

Chapter 175

ZONING

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[HISTORY: Adopted by the Board of Trustees of the Village of Black River 6-17-1985 by L.L. No. 4-1985. Amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Ch. 34.
 Flood Damage Prevention — See Ch. 90.

Subdivision and Land Development — See Ch. 153.

ARTICLE I
 General Provisions

§ 175-1. Title.

This chapter shall be known as the "Village of Black River Zoning Law."

§ 175-2. Purposes.

- A. The purposes of this zoning law are to provide for orderly growth in accordance with a comprehensive plan, to lessen congestion in the streets, to secure safety from fire, flood and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements and to promote the health, safety and general welfare of the public.
- B. This zoning law has been made with reasonable consideration, among other things, as to the character of each zone and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land.

§ 175-3. Definitions.

- A. Word usage.
- (1) Except where specifically defined herein, all words used in this chapter shall carry their customary meanings.
 - (2) Words in the present tense include the future, the singular number includes the plural and the plural the singular.
 - (3) The word "lot" includes the word "plot." Doubt as to the precise meaning of any word used in this chapter shall be clarified by the Board of Appeals under their powers of interpretation.

- B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

ACCELERATED EROSION — The removal of the surface of the land through the combined action of man's activities and the natural processes at a rate greater than would occur because of the natural process alone.

ACCESSORY STRUCTURE — A subordinate structure located on the same lot with the main structure, occupied by or devoted to an accessory use. Where an accessory structure is attached to the main structure in a substantial manner, as by a wall or roof, such accessory structure shall be considered part of the main structure.

ACCESSORY USE — A use incidental and subordinate to the principal use and located on the same lot with such principal use.

ADJACENT — With reference to the location of a parking facility, land located across an alley, easement, street or highway from the building incidental to which such space for vehicle storage or off-street parking facility is required.

ADULT USES — Any person, establishment or business involved in the viewing or dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or relating to a sexual activity or anatomical area. [Added 6-6-1988 by L.L. No. 1-1988]

AGRICULTURAL BUSINESS — A business engaged in performing agricultural or horticulture services on a fee or contract basis, including: corn shelling; hay baling and threshing; sorting, grading and packing fruits and vegetables for the grower; agricultural produce milling and processing; horticultural services; crop dusting; fruit picking; grain cleaning; land grading; harvesting and plowing. The words "agricultural business" shall not include animal husbandry.

AGRICULTURAL STRUCTURE — Barns, silos, storage buildings, equipment sheds and other structures customarily used for agricultural purposes.

AGRICULTURE — The raising of crops, the selling of products grown on premises and any other commonly accepted agricultural operations, including incidental mechanical processing of products. The word "agriculture" shall not include the raising of animals or animal products.

ALTERNATE FRONT YARD SETBACK — Setback allowed for alterations to an existing structure which does not meet current setback requirements. [Added 12-8-2014 by L.L. No. 3-2014]

ANATOMICAL AREAS [Added 6-6-1988 by L.L. No. 1-1988] —

- (1) Less than the completely and opaquely covered genitals, pubic region or female breasts below a point immediately above the top of the areola.
- (2) Human male genitals in a discernibly turgid state, even if completely covered.

ANIMAL HOSPITAL — A place for the diagnosis, treatment and care by a doctor of veterinary medicine, licensed in the State of New York, of small animals commonly kept as household pets. Horses, cattle, sheep, goats and hogs are specifically excluded. [Added 12-4-1995 by L.L. No. 3-1995]

ANTENNA — 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, personal communication systems, cellular, paging and microwave communications.¹ [Added 12-6-1999 by L.L. No. 2-1999]

1. Editor's Note: The definition of "apartment unit," added 5-6-1991 by L.L. No. 1-1991, which immediately followed this definition, was repealed 12-6-1999 by L.L. No. 2-1999.

AREA (OF A SIGN) — The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem or any figure of similar character, as included within the definition of a sign, together with the frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. On signs with more than one face, only that face or faces visible from any one direction at one time will be counted.²

BUILDING — A shelter having a roof supported by column or walls and intended for the shelter or enclosure of persons, animals or property.

CAMOUFLAGING — The construction of facilities to house or support telecommunication towers so that the tower blends readily with the landscape, neighborhood and adjacent architectural features. Examples of camouflaging that could be used are silo and barn, windmill and simulated tree. [Added 12-6-1999 by L.L. No. 2-1999]

CAMP — Land on which are located one or more cabins, travel trailers, tents, shelters, houseboats or other accommodation suitable for seasonal or temporary living purposes, excluding mobile homes.

CODE ENFORCEMENT OFFICER — A person appointed by the Village Board to carry out the regulations of this chapter. [Amended 4-3-1995 by L.L. No.1-1995]

COMMUNITY CENTER — Includes public or private meeting hall or place of assembly, not operated primarily for profit.

CORNER LOT — A lot which has an interior angle of less than 135° at the intersection of two street lot lines. A lot abutting upon a curbed or uncurbed street or streets shall be considered a "corner lot" if the tangent to the curb or edge of street at its points beginning within the lot or at the points of intersection of the side lot lines with the street line intersect at an interior angle of less than 135°. [Added 6-6-1988 by L.L. No. 1-1988]

DANCING STUDIO — A place where any of the dancing arts are taught, whether for profit or not, by an instructor to students. [Added 12-4-1995 by L.L. No. 3-1995]

DISSEMINATION — The transfer of possession, custody, control or ownership of or the exhibition or presentation of any performance to a customer, member of the public or business invitee of any material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or anatomical areas. [Added 6-6-1988 by L.L. No. 1-1988]

DIVERSION TERRACE — A channel or dike constructed upslope of a project for the purpose of diverting stormwater away from the unprotected slope.

DWELLING UNIT — A building or part thereof used as living quarters for one family. The terms "dwelling," "one-family dwelling," "two-family dwelling," "three-family

2. Editor's Note: The definition of "auto repair or paint shop," which immediately followed this definition, was repealed 12-4-1995 by L.L. No. 3-1995.

dwelling" or "multiple-family dwelling" shall not include a motel, hotel, boarding house, tourist home, mobile home or similar structure.

- (1) DWELLING, ONE-FAMILY — A detached building designed for or occupied exclusively by one family.
- (2) DWELLING, TWO-FAMILY — A building designed for or occupied by two families living independently of each other.
- (3) DWELLING, THREE-FAMILY — A building designed for or occupied by three families living independently of each other.
- (4) DWELLING, MULTIPLE-FAMILY — Any garden apartment, townhouse or similar non-owner-occupied building, including the conversion of an existing single-family dwelling designed for occupancy into separate dwelling units therein by more than two families. [Amended 6-5-1989 by L.L. No. 2-1989]

DWELLING, SEMI-DETACHED — A portion of a building containing one dwelling unit, having one side yard and having one party wall in common with another dwelling unit along a property line. Each dwelling unit is located on a separate lot with separate utility connections and separate driveways. [Added 11-6-2006 by L.L. No. 4-2006]

EARTHMOVING ACTIVITY — Any construction or other activity which disturbs the surface of the land, including but not limited to excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth.

EMBANKMENT or FILL — A deposit of soil, rock or other material placed by man.

EROSION — The natural process by which the surface of the land is worn away by the action of water, wind or chemical action.

EROSION AND SEDIMENTATION CONTROL PLAN — A plan which is designed to minimize accelerated erosion and sedimentation as set forth in § 175-36.

ESSENTIAL SERVICES — Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities.

EXCAVATION — A cavity formed by digging, quarrying, uncovering, displacing or relocating soil or rock.³

FARM ANIMALS — Domestic fowl, poultry, domestic hares, rabbits, minks and members of the equine, bovine, ovine, and porcine species, or any other animal which may be raised for the purpose of a hobby, or for producing any consumable or marketable product or by-product. [Added 8-1-2016 by L.L. No. 2-2016]

3. Editor's Note: The definition of "family," which immediately followed this definition, was deleted 4-3-1995 by L.L. No. 1-1995.

FENCE — A structure of wood, stone or other materials intended to delineate property lines, security, screening, partitioning or enclosure or for the retention of earth or stone fill or other materials as in the case of retaining walls and bulkheads. A wall shall be considered a fence. [Added 4-6-1998 by L.L. No. 2-1998]

dead person as an incident to burial and/or cremation. **[Amended 12-4-1995 by L.L. No. 3-1995]**

GARAGES, PRIVATE — An accessory building not operated for gain and used in conjunction with a principal building which provides for the storage of motor vehicles and/or other household items.

GARAGES, PUBLIC — Any garage other than a private garage, operated for gain, available on a rental basis for the storage of motor vehicles.

GENERAL PLAN — A comprehensive or master plan for the development of the village prepared by the Planning Board pursuant to § 7-722 of the Village Law.

GROSS ACRE (NET ACRE) — "Gross acre" means total acreage within legal boundaries. "Net acre" means gross acres minus unusable acres including streets, open drains and those acres deemed unusable because of excessive slopes or other geological features.

GROSS FLOOR AREA (GFA) — The gross size of the total floor area of the outside dimension of a building times the number of floors.

GROSS LEASABLE AREA (GLA) — The gross size of the floor area of a commercial/retail facility which is leased.

HOME OCCUPATION — A nonresidential activity conducted within a dwelling unit or mobile home in accordance with the provisions of § 175-16 of this chapter.

INTERCEPTOR CHANNEL — A channel or dike constructed across a slope for the purpose of intercepting stormwater, reducing the velocity of flow and diverting it to outlets where it may be deposited.

JUNK — The outdoor storage or deposit of any of the following shall constitute junk: **[Added 6-6-1988 by L.L. No. 1-1988]**

- (1) One or more junk vehicles.
- (2) One or more junk mobile homes.
- (3) One or more junk appliances, including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions.
- (4) Building materials kept more than six months.

JUNK STORAGE AREA — The area of any parcel of land or water used or intended to be used for the placement or storage of junk items. **[Added 6-6-1988 by L.L. No. 1-1988]**

JUNK VEHICLES — **[Added 6-6-1988 by L.L. No. 1-1988]**

- (1) Any motor vehicle, automobile, bus, trailer, truck, tractor, motor home, motorcycle, bicycle, minibicycle or snowmobile or any other device originally intended for travel on the public highways which meets any of the following conditions:

- (a) It is unlicensed for six months.
 - (b) It is either abandoned, wrecked, stored, discarded, dismantled or partly dismantled.
 - (c) It is not in any condition for legal use upon the public highway.
 - (d) It is in such condition as to cost more to repair and replace in operating condition than its reasonable market value at that time before such repair.
- (2) With respect to any motor vehicle not required to be licensed or motor vehicle not usually used on public highways, the fact that such motor vehicle has remained unused for more than six months and is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a "junk vehicle."

JUNKYARD — The outdoor storage or deposit of any of the following: **[Added 6-6-1988 by L.L. No. 1-1988]**

- (1) Five or more junk vehicles.
- (2) Two or more junk mobile homes.
- (3) Five or more junk appliances, including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions.
- (4) Any combination of the above that totals five items.

KENNEL — Land or building used for the breeding, boarding, training, sale, housing or harboring of five or more dogs or cats or combination thereof over six months of age. **[Added 12-4-1995 by L.L. No. 3-1995]**

LAND USE ACTIVITY — Any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or a structure. "Land use activity" shall explicitly include but shall not be limited to the following: new structures, expansions to existing structures, new uses, changes in or expansions to existing uses, streets, driveways and excavations for the purpose of extracting soil or mineral deposits.

LOT — A parcel of land occupied or designed to be occupied by one building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this chapter, having not less than the minimum area, width and depth required for a lot in the district in which such land is situated and having frontage on a street or other means of access as may be determined by the Planning Board to be adequate as a condition of the issuance of a zoning permit for a building on such land.

LOT COVERAGE — Any and all buildings, accessory structures and accessory uses on any given lot. **[Added 4-15-1999 by L.L. No. 1-1999]**

LOT FRONTAGE — The distance between the boundaries of a lot measured at their points of intersection with the street right-of-way line.

LOT LINE — Property lines bounding a lot.

LOT COVERAGE — Any and all buildings, accessory structures and accessory uses on any given lot. [Added 4-15-1999 by L.L. No. 1-1999]

LOT FRONTAGE — The distance between the boundaries of a lot measured at their points of intersection with the street right-of-way line.

LOT LINE — Property lines bounding a lot.

LOT LINE, FRONT — The property line separating a plot or parcel of property from a public street or highway. If a lot adjoins two or more streets or highways, the yard on the street designated as the lot's E911 address shall be considered the front lot line. [Added 12-8-2014 by L.L. No. 3-2014]

LOT LINE, REAR — That lot line which is opposite and most distant from the front lot line. [Added 12-8-2014 by L.L. No. 3-2014]

LOT OF RECORD — Any lot which individually or as a part of a subdivision has been recorded in the County Clerk's office and for which proof can be given that the lot was intended for development prior to adoption of this chapter.

MANUFACTURED BUILDING — Has the following characteristics: it is:

- (1) Mass-produced in a factory.
- (2) Designed and constructed for transportation to a site for installation and use when connected to required utilities.
- (3) Either an independent, individual building or a module for combination with other elements to form a building on the site.

MANUFACTURED HOUSING — A manufactured building or portion of a building designed for long-term residential use.

MOBILE HOME — Manufactured housing built on a chassis. A "mobile home" shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A "mobile home" shall not be construed to be a travel trailer or other form of recreational vehicle.

MOBILE HOME PARK — Land on which two or more mobile homes are parked and occupied for living purposes.

MOTEL/HOTEL — A building or group of buildings, whether detached or in connected units, containing transient and/or permanent lodging facilities for the general public and which may contain accessory facilities such as restaurants, meeting rooms, retail business activities and related activities primarily to accommodate the occupants, but open to the general public, including buildings designated as auto cabins, auto courts, motor lodges, tourist courts and similar terms.

MOTOR VEHICLE REPAIR SHOP — A building or portion of a building arranged, intended or designed to be used for making repairs to motor vehicles. This shall include auto repair and/or paint shops. [Amended 12-4-1995 by L.L. No. 3-1995]

NET ACRE — The area of the lot, excluding those features or areas which for regulatory reasons cannot be built upon. Yard areas required by this law are not excluded. [Amended 2-2-2009 by L.L. No. 1-2009]

NONCONFORMITY — A lot, building, structure or use of land legally and substantially existing at the time of enactment of this chapter which does not conform to the regulations of the district in which it is situated.

NURSERY SCHOOL — A building, structure or portion thereof used principally for preschool education of children by one or more teachers certified pursuant to the New York State Education Law. [Added 12-4-1995 by L.L. No. 3-1995]

OFF-STREET PARKING FACILITY — A space for parking off the public streets and places in the village.

PERSON — An individual person, copartnership, voluntary association or corporation.

PERSONAL SERVICES — Includes barber, hairdresser, beauty parlor, shoe repair, shoe shine, laundry, laundromat, dry cleaner, photographic studio and businesses providing similar services of a personal nature.

PORTABLE SIGN — Any sign which by its design is able to be and is commonly moved from place to place.

PRIVATE CLUB — A building or use catering exclusively to club members and their guests for fraternal or recreational purposes. [Added 12-4-1995 by L.L. No. 3-1995]

PROFESSIONAL OFFICES — The use of offices and related spaces for such professional services as are provided by medical practitioners, attorneys, architects, engineers and similar professions.

PUBLIC AND SEMIPUBLIC FACILITY — Any one or more of the following uses, including grounds and accessory buildings necessary for their use:

- (1) Religious institutions.
- (2) Public parks, playgrounds and recreational areas when authorized or operated by a governmental authority.
- (3) Schools.
- (4) Public libraries.
- (5) Not-for-profit fire, ambulance and public safety buildings.

QUARRY/SAND PIT/GRAVEL PIT — A lot or land or part thereof used for the purpose of extracting stone, sand or gravel for sale, as a commercial operation.

REAR LOT LINE — That lot line which is opposite and most distant from the front lot line. In the case of square corner lots, the lot lines opposite the two front lot lines shall both be rear lot lines. [Amended 4-3-1995 by L.L. No.1-1995]

RECREATION PLAN — A comprehensive plan showing specific recreation improvements and equipment. [Added 6-5-1989 by L.L. No. 2-1989]

RECREATIONAL VEHICLE — Includes motor homes, truck campers, camping trailers, travel trailers and pop-up trailers used for recreational, travel and living purposes.

RECREATION, OUTDOOR — Includes golf driving range, golf pitch-and-putt course and par-three golf course; recreation court; open space; playfield; swimming pool; bike trails; hiking trails; and similar facilities for outdoor recreation. "Outdoor recreation" shall not include any building.

RECREATION VEHICLE — Includes motor homes, truck campers, camping trailers, travel trailers and pop-up trailers used for recreational travel and recreational living purposes. Boat trailers with or without boats mounted on them shall be considered to be included in the definition of "recreation vehicle." [Added 5-6-1991 by L.L. No. 1-1991]

RELIGIOUS INSTITUTION — Includes church, temple, parish house, convent, seminary and retreat house.

REPAIR SHOP — Any home occupation designed, for profit or not, to repair items, including but not limited to appliances and small engines. [Added 12-4-1995 by L.L. No. 3-1995]

RESTAURANT — Any establishment, however designated, at which food is sold for consumption to patrons seated within an enclosed building or on the premises. However, a snack bar or refreshment stand at a public or semipublic community pool, playground or park operated by the agency or group or an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a "restaurant."

RETAIL GASOLINE OUTLET — Any establishment that sells gasoline to the public. This includes service stations, convenience stores, car washes or any other facility that sells gasoline.

RETAIL, LARGE-PRODUCT — Includes sales and service for new and used automobiles, trucks, mobile homes, boats, recreational vehicles and farm implements, auctioneers where auctions take place on-site, retail tree nurseries and garden shops, furniture and large appliance sales.

