

Village of Greenport **Bill 3A**

Deleted: Local Law __ of 2023

A local law amending and restating Chapter 150, entitled “Zoning”, of the Code of the Village of Greenport and repealing Chapter 42, entitled “Arts District”.

Section one. The Board of Trustees of the Village of Greenport seeks to assure the stability, sustainability and short- and long-term growth of the Village. To determine the values and critical issues shared by the community and to address these considerations, the Board has commenced a visioning process. As part of that visioning process, the Board has solicited public comment through surveys, conversations and visioning meetings and created a committee to draft zoning regulations that address the goals and objectives identified during the visioning process. This visioning process, while continuing, has identified various goals and objectives to support this common vision. As the next step in achieving this vision, the Board proposes to adopt various amendments to its Zoning Code, and hereby amends the Zoning Code. For ease of understanding, the form of the amendment is a full restatement of Chapter 150. The primary changes include the addition of new, and changes to existing, definitions, amendments of permitted and special permit uses in the CR Retail Commercial District and the WC Waterfront Commercial District, modification of conditional use criteria, review considerations and procedures, modification of site plan criteria, review considerations and procedures, incorporation of modified parking regulations and clarifications, inclusion of parking mitigation and impact considerations related to expansions of certain uses, provisions clarifying abandonment of non-conforming uses, creation of entertainment permits and permit procedures, modification of penalty provisions and elimination of the Arts District.

Section two. Chapter 150 is amended and restated as follows:

Chapter 150 Zoning

Article I Purposes

§ 150-1 **Purpose; intent.**

There is hereby established a comprehensive zoning plan for the Village of Greenport, which plan is set forth in the text and map that constitute this Chapter. Said plan is adopted for the purposes set forth in Village Law § 7-700, which, in the interest of the protection and promotion of the public health, safety and welfare, shall be deemed to specifically include the following, among others:

- A. Facilitate the efficient and adequate provision of public facilities and services.
- B. Assure adequate sites for residence, industry and commerce.

- C. Provide privacy for families.
- D. Prevent and reduce traffic congestion so as to promote efficient and safe circulation of vehicles and pedestrians.
- E. Provide maximum protection for residential areas.
- F. Gradually eliminate nonconforming uses, as appropriate.
- G. Enhance the appearance of the Village as a whole.
- H. Sustain and preserve the waterfront, encourage and ensure a viable working waterfront and maintain and protect water dependent uses.
- I. Support water-based industry, economy, aquaculture, shipping, fishing and recreation.
- J. Improve and foster compatibility of businesses and commercial uses with the Village character.
- K. Preserve, enhance and perpetuate the Village's heritage and historic maritime character and the eighteenth century core and surrounding areas of the Village.
- L. Promote and encourage the maintenance and production of appropriate diverse and affordable year-round housing opportunities.
- M. Support and enhance a year-round Village economy.
- N. Protect the Village's economic vitality by ensuring a vibrant mixed use, walkable commercial district with a focus on encouraging businesses that provide year-round employment, services and goods to Village residents and support a sustainable commercial waterfront.
- O. Support expanded public access to the waterfront.
- P. Preserve the unique community character that supports tourism, encourages entrepreneurial businesses and contributes to a higher quality of life for its residents.
- Q. Maintain and enhance the Village's visual quality and preserve the ambience of the commercial and waterfront district and the appeal of the Village's architecturally distinctive residences.

Article II Terminology

§ 150-2 **Definitions; word usage.**

- A. Words used in the present tense include the future; the singular includes the plural, and the plural the singular; the word "person" includes a corporation as well as an individual; the word "lot" includes the word "plot." The term "occupied" or "used" as applied to any building shall be construed as followed by the words "or intended, arranged or designed to be occupied or used."
- B. Unless otherwise expressly stated, the following terms shall, for the purpose of this Chapter, have the meanings herein indicated:

ACCESSORY BUILDING OR STRUCTURE

A building or structure which is customarily incidental or subordinate to a principal building or structure on the same property. In general, the primary use of the applicable property is not carried on in the accessory structure. Accessory buildings are detached from the primary building or structure. Examples of accessory buildings include, but are not limited to, garages, decks, fences, arbors, gazebos, heat pumps, workshops, and other structures. Excluded are at-grade driveways, paths, walkways and parking areas, and movable 20 pound liquid propane tanks.

ACCESSORY USE

Any use of property or of a building or structure on any property serving a purpose which is customarily incidental or subordinate to the principal use of such property, building or structure and located on the same lot with the principal use.

ALTERATION

As applied to any use (including any accessory use), building (including any accessory structure), structure or property, a change in use or occupancy or a physical change to such building, structure or property, including any rearrangement of the structural parts of a building or in the exit facilities thereof or an enlargement thereof, whether by extending on a side or by increasing in height or moving from one location to another. Alteration does not include normal building or structure maintenance and repair. Alterations may or may not require approval by the Planning Board, but property owners should check with the Building Inspector before preparing project plans or commencing any development. Alterations include, but are not limited to, the following: changes in use or occupancy at a property or in a building, changes to the exterior of a building, changes to the interior of a building, increases or decreases in floor area of a building or structure or the floor area of a building or structure dedicated to a particular use, changes to other structures on a property, or the development of new structures or uses on a property and changes to exterior improvements. The term “alter” in its various modes and tenses and its participle form refers to the making of an “alteration”. As used in this Chapter, “remodel” is synonymous with this definition.

APARTMENT

A room or grouping of rooms arranged and designed with provisions for cooking, living, sanitary and sleeping facilities such that it is suitable for occupancy for a single family on a long-term basis as their principal residence during the period of such occupancy, or which, however arranged or designed, in fact being used for such purpose. An entire single-family residence, as herein defined, regardless of its actual occupancy or use, shall not constitute an “apartment” unit. Any unit in a condominium or residential cooperative shall be deemed an “apartment” and not a single-family residence.

AQUACULTURE

The farming or culture of fish, shellfish, other animals or aquatic plants (including kelp and other seaweeds) in fresh or saltwater areas and may include fish hatcheries, rearing pens and structures and shellfish rafts, as well as use of natural spawning and rearing or farming areas. The term “aquaculture” also includes activities related to either growing, handling, or harvesting of aquatic produce, such as fish, crab, shellfish, kelp or other aquatic plants including, but not limited to, propagation, stocking, holding, nurturing, disease treatment, waste disposal, water use, development of habitat and structures and may further include research into, and the production of, food, animal

feed, organic fertilizer, biofuels and other sustainable products from aquatic plants.

BANKS

A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments and fiduciary activities.

BACKGROUND MUSIC

Amplified recorded music that is principally played at low volumes and is not intended to be the primary attraction or purpose for patrons to frequent any establishment or business, but rather to provide background to enhance the other commercial use(s) of such establishment or business.

BAR

A use or establishment which is primarily engaged in the sale and service of alcoholic beverages for on-premises consumption, subject to the regulatory authority of the New York State Liquor Authority. The accessory or incidental sale of food or snacks shall not entitle such a use or establishment to be considered a restaurant under the provisions of the Code, but to the extent that the relevant establishment routinely removes or relocates tables and chairs to permit dancing or the establishment of an area for dancing, such actions shall constitute the creation of a nightclub use subject to the applicable provisions of the Codes unless the owner of such business shall have received an entertainment permit for such activity. Entertainment or catered events shall be permitted with an entertainment permit issued pursuant to Section 150-52 and are otherwise subject to the provisions of Chapter 88 and Section 150-52. A building or portion thereof that is designed for use as a cocktail bar, wine bar, pub or tavern shall be deemed to be a "bar" and included in this definition.

BASEMENT

An area in a building, the structural ceiling level of which is four feet or more above the average level of the finished grade where such grade abuts that exterior wall of such building which fronts on any street, and the floor level of which is below the finished grade at any point on the periphery of the building.

BILLBOARD

A sign, including the type commonly known as a "billboard," which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed or only incidentally upon such lot.

BOATYARD

A waterfront facility servicing any type of watercraft, as well as providing supplies, provisions, storage and/or fueling facilities, with or without facilities for the retail sale of boats, motors and marine equipment.

BUILDING

A structure with a roof supported by columns, posts or walls which is intended for the shelter, housing or enclosure of persons, animals or chattel. An aboveground tank for the storage of gas or liquid shall be deemed to be a "building". Every building is also a structure.

BUILDING INSPECTOR

The person who enforces the building codes and regulations for the Village, and other codes and regulations as appointed by the Board of Trustees of the Village pursuant to Section 53-3.

CATERED EVENT

A private gathering of people at a property, with a list of invitees, who are coming together for an event to celebrate or, for the benefit of, an individual or individuals or a group organization or to

raise money for a qualified not-for profit organization, that has no product sponsorship and which is not for commercial gain. For the avoidance of doubt, the hosting of a wedding, birthday party, reunion, anniversary party and the like shall constitute a catered event where arrangements have been made in advance with the relevant business for the hosting of such event.

CELLAR

Any space in a building, the structural ceiling level of which is less than four feet above the average finished grade where such grade abuts that exterior wall of such building which fronts on any street. A "cellar" shall not be considered in determining the permissible number of stories.

CHANGE OF CONTROL

With respect to any business, entity or property, the occurrence of any event whereby any person or entity becomes a controlling person in respect of such business entity or property that was not previously a controlling person in respect of such business, entity or property.

CODE VIOLATION

Any violation by any person, business, entity or property of this Chapter, Chapter 65 (Fire Prevention and Building Construction) of this Code, Chapter 88 (Noise) of this Code, any applicable state laws governing any business, person or entity holding a liquor license issued by the New York State Liquor Authority or any applicable provision of the New York State Uniform Fire Prevention and Building Code.

COMMERCIAL LAUNDRY

The use of a building, structure or any portion thereof as a laundry in which clothing, linens, rugs, rags and similar cloth items are cleaned solely for business clientele or as a wholesale service.

