A. Permitted locations. Manufactured homes shall be permitted only within mobile home parks (where permitted) or in such locations as other single-family residences, subject to the standards of subsection B below and the restrictions found on the Schedule of District Regulations:
- B. Standards applicable to individual manufactured homes.
  - (1) A 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.
  - (2) 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.
  - (3) All manufactured homes shall be connected to an adequate supply of potable water; shall 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

## Town of Wawarsing Zoning Law

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within 90 days of permit issuance for placement of the home.

- (4) All manufactured homes hereafter erected in the Town shall have been manufactured no less than 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.
  - (5) All manufactured homes shall have peaked roofs, with a minimum pitch of three feet vertical to 12 feet horizontal.
  - (6) 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.
  - (7) Structure frames of manufactured home must be securely attached to the foundation as provided by New York State building code standards.
  - (8) Permanent steps and hand rails shall be constructed at all access points of the manufactured home to ensure a safe means of ingress/egress into the dwelling unit.
  - (9) Exceptions to permanent placement requirements.
    - (a) 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 30 days before the commencement of the relevant project and must be removed within 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.
    - (b) Temporary placement of manufactured homes. It shall be unlawful to store any mobile home on any property within the Town of Wawarsing for a period in excess of 30 days.
  - (10) 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.
  - (11) Nonconforming 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.
- C. 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 Wawarsing Manufactured Home Law and the following standards and review criteria:
- (1) 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 not be greater than prior to development.
  - (2) There shall be documentation of the availability and adequate capacity of all utility providers to service the

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park. Offsite or centralized water facilities shall be provided.

- (3) 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.
- (4) Adequate provisions shall be made for outside storage space and these shall not in any way interfere with emergency access.
- (5) Adequate provisions shall be made to control potential nuisance situations such as accumulation of unused materials or vehicles.
- (6) Recreational facilities sufficient to accommodate the number of dwellings proposed shall be provided.
- (7) 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.
- (8) 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.

### **§ 112-24 Planned Unit Development Districts.**

#### A. Purposes.

- (1) It is the purpose of this section to permit but not require, upon receipt and approval by the Town Board of an applications by landowner(s), the establishment of special zoning classifications for planned unit developments. These special floating districts may include PID Planned Industrial Development, PRD Planned Residential Development and PSD Planned Senior Development Districts. Such districts may be permitted for the following purposes, among other reasons:
  - (a) Offering choices in types of housing, lot sizes and community facilities available to residents.
  - (b) Creating more usable open space and recreation areas and preserving natural areas.
  - (c) Conveniently locating businesses and services with respect to neighborhoods.
  - (d) Developing commerce and industry in planned units compatible with other uses.
  - (e) Facilitating development that allows an orderly transition from rural to urban uses.
  - (f) Providing for the efficient use of land and the placement of utilities and streets in ways that lower development costs and impacts.
  - (g) Implementing the Town of Wawarsing Comprehensive Plan.
  - (h) Encouraging innovation not possible under strict application of subdivision and zoning regulations.

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- (9) Promoting the expansion of existing hamlets and development of new centers.
  - (10) Promoting traditional neighborhood and mixed-use development patterns.
  - (2) Generally, these floating districts are intended to provide landowners who wish to develop functionally integrated 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.
- B. Procedures. The Town Board shall establish planned unit development districts in the following manner:
- (1) The owner(s) of the land in a proposed district shall initially apply to the Town of Wawarsing Planning Board for the establishment of a PID, PRD or PSD District. The application shall be in writing and include a sketch plan drawn to scale. The application and sketch plan shall include the following information:
    - (a) The location and types of the various uses and their areas in acres.
    - (b) Calculation of proposed densities for each category of uses.
    - (c) A general depiction of the exterior and proposed interior road system.
    - (d) Location, area and proposed ownership and use of open space.
    - (e) General provisions for sewer, water, drainage and other required utilities.
    - (f) Uses and ownership of abutting lands.
    - (h) The proposed phasing plan for the planned unit development.
    - (i) A Generic Environmental Impact Statement for the proposed district and project.
    - (j) Evidence the proposal is compatible with the goals of the Town of Wawarsing Comprehensive Plan.
    - (k) The proposed zoning amendment, together with evidence of compliance with §§ C hereof.
  - (2) The Planning Board shall review the sketch plan and related documents and render a report to the applicant and the Town of Wawarsing Town Board 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. A favorable report shall include any recommendations for changes or conditions with respect to the proposed development plan. The Planning Board shall issue its report within 62 days of receipt of a complete sketch plan and application. If the Planning Board shall fail to render a report, an applicant shall be authorized to proceed directly to the Town Board.
  - (3) The Town Board shall then proceed to consider amendment of the law in accord with the Town Law, conducting a hearing within 62 days of the meeting at which the Planning Board's report and/or application is received. The Town Board shall approve the plan if it finds:
    - (a) The proposed uses will not be detrimental to present and potential uses in the area surrounding the proposed district.

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- (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 Wawarsing Comprehensive Plan.

Should the Town Board approve the proposed amendment creating a planned unit development district it may attach conditions to such approval. If a planned unit development district has been approved and is not substantially developed in accordance with the approved preliminary development plan for a period of five (5) 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 62 days following written notice to the applicant and general publication in a newspaper of general circulation, may declare the change in classification to a planned unit development district voided.

- (4) The applicant may, upon creation of the proposed planned unit development by the Town Board, submit a preliminary development plan for the project to the Planning Board, including but not limited to all information required under the Town of Wawarsing Subdivision Law and the Special Use and Site Plan Review criteria contained in this Law.
- (5) The Planning Board shall, within 62 days of its acceptance of a completed preliminary development plan, conduct a public hearing on the development plan, which shall be completed no later than an additional 62 days thereafter. Following close of the public hearing, the Planning Board shall, within another 62 days, approve, disapprove or approve with the modifications the preliminary development plan. Preliminary approval may also include requirements pertaining to the final site plan. If the preliminary development plan is disapproved, the Planning Board shall inform the applicant of the reasons for disapproval, in writing, within 15 days of such action. Failure to act within these specified time periods shall entitle the applicant to a default approval.
- (6) Following Planning Board approval of the preliminary development plan, the applicant shall install or financially guarantee all proposed improvements and prepare a final development plan, as provided under the Town of Wawarsing Subdivision Law. Where more than five (5) years 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 may, or the Planning Board may require, the applicant submit the final development plan in phases.
- (7) 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 Law pertaining to final plans. It shall incorporate any modifications required by the Planning Board at the time of preliminary approval. The Planning Board shall, within 62 days of the receipt of a completed application for final development plan approval, review and act on such submissions and so notify the Town Board. If no decision is made within 62 days, the final development plan shall be considered approved. 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 building permits to the applicant if the project conforms to all other applicable requirements of the Town. Final development plan approval shall constitute final Development Plan approval under the Town Subdivision Law and a copy shall be filed in the Ulster County Clerk's office.

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- (8) No building permits shall be issued for construction within a planned unit development district until all requirement improvements are installed or financial guarantees are posted in accordance with the procedures provided by the Town Subdivision Law.

### C. General requirements.

#### (1) PID Planned Industrial Development Districts.

- (a) Location. A PID District may be permitted within any existing BH or RU District.
- (b) Minimum site requirements. A PID District shall comprise at least 10 contiguous acres of land in the BH Districts and 25 contiguous acres in a RU District. A PID District shall have direct access to a County or State highway or be located within 1,500 feet of such a highway. A PID District shall not be located on any highway where existing traffic operates at less than Level of Service C.
- (c) Maximum lot coverage and land disturbance. PID District lot coverage as a whole shall be limited to a maximum of 40% and land disturbance as a whole shall be limited to a maximum of 50%. Individual lots within PID Districts shall be limited to a maximum lot coverage of 50% and a maximum land disturbance of 60%, provided total lot coverage and total land disturbance for the PID District as a whole shall not exceed 40% and 50%, respectively.
- (d) Outdoor storage. The outdoor storage of goods or materials, open sided covered structures, truck loading and unloading areas and all equipment, electrical substations, and mechanical devices shall be shielded from view from any public highway and any adjoining property that has an existing dwelling.
- (e) Utilities. All electric, telephone, telecommunications, and other service lines shall be underground or routed along the rear of lot lines wherever possible.
- (f) Performance standards. No land or structure in a PID district shall be used, occupied or operated in any manner that creates dangerous, injurious, noxious or otherwise objectionable conditions that may affect other properties. All uses shall comply fully with performance standards of this chapter pertaining to noise, lighting, odors, vibrations, smoke and related matters. A management plan and covenants and restrictions for the planned industrial park to ensure long-term maintenance of properties and improvements, address hours of operation and deal with other matters potentially having an impact on adjoining properties, shall be submitted for review and approval by the Town Board at the time the PID District is proposed.
- (g) Parking. On street parking on public highways or access roads within the PID District shall not be permitted under any circumstance. No parking lot where vehicles will be parked and idled for extended periods of time shall be constructed within 250 feet of any existing dwellings.
- (h) Landscape and design requirements. Landscape and facade design requirements to be incorporated in project covenants and restrictions shall be developed and submitted for approval. A landscaped planting screen of no less than 75 feet in width shall be required along the border of the PID District with any adjoining property and any public highway. Such buffer area shall be in place prior to the issuance of a Certificate of Occupancy and substantially screen proposed structures from view within a period of five (5) years. Existing trees and vegetation shall be maintained where ever possible in such buffer areas and interplanted as may be necessary to accomplish screening objectives. All buildings, structures and land disturbances shall be setback a minimum of 100 feet, which dis-

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tance may be increased by the Town Board as may be necessary to protect adjoining properties and preserve neighborhood character when creating a PID District.

- (i) Minimum lot area. Individual lots within a PID District shall be a minimum of three acres in size. This shall not apply, however, to lots used for the purpose of locating utility structures.
  - (j) Building heights. Structures within PID Districts shall not exceed a height of 45 feet, except for unoccupied areas used for mechanicals, elevators, antennas and industrial processes, which shall be limited to a maximum of 75 feet. Structures over 35 feet in height shall require evidence from the local fire department that substantiates capacity to provide fire protection services related to the structure.
  - (k) Permitted uses. A PID District created within any existing RU District may include the full range of uses permitted in the ID Industrial District. A PID District created within a BH District shall be limited to business and professional offices, electronic data processing and back office operations, packaging of retail goods, plastic product injection molding, printing facilities, research and development facilities, light metal fabrication and other light manufacturing, wholesale businesses, production greenhouses and similar enterprises as shall be defined by the Town Board in creating a PID District.
  - (l) Prohibited uses. Fuel distribution or processing operations, junkyards, recycling facilities, salvage operations, solid waste disposal facilities, mini-storage facilities (mini-warehouses) for consumer use, and truck terminals shall be prohibited in all PID Districts. Mining and other natural resource processing, including sawmills and storage yards for forest products and stone shall be prohibited in PID Districts created within BH Districts.
  - (m) Other zoning regulations. With the exception of lot area requirements which may be waived or modified by the Planning Board, the PID District shall comply with all other provisions of this Law.
  - (n) Ownership. The land proposed for a PID District may be owned, leased or controlled either by an individual, corporation or by a group of individuals or corporations. PID 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.
- (2) PRD Planned Residential Development Districts.
- (a) Location. A PRD District may be permitted within any existing RS-2, MU or BH District. Such a district shall be permitted in the RU District where frontage exists on a State or County road.
  - (b) Minimum site area. A PRD District shall comprise at least 50 contiguous acres of land.
  - (c) Permitted uses. All residential uses, except manufactured (mobile) homes, shall be permitted in PRD Districts. A PRD may also include hotel, motel, resort, recreational and convenience retail and service uses when designed as integral parts of the same project where the various elements are designed to serve each other. Retail and service uses shall be designed to primarily serve residents of the PRD. Nonresidential uses shall be limited to no more than 5% of the land area involved in any PRD, except that the Town Board, in creating the PRD District, may otherwise provide for large recreation uses such as golf courses.
  - (d) Maximum density. Maximum density within a Planned Residential Development shall not exceed that otherwise permitted for the various uses proposed within the underlying zoning district where the PRD District is to be located, provided that the Town Board may allow for up to 30% additional den-

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sity for purposes of encouraging open space preservation or the creation of affordable housing. However, notwithstanding this or any other provisions of this law, total density within a planned residential residential development shall not exceed one dwelling unit per acre. Density for nonresidential uses within the PRD 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 dwelling.