RETAIL, SMALL — A commercial activity characterized by the direct on-premises sale of goods and services to the ultimate consumer, including on-premise manufacturing, processing and servicing and preparation customarily associated therewith and generally involving stock-in-trade such as are normally associated with department stores, food markets and similar establishments.

SCHOOL — Includes parochial, private, public and nursery school, college, university and accessory uses; and shall exclude commercially operated school of beauty culture, business, dancing, driving, music and similar establishments.

SEDIMENT — Soils or other surficial materials transported by surface water as a product of erosion.

SEDIMENTATION — The process by which sediment is deposited on stream bottoms.

SETBACK — Perpendicular distance measured between the principal building line or accessory structure line and the property line, center line or property street line.

[Amended 12-8-2014 by L.L. No. 3-2014]

SEXUAL ACTIVITIES [Added 6-6-1988 by L.L. No. 1-1988] —

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

SHOPPING CENTERS — Facilities providing retail and services, large-product retail and services or offices and business services in excess of 25,000 square feet gross leasable area.

SIDE LOT LINE — A lot line not a front lot line or a rear lot line. In the case of square corner lots, the lot lines opposite the two front lot lines shall both be side lot lines.

[Amended 4-3-1995 by L.L. No.1-1995]

SIGN — Any structure or natural object or part thereof or device or inscription located upon, attached thereto or painted or represented on any land or on the outside of any building or structure or part thereof or affixed to the glass of a window so as to be seen from the outside of a building which shall be used to attract attention to any object, product, place, activity, person, institution, organization or business or which shall display or include any letter, words, numerals, emblems, symbols, models, banner, flags, pennants, insignia, trademarks, devices or representation used as or which is in the nature of an announcement, direction, advertisement, attention-arrester, warning or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, industry or public performance. "Sign" shall include any letter, word, model, banner, pennant, insignia, trade flag or other device or representation used as or which is in the nature of an advertisement, announcement or direction, but excluding any public traffic or directional signs. ⁴

STABILIZATION — The proper placing, grading and/or covering of soil, rock or earth to ensure their resistance to erosion, sliding or other movement.

STORAGE SHED, ACCESSORY — A one-story nonhabitable building no greater than 160 square feet used to store small items. [Added 12-8-2014 by L.L. No. 3-2014]

STREET — A public way for vehicular traffic which affords the principal means of access to abutting properties.

4. Editor's Note: The definition of "stables," which immediately followed this definition, was deleted 4-3-1995 by L.L. No. 1-1995.

STRUCTURE — Any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, satellite dishes, tanks and any fixtures, additions and alterations thereto. The word "fences" shall not be included in the definition of "structure."

TELECOMMUNICATIONS FACILITY [Added 12-6-1999 by L.L. No. 2-1999] —

- (1) Towers and/or antennas, accessory structures and any equipment used in conjunction with the provision of cellular telephone service, personal communications services (PCS), paging services, radio and television broadcast services and similar broadcast services. A telecommunications facility shall include monopole, guyed, lattice work towers and other similar structures, as well as antennas, switching stations, principal and accessory telecommunications equipment and supporting masts, wires, structures and buildings.
- (2) The following types of telecommunications equipment are not considered telecommunications facilities and are not subject to the provisions of this chapter:
 - (a) Antennas used solely for residential household reception.
 - (b) Satellite antennas measuring two meters or less in diameter and located in commercial districts and satellite antennas one meter or less in diameter, regardless of location.
 - (c) Law enforcement, fire control, E911 and emergency facilities.

TELECOMMUNICATIONS TOWER — A structure on which transmitting and/or receiving antennas are located. It includes, without limitation, freestanding towers, guyed towers, monopoles and similar structures that may employ camouflaging. [Added 12-6-1999 by L.L. No. 2-1999]

TOURIST HOME — Any permanent building or part thereof which is used or occupied for the overnight accommodation of transient guests and for which compensation is given. The terms include tourist home, tourist cabin, hotel, auto court, bed-and-breakfast and motel.

TOWNHOUSE — An individually owned one-family dwelling in a row of at least two such units in which each unit has its own front and rear access to the outside. No unit is located over another unit and each unit is separated by any other unit by one or more vertical common fire-resistant walls. [Added 2-2-2009 by L.L. No. 1-2009]

TRAVEL TRAILER — A movable living unit equipped with a chassis but lacking any one of the following mechanical equipment: plumbing, heating, electrical, cooking and refrigeration.

USE — The specific purposes for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.

USE, CONDITIONAL — A use requiring site plan review by the Planning Board prior to the issuance of a zoning permit by the Code Enforcement Officer. [Amended 4-3-1995 by L.L. No. 1-1995]

USE, PRINCIPAL — A use not requiring Planning Board review, but requiring a zoning permit issued by the Code Enforcement Officer. [Amended 4-3-1995 by L.L. No. 1-1995]

USE, TEMPORARY — An activity conducted for a specified limited period of time. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work and seasonal produce stands.

VARIANCE — A variance is any departure from the strict letter of this chapter granted by the Zoning Board of Appeals as it applies to a particular piece of property. Variances run with the land and are not particular to any one landowner.

VISIBILITY/SIGHT AREA — The portion of a corner lot within an area formed by connecting the point of intersection of adjacent street curblines (or if there are no street lines or curbs) and points on each of the street curblines a certain required distance from the intersection. The purpose is to ensure line-of-sight visibility of vehicular and pedestrian traffic in or near the intersection in all directions. [Added 12-8-2014 by L.L. No. 3-2014]

VISUAL OBSTRUCTIONS — Any permanent or temporary structure or vehicle, sign, planting or fence that obscures, impedes, or blocks visibility of oncoming traffic or pedestrians. [Added 12-8-2014 by L.L. No. 3-2014]

WILD OR EXOTIC SPECIES — Any animal of a species prohibited by Title 50, Code of Federal Regulations, or otherwise controlled or prohibited by the State of New York. This shall include but not be oodlimited to wild and exotic species from the dog family, cat family, bears, weasels, raccoons, porcupine, skunks, snakes (venomous and constricting), lizards, alligators, crocodiles, venomous fish and piranha, venomous invertebrates, and any other non-native exotic species as determined by a qualified expert in the field. [Added 8-1-2016 by L.L. No. 2-2016]

YARD — Space on a lot not occupied with a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

YARD, FRONT — The space within and extending the full width of the lot from the center line of the street to the part of the principal building which is nearest to such center line. If a lot adjoins two or more streets or highways, the yard on the street designated as the lot's E911 address shall be considered the front yard. [Amended 12-8-2014 by L.L. No. 3-2014]

YARD, REAR — The space within and extending the full width of the lot from the rear lot line to the part of the principal building which is nearest to such lot line. [Amended 12-8-2014 by L.L. No. 3-2014]

YARD, SIDE — The space within the lot extending the full distance from the front yard to the rear yard and from the side lot line to the part of the principal building which is nearest to such side lot line.

ARTICLE II
Establishment of Zones

§ 175-4. Types of zones.

For the purpose of this chapter, the Village of Black River is hereby divided into types of zones, as follows:

- A. WR: Waterfront Recreation Zone.
- B. AG: Agricultural Zone.
- C. Residential A: One-Family Residential Zone.
- D. Residential A(1): One-Family/Two-Family Residential Zone.
- E. Residential A(2): Single- and Multiple-Family Development Zone. [Added 4-3-1995 by L.L. No.1-1995]
- F. B(1): Business Zone.
- G. B(2): Downtown Business Zone.
- H. PD: Planned Development Zone.
- I. Residential A(3): Single-Family, Multiple Family, and Mobile Home Zone. [Added 12-4-1995 by L.L. No. 3-1995]
- J. Residential A(4) Zone. [Added 11-6-2006 by L.L. No. 4-2006]

§ 175-5. Adoption of Zoning Map. [Amended 6-10-2002 by L.L. No. 3-2002; 11-6-2006 by L.L. No. 4-2006]

Said zones are shown, defined and bounded in the map accompanying this chapter entitled "Village Zoning Map" dated June 17, 1985, as amended November 2006, and filed with the offices of the Village Clerk, which map and all explanatory matters thereon is by this reference incorporated into this chapter.

§ 175-6. Interpretation of boundaries.

Where uncertainty exists with respect to the boundaries of the various zones, as shown on the Zoning Map, the following rules shall apply:

- A. The zone boundaries are street lines unless otherwise shown, and where the designation on the Zoning Map indicates a boundary approximately upon a street line, such line shall be construed to be the boundary.
- B. Where the designation on the Zoning Map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary.

- C. Where a zone boundary line divides a lot of record at the time such line is adopted, the use authorized on and the zone requirements of the least restricted portion of such lot shall be understood as extending to the entire lot.
- D. Distances shown on the Zoning Map are perpendicular distances from street lines measured back to the zone boundary line, which lines in all cases where distances are given are parallel to the street line.
- E. In other cases the boundary line shall be determined by the use of the scale on the Zoning Map.
- F. In the event that a mete-and-bound description has been filed for a change of zone or variance of use as required by this chapter, such mete-and-bound description shall be used in lieu of other provisions of this section.

ARTICLE III

Regulations of Established Zones

§ 175-7. Waterfront Recreation (WR).

- A. Intent: to encourage the preservation of natural resources and scenic values; to provide for recreational use of natural resources; to preserve natural features and wildlife resources; and to prevent development that would be difficult to construct or service.
- B. Principal uses. In Waterfront Recreation Zones (WR), the following uses are permitted:
 - (1) Outdoor recreation.
 - (2) Accessory uses/structures.
- C. Special permit. The following uses are permitted upon approval by the Planning Board as specified in Article IV:
 - (1) Essential services.

§ 175-8. Agricultural (AG). [Amended 4-15-1999 by L.L. No. 1-1999]

- A. Intent: to preserve agricultural land; to preserve open space and natural resources; and to encourage planned developments in keeping with the small community character of the area.
- B. Principal uses. In Agricultural Zones (AG), the following uses are permitted:
 - (1) Single-family dwellings.
 - (2) Agricultural and forest uses.
 - (3) Accessory uses/structures.
 - (4) Outdoor recreation. [Added 6-10-2002 by L.L. No. 3-2002]

- C. Special permit. The following uses are permitted upon approval by the Planning Board as specified in Article IV:
 - (1) Essential services.
 - (2) Home occupations.
 - (3) Telecommunications facilities. [Added 12-6-1999 by L.L. No. 2-1999]
- D. Area, yard, coverage and height regulations: [Amended 12-8-2014 by L.L. No. 3-2014]

Dimension - New Lots	One-Family Dwellings	Accessory Uses/Structures
Minimum lot area	3 acres	
Minimum lot dimension	250 feet	
All minimum setbacks	50 feet	50 feet front yard, 10 feet side and rear (5 feet for storage sheds)
Maximum lot coverage	30%	
Minimum living space	1,200 square feet	
Maximum building height	35 feet	

- E. Prohibited uses:
 - (1) Storage or dispersal and/or spreading of animal by-products or animal wastes.
 - (2) Leachate of any form shall not be spread.
 - (3) Cell towers shall not be allowed to be erected/constructed within 1,500 feet of the center line of New York State Route 3 or within 1,500 feet of the shoreline of the Black River. [Added 4-7-2003 by L.L. No. 1-2003]

§ 175-9. Residential A (Res A). [Amended 11-4-1985 by L.L. No. 5-1985]

- A. Intent. The primary purpose of this Zone is to retain the exclusive one-family residential housing development with their accessory uses/structures.
- B. Principal uses. In Residential A Zones (Res A), the following uses are permitted:
 - (1) One-family dwellings.
 - (2) Accessory uses/structures of the above-listed uses.
 - (3) Cemeteries.
- C. Special permit. The following uses are permitted upon approval by the Planning Board as specified in Article V.

- (1) Essential services.
- (2) Home occupations (see § 175-16).
- (3) Repair shops.
- (4) Townhouse. [Added 2-2-2009 by L.L. No. 1-2009]

D. Area, yard, coverage and height regulations: [Amended 11-6-2006 by L.L. No. 4-2006; 12-8-2014 by L.L. No. 3-2014]

Dimension - Lots of Record	One-Family Dwellings	Accessory Uses/Structures
Minimum lot area	12,500 square feet	
Minimum lot frontage	100 feet	
Minimum lot depth	125 feet	
Minimum front yard or Alternate front yard setback	50 feet In line with existing primary structure, relative to additions or modifications to existing structures	50 feet In line with existing accessory structure, relative to additions or modifications to existing structures
Minimum rear yard	25 feet	10 feet (5 feet for storage sheds)
Minimum side yard	10 feet	10 feet (5 feet for storage sheds)
Maximum lot coverage	30%	
Minimum living space	1,200 square feet	
Maximum building height	35 feet	20 feet

§ 175-10. Residential A(1) [Res A(1)]. [Amended 11-4-1985 by L.L. No. 5-1985]

- A. Intent: to provide and enhance residential neighborhoods with complementary uses in keeping with the small community atmosphere.
- B. Principal uses. In Residential A(1) Districts [Res A(1)], the following uses are permitted:
 - (1) One-family dwellings.
 - (2) Two-family dwellings.
 - (3) Home occupations (see § 175-16).
 - (4) Accessory uses/structures of the above-listed uses.
 - (5) Outdoor recreation.

C. Special permit. The following uses are permitted upon approval by the Planning Board as specified in Article IV:

- (1) Essential services.
- (2) Home occupations (see § 175-16).
- (3) Public and semipublic institutions.
- (4) Community centers.
- (5) Professional offices.
- (6) Repair shops.
- (7) Townhouse. [Added 2-2-2009 by L.L. No. 1-2009]

D. Area, yard, coverage and height regulations. [Amended 12-8-2014 by L.L. No. 3-2014]

Dimension - Lot of Record	One-Family Dwellings	Two-Family Dwellings	Accessory Uses/Structures
Minimum lot area	12,500 square feet	15,000 square feet	
Minimum lot frontage	60 feet	60 feet	
Minimum lot depth	125 feet	125 feet	
Minimum front yard or	40 feet	40 feet	40 feet
Alternate front yard setback	In line with existing primary structure, relative to additions or modifications to existing structures	In line with existing primary structure, relative to additions or modifications to existing structures	In line with existing accessory structure, relative to additions or modification to existing structures
Minimum rear yard	25 feet	50 feet	10 feet (5 feet for storage sheds)
Minimum side yard	10 feet	10 feet	10 feet (5 feet for storage sheds)
Maximum lot coverage	30%		
Minimum living space	1,200 square feet	700 square feet per dwelling	
Maximum building height	35 feet	35 feet	20 feet

§ 175-11. Residential A(2). [Added 6-5-1989 by L.L. No. 2-1989]

- A. Intent: to provide area within the village to allow single- and multiple-family development in response to the diverse housing demands of the community.
- B. Principal uses. In Residential A(2) Districts [Res A(2)], the following uses are permitted:
 - (1) One-family dwellings.
 - (2) Two-family dwellings.
 - (3) Home occupations, as allowed by § 175-16.
- C. Special permit. The following uses are permitted upon approval by the Planning Board as specified in Article IV:
 - (1) Multiple-family dwellings.
 - (2) Essential services.
 - (3) Home occupations (see § 175-16).
 - (4) Public and semipublic institutions.

Dimension	Single-Family Dwellings	Two-Family Dwellings	Multiple-Family Dwellings
Minimum lot area	15,000 square feet	20,000 square feet	25,000 square feet for 3 units, plus 3,700 square feet for each additional unit
Minimum lot frontage	100 feet	100 feet	125 feet
Minimum lot depth	150 feet	150 feet	200 feet
Minimum front yard	50 feet	50 feet	50 feet
Minimum rear yard	50 feet	75 feet	75 feet
Minimum side yard	10 feet	10 feet	30 feet
Maximum lot coverage	30%	30%	30%
Minimum gross floor area per unit	1,000 square feet	800 square feet	800 square feet
Maximum building height	35 feet	35 feet	35 feet

§ 175-11.1. Residential [A(3)]. [Added 12-4-1995 by L.L. No. 3-1995]

- A. Intent. The intent of this section is to provide area within the village to allow single- and multiple-family development, including mobile homes, in response to the diverse housing demands of the community, including low cost, affordable housing.
- B. Principal uses. In Residential A(3) Districts [Res A(3)], the following uses are permitted:
 - (1) One-family dwellings.
 - (2) Two-family dwellings.
 - (3) Home occupations, as allowed by § 175-16.
 - (4) Mobile homes.
- C. Special permit. The following uses are permitted upon approval by the Planning Board as specified in Article IV:
 - (1) Multiple-family dwellings.
 - (2) Essential services.
 - (3) Home occupations (see § 175-16).
 - (4) Public and semipublic institutions.
 - (5) Community centers.

- (6) Professional offices.
 - (7) Repair shops.
- D. Area and yard coverage and height regulations. Dimensions for single-family dwellings will be the same as § 175-11D. The minimum dimension from any mobile home to a property line, street edge or right-of-way will be 10 feet.

§ 175-12. Business [B(1)].

- A. Intent. To provide for business establishments and compatible business uses. These businesses shall be established for the purpose of supplying goods and services to the immediate surrounding residential area and also the traffic generated along New York State Route 3. **[Amended 6-5-1991 by L.L. No. 1-1991]**
- B. Special permits. The following uses are permitted upon the approval by the Planning Board as specified in Article IV:
 - (1) Essential services.
 - (2) Retail gasoline outlet.
 - (3) Motor vehicle repair shop.
 - (4) Retail, large-product.
 - (5) Retail, small-product. **[Amended 6-5-1991 by L.L. No. 1-1991]**
 - (6) Restaurants.
 - (7) Personal services.
 - (8) Professional offices.
 - (9) Motels/hotels.
 - (10) Accessory uses/structures of the above-listed uses.
 - (11) Junkyards. **[Added 6-6-1988 by L.L. No. 1-1988]**
 - (12) Adult Entertainment. **[Added 6-6-1988 by L.L. No. 1-1988]**
 - (13) Shopping plazas. **[Added 6-5-1991 by L.L. No. 1-1991]**
 - (14) Telecommunications facilities. **[Added 12-6-1999 by L.L. No. 2-1999]**
- C. Area, yard, coverage and height regulations.