COMMUNITY IMPACT REPORT

A detailed, written report that evaluates the potential impact of a proposed application on the Village and the residential community. Such report shall include a statement as to why, in the applicant's opinion, the proposed conditional use and/or site plan, as applicable, is in the public interest as well as providing data and opinions (to the extent applicable to a particular application) addressing the following:

- (1) the criteria applicable to conditional use and/or site plan approval as set forth in Sections 150-30 or 150-31, as applicable;
- (2) a detailed description of the proposed hours and days of operation of the applicable property and businesses located thereon throughout the year and, a statement as to what benefits (if any) a proposed conditional use and/or site plan provides to the full-time year round residential community of the Village;
- (3) an analysis of the number of persons that the business that is the subject of such application is likely to employ and the plan for attracting/recruiting and housing such employees;
- (4) an analysis of the potential impact of the proposed use of the relevant property on housing affordability (if any) in the Village;

- (5) an analysis of the fiscal impact of the proposed conditional use and/or applicable site plan on the Village, including on property values in the surrounding neighborhood and any immediately adjacent residential neighborhood, potential impacts on revenues from property taxation and other potential revenue effects on the Village;
- (6) an analysis of the impact of the proposed use and/or site plan on public sewer facilities, public water facilities, noise, odors, lighting and dark skies and other environmental impacts in respect of the proposed location of such use as well as neighborhoods located within 500 feet of such proposed use;
- (7) an analysis of the effect on the safety of pedestrian and vehicular traffic in the proposed location of such use and/or site plan and in the immediately surrounding neighborhood; and
- (8) an analysis of the impact of such proposed use and/or site plan on public services such as police protection, fire protection, emergency services, waste disposal and street maintenance services.

CONDOMINIUM

An apartment house or houses, the apartments or dwelling units of which are individually owned, each owner receiving a deed enabling him to sell, mortgage or exchange his apartment independent of the owners of the other apartments in the building or buildings.

CONTROLLING PERSON

With respect to any business, entity or property, any person or entity with the possession, directly or indirectly, of the power to direct, manage, oversee and/or restrict the conduct of business by such business, entity or property or cause the direction of the management and policies of such business, entity or property, whether by voting securities, ownership interests or contract. Any person or entity that owns more than 15% of any business, entity or property shall be deemed to be a controlling person in respect of such business, entity or property unless there is clear and demonstrable evidence to the contrary.

COURT, INNER

An open space enclosed on all sides by exterior walls of a building.

COURT, OUTER

An open space enclosed on three sides by exterior walls of a building.

CURB LEVEL

The established elevation of the street grade at the point that is opposite the center of the wall nearest to and facing the street line.

DANCE

Movement of the human body, accompanied by music or rhythm.

DEVELOPMENT, DEVELOPMENT ACTIVITIES

Any of the following: (1) a man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials, (2) a conversion of any residential building or structure to a non-residential use having a total non-residential use of more than 200 square feet or (3) a proposal for the use of any portion of any building or structure located in the CR Commercial Retail District as an apartment dwelling unit pursuant to Section 150-19(A).

DISORDERLY CONDUCT

Any of the following: consumption of alcoholic beverages on public property, public drunkenness, littering, fighting and such other conduct that constitutes a public nuisance or violation of law.

DWELLING, ONE-FAMILY

A detached building containing one dwelling unit only.

DWELLING, TWO-FAMILY

A detached building containing two dwelling units only.

DWELLING UNIT

A building or portion thereof, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and containing a separate means of ingress and egress.

ENTERTAINMENT

Any single event, a series of events, or an ongoing activity or business, occurring alone or as part of another business, to which the public is invited or allowed to watch, listen or participate or that is conducted for the purpose of holding or gaining the attention of, or diverting or amusing, guests, including, but not limited, to:

- (1) Presentations by single or multiple performers, such as musical song or dance acts and concerts;
- (2) Dancing to live or recorded music; or
- (3) The presentation of recorded music played on equipment which is operated by an agent or contractor of the establishment, commonly known as a “DJ” or “disc jockey”;

provided that background music shall not constitute entertainment.

EXCURSION BOAT

A vessel used on a commercial basis to take passengers to sea from any port or place within the Village and which returns those passengers to the point of origin without an intervening stop at any port or other land not located in the Village. As used herein, the term “to sea” shall mean into any harbor, bay or other waters within or adjoining the Village. The term shall include a vessel employed on a commercial basis for party-fishing trips, a vessel used for sight-seeing trips or tours or a vessel used for a dinner or sunset cruise or other similar recreational purposes. An excursion boat does not include a vessel carrying fewer than five (5) passengers on an occasional basis only nor does an

excursion boat include a ferry.

EXEMPTED USE

Any use that is either (1) the use of the applicable property as of the effective date of Local Law 3 of 2023 but only to the extent that such use is not subject to a “substantial expansion” or (2) solely with respect to the CR Retail Commercial District, any use permitted pursuant to Section 150-9A (Permitted Uses). The exemption under clause (1) applies regardless of whether the applicable business operating such use as of the effective date of Local Law 3 of 2023 has been sold, leased or is otherwise being operated by a different person or persons than those operating such business as of the effective date of Local Law 3 of 2023 but only for so long as it has not been the subject of a substantial expansion.

FAMILY

- (1) The following shall constitute a family hereunder:
 - a. Any number of persons occupying a dwelling unit; *provided* that all are related by blood, marriage or legal adoption; and *provided further* that they live and cook together as a single housekeeping unit; or
 - b. Any number of persons not exceeding five (5) occupying a dwelling unit and living and cooking together as a single housekeeping unit, where not all are related by blood, marriage or legal adoption.
- (2) A group of persons whose association or relationship is transient or seasonal in nature, rather than of a permanent and domestic character, shall not be considered a family.
- (3) A group of unrelated persons numbering more than five (5) and occupying a dwelling unit shall be presumed not to constitute a family. The presumption can be overcome only by showing that the group constitutes the functional equivalent of a family. A determination as to the status of such a group may be made in the first instance by the Building Inspector or, an appeal from an order, requirement, decision or determination made by her/him, by the Board of Appeals.
- (4) Persons occupying group quarters, such as a dormitory, fraternity or sorority house or a seminary, shall not be considered a family.

FENCE

A vertical enclosure, solid or partially open, to prevent straying from within or intrusion from without or intended to be used as a visual screen.

FERRY

A vessel used in the business of carrying passengers between any port or place in the Village and any other port or place outside of the Village. An excursion boat shall not constitute a ferry nor shall a ferry constitute an excursion boat.

FERRY CAPACITY

The number of persons which a vessel used as a ferry may lawfully carry as passengers, under the

rules and regulations of the United States Coast Guard or other regulating authority then in effect. As applied to a passenger ferry terminal, this term shall mean the maximum number of passengers which could have departed from the terminal on publicly scheduled trips under a “best day” condition. Ferry passenger capacity for a ferry terminal under a “best day” condition shall be calculated as follows: (1) determine the passenger capacity of any ferry departing from the terminal on a given calendar day (midnight to midnight); (2) multiply this passenger capacity by the number of departures made by that ferry from the terminal on that day; and (3) add to this number the products of one (1) multiplied by two (2) for every other ferry departing from the terminal on that same day. The use of this formula is subject to the following provisos:

- a. The day used in making this calculation shall be that which yields the highest number for the terminal’s ferry passenger capacity (i.e. the “best day” in terms of the potential number of ferry passengers departing the terminal on publicly scheduled trips).
- b. Each ferry whose departure is used in making this calculation shall be a ferry which regularly docks at or uses the ferry terminal.
- c. Each departure used in making this calculation shall be a *bona fide* departure open to the public and shown on the passenger ferry’s published sailing schedule.

FERRY TERMINAL

Any dock, wharf, pier or other place at which a ferry embarks or disembarks passengers, including, ticket offices, parking areas and all other related facilities.

FISHING STATION

A shorefront business renting or selling bait, tackle, boats or other supplies and equipment to anglers for use on the site or at nearby locations; or any private property on which members of the public are charged a fee to fish from a dock, a pier or the shore.

FISH PROCESSING

The readying of fish or shellfish for shipping to market, including icing, cleaning, filleting, shucking and the cooking of crabs or lobster.

FITNESS FACILITY

The use of a building, structure, property or any portion thereof that is intended to provide members of the public with facilities for aerobics, fitness training, dance, martial arts, self-defense, yoga, Pilates or other similar exercise activities or instruction thereof.

FLOOR

The top surface of the continuous, weight-bearing construction within a structure or building upon which persons or objects stand *e.g.* the top of the slab in concrete slab construction or the top of the wood flooring in wood frame construction. A “floor” may be found at each level or story of a building or structure including the basement or cellar.

FLOOR AREA

The sum of the horizontal areas of floors of a building or structure measured from the exterior face of exterior walls where such building or structure is covered by a roof.

FLOOR AREA, LIVABLE

Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility are not considered livable floor area. .

FORMULA BUSINESS

Except for a professional service establishment (such as a professional office, insurance agent, bank or financial institution), a class of retail or wholesale establishment including, but not limited to, a convenience store, retail store, wholesale store, restaurant, bar, take-out food establishment or tasting room or a hotel or motel that along with, 15 or more other establishments regardless of location in the United States is required by contractual or other business arrangements to maintain any two (2) or more of the following substantially identical features:

- (1) Standardized menu or standardized array of merchandise with 50% or more of in-stock merchandise from a single distributor bearing uniform markings;
- (2) Trademark or service mark, defined as a word, phrase, symbol or designs that identifies and distinguishes the source of the goods from one party from those of others, on products or as part of store design, such as cups, napkins, bags, boxes, wrappers, straws, store signs or advertising devices;
- (3) Standardized interior décor including, but not limited to, style of furniture, wallcoverings, displays, window treatments or permanent fixtures;
- (4) Standardized color scheme used throughout the interior or exterior of the establishment, including but not limited to, graphics, awnings, signage and the like visible from the exterior of the structure;
- (5) Standardized uniform, including but not limited to, aprons, pants, shorts, shirts, smocks or dresses, hat and pins (other than name tags); or
- (6) Standardized building facade, floor area design or layout.