- (e) Open space. The open space standards applicable to conservation subdivisions shall also apply to all PRD projects, provided that golf course acreage may be counted toward open space at a ratio of 75%.
  - (f) 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.
  - (g) 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, except that a maximum of 5% of the land area of any PRD project may be dedicated to neighborhood scale commercial and service uses at the discretion of the Town Board.
  - (h) 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.
  - (i) Organization. A PRD District may be organized as a condominium, a cooperative, a leasehold or held in individual or corporate ownership. If a home owners' association (HOA) or similar organization is to be established, such entity shall be organized as provided for conservation subdivisions.
- (3) PSD Planned Senior Development Districts.
- (a) Location. A PSD District may be permitted within any existing RS-1, RS-2, RMH, MU or BH District. Such a district shall be permitted in the RU District where frontage exists on a State or County road.
  - (b) Minimum site area. A PSD District shall comprise at least 15 contiguous acres of land.
  - (c) Permitted uses. A PSD District shall be limited to senior care projects, other forms of housing restricted to seniors and mixed-use development as defined herein, provided in the latter case that such mixed-use includes only senior residential units, which shall constitute no less than 50% of all gross floor area created.
  - (d) Maximum density. Maximum density within a Planned Senior Development shall not exceed that otherwise permitted for the various uses proposed within the underlying zoning district where the PSD District is to be located, provided the Town Board may allow for up to 50% additional residential density outside of RU Districts for purposes of encouraging the creation of affordable senior housing. Density for nonresidential uses within the PRD 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 dwelling.
  - (e) Open space. The open space standards applicable to conservation subdivisions shall also apply to all PSD projects, provided that golf course acreage may be counted toward open space at a ratio of

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75%.

- (f) Utilities. All uses situated in a PSD 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.
- (g) Other zoning regulations. Multi-family senior care projects (age 55 and over) in a PSD or elsewhere as may be permitted, wherein residential buildings have an elevator and a resident garage in the lower-most level, are entitled to have three and one-half residentially occupied stories, exclusive of the garage level, where any portion of the parcel of land is located within 200 horizontal feet of Federal Emergency Management Agency (FEMA) 100-year floodplain, as shown on the most recent Federal Insurance Rate Map, and where the first residential occupied level in each building is no more than 20 vertical feet above such base floodplain elevation. The lower level of multi-family senior citizen buildings (age 55 and over) shall not be considered a "story" if it is designed for use as a garage for vehicles belonging to residents and otherwise conforms with Town requirements. Lot and yard requirements may be waived or modified by the Planning Board, provided the PSD District shall comply with all other provisions of this Law.
- (h) Ownership. The land proposed for a PSD District may be owned, leased or controlled either by an individual, corporation or by a group of individuals or corporations. PSD 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.
- (i) Organization. A PSD District may be organized as a condominium, a cooperative, a leasehold or held in individual or corporate ownership. If a home owners' association (HOA) or similar organization is to be established, such entity shall be organized as provided for conservation subdivisions.

### § 112-25 Multi-Family Residential Uses.

- A. 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 subdivision regulations. The subdivider shall also submit all information required by such regulations plus the following additional data:
  - (1) 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.
  - (2) 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 Wawarsing. Setbacks from property lines, improvements and other buildings shall also be indicated.

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- (3) 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.
- B. 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.
- C. 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.
- D. Complete final building plans shall also be submitted as part of the Final Development Plan Application.
- E. 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 Ulster County Clerk.
- F. Multi-family dwellings shall be permitted at twice the density allowed for single-family residential use (measured in bedrooms and assuming a single-family unit is three bedrooms) or one dwelling unit per 10,000 square feet of lot area, whichever is less dense. Density shall be calculated by deducting, from the total acreage of the development; 80% of FEMA-designated FEMA-designated 100-year floodplain areas, 60% all wetlands, 50% of natural slopes over 25% and areas contained within public road rights-of-ways and utility placement areas; and dividing by the number of proposed units.
- G. 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:
- (1) 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

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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.

- (2) 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.
  - (3) 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.
  - (4) 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.
  - (5) Developments of 50 units or more shall provide one-half acre of playground area per 50 units unless restricted to adult occupancy only.
- H. 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.
- I. The following design criteria shall apply to multi-family developments;
- (1) There shall be no more than 10 dwellings in each multi-family building, except for senior housing or affordable housing projects.
  - (2) No structure shall be constructed within 50 feet of the edge of any access road to or through the development or within 10 feet of the edge of any parking area.
  - (3) 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.
  - (4) No multi-family development of less than 50 dwelling units 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.

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- (5) Parking spaces of two per unit shall be provided plus, for every two units intended for rental or other transient occupancy, one additional space to accommodate parking needs during sales and other peak visitation periods. Parking requirements for senior housing may be adjusted by the Planning Board.
  - (6) No more than 60 parking spaces shall be provided in one lot, nor more than 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.
  - (7) No structure shall be erected within a distance equal to its own height of any other structure.
  - (8) 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.
  - (9) Where a property line is not wooded, a planting strip of 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.
  - (10) 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.
  - (11) All electrical and other utilities shall be placed underground and buried to a depth determined by the Town Engineer as sufficient for safety purposes.
- J. 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. 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.
- K. 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 Certified Public Accountant review such financial data to determine proposed fees are, in fact, adequate to secure maintenance on a continuing basis.
- L. 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.

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- M. 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;
- (1) Be for a period of not less than 15 years from the date of the final approval of said multi-family dwelling-transient use by the Town;
  - (2) 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.
- N. 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.
- O. 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.

### **§ 112-26 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:

- A. There shall be adequate parking to accommodate the new use in combination with other activities on the property or in the vicinity.
- B. There shall be demonstrated sewage treatment and water supply capacity to serve any increased needs connected with the new use.
- C. 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.
- D. 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, parking and other features mandated by the nature of the business.

### **§ 112-27 Mining and Extractive Uses.**

- A. Sand, gravel and other quarrying and other mining excavation industries, where permitted, shall extend no closer than 500 feet to any existing residence, institution, public water supply source or other public or semi-

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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 zone that may be designated by the Town of Wawarsing to protect a public water supply.

- B. 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.
- C. 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.
- D. All sand, gravel and quarrying operations shall be subject to the provisions of § 112-17 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.
- E. The storage and/or burial of machinery, junk, debris, or any other non-mine related items shall not be allowed on site. The site shall not be used to park commercial trucks or heavy equipment not directly involved with the currently permitted mining operation. Other uses not directly related to the mining operation shall require separate permission hereunder.
- F. Excavation of less than 1,000 tons per year for the purposes of soil mining, such as gravel pits, quarrying or any subsoil removal, shall be allowed subject to §§A above, site plan review and the following provisions. Notwithstanding whether a permit has been issued, property owners may utilize gravel, stone quarrying or subsoil excavation on their own property for fill or leveling without restriction. Farm related mining of less than 1,000 tons per year is exempt from these requirements but shall comply with §§A above, §§ F(3) below and §§ F(6) below. For soil mining operations that are not subject to state jurisdiction by virtue of involving the removal of 1,000 tons or less per year, the following provisions shall apply:
  - (1) The applicant shall submit 10 copies of a map at a scale of one inch equals no more than 100 feet, showing all lands within 200 feet thereof with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers and names of the land owners. Such map shall also show the current topography at two-foot contour intervals or as otherwise determined appropriate by the Planning Board.
  - (2) The applicant shall also submit 10 copies of the proposed plan of excavation at the same scale as above, showing the proposed finished elevations at two-foot contour intervals, or as otherwise determined appropriate by the Planning Board, and the proposed drainage plan.
  - (3) During excavation or quarry operations, open pits and quarry walls shall be entirely surrounded by a substantial temporary movable fence at least six feet high located no less than 50 feet from the mine excavation to safeguard the public and prevent an attractive nuisance. Such fence is to be erected so as to effectively block access to the area, with suitable gates provided with locks. Top and/or toe of slope shall not be closer than 40 feet to a property line.
  - (4) The Planning Board may require the applicant to submit a screening and buffer plan to minimize visual impacts on surrounding properties or adjacent roadways. Such plan shall identify the location, height, type and other appropriate details of all proposed perimeter fencing, berming, landscaping or other screening and buffering measures.
  - (5) Excavation, quarrying and mining operations may be conducted between the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday, and between 7:00 a.m. to 12:00 noon on Saturday, and shall not be con-

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ducted on Sunday or on the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.

- (6) Rock crushing, cement production, other crushing, grinding, polishing or cutting machinery, or other physical or chemical process for treating the product of such excavation, shall not be permitted unless otherwise permitted within the district.
- (7) The proposed finished grading plan shall show the land to be smooth-graded and topsoil re-spread to a minimum depth of four inches; slopes shall not exceed the normal angle of repose of the material removed.
- (8) The applicant may be required to furnish a performance bond, in an amount determined by the Code Enforcement Officer or Town Engineer, to be sufficient to guarantee completion of the finished grading and drainage plan. Such bond shall be released only upon certification by the Code Enforcement Officer that all requirements, including the finished grading and drainage, have been met.
- (9) No special permit for excavation operations or soil mining shall be granted for a period of more than three years, but such permit may be extended for additional three-year periods, upon approval of the Planning Board.

### **§ 112-28 Telecommunication Facilities.**

- A. Purposes. This section is enacted to minimize impact of telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the Town of Wawarsing.
- B. Restrictions on use. No telecommunications 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 telecommunications 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 telecommunication facilities and uses, antenna and supporting structures and towers, including, without limitation, the FCC and FAA.
  - (2) All telecommunication facilities shall be operated and maintained by an FCC licensee only.
  - (3) All telecommunication facilities shall be demonstrated necessary to provide coverage to an area of Town that currently lacks adequate coverage. Related telecommunication towers or antennas shall also be demonstrated to be the minimum height and aesthetic intrusion possible to provide adequate coverage.
  - (4) All telecommunication 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 telecommunication facilities shall be constructed and maintained in conformance with all building, electrical, fire-prevention and other applicable codes.
- C. Major wireless communication facilities. Major wireless communication facilities shall be permitted as Special Uses in RU, MU, NS, IND and BH districts. The following requirements shall apply:

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- (1) The applicant must provide documentation to verify it has the right to proceed as proposed on the site. This shall require an executed copy of any lease with a landowner or landlord or a signed letter acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required.
- (2) Where a certification is called for in this section, such certification shall bear the signature and seal of a Registered Professional Engineer licensed in the State of New York.
- (3) All applications for the construction or installation of new telecommunications Facilities or modification of an existing facility shall contain, In addition to all other required information under this zoning law, the following:
  - (a) A descriptive statement of the objective(s) for the new facility or modification including and expanding on a need such as coverage and/or capacity requirements;
  - (b) Documentation that demonstrates and proves the need for the telecommunications facility to provide service primarily and essentially within the Town. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or if a capacity need, including an analysis of current and projected usage;
  - (c) The name, address and phone number of the person preparing the report;
  - (d) The name, address, and phone number of the property owner and applicant, and to include the legal name of the applicant. If the site is a tower and the owner is different that the applicant, provide name and address of the tower owner;
  - (e) The postal address and tax map parcel number of the property;
  - (f) The zoning district in which the property is situated;
  - (g) Size of the property stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;
  - (h) The location of nearest residential structure;
  - (i) The location, size and height of all existing and proposed structures on the property which is the subject of the application;
  - (j) The type, locations and dimensions of all proposed and existing landscaping, and fencing;
  - (k) The azimuth, size and center-line height location of all proposed and existing antennae on the supporting structure;
  - (l) The number, type and model of the antenna(s) proposed with a copy of the specification sheet;
  - (j) The make, model, type and manufacturer of the tower and design plan stating the tower's capacity to accommodate multiple users
  - (k) A site plan describing the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;

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- (l) The frequency, modulation and class of service of radio or other transmitting equipment;
  - (m) The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts;
  - (n) Signed documentation such as the “Checklist to Determine Whether a Facility is Categorically Excluded” to verify that the telecommunication facility with the proposed installation will be in full compliance with the current FCC RF Emissions guidelines. If not categorically excluded, a complete RF Emissions study is required to provide verification;
  - (o) A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices;
  - (p) A copy of the FCC license applicable for the intended use of the telecommunications facilities;
  - (q) A copy of the geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for a proposed or existing tower site and if existing tower or water tank site, a copy of the installed foundation design.
- (4) The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. If this analysis determines, that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.
- (5) The applicant shall, in the case of any new tower, be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within the Town. The applicant shall also specifically investigate and determine the suitability of Town owned property for placement of any new tower as a prerequisite for approval of any new tower on other property. Copies of written requests and responses for shared use shall be provided to the Town in the application, along with any letters of rejection stating the reason for rejection.
- (6) The applicant shall, in the case of a new telecommunication tower, conduct a “balloon test” prior to the public hearing on the application. The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three foot in diameter brightly colored balloon at the maximum height of the proposed new Tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the applicant seven and 14 days in advance of the first test date in a newspaper with a general circulation in the Town. The applicant shall inform the Town, in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 am and 4:00 pm on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a week-day. A report with pictures from various locations of the balloon shall be provided with the application.
- (7) The applicant shall examine the feasibility of designing the proposed tower to accommodate future demand for at least four additional commercial applications, for example, future co-locations. The tower shall be structurally designed to accommodate at least four additional antenna arrays equal to those of the applicant, and located as close to the applicant’s antenna as possible without causing interference. This requirement may be waived, provided the applicant demonstrates, in writing, the provisions of future shared usage of the tower is not technologically feasible, is commercially Impracticable or creates an un-

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necessary and unreasonable burden, based upon:

- (a) The foreseeable number of FCC licenses available for the area;
- (b) The type of telecommunications Facilities site and structure proposed;
- (c) The number of existing and potential licenses without telecommunications facilities spaces/sites;
- (d) Available space on existing and approved towers.