Dimension	Requirement
Minimum lot area	62,500 square feet
Minimum lot frontage	100 feet

Dimension	Requirement
Minimum lot depth	100 feet
Minimum front yard	50 feet
Minimum rear yard	25 feet
Minimum side yard	10 feet
Maximum lot coverage	30%

§ 175-13. Downtown Business [B(2)].

- A. Intent. To provide for small business establishments and compatible business uses in a centralized area within the village for the purpose of supplying goods and services primarily for the immediate surrounding residential area. The businesses shall be in keeping with the small community atmosphere and consistent with the existing business establishments.
- B. Special permits. The following uses are permitted upon the approval by the Planning Board as specified in Article IV:
 - (1) Essential services.
 - (2) Small retail.
 - (3) Restaurants (excludes fast-food restaurants).
 - (4) Personal services.
 - (5) Professional offices.
 - (6) Accessory uses/structures of the above-listed uses.
 - (7) Public and semipublic institutions. **[Added 6-5-1991 by L.L. No. 1-1991; amended 12-6-1999 by L.L. No. 2-1999]**
- C. Area, yard and height regulations.

Dimension	Requirement
Minimum lot area	10,000 square feet
Minimum lot frontage	100 feet
Minimum lot depth	100 feet
Minimum front yard [Amended 12-6-1999 by L.L. No. 2-1999]	25 feet
Minimum rear yard	25 feet
Minimum side yard	10 feet

§ 175-14. Planned Development Zones (PD).**A. Intent.**

- (1) Planned Development Zones may be established in the village and designated as specific locations on the Zoning Map. The purpose for establishing such Zones is to allow compatible development of a variety of uses (e.g., residential, business, public/semipublic and recreational/open space) and to vary the strict application of the regulations of this chapter.
- (2) It is the intent of the Planned Development Zones to provide flexible land use and design regulations through the use of performance criteria so that small- to large-scale neighborhoods or portions thereof may be developed within the village that incorporate a variety of residential types and nonresidential uses and contain both individual building sites and common property which are planned and developed as a unit. Such a planned unit is to be designed and organized so as to be capable of satisfactory use and operation as a separate entity without necessarily needing the participation of other building sites or other common property in order to function as a neighborhood. This section specifically encourages innovations in residential development so that the growing demands for housing at all levels may be met by greater variety in type, design and siting of dwellings and by the conservation and more efficient use of land in such developments. Planned developments do not require a mix of residential and nonresidential uses to be considered for Planned Development Zone status.
- (3) This section recognizes that while the standard zoning function (use and bulk) is appropriate for the regulation of land use in some areas or neighborhoods, these controls represent a type of regulatory strictness which may be detrimental to the innovative techniques of quality land development contained in the Planned Development Zone concept. Further, this section recognizes that a rigid set of space requirements along with bulk and use specifications would frustrate the application of this concept. Thus, where PD techniques are deemed appropriate through the rezoning of land to a Planned Development Zone by the Village Board, the use and dimensional specifications found elsewhere in this chapter are herein replaced by the general requirements and site plan review criteria outlined in Subsection B below.

B. General requirements and site plan review criteria. Following are a list of the requirements that a proposal must meet to be considered for planned development (PD) status:

- (1) Minimum area. The zone must comprise at least five acres of contiguous land.
- (2) Maximum building height. No building shall exceed 35 feet in height.
- (3) Ownership. The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.

§ 175-13. Downtown Business [B(2)].

- A. Intent. To provide for small business establishments and compatible business uses in a centralized area within the village for the purpose of supplying goods and services primarily for the immediate surrounding residential area. The businesses shall be in keeping with the small community atmosphere and consistent with the existing business establishments.
- B. Special permits. The following uses are permitted upon the approval by the Planning Board as specified in Article IV:
 - (1) Essential services.
 - (2) Small retail.
 - (3) Restaurants (excludes fast-food restaurants).
 - (4) Personal services.
 - (5) Professional offices.
 - (6) Accessory uses/structures of the above-listed uses.
 - (7) Public and semipublic institutions. [Added 6-5-1991 by L.L. No. 1-1991; amended 12-6-1999 by L.L. No. 2-1999]
 - (8) One-family dwellings on upper floors. [Added 2-2-2009 by L.L. No. 1-2009]
 - (9) Two-family dwellings on upper floors. [Added 2-2-2009 by L.L. No. 1-2009]
 - (10) Multiple-family dwellings on upper floors. [Added 2-2-2009 by L.L. No. 1-2009]
- C. Area, yard and height regulations. [Amended 12-6-1999 by L.L. No. 2-1999; 12-8-2014 by L.L. No. 3-2014]

Dimension	Primary Buildings	Accessory Uses/Structures
Minimum lot area	10,000 square feet	
Minimum lot frontage	50 feet	
Minimum lot depth	100 feet	
Minimum front yard or Alternate front yard setback	25 feet In line with existing primary structure, relative to additions or modifications to existing structures	25 feet In line with existing accessory structure, relative to additions or modifications to existing structures
Minimum rear yard	25 feet	10 feet (5 feet for storage sheds)
Minimum side yard	10 feet	10 feet (5 feet for storage sheds)

D. Architectural standards. Buildings shall meet the following standards. The Planning Board may waive one or more of these standards in special circumstances. [Added 2-2-2009 by L.L. No. 1-2009]

- (1) Pitched roofs shall have a minimum pitch of four to twelve (4:12).
- (2) Metal roofs types other than standing seam are prohibited.
- (3) Building walls shall have no less than 12% nor more than 25% glass area on all street-facing facades.
- (4) Metal vertical siding, board and batten siding, or concrete block siding types are prohibited.
- (5) Overly bright or garish colors should be avoided.

§ 175-14. Planned Development Zones (PD).

A. Intent.

- (1) Planned Development Zones may be established in the village and designated as specific locations on the Zoning Map. The purpose for establishing such Zones is to allow compatible development of a variety of uses (e.g., residential, business, public/semipublic and recreational/open space) and to vary the strict application of the regulations of this chapter.
- (2) It is the intent of the Planned Development Zones to provide flexible land use and design regulations through the use of performance criteria so that small- to large-scale neighborhoods or portions thereof may be developed within the village that incorporate a variety of residential types and nonresidential uses and contain both individual building sites and common property which are planned and developed as a unit. Such a planned unit is to be designed and organized so as to be capable of satisfactory use and operation as a separate entity without necessarily needing the participation of other building sites or other common property in order to function as a neighborhood. This section specifically encourages innovations in residential development so that the growing demands for housing at all levels may be met by greater variety in type, design and siting of dwellings and by the conservation and more efficient use of land in such developments. Planned developments do not require a mix of residential and nonresidential uses to be considered for Planned Development Zone status.
- (3) This section recognizes that while the standard zoning function (use and bulk) is appropriate for the regulation of land use in some areas or neighborhoods, these controls represent a type of regulatory strictness which may be detrimental to the innovative techniques of quality land development contained in the Planned Development Zone concept. Further, this section recognizes that a rigid set of space requirements along with bulk and use specifications would frustrate the application of this concept. Thus, where PD techniques are deemed appropriate through the rezoning of land to a Planned Development Zone by the Village Board, the use and dimensional specifications found elsewhere in this chapter are

herein replaced by the general requirements and site plan review criteria outlined in Subsection B below.

B. General requirements and site plan review criteria. Following are a list of the requirements that a proposal must meet to be considered for planned development (PD) status:

- (1) Minimum area. The zone must comprise at least five acres of contiguous land.
- (2) Maximum building height. No building shall exceed 35 feet in height.
- (3) Ownership. The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.

- (4) Location of a PD. The PD shall be applicable to the Agriculture Zone (AG). The applicant must demonstrate that the characteristics of his or her holdings will meet the objectives of this section.
- (5) Required buffer. Where a planned development proposes multiple-family dwellings and/or commercial uses adjacent to residential areas, the Planning Board shall require a minimum of 25 feet of vegetative buffer area. Plant material shall be six to eight feet in height when planted and shall be spaced to form an opaque screen either in a single row or in multiple rows with alternate spacing.
- (6) Permitted uses. Following are descriptions of residential and nonresidential uses permitted in the PD Zone. These uses may be mixed, separated or the development may accommodate only one type of use (i.e., residential or nonresidential).
 - (a) Residential uses. Residences may be of any variety of types, including single-family dwellings, two-family dwellings and multiple dwellings. No mobile homes will be permitted.
 - (b) Accessory, business, recreational and other nonresidential uses. Nonresidential uses shall include small retail business operations, community centers, public and semipublic facilities, outdoor recreation, restaurants, home occupations and accessory uses/structures. All such uses shall be in keeping with the residential character of the adjacent areas. No industrial uses shall be permitted.
 - [1] The nonresidential uses of a business nature shall not exceed the square footage devoted to residential (and its accessory) uses. This shall be determined by building floor area. Such commercial or service area may be in separate buildings or incorporated within two-family or multifamily structures or in suitable combinations of these alternatives.
 - [2] Customary accessory or associated uses, such as private garages, storage spaces, community activities, churches and schools, shall also be permitted as appropriate to the PD Zone.
- (7) Common property in the PD. Common property is not required to be considered for PD status; however, it is often characteristic of such proposals. Common property in a PD is a parcel or parcels of land, with or without the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, satisfactory arrangements must be presented for the improvement, operation and maintenance of such common property and facilities, including private street, drives, service and parking areas and recreational and open space areas.
- (8) Accessory uses and structures. Accessory uses and structures within a Planned Development District may be approved by the Planning Board after site plan review without need to amend the original Planned Development District approval. **[Added 12-6-1993 by L.L. No. 1-1993]**

- C. Planned Development Zone procedure. Following are procedural steps that shall be followed when applying for PD status:
- (1) In order to establish Planned Development Zones, this Zoning Law must be amended by the following procedures outlined herein and the prescribed regulations for amendments to this Zoning Law found in § 175-70.
 - (2) Application for establishment of a Planned Development Zone shall be made to the Village Board by the owner(s) of property proposed to be included in the zone. The Village Board shall refer such application to the Village Planning Board for consideration within seven working days of receipt of such an application.
 - (3) The applicant must provide a development plan and detailed program which would enable the Planning Board to evaluate the proposed development and its effects on nearby land uses and public services. Such a plan and program must consist of the application requirements specified under Site Plan Review, Article V. Once this information is accepted by the Planning Board, the Planning Board shall review the proposal in light of the requirements specified for Planned Development Zone § 175-14B above.
 - (4) The Planning Board must discuss the proposal with the applicant at a regular meeting of the Board within 62 days of the submission of the required information by the applicant. Within 62 working days of such a meeting, the Planning Board must approve, approve with modifications and conditions or disapprove such an application and then report this action to the Village Board. **[Amended 4-3-1995 by L.L. No. 1-1995]**
 - (5) In determining its action on the proposed development, the Planning Board must consider, where appropriate, the need for the proposed use in the proposed location; its consistency with the General Plan and the existing character of the neighborhood in which the use would be located. It also must consider the safeguards to minimize possible detrimental effects of the proposed use on the adjacent properties, on public services and on the historic character of the area.
 - (6) If the Planning Board denies the application, the applicant may make new application to the Planning Board as required by Subsection C(3) of this section.
 - (7) It shall be the authority of the Planning Board to prescribe conditions for the proposed use and make a recommendation for PD status based upon this. It is the Village Board's authority to review this PD status recommendation (from the Planning Board) and enact or disapprove an amendment thereon. Within 62 days of receipt of the approval or approval with modifications, the Village Board must, following public notice provided by this chapter [see § 175-70A(1)], hold a public hearing on the proposal; and must then deny, approve or approve with modifications this proposal. **[Amended 4-3-1995 by L.L. No. 1-1995]**
 - (8) If the proposal is approved or approved with modifications by the Village Board and the Zoning Map has been amended to create the appropriate Planned Development Zone, the applicant must within six months submit application for

site plan approval as provided in § 175-27H of this chapter and follow the procedures for final site plan approval as provided by this chapter.

- (9) If such an amendment is enacted, the permitted development must be confined to the specific designated area and adhere to the approved development plan and program. Anything different from this constitutes a violation of this Zoning Law.
- (10) In order to exceed any of the above time frames for adoption of a PD there must be agreement by both the applicant and the Village Board.

ARTICLE IV Special Permits

§ 175-15. General requirements. [Amended 4-3-1995 by L.L. No. 1-1995; 4-1-1996 by L.L. No. 2-1996]

- A. All special permits shall require review and approval by the Planning Board, as specified in § 7-725-b of the Village Law. The following uses shall also meet the requirements as specified in this article and as specified in Article 8 before approval by the Planning Board.
- B. All special permits shall be subject to site plan review as set forth in Articles V and VI of this chapter.

§ 175-16. Home occupation.

A home occupation is that accessory use of a dwelling that shall constitute either entirely or partly the livelihood of a person living in the dwelling, subject to the following:

- A. General requirements. No home occupation shall be permitted that:
 - (1) Changes the outside appearance of the dwelling or is visible from the street;
 - (2) Generates traffic or parking, sewerage or water use in excess of what is normal in the residential neighborhood;
 - (3) Creates a hazard to person or property, results in electrical interference or becomes a nuisance;
 - (4) Results in outside storage or display of anything.
- B. Exempt home occupations. The following are exempt home occupations, provided that they do not violate any of the provisions of the previous paragraph:
 - (1) Dressmaking, sewing and tailoring.
 - (2) Painting, sculpturing or writing.
 - (3) Telephone answering.

- (4) Home crafts, such as model making, rug weaving, lapidary work and cabinetmaking.
 - (5) Tutoring, limited to four students at a time.
 - (6) Home cooking and preserving.
 - (7) Computer programming.
 - (8) Barbershops and beauty parlors.
 - (9) Sales representative with limited supplies.
 - (10) Real estate and/or insurance agency and/or brokers.
- C. Prohibited home occupations. The following are prohibited as home occupations:
- (1) Animal hospitals.
 - (2) Dancing studios.
 - (3) Funeral homes.
 - (4) Nursery schools.
 - (5) Private clubs.
 - (6) Restaurants.
 - (7) Stables or kennels.
 - (8) Tourist homes.
 - (9) Automobile repair or paint shops.
 - (10) Junk storage. [Added 6-6-1988 by L.L. No. 1-1988]
- D. Unlisted home occupations. Any proposed home occupation that is neither specifically exempt by Subsection B nor specifically prohibited by Subsection C shall require a special permit and be granted or denied by the Planning Board upon consideration of those standards contained in Subsection A.

§ 175-17. Retail gasoline outlets.

- A. Location. A retail gasoline outlet lot shall not be located within 300 feet of any lot occupied by a school, library or religious institution. Measurements shall be made between the nearest respective lot lines.
- B. Gasoline and/or fuel pumps. Gasoline and/or fuel pumps shall not be located closer than 50 feet to any front, side or rear lot line.
- C. Fuel storage. Underground fuel storage tanks shall be at least 50 feet from any lot line.

§ 175-18. Motor vehicle repair shops.

- A. Setback. All motor vehicle repair shops shall be so arranged as to require all servicing on the premises no closer than 50 feet to any lot line.
- B. Storage of waste material. All junk wastes, discarded parts, etc., as a result of servicing motor vehicles, equipment, etc., shall be stored in an enclosed structure or fenced area so as not to be visible from adjacent lots until disposed of. None of these materials may be disposed of on the lot.

§ 175-19. Large-product retail.

- A. Setback. Such sales, rental or storage operations shall be located at least 100 feet from the nearest residential lot line.
- B. Screening. When within 200 feet of a residential structure, such operation shall be screened from adjacent residential property by a fence, hedge or other planting or structure so as not to be visible from the adjacent property. Such screening shall be in conformance with the standards set forth in § 175-18.
- C. Servicing facilities. Such operation that also have service facilities for the same shall meet the requirements of Motor vehicle repair shops, § 175-18.

§ 175-20. Essential services.

The Planning Board shall determine the following prior to approving a site plan for the proposed essential service:

- A. Location. The proposed installation in a specific location is necessary and convenient for the efficiency of the essential service or the satisfactory and convenient provision of service to the area in which the particular use is located.
- B. Buildings. The design of any building or structure in connection with such facility shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights in the district in which it is to be located.
- C. Landscaping. Adequate landscaping will be provided to create a visual and sound buffer between such facilities and adjacent property.
- D. Access. All points of necessary access, or transformers, shall be placed in secure structures at ground level.
- E. Fencing. All major electrical transformer facilities or substations, if above ground, shall be secured by a fence. Also no transformer or associated switches shall be closer than 100 feet from any lot line.

§ 175-21. Junkyard regulations.