FRATERNAL LODGE

The use of a property or part of a property for the purposes of a society or association organized and operated on a non-profit basis exclusively for social welfare, civic improvement or recreational activities or for any other similar purpose; *provided* that no business which would otherwise be classified as a restaurant, bar, nightclub, motel, take-out food establishment or tasting room shall constitute a “fraternal lodge” unless, the sale of food and/or beverages and/or the providing of entertainment by such business is solely incidental to the primary purpose of the use of such property for social welfare, civic improvement or recreational activities or other similar purposes. A fraternal lodge shall be permitted to host entertainment and catered events as an accessory use.

FRONTAGE

The length of a lot line which directly abuts a street. A lot is deemed to front on a street if it directly abuts (i.e. touches) the street.

GALLERY

A use or establishment that involves as its primary purpose the sale of art or unique pieces created by artists or artisans, including, but not limited to painters, sculptors, etchers, carvers, weavers, photographers, potters, jewelers, etc.

GASOLINE SERVICE STATION

A place for the sale of gasoline, oil and/or services for motor vehicles.

HABITABLE BUILDING

A building which contains one or more dwelling units, such as a single-family residence, a multifamily residence or a motel or hotel.

HEIGHT

The vertical distance measured from the natural ground elevation to the highest point of the highest finished roof thereof or, in the case of a structure, to the highest point. No part of any chimney, extending not more than five (5) feet above the maximum permitted height, shall be included in the computation of building height.

HOSPITAL

An institution, place or building licensed by the New York State Health Department which maintains and operates facilities for the diagnosis, care and treatment of human illness, including convalescence and care during and after illness. The term "hospital" may include a sanitarium and facilities for the treatment of substance use and mental health conditions for patients who are treated or cared for under the supervision of licensed medical personnel so long as this is not the primary use of such institution, place or building and such institution, place or building includes intensive care facilities, laboratory facilities for blood work and testing and radiological services, and customary emergency medicine facilities for the treatment of a broad spectrum of illnesses and injuries, including life threatening illnesses and injuries resulting from accidents, casualty and trauma events.

HOTEL

See "motel."

HOUSE TRAILER

Any vehicle mounted on wheels, movable either by its own power or by being drawn by another vehicle and equipped to be used for living or sleeping quarters or so as to permit cooking. The term "house trailer" shall include vehicles mounted on temporary or permanent foundations with the wheels removed.

JUNKYARD

Open area occupied by salvage, storage of used machinery, metal parts or abandoned or partially dismantled automobiles.

LOT

A parcel of land of any size whatsoever that is occupied or capable of being occupied by one or more principal buildings and accessory buildings or uses regardless of whether any particular use, building or structure is permitted thereon under the provisions of this Code.

LOT AREA

The total horizontal area contained within and enclosed by the outer boundary lines of any lot; *provided, however*, that for any purpose for which it must be calculated under the provisions of this Chapter, "lot area" shall not include the following:

- (1) That portion of a lot which seaward of the mean high water mark;
- (2) Any area within a public street, road or right-of-way;
- (3) That portion of a lot which is wetland or watercourse.

LOT, CORNER

A lot at the junction of and abutting on two or more intersecting streets having an interior angle of less than 135° at their intersection, or a lot abutting a curved street where the tangents to the curve at the points of intersection of the side lot lines intersect at any interior angle of less than 135°. Or any lot formed in part by a waterfront lot line and a street right-of-way line which intersect.

LOT COVERAGE

The percentage of lot area covered by any structure or building measured to the furthest extent of the roof, excluding all portions of eaves and overhangs extending not more than 2 feet horizontally from the exterior wall. Lot coverage is computed by dividing the area of structures into lot area. Swimming pools are included for lot coverage calculations. Excluded from lot coverage are at-grade driveways, paths, walkways and parking areas, subterranean structures not visible from above, and movable 20 pound liquid propane tanks.

LOT DEPTH

The minimum distance from the street line of a lot to the rear lot line of such lot.

LOT LINE

A line forming the boundary between one lot or parcel of land and a lawfully separate lot or parcel, including the right-of-way of any public or private street; a property boundary.

LOT LINE, FRONT

A street right-of-way line at the front of a lot, except that in the case of a waterfront lot, any waterfront lot line shall be considered a front lot line. A lot which fronts on more than one street, such as a corner lot may have more than one front lot line.

LOT LINE, REAR

The lot line generally opposite to the front lot line; if the "rear lot line" is less than 10 feet in length or if the lot comes to a point in the rear, the "rear lot line" shall be deemed to be a line parallel to the front lot line not less than 10 feet long lying farthest from the front lot line.

LOT LINE, SIDE

Any lot line other than a front or rear lot line.

LOT WIDTH

The length of the shortest line which can be drawn from side lot line to a side lot line of a lot which touches the building line at any point.

MANUFACTURING

Any process whereby the nature, size or shape of articles or raw materials is changed or where articles are assembled or packaged.

MARINA

A facility containing docks and/or slips and/or piers for berthing and fueling of any type of watercraft. The term “marina” shall not include the term “yacht club” and “boatyard” nor include out-of-water boat storage, restaurant or repair facilities, motels, hotels, apartments or similar activities or uses. Such facilities may provide utilities and offer supplies and perform repairs.

MARINE INDUSTRY

The industry that focuses on products and services to understand and work in, or use, the ocean, the bays and other marine bodies of water, including, without limitation, boat and yacht dealerships, boat rental businesses, boat storage facilities, boating/sailing instruction schools and other marine related education facilities, boat/yacht building and repair facilities, marine construction and salvage operations, facilities for marine pollution control, oil spill clean-up and servicing of marine sanitation devices, ship and marine chandlery, marine surveyors, naval architects, businesses engaged in the retail sale of equipment, goods (including bait and tackle supplies), materials, tools and parts used in connection with boating and fishing, oceanographic and marine biology research and ocean related renewable energy research.

MOTEL; HOTEL

A business or commercial use of a lot or property consisting of a building or group of buildings, whether detached or connected, which contains one or more individual lodging units arranged or designed to be made available as sleeping or living quarters for paying customers on a daily or weekly or two-week rental basis, or which, however arranged or designed is in fact being made available for such purpose on such basis. A building or buildings arranged or designed for use as a resort, hotel, a rooming house, an inn or another similar business shall be deemed to be a “motel” and included in this definition. A motel shall be operated in accordance with Article 12 of the General Business Law and the occupancy of which shall be subject to the provisions of Article 128 of the Tax Law of New York State.

MULTIFAMILY DWELLING

Any dwelling house designed to accommodate or accommodating three or more families and shall include but shall not be limited to an apartment house, garden apartment house, cooperative apartment house, apartment hotel and condominium.

MUSEUM

Includes public or private buildings, structures, premises or places, together with the grounds thereof, which are used primarily for galleries, archives, treasuries, exhibitions, depositories and repositories where works of art, scientific specimens or other objects of permanent value are kept and displayed for reading, viewing, listening, study, archives, athenaeums, reference and research.

NATURAL GRADE

The surface elevation of land at a given point or place before any alteration of the land is undertaken. This term shall have the same meaning as “natural ground level” or “natural ground elevation.”

NIGHTCLUB

An establishment primarily engaged in providing entertainment. The accessory or incidental sale of alcohol, drinks, food or snacks shall not entitle such a use to be considered a restaurant or bar under other provisions of this Code. Such establishment may also have one or more of the following characteristics: age restrictions, cover charges, charges for admission, disc jockeys, jukeboxes,

amplified sound systems, live entertainment and the like and/or operates and/or remains open beyond 11:00pm..

NONCONFORMING BUILDING

A building or structure lawfully existing on the effective date of this Chapter or any amendment thereto affecting such building or structure, which does not conform to one or more current dimensional regulations hereof (i.e., lot area, setback, height, lot coverage or parking area) applicable to the district in which such building or structure is situated, irrespective of the use to which such building or structure is put.

NONCONFORMING USE

Any use of a building, structure, lot, land or part thereof lawfully existing on the effective date of this Chapter or any amendment thereto affecting such use, which does not conform to one or more current use regulations hereof for the district in which it is situated as a result of a change in the district or applicable use standards set forth in this Chapter from time to time.

NON-PERSONAL SERVICE ESTABLISHMENTS

The use of a building or structure or any portion thereof to provide non-personal services such as a plumbing store, painter's store, carpenter's shop, electrician's shop, contractor's shop or office or other similar or like uses as its primary use and which may include retail sales or products related to the services provided.

PARK DISTRICT

An area reserved for recreational and firematic use by the citizens of the Village as regulated by the Park Local Law, and in which Village utilities and other public uses may be maintained and expanded.

FERRY CAPACITY

The number of persons which a vessel used as a ferry may lawfully carry as passengers, under the rules and regulations of the United States Coast Guard or other regulating authority then in effect. AS applied to a passenger ferry terminal, this term shall mean the maximum number of passengers which could have departed from the terminal on publicly scheduled trips under a "best day" condition. Ferry passenger capacity for a ferry terminal under a "best day" condition shall be calculated as follows: (1) determine the passenger capacity of any ferry departing from the terminal on a given calendar day (midnight to midnight); (2) multiply this passenger capacity by the number of departures made by that ferry from the terminal on that day; and (3) add to this number the products of one (1) *multiplied by* two (2) for every other ferry departing from the terminal on that same day. The use of this formula is subject to the following provisos:

- d. The day used in making this calculation shall be that which yields the highest number for the terminal's ferry passenger capacity (i.e. the "best day" in terms of the potential number of ferry passengers departing the terminal on publicly scheduled trips).
- e. Each ferry whose departure is used in making this calculation shall be a ferry which regularly docks at or uses the ferry terminal.
- f. Each departure used in making this calculation shall be a *bona fide* departure open to the

public and shown on the passenger ferry's published sailing schedule.