The owner of a proposed new tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall respond within 60 days to a request for information from a potential shared-use applicant and allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges.

- (8) The applicant shall provide certification with documentation (structural analysis) including calculations demonstrating the telecommunication facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, Town, State and Federal structural requirements for loads, including wind and ice loads.
- (9) If proposal is for a co-location or modification on an existing tower, the applicant is to provide signed documentation of the tower condition such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222F or most recent version. The inspection report must be performed every three years for a guyed tower and five years for monopoles and self-supporting towers.
- (10) All proposed telecommunications facilities shall contain a demonstration the facility be sited so as to be the least visually intrusive reasonably possible, given the facts and circumstances involved and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the telecommunications facility.
- (11) If a new tower, proposal for a new Antenna attachment to an existing structure, or modification adding to a visual impact, the applicant shall furnish a Visual Impact Assessment, which shall include a computer generated "Zone of Visibility Map" at a minimum of one mile radius from the proposed structure, with and without foliage to illustrate locations from which the proposed installation may be seen. Pictorial representations of "before and after" (photo simulations) views from key viewpoints both inside and outside of the Town shall be provided, as may be appropriate, including but not limited to State highways and other major roads; State and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided by the Town during the application process. The applicant shall provide a map showing the locations of where the pictures were taken and distance from the proposed structure. A written description of the visual impact of the proposed facility shall also be provided including, as applicable; the tower base, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.
- (12) The applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed telecommunications facility
- (13) The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or

## Town of Wawarsing Zoning Law

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concealment technology as may be required by the Town.

- (14) All utilities at a telecommunications facilities site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the Town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate
  - (15) An access road, turn-around space and parking shall be provided at any telecommunications site to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
  - (16) All telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, State, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
  - (17) The holder of a Special Use permit shall notify the Town of any intended modification of a wireless telecommunication facility and shall apply to the Town to modify, relocate or rebuild a telecommunications facility.
- D. Minor wireless communications facilities. 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. Minor wireless communications facilities shall be a principal permitted use in all zoning districts within the Town of Wawarsing, 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.
- E. General requirements.
- (1) Should any tower cease to be used as a telecommunication 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 year from the abandonment of use. Failure to do so shall authorize the Town of Wawarsing to remove the facility and charge back the cost of removal to the foregoing parties. The Town of Wawarsing may also file a municipal lien against the land to recover the costs of removal and attorney's fees.
  - (2) The owner or operator of any permitted telecommunications 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 Planning Board may also require periodic inspections and certifications to ensure continued performance.
  - (3) The Town, as opposed to the construction of a new tower, shall prefer locating on existing Towers or others structures without increasing the height. The applicant shall submit a comprehensive report inventorying existing towers and other suitable structures within two miles of the location of any proposed new tower, unless the applicant can show some other distance is more reasonable and demonstrate conclu-

## Town of Wawarsing Zoning Law

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sively why an existing tower or other suitable structure cannot be used. An applicant intending to locate on an existing tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the Applicant. Such shared use shall consist only of the minimum antenna array technologically required to provide service primarily and essentially within the Town, to the extent practicable, unless good cause is shown.

- (4) The Applicant shall submit documentation justifying the total height of any tower, facility and/or antenna requested and the basis therefore. Documentation in the form of propagation studies must include all backup data used to perform at requested height and a minimum of ten (10') feet lower height to allow verification of this height need. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the Town, to the extent practicable, unless good cause is shown. No Tower constructed after the effective date of this law, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with Town, State, and/or any Federal statute, law, local law, Town ordinance, code, rule or regulation or 120 feet, whichever shall be less. Wireless telecommunications facilities shall not be artificially lighted or marked. No tower shall project more than 40 feet above the mature tree level, shall also meet all other height restrictions.
- (5) Lattice work structures shall not be permitted. Towers shall be of monopole construction with no guy wires and painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this law. The Planing Board may also require the use of stealth technology to ensure the facility blends in with its background.
- (6) All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access.
- (7) Wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.
- (8) All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: a distance equal to the height of the proposed tower or wireless telecommunications facility structure plus 10% of the height of the tower or structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

### § 112-29 Signs.

- A. 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.
- B. 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,

## Town of Wawarsing Zoning Law

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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 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 §112-29.4 below. Findings shall be provided to the applicant and set forth in detail the reasons for the action.

- C. Sign review criteria. Signs shall be approved, approved with modifications or disapproved based on the specific requirements contained herein and the following design criteria:
- (1) Signs should be a subordinate part of the streetscape;
  - (2) Signs should not interfere with views of other enterprises or residences;
  - (3) Whenever feasible, multiple signs should be combined to avoid clutter;
  - (4) Signs should be as close to the ground as possible and pole signs shall be discouraged in favor of ground signs wherever possible;
  - (5) Signs should blend with and not cover any architectural features and be sized and located in proportion to buildings.
  - (6) Vivid colors may be used but should not dominate a building or site.
  - (7) 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.
  - (8) Signs must not present an overhead danger or obstacle to persons below.
  - (9) Sign sizes should achieve ready visibility without becoming an unnecessary distraction from the highway view or detriment to the highway scenery.
  - (10) Signs should never block the view of other signs.
  - (11) Signs should be easy to maintain and provide for wind resistance such that signs will not deteriorate or collapse after an extended period.
  - (12) Sign materials and design should blend with surrounding natural landscapes.
  - (13) Freestanding signs shall generally require landscaping around the sign base.
  - (14) Signs should not be placed on the roof or above the roof line of the building to which they are attached.
- D. General regulations. The following regulations shall apply to all signs:
- (1) 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.
  - (2) No part of any sign shall project above the top or beyond the ends of the wall surface on which it is located.

## Town of Wawarsing Zoning Law

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- (3) Signs, other than official traffic signs, which exceed 24 square feet in surface area shall be setback at least five feet from the side lot line.
  - (4) 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.
  - (5) No light shall be permitted that by reason of intensity, color, location, movement or directions of its beam may interfere with public safety.
  - (6) No sign shall be attached to a tree, utility pole or object not so intended, except for "no trespassing" signs placed on trees.
  - (7) Portable signs shall be subject to all freestanding sign regulations.
  - (8) No sign shall exceed in height one-half its distance from the highway right-of-way, notwithstanding any other height limitations.
  - (9) Traffic directional signs shall be exempt from these regulations.
  - (10) 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.
- E. Temporary signs. Temporary signs, including signs advertising yard sales or other noncommercial events may be allowed subject to the following:
- (1) Such signs shall be limited to 12 square feet each in surface area and not be illuminated.
  - (2) Yard sales and comparable events shall be advertised with signs for no more than 21 days per year.
  - (3) Other temporary signs shall be erected no sooner than 45 days before the event they advertise and be removed within three 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 \$25 refundable deposit to cover the cost of timely removing said signs. Such signs shall:
    - (a) Not be placed on any utility pole or public structure, except for "no trespassing" signs.
    - (b) Be erected only with express consent of property owners.
- F. Nonconforming signs. Existing nonconforming signs may be repaired or reconstructed on the same site, but shall not be relocated or increased in size except as provided herein. Any nonconforming sign connected with a change of use, abandoned for sign purposes for more than 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 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.
- G. Sign maintenance.

## Town of Wawarsing Zoning Law

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- (1) 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 months of such discontinuance, unless a waiver shall be granted by the Town Board, as the case may be.
- (2) In the event such a sign is not repaired or properly restored or removed within 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, 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 Wawarsing Zoning Law

Town of Wawarsing Zoning Law § 112-29, Schedule of Sign Regulations					
Prohibited Signs	Signs Allowed Without Permits	Signs Allowed with Permits from Enforcement Officer	Maximum Sign Surface Area Allowed for All Permitted Signs on a Lot Combined		Signs Permitted Upon Review by Planning Board
			Freestanding	Wall Signs	
<p>(RS-1, RS-2, RMH) Residential Districts</p> <p>Animated, moving or flashing signs                      Portable and wheeled signs                      Projecting signs extending more than 15 inches from an exterior wall                      Roof signs                      Signs on vehicles parked to create a sign effect with being regularly in the normal course of business                      Signs on utility poles                      Signs not specifically permitted under this Law or by the authority of the Town Board or Planning Board                      Signs resembling traffic signals or official traffic signs                      Signs that emit sound, odor or smoke                      Signs unrelated to permitted uses on a property                      Signs within the cartway of a public road                      Signs within 10 feet of power and telephone and television cable lines                      Signs of more than 15 feet in height</p>	<p>Awning, canopy or marquee signs of 4 sq. ft. in aggregate per lot                      Bus shelter signs of 10 sq. ft. no more than two per shelter or lot                      Civic and religious signs of 4 sq. ft.                      Directional and instructional signs of 4 sq. ft. in aggregate per lot                      Non-commercial flags, emblems, insignia and temporary signs                      Governmental signs                      Holiday decorations                      Interior signs not classified as window signs                      Name and address plates and plaques of 2 sq. ft. each in area and 4 sq. ft. in aggregate per lot                      No trespassing, no dumping and similar signs of 2 sq. ft. in area                      Real estate, temporary construction and contractor signs of 12 sq. ft.                      Parking lot entrance/exit sign (1) of 4 sq. ft., no more than 5 feet high                      Parking lot directional signs of 8 sq. ft. (16 sq. ft. in aggregate), no more than 7 feet high                      Sports patron advertising signs of 32 sq. ft. in area                      Temporary signs of 6 sq. ft. each and 24 sq. ft. in aggregate erected no more than 5 times or 60 days per calendar year aggregate                      Incidental signs of 2 sq. ft. each and 8 sq. ft. in aggregate per lot                      Warning of danger signs removed within 3 days of end of danger</p>	<p>Multi-family building signs of 4 sq. ft. each, no more than 1 per building                      Residential development entrance ground signs (2 per road) of 24 sq. ft.</p>	<p>Fifty (50) sq. ft. in aggregate, or 1 sq. ft. per 5 feet of lot frontage (whichever is less), no individual sign to exceed 24 sq. ft. in area or 15 feet in height.</p>	<p>Five percent (5%) of any single building facade or thirty-two (32) sq. ft. per unit or lot in aggregate, whichever is less. Window wall signs shall not occupy more than 25% of any window.</p>	<p>Other on-premises non-residential use advertising signs for principal permitted, special and existing non-conforming uses subject to Maximum Sign Surface Area for all signs on the lot as set forth in the two columns to the left.</p>

# Town of Wawarsing Zoning Law

Town of Wawarsing Zoning Law § 112-29, Schedule of Sign Regulations					
Prohibited Signs	Signs Allowed Without Permits	Signs Allowed with Permits from Enforcement Officer	Maximum Sign Surface Area Allowed for All Permitted Signs on a Lot Combined		Signs Permitted Upon Review by Planning Board
			Freestanding	Wall Signs	
<p>Animated, moving or flashing signs</p> <p>Portable and wheeled signs</p> <p>Roof signs</p> <p>Signs on vehicles parked to create a sign effect with being regularly in the normal course of business</p> <p>Signs on utility poles</p> <p>Signs not specifically permitted under this Law or by the authority of the Town Board or Planning Board</p> <p>Signs resembling traffic signals or official traffic signs</p> <p>Signs that emit sound, odor or smoke</p> <p>Signs unrelated to permitted uses on a property</p> <p>Signs extending beyond the edge of a sidewalk or within the cartway of any public road, whichever is greater</p> <p>Signs within 10 feet of power and telephone and television cable lines</p> <p>Signs of more than 15 feet in height</p>	<p>Awning, canopy or marquee signs of 4 sq. ft. in aggregate per lot</p> <p>Bus shelter signs of 10 sq. ft. no more than two per shelter or lot</p> <p>Civic and religious signs of 4 sq. ft.</p> <p>Directional and instructional signs of 4 sq. ft. in aggregate per lot</p> <p>Non-commercial flags, emblems, insignia and temporary signs</p> <p>Governmental signs</p> <p>Holiday decorations</p> <p>Name and address plates and plaques of 2 sq. ft. each in area and 4 sq. ft. in aggregate per lot</p> <p>No trespassing, no dumping and similar signs of 2 sq. ft. in area</p> <p>Parking lot entrance/exit sign (1) of 4 sq. ft., no more than 5 feet high</p> <p>Parking lot directional signs of 8 sq. ft. (16 sq. ft. in aggregate), no more than 7 feet high</p> <p>Real estate, temporary construction and contractor signs of 16 sq. ft.</p> <p>Sandwich board or A-frame sign (1) of 10 sq. ft. placed no more than 10 feet from principal building entrance</p> <p>Sports patron advertising signs of 32 sq. ft. in area</p> <p>Temporary signs of 16 sq. ft. each and 64 sq. ft. in aggregate erected no more than 5 times or 60 days per calendar year, aggregate incidental signs of 4 sq. ft. each and 12 sq. ft. in aggregate per lot</p> <p>Warning of danger signs removed within 3 days of end of danger</p>	<p>Multi-family building signs of 4 sq. ft. each, no more than 1 per building.</p> <p>Residential development entrance ground signs (2 per road) of 24 sq. ft.</p> <p>Awning, canopy or marquee signs of 16 sq. ft. each provided no more than 50% of awning, canopy or marquee is used for signage</p> <p>One permanently mounted changeable letter or fuel price sign of 36 sq. ft.</p> <p>Non-governmental flags of 24 sq. ft. suspended from poles of up to 36 feet in height</p> <p>One freestanding sign of 32 sq. ft., or one projecting sign of 32 sq. ft. 10 feet above the sidewalk or the ground, for non-residential use identification purposes</p> <p>Wall signs subject to the Maximum Sign Surface Area limitations to the right for such signs</p>	<p>Seventy-five (75) sq. ft. in aggregate or 1 sq. ft. per one foot of lot frontage (whichever is less), no individual sign to exceed 32 sq. ft. in area or 15 feet in height.</p>	<p>Ten percent (10%) of any single building facade or sixty-four (64) sq. ft. per unit or lot in aggregate, whichever is less. Window wall signs shall not occupy more than 25% of any window.</p>	<p>Other on-premises non-residential use advertising signs for principal permitted, special and existing non-conforming uses subject to Maximum Sign Surface Area for all signs on the lot as set forth in the two columns to the left.</p> <p>Off-premises non-residential use directional signs subject to maximums provided on this Schedule for all permitted signs. Commercial directory signs as defined herein (see Definitions section).</p>