- A. Location. No junk storage area shall be located within:

- (1) One hundred feet of any adjoining property line;
 - (2) One thousand feet of any public park, church, educational facility, nursing home, public building or other place of public gathering;
 - (3) One thousand feet of any stream, lake, pond, wetland or other body of water; or
 - (4) One hundred feet from the right-of-way of any public highway.
- B. Fencing. There must be erected and maintained a ten-foot-high fence enclosing all junkyards adequate to prohibit the entrance of children and others into the area of the activity or business and to contain within such fence the materials dealt with by the operator of the junkyard. All the materials dealt with by the operator of the junkyard shall be kept within such fence at all times. Whenever the junkyard is not open for business or temporarily not supervised, this fence, and any gate thereto, shall be secured or locked to prevent entry. The Board may waive the requirement of fencing where topography or other natural conditions effectively prohibit the entrance of children and others.
- C. Screening. Where a junkyard is or would be visible from a public highway or from neighboring properties, the fence provided in Subsection B above shall be of wood or other materials sufficient to totally screen the junkyard from view. As an alternative, the Village Board may permit such screening by adequate planting of evergreen trees or shrubbery. No junk shall be located so as to be visible from any public street.
- D. Burning. No materials shall be burned in a junkyard except in compliance with the New York State and local laws, including but not limited to the New York State Outdoor Burning Law (see 6 NYCRR 215).
- E. Burying. No junkyard items shall be buried in a junkyard except in compliance with the New York State and local laws, including but not limited to the New York State Solid Waste Disposal Law (see 6 NYCRR).
- F. Approved junkyard items. No junkyard items shall be stored in any junk storage area other than those items specified on a junkyard permit approved by the Village Board pursuant to this chapter.

§ 175-22. Adult entertainment. [Added 6-6-1988 by L.L. No. 1-1988]

Adult uses shall be permitted in B(1) Zones only if the following conditions are met:

- A. Such uses may not be located within 1,000 feet, measured from lot line to lot line, of churches, schools, parks, playing fields or other areas in which groups of minors regularly congregate.
- B. Such uses shall not be located within 500 feet of any residential lot line.
- C. Such uses shall not be located within a one-thousand-foot radius of another such use.
- D. Only one sign shall be permitted visible from the exterior of a building which is occupied by a regulated use, and such sign shall be no larger than 50 square feet, nor

shall such sign consist of any material other than plain lettering. No sign shall have any photographic or artistic representation whatsoever thereon.

- E. All building openings, entries, windows, doors, etc., shall be located, covered or screened in such a manner as to prevent a view into the interior from the outside of the premises.

§ 175-23. Multiple-family dwellings. [Added 6-5-1989 by L.L. No. 2-1989]

A. Building arrangement.

- (1) The maximum density for the multiple-family dwellings shall not exceed eight units per net acre, with no multiple-family dwelling to exceed eight units.
- (2) The arrangement of the dwelling units to each other shall be such that adequate light, air, access and privacy is provided.
- (3) Where possible, building units shall be staggered.
- (4) The front or rear of a principal building shall not be closer than 80 feet to the front or rear of any other principal building.
- (5) The side of any principal building shall not be closer than 60 feet to the side of any other principal building.
- (6) Pedestrian walkways shall be provided connecting the pedestrian units to vehicular storage areas and recreation areas. Pedestrian walkways shall be separated from interior streets with adequate visual indications of crosswalks to ensure pedestrian safety.

- B. Traffic access. All traffic access streets shall be composed of all-weather materials, built in compliance with village street standards, and meet approval of the Superintendent of Public Works. Such entrances or exits shall be at least 75 feet from center line of any adjacent intersecting street. Visibility on interior streets or at entrances and exits shall not be impeded so as to cause unsafe traffic conditions as determined by the Planning Board.

- C. Circulation and parking. The interior circulation system shall be designed to allow the concurrent flow of entering and exiting traffic. The streets and parking areas shall be constructed of all-weather materials, built in compliance with village street standards and meet the approval of the Superintendent of Public Works. All street systems shall be looped. Deviations from this requirement may be considered by the Planning Board. There shall be two on-site parking spaces minimum for each dwelling unit. All units shall have easy access to the interior streets and parking areas. No interior streets shall be closer than 20 feet to any building. There shall be adequate snow storage areas. **[Amended 12-6-2010 by L.L. No. 3-2010]**

- D. Landscaping and erosion control. Landscaping and erosion control shall conform to requirements set forth in Article 7.

- E. Recreation and/or open space. Where two or more multiple-family dwellings are located on a single lot, there shall be provided on the site of such use an area or areas devoted to the joint recreational use of the residents thereof. Such recreation space shall consist of

an area no less than 40% of the gross floor area of all dwelling units served. In the event that a suitable recreation space of adequate size to meet the requirements cannot be properly located on such site, the Planning Board may require a sum of money in lieu thereof to be established by the Village Board of Trustees. In making such determination of suitability, the Board shall assess the size and suitability of lands shown on the site plan which could be possible locations for recreation, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood. Any monies required by the Planning Board in lieu of land for recreational purposes shall be deposited into a trust fund to be used by the Village exclusively for recreational purposes, including the acquisition of property. [Added 2-2-2009 by L.L. No. 1-2009]

- F. Drainage. Drainageways shall be constructed to adequately handle maximum flows. Sizing of drainageways and culverts shall meet with the approval of the Planning Board.
- G. Lighting. Adequate exterior lighting shall be provided in parking areas and along streets, walkways and areas adjacent to buildings, to reduce safety hazards. Exterior lighting systems shall comply with § 175-35 of this chapter.

§ 175-24. Regulations for apartment units. [Added 6-5-1991 by L.L. No. 1-1991]

- A. General requirements. Apartment units which are located within any building or structure are permitted.
- B. Parking. Apartment units shall comply with parking requirements as set forth for dwelling units in § 175-38, unless the applicant can prove the need for fewer than two parking spaces per apartment unit. The applicant may count adjacent or nearby parking spaces that are not on-lot (or owned by the applicant) to meet the required off-street parking. These off-lot spaces, however, must not be already in use during the proposed time of use by the applicant. The owner of such parking spaces must agree to this counting of spaces. All such proposals shall be first approved by the Village Planning Board as meeting the intent of these regulations.

ARTICLE V
Site Plan Review

§ 175-25. General provisions.

- A. Intent and purpose.
 - (1) Through site plan review, it is the intent of this Article to promote the health, safety and general welfare of the village. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the village, and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the village and the general welfare of its inhabitants.
 - (2) It is further the intent of this Article to ensure the optimum overall conservation, protection, preservation, development and use of the natural and man-related

resources of the village, by regulating land use activity within the village through review and approval of site plans.

- B. Planning Board review of site plans. The Planning Board is hereby authorized to review and approve, approve with modifications or disapprove site plans for land uses within the village as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this chapter.

§ 175-26. Objectives.

In order to provide for the orderly growth of the community, consistent with the objectives set forth in the General Plan and to allow diverse uses in an area in a compatible manner, all land use activities requiring site plan approval shall be accompanied by a proposed site plan. In considering and acting on site plans, the Planning Board shall consider the public health, safety, welfare and comfort and convenience of the public in general, the residents of the proposed development and the residents of the immediate surrounding area. The Planning Board may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the accomplishment of the following objectives in particular:

- A. Vehicular access: that proposed access points are not excessive in number, but adequate in width, grade, alignment and visibility; not located too close to intersections or places of public assembly; and other similar safety considerations.
- B. Circulation and parking: that adequate off-street parking and loading spaces are provided to prevent parking of vehicles on public highways by any persons connected with or visiting the development, that the interior circulation system is adequate to provide safe accessibility to all required parking lots and that it provides adequate separation of pedestrian and vehicular movements.
- C. Landscaping and screening: that all parking, storage, loading and service areas are reasonably screened at all seasons of the year from the view of adjacent residential areas and that the general landscaping of the site is in character with the surrounding areas.
- D. Natural features: that the proposed use, together with its sanitary and water service facilities, is compatible with geologic, hydrologic and soil conditions of the site and adjacent areas and that existing natural scenic features are preserved to the extent possible.

§ 175-27. Procedure.

- A. Sketch plan. A sketch plan conference between the applicant and the Planning Board shall be held to review the proposed development in light of existing conditions and to generally determine the information to be required on the preliminary site plan. At the conference, the applicant shall provide a statement and a rough sketch describing what is proposed, together with a topographic map [United States Geological Survey (USGS)] showing the location of the tract and its relationship to the surrounding area.
- B. Initial review. The above material will be reviewed by the Planning Board to determine the proposal's conformity to the General Plan and to provide the applicant with a firm indication of whether the proposal in its major features is acceptable or should be modified before expenditures for more detailed planning are made. The Board shall also review the preliminary site plan application requirements to determine what information the applicant will need to present with the site plan. An Environmental Assessment Form (EAF) should be completed at this time.
- C. Application for preliminary site plan approval. An application for preliminary site plan approval shall be filed with the Village Clerk, together with the appropriate fee as

determined by the fee schedule adopted by Village Board resolution. The application and plan shall include, where applicable, but not be limited to, the following:

- (1) The name and address of the applicant and owner, if different, and of the person responsible for preparation of such drawings.
- (2) The date, North point, written and graphic scale.
- (3) The boundaries of the area, plotted to scale, including distances, bearings and areas.
- (4) The location and ownership of all adjacent lands as shown on the latest tax records.
- (5) The location, name and existing width of adjacent streets.
- (6) The location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use or adjoining the property.
- (7) A complete outline of existing or proposed deed restrictions or covenants applying to the property.
- (8) Existing hydrologic features, together with a grading and drainage plan showing existing and proposed contours at five-foot intervals.
- (9) The location, proposed use and height and dimensions of all buildings.
- (10) The location, design, construction materials of all parking and truck loading areas with access and egress drives thereto.
- (11) Provision for pedestrian access, including public and private sidewalks.
- (12) The location of outdoor storage, if any.
- (13) The location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
- (14) A description of the method of sewage disposal and the location, design and construction materials of such facilities.
- (15) A description of the method of securing public water and location, design and construction materials of such facilities.
- (16) The location of fire lanes and other emergency zones, including the location of fire hydrants.
- (17) The location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.
- (18) The location, size, design and construction materials of all proposed signs.
- (19) The location and proposed development of all buffer areas, including an indication of existing and proposed vegetative cover.

- (20) The location and design of outdoor lighting facilities.
 - (21) A designation of the amount of gross floor area and gross leasable area proposed for retail sales and services, office and other similar commercial or industrial activities.
 - (22) The number and distribution by type of all proposed dwelling units.
 - (23) A general landscaping plan and planting schedule.
 - (24) A draft Environmental Impact Statement (EIS), where required.
 - (25) Other elements integral to the proposed development as considered necessary by the Village Board, including identification of any federal, state or county permits required for the project's execution.
- D. Planning Board review of site plan. The Planning Board shall consider the proposed site plan and its net effect on the community. Such consideration shall include, as appropriate, but shall not be limited to compatibility with the General Plan, the economic, social, physical and environmental aspects of the proposal, and such other matters as may be determined pertinent. The Board may consult with local and county officials, its designated consultants and also with representatives of federal, state and county agencies, including but not limited to the Soil Conservation Service, the New York State Department of Transportation, the Department of Environmental Conservation and the Department of Health.
- E. County Planning Board review. The Planning Board shall refer all site plan review matters that fall within those areas specified under General Municipal Law, Article 12-B, § 239-m, to the County Planning Board prior to the Planning Board vote thereon. Any site plan that falls within 500 feet of the boundary of the village; a state or county park or recreation area; a state or county highway or expressway; a state- or county-owned drainage channel; and state or county land where a public building or institution is located shall be referred to the Jefferson County Planning Board for its recommendations thereon. If the County Planning Board does not respond within 30 days from the time it received a full statement on the referral matter, then the local Board may act without such report. The local Board must report to the County Planning Board on its final action within 30 days of that event. (This is a summary of General Municipal Law Article 12-B, § 239-m, and all details of this chapter must be followed.)⁵
- F. Public hearing. The Planning Board shall conduct a public hearing on the preliminary site plan. Such public hearing shall be conducted within 62 days of the receipt of the completed application for preliminary site plan approval and shall be advertised at least five days before the hearing in the village's official newspaper.⁶
- G. G.⁷ Planning Board action on preliminary site plan. Within 62 days of such public hearing, the Planning Board shall act on the preliminary site plan. If no decision is made

5. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

6. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

7. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

within said time period, the preliminary site plan shall be considered approved. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved or approved with modifications. The statement may include recommendations of desirable modifications to be incorporated in the final site plan, of which conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission after it has been revised or redesigned. The Planning Board shall, where required, be responsible for completion of a final EIS with revisions as it sees fit, together with a statement of findings required under the State Environmental Quality Review (SEQR) Law (§ 8-0109, Subdivision 8, of Environmental Conservation Law). The Planning Board shall file and circulate a final notice of completion as required in the provisions of Part 617, Title 6, NYCRR.

H. Procedure for final site plan approval.

- (1) After receiving approval with or without modifications from the Planning Board on a preliminary site plan, the applicant shall submit a final detailed site plan for approval. If more than six months has elapsed since the time of the Planning Board's action on the preliminary site plan and if the Planning Board finds that conditions may have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision before accepting the proposed final site plan for review.
- (2) The final detailed site plan shall conform substantially to the approved preliminary site plan and shall incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.
- (3) The following additional information shall accompany an application for final detailed site plan approval:
 - (a) Record of application for and approval status of all necessary permits from federal, state and county officials.
 - (b) Detailed sizing and final material specifications of all required improvements.
 - (c) Estimated project construction schedule.

I. I.⁸ Planning Board action on final site plan. Within 62 days of receipt of the completed application for final site plan approval, the Planning Board shall make a decision on the plan submitted. If no decision is made within the sixty-two-day period, the final site plan shall be considered approved.

- (1) Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due the village, the Planning Board shall endorse its approval on a copy of the final site plan.

8. Editor's Note: Amended at time of adoption of Code; see Ch. I, General Provisions, Art. I.

- (2) The decision of the Planning Board shall immediately be filed in the office of the Village Clerk and a copy mailed to the applicant.
- (3) Within 30 days of the final action, the Planning Board shall file a report of its final action with the County Planning Board.

§ 175-28. Materials to be submitted by applicant.

- A. Vicinity map. This map at a scale of 2,000 feet to the inch or larger shall show the relationship of the proposal to existing community facilities that may affect or serve it such as streets, shopping areas, schools, employment centers, etc. It shall show all properties, subdivisions, streets and easements within 300 feet of the proposal. Such a sketch may be superimposed on a USGS map of the area.
- B. Topographic map. This shall be drawn at a scale of 100 feet to the inch or larger and shall show existing topography at a contour interval of not more than five feet. This map shall also show the location of pertinent natural features that may influence the design of the proposed use such as watercourses, swamps, wetlands, rock outcrops, wooded area, areas subject to flooding, etc.
- C. Site development plan. This map of the property on which the proposal is to be situated shall be drawn at a scale of 100 feet to one inch or larger and shall show the location of all automobile parking and all parking for commercial vehicles while loading and unloading, the location and width of all driveways, exits and entrances, the location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; provide a description and show the location of sewage disposal facilities, water facilities, show location and size of all signs, the location of proposed buffer areas and the design of lighting facilities and such other facilities as indicated in the preliminary site plan checklist.
- D. Elevations and/or sections. The site plan shall be accompanied by preliminary elevations and/or sections at the same or larger scale as required for the site plan, drawn in sufficient detail to delineate clearly the bulk and height of all buildings and other permanent structures included in the proposal.
- E. Engineering plans: preliminary engineering plans including street improvements, drainage system and public or private utility systems and other such supporting data as may be necessary.

§ 175-29. Site plan elements reviewed.

The Planning Board's review of the site plan shall include, as appropriate, but shall not be limited to, any of the following items:

- A. General considerations.
 - (1) The status of any federal, state or county permits required.
 - (2) Existing or proposed deed restrictions.

- (3) The environmental impact on the community and adjacent areas.
 - (4) The age and mobility of the design population.
 - (5) Compatibility with the General Plan.
- B. Landscaping and screening.
- (1) The location and proposed development of buffer areas, including vegetative cover.
 - (2) Outdoor lighting and time of use proposed.
 - (3) General landscaping plan and planting schedule.
 - (4) The location, size, design and construction materials on signage.
 - (5) Any areas subject to flooding, pondage, stormwater overflow or erosion.
 - (6) The location of any existing watercourse, wetland, rock outcrop, forest, gorge or other unique natural features.
 - (7) Proposed fencing construction and material.
 - (8) Clearing, alteration or removal of any existing natural feature.
- C. Access and circulation.
- (1) Entrances and exits to public streets.
 - (2) Deceleration strip.
 - (3) Traffic control measures.
 - (4) Speed limits on adjacent streets.
 - (5) Traffic volume on and adjacent to site.
 - (6) Special access for emergency vehicles.
 - (7) Internal circulation, including street width, pavement surface and separation of pedestrian and vehicular traffic.
 - (8) Intersections.
 - (9) Existing or proposed easements.
 - (10) Existing or proposed setbacks.
- D. Parking, loading and storage.
- (1) Location, design and construction materials.
 - (2) Adequacy to meet standards for occupants, visitors, employees.
 - (3) Truck loading facilities, separate access.

- (4) Outdoor storage.
 - (5) Snow removal.
 - (6) Stormwater treatment.
 - (7) Solid waste collection and removal.
- E. Architectural features.
- (1) Their location, size, proposed use and height.
 - (2) Space devoted to retail sales, storage, service, wholesale or other commercial facilities.
 - (3) The number and type of housing units per building and the proposed site density.
 - (4) Floor plans, elevation and sections of typical structures.
 - (5) Lot coverage, density.
- F. Site characteristics and utilities.
- (1) Suitability of soil for proposed use.
 - (2) Existing topography.
 - (3) Proposed grading and drainage plan, including calculated stormwater runoff.
 - (4) Measures to control erosion.
 - (5) A description of the sewage disposal system, including location, design, construction materials and the estimated cost of the facilities.
 - (6) A description of the method to secure public water, including location, design and construction material for proposed facilities.
 - (7) The location of fire and/or emergency zones, including special access, if any.
 - (8) the location, design and construction materials of all energy distribution facilities (electric, gas, solar, etc.).
- G. Scheduling, financing and economic impact.
- (1) General timetable for construction of structures and facilities.
 - (2) Proposed staging of various sub-units of development.