PLAT

- (1) A small piece of ground; plot.
- (2) A plan, map or chart of a piece of land, such as a town, with actual or proposed features, such as lots; also, the land represented.

PRINCIPAL BUILDING

A main building or structure devoted to a principal use on a lot. A Single-family or two-family residence shall always be deemed a principal building.

PROFESSIONAL AND BUSINESS OFFICES

The use of a building or structure or any portion thereof as an office for doctors, dentists, attorneys, real estate agents, insurance agents, accountants, brokers, engineers, architects, landscape architects, photographers, musicians, offices for data processing, telephone answering services and other similar professional services.

PROFESSIONAL SERVICE STORE

The use of a building or structure or any portion thereof to provide a personal service that is nonmedical in nature such as a beauty shop, hair salon, barbershop, nail salon, spa, tailor, pet groomer or travel agency as its primary use and which may include retail sales or products related to the services provided.

REPAIR GARAGE

A use of land consisting of a building and any accessory structures, which is used for adjustment, painting, replacement of parts or other repair or restoration of motor vehicles or parts thereof.

RESIDENTIAL COOPERATIVE

A cooperative form of ownership or management consisting of cooperative residential units intended as private residences.

RESPONSIBLE PERSON

With respect to any business, entity or property, any controlling person in respect of such business, entity or property and any other person identified as having management or supervision authority in respect of the applicable business, entity or property in the application filed in respect of any applicable entertainment permit issued for the benefit of such business, entity or property.

RESTAURANT

A use in a building having as its sole purpose the preparation and serving of food for consumption on the premises and, which for the avoidance of doubt, has a kitchen located onsite, within furnished dining areas most customarily with service by a restaurant employee, and including as a possible accessory the serving of alcoholic beverages with meals. A restaurant may include a cafeteria-type operation *provided* that food and beverages are not served in edible containers or in paper, plastic or other disposable containers and are consumed on the premises. The permanent or temporary removal or relocation of tables and chairs from an establishment to permit dancing or the establishment of

any area for dancing shall constitute a nightclub use subject to the applicable provisions of this Chapter unless the owner of such business shall have received an entertainment permit for such activities. A restaurant shall not be construed to include any take- out food establishment, bar, nightclub or tasting room.

RETAIL

A use of any building, structure, property or any portion thereof, for the sale of goods products directly to the general public as takeout items. Goods sold at a retail store may include hardware, drugs, food and beverages, furniture and furnishings, garden supplies, plants, apparel, appliances, sporting goods, toys, office products, books or other media and other similar products or merchandise. Minor repair service within the establishment may be undertaken in connection with product sales.

SELF-SERVICE GASOLINE STATION

A gasoline service station or portion thereof where flammable and combustible liquids used as motor fuels are stored and subsequently dispensed into the fuel tank of motor vehicles by persons other than the service station attendant.

SIGN

Any structure or part thereof, or any device attached to a building or painted or represented thereon, which shall display or include any letter, word, model, banner, pennant, insignia, device, trade flag or representation which is in the nature of or which is used as an announcement, direction or advertisement for commercial purposes or otherwise. A "sign" includes a billboard and a neon tube, string of lights or similar device outlining or hung upon any part of a building or lot but does not include the flag or insignia of any nation or group of nations or of any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event. However, excluded from this definition are "signs" which are solely devoted to prohibiting trespassing, hunting or fishing.

SIGN AREA

All faces of a sign measured as follows:

- (1) When such sign is on a plate or framed or outlined, all of the area of such plate or the area enclosed by such frame or outline shall be included.
- (2) When such sign consists only of letters, designs or figures engraved, painted, projected or in any manner affixed on a wall, the total area of such sign shall be deemed the area within which all of the matter of which such sign consists of may be inscribed.

SIGNIFICANT APPLICATION

Any application for (1) a conditional use approval or (2) an approval for a site plan required pursuant to Section 150-30 involving (a) the construction or expansion of any multifamily dwelling building, (b) the construction or placement of any new nonresidential building or structuring, including any new accessory building or structure, (c) the conversion of any existing building or structure, in whole or in part, from a residential use to a nonresidential or mixed use, (d) any substantial expansion of any existing nonresidential building or use, (e) relating to any nonconforming use or nonconforming

building or (f) any other construction or alteration to any property or building that encompasses more than 1000 square feet.

STORY

That part of any building, exclusive of cellars but inclusive of basements, comprised between the level of one finished floor and the level of the next higher finished floor, or if there is no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

STORY, HALF

Any space partially within the roof framing where the clear height of not more than 50% of such space between the top of the floor beams and the structural ceiling level is seven feet six inches or more.

STREET

Any federal, state, county, Village road or any private road actually providing access to any land located in the Village.

STREET LINE

The dividing line between a lot and a street.

STRUCTURE

Anything, including any building, which is constructed or erected on or under the ground or the water or upon another structure or building, including driveways, walkways, decks, patios (whether or not constructed of brick and sand), parking areas (whether or not surfaced or improved), fences, gates, pillars, walls, tennis courts, swimming pools, bulkheads, sewage disposal and drainage devices, jetties, docks, piers any other improvement, fabrication, impervious surface or other construction, whether or not intended to be temporary, seasonal or permanent.

STRUCTURAL ALTERATION

Any change in the supporting members of a building, such as foundations, beams, columns or girders.

STUDIO

Use of a space focused on the production of (a) visual art, including painting, sculpting, etching, carving, photography, glass blowing, pottery and the like or (b) the design, processing, fabrication, assembly, manufacturing or packaging of custom, hand-crafted, or limited production products such as furniture, leather products, jewelry, clothing, textiles or small-batch food, baked goods or beverages, including, in both cases, incidental storage, sales and distribution of such art works or products. Artist teaching classes offered to the public are permitted within the studio.

SUBSTANTIAL EXPANSION

(1) A “substantial expansion” of any building, structure or property, as referenced in Section 150-9(A)(3)(b) and (c), shall be deemed to occur in the following circumstances:

- a. Upon the making of any alteration to such building or structure which would result in an increase of either the lesser of (1) 30% or more of the then current gross floor area of such building or structure and (2) 500 square feet; or

- b. Upon any alteration or reconstruction, rehabilitation or other improvement of such building, structure or property, the cost of which equals or exceeds 25% of the market value of the applicable building, structure or property prior to such alteration, reconstruction, rehabilitation or other improvement. For the purposes of this definition, if the alteration, reconstruction, rehabilitation or other improvement is made following damage to the applicable building, structure or property, the market value of the building, structure or property shall be that which it had before the damage occurred.

This term does not, however, include any alteration of a building, structure or property to correct existing violations of state or local health, sanitary or safety codes and which are solely necessary to assure safe living conditions.

(2) A “substantial expansion” of a use shall be deemed to occur in the following circumstances:

- a. Where there is an increase of the lesser of (1) 30% or more of the then current gross floor area of the building, structure or property on which such use is located dedicated to such use and (2) 500 square feet of any building, structure or property dedicated to such use; or
- b. The permitted occupancy of the building or structure in which such use is located is increased by more than 15 persons; or
- c. There is an alteration to the building, structure or property in or on which such use is located which would constitute a substantial expansion pursuant to clause (1)(b) above.

(3) Alterations occurring on the premises shall be deemed cumulative for purposes of substantial expansion, and upon any such alteration that cumulatively exceeds the thresholds, a substantial expansion shall be deemed to have occurred on the premises.

SWIMMING POOL

Any man-made body of water, including any swimming pool, tank, depression or excavation in any material, dike or berm constructed, erected, excavated or maintained which will cause the retention of water to a greater depth than 18 inches and having a plane surface area of water greater than 100 square feet, except as shall hereinafter be excluded. The man-made body of water shall be construed to mean a body of water to be used for swimming or bathing by any family or persons residing on the premises and their guests. Such body of water shall not be operated for gain and shall be located on a rear lot only as an accessory use to the dwellings thereon.

TAKE OUT FOOD ESTABLISHMENT

A use in a building having as its principal purpose of business the sale of food and/or beverages to the customer in a ready-to consume state for consumption primarily off premises and whose design or method of operation is such that such foods or beverages are usually served in edible containers or paper, plastic or other disposable containers but which may have a customer sitting area. A customer sitting area shall be limited to no more than 25 seats to eat within or outside of the

establishment at one time. A take-out food store includes, but is not limited to, delicatessens, ice cream parlors, bakeries, tea/coffee houses and specialty gourmet stores. A take out food establishment excludes restaurants, bars, nightclubs and tasting rooms.

TASTING ROOM

A building or portion thereof which is accessory to an operating winery, brewery, distillery or other similar business which is in the business of producing alcoholic beverages and in which tours and/or tastings of the beverages produced by such business are conducted.

THEATER

A building or buildings devoted to showing motion pictures, musical performances or stage productions on a paid-admission basis; *provided* that no business which would otherwise be classified as a restaurant, bar, nightclub, take-out food establishment or tasting room shall constitute a theater unless the sale of food and/or beverages is solely incidental to the primary purpose of the use of such property as described above.

USABLE OPEN SPACE

An unenclosed portion of the ground of a lot which is not devoted to driveways or parking spaces, which is free of structures of any kind, of which not more than 25% is roofed for shelter purposes only, the minimum dimension of which is 40 feet and which is available and accessible to all occupants of the building or buildings on said lot for purposes of active or passive outdoor recreation.

WHOLESALE

A use of any building, structure, property or any portion thereof, for the sale of goods products purchased or otherwise obtained by the owner in large quantities to middlemen for further distribution to direct consumers of such goods or products rather than the sale of such goods or products directly to the general public.