Mixed-Use and Neighborhood Settlement Districts (MU, NS)

# Town of Wawarsing Zoning Law

<b>Town of Wawarsing Zoning Law § 112-29, Schedule of Sign Regulations</b>					
<b>Prohibited Signs</b>	<b>Signs Allowed Without Permits</b>	<b>Signs Allowed with Permits from Enforcement Officer</b>	<b>Maximum Sign Surface Area Allowed for All Permitted Signs on a Lot Combined</b>		<b>Signs Permitted Upon Review by Planning Board</b>
			<b>Freestanding</b>	<b>Wall Signs</b>	
Animated, moving or flashing signs Portable and wheeled signs Projecting signs extending more than 15 inches from an exterior wall Roof signs Signs on vehicles parked to create a sign effect with being regularly in the normal course of business Signs on utility poles Signs not specifically permitted under this Law or by the authority of the Town Board or Planning Board Signs resembling traffic signals or official traffic signs Signs that emit sound, odor or smoke Signs within the cartway of a public road Signs within 10 feet of power and telephone and television cable lines Signs of more than 15 feet in height (except as provided for non-residential use advertising signs in § 1308 of this Law)	Awning, canopy or marquee signs of 4 sq. ft. in aggregate per lot Bus shelter signs of 10 sq. ft. no more than two per shelter or lot Civic and religious signs of 4 sq. ft. Directional and instructional signs of 4 sq. ft. in aggregate per lot Non-commercial flags, emblems, insignia and temporary signs Governmental signs Holiday decorations Name and address plates and plaques of 2 sq. ft. each in area and 4 sq. ft. in aggregate per lot No trespassing, no dumping and similar signs of 2 sq. ft. in area Real estate, temporary construction and contractor signs of 16 sq. ft. Parking lot entrance/exit sign (1) of 4 sq. ft., no more than 5 feet high Parking lot directional signs of 8 sq. ft. (16 sq. ft. in aggregate), no more than 7 feet high Sandwich board or A-frame sign (1) of 10 sq. ft. placed no more than 10 feet from principal building entrance Sports patron advertising signs of 32 sq. ft. in area Temporary signs of 16 sq. ft. each and 64 sq. ft. in aggregate erected no more than 5 times or 60 days per calendar year aggregate Incidental signs of 4 sq. ft. each and 12 sq. ft. in aggregate per lot (up to 6 sq. ft. each and 16 sq. ft. in aggregate within RU Districts Warning of danger signs removed within 3 days of end of danger	Multi-family building signs of 4 sq. ft. each, no more than 1 per building Residential development entrance ground signs (2 per road) of 24 sq. ft. Awning, canopy or marquee signs of 16 sq. ft. each provided no more than 50% of awning, canopy or marquee is used for signage One permanently mounted changeable letter or fuel price sign of 36 sq. ft. One freestanding sign of 32 sq. ft. for non-residential use identification purposes Wall signs subject to the Maximum Sign Surface Area limitations to the right for such signs	One-hundred (100) sq. ft. in aggregate or 1 sq. ft. per two foot of lot frontage (whichever is less), no individual sign to exceed 32 sq. ft. in area or 15 feet in height.	Ten percent (10%) of any single building facade or sixty-four (64) sq. ft. per unit or lot in aggregate, whichever is less. Window wall signs shall not occupy more than 25% of any window.	Other on-premises non-residential use advertising signs for principal permitted, special and existing non-conforming uses subject to Maximum Sign Surface Area for all signs on the lot as set forth in the two columns to the left. Off-premises non-residential use directional signs subject to maximums provided on this Schedule for all permitted signs. Commercial directory signs as defined herein (see Definitions section). Other PUD District signs of 64 sq. ft., per subject to a maximum of 1 sq. ft., per 2 feet of lot frontage

All Other Districts  
(BH, IND, RU)

## Town of Wawarsing Zoning Law

### § 112-30 Cluster Development (Conservation Subdivisions).

- A. The Town of Wawarsing Planning Board shall be authorized, pursuant to § 278 of the Town Law and simultaneously with the approval of Development Plans under the Town of Wawarsing 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 processed pursuant to subdivision Development Plan approval procedures.
- B. 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.
- C. 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.
- D. Conservation/cluster subdivisions shall include at least five lots and the Planning Board shall have the authority to require an alternative Sketch Development Plan, for any subdivision of 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 then require use of this technique.
- E. The maximum permitted number of dwelling units shall be determined a yield plan. Such yield plan shall consist of a sketch plan for a conventional subdivision that takes into consideration all natural features of the property and the normally applicable bulk regulations and density standards for the district to yield an estimated realistic number of lots that would be achievable under this form of development. Such yield plan shall be subject to Planning Board acceptance and form the basis for the conservation subdivision design. The Planning Board shall also be authorized to increase density by as much as 10% where the proposed subdivision preserves more than 50% of the property as undeveloped open space and the design protects natural features to the maximum extent practicable.
- F. Only one-family detached and two family dwellings shall be employed in this concept. All other dwelling types shall be considered multi-family dwellings.
- G. 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 20 feet.



## Town of Wawarsing Zoning Law

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- H. No individual parcel of common open space shall be less than one 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 30% of the total land area of the conservation subdivision shall be dedicated to permanent undeveloped open space and at least 30% of 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.
- I. The open space resulting from conservation subdivision design shall be permanently protected through a conservation easement titled to a home owner's association (HOA), land conservancy, municipality or similar entity, prior to the sale of any lots or dwelling units by the subdivision. Membership in any HOA 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 HOA 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 HOA's cost and the HOA must be able to file liens on the lot/unit owner's property if levied assessments are not paid. The HOA must also have the ability to adjust the assessment to meet changing needs.

### § 112-31 Adult Uses.

- A. Findings. 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.
- B. 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.
- C. Separation Requirements Applicable to Adult Uses. Adult uses shall be limited to existing Industrial and Rural 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 of the structure incorporating any aspect of the adult use to the nearest property line of the of the premises incorporating any of the above listed uses.
  - (1) No adult use shall be located within a 200 foot radius of any other residential or commercial zoning district or another adult use.
  - (2) No adult use shall be located outside an ID Industrial or RU Rural District or within a one thousand (1,000)

## Town of Wawarsing Zoning Law

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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.

- D. 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.
- E. Signage. Adult use signage shall be limited to one approved ground sign not to exceed a surface area of 36 square feet for both sides combined.
- F. Nonconforming Buildings. No nonconforming building or lot shall be used for an adult use.
- G. 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 place within the Town of Wawarsing:
  - (1) Public appearance by a person knowingly or intentionally engaged in specified sexual activities.
  - (2) The knowing and intentional public appearance of a person in a state of nudity.
  - (3) Touching of patrons or the performance by any entertainer in an adult use facility within six feet of the nearest patron.
  - (4) Sale of alcoholic beverages.
- I. 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.

### **§ 112-32 Vehicle Junkyard and Wrecking Facilities.**

- A. Purposes. These regulations are enacted for the purpose of establishing minimum health and safety standards for junkyards in the Town of Wawarsing as well as controlling their location. They are enacted pursuant to the authority granted towns by § 136 of the General Municipal Law and § 112-41 of the Town Law.
- B. Scope. These regulations shall apply to all junkyards now existing or hereafter proposed in the Town of Wawarsing. 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.
- C. 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:
  - (1) Storage areas for officially recognized and operable antique or classic automobiles or other operable special purpose vehicles.
  - (2) Agricultural equipment which is utilized as part of an active farming operation or contractors' construction equipment which is part of an active contracting business.
  - (3) Automobile repair businesses or automobile, vehicle and equipment sales operations managed by State licensed dealers.

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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.

- D. License Required. No person, partnership, association or corporation, being the owner or occupant of any land within the Town of Wawarsing, 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 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;
- (1) A written application from the applicant on the form provided by the Town Building Inspector.
  - (2) The required fee as herein provided. Such fees shall be set by resolution of the Town Board.
- E. 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.
- F. 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.
- G. 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.
- H. 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 10 days after the service of such order.
- I. Suspension of License. If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order within 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.
- J. Expiration of License. Any license which is not used for the purpose intended within 12 months of the date of issuance shall automatically expire and the junkyard shall be removed in its entirety.
- K. Standards Applicable to New Junkyards. All new junkyards shall conform to the following standards:
- (1) No part of any junkyard shall be located closer than 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.
  - (2) New junkyards shall, moreover, be permitted only in the Industrial (I-1) District.
  - (3) All new junkyards must erect and maintain a eight foot fence or dense natural screening along the

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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. 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.

- (4) No junkyard shall be used as a dumping area for refuse or as a place for the burning or disposal of trash.
  - (5) 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.
  - (6) 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.
  - (7) All waste oils and similar waste products shall be stored and/or disposed of consistent with local and State requirements and best industry practices.
- L. 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:
- (1) Existing nonconforming junkyards shall, within a period of one 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.
  - (2) Applications for licenses to continue operating existing nonconforming junkyards shall, unless the owners thereof have indicated in writing their intention to discontinue operations as provided above, be made within one year following the effective date of this Law. All licenses shall, thereafter, be renewed by April 1 of each calendar year.
  - (3) Applications for licenses to continue operation of existing nonconforming junkyards shall include a site plan depicting the existing operation and any planned improvements as may be required by this Law.
  - (4) All existing junkyards shall include an eight 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.
  - (5) 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.
  - (6) 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:

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- (a) Impacts of the use on the enjoyment and use of adjoining properties and the community.
  - (b) 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.
  - (c) 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.
- M. 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 Wawarsing shall prepare site plans of the same to be submitted to the Planning Board under Special Use/Site Plan Review procedures.
- N. Junkyard Application Standards. All applications to operate junkyards in the Town of Wawarsing 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.

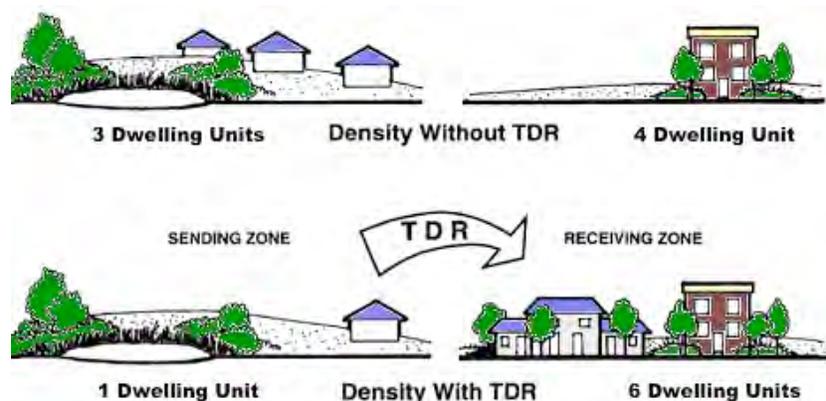
### § 112-33 Transfers of Density Rights.

A. Purposes. This section is intended to:

- (1) encourage the permanent preservation of important farmland and environmentally sensitive areas;
- (2) direct growth to locations where central sewage disposal services are available; and
- (3) provide a voluntary method for landowners to be compensated by the free market to preserve their land.

B. Applicability.

- (1) Owners of Sending and Receiving Properties may voluntarily commit to transfer residential density rights under this Zoning Law. Although the transfer of density rights shall only officially occur at the time of final approval of a subdivision or site plan, the process shall be initiated during the preliminary planning process. The approval of a preliminary plan shall then be conditioned upon compliance with this Section. As part of a preliminary and final plan application, the applicant shall present a draft Conservation Easement on the "Sending Property" and a



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written, signed and notarized agreement by the owner of the "Sending Property" acknowledging and agreeing to the application.