§ 175-30. Bond for installation of improvements.

- A. General. In order that the village has the assurance that the construction and installation of such improvements as storm sewer, water supply, sewage disposal, landscaping, street signs, sidewalks, parking, access facilities and street surfacing will be constructed, the

Planning Board shall require that the applicant enter into one of the following agreements with the village: [Amended 6-5-1991 by L.L. No. 1-1991]

- (1) Furnish bond executed by a surety company equal to the cost of construction of such improvements as shown on the plans and based on an estimate furnished by the developer, reviewed and recommended by the Planning Board and approved by the Village Board.
 - (2) Where offered by the developer, a certified check in sufficient amount equal to the cost of construction of such improvements as shown on the plans and based on an estimate furnished by the developer, reviewed and recommended by the Planning Board and approved by the Village Board.
- B. Conditions.
- (1) Before the final site plan is approved, the applicant shall have executed a contract with the village, and a performance bond or certified check shall have been deposited covering the estimated cost of the required improvements that have been designated by the Planning Board.
 - (2) The performance bond or certified check shall be to the village and shall provide that the applicant, his or her heirs, successors and assigns, their agents or servants, will comply with all applicable terms, conditions, provisions and requirements of this chapter and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the approved site plan.
 - (3) Any such bond shall require the approval of the Village Board and the Village Attorney as to form, sufficiency, manner of execution and surety.
 - (4) Wherever a certified check is made, the same shall be made payable to the village.
- C. Extension of time. The construction or installation of any improvements or facilities, other than streets, for which guaranty has been made by the applicant in the form of a bond or certified check deposit, shall be completed within one year from the date of approval of the final site plan. Street improvements shall be completed within two years from the date of approval of the final site plan. The applicant may request an extension of time, provided that he or she can show reasonable cause for inability to perform said improvements within the required time. The extension shall not exceed six months, at the end of which time the village may use as much of the bond or check deposit to construct the improvements as necessary. The same shall apply whenever construction of improvements is not performed in accordance with applicable standards and specifications.
- D. Schedule of improvements. When a certified check or performance bond are made pursuant to the preceding sections, the village and applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation. However, 10% of the check deposit or performance bond shall not be repaid

to the applicant until one year following the completion, inspection and acceptance by the village of all construction and installation covered by the check deposit or performance bond as outlined in the contract.

- E. Inspections. Periodic inspections during the installation of improvements shall be made by the Code Enforcement Officer to ensure conformity with the approved plans and specifications as contained in the contract and this chapter. The applicant shall notify the Code Enforcement Officer when each phase of improvements is ready for inspection. At least five days prior to commencing construction of required improvements, the applicant shall pay to the Village Clerk the inspection fee required by the Village Board. Upon acceptable completion of installation and improvement, the Planning Board shall issue a letter to the applicant or his or her representative, and such letter shall be sufficient evidence for the release by the village of the portion of the performance bond or certified deposit as designated in the contract to cover the cost of such completed work.
- F. Acceptance of streets and facilities. When the Superintendent of Public Works or Village Board designee, following final inspection of the improvements, certifies to the Planning Board that all installation and improvements have been completed in accordance with the contract, the Village Board may, by resolution, proceed to accept the facilities for which bond has been posted or check deposited. [Amended 6-5-1991 by L.L. No. 1-1991]

ARTICLE VI Site Plan Review Standards

§ 175-31. General provisions.

In review and approval of site plans, the Planning Board shall follow the standards set forth in this Article.

§ 175-32. Access.

Access to all sites shall be consistent with the standards set forth in "Policy and Standards for Entrances to State Highways," as revised, published by the State of New York Department of Transportation.

§ 175-33. Buffer areas.

Where a site plan proposes commercial development adjacent to residential areas, the Planning Board shall require a minimum of 25 feet of vegetative buffer area. Plant material shall be six to eight feet in height when planted and shall be spaced to form an opaque screen either in a single row or multiple rows with alternate spacing.

§ 175-34. Landscaping.

- A. In areas of traffic movement. In areas where landscape materials are used to define paths of traffic movement, the following guidelines shall be used:

- (1) Plant materials shall consist of upright Juniper or Yew, Barberry, Firethorn, Evergreen Euonymus or equivalent approved by the Planning Board.
 - (2) Plants shall be selected to achieve not more than three feet mature height. Planting height shall be 18 to 24 inches.
 - (3) Plants shall be spaced to create a compact hedge border at time of planting.
 - (4) As an alternate, street trees may be used. Trees shall be approved by the landscape consultant; 3 1/2 to four inches in caliper, spaced 20 feet on center and have branching begin at a height no less than 10 feet and no greater than 12 feet.
 - (5) Planting beds shall be covered with the following material:
 - (a) Licorice mulch or approved equivalent at four inches minimum depth.
 - (b) Stone aggregate at three inches minimum depth.
 - (c) Where pedestrian cross traffic is evident, a paving material shall be used such as paving blocks set in sand with tight joints or Epoxy-Rok or equivalent.
- B. In and around parking areas. In areas where landscape materials are used to complement parking areas, the following guidelines shall be used:
- (1) Forty-foot planting islands at the end of or within parking areas shall contain the following materials:
 - (a) Columnar varieties 3 1/2 inches to four inches in caliper as approved by the Planning Board shall be planted 20 feet on center.
 - (b) Trees with low-growing branches, gum or moisture, seeds or pods shall be avoided.
 - (c) Branching of trees shall begin at a height no less than 10 feet and no greater than 12 feet.
- C. To define entrances and exits. Where landscape materials are used to define the point of entrance to a commercial facility, the following guidelines shall be used:
- (1) Plant materials shall consist of a carefully designed variety of evergreen shrubs selected from the following:
 - (a) Upright Yew.
 - (b) Japanese Andromeda.
 - (c) Euonymus.
 - (d) Laurel.
 - (e) Boxwood.
 - (f) Other evergreen varieties as approved by the Planning Board.

- (2) Design may be a natural or formal setting; however, plant height shall not interfere with required sight distances.

D. To complement pedestrian areas. Where landscape materials are used to complement areas intended for pedestrian activity, the following guidelines shall be used:

- (1) Pedestrian areas shall be paved with concrete or paving block set in concrete.
- (2) In order to minimize large areas of paving, landscape features, such as two- to three-foot earth mounds and planters shall be used.
- (3) Plant materials shall consist of a variety of evergreen and deciduous shrubs and trees selected from the following:

Evergreen

Spreading Yew
 Boxwood
 Laurel
 Euonymus
 Juniper
 Japanese Andromeda
 White Pine
 Mugo Pine
 Rhododendron

Deciduous

Japanese Red Maple
 Crab Apple
 Cherry
 Dogwood
 Azalea
 Forsythia
 Lilac
 Other varieties approved by the Planning Board
 Other varieties approved by the Planning Board

- (4) Planting beds shall be covered with a licorice mulch or approved equivalent at four inches minimum depth.

E. Screening. Where landscape materials are used for screening purposes, the following guidelines shall be used:

- (1) When sufficient space is available, a dense screen of evergreen plant materials shall be used.
- (2) Materials may include:
 - (a) White Pine.
 - (b) Spruce.
 - (c) Hemlock.
 - (d) Arborvitae.
- (3) Plant materials shall be eight to 10 feet in height when planted and shall be spaced to form an opaque screen either in a single row or in multiple rows with alternate spacing.

- (4) Where limited space is available, stockade or other approved fence may be used in conjunction with climbing or trellised plants.
- F. Natural areas. Where landscape materials are used primarily to beautify otherwise vacant spaces, the following guidelines shall be used:
- (1) Planting varieties shall be the same as Subsections D(3) and D(4).
 - (2) Where practical, earth forms should be used such as two- to three-foot landscaped mounds.
 - (3) Planting bed cover. Same as Subsection D(4), or, as an alternate, sod may be substituted.
- G. To complement state and county highway rights-of-way. Where landscape materials are used to complement areas within a state and county highway right-of-way, the following guidelines shall be used:
- (1) The area shall be covered with sod, or, as an alternative, stone aggregate at a minimum three-inch depth may be substituted.
 - (2) Evergreen and/or deciduous materials shall be placed according to size approved by appropriate highway jurisdiction.
- H. General requirements.
- (1) Plant materials shall be nursery grown (a copy of the State Certificate of Source shall be provided to the Code Enforcement Officer) and selected according to hardiness and ability to withstand highway salt conditions.
 - (2) Spaces to receive plant materials shall have a minimum inside width of six feet, except that where vehicle overhang is permitted, a ten-foot inside width shall be required.
 - (3) Loose materials such as wood mulch and stone aggregate shall be spread within a landscaped space at a level not to exceed 1 1/2 inches below the top of the curb.
 - (4) Areas that will receive continued pedestrian movement shall be paved.
 - (5) Landscape plans shall be designed by an appropriate licensed professional who shall certify as to plant hardiness and shall provide as-built plans of the completed project. The village landscape consultant shall supervise construction and installation of landscape materials.

§ 175-35. Lighting systems.

- A. General. Adequate lighting shall be provided on a site to ensure safe movement of persons and vehicles and for security purposes. Lighting standards shall be of a type approved by the Planning Board. All lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties. No floodlights in excess of 100 watts shall be installed without specific written approval of the Village of Black River.

- B. B.⁹ Design. The following design standards shall be followed on all site development plans:
- (1) The style of the light and light standard shall be consistent with the architectural style of the principal building.
 - (2) The maximum height of freestanding lights shall be the same as the principal building but not exceeding 25 feet.
 - (3) All lights shall be shielded to restrict the maximum apex angle of the cone of illumination to 150°.
 - (4) Where lights along the property lines will be visible to adjacent residents, they shall be appropriately shielded.
 - (5) Spotlight-type fixtures attached to buildings shall be avoided.
 - (6) Freestanding lights shall be so located and protected as to avoid being easily damaged by vehicles.
 - (7) Lighting shall be located along streets, parking areas, at intersections and where various types of circulation systems merge, intersect or split.
 - (8) Pathways, sidewalks and trails shall be lighted with low or mushroom-type standards.
 - (9) Stairways, sloping or rising paths, building entrances and exits shall be illuminated.
 - (10) Lighting shall be provided where buildings are set back or offset.
 - (11) The following intensity in footcandles shall be provided:
 - (a) Parking lots: an average of 1.0 footcandles.
 - (b) Intersections: 2.0 footcandles.
 - (c) Maximum at property lines: six-tenths (0.6) footcandles.
 - (d) In residential areas: average of six-tenths (0.6) footcandles.

§ 175-36. Soil erosion and sedimentation control.

- A. General. If, in the opinion of the Planning Board, the accelerated erosion of soil will result from development proposal, the Planning Board shall require that such erosion shall be controlled. To accomplish this, a person engaged in earthmoving activities shall develop, implement and maintain erosion and sedimentation control measures which will effectively minimize accelerated erosion and sedimentation. These erosion and sedimentation measures must be set forth in a plan as described below and must be available at all times at the site of the activity.

9. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

B. Erosion and sedimentation control plan.

- (1) The erosion and sedimentation control plan shall be prepared by a person trained and experienced in erosion and sedimentation control methods and techniques.
- (2) The erosion and sedimentation control plan shall be designed to prevent accelerated erosion and sedimentation and shall consider all factors which contribute to erosion and sedimentation, including but not limited to the following.
 - (a) The topographic features of the project area.
 - (b) The types, depth, slope and areal extent of the soils.
 - (c) The proposed alteration to the area.
 - (d) The amount of runoff from the project area and the upstream watershed area.
 - (e) The staging of earthmoving activities.
 - (f) Temporary control measures and facilities for use during earth moving.
 - (g) Permanent control measures and facilities for long-term protection; and
 - (h) A maintenance program for the control facilities, including disposal of materials removed from the control facilities or project area.

C. Restoration.

- (1) Upon completion of the project, all areas which were disturbed by the project shall be stabilized so that accelerated erosion shall be prevented.
- (2) Any erosion and sedimentation control facility required or necessary to project areas from erosion during the stabilization period shall be maintained until stabilization is completed.
- (3) Upon completion of stabilization, all unnecessary or unusable control facilities shall be removed, the areas shall be graded and the soils shall be stabilized.

**ARTICLE VII
General Regulations For All Uses**

§ 175-37. General provisions.

All uses shall follow the requirements of this Article.

§ 175-38. Parking.**A. Parking, general.**

- (1) All uses shall be provided with off-street parking for all vehicles during typical peak use periods. Off-street parking may be located off-site but must be within 300

§ 175-36.1. Commercial architectural standards. [Added 5-2-2005 by L.L. No. 2-2005]

- A. Commercial uses shall meet the following architectural standards in B-1 Zones:
- (1) Buildings shall have pitched roofs or simulated pitched roofs.
 - (2) Building walls shall have no less than 12% nor more than 35% glass area on all street-facing facades.
 - (3) Building walls of 30 feet in length or more shall be jogged or broken up.
 - (4) Overly bright or garish colors shall be avoided.
 - (5) No metal vertical siding, board and batten siding, or concrete block siding are allowed.
 - (6) Wood or natural-appearing siding is encouraged; brick or stone are allowed.
 - (7) No steel roofs shall be allowed other than standing-seam roofs.
 - (8) Rectangular-shaped building footprints shall be avoided.
 - (9) Pedestrian connections shall be provided for all uses, and pedestrian ways shall be located such that they are clear of plowed roadway snow.
- B. The Planning board may modify any of the above standards where it finds that it is necessary to accommodate the particular designs of a unique business.

ARTICLE VII
General Regulations For All Uses

§ 175-37. General provisions.

All uses shall follow the requirements of this article.

§ 175-37.1. Farm animals; wild or exotic species. [Added 8-1-2016 by L.L. No. 2-2016]

- A. Farm animals.
- (1) It shall be unlawful for the owner of any farm animal to fail to comply with any of the minimum standards in this article.
 - (2) The keeping, maintaining or slaughtering of any farm animal shall be permitted only in Agricultural Zones and on parcels within those zones which are appropriately sized for such purposes: a minimum lot size of 60,000 square feet for the first animal and 400 square feet of additional pen or enclosure for every additional animal. Within the pen there shall be a roofed structure no less than 100 square feet per animal. Any such pen or enclosure shall be situated no less than 100 feet from any street or adjoining property line.
- B. Wild or exotic species. No person shall possess or keep a wild or exotic animal in the Village of Black River other than a zoological park, veterinarian hospital or clinic,

humane society, commercial pet store, circus, amusement show or facility used for educational or scientific purposes, which provides proper cages, fences, and other protective devices adequate to prevent such animals from escaping or injuring the public.

§ 175-38. Parking.

A. Parking, general.

- (1) All uses shall be provided with off-street parking for all vehicles during typical peak use periods. Off-street parking may be located off-site but must be within 300 feet of the site. Off-street loading spaces shall be provided as required in § 175-38C.
- (2) A parking space shall not be less than nine feet by 20 feet exclusive of accessways and driveways.
- (3) Existing uses need not provide additional off-street parking unless one or more of the following conditions occur:
 - (a) The use changes.
 - (b) The use expands its gross floor area by 20% or more or if the dollar value of the rehabilitation of the facility for purposes of expansion exceeds 50% of the prior value of the facility.
 - (c) The use is destroyed and seeks to be reestablished.
- (4) To the greatest extent possible, all parking areas for nonresidential uses in all zones except Business B(1) shall be located behind or at the side of the facility served. Where parking areas must be located in front of a facility adjacent to a public highway, appropriate landscaping or visual barriers shall be provided.
[Added 2-2-2009 by L.L. No. 1-2009]
- (5) To the greatest extent possible, the size of all parking areas other than those for dwelling units and dwelling units with a home occupation shall be based on gross leasable area. Where gross leasable area figures are unavailable, gross floor area figures shall be used.

B. Minimum standards are:

- (1) Two spaces per dwelling unit.
- (2) Dwelling unit with a home occupation:
 - (a) Adequate space to accommodate all vehicles during typical peak use periods;
or
 - (b) One space for each 200 square feet of the floor space devoted to the home occupation in addition to the two residential spaces required.
- (3) Professional offices/personal services: one space per 200 square feet of gross leasable area (GLA).

- (4) Retail, small: one space per 200 square feet of GLA.
- (5) Large-product retail: one space per 400 square feet of GLA.
- (6) Shopping centers.
 - (a) Shopping center site:

Area (square feet of GLA)	Requirement
25,000 to 400,000	1 space per 250 square feet of GLA
400,000 to 600,000	1 space per 225 square feet of GLA
600,000 and more	1 space per 200 square feet of GLA

(b) Office space occupying greater than 10% GLA must meet office standards.

- (7) Facilities with drive-up service windows. Three twenty-foot car length waiting spaces for each drive-up lane. Where multiple drive-up windows exist, there shall be one additional waiting space, which shall be a common lane.
- (8) Public and semipublic facilities: one space per four seats.
- (9) All fractional portions of parking spaces as calculated by gross leasable area shall be deleted if the fraction is less than fifty-hundredths (0.50); otherwise, one additional parking space is required.

C. Off-street loading.

- (1) All uses other than dwelling units or dwelling units with home occupations must comply with the following off-street loading standards:
 - (a) First 5,000 square feet of GLA: one berth.
 - (b) Each additional 10,000 square feet: one berth.
- (2) With the exception of funeral homes, each loading berth shall be a minimum of 12 feet wide, 50 feet long and 14 feet in height.
- (3) Loading area berths for funeral homes shall be a minimum of 10 feet wide, 25 feet long and eight feet in height.
- (4) Where the use, traffic generation or function of a site is such that the use can show that the number of berths required is not justified, the Planning Board may waive these requirements.