YACHT CLUB

An annual or seasonal membership club organized with the principal aim of promoting and supporting yachting and recreational boating activities in the waters surrounding the Village and subject to the following conditions:

- (1) such club shall be adjacent to a marina or boatyard where the applicable members dock their boats and shall be incidental to the members' use of boats located at such marina or boatyard;
- (2) no such club shall include any dwelling or lodging units or be used to provide any overnight accommodation to any person (other than overnight accommodation by members in boats owned by such member in the related marina or boatyard);
- (3) no such club shall include a restaurant, bar, nightclub, take-out food establishment or tasting room; *provided* that such club may make kitchen facilities available to its members; and
- (4) the use of such club shall be limited to members and guests but not otherwise available for use by the general public except to the extent such club is either (i) sponsoring an event relating to

boating, boating instruction, shipbuilding, maritime history or marine technologies and the general public is invited to participate in such event or (ii) catered event or entertainment so long as such yacht club holds a valid entertainment permit.

YARD, FRONT

An unoccupied ground area fully open to the sky between the street line established by the Official Map of the Village or by an approved subdivision plot and a line drawn parallel thereto.

YARD, REAR

An unoccupied ground area fully open to the sky between the rear lot line and a line drawn parallel thereto.

YARD, SIDE

An unoccupied ground area fully open to the sky between any property line other than a street or rear lot line and a line drawn parallel thereto between the front and rear yards.

- C. The definitions in Chapter 114, Stormwater Management and Erosion and Sediment Control, shall apply to this Chapter.

Article III
Zoning Districts and Zoning Map

§ 150-3 Classification of districts.

The Village is hereby divided into the classes of districts as listed below:

R-1	One-Family Residence District
R-2	One- and Two-Family Residence District
CR	Retail Commercial District
CG	General Commercial District
WC	Waterfront Commercial District
PD	Park District

§ 150-4 Zoning Map.

The boundaries of said districts are hereby established as shown on the "Zoning Map", with all explanatory matter thereon, which is hereby adopted and made a part of this Chapter. A copy of said map, indicating the latest amendments, shall be kept up to date in the office of the Building Inspector for the use and benefit of the public.

§ 150-5 District boundaries.

In determining the boundaries of districts shown on the Zoning Map, the following shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets, highways, waterways or railroad rights-of-way or such lines extended, such center lines shall be construed to be such boundaries.
- B. Where such boundaries are indicated as approximately following the property lines of parks or other publicly owned lands, such lines shall be construed to be such boundaries.
- C. Unless otherwise shown, all district boundaries running parallel to streets shall be construed to be 100 feet back from the rights-of-way of said streets.
- D. In all cases where a district boundary divides a lot in one ownership and more than 50% of the area of such lot lies in the less restricted district, the regulations prescribed by this Chapter for the less restricted district shall apply to such portion of the more restricted portion of said lot as lies within 30 feet of such district boundary. For purposes of this section, the more restricted district shall be deemed that district subject to regulations which prohibit the use intended to be made of said lot or which require higher standards with respect to coverage, yards, screening, landscaping and similar requirements.
- E. In all cases where a district boundary line is located not farther than 15 feet away from a lot line of record, such boundary line shall be construed to coincide with such lot line.
- F. In all cases where a lot abuts Greenport Harbor, the zoning district boundary line shall be deemed to coincide with the incorporation limits of the Village, and in any case involving a body of water wholly within the incorporated limits of the Village, the boundary line shall run to the midpoint of said body of water.
- G. In all other cases where dimensions are not shown on the map, the location of boundaries shown on the map shall be determined by the use of the scale appearing thereon.
- H. The Board of Appeals shall have the power and duty to interpret boundaries as provided in § **150-26(A)**.

§ 150-6 Effect of establishment of districts.

Following the effective date of this Chapter:

- A. No building shall be erected, moved, altered, rebuilt or enlarged, nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner except in conformity with all regulations, requirements and restrictions specified in this Chapter for the district in which such building or land is located.
- B. No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.
- C. No lot shall be formed from part of a lot already occupied by a building unless such building and all yards and open spaces connected therewith and the remaining lot comply with all requirements

prescribed by this Chapter for the district in which said lot is located. No building permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all the provisions of this Chapter.

- D. Nothing contained in this Chapter shall require any change in the plans, construction or designated use of a building complying with the Zoning Ordinance in force prior to this Chapter if the following is found to exist:
 - (1) A building permit shall have been duly issued and construction shall have been started before the date of first publication of notice of the public hearing on this Chapter.
 - (2) The ground story framework, including the second tier of beams, shall have been completed within six months of the date of the building permit.
 - (3) The entire building shall have been completed in accordance with such plans as have been filed with the Building Inspector within one year from the effective date of this Chapter.
- E. Areas annexed after the effective date of this Chapter shall be in the R-1 Zoning District unless and until the Board of Trustees adopts other zoning provisions.

Article IV District Use Regulations

§ 150-7 R-1 One-Family Residence District.

In an R-1 One-Family Residence District, no building or premises shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used, in whole or in part, for any uses except the following:

- A. Permitted uses.
 - (1) Detached one-family dwellings, not to exceed one one-family dwelling on each lot.
 - (2) Buildings, structures and uses owned or operated by the Village.
- B. Conditional uses. The following conditional uses are permitted, subject to approval by the Planning Board in accordance with §§ **150-29** hereof, and subject to the regulations specified below and elsewhere in this Chapter:
 - (1) Places of worship, including parish houses, but excluding a rectory or parsonage, which shall conform to the requirements for a one-family dwelling. Special conditions include the following:
 - (a) No building or part thereof shall be erected nearer than 50 feet to any street or property line.
 - (b) The sum of all areas covered by all principal and accessory buildings shall not exceed 20% of the area of the lot.
 - (2) Schools. Special conditions include the following:

- (a) Same as Subsection **B(1)(a)** and **(b)** above.
- (b) Any such school shall be a nonprofit organization within the meaning of the Internal Revenue Act and shall be registered effectively as such thereunder.
- (c) Any such school shall occupy a lot with an area of not less than one acre plus one acre for each 100 pupils for which the building is designed.
- (3) Philanthropic or eleemosynary institutions, hospitals or sanatoriums for general medical care. Special conditions include the following:
 - (a) Same as Subsection **B(1)(a)** and **(b)** above.
 - (b) Each such use shall occupy a lot which shall have an area containing not less than one acre.
- (4) Annual membership clubs providing outdoor recreational facilities, such as private playgrounds, swimming pools and tennis courts. Special conditions include the following:
 - (a) Same as Subsection **B(1)(a)** and **(b)**, above.
 - (b) Any such club shall be incorporated pursuant to the provisions of the Not-for-Profit Corporation, Membership Corporation or the Benevolent Orders Law of the State of New York and cater exclusively to members and their guests, or shall be an unincorporated association approved by the Village Board and catering exclusively to members and their guests.
 - (c) Any such use shall not be conducted as a business enterprise.
 - (d) Such use shall occupy a lot with an area of not less than one acre.
 - (e) The use of outdoor public-address systems for any purpose shall be only by special permit.
 - (f) Exterior lighting, other than that essential for the safety and convenience of the users of the premises, shall be only by special permit.
- (5) Railroad, public utility and television towers, rights-of-way and related structures necessary to serve areas within the Village, subject to such conditions as the Planning Board may impose in order to protect and promote the health and safety and general welfare of the community and the character of the neighborhood in which the proposed structure is to be constructed.
- (6) Cemeteries.
- (7) Bed-and-breakfast facilities, subject to the following conditions:
 - (a) Facilities are clearly incidental and subordinate to the principal use of the dwelling as a residence.
 - (b) The dwelling is occupied on a continual basis by the owner during rental periods.
 - (c) The renting of rooms is limited to five rooms for lodging and serving of breakfast.

- (d) Not more than two individuals shall occupy a room for a maximum total of six casual and transient roomers.
 - (e) Minimum lot size is 10,000 square feet.
 - (f) Minimum house size is 2,000 square feet.
 - (g) One off-street parking space is provided for each rental room.
 - (h) Parking areas are designated and set back five feet from the boundary line.
 - (i) Parking areas are screened from neighbors by fence or plantings with a minimum height of five feet.
 - (j) The minimum size of a room is 120 square feet.
 - (k) Each room has a window which can be opened, minimum window size to be four square feet. Windows shall comply with the New York State Uniform Fire Prevention and Building Construction Code (Part 714 - Openings for Emergency Use).
 - (l) Guests to be transient with a maximum period of stay for any guest limited to one month.
- C. Permitted accessory uses, limited to the following:
- (1) Customary home occupations, provided that:
 - (a) No display of goods or signs is visible from the street, except as set forth in Subsection C(6) below.
 - (b) Such occupation is incidental to the residential use of the premises and is carried on in the principal building by a resident therein with not more than two nonresident assistants.
 - (c) Such occupation is carried on in an area not exceeding 30% of the area of the ground floor of the principal building.
 - (d) At no time shall any premises be used in such a manner as to cause the emanation therefrom of offensive or noxious odors, vapors, fumes, glare, dust, smoke, gas, vibration, noise or radiation, or be used in such a manner as to cause injury, annoyance or disturbance to any of the surrounding properties and to their owners and occupants.
 - (2) Professional office or studio of an architect, artist, dentist, real estate agent, engineer, lawyer, musician, teacher, physician, veterinarian or other professions of similar character, *provided that*
 - (a) Such office or studio is incidental to the residential use of the premises and is carried on by a resident thereon with not more than two nonresident assistants.
 - (b) Such office or studio shall occupy not more than 30% of the area of the ground floor of the main building.
 - (c) Studios where dancing or music instruction is offered to groups in excess of four pupils at one time or where concerts or recitals are held are prohibited.