- (2) The Conservation Easement shall be drafted so that it is binding if the "Receiving Property" is granted Final Plan approval. The Conservation Easement shall be recorded at the same time as, or prior to, the Final Plan for the Receiving Property. If a Final Plan is recorded in phases, then the Conservation Easement may be recorded in corresponding phases.
- (3) The form of the Conservation Easement shall be acceptable to the Town Board based upon review by the Town Attorney and Planning Board. The term "Conservation Easement" shall include, but not be limited to, an Agricultural Conservation Easement. In the case of agricultural land, the standard language for an Agricultural Conservation Easement used by the Ulster County Agricultural and farmland Protection Board may be utilized. The easement shall limit the development of the Sending Property to agricultural and open space uses and associated accessory activities and any residual residential density not transferred to the Receiving Property.
- (4) A Sending Property shall be within the RS or RU District. A Sending Property shall have a minimum lot area of 10 acres.
- (5) A Receiving Property shall be within the RMH, MU, NS, BH or IND Districts.
- (6) Once a Conservation Easement is established it shall be binding upon all current and future owners of the Sending Property. The applicant for the Receiving Property is responsible to negotiate with, and pay compensation to, the owner of the Sending Property for the Conservation Easement. Such transaction shall occur privately, and the value shall be determined by the private market. The Town shall be under no obligation to pay the owner of the Sending Property.
- (7) The right to develop a Sending Property may also be purchased by or donated to an established incorporated nonprofit conservancy organization whose mission includes preservation of agricultural land or natural features. A permanent Conservation Easement shall, in such case, be established on the Sending Property at the time of such purchase or donation. The right to develop such dwelling units may be held for a maximum of 10 years, before being used on a Receiving Property(ies).

### C. Determination of density.

- (1) Yield Plans shall be presented by the applicant. One Yield Plan shall be presented for the Receiving Property and one for the Sending Property. Such Yield Plans shall be a level of detail typically found in a sketch plan, including potential lots and roads, steep slopes, 100 year floodplains and suspected wetlands. Such Yield Plans shall estimate the number of new dwelling units that could be lawfully constructed on each property under Town regulations without any transfer of development rights. Detailed percolation tests are not required on all potential lots but deep pit soil testing may be required in areas of suspected marginal soil types for subsurface sewage disposal.
- (2) Such Yield Plans shall be reviewed by the Town Planning Board, with advice by the Town Engineer, to determine whether each represents a reasonably accurate estimate of the number of dwelling units possible on each site, both physically and legally. If such estimates are determined to not be accurate, the applicant shall be required by the Planning Board to revise such Yield Plan.
- (3) Based upon the Yield Plans, permission to develop a number of dwelling units may be transferred from the Sending Property to the Receiving Property. The potential to develop some or all of the dwelling units may be transferred from the Sending Property, depending upon the amount of land affected by the permanent

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### Conservation Easement.

- (4) If, for example, the Yield Plan determines that 10 new dwelling units would be allowed under current zoning on the Sending Property, and the Sending Property will be preserved by a Conservation Easement, then the right to develop 10 additional dwelling units shall be transferred to the Receiving Property. The development of the Receiving Property shall still comply with all other requirements of this Zoning Law, except for the maximum density, which shall be regulated by this Section.
  - (5) The Receiving Property shall be permitted to include the increased total number of dwelling units above the number that would otherwise be permitted, as approved by the Town Planning Board based upon the Yield Plan, provided that density shall not be increased by more than 50% under any circumstance. Yard requirements may also be reduced, but in no instance to less than 20 feet for the front yard and 10 feet for the side and rear yards, except in instances where zero-lot line development is proposed with compensating yards on the opposite side. Also, no more than 35% of any given acre shall be covered with impervious surface in the form of access drives, parking areas or structures.
  - (6) Utilities. To receive a transfer of density rights, all lots of less than one acre on the Receiving Property shall be served by a central or communal sewage system.
  - (7) The transfer of density rights shall not be combined with incentives concerning Conservation Subdivision development.
- D. Once a conservation easement is established under a transfer of density rights, it shall be permanent, regardless of whether the Receiving Property is developed. The approval to develop the Receiving Property in a higher density shall be treated in the same manner as any other Final Subdivision or site plan approval. The Planning Board may extend time limits to complete the development of the Receiving Property in response to a written request.
- E. As part of a transfer of density rights, the development of the Receiving Property shall comply with all Town of Wawarsing zoning requirements, except for provisions specifically modified by this section.

### § 112-34 Design Guidelines.

The Planning Board may apply the following design guidelines in reviewing subdivision and site plans and attaching conditions to the approval of such plans:

- A. Building design and location.
- (1) Building design and location should be suitable for the use intended and compatible with natural and man-made surroundings. New buildings, for example, should, wherever possible, 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.
  - (2) 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.
  - (3) Building placement and site development layout should also incorporate the site's topography, existing vegetation and other unique features. Spatial relationship between buildings and other structures should be geometrically logical and/or architecturally formal (i.e., not haphazard or random). On a lot with multiple buildings, those located on the interior of the site should front towards and relate to one another, both functionally and visually, and may be organized around features such as courtyards, greens or quadrants.

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gles. Smaller, individualized groupings of buildings are encouraged. Buildings should be sited to provide adequate and safe fire and emergency access.

### B. Commercial and other large buildings.

- (1) Buildings should relate in scale and design features to the surrounding buildings, showing respect for existing and neighborhood architecture. Buildings should avoid long, monotonous uninterrupted walls or roof planes. Building wall offsets, including projections, recesses, and changes in floor level should be used in order to add architectural interest and variety, and to relieve the visual effect of a simple, long wall. Similarly, roof-line offsets should be provided, in order to provide architectural interest and variety to the massing of the building and to relieve the effect of a single, long roof. Commercial facades of more than 100 feet in length should incorporate recesses and projections, such as windows, awnings and arcades, along 20% of the facade length.
- (2) 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 residential uses, earthen berms planted with evergreen trees should be provided.
- (3) 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.
- (4) Signs should be compatible with building style in terms of location, scale, color and lettering, and in proportion with the size of the building and existing area signage. Signs should fit within the existing facade features, be confined to signable areas and not interfere with door and window openings, conceal architectural details or obscure the composition of the facade where they are located. Signs located along highway should be integrated into site landscaping.

### C. Driveways and streets.

- (1) 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.
- (2) All driveways and streets shall be subject to Town of Wawarsing requirements and review by the Superintendent of Highways. Cul-de-sac and dead-end streets should be discouraged in favor of roads and drives which connect to existing streets on both ends.
- (3) 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.
- (4) Driveway, sidewalk/walkway and curb materials shall be functional and compatible with the style, materials, colors and details of the surrounding buildings. The selection and use of pavement and curb materials shall consist of a stable material. Modular masonry materials such as brick blocks, slate and concrete pavers, or cast-in-place materials such as exposed aggregate concrete slabs shall be used, whenever possible, on sidewalks, pedestrian walkways and pathways. Granite, concrete or Belgian block shall be used for curbs, except as may be required to accommodate storm drainage measures. Asphalt shall not

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be permitted for sidewalks or curbs. Transitions in paving patterns or materials shall provide a smooth and continuous surface.

- D. 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.
- E. 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. Existing trees over 8" dbh shall be incorporated in the site design to the maximum extent practical, as shall be determined by the Planning Board, and none shall be removed prior to Site Plan Review and approval.
- F. 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.
- G. Historic buildings. New construction affecting existing buildings of historically traditional architectural design within the community should respect the existing height, bulk, scale and style of the existing architecture wherever practical. Materials used may be required to be of a similar color, texture and style of the existing architecture, excepting the Town may require conversion to permanent structures in the cases of changes or additions to seasonal use buildings.
- H. Utilities. Utilities for new projects should be installed underground if on same side of the road. When possible existing above grade utilities shall be placed underground.
- I. Site maintenance. Sites shall be maintained in accordance with the approved plans. Landscaping shall be appropriately maintained; dead, dying or diseased landscaping shall be replaced as needed. Every land use shall include adequate provisions for waste disposal, as determined by the Planning Board based upon documentation submitted by the applicant. Enclosure of waste storage facilities shall also be required.

### § 112-35 Mixed-Use Development.

- A. Authorization, description and purpose. Mixed-use projects may be permitted as Special Uses on tracts of at least 25 acres in total lot area within the RU, MU, NS and BH Districts, provided such parcels also have no less than 500 feet frontage on a State or County road. Such projects shall also be served by central sewage and water systems. Mixed-use projects shall combine neighborhood-serving retail and service uses with dwellings in planned developments designed to:
  - (1) Exhibit the physical design characteristics of pedestrian-oriented villages;
  - (2) Promote the health and safety of residents by putting shopping opportunities within walking distance of homes, thereby reducing the need for vehicular travel, and;
  - (3) Provide meaningful on-site recreation opportunities for residents.
- B. Permitted uses. Once Special Use approval is granted for a mixed-use project, the following uses shall be permitted by right:
  - (1) Business, medical and professional offices.

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- (2) Churches and other places of worship (which shall not be counted as commercial space)
- (3) Day care facilities.
- (4) Dwellings (single-family, two-family and multi-family).
- (5) Health care facilities and commercial exercise clubs.
- (6) Retail and service establishments.
- (7) Residential subdivision amenities and facilities.
- (8) Senior care projects.
- (9) Theaters.
- (10) Customary accessory uses and essential services.

Adult businesses shall not be permitted as part of any mixed-use project under any circumstances.

- C. Commercial establishment size limit. The gross floor area of any individual commercial and other non-residential establishment (per individual tenant) in any mixed-use project shall not exceed 100,000 square feet, excepting that multi-story establishments may be as large as 150,000 square feet per establishment or tenant.
- D. Indoor/outdoor operations. All uses within a mixed-use project must be conducted within completely enclosed buildings unless otherwise expressly authorized as part of the Special Use process. This requirement does not apply to off-street parking or loading areas, automated teller machines or outdoor seating areas. Outdoor seating areas shall be specifically designed for such use.
- E. Density. Mixed-use project maximum density shall be calculated for the project, based on the whole tract area, by applying the following minimum tract area criteria, after deducting 80% of FEMA-designated FEMA-designated 100-year floodplain areas, 60% all wetlands, 50% of natural slopes over 25% and areas contained within public road rights-of-ways and utility placement areas:
  - (1) the minimum tract area per dwelling unit as provided for the underlying district.
  - (2) 2,500 square feet of tract area for each 1,000 square feet of gross floor area of commercial and other non-residential space occupied by principal uses.

No mixed-use project shall, based on the above criteria, dedicate less than 25% of floor area to commercial retail, commercial service and commercial office uses, provided that senior care project and commercial space rented for non-profit educational or recreational use may be counted toward commercial floor area at a 50% ratio for purposes of these calculations. No more than 25% of the dwelling units shall be less than 1,250 square feet in floor area. The project must also be built according to a phasing plan, which shall be submitted by the applicant for approval by the Town of Wawarsing Planning Board. Such phasing plan shall ensure commercial floor area is constructed at the same or at a greater rate than the established 25% ratio of commercial to residential and non-commercial floor area.

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### F. Development standards.

- (1) All mixed-use projects shall include a minimum of 30% common open space, a minimum of 50% of which shall not include wetlands, slopes over 25% in grade, or FEMA-designated 100-year floodplains. Roads, parking areas, other impervious surfaces not intended for recreational use or any areas within 20 feet of a building footprint shall not be counted toward open space. Such common open space shall be titled to a property owners association organized in the manner provide herein for multi-family dwellings unless the Planning Board approves an alternative form of ownership the applicant proves would be appropriate and ensure adequate maintenance.
- (2) All dwellings shall meet existing setbacks for residential uses.
- (3) All structures shall be subject to fire lane and separation requirements as may be provided by State or local law.
- (4) The maximum building height shall be 45 feet.
- (5) Off-street parking spaces shall be provided according to parking regulations provided herein, except that the Town may reduce parking requirements when parking spaces will be shared by multiple uses, provided that no senior care housing shall have less than one space per dwelling unit, no other dwelling shall have less than two spaces per unit and not less than 4.75 parking spaces shall be provided per 1,000 square feet of gross floor area of commercial and other non-residential building space. Parking must generally be located to the rear or side of the principal buildings. All parking areas shall be fully landscaped and generally no more than 200 feet of continuous parking area uninterrupted by structures or landscaping shall be permitted. Fully landscaped shall mean interrupted by landscaped islands and similar treatments to ensure against extensive spans of impervious surface.
- (6) On-site community recreation amenities shall be provided for the use of residents, applying the "Park, Recreation Open Space and Greenway Guidelines" from the National Park and Recreation Association as general criteria for planning purposes. All recreational improvements within each phase shall be installed or financially guaranteed prior to final approval of that phase.
- (7) Sign standards for the mixed-use project may be modified by the Planning Board, provided the applicant submits a master signage plan for approval, which master signage plan shall be binding on mixed-use project tenants and not permit more than one square foot of total sign area per 50 square feet of gross commercial floor area, provided no individual sign shall exceed 200 square feet in sign area per face. Directional signs shall be excluded from the calculation. A directory sign or main entrance sign may be up to 350 square feet in sign area per face.