D. In B-1 Zones, the following parking standards shall apply: [Added 5-2-2005 by L.L. No. 2-2005]

- (1) For the purpose of this subsection, the front of a building shall be considered to be the side facing Route 3 and the rear of buildings shall be the side opposite Route 3.

One-third of the spaces, maximum, may be allowed to the side of buildings along Route 3. All remaining spaces, other than handicapped spaces, are required to be to the rear of buildings. Buildings of greater than 20,000 square feet are allowed to have parking in front of the building.

- (2) A limit alone parking space per 250 square feet of interior commercial floor area is allowed, or as determined by the Planning Board through the site plan review process.
 - (3) Landscaping of one tree per 10 parking spaces is required.
 - (4) Shared parking arrangements are allowed and encouraged. The required spaces assigned to one use may not be credited to another use except where the uses operate at different times. The applicant shall provide written evidence that the owner has granted permission for such shared parking.
 - (5) Parking areas on adjacent parcels shall be connected to each other by private access roads, wherever feasible.
- E. Landscaping in Business B(1) Zones. One tree per 10 parking spaces is required. **[Added 2-2-2009 by L.L. No. 1-2009]**
- F. Joint use of parking facilities. The Planning Board may approve, by special use permits, the use of joint parking facilities by one or more applicants, upon a finding that: **[Added 2-2-2009 by L.L. No. 1-2009]**
- (1) No substantial conflict will exist during principal hours or periods of peak demand of the uses for which the joint space is provided;
 - (2) That such spaces shall not be located farther than 500 feet from any of the principal uses which they serve; and
 - (3) The applicant provides written evidence that the lot owner has granted permission for such shared parking.
- G. Parking area connectivity. Parking areas on adjacent parcels shall be connected to each other by private access roads, wherever feasible. Each parcel owner must plow and maintain the portion of any such road lying on his/her property. **[Added 2-2-2009 by L.L. No. 1-2009]**

§ 175-39. Signs.

A. Exempt signs. A permit shall not be required for the following signs:

- (1) Temporary signs.
 - (a) Announcing signs. One sign per street frontage of a building which is under construction or structural alteration or repair announcing the character of the building enterprise or the purpose for which the building is intended, one sign per other construction project, including names of architects, engineers, contractors, developers, financiers and others, provided that the area of such

sign shall not exceed 20 square feet. Such sign shall not remain for longer than one month following completion of the project.

feet of the site. Off-street loading spaces shall be provided as required in § 175-38C.

- (2) A parking space shall not be less than nine by twenty (9 x 20) feet exclusive of accessways and driveways.
- (3) Existing uses need not provide additional off-street parking unless one or more of the following conditions occur:
 - (a) The use changes.
 - (b) The use expands its gross floor area by 20% or more or if the dollar value of the rehabilitation of the facility for purposes of expansion exceeds 50% of the prior value of the facility.
 - (c) The use is destroyed and seeks to be reestablished.
- (4) To the greatest extent possible, all parking areas shall be located behind the facility served and out of streetside view. Where parking areas must be located in front of a facility adjacent to a public highway, appropriate landscaping or visual barriers shall be provided.
- (5) To the greatest extent possible, the size of all parking areas other than those for dwelling units and dwelling units with a home occupation shall be based on gross leasable area. Where gross leasable area figures are unavailable, gross floor area figures shall be used.

B. Minimum standards are:

- (1) Two spaces per dwelling unit.
- (2) Dwelling unit with a home occupation:
 - (a) Adequate space to accommodate all vehicles during typical peak use periods; or
 - (b) One space for each 200 square feet of the floor space devoted to the home occupation in addition to the two residential spaces required.
- (3) Professional offices/personal services: one space per 200 square feet of gross leasable area (GLA).
- (4) Retail, small: one space per 200 square feet of GLA.
- (5) Large-product retail: one space per 400 square feet of GLA.
- (6) Shopping centers.
 - (a) Shopping center site (square feet of GLA):

Area	Requirement
25,000 to 400,000	1 space per 250 square feet of GLA

Area	Requirement
400,000 to 600,000	1 space per 225 square feet of GLA
600,000 and more	1 space per 200 square feet of GLA

- (b) Office space occupying greater than 10% GLA must meet office standards.
- (7) Facilities with drive-up service windows. Three twenty-foot car length waiting spaces for each drive-up lane. Where multiple drive-up windows exist, there shall be one additional waiting space, which shall be a common lane.
- (8) Public and semipublic facilities: one space per four seats.
- (9) All fractional portions of parking spaces as calculated by gross leasable area shall be deleted if the fraction is less than fifty-hundredths (0.50); otherwise, one additional parking space is required.
- C. Off-street loading.
- (1) All uses other than dwelling units or dwelling units with home occupations must comply with the following off-street loading standards:
- (a) First 5,000 square feet of GLA: one berth.
- (b) Each additional 10,000 square feet: one berth.
- (2) With the exception of funeral homes, each loading berth shall be a minimum of 12 feet wide, 50 feet long and 14 feet in height.
- (3) Loading area berths for funeral homes shall be a minimum of 10 feet wide, 25 feet long and eight feet in height.
- (4) Where the use, traffic generation or function of a site is such that the use can show that the number of berths required is not justified, the Planning Board may waive these requirements.

§ 175-39. Signs.

A. Exempt signs. A permit shall not be required for the following signs:

- (1) Temporary signs.
- (a) Announcing signs. One sign per street frontage of a building which is under construction or structural alteration or repair announcing the character of the building enterprise or the purpose for which the building is intended, one sign per other construction project, including names of architects, engineers, contractors, developers, financiers and others, provided that the area of such sign shall not exceed 20 square feet. Such sign shall not remain for longer than one month following completion of the project.

- (b) Real estate signs. One sign per street frontage not exceeding 15 square feet advertising the sale, rental or lease of the premises on which displayed. All such signs shall be removed within five days after the sale or lease of the property has been consummated, and all such signs must be set back at least 15 feet from any designated street line.
 - (c) Subdivision signs. One sign per street entrance to the subdivision and located on the property to be subdivided, provided that such sign shall not exceed 32 square feet in area. Such sign may not be erected until the subdivision has been approved by the appropriate officials and may be displayed for a period of one year from the date of erection. Erection date will be determined to be the same as the subdivision approval date. The display period may be extended by written approval of the Planning Board for a reasonable period of time, not to exceed one year at any given time.
 - (d) Sale ad signs. Signs advertising special sales of goods or merchandise which will be on sale for no longer than one month. Such signs shall not take up more than 30% of the total window area of any building frontage and shall be removed immediately following termination of the sale.
- (2) Institutional signs. One sign or bulletin board per street front, setting forth or denoting the name of any public, noncommercial, charitable or religious institution when located on the premises of such institution, provided that such sign or bulletin board shall not exceed 16 square feet in sign area.
 - (3) Public signs. Signs of a public or noncommercial nature, which shall include community service information signs, public transit service signs, public utility information signs, safety signs, danger signs, trespassing signs, signs indicating scenic or historic points of interest, traffic control signs and all signs erected by a public officer in the performance of a public duty.
 - (4) Subdivision, mobile home parks or tract name signs. One nonilluminated sign not to exceed 20 square feet in area per exclusive entrance to a subdivision or tract, such signs restricted to the subdivision or tract name.
 - (5) Flags. Official flags of government jurisdictions, including flags indicating weather conditions and flags which are emblems of on-premises business firms and enterprises, religious, charitable, public and nonprofit organizations. No single flag shall exceed 30 square feet in area.
 - (6) Plaques. Commemorative plaques placed by historical agencies recognized by the village, the County of Jefferson or the State of New York.
 - (7) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
 - (8) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
 - (9) Signs not exceeding one square foot in area and bearing only property numbers, post box numbers or names of occupants of premises.

- (10) For multiple dwelling projects, one sign, building- or ground-mounted, indicating that the name of the project may be permitted. Such sign shall not exceed 10 square feet in area, or per side, if double-faced.
- B. Prohibited signs. The following sign types shall not be allowed at any location within the Village of Black River:
- (1) Any commercial sign which advertises an activity not conducted on the premises or a product not available for sale on the premises upon which such sign is maintained. **[Amended 4-3-1995 by L.L. No. 1-1995]**
 - (2) All portable signs.
 - (3) Any sign which has flashing lights, moving parts or projections beyond its area.
 - (4) Any sign which projects above the roof line or parapet of a building.
- C. General sign requirements. All signs, including exempt signs, shall be subject to the following general standards: **[Amended 4-6-1998 by L.L. No. 2-1998]**
- (1) The sign area of all signs, unless otherwise specified, shall not exceed 5% of the total square footage of that side of the building upon which said sign is to be affixed or in front of which side said sign is to be placed. In any event, no sign shall be larger than 50 square feet.
 - (2) All signs shall be erected and constructed in a fashion so as not to obstruct traffic, cause visual blight nor detract from the value of property adjacent to that property upon which said sign is erected. All signs shall be compatible within the context of their visual and physical environment. In making such determination, consideration shall be given but need not be limited to the following elements:
 - (a) Size, bulk and mass.
 - (b) Texture and materials.
 - (c) Colors.
 - (d) Lighting and illumination.
 - (e) Orientation and elevation.
 - (f) General and specific location.
 - (g) Proximity to streets, highways and mass transit routes.
 - (h) Design, including size and character of lettering, logos and related contents.
 - (i) Background or field, including the skyline.
 - (j) Character of structural members.
 - (k) Frequency and nature of all general and business signs and official regulatory signs and devices which are within the immediate field of vision.

- (3) All signs advertising farm and home occupations shall not exceed four square feet in area.
- (4) No sign shall project into the public right-of-way.
- (5) All signs shall be limited in wording and graphics to the name of the establishment and its principal service or purpose.
- (6) No sign shall exceed 20 feet in overall height, measured from the highest level of natural ground immediately beneath the sign to the highest point of the sign or the supporting structure thereof.
- (7) No sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. All luminous signs, indirectly illuminated signs and lighting devices shall employ only lights emitting light of constant intensity.
- (8) No luminous sign, indirectly illuminated sign or lighting device shall be placed or directed so as to cause glaring or nondiffuse beams of light to be cast upon any public street, highway, sidewalk or adjacent premises or otherwise to cause glare or reflection that may constitute a traffic hazard or nuisance. No sign shall in its construction employ any mirror or mirror-like surface, nor any day-glowing or other fluorescent paint or pigment.
- (9) No sign or part thereof shall contain or consist of any banner, pennant, ribbon, streamer, spinner or other similar moving, fluttering or revolving device. The said devices, as well as strings of lights, shall not be used for advertising or attracting attention, whether or not they are part of the sign. No sign or part thereof may rotate or move back and forth.
- (10) No sign shall contain any neon or similar lighting.
- (11) All signs must be set back at least 15 feet from any designated street line unless said sign is to be attached to a structure which is set back less than 15 feet from any designated street line. In this case, any sign which is attached to said structure must be attached flush to the building and/or not protrude more than 12 inches from the surface of the building.
- (12) All signs shall not exceed one sign per street frontage of the building or use being advertised, except that each 500 feet of frontage shall be considered an additional frontage. Provision can be made for more than one sign, but no more than two signs per 500 feet of frontage, provided that the cumulative total of sign areas does not exceed the standard set in Subsection A of this section.
- (13) In the event that any standard set forth in this chapter is in conflict with any other standard set forth in this chapter, the more restrictive standard shall be held applicable.
- (14) No signs shall be placed, painted or drawn upon trees, works or natural features on the site or on utility poles, bridges, culverts, towers or similar structures.

- (15) All signs, together with their surfaces, shall be kept in good repair. The display surfaces shall be kept neatly painted at all times.

§ 175-40. Riverfront preservation.

- A. Maximum retention of natural features shall be a required consideration when proposing a use within 100 feet of the river bank.
- B. No permanent structures or waste disposal systems shall be allowed within 100 feet of the bank of the river. In no case shall a waste disposal system discharge into the river.

§ 175-41. Satellite dishes.

- A. Location. In residential zones all satellite dishes shall be located in the rear yard.
- B. Minimum distance. All satellite dishes shall be located a minimum distance of 25 feet from any structure.
- C. Satellite base. All satellite dishes shall be mounted and supported following the recommendations of the manufacturer or as designed by a professional engineer. The installation shall be subject to inspection by the Village Code Enforcement Officer.¹⁰

§ 175-42. Fences and walls. [Added 6-6-1988 by L.L. No. 1-1988]

- A. A zoning permit is required for the erection of any fence or wall.
- B. Application for a permit shall include a plan or sketch showing the proposed location, materials to be used and height.
- C. No fence or wall shall be located within any public right-of-way.
- D. Fences and walls of the following types or materials are prohibited:
- (1) Barbed wire.
 - (2) Sharp, pointed fences.
 - (3) Canvas or cloth.
- E. Chain link fences are permitted, but must be erected with closed loops at the top.
- F. Entrances and gates shall not open outward so as to restrict or interfere with sidewalks.
- G. Shrubbery and hedges utilized for the purpose of a fence or wall such as to enclose, divide, protect or create a barrier on or to property shall meet all of the requirements of this section.¹¹

10. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

11. Editor's Note: Former Subsection H, providing regulations on fences and walls between a public street and the sidewalk, which immediately followed this subsection, was deleted 4-3-1995 by L.L. No. 1-1995.

- H. No fences in excess of six feet shall be permitted in the area behind the extended front line of the building nearest a public street unless such fence is at least 10 feet from the nearest building, whether or not that building is on the adjoining lot or on the lot where the fence is erected.
- I. A fence or wall shall be located at least two feet from any adjoining property line and at least three feet from any sidewalk or public right-of-way line closest to the lot in question. **[Amended 4-3-1995 by L.L. No. 1-1995]**
- J. Fence materials used shall be placed in such a way that the finished-looking side shall be facing away from the property on which the fence is constructed.

§ 175-43. Residential housing standards. [Added 6-6-1988 by L.L. No. 1-1988; amended 12-4-1995 by L.L. No. 3-1995]

- A. Residential, one- and two-family dwellings (except mobile homes).
 - (1) Houses shall be placed on a continuous perimeter foundation wall extending below from the frost line. Steel chassis used to transport manufactured housing (other than a mobile home) shall not be used as part of the permanent structure.
 - (2) Roof pitch shall be a minimum of four to twelve (4/12).
 - (3) Exterior walls are to be of traditional site-built appearance using clapboards, shingles, shales, synthetic or metal siding manufactured to closely resemble clapboards, shingles, shales, decorative masonry, wood board-and-batten and "Texture 1-11" exterior plywood.
 - (4) Smallest parallel width of the structure shall be 20 feet.
 - (5) No more than one dwelling unit per lot. **[Added 4-15-1999 by L.L. No. 1-1999]**
- B. Mobile homes.
 - (1) Construction and installation. A single-wide mobile home shall be subject to the following requirements:
 - (a) Each unit shall have been constructed after 1976 and shall bear the appropriate federal inspection seal.
 - (b) Each unit shall have a gross floor area of 720 square feet and a pitched roof of at least three feet of rise for every 12 feet of run, and shall be composed of material primarily used on site built homes such as fiberglass, painted metal roofing, shales, asphalt or tile. A single-wide mobile home may be installed without a pitched roof, provided that such roof is added within 60 days.
 - (c) Each single-wide mobile home shall have the hitch assembly and running light removed and shall be installed with tie down anchors to a foundation or stand as follows:

- [1] Mortared or bonded masonry bricks supported on a footer reaching below the frost line;
 - [2] A full concrete slab or reinforced concrete runners four feet wide extending the full length of the mobile home, at least six inches thick and supported by at least six inches of compacted crusher run stone; or
 - [3] At least 10 inches of compacted crusher run stone.
- (d) Within 60 days from the date of installation, a single-wide mobile home placed on a stand shall be provided with permanent fire retardant skirting of the type appearing compatible with the mobile home.

§ 175-44. Swimming pools. [Added 6-6-1988 by L.L. No. 1-1988]

Swimming pools may be located within a required side or rear yard. However, swimming pools shall:

- A. Not be located in a front yard.
- B. Not be closer than 50 feet to a front lot line, 10 feet to a side or a rear lot line or 20 feet to any dwelling on adjoining lots.
- C. Have an inaccessible barrier compatible with the provisions of the New York State Uniform Fire Prevention and Building Code, 9 NYCRR Part 600 et seq. **[Amended 12-6-1993 by L.L. No. 1-1993]**

§ 175-45. Recreation vehicles. [Added 6-5-1991 by L.L. No. 1-1991]

- A. No recreation vehicle shall be occupied on an overnight basis for longer than 10 consecutive days.
- B. No recreation vehicle shall have hookup of water or sewer facilities.
- C. No more than two recreation vehicles may be parked or stored on any residential lot.
- D. The owner of a recreation vehicle shall not park or store such vehicle in such a manner as to create a dangerous or unsafe condition on the lot where parked or stored or constrict the line of sight of vehicular traffic on the street.
- E. Recreation vehicles may be parked on the driveway or in the front or side yards while in use during the period from Memorial Day to Columbus Day of each year. After Columbus Day, the recreation vehicle shall be stored in the side or rear yard, a minimum of 10 feet from the property line.

§ 175-46. Driveways and private entrances. [Added 12-6-1993 by L.L. No. 1-1993]

All driveways and private entrances shall be set back a minimum of two feet from any side line. Further, all such driveways or private entrances shall comply with and be subject to any rules, regulations or permit conditions of the New York State Department of Transportation and/or Jefferson County Highway Department, if any.

**ARTICLE VIII
Cluster Development****§ 175-47. Authorization.**

The Planning Board of the Village of Black River is hereby authorized to modify applicable provisions of this Zoning law pursuant to § 7-738 of the Village Law simultaneously with the approval of any plat within the village subject to the conditions set forth in this section.

§ 175-48. Purpose.

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

§ 175-49. Density transfer.