- (d) Equipment capable of causing interference with radio or television reception in the neighborhood shall be prohibited unless also equipped with means to prevent such interference.
- (e) Veterinarians' offices shall not be located within 50 feet of any lot line, and no kennel, runway, exercise pen or similar animal housing shall be located within 100 feet of any lot line.
- (3) Garden house, tool house, playhouse, wading pool or swimming pool incidental to the residential use of the premises and not operated for gain, provided that swimming pools of any size and a depth in excess of six inches shall be subject to the following requirements:
 - (a) The edge of the pool shall be kept a distance of not less than 20 feet from all property lines.
 - (b) If located within 50 feet of any property line, such pool shall be screened from the view of abutting properties.
 - (c) An adequate permanent fence or barrier shall be erected, maintained and provided with a self-closing, self-latching gate to prevent unauthorized use of the pool and to prevent accidents, in accordance with Section 720.1 of the New York State Uniform Fire Prevention and Building Construction Code.
 - (d) Swimming pools 100 square feet in area and having a depth of six inches shall require a permit and the payment of a fee.
- (4) Private garages. Two passenger automobile spaces in such garages may be leased to persons not resident on the premises.
- (5) The keeping of three customary household pets but excluding the commercial breeding or keeping of the same.
- (6) The following signs, subject to § **150-15**:
 - (a) One non-illuminated nameplate or professional sign with an area of not over two square feet.
 - (b) One temporary nonilluminated sign advertising the sale or rental of the premises on which such sign is situated, with an area of not over four (4) square feet, provided that such sign is located on the front wall of a building or, if freestanding, then not nearer than 15 feet to any street line and to any property line.
 - (c) One indirectly illuminated bulletin board or other announcement sign for educational or religious institutions permitted in Subsection **B** above, with an area of not over 10 square feet, provided that such sign is located not nearer than 15 feet to any street or property line or is attached to the building if closer.
- (7) Boats. Not more than four boats may be stored, docked, moored or anchored for more than 48 hours on any waters or adjoining waterways.
- (8) Yard sales, attic sales, garage sales, auction sales, porch sales or similar type of sales of personal property owned by the occupant of the premises and located thereon, subject to the following restrictions:

- (a) Not more than two such sales shall be conducted on any lot in any one calendar year.
- (b) Adequate supervised parking facilities shall be provided.
- (c) No signs, except one on-premises sign not larger than three by four (3 x 4) feet in size, displayed for a period of no longer than one week immediately prior to the day of such sale, shall be permitted.
- (d) A permit is obtained from the Building Inspector upon the payment of a fee of \$5 or such other sum as may be determined from time to time by resolution of the Board of Trustees.

§ 150-8 R-2 One- and Two-Family Residence District.

In an R-2 One- and Two-Family Residence District, no building or premises shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used, in whole or in part, for any purpose except for the following:

A. Permitted uses.

- (1) Any use permitted in an R-1 One-Family Residence District as provided in § 150-7(A).
- (2) Two-family dwelling.

B. Conditional uses. The following conditional uses are permitted, subject to approval by the Planning Board in accordance with §§ 150-29 and 150-30 hereof, and subject to the regulations specified below and elsewhere in this Chapter:

- (1) Any use conditionally permitted in the R-1 Residence District as provided in § 150-7(B), except cemeteries.
- (2) Conversion of a property to a multifamily dwelling unit, as provided in Art. VII of this Chapter, subject to the following conditions:
 - (a) Said structure shall have contained on the effective date of this Chapter not less than 1,000 square feet of livable floor area for each dwelling unit created.
 - (b) The lot on which such structure is located shall contain a minimum of 15,000 square feet of lot area and shall contain at least 5,000 square feet of lot area for each dwelling unit.
 - (c) One and one-half (1 1/2) parking spaces shall be provided for each dwelling unit.

C. Permitted accessory uses. Any accessory use permitted in the R-1 One-Family District as provided in § 150-7(C).

§ 150-9 CR Retail Commercial District.

In a CR Retail Commercial District, no building or premises shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used, in whole or in part, for any use except as listed below:

A. Permitted uses: Other than to the extent constituting a formula business (which business shall be

permitted as a conditional use subject to the provisions of Section 150-(9)(B)):

- (1) Retail stores, galleries, studios and banks.
- (2) Personal service stores and fitness facilities.
- (3) (a) Take-out food establishments;
- (b) Restaurants which either:
 - (i) satisfy all of the following criteria:
 - (A) the kitchen and any publicly accessed portions of such restaurant are located solely on the ground floor of a building,
 - (B) the combined area of the kitchen and any publicly accessed portions of such restaurant do not exceed 1500 square feet, and
 - (C) to the extent that such restaurant includes outdoor seating, such restaurant provides for no more than 8 seats outdoors; or
 - (ii) was in existence as of the effective date of Local Law 3 of 2023 and has not been the subject of a substantial expansion since such date, *provided* that any such restaurant shall constitute a permitted use solely to the extent of that it is operating in accordance with its approved site plan and any applicable conditional use permit in effect with respect to such restaurant as of the effective date of Local Law 3 of 2023; and
- (c) Bars, tasting rooms and hotels or motels in existence as of Local Law 3 of 2023 so long as such use has not been the subject of a substantial expansion since such date, *provided* that any such business shall constitute a permitted use solely to the extent that it is operating in accordance with its approved site plan and any applicable conditional use approval in effect with respect to such business as of the effective date of Local Law 3 of 2023.
- (4) Professional and business offices and government offices.
- (5) Non-personal service establishments.
- (6) Theaters.
- (7) Outlets and pickup stations for laundries and cleaning establishments, excluding commercial laundries. Cleaning of wearing apparel or household efforts on the premises shall be permitted only if noncombustible solvent is used, except for the incidental removal of spots with combustible solvent.
- (8) Newspaper printing, including incidental job printing.
- (9) Fraternal lodges.
- (11) Mortuary and funeral parlors.

- (12) Apartment dwelling units located in principal buildings and, to the extent in existence as of the effective date of Local Law 3 of 2023 in accessory buildings thereof, subject to the following standards and requirements:
- (a) Inspection by the Building Inspector to ensure compliance with all requirements of the New York State Uniform Fire Prevention and Building Code and all other applicable state and local regulations prior to the issuance of a building permit, certificate of occupancy or rental permit.
 - (b) Apartments shall not be located on the first floor of principal buildings. Residential units in accessory buildings may be on any floor of such accessory building to the extent in existence as of the date of adoption of Local Law 3 of 2023.
 - (c) Such apartment shall only be available for lease for a term of not less than 12 consecutive months (subject to customary rights of a tenant and owner to terminate such lease early) and shall in no event be rented on a seasonal basis. In conjunction therewith, the property owner shall be required, on a bi-annual basis, to obtain a rental permit or renewal rental permit in accordance with Section 103-6 of the Code. At the time of the filing for such permit, the property owner shall (i) provide a copy of the lease or leases (which may be redacted with respect to personal details and other confidential information (such as pricing) in a form satisfactory to the Building Inspector but which shall not include redactions for any rights of termination or assignment in respect of the lease term) for the prior bi-annual period and any then applicable lease, demonstrating that such apartment has been rented to the same occupant or occupants for a period of not less than twelve (12) consecutive months and that the current occupant or occupants are not permitted to sublease such apartment for a period of less than the remaining term of such lease and (ii) certify that such apartment has been, and will be made, only available for rent to persons intending to maintain a full-time residence in the Village during the term of such lease and not on a seasonal or temporary basis. If the owner of such property does not have executed lease documents evidencing the foregoing, it shall have the option to provide such other evidence in a form satisfactory to the Building Inspector demonstrating that the applicable apartment will be rented solely on a consecutive 12-month basis and not on a seasonal basis going forward.
- B. Conditional uses permitted upon approval by the Planning Board in accordance with Article **XI** hereof. The following conditional uses are permitted, subject to the approval of the Planning Board in accordance with § **150-29** and, to the extent applicable, §**150-30** hereof, and subject to the regulations specified below and elsewhere in this Chapter:
- (1) Conditional uses permitted in § **150-7(B)(5)**.
 - (2) Any use of a type otherwise permitted under Section 150-9(A) that is a formula business.
 - (3) Gasoline service stations (whether self-service or full service) and repair garages, subject to the following conditions:
 - (a) no such use shall be permitted in a floodplain; and
 - (b) such gasoline service station or repair garage, as the case may be, complies with all of the requirements set forth in Section 150-10(A)(3) and 150(A)(8), to the extent applicable to service stations or repair garages.

- (4) Except to the extent expressly constituting a permitted use pursuant to Section 150-9(A), the manufacturing, assembling, converting, altering, finishing cleaning or any other processing of products (whether intended to be sold on site or otherwise).
- (5) Except to the extent expressly constituting a permitted use pursuant to Section 150-9(A)(3), restaurants, bars, take-out food establishments and tasting rooms.
- (6) Except to the extent, expressly constituting a permitted use pursuant to Section 150-9(A)(9A)(3), motels and hotels, subject to the following conditions:
 - (a) No motel or hotel shall be located on a property or lot that is within 200 feet of any property line of any other property that also contains an establishment being operated as a motel or hotel.
 - (b) The occupancy of any room providing for accommodation or lodging in such motel or hotel shall be no greater than the lesser of (i) the number of persons permitted to occupy such room pursuant to the Uniform Code and (ii) four (4) individuals.
 - (c) The minimum size of rooms providing accommodation in any motel/hotel shall not be less than 200 square feet.
 - (d) No existing apartment dwelling units will be displaced by such motel or hotel.
 - (e) For motels or hotels located on Front or Main Streets, guest check-in, drop-off and loading areas shall be located to the side or rear of such hotel and not on any part that abuts Front Street or Main Street.
 - (f) For buildings located on Front or Main Streets with a width greater than 50 feet, a minimum of 50% of the front facade of such building facing Front or Main Streets shall be set aside as a separate occupiable storefront.
 - (g) The following facilities or uses related to such hotel or motel may not be located within 25 feet of any residentially zoned area:
 - a. Dumpster, trash and recycling facilities (which shall in any event be required to be enclosed);
 - b. Loading docks and maintenance facilities; or
 - c. Outdoor pools, decks, patios or other similar outdoor areas provided for guest congregation.
 - (h) To the extent that any motel/hotel plans on including an outdoor patio, deck, lounging or other similar outdoor space for the use by guests, the hours during which such space shall be available for use by shall commence no earlier than 8 AM and end no later than 10 PM.
 - (i) To the extent that any motel/hotel intends to provide entertainment (whether in the

form of a disc jockey, live music or otherwise) from time to time, such motel/hotel shall have obtained an entertainment permit in accordance with Section 150-52.