- G. Fiscal impact analysis. Mixed-use projects shall require a fiscal impact analysis to evaluate the financial impacts on the Town, School and County. Such analysis shall consider costs of municipal services as compared to taxes expected to be generated and other economic benefits. This analysis may be used as a basis for determining the appropriate commercial-residential mix for the project, although other factors may also be considered.

### § 112-36 Affordable Housing.

- A. Findings. The Town Board of the Town of Wawarsing hereby finds the need for affordable housing warrants the establishment of a system by which specific incentives or bonuses are granted for this purpose. The Town Board further finds several social benefits will inure to the community, the need for affordable housing being an inherent element of the Town Comprehensive Plan. These benefits include the ability to accommodate the lo-

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cation, within the Town, of first-time homebuyers and households otherwise transitioning to home-ownership and encouragement of property maintenance from the assuming of household ownership responsibilities. This Section 112-36, pursuant to the authority of Section 261-b of the New York State Town Law, offers adjustments in the permissible population density, area, height, open space, use, and other provisions of this law for the specific purpose of encouraging long-term development of affordable owner-occupied housing. This Section 112-36 also supersedes Section 261-b of the Town Law so as to not only offer a system of bonuses and incentives for affordable housing, but also to mandate its use in the case of owner-occupied residential dwelling projects of 25 dwelling units or more in total. All new residential dwelling projects or project additions of 25 or more cumulative dwelling units hereafter created on the same parcel of land or as part of a common scheme or plan of development shall provide for affordable housing as set forth herein.

- B. Definition. Affordable housing shall consist of owner-occupied dwelling units marketed at a “Net Affordable Purchase Price” (NAPP) including all fees, which price shall be approved by the Town Board and deliver a unit affordable to a household earning 100% of the median family income as defined in subsection H, assuming no more 30% of income being devoted to housing expenses. Floor area, for this purpose, shall not include decks and patios. Floor area shall also not include separate building storage areas, separate building mechanical space and common areas, all of which shall be considered common area and not considered in the purchase price.
- C. Administration. The Town Board shall administer the system of bonuses, incentives and requirements provided herein for affordable housing. It shall bear responsibility, also, for adjusting the definition of affordable housing as provided herein, establishing the income limits pertaining to this program, assuring compliance with these requirements, administering associated programs and otherwise promoting affordable housing in the Town of Wawarsing. The Town of Wawarsing Planning Board shall also apply these requirements in reviewing and approving subdivision and site plans for new housing projects subject to this Section 112-36.
- D. Minimum allocation. A minimum of 10% of the dwelling units in new residential projects or subdivisions of 25 or more cumulative dwelling units in total on the same parcel of land, or part of a common scheme or plan of development, shall be dedicated to affordable housing units as defined herein. Fractional units shall be addressed using the payments in lieu of provisions herein. Such units shall be marketed to eligible households, as defined herein, and at the NAPP set forth above. Any rental units created subsequent to adoption of this section and thereafter offered for sale as individual units shall also be subject to these requirements. The Town Planning Board, in approving new rental projects, shall require the adoption of deed covenants so restricting any future sale of such rental units.
- E. Quality and size of units. Affordable housing dwelling units shall be of a comparable construction quality and appearance to other dwelling units in a given project that are not marketed as affordable housing. Purchasers must accept units in a basic “as depicted” physical condition conforming to submitted plans, provided they meet New York State building standards, the standards of this section and other zoning requirements. Purchasers shall be entitled to no modifications except as may be required by law for handicapped access. Moreover, developers of affordable housing shall not comply with purchaser requests for any extra options or upgrades to be financed by the developer, the purchasers of such units, or others. All affordable units shall be fully ready to occupy, except for appliances, prior to sale.
- F. Review and approval. Prior to the approval of any affected subdivision or issuance of a building permit, the Town of Wawarsing Planning Board shall review and approve the subdivision, site and building plans to ensure the project meets the requirements of this Section 112-36. Prior to issuance of any Certificate of Occupancy all requirements of this section shall be met. Any Certificate of Occupancy issued without compliance with this chapter shall be null and void. The seller of any unit without a valid Certificate of Occupancy shall be liable in damages resulting from the lack of such Certificate.

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- G. Bonuses and incentives. The Town of Wawarsing Planning Board is hereby authorized to modify, when reasonable, with respect to subdivision and site plans for residential subdivisions and multi-family dwelling projects, the lot area, lot width and/or lot depth requirements provided in this zoning law. Such authority shall be limited to a maximum of 20% of the residential lots created and be further limited to those lots restricted to development for affordable housing, which shall be of the same type as the remainder of the subdivision or project (e.g. multi-family dwellings would not be permitted in a single-family development).
- H. Offering of affordable housing units. Affordable housing units shall be marketed, for owner-occupied housing only, to households approved for eligibility by the project owner or developers subject to provisions of this law and such additional guidelines as may be promulgated by the Town Board. Eligibility shall be limited to proposed owner households with combined earned and unearned income, averaged for the three most recent years, of less than 100% of latest median family income for the Town of Wawarsing as estimated by the U.S. Department of Housing and Urban Development, provided that the Town Board may employ an alternate measure of income if this estimate does not coincide with more recent local trends or other evidence. The Town Board may, also, based upon surveys of community housing needs, develop a system of owner-occupant selection priorities to be implemented and used by the project developer or owner in selecting owner-occupants.
- I. Verification. The Town Board may develop procedures and such implementing regulations as may be appropriate for this affordable housing program. The project owner or developer shall take applications, verify eligibility through documentation of income and otherwise assure compliance with the occupancies of affordable housing units provided under these regulations. Prior to the issuance of a Certificate of Occupancy for any affordable housing unit, the builder or developer shall provide the Town of Wawarsing Building Department with adequate evidence of sale to qualified households at the required price.
- J. Marketing of units. The project owner/developer shall determine whether a household is eligible for affordable housing provided hereunder and shall formally reply in writing to all applicants for such housing. Affordable housing unit availability shall be advertised in a newspaper of general circulation in the Town of Wawarsing at least 30 days prior to the units being offered for sale. Such newspaper shall include one designated or approved by the Town Board. Notice of the same shall concurrently be given in writing to the Town Board.
- K. Complaints. Any person aggrieved by the decision of an owner/developer in application of the eligibility and owner-occupant selection criteria or by the owner/developer's non-compliance with the standards of this section 112-36 may file a written complaint with the Town Board for a review of the owner/developer's conformance to the standards of this chapter, provided that such complaint is filed within 30 days of the owner/developer's action. The owner/ developer shall be entitled to a copy of the complaint. The Town Board shall make a finding with respect to any such complaint within 60 days of receipt and upon finding may, in its sole discretion, pursue such administrative or other civil remedies as may be available to it by law, including but not limited to qualifying the applicant for future housing, requiring the owner/developer to make additional affordable units available or the filing of a lien for the value of the affordable housing not properly provided in accordance with this section.
- L. Re-sales of units. The purchaser of any affordable housing unit shall, for a period of 15 years following purchase, be obligated to resell such unit only to another household eligible, under these regulations, for affordable housing, except as provided below for market-rate sales. Notwithstanding this provision, an owner/developer may retain a right of first refusal with respect to such units provided that they are subsequently resold only for affordable housing pursuant to this law. However, rentals of such units shall not be permitted under any circumstances, by either the developer/owner or affordable housing purchaser.
- M. Market-rate sales. Any sales within the 15 years shall be to other income-qualified households in the form of affordable housing as provided hereunder. Sellers shall in such instance be entitled to retain equity gained thereby, provided the unit is resold at the current affordable housing price as determined by the Town Board for the year in question. Should sale to income-qualified households not be possible, units may, with the approval

## Town of Wawarsing Zoning Law

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of the Town Board, be sold on the open market subject to a payment to the Town of Wawarsing Affordable Housing Fund in an amount equal to the sale price less the base (original sale) price divided by 15 and multiplied by such number of years, to the nearest quarter, that occupancy fell short of the 15 years required. The base price may include up to 5% for approved improvements made to the unit and an adjustment for inflation based upon the Consumer Price Index.

- N. Redevelopment fees. Open-market sales that take place within 15 years shall be subject, also, to a redevelopment fee of \$5,000 for each and every full year less than 15 that the unit is owned by the original purchaser, up to maximum of \$75,000. Such redevelopment fee shall be paid to the Town of Wawarsing Affordable Housing Fund for use in making additional affordable housing available within the Town. The Town Board shall have authority to waive or reduce this redevelopment fee in instances of documented hardship due to sudden changes in family situations or for other good cause, but shall be under no obligation to do so.
- O. Downpayments. No sales agreement for affordable housing unit subject to this Section 112-36 shall require a downpayment of more than 20% of the purchase price from an eligible household.
- P. Affordable Housing Fund. There is hereby created, pursuant to Section 10 of the New York State Municipal Home Rule Law, a Town of Wawarsing Affordable Housing Fund for the purpose of providing affordable owner-occupied housing for income qualified households. Such Fund shall be a segregated municipal fund controlled by the Town Board and used exclusively to provide for the acquisition, planning, construction, improvement, sale or resale, subsidy or other legal means of creating more owner-occupied affordable housing for income-qualified households within the Town of Wawarsing. Deposits into the Fund may include revenues of the Town from all authorized sources approved by the Town Board and shall include, at a minimum, all revenues from payments and fees collected by the Town pursuant to this Section 112-36. The Fund shall also be authorized to accept gifts. Interest accrued by monies deposited in the Fund shall be credited to the Fund. In no event shall monies deposited in the Fund be transferred to any other account unless determined to be in furtherance of the affordable housing goals of the Town.
- Q. Previously approved projects. This Section 112-36 shall not apply to site plans and subdivisions given conditional or full Preliminary Approval by the Town of Wawarsing Planning Board prior to its enactment.
- R. Payments in Lieu of Affordable Housing. The Town Board may, in its sole discretion, agree to exempt a given project from affordable housing requirements where practical difficulties having to do with the physical nature of the site involved would make the provision of such additional units economically or physically impractical. The developer, in such instance, shall pay the Town a redevelopment fee in lieu of the minimum allocation of affordable housing units or such portion thereof as is not provided. Such fee shall be annually established by the Town Board based upon the cost of replacing the affordable housing elsewhere plus any additional development costs associated with relocation. Fees in lieu of affordable housing shall be deposited into the Affordable Housing Fund. The Town Board shall review and may adjust this redevelopment fee on at least an annual basis. The Town Board may also, in its sole discretion, agree to accept, as an alternative to such redevelopment fee, the provision, by the developer, of affordable housing units located elsewhere within the Town of Wawarsing. Such units shall otherwise meet all standards herein with respect to affordable housing, including but not limited to the quality of the units. Such units shall also require approval of the Town of Wawarsing Planning Board and be processed prior to or simultaneously with the review and approval of the market-rate units. Any approval of the market-rate units shall be conditioned upon the prior start of construction and imposition of affordable housing restrictive covenants with respect to the affordable housing units. The Town Board may also require the posting of a financial guarantee to ensure the timely construction and offering of affordable housing units no later than the market-rate units.
- S. Enforcement. All affordable housing sales agreements shall include restrictive covenants that ensure the enforceability of the above requirements. Such covenants shall survive the sales transactions, be inserted in

## Town of Wawarsing Zoning Law

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deeds and include language setting forth that such restrictive covenants shall run until released by the Town Board. No Certificates of Occupancy shall be issued until such deed restrictions are recorded. The Town shall be represented at all closings for these purposes. The Town Board is further authorized to place liens on affected properties as may be required to enforce the provisions of this Section 112-36 and collect any amounts due the Town as provided herein. Release of any such liens shall require Town approval. Compliance with this section may be enforced by the Town and the cost to the Town of such enforcement may be assessed, levied, and collected in the same manner as Town taxes.

- T. Modifications and waivers. The standards provided herein for affordable housing shall be reviewed and may be modified from time to time by resolution of the Town Board to accommodate unique innovative projects that offer significantly greater value to households needing affordable housing. The Town Board may, following public hearing, also waive specific requirements of this Section 112-36 where the imposition of such provisions would cause undue hardship as a result of unique physical circumstances or frustrate the ability to provide affordable housing as intended. The Town Board shall, in all such circumstances, ensure any modifications or waivers serve to further the goal of providing affordable housing in the Town of Wawarsing.