- A. In each zone allowing cluster development the lot size may be reduced from the general lot size of that district to a specific minimum lot size for cluster development. All such lot reductions shall be compensated for by an equivalent amount of land in cluster open space to be preserved and maintained for its scenic value, for recreation or conservation purposes.
- B. In the approval of a cluster subdivision, in no case shall the maximum density specified for the applicable zone be increased, nor shall the other applicable regulations or use limitations for the zone be changed or modified.

§ 175-50. Review criteria.

A permit for a cluster development shall be granted only if evidence is presented which establishes:

- A. That the proposed development will be in harmony with the general purpose, goals, objectives and standards of the General Plan, this chapter and Chapter 153, Subdivision and Land Development.
- B. That the proposed building or use complies with all applicable regulations of this chapter except as modified pursuant to the authority of this section.

- C. That the proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety and general welfare.
- D. That the proposed cluster development will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property, in accordance with the applicable zone regulations.
- E. That the proposed cluster development will be served adequately by essential public facilities and services such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers and schools; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services.
- F. That the proposed cluster development will not result in the destruction, loss or damage of any natural, scenic or historic feature of significant importance.

§ 175-51. Open space requirements.

- A. Depending on the size and design of the development, it may be necessary that a common open space, permanently reserved and maintained as landscaped park or recreational space, is provided to serve the homeowners within the development. The area, configuration and location of such open spaces shall be subject to review and approval of the Planning Board.
- B. The land so set aside shall be provided in such a manner that it is usable for recreation or other activities and is accessible to all residents of the subdivision or, where the land has been deeded to the village, to the public.
- C. Cluster open space shall be made available for the use of all residents of the village unless the Planning Board finds that the size, location, type of development or cost of development or maintenance of such cluster open space or the availability of public open space would make public use undesirable or unnecessary.
- D. If cluster open space is not dedicated to public use, it shall be protected by legal arrangements, satisfactory to the Planning Board, sufficient to assure its maintenance and preservation for whatever purpose it is intended. Covenants or other legal arrangements shall specify ownership of the cluster open space; method of maintenance; responsibility for maintenance; maintenance taxes and insurance; compulsory membership and compulsory assessment provisions; guaranties that any association formed to own and maintain cluster open space will not be dissolved without the consent of the Planning Board; and any specifications deemed necessary by the Planning Board.

ARTICLE IX
Tree Conservation
[Added 6-5-1991 by L.L. No. 1-1991]

§ 175-52. Purpose.

- A. It is recognized that trees provide various benefits to the environment, including the stabilization and preservation of the soil, the absorption of air pollutants and the production of oxygen and further provide natural barriers to noise and habitats for wildlife, while maintaining and offering an intrinsic aesthetic quality. The destruction or removal of trees deprives all sectors of society of these benefits while disrupting the ecological systems of which they are an integral part.
- B. With this Article, it is the intent of the Village of Black River to regulate the destruction and removal of trees so as to secure these benefits for the present and future residents of the Village of Black River.

§ 175-53. Destruction of trees prohibited.

Commercial harvesting of trees growing upon a parcel of real property which is in excess of one acre in size is prohibited without first having obtained a tree permit as provided for in § 175-55 of this chapter.

§ 175-54. Exemptions.

- A. No person shall be required to obtain a tree permit for the destruction or removal of trees incidental to surveying and soils investigation activities.
- B. Any person doing business as a public utility subject to the jurisdiction of the New York State Public Service Commission, and any duly constituted public agency authorized to provide utility services, shall be permitted to trim, prune or alter any tree which may otherwise be lawfully altered by such person, to the extent necessary to enable such person to protect and repair existing utility services, without first obtaining a tree permit.
- C. Any person required by the Village of Black River to submit application to the Planning Board for approval of a proposed subdivision or special permit shall submit with such application the information required for a tree permit. No subdivision or special permit shall be approved by the Planning Board without due consideration of such information. Approval of a subdivision or special permit shall constitute adequate compliance with this section.

§ 175-55. Application for tree permit.

- A. Every applicant for a tree permit required by § 175-53 above shall submit an application to the Planning Board on forms prescribed by the Planning Board. Such application shall include but not be limited to the following information:

- (1) The name and address of the applicant and owner if not the same.
 - (2) The purpose of the proposed tree removal.
 - (3) The site of the proposed tree removal; and
 - (4) An attached sketch or plan of the area clearly indicating the following:
 - (a) An outline of existing heavily wooded areas on the site; and any other separate trees over six inches in diameter; and
 - (b) The location of any improvements on the property.
- B. In acting upon the application, the Planning Board shall take into account the following considerations:
- (1) The location and size of the tree or trees to be removed.
 - (2) The condition of the trees with respect to disease and potential for creating hazardous conditions.
 - (3) The proximity of the trees to existing or proposed structure and utility appurtenance.
 - (4) The necessity of the removal for the proposed and project.
 - (5) The environmental effect of the removal.
- C. The Planning Board shall advise the applicant in writing of its decision on the application and upon the favorable determination of such application issue a tree permit therefor.

ARTICLE X

Grading and Topsoil Removal

[Added 6-5-1991 by L.L. No. 1-1991]

§ 175-56. Purpose.

It is the purpose of this Article to regulate and control the grading of land and removal of topsoil and vegetation within the Village of Black River and to prescribe regulations for this activity.

§ 175-57. Grading plan required.

- A. No applicant, developer or property owner in the Village of Black River shall remove any tree, vegetation or topsoil or perform any grading operations in an area of 15,000 square feet or greater without first obtaining a grading permit as provided for in § 175-60. Before obtaining said permit, the applicant, developer and/or property owner shall provide the Planning Board with a schedule for grading, construction operations and erosion control methods. This permit shall remain in force and effect, provided that the applicant, developer and/or property owner meets the following control requirements:

- (1) The smallest practical area of land shall be exposed at any one time during the development.
 - (2) When land is exposed during development, the exposure shall be kept to the shortest practical period of time.
 - (3) Temporary vegetation and/or emulsion shall be used to protect areas in excess of 15,000 square feet exposed for a period over six weeks during development.
 - (4) Sediment basins, debris basins (silting basins or silt traps) shall be installed and maintained to remove sediment from runoff waters on lands undergoing development.
 - (5) Provision shall be made to effectively accommodate the increased runoff caused by changing soils and surface conditions during and after development.
 - (6) Permanent final vegetation and structures shall be installed as soon as practical in the development.¹²
 - (7) The development plan shall be fitted to the type of topography and soils so as to create the least erosion potentials.¹³
 - (8) Wherever feasible, natural vegetation should be retained and protected.
 - (9) The New York Guidelines for Urban Erosion and Sediment Control shall be used in preparing and implementing soil erosion and sediment control programs and in reviewing proposed site development plans as outlined above. Other reference guides may also be used to this end.
- B. If the Code Enforcement Officer finds that the applicant, developer and/or property owner has failed to comply with the aforesaid control requirements, said grading permit shall be revoked and all grading operations shall cease and desist.¹⁴

§ 175-58. Exemptions.

Preparation of agricultural land to seed crop or harvest shall be exempt from the provisions of this Article.

§ 175-59. Escrow.

- A. To insure that site work is performed in accordance with the controls established in this Article, before obtaining said grading permit, the applicant, developer and/or property owner shall deposit with the Village Clerk a bond, (or, in the alternative, a cash amount), to be fair and reasonable as recommended by the Planning Board and set by the Village Board.

12. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

13. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

14. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- B. Site work shall be performed and completed in accordance with the approved plan and schedule of grading, construction operation and erosion control methods filed with the Planning Board and as part of an approved grading permit.
- C. Upon completion of the site work, the applicant, developer and/or property owner will request the Code Enforcement Officer to inspect the site. Upon approval of the site work by the Code Enforcement Officer, the Code Enforcement Officer will direct the Village Clerk to release all of the applicant's, developer's and/or property owner's money on deposit.¹⁵
- D. Upon the failure of the applicant, developer and/or property owner to perform the site work in accordance with the grading plan submitted, the Village of Black River and/or its agents shall enter upon said premises and complete the necessary site work and charge the cost of said site work to the funds on deposit with the Village Clerk pursuant to § 175-59A, above. The Village Clerk shall be authorized to pay any charge or charges approved by the Planning Board without further approval of the applicant, developer and/or property owner. If the village should undertake completion of any site work upon applicant's, developer's and/or property owner's failure to do so, any sums remaining on deposit with the Village Clerk after completion of said site work shall be returned to the applicant, developer and/or property owner.

§ 175-60. Grading permit.

A grading permit may be issued upon approval of the Planning Board for the removal of vegetation or topsoil. The applicant shall provide the Planning Board with a schedule of grading, construction operations and erosion control methods. Such grading permit shall remain in force and effect, provided that the applicant complies with requirements listed in § 175-57 of this chapter. If the Code Enforcement Officer finds that the applicant has failed to comply with the aforesaid requirements, said grading permit shall be revoked, and said applicant shall cease further work of any nature upon said site.¹⁶

ARTICLE XI

Administration and Enforcement

§ 175-61. Zoning permits.

- A. A. No land grading shall commence or topsoil or vegetation be removed (as defined in § 175-57 of this chapter) or building or structure erected or use instituted until a zoning permit therefor has been issued. The exterior structural area of a building shall not be enlarged until a zoning permit therefor has been issued. [Amended 6-5-1991 by L.L. No. 1-1991]
- B. A zoning permit shall not be required for:

15. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

16. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- (1) Construction of a structure with a floor area of 100 square feet or less. However, such structures shall meet the following requirements:
 - (a) They may be located in a required yard, provided that they do not disrupt a neighbor's view or traffic safety (i.e., line of sight).
 - (b) In no case shall the structure be located closer than 10 feet to the lot line or 50 feet to the center line.
 - (c) The structure or use shall not conflict with the principal uses of the zone.
 - (2) Home occupations listed in § 175-16B.
 - (3) Signs listed in § 175-39A.¹⁷
 - (4) Interior structural alterations. Likewise, no zoning permit is needed for routine maintenance and improvement (e.g., roofing, window replacement, siding replacement, etc.) that does not expand the exterior dimensions of the structure.
 - (5) Chimneys, placement of posts and other similar accessory uses.
- C. When establishing measurements to meet the required front yards and structure setbacks, the measurements shall be taken from the street line, lot line or nearest high water elevation to the furthest protruding part of the structure. This shall include such projecting facilities as cornices, eaves, porches, carports, attached garages, etc.
- D. No such zoning permit or certificate of occupancy shall be issued for any building or structure where said construction, addition and exterior expansion or use thereof would be in violation of any of the provisions of this chapter.
- E. A zoning permit issued under this chapter shall expire six months from the date of issue if construction is not started.
- F. Any use that has been discontinued for a period of 12 months or longer shall be termed abandoned and may not be reinstated without applying for a new zoning permit.
- G. Applications for zoning permits shall be submitted to the Code Enforcement Officer or Village Clerk and shall include two copies of a layout or plot plan showing the actual dimensions of the lot to be built upon; the size and location on the lot of the structures and accessory structures to be built; the distance from the building line to all lot lines, street right-way-lines, waterfront property lines, streams and any other features of the lot; and such other information as may be necessary to determine and provide for the enforcement of this chapter. This information, and other relevant application data, shall be provided on a form issued by the village.¹⁸

17. Editor's Note: Former Subsection B(4), Fences or walls, which immediately followed this subsection, was repealed 6-6-1988 by L.L. No. 1-1988.

18. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- H. A fee as determined by the Village Board shall be paid for each zoning permit issued. Costs of hearings, notices, postings, etc., shall be added to this fee when such requirements of the law must be met.¹⁹
- I. Parking lots for places of public assembly and commercial or business uses shall require a zoning permit for placement. They shall meet the requirements of § 175-38.

§ 175-62. Temporary zoning permits. [Added 6-5-1991 by L.L. No. 1-1991]

Temporary zoning permits may be issued upon approval of the Planning Board for temporary uses and structures incidental to a construction project. Such permit shall not exceed 12 months and may be renewed upon approval of the Planning Board. Such temporary permits shall be conditioned upon agreement by the applicant to remove any nonconforming structures or equipment upon expiration of the permit or to bring the use into compliance by a specified time.

§ 175-63. Code Enforcement Officer.²⁰

- A. This chapter shall be enforced by the Code Enforcement Officer, who shall be appointed by the Village Board.
- B. The Code Enforcement Officer's authorities shall include:
 - (1) Approve and/or deny zoning permits.
 - (2) Scale and interpret zone boundaries on Zoning Maps.
 - (3) Approve and/or deny certificates of occupancy.
 - (4) Refer appropriate appeal matters to the Zoning Board of Appeals.
 - (5) Revocation of a zoning permit where there is false, misleading or insufficient information. Revocation of a zoning permit and/or certificate of occupancy where the applicant has not done what was proposed on the application.
 - (6) Issue stop-work orders for noncompliance with this zoning law.
- C. The Code Enforcement Officer shall report at regular Village Board meetings the number of zoning permits issued and fees collected.

§ 175-64. Certificate of occupancy.

- A. No land shall be occupied or used and no building or structure hereafter constructed, erected, extended, used or changes made in the use until a certificate of occupancy shall

19. Editor's Note: Former Subsection I, providing for temporary permits, which immediately followed this subsection, was deleted 6-5-1991 by L.L. No. 1-1991.

20. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

have been issued by the Code Enforcement Officer stating that the building, structure or proposed use thereof complies with the provisions of this chapter. [Amended 4-3-1995 by L.L. No. 1-1995]

- B. All certificates of occupancy shall be applied for coincidentally with the application for a building permit. Said certificate shall be issued within 10 days after the erection and alteration shall have been approved as complying with the provisions of this chapter.
- C. The Code Enforcement Officer shall maintain a record of all certificates and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected.
- D. Under such rules and regulations as may be established by the Zoning Board of Appeals, a temporary certificate of occupancy for not more than 30 days for a part of the building may be issued by the Code Enforcement Officer. Such temporary certificate may be renewed upon request for an additional 30 days. [Amended 4-3-1995 by L.L. No. 1-1995]

§ 175-65. Zoning Board of Appeals.

- A. Creation, appointment and organization. A Zoning Board of Appeals is hereby created. Said Board shall consist of five members. The Village Board shall appoint the members of the Board of Appeals on a staggered term basis in conformance with Village Law. The Village Board shall appoint a Chairman and Vice-Chairman. The Board of Appeals shall select a Secretary and shall prescribe rules for the conduct of its affairs.
- B. Powers and duties. The Board of Appeals shall have all the powers and duties prescribed by §§ 7-712, 7-712-a and 7-712-b of the Village Law and by this chapter, which are more particularly specified as follows: [Amended 4-3-1995 by L.L. No. 1-1995]
 - (1) Interpretation. Upon appeal from a decision by an administrative official or citizen, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any zone boundary if there is uncertainty with respect thereto.
 - (2) Variances. To vary or adapt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots and other exceptional physical conditions; or undue use hardships; whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building. Variances must meet the criteria of Village Law, legal parameters and the regulations and intent of this chapter. In granting any variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.
- C. Procedure. The Board of Appeals shall act in strict accordance with the procedure specified by law. All appeals and applications made to the Board shall be in writing and on a form prescribed by the village. Every appeal or application shall refer to the specific provisions of the law being appealed and shall exactly set forth the interpretation that is claimed, the use for which the permit is sought or the details of the appeal that is applied

for and the grounds on which it is claimed that the appeal should be granted, as the case may be. A hearing shall be held for all variance actions in conformance with the requirements of Village Law. Every decision of the Board of Appeals shall contain a full description of reasons for granting or denying the permit. The reasons for the action shall be set forth in the minutes of the Board of Appeals meeting at which the action was taken. A tally of each member's vote shall be recorded. All meetings and hearings of the Board shall be public.

D. Alternate members. [Added 5-5-2014 by L.L. No. 2-2014]

- (1) The alternate member positions of the Board will ensure the presence of a quorum for meetings in the event that a regular member is absent due a conflict of interest, illness, absence or is unable to serve for any reason.
- (2) The Mayor, subject to the approval of the Board of Trustees, may appoint one alternate member to the Zoning Board of Appeals.
- (3) Alternate members shall be appointed for a term that will expire at the Village's next organizational meeting. Subsequently, alternate members will be appointed for annual terms at the organizational meeting.
- (4) Alternates shall attend all meetings of the Board, and shall have the right to attend executive sessions, if any, whether or not designated to participate in place of a regular member. An alternate who so attends a meeting of the Board without so being designated to substitute at that meeting may sit with the regular Board members and participate in any questions or discussions in the same manner as regular members, but without the right to vote.
- (5) All provisions of state law and Village law relating to Zoning Board of Appeals member training and continuing education, attendance, conflict of interest, eligibility, vacancy in office, removal, compatibility of office, services on other boards, as well as any provision of a local ordinance, shall also apply to alternate members. Alternate members of the Board shall be residents of the Village.

§ 175-66. Planning Board.

A. Powers and duties. The Planning Board shall have the following powers and duties with respect to this chapter:

- (1) Site plan review and approval.
- (2) Submittal of an advisory opinion to the Zoning Board of Appeals for use variances.
- (3) Submittal of an advisory opinion to the Village Board for proposed amendments to this chapter.

B. Procedure.

- (1) The Planning Board shall act in strict accordance with the procedure specified by this chapter. All applications made shall be made in writing on forms prescribed by the village.
- (2) Every decision of the Planning Board shall be made by resolution which shall contain a full record of findings in the case.