(j) A traffic and safety impact analysis shall be required to be performed.

C. Permitted accessory uses.

(1) Customary accessory uses, including off-street parking and loading facilities, subject to § **150-16**, and signs, subject to § **150-15**, and the following conditions:

- (a) Not more than one such sign shall be permitted for each tenant on the premises on each wall fronting on a street.
- (b) The aggregate area in square feet of all signs on any wall shall be not greater than two times the length in feet of such wall.
- (c) In addition, where the building is set back from the street line 25 feet or more, not more than one freestanding sign may be erected with a total area on all faces of not more than 40 square feet. Such sign shall not be erected nearer than six feet to any building nor encroach on any required side yard.

(2) Outdoor dining, subject to site plan approval, which shall be a permitted accessory use to any indoor restaurant or take-out food establishment otherwise permitted under Section 150-9(A) or 150-9(B), subject to the following conditions:

- (a) The total number of seats, indoor and outdoor, shall not exceed the approved maximum number of seats per the certificate of occupancy, or where not specified, as determined by the Building Inspector by reference to the approved site plan and Village Code.
- (b) The total number of outdoor seats shall not exceed a maximum of 8 seats unless otherwise approved by the Planning Board as part of a conditional use or site plan application for the related indoor restaurant.
- (c) Any outdoor dining area that is the subject of any roof covering of any kind shall be calculated as part of the total square footage of the applicable indoor restaurant for purposes of this Chapter;
- (d) Hours of operation of an outdoor dining area shall be subject to site plan approval and entertainment permit (if such permit is required);
- (e) Any outdoor dining area shall not extend onto any public sidewalk, roadway or right-of-way and shall not impede pedestrian or vehicular traffic and
 - i. the outdoor dining area may be required by the Planning Board to have nonpermanent barriers to delineate dining areas consisting of planters, stanchions or similar structures; and

- ii. unless otherwise approved by the Planning Board, all tables and chairs used for outdoor dining shall be removed nightly and seasonally when not in active and continuous use.

(3) Entertainment and catered events held at any business constituting a permitted or approved conditional use pursuant to this Section 150-9, to the extent the business at which such entertainment or catered event is being held is the recipient of a valid entertainment permit issued pursuant to Section 150-51 to the extent required pursuant thereto.

- D. All uses permitted in Subsections **A** and **B** (other than as expressly permitted with respect to restaurants and Section 150-9(B)(7) above) shall be carried on in buildings fully enclosed on all sides, except for parking and loading facilities.

§ 150-10 CG General Commercial District.

In a CG General Commercial District, no building or premises shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used, in whole or in part, for any use except those listed below:

A. Permitted uses.

- (1) Other than to the extent constituting a formula business (which business shall be permitted as a conditional use subject to the provisions of Section 150-(10)(B)), any use permitted in the CR Retail Commercial District as provided in § **150-9(A)**.
- (2) Service establishments furnishing services other than of a personal nature.
- (3) Self-service gasoline stations, subject to all of the provisions of § **150-10(A)(8)**, and the following additional requirements:
 - (a) A service station which offers both self-service facilities and full service shall confine the self-service dispensing units to one service island with not more than three units, each of which may utilize up to two hoses and nozzles.
 - (b) Self-service gasoline stations shall be protected by an automatic fire-protection system in the form of an approved system of dry-powder release which will act as an automatic fire extinguisher, or in a form in conformity with nationally recognized good practice and standards.
 - (c) Self-service gasoline stations, whether totally or partly self-service, shall operate the self-service dispensing units only when there is at least one attendant working on the premises whose primary function shall be to supervise, observe and control the dispensing of motor fuels while said motor fuels are actually being dispensed.
 - (d) It shall be the responsibility of the attendant to prevent the dispensing of motor fuels into portable containers which do not comply with any state, county and local requirements; to control sources of ignition; and to immediately handle accidental spills and fire extinguishers if needed. The attendant or supervisor on duty shall be mentally and physically capable of performing the functions and assuming the responsibility prescribed in this subsection. No attendant shall be less than 18 years of age.

- (e) The dispensing areas shall at all times be in clear view of the attendant, and the placing or allowing of any obstacles to come between the dispensing area and the attendant control area shall be prohibited. The attendant shall at all times be able to communicate with the persons in the dispensing area.
- (f) Self-service gasoline stations shall have all self-service dispensing units controlled by approved dispensing devices, such as coin- or card-operated, or remote-controlled types, such as computer consoles.
- (g) There shall be no latch-open device on any self-service dispensing nozzle.
- (h) Operating instructions shall be conspicuously posted on each self-service dispensing unit.
- (4) Light manufacturing, assembling, converting, altering, finishing or any other processing and incidental storage of products and materials.
- (5) Wholesaling, storing and warehousing, including building contractors, building supply and lumber yards.
- (6) Research and design laboratory.
- (7) Utility and public transportation facilities.
- (8) Motor vehicle sales, service stations and repair garages, subject to the following regulations:
 - (a) The minimum lot size for such establishments shall be 7,500 square feet, and the minimum street frontage shall be 75 feet.
 - (b) Entrance and exit driveways shall have an unrestricted width of not less than 16 feet and not more than 20 feet, shall be located not nearer than 10 feet to any property line and shall be so laid out as to avoid the necessity of any vehicle backing out across any public rights-of-way.
 - (c) Vehicle lifts or pits, dismantled automobiles and all parts or supplies shall be located within a building enclosed on all sides.
 - (d) All service or repair of motor vehicles, other than such minor servicing as change of tires or sale of gasoline or oil, shall be conducted in a building fully enclosed on all sides. This requirement shall not be construed to mean that the doors to any repair shop must be kept closed at all times.
 - (e) The storage of gasoline or flammable oils in bulk shall be located fully underground and not nearer than 15 feet to any property line other than the street line.
 - (f) No gasoline pumps shall be located nearer than 15 feet to any street line.
 - (g) No building permit shall be issued for any such establishments within a distance of 200 feet of any school, church, hospital or other place of public assembly designed for occupancy by more than 50 persons, said distance to be measured in a straight line between the nearest points of each of the lots or premises regardless of the district where either premises are located.

- (h) Sale of used cars shall be conducted only as an accessory to new car sales.
- (i) Unused service station or commercial property must be enclosed to prevent unauthorized use.
- B. Conditional uses permitted upon approval by the Planning Board in accordance with Article **XI** hereof. The following conditional uses are permitted, subject to approval by the Planning Board in accordance with § **150-29** and, to the extent applicable, §**150-30** hereof, and subject to the regulations specified below and elsewhere in this Chapter:
 - (1) Conditional uses permitted in § **150-7(B)(5)**.
 - (2) Any use of a type otherwise permitted under Section 150-10(A) that is a formula business.
- C. Permitted accessory uses.
 - (1) Customary accessory uses, including off-street parking and loading facilities subject to § **150-16**, and signs, subject to § **150-15**, and the conditions as stated in § **150-9(C)(1)**.
 - (2) Entertainment and catered events held at any business constituting a permitted or approved conditional use under this Section 150-10, to the extent the business at which such entertainment or catered event is being held is the recipient of a valid entertainment permit issued pursuant to Section 150-51 to the extent required pursuant thereto

§ 150-11 WC Waterfront Commercial District.

The objective of this district is to preserve, maintain and encourage water-dependent uses that have traditionally been associated with the Village waterfront and to accommodate water-enhanced commercial uses that are compatible with water-dependent uses. In the Waterfront Commercial District, no building or premises shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used, in whole or in part, for any use except those listed below

- A. Permitted uses. Other than to the extent constituting a formula business (which business shall be permitted as a conditional use subject to the provisions of Section 150-(11)(B)),
 - (1) Yacht clubs, marinas, docking facilities and fishing stations.
 - (2) Municipal parks, municipal or government facilities and fraternal lodges.
 - (3) Boat launching facilities.
 - (4) Excursion boats.
 - (5) Businesses principally engaged in the marine industry or in the manufacturing, fabrication and/or assembly of marine-related products.
 - (6) Fish, shellfish and/or aquatic plant processing plants.
 - (7) Retail and wholesale of seafood products or aquatic plant products.

(8) Retail fuel storage and sales solely for boats.

(9) Maritime museums.

(10) Aquaculture facilities.

B. Conditional uses. Subject to review and receipt of approval by the Planning Board pursuant to §150-29 and, to the extent applicable, §150-30:

(1) Hospitals.

(2) Any use of a type otherwise permitted under Section 150-11(A) that is a formula business.

(3) Ferries and ferry terminals. Any existing ferry or ferry terminal used presently for vehicles may continue to permit vehicle travel on such ferries. Any expansion of the vehicle capacity or the location of vehicle embarkation or disembarkation shall require conditional use and site plan approval, in accordance with this chapter.

C. Permitted accessory uses.

(1) Customary accessory uses, including off-street parking and loading facilities and offices related to the principal permitted use subject to § 150-16 and signs subject to § 150-15 and the conditions as stated in § 150-9(C)(1).