### § 112-37 Kennels.

Additional requirements for commercial or institutional kennels or facilities for raising, breeding, training, care and boarding of dogs, cats and other domestic animals are as follows:

- A. The minimum lot size for the establishment of this use shall be 10 acres.
- B. The property as a whole shall be limited in use to the care and maintenance of domesticated animals and fowl. The Planning Board may approve the sale or breeding of said animals and fowl under such conditions and circumstances as it deems appropriate and in accordance with requirements of this section and the purposes of this chapter.
- C. Residential occupancy by the applicant and up to two employees shall be permitted on the site in living quarters which comply with the Town Building Code.
- D. Sufficient outdoor exercise space shall be provided for dogs to be exercised properly. The outdoor exercise area within which dogs will be permitted to roam shall be surrounded by a fence of wire mesh or similar construction sufficiently tall to contain all dogs within it, but a least four feet in height. This fence shall be sufficiently sturdy to contain all dogs using this area and shall be set back at least 150 feet from all property lines.
- E. At least 30 square feet of protected indoor space shall be provided for each dog. Any building housing dogs shall be at least 200 feet from all property lines.
- F. Except for temporary care facilities, a total of 100 square feet of combined inside and fenced outside space must be provided for each dog.
- G. All dogs which present a nuisance by barking shall be contained within soundproof buildings between the hours of 8:00 p.m. and 6:00 a.m. each day.
- H. In all instances, all dogs shall be adequately housed, fed, controlled, fenced, inoculated and otherwise maintained in a sanitary and safe manner so as not to create a nuisance, health or safety hazard to nearby properties, property owners or inhabitants of the neighborhood or the dogs themselves. The kennel shall be inspected on a regular basis, but at least three times per year, by a veterinarian who shall write a report on his observations. This report shall be kept on file on the premises and shall be presented to town officials for their examination upon their request.

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- I. This special permit for a kennel shall apply to the entire tract of land for which it has been issued. If this use shall cease for a period of six months or if any part of this property shall be sold or subdivided, this special permit shall be null and void.
- J. Except where specifically waived by this special permit, all laws or ordinances of the Town of Warwarsing pertaining to dogs or other animals shall be complied with in full..

### **§ 112-38 Timber Harvesting.**

The following requirements shall apply to timber harvesting, logging operations and sawmills:

- A. The owner of the property shall submit a letter or affidavit granting permission to the logger or operator, by name, to cut trees and designating the areas in which they may be cut.
- B. The Code Enforcement Officer shall receive approval, in writing, from the Town Highway Superintendent with recommendation as to such matters as specified entrance and exit from the public highway to the operations site, with signs posed on the highway noting "truck entrance."
- C. The loading area and loading operation and storing of logs shall be located at least 30 feet from the traveled way of any highway.
- D. Timber shall not be skidded across any highway nor shall log skidders cross the highway as part of the logging operation at any time.
- E. The New York State Department of Environmental Conservation shall approve the crossing of any stream as part of any logging operation, where required by law.
- F. All debris resulting from tree cutting along the highway and at the loading area within 50 feet of the highway shall be cleaned and removed by the applicant.
- G. An off-street parking area for logging equipment and other vehicles shall be located on the logging site at least 30 feet from any adjacent highway.
- H. Logging operations shall occur only within the bounds of the property leased or designated for tree cutting by the owner and shall not occur within 50 feet of any property line. No logging operations shall occur within 20 feet of the bounds of any stream.
- I. A logging operation plan shall be submitted. It shall include, but not be limited to, such information as type, size and location of trees to be cut, periods of operation, and intensity and extent of operations. No area shall be logged or clear-cut without the written approval of the Planning Board.
- J. The adjacent public highway shall be cleaned each and every day, to the satisfaction of the Town Highway Superintendent, of mud and debris left on the highway as a result of the logging operations.
- K. The Highway Superintendent shall inspect the logging operation on a frequent basis, and loggers shall be held responsible for any damage to pavement, shoulder, roads or drainage areas connected with adjacent highways being used for logging operations. The Town Highway Superintended shall have the authority to issue a stop-work order in any case where the Superintendent believes that a town roadway or bridge is in jeopardy from the logging operation.
- M. Because of narrow roads and conflicts with school bus operations, loggers may be restricted from transporting logs during certain hours or periods of the day.

## Town of Wawarsing Zoning Law

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- N. By applying for and obtaining a special permit for a logging operation, the logger agrees to indemnify, defend and hold harmless the town, its officers, employees, agents, or any of them from and against any losses, damages, liabilities, expenses, costs (including attorneys' fees) claims, suits, demands, actions, causes of action, proceedings, judgments, assessments, deficiencies and charges on account of physical damage to tangible property and personal injuries, including death, to the town, its officers, employees or agents and other persons arising from any occurrence caused by negligent or willful acts or omissions of the logger, its employees, agents, contractor or representatives, with regard to the logger's logging operations and transportation of logs.
- O. All loggers operating with the Town of Wawarsing adjacent to any town road shall post financial security, for the purpose of assuring compliance with this chapter and the directions of the Superintendent of Highways, in such form and in such amounts as determined by resolution of the Town Board of the Town of Wawarsing for each logging operation or loading area location. Such security aforesaid shall be in the form of a cash bond, certified check, letter of credit or surety bond in such amounts as determined by the Town Board. An additional sum, to be determined by resolution of the Town Board, shall be deposited with the town for each additional loading area. The loading area shall consist of not more than 100 linear feet adjacent to one side of a town highway. The Superintendent of Highways shall make a written recommendation to the Town Board with respect to the security deposit required in this subsection. The Superintendent may consult with the Town Engineer with respect to said sums, and the logger shall be required to pay for said consultation.
- P. For any logging operation, the logger shall provide the Town Clerk with a certificate of insurance and a policy from a New York State admitted carrier, naming the town as the co-insured or additional insured on a liability insurance policy providing coverage for not less than \$1,000,000 for death or injury to persons and damage to property.
- Q. No logging operation shall take place in the Town of Wawarsing during those periods as the Town Board shall determine, upon recommendation of its Superintendent of Highways, based upon existing weather and road conditions.
- R. The Town Superintendent of Highways shall, prior to the logger conducting logging operations, determine the carrying load limit of logging trucks and the routes that they shall be permitted to take.
- S. All timber harvesting practices shall comply with proper land/forest management practices and environmental protection as per New York State Department of Environmental Conservation (NYSDEC) Timber Harvesting Guidelines to the greatest extent practicable.

### **§ 112-39 Bus Storage Facilities.**

Bus storage facilities shall be permitted in the BH Business - Highway District subject to a Special Use Permit obtained from the Town of Wawarsing Planning Board. Such facilities shall include appropriate site enclosure and screening requirements as established by the Planning Board. All buses being stored or parked shall be licensed and in operating condition. All buses shall be maintained in such a manner to minimize emissions of odor, dust, smoke, gas, noise and vibrations.

### **§ 112-40 RESERVED.**

# Town of Wawarsing Zoning Law

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## Article 6 Nonconforming Uses and Structures

### § 112-41 Rights to Continue Nonconforming Uses.

- A. A use, building or structure lawfully in existence as of the effective date this law and nonconforming 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 nonconforming uses, buildings or structures who desire confirmation of their rights hereunder.
- B. It is the purpose of this Article to limit the injurious impact of nonconforming 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 nonconforming 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.
- C. 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 nonconforming use and to establish when Town review and approval shall be required for such actions.
- D. The protections extended by this Article to existing nonconforming uses, buildings, lots or structures, commonly known as "grandfathering", shall not extend to any nonconforming activity occurring subsequent to the effective date of this law, as amended.

### § 112-42 Normal Maintenance and Repairs.

- A. 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 nonconforming use of a building, lot or structure.
- B. 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.

### § 112-43 Restoration, Reconstruction or Re-establishment.

- A. If less than 75% of the floor area of any nonconforming use, building or structure is damaged, it may be restored or reconstructed by building permit issued within 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.
- B. A nonconforming use, building or structure may be re-established within a period of 12 months after it has been discontinued or vacated, with an extension of six months allowable where proven necessary to the Building Inspector.
- C. A nonconforming use, building or structure shall be considered abandoned under any one of the following circumstances:

## Town of Wawarsing Zoning Law

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- (1) 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
  - (2) The building has not been occupied for 12 months or more; or
  - (3) The nonconforming use has been replaced by a conforming use or changed to another use under permit from the Town; or
  - (4) The equipment and furnishings used in furtherance of the nonconforming use have been removed from the premises.
- D. 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 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.

### **§ 112-44 Changes and Additions.**

Excepting for activities provided for in § 112-43 above and accessory uses, all changes and additions to nonconforming structures and 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.

- A. There shall be no expansion in the amount of land area outside a nonconforming use (outdoor area) used for storage of materials, supplies and/or products, excepting with respect to those types of uses outlined in § 112-44 above and § 112-47 below.
- B. Where the nonconforming use 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.
- C. No addition, change or expansion of a nonconforming 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 nonconforming retail enterprise could be converted to a barber shop, for example, but not to an industrial use.
- D. 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.
- E. In no case will a change, addition or extension of a nonconforming 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.

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- F. 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.
- G. 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.

### **§ 112-45 Use of Existing Nonconforming 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 50% of the requirement for the district in which it is located or 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.

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## Article 7 Special Use and Site Plan Review Procedures

The Town of Wawarsing 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 to these reviews:

### § 112-46 Preliminary Site Plan.

An applicant for a Special Use permit may submit a preliminary site plan for review and advice by the Town of Wawarsing Building Department and 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. Should such preliminary site plan involve one-time additions of less than 10% and 200 square feet in floor area or accessory uses or structures, the Building Department may review and approve the site plan on its own. If these thresholds are exceeded, however, the site plan shall be referred to to the Planning Board. If referred to the Planning Board, this preliminary plan shall be used by such 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").

### § 112-47 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 site plan review and/or 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:

- A. 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.
- B. 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 system plans. These and other site plan features shall also be superimposed on an existing aerial photograph of the site.
- C. 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.
- D. 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.
- E. 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.
- F. The location and identification of proposed open spaces, parks or other recreation areas.
- G. The location and design of buffer areas and screening devices to be maintained.

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- H. The location of trails, walkways and all other areas proposed to be devoted to pedestrian use.
- I. The location of public and private utilities, including maintenance facilities.
- J. The specific locations of all signs existing and proposed, including a visual depiction of the latter.
- K. Preliminary architectural plans for the proposed buildings or structures, indicating typical floor plans, elevations, height and general design or architectural styling.
- L. A completed SEQRA Environmental Assessment.
- M. A completed Storm Water Pollution Prevention Plan (SWPPP), if required.
- N. A written description of all project elements including number of employees and other relevant data.
- O. Lighting details showing locations of luminaries, mounting heights and shielding details.
- P. 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. The Planning Board may require a fiscal impact analysis to evaluate the financial impacts of any project or land subdivision on the Town, School and County. Such analysis, if required, shall consider costs of municipal services as compared to taxes expected to be generated and other economic benefits.

### § 112-48 Waivers.

The Town of Wawarsing 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:

- A. No waiver shall result in allowing a use not permitted within the applicable Zoning District.
- B. 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.
- C. 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.
- D. 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.
- E. The Town of Wawarsing Planning Board, following a public hearing in conjunction with other matters before the Board, shall be permitted to modify the standards of this law to the extent of 10% of the stated criteria where the

## Town of Wawarsing Zoning Law

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circumstances otherwise meet the tests for an area variance as set forth in § 112-65 hereof.

F. Nothing herein shall authorize the Planning Board to waive State Environmental Quality Review requirements.

### **§ 112-49 Hearing and Decision.**

The Planning Board shall fix a time, within 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, if a hearing shall be required. It shall give public notice of such hearing at least five days prior to it in a newspaper of general circulation in the Town and decide upon the application within 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 business days after such decision is rendered.

### **§ 112-50 Conditions.**

The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental a proposed site plan or Special Use permit if one shall be required. Upon approval of said plan and/or permit, 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 Law for new lots and residential units of any kind.

### **§ 112-51 Referrals.**

The Planning Board is authorized to refer site plans and Special Use permit applications 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 Ulster County Planning Department are met. It shall also comply with all requirements of the New York State Environmental Quality Review Act.

### **§ 112-52 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.

### **§ 112-53 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 years from the date of approval unless the Planning Board shall have granted an extension in writing. Absent such an extension a site plan approval or Special Use permit shall be deemed to have expired. A Special Use which has been discontinued for a period of two or more years shall also be deemed to have lapsed.

### **§ 112-54 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 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

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Use approval. Should the applicant fail to make such remedies, the Special Use approval shall be revoked and the use immediately discontinued.

### **§ 112-55 Conformity with Other Plans, Laws and Ordinances.**

The Planning Board, in reviewing a site plan, shall consider its conformity to the Town of Wawarsing 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.

### **§ 112-56 Special Use Review Criteria.**

The Planning Board, in acting upon a site plan, shall, in the case of those uses also requiring Special Use permits 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:

- A. 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 Wawarsing.
- B. 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.
- C. Whether the use will have a positive or negative effect on the environment, job creation, the economy, housing availability or open space preservation.
- D. 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.
- E. 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.

### **§ 112-57 Bonding of Site Improvements.**

- A. 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 Wawarsing, 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.
- B. 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 Wawarsing has determined it to be a proper exercise of authority conferred upon it by the

## Town of Wawarsing Zoning Law

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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.