C. Alternate members. [Added 5-5-2014 by L.L. No. 2-2014]

- (1) The alternate member position of the Board will ensure the presence of a quorum for meetings in the event that a regular member is absent due a conflict of interest, illness/absence or is unable to serve for any reason.
- (2) The Mayor, subject to the approval of the Board of Trustees, may appoint one alternate member to the Planning Board.
- (3) Alternate members shall be appointed for a term that will expire at the Village's next organizational meeting. Subsequently, alternate members will be appointed for annual terms at the organizational meeting.
- (4) Alternates shall attend all meetings of the Board, and shall have the right to attend executive sessions, if any, whether or not designated to participate in place of a regular member. An alternate who so attends a meeting of the Board without so being designated to substitute at that meeting may sit with the regular Board members and participate in any questions or discussions in the same manner as regular members, but without the right to vote.
- (5) All provisions of state law and Village law relating to Planning Board member training and continuing education, attendance, conflict of interest, eligibility, vacancy in office, removal, compatibility of office, services on other boards, as well as any provision of a local ordinance, shall also apply to alternate members. Alternate members of the Board shall be residents of the Village.

§ 175-67. Environmental quality review. [Added 12-6-1993 by L.L. No. 1-1993]

All applications before the Zoning or Planning Board or any other Board, pursuant to the provisions of the Zoning Law, shall be subject to and comply with the provisions of the State Environmental Quality Review Act [6 NYCRR Part 617 and General Municipal Law § 239-m (referral to County Planning Board)], when required.

§ 175-68. Penalties for offenses.

- A. Complaints of violations. Whenever a violation of this chapter occurs, the Code Enforcement Officer, village or any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Code Enforcement Officer, who shall properly record such complaint and immediately investigate and report thereon to the Village Board. The Village Board shall institute appropriate legal procedures to correct the violation or issue penalties. This shall be done by a stop-work order and order

to correct the violation being issued. If the violation is not corrected within the specified time, the village shall take action to compel compliance.²⁴

- B. Any person, firm or corporation who commits an offense against, disobeys, neglects or refuses to comply with or resists enforcement of any of the provisions of this chapter shall, upon conviction, be punishable by a fine of not more than \$250 or imprisonment for a period not exceeding 15 days, or both. [Amended 3-2-1992 by L.L. No. 1-1992²⁵]
- C. In addition to the penalties provided above, the Village Board may also maintain an action or proceeding in the name of the village in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this chapter.

§ 175-69. Nonconforming uses.

- A. Continuation of nonconforming uses. Any lawful building, structure or use existing on the effective date of the enactment or amendment of this chapter may be continued, although such building or use does not conform to the terms of this chapter for the district in which it is located.
- B. Expansion of nonconforming uses prohibited; maintenance standards. No building or structure or the nonconforming use of a building structure or land shall hereafter be extended, altered or expanded or changed unless changed to a conforming use. However, a nonconforming use is hereby required to be maintained in such a condition as will not constitute a danger to the safety, health or general welfare of the public, provided that such maintenance shall not tend to increase the inherent nuisance nor violate any provisions of this chapter regarding yards, lot areas or lot coverage for the zone in which it is situated nor increase any existing violation of such provisions.
- C. Reconstruction of nonconforming buildings or structures. Any nonconforming building or structure which has been or may be damaged by fire, flood, explosion, earthquake, riot or an act of God may be corrected and used as before, provided that such reconstruction is done within 12 months of the date of the calamity, and provided that the restored building or structure does not cover any greater area or have any greater cubic content than before.
- D. Reoccupation of unoccupied nonconforming structures. A building or structure, nonconforming as to use, which is or hereafter becomes vacant or remains unoccupied for a continuous period of one year shall not thereafter be occupied except by a use which conforms to the terms of this chapter.

§ 175-70. Amendments.

- A. The Village Board may from time to time amend, supplement or repeal the regulations and provisions of this chapter after public notice and public hearing. All proposed changes shall be referred to the Jefferson County Planning Board for their

24. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

25. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

recommendation and for a report thereon prior to final action. The Village Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given as follows:

- (1) By publishing a notice at least 10 days prior to the time of such hearing in the village's official newspaper.
 - (2) By referring the proposed amendments to the Clerk of the County Legislature and the clerks of neighboring towns and villages and to any housing authority or state park commission whose property lies within 500 feet of any property affected by the proposed amendment at least 10 days prior to the public hearing. **[Amended 4-3-1995 by L.L. No. 1-1995]**
- B. In case of a protest against such change signed by the owners of 20% or more of the area of land included in such proposed change or of an adverse recommendation by the County Planning Board, the vote of the Village Board must have a majority plus one in favor to adopt the amendments.

§ 175-71. Interpretation.

Interpretation and application of the provisions of this chapter shall be held to be minimal requirements, adopted for the promotion of the public health, safety or the general welfare. Whenever the requirements of this chapter differ from the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

ARTICLE XII Telecommunications Facilities [Added 12-6-1999 by L.L. No. 2-1999]

§ 175-72. Purpose.

The Village of Black River recognizes the increased demand for wireless communications transmitting facilities and the need for services they provide. Often these facilities require the construction of a communications tower. The purpose of these regulations is to protect the community's interest in properly siting towers in a manner consistent with sound land use planning, while also allowing wireless service providers to meet their technological and service objectives. The following are guidelines to follow:

- A. Promote the health, safety and general welfare of the residents of the town/village through the establishment of minimum standards to reduce the adverse visual effects of telecommunications facilities through careful design, siting and screening.
- B. Protect property values.
- C. Protect the natural features and aesthetic character of the community.
- D. Avoid potential damage to adjacent properties from tower failure through proper engineering and careful siting of structures.

- E. Minimize the total number of telecommunications towers in the community by encouraging shared use of existing and future towers and the use of existing tall buildings and other high structures.

§ 175-73. General rules.

- A. No telecommunications facility shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.
- B. No existing structure shall be modified to serve as a telecommunications facility unless in conformity with these regulations.
- C. If collocating on an existing tower or structure, then a telecommunications facility is allowed by a zoning permit only. The Zoning Enforcement Officer will issue a zoning permit when the applicant submits an engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure or existing or approved tower.
- D. New telecommunications facilities are allowed by special use permit only in Agricultural [AG] and Business [B(1)] Zones as allowed by Article III of Chapter 175.

§ 175-74. Application; required information and materials.

- A. An application for a telecommunications facility shall include a site plan setting forth specific site data on a map, acceptable in form and content to the Planning Board, which shall be prepared to scale and in sufficient detail and accuracy and which shall indicate the following:
- (1) The exact location of the proposed telecommunications facility, with any tower guy wires and anchors.
 - (2) The height of the proposed telecommunications facility tower.
 - (3) The location, type and intensity of any lighting on the tower.
 - (4) The location of property lines and names of adjacent landowners within 500 feet of the parcel on which the facility is located.
 - (5) Proof of the landowner's consent if the applicant does not own the property.
 - (6) The location of all structures on the property and all structures on any adjacent property within 10 feet of the property lines, together with the distance of these structures to the telecommunications facility.
 - (7) The location, nature and extent of any proposed fencing, landscaping and/or screening.
 - (8) The location and nature of existing and proposed easements and access road, if applicable.

- (9) A side elevation or other sketch of the tower showing the proposed antennas and elevation of any accessory structures.
 - (10) The site plan shall bear the seal of a professional engineer licensed to practice in New York State.
 - (11) The location of all trees exceeding four inches in diameter (measured at a height of four feet off the ground) and other significant and/or unusual features of the site and on any other adjacent property within 10 feet of the property line.
- B. Supporting documentation.
- (1) All information prepared by the manufacturer of the antenna and/or tower including, but not limited to, the following:
 - (a) Make and model of tower to be erected.
 - (b) Detail of tower type.
 - (c) Manufacturer's design data for installation instructions and construction plans.
 - (d) The applicant's proposed tower maintenance and inspection procedures and records systems.
 - (e) Anti-climb devices for the tower and any guy wires.
 - (2) The application shall include an inventory report specifying existing telecommunication tower sites within five miles of the proposed site. The report shall outline opportunities for shared use of the existing facilities as an alternative to a proposed new tower. The report shall demonstrate good faith efforts to secure shared use from the owner of each existing or approved tower as well as documentation of the physical, technical and/or financial reasons why shared use is not practical in each case. Written requests and responses for shared use shall be provided. The applicant shall provide information on possible collocation on existing structures.
 - (3) All applicants for a telecommunications facility shall submit an environmental assessment form (long) with visual addendum and an analysis demonstration that location of the telecommunications facility as proposed is necessary to meet the frequency, reuse and spacing needs of the applicant's telecommunications system and to provide adequate service and coverage to the intended area.
 - (4) The Planning Board may require submission of a more detailed visual analysis based on the results of the visual EAF, such as:
 - (a) A Zone of Visibility Map showing locations from which the tower or facility may be seen.
 - (b) Assessment of the visual impact of the tower or facility base, guy wires, accessory structures and overhead utility lines from abutting properties and roads.

- (c) Possible techniques for camouflaging the tower.
- (5) A copy of the applicant's Federal Communications Commission (FCC) license.
- (6) An engineer's report as to structural capacity of the tower.
- (7) Documentation for the justification of the height of any tower or facility.
- (8) Justification for any vegetative clearing required.
- (9) An engineer's certification that transmission from the telecommunications facility is in compliance with federal radio frequency emission standards and will not interfere with existing signals, such as household television and radio, etc.
- (10) Legal description (metes and bounds) of the property that the proposed tower will be located on.

§ 175-75. Shared use of existing towers or structures.

- A. At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antennas on preexisting structures (for example: municipal water towers, multiple-story buildings, church steeples, farm silos, utility poles, barns, signs, belfries, cupolas, domes, monuments, windmills, chimneys, smokestacks, etc.) shall be considered.
- B. Any application, renewal or modification thereof shall include proof that reasonable efforts have been made to collocate upon an existing structure. Copies of written requests and responses for shared use shall be provided.
- C. An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure or existing or approved tower, and explaining what modification, if any, will be required in order to certify to the above.
- D. Documentation of intent from the owner of the existing tower or structure to allow shared use.

§ 175-76. New towers.

- A. The applicant must demonstrate that the proposed telecommunications facility cannot be accommodated on existing telecommunications facilities sites or other structures in the inventory report due to one or more of the following reasons:
 - (1) The planned equipment would exceed the structural capacity of existing and approved telecommunications facilities or other structures, considering existing and planned use for those facilities.
 - (2) The planned equipment would cause radio frequency interference with other existing or planned equipment which cannot be reasonably prevented.
 - (3) Existing or approved telecommunications facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively.

- (4) Other sufficiently documented technical reasons make it impractical to place the equipment proposed by the applicant on existing facilities or structure.
 - (5) The owner of the property or the owner of the existing telecommunications facility or the owner of the structure refuses to allow such collocation.
- B. The applicant must examine the feasibility of designing a telecommunications tower to accommodate future demand for commercial broadcasting and reception facilities. The scope of this analysis shall be determined by the Planning Board for special use permit approval. This requirement may be waived, provided that the applicant demonstrates that the provisions of future shared usage of the facility is not feasible and an unnecessary burden, based upon:
- (1) The foreseeable number of FCC licenses available for the area.
 - (2) The kind of tower site and structure proposed.
 - (3) The number of existing and potential licenses without tower spaces/sites.
 - (4) Available spaces on existing and approved towers.
 - (5) Potential adverse visual impact by a tower designed for shared usage.

§ 175-77. Site design standards.

- A. Design. The design of a proposed new tower shall comply with the following:
- (1) Any new tower shall be designed to accommodate future shared use by other telecommunications providers.
 - (2) The Board may request a review of the application, at the expense of the developer, by a qualified engineer in order to evaluate the need for and the design of any new tower.
 - (3) The tower should be disguised or camouflaged to blend in with the surroundings to the extent that such alteration does not impair the ability of the facility to perform its designed function.
- B. Dimensional standards.
- (1) All proposed telecommunications facilities shall be located on a single parcel.
 - (2) The setback for towers shall be equal to the height of the tower, including any antennas, plus 50 feet, unless the applicant can provide an engineer's report indicating a smaller debris fall zone, which the Planning Board will consider and may allow lesser setbacks. The fall zone may not include public roads and must be located on property either owned or leased by the applicant or for which the applicant has obtained an easement and may not contain any structure other than those associated with the telecommunications facility.
 - (3) Guy wire anchors shall be setback from property lines the same distance as accessory structures.

- (4) Minimum lot size will be determined by setback requirements.
 - (5) If the project property is leased, then any required setbacks shall be measured from the lease lines as identified on the site plan.
 - (6) If the proposed tower is within 150 feet of a residential structure, then additional screening may be required.
- C. Visual impact assessment.
- (1) All towers and accessory facilities shall be sited and constructed to have the least practical adverse visual effect on the environment.
 - (2) Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green or black below the surrounding tree line unless other standards are required by the FAA. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.
 - (3) Pictorial representation shall be prepared of before and after views from the key viewpoints both inside and outside of the village, including, but not limited to, state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public and from any other location where the site is visible to a large number of visitors or travelers. The Planning Board shall determine the appropriate key sites at a presubmission conference with the applicant.
 - (4) Assessment of alternative tower designs and color schemes.
 - (5) Assessment of the visual impact of the tower base, guy wires, accessory building and overhead utility lines from abutting properties and streets.
- D. Accessory structure. Accessory structures shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.
- E. Screening and existing vegetation. The Planning Board shall require that the facility have vegetative buffering, consisting of one row of native evergreen shrubs or trees capable of forming a continuous hedge of at least six feet in height within two years of planting, around the fences of the tower base area, accessory structure and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas or public roads. In the case of poor soil conditions, planting may be required on soil beams to assure plant survival. Plant height in these cases shall include the height of any berm. Such screening shall include the maximum feasible retention of existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place prior to the approval of the special permit. Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited. The Planning Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities or conservation or historic areas within common view of the public.

F. Parking and access.

- (1) Accessways shall make maximum use of existing public or private roads to the extent practicable. Driveways must provide adequate emergency vehicles and service access.
- (2) Driveways or parking areas shall provide adequate interior turnaround, such that service vehicles will not have to back out onto a public thoroughfare.
- (3) Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided. Such lighting shall not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.
- (4) A locked gate at the junction of the accessway and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right-of-way.
- (5) There shall be no permanent climbing pegs within 15 feet of the ground on any tower.
- (6) Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived when meeting the objectives of this subsection.

G. Fencing. Towers, anchor points of guyed towers and accessory structures shall each be surrounded by fencing at least eight feet in height, the top foot of which may, at the discretion of the Board in deference to the character of the neighborhood, be comprised of three strands of barbed wire to discourage unauthorized access to the site.

H. Height. The maximum height of a tower will be 200 feet from ground level. **[Amended 6-10-2002 by L.L. No. 3-2002]**

I. Signs. No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including, but not limited to, company name, phone numbers, banners and streamers.

J. Maintenance and repair.

- (1) Every facility shall be inspected annually for structural integrity by a New York State licensed professional engineer retained by the facility owner and/or operator, and a copy of the inspection report shall be submitted to the Code Enforcement Officer.
- (2) All telecommunications facilities shall be maintained in good order and repair. Routine maintenance and repair shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, except for emergency repairs which may

be undertaken at any time with prior notice to the Village Code Enforcement Officer.

- K. Radio emissions. The Planning Board recognizes that federal law prohibits the regulation of cellular and PCS communications towers based on the environmental effects of radio frequency emissions where those emissions comply with the FCC standards for those emissions. The Board may, however, impose a condition on the applicant that the communications antennas be operated at Federal Communications Commission (FCC) designed frequencies and power levels. The Board shall request proof of compliance with these standards. No certificate of occupancy or compliance shall be issued by the Code Enforcement Officer without satisfactory proof of compliance with this requirement.
- L. Utilities. All utility connections shall be installed underground.
- M. Antennas affixed to existing structures. Antennas affixed to the face of existing structures may not protrude in excess of five feet horizontally between the antenna and the existing structure face.
- N. System connections. Where technologically feasible, connections between telecommunications facilities and the system of which they are a part shall be made by use of land line cable rather than by parabolic dish antennas. When such antenna links are technologically necessary, they shall be located, painted and otherwise situated so as to minimize visual impacts. In no case shall the diameter of such an antenna exceed six feet.

§ 175-78. Removal of towers.

- A. The applicant shall submit to the Board a letter of intent committing the tower or facility owner, and his/her successors in interest, to notify the Code Enforcement Officer within 30 days of the discontinuance of use of the tower or facility. Obsolete or unused towers or facilities and accessory structures shall be removed from any site within four months of such notification. Failure to notify and/or remove the obsolete or unused tower or facility in accordance with these regulations shall be a violation of this law. The village may remove such facilities after 60 days and treat the cost as a tax lien on the property.
- B. At the time of obtaining a zoning permit, the applicant must provide a financial security bond or other security acceptable to the village for removal of the telecommunications facility and property restoration, with the village as the assignee, in an amount approved by the Planning Board, but not less than \$50,000.
- C. At times of renewal or modification of the permit, the Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the telecommunications facility and property restoration.

§ 175-79. Intermunicipal notification.

In order to keep neighboring municipalities informed and to facilitate the possibility of directing that any existing towers or structures in a neighboring municipality be considered for shared use, the Board shall require that:

- A. An applicant who proposes a telecommunications facility shall notify, in writing, the legislative body of the Towns of LeRay and Rutland, and each municipality within those towns, the Jefferson County Planning Department and the Director of Jefferson County Emergency Services. Notification shall include the exact location of the proposed tower or facility and a general description of the project including, but not limited to, the height of the tower or facility and its capacity for future shared use.
- B. Documentation of this notification shall be submitted to the Planning Board at the time of application.

§ 175-80. Notification of landowners.

The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within 500 feet of the lot line on which a telecommunications facility is proposed. Notification, in all cases, shall be made by certified mail at least 10 days prior to the public hearing. Documentation of this notification shall be submitted to the Planning Board prior to the public hearing.