(2) Entertainment and catered events held at any business constituting a permitted or approved conditional use under this Section 150-11 to the extent the business at which such entertainment or catered events being held is the recipient of a valid entertainment permit issued pursuant to Section 150-51 to the extent required pursuant thereto

D. Public access and building coverage bonus. All uses, premises and structures should be designed to allow pedestrian access to and along the waterfront. An applicant who proposes to construct a permanent pedestrian walkway, a minimum of 10 feet in width, for public use along Greenport Harbor to Front Street, that is accepted by the Planning Board, shall be granted a bonus building coverage of 10% on the lot to be developed. The walkway shall be made available for public use under a mutually acceptable arrangement between the Village and the property owner.

§ 150-11.1 **Park District.**

In the PD (Park District), no building or grounds shall be used, and no building or grounds shall be erected or altered, without the approval of the Village Board of Trustees.

A. Permitted uses:

(1) Nature trails.

(2) Sports playing fields.

- (3) Firematic events.
- (4) Utility facilities, including necessary appurtenances, but not limited to:
 - (a) Water towers.
 - (b) Sewage treatment plants.
 - (c) Electrical plants.
- (5) Municipally operated campsites.
- (6) Municipally operated trailer park.
- (7) Watershed maintenance.

§ 150-11.2 Short-term rentals prohibited.

The short-term rental of a residential property or a portion thereof (as defined in § 103-4 of the Greenport Village Code) is prohibited, except for a two-family dwellings where one of the dwelling units is either owner-occupied or occupied as a long-term occupancy or a portion of a single-family dwelling, the remainder of which is owner-occupied or occupied by a long-term occupancy.

Article V

District Bulk and Parking Regulations

§ 150-12 Schedule of regulations.

The following schedules of regulations apply to the area of lots, the heights of buildings, the yards and other open spaces to be provided, off-street parking spaces, minimum floor areas and all other matters contained therein as indicated for the various districts established by this Chapter. Additional bulk requirements are specified in § 150-13, and off-street loading and parking requirements for uses in the CR District, CG District and WC District are specified in § 150-16.

A. Bulk and parking regulations for uses permitted in R-1 and R-2.

R-2 District¹

R-1 District	One-Family Dwelling	Two-Family Dwelling
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Minimum
required:

Lot area (square feet)	10,000	7,500	7,500
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R-2 District¹

	R-1 District	One-Family Dwelling	Two-Family Dwelling
Lot width (feet)	80	60	60
Lot depth (feet)	100	100	100
Front yard (feet)	30	30	30
One side yard (feet)	12	10	10
Both side yards (feet)	30	25	25
Rear yard (feet)	30	30	30
Livable floor area per dwelling unit (square feet)	1,000	1,000	Per NYS Code
Off-street parking per dwelling unit	2	2	1 1/2
Maximum permitted:			

R-2 District¹

	R-1 District	One-Family Dwelling	Two-Family Dwelling
Lot coverage (percent)	30	30	35
Building height:			
Number of stories	21/2	21/2	21/2
Feet per building	35	35	35

NOTES:

Any given lot shall exceed either the minimum lot width or depth sufficiently to meet the minimum lot area.

¹If the owner of an existing one-family dwelling in the R-2 District which is legally nonconforming with respect to any of these bulk requirements seeks to convert the existing dwelling to a two-family dwelling, then, in that event, the area requirements set forth herein, except for the requirement entitled "Off-street parking per dwelling unit," shall not apply to the newly added dwelling unit.

- B. Bulk and parking regulations for commercial uses permitted in CR Retail Commercial District, CG General Commercial District and WC Waterfront Commercial District.

	WC and CR District	CG District
Minimum required:		
Lot area (square feet)	--	5,000

	WC and CR District	CG District
Lot width (feet)	25	50
Minimum required:		
Side yard (feet)	None required, but 5 feet minimum if provided	None required, but 5 feet minimum if provided
Front yard (feet)	6	6
Side yards for lots within 25 feet of a residence district boundary (feet)	10	20
Rear yard for lots within 25 feet of a residence district boundary (feet)	10	20
Off-street parking spaces	See §150-16	See §150-16
Lot coverage (percent)	40	50
Building height, inclusive of any and all permanent or semi-permanent structures or fixtures or permanently or semi-permanently placed equipment:	No more than 2 stories above grade, not to exceed 35 feet.	No more than 2 stories above grade, not to exceed 35 feet.

Article VI Supplementary Regulations

§ 150-13 **Residence district regulations.**

A. Accessory buildings:

- (1) An accessory building may be located in any required rear yard, provided that:
 - (a) Such building shall not exceed 15 feet in height.

- (b) Such building shall be set back five feet from any lot line and shall not be located less than 10 feet from the principal building.
- © All such buildings in the aggregate shall not occupy more than 30% of the area of the required rear yard.
- (2) Accessory buildings constructed at the same time may be located in pairs or groups in the required rear yard along the common side lot line or rear lot line of contiguous lots.
- (3) An accessory building on that portion of a lot not included in any required yard shall conform to the height regulations for principal buildings.
- B. Corner lots.
 - (1) Obstruction to vision at street intersections. At all street intersections or driveway entrances in all residence districts, no obstructions to vision exceeding 30 inches in height above curb level shall be erected or maintained on any lot within the triangle formed by the street lines of such lot and a line drawn between points along such street lines 30 feet distant from their point of intersection.
 - (2) Rear and side yards. On a corner lot, front yards are required on both street frontages, and one yard other than the front yards shall be deemed to be a rear yard and the other or others to be side yards.
- C. Exceptions to lot depth requirements. The required lot depth at any point may be decreased by 25% if the average lot depth conforms to the minimum requirement.
- D. Exceptions to yard requirements.
 - (1) Permitted obstructions. Cornices or cantilevered roofs may project not more than three feet into a required yard. Belt courses, window sills and other ornamental features may project not more than six inches into a required yard. Fences or walls not over six and one-half (6.5) feet in height may be erected anywhere on the lot, except as set forth in Subsection (B)(1) above. Fences or walls with a height in excess of six and one-half (6.5) feet shall conform to the requirements set forth herein for buildings. Paved areas, other than such as are needed for access to the buildings on the lot, shall not project within 15 feet of a street line or four feet of a lot line.
 - (2) Entries and porticos. A roofed-over but unenclosed projection in the nature of an entry or portico, not more than eight feet wide and extending not more than six feet out from the front wall of the building, shall be exempt from front yard requirements when the building otherwise complies with all other yard restrictions of this Chapter.
 - (3) Existing setback. No proposed one- or two-family dwelling need have a setback greater than the average setback of the two existing dwellings with the greatest setbacks within 200 feet on each side of said proposed dwelling, on the same side of the street and within the same block and the same district.
- E. Existing small lots. A lot, owned individually and separately and separated in ownership from any adjoining tracts of land, which has a total lot area or lot width less than, prescribed in this Chapter may be used for a one-family dwelling, provided that such lot shall be developed in conformity with

all applicable district regulations.

- (1) The total dimensions of both side yards for a principal building shall be computed on the basis of four-tenths (0.4) of the lot width; however, no side yard dimension shall be less than four-tenths (0.4) of the total dimensions of both side yards computed as aforesaid, and no side yard dimension shall be less than 10 feet.
- (2) The total rear yard dimension for a principal building shall be computed on the basis of three-tenths (0.3) of the lot depth; however, no dimension for the rear yard of a principal building shall be less than 30 feet.

F. Fences in residence districts.

- (1) No fence or wall in a required front yard shall have a height greater than four feet.
- (2) No fence or wall in a required rear or side yard shall have a height greater than 6.5 feet:
- (3) In no case shall any fence or wall have a height greater than 6.5 feet.
- (4) All fences shall require a building permit as set forth in Chapter 65 of the Code.
- (5) All fences to be erected will have a finished side of the fence facing toward adjoining neighboring property(ies).
- (6) The height of a fence or wall shall be the vertical distance from any point on the top of the fence to the existing natural grade at the base of the fence at that point.
- (7) The owner is required to certify that fence lies within property line.

§ 150-14 Nonresidential building regulations.

- A. Waiver of yards. No side yard or rear yard shall be required where such premises abuts an operating railroad right-of-way.
- B. Courts. The minimum dimension of an inner court shall not be less than twice the height of all surrounding walls. However, in no case shall an inner court have a dimension of less than 30 feet. The height of walls surrounding an inner court shall be measured from finished grade at the base thereof to the top of such walls, except that in the case of a roof with a slope exceeding five inches vertical to 12 inches horizontal, the height shall be measured to the mean point between the top of said wall and the highest point of the roof. The minimum dimension of an outer court shall be 20 feet, and its depth shall not exceed its width.
- C. Existing setback. No proposed nonresidential building need have a setback greater than the average setback of the two existing nonresidential buildings with the greatest setbacks within 200 feet on each side of said proposed nonresidential building on the same side of the street and within the same block and the same district.

§ 150-15 Sign regulations.

- A. No sign, billboard, advertising display or structure, poster or device shall be erected, moved, enlarged

or reconstructed except as expressly permitted in this Chapter.

- B. Each commercial building or structure shall be entitled to a sign or signs based on the formula set forth herein; where more than one commercial establishment occupies a building or structure, the permissible area shall be ascertained by allocation of the sign area on the basis of frontage of the particular establishment in relation to the whole building or structure, provided that second-floor establishments shall be restricted to not more than one nameplate at ground-floor level access and not more than two nameplates in second-floor windows, not in excess of four square feet each and nonilluminated, which sign area shall not be deducted from the above-permitted establishment sign area.
- C. The area of a sign shall be the area of the largest rectangle required to enclose the sign or each face of a two-faced sign.
- D. A sign is any advertising structure, display board, screen, structure, shadow box, poster, banner, pennant, cloth, bill, bulletin, printing, balloon or other device or object or part thereof used to announce, identify