### C. Procedure.

- (1) 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.
- (2) 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 Wawarsing as joint tenant.
- (3) 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 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 30 days prior to its expiration, the Town of Wawarsing is given written notice of the issuing institution's intention not to renew such letter of credit.
- (4) 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.
- (5) 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.
- (6) During the course of construction, the performance security may be reduced, in the sole discretion of 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 50% of the original amount of the performance security.
- (7) 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.

### D. 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:

- (1) Site grading, including replacement of topsoil and seeding, and including necessary structural features such as retaining walls and ground cover.

## Town of Wawarsing Zoning Law

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- (2) Drainage, including waterways, conduits and all necessary appurtenances and structures.
  - (3) 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.
  - (4) Foundation course, pavement, curbs and sidewalks for all roads, drives, parking areas and walkways.
  - (5) Lighting, including all necessary wiring, structures and appurtenances.
  - (6) 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 Wawarsing and this chapter, as well as all drainage and soil erosion measures required to protect the site.
  - (7) 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.
- E. 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.
- F. 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.

### § 112-58 RESERVED.

# Town of Wawarsing Zoning Law

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## Article 8 Administration and Enforcement

### § 112-59 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 Wawarsing Planning Board. Likewise, permits requiring variances of this law shall only be issued with approval of the Town of Wawarsing Zoning Board of Appeals.

### § 112-60 Permit Requirements.

- A. 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 new wells, new 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.
- B. 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 90 days of expiration of the activity for which it was granted. A temporary permit shall not be valid beyond this period or three years from the date of issuance, whichever is shorter.
- D. 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 the Ulster County Sanitary Code.
- E. 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.
- F. 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.
- G. A building permit or Certificate of Occupancy may be revoked by the Building Inspector upon a finding that in-

## Town of Wawarsing Zoning Law

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formation 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.

- H. 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.
- I. 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:
  - (1) Aboveground swimming pools of two feet or less in depth.
  - (2) Portable structures of less than 144 square feet in size which are unoccupied and intended for storage.
  - (3) Patios, farm livestock fences and landscape improvements.
  - (4) All nonstructural accessory uses of a residential or temporary nature (30 days or less).
- J. 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.
- K. Permits issued hereunder shall expire after 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 12 months or subsequent extension of any length shall require approval of the Planning Board.
- L. 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.
- M. 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.
- N. No permits shall be issued for any new uses where there are unremedied existing violations.

### **§ 112-61 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 Wawarsing Zoning Law

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### § 112-62 Violations and Penalties.

- A. 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.
- B. 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.
- C. 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.
- E. A violation of this Law is hereby declared to be an offense punishable by a fine not exceeding \$350; for conviction of a second offense, punishable by a fine of not less than \$350 nor more than \$700; and, upon conviction for a third or subsequent offense, punishable by a fine not less than \$700 nor more than one thousand dollars (\$1,000). Each day's continued violation shall constitute a separate additional violation.
- F. 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 Wawarsing.

### § 112-63 Fees.

- A. All application fees for Special Use permits, variances, site plans, subdivisions and other matters or land use, planning and development which are brought before any agent or agency of the Town of Wawarsing shall be in accordance with a table of fees for licenses and permits, which table shall be created by resolution of the Town Board with assistance of the Planning Board and shall be maintained on a current basis and from time to time modified or updated upon recommendation of the Planning Board or upon initiation by the Town Board.
- B. Professional fees; deposits for services.
  - (1) The Town Board, the Planning Board, the Zoning Board of Appeals and the Building Department are empowered to charge an applicant the reasonable and necessary expenses for professional fees incurred by any of those boards or the Building Department as a result of professional work required to be performed on behalf of any of said boards or the Building Department as a result of the filing of an application seeking approval by that board or the Building Department. For the purpose of this § 112-63, professionals shall include but not be limited to engineers, attorneys, planning consultants, architects, traffic consultants and noise consultants.

## Town of Wawarsing Zoning Law

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- (2) Simultaneously with the filing of an application for approval of a development and prior to the commencement of the review of the application, the applicant or developer, as the case may be, shall deposit with the Town Supervisor a sum of money, as determined in §§ B(9), which sum shall be used to pay the costs incurred by the Town for engineering and legal services as described in this section.
- (3) Upon receipt of such sums, the Town Supervisor shall cause such monies to be placed in a separate non-interest-bearing account in the name of the Town and shall keep a separate record of all such monies so deposited and the name of the applicant or developer and project for which such sums were deposited.
- (4) Upon receipt and approval by the Town Board of itemized vouchers from a professional for services rendered on behalf of the Town pertaining to the application, the Town Supervisor shall cause such vouchers to be paid out of the monies so deposited, and shall furnish copies of such vouchers to the applicant or developer at the same time such vouchers are submitted to the Town.
- (5) The Town Board shall review and audit all such vouchers and shall approve payment of only such professional fees as are reasonable in amount and necessarily incurred by the Town in connection with the review, consideration and approval of the application. For purpose of the foregoing a fee or part thereof is reasonable in amount if it bears a reasonable relationship to the average charge by professionals to the Town for services performed in connection with the approval or construction of a similar application, and in this regard the Town Board may take into consideration the magnitude of the application and any special conditions or considerations as the Town Board may deem relevant.
- (6) If at any time during or after the processing of such application or in the construction, inspection or acceptance of the proposed project there shall be insufficient monies on hand to the credit of such applicant or developer to pay the approved vouchers in full, or if it shall reasonably appear to the Town Supervisor that such monies will be insufficient to meet vouchers yet to be submitted, the Town Supervisor shall cause the applicant or developer to deposit additional sums as the Supervisor deems necessary or advisable in or to meet such expenses or anticipated expenses.
- (7) In the event that the applicant or developer fails to deposit such funds or such additional funds, the Town Supervisor shall notify, as applicable, the Chairman of the Planning Board or Zoning Board of Appeals, Town Board and/or Town's Code Enforcement Officer of such failure, and any review, approval, building permit or certificates of occupancy may be withheld by the appropriate board, officer or employee of the Town until such monies are deposited.
- (8) After final approval, acceptance and/or the issuance of a certificate of occupancy relating to any specific application, and after payment of all approved vouchers submitted regarding such development, any sums remaining on account to the credit of such applicant or developer shall be returned to such applicant or developer, along with a statement of the vouchers so paid.
- (9) The amount of the initial deposit for the various developments covered by this section shall be as set forth in a schedule of deposits established from time to time, by resolution of the Town Board. Said schedule shall remain in effect and shall apply to all applicants and developers until amended or revised by subsequent resolution.
- (10) The deposits required by this section shall be in addition to any application fees as may be required by other laws, rules, regulations or ordinances of the Town, and shall not be used to offset the Town's general expenses for professional services for the several boards of the Town, nor its general administration expenses.

## Town of Wawarsing Zoning Law

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### § 112-64 Planning Board.

- A. The Town of Wawarsing Planning Board shall consist of seven members appointed as provided under Town Law and the Town Board shall designate one member of the Board as Chairperson. This Planning Board shall have the powers authorized under the New York State Town Law.
- B. Following appointment, all new Planning Board members shall attend a New York State sponsored training course for Planning Board members at the next scheduled course. Thereafter, Planning Board members are required to participate in continuing education courses as required by the New York State General Municipal Law.
- C. 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 as many as two alternate members of the Planning Board to serve for a term of one 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. The Planning Board Chairperson shall select which alternates to utilize in a given case. Alternate members shall also be subject to New York State training requirements.
- D. All Planning Board members shall attend at least 75% of all regularly scheduled meetings of the Planning Board in each calendar year of their appointment.
- E. In each calendar year of their appointment, Planning Board members shall attend at least 75% of all SEQR meetings to which they are assigned by the Planning Board Chairperson, or they must arrange to have another Planning Board member attend in their place.
- F. The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for a cause or for failing to comply with the minimum meeting attendance or training requirements established herein.
- G. The Planning Board shall, in addition to those duties provided under New York State Town Law, review and make recommendations to the Zoning Board of Appeals as provided herein, approve waivers as provided herein and appoint a Chairperson and Vice-Chairperson if this is not done by the Town Board.

# Town of Wawarsing Zoning Law

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## Article 9 Zoning Board of Appeals

### § 112-65 Establishment and Membership.

- A. 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 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. Board of Appeals members shall complete training and continuing education courses as required by New York General Municipal Law.
- B. 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 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.

### § 112-66 Powers and Duties.

- A. 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.
- B. Use variances.
- (1) 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.
  - (2) 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;
    - (a) he or she cannot realize a reasonable return, provided lack of return is substantial as demonstrated by competent financial evidence;
    - (b) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
    - (c) the requested use variance, if granted, will not alter the essential character of the neighborhood; and
    - (d) the alleged hardship has not been self-created.
  - (3) 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.

## Town of Wawarsing Zoning Law

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### C. Area variances.

- (1) 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.
- (2) 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:
  - (a) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  - (b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - (c) whether the requested area variance is substantial;
  - (d) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - (e) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
  - (f) 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.

- D. 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.

### § 112-67 Procedures.

- A. 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.
- B. 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.
- C. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the office of the Town Clerk within five 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.

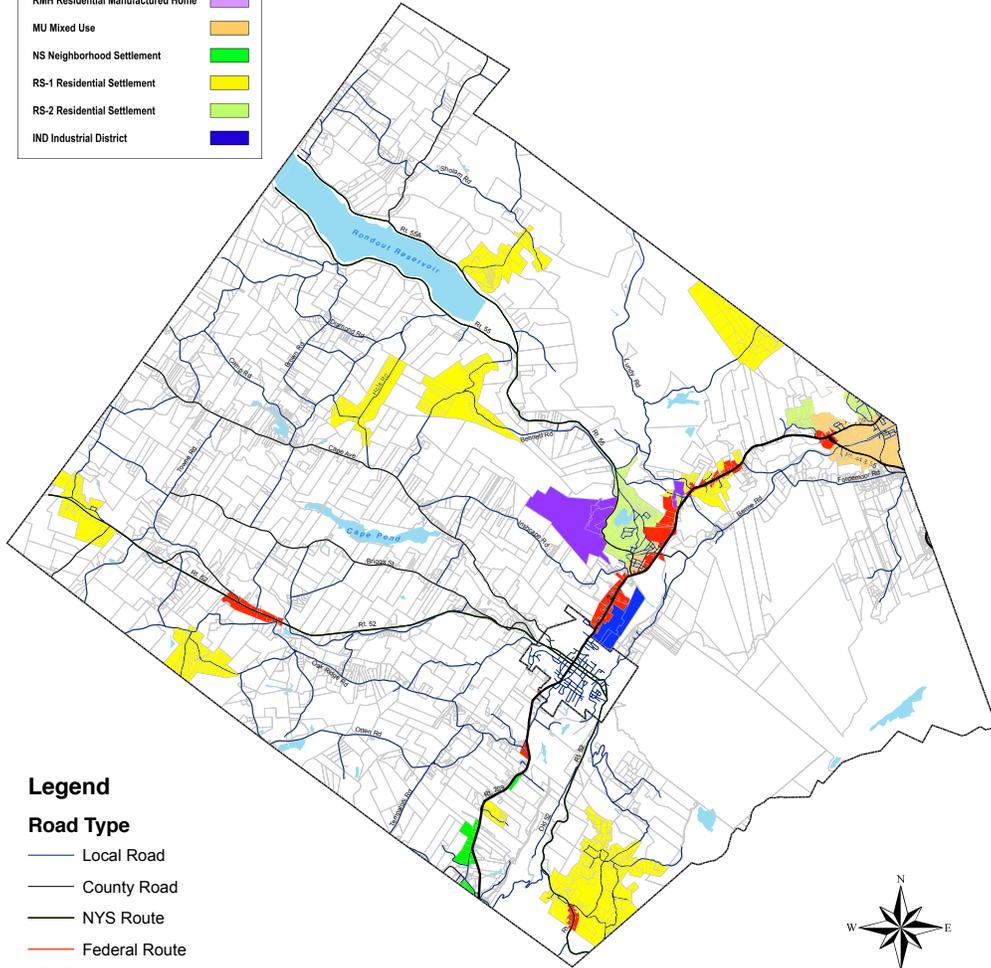
## Town of Wawarsing Zoning Law

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- D. 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.
- E. 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 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.
- F. Such appeal shall be taken within 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.
- G. 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.
- H. The Zoning Board of Appeals shall fix a reasonable time, no more than 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 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.
- I. The Zoning Board of Appeals shall decide upon the appeal within 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.
- J. The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the Town Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- K. At least five 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 500 feet of the property affected by such appeal; and to the Ulster 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.

# Wawarsing, NY: Zoning

RU Rural	
BH Business-Highway	
RMH Residential Manufactured Home	
MU Mixed Use	
NS Neighborhood Settlement	
RS-1 Residential Settlement	
RS-2 Residential Settlement	
IND Industrial District	



## Legend

### Road Type

-  Local Road
-  County Road
-  NYS Route
-  Federal Route
-  Municipal Boundary
-  Tax Parcel
-  Water Body



2 1 0 2 Miles



Base Map Produced by the  
Ulster County Planning Board  
12/24/2008  
Projection: NY State Plane East  
Datum: NAD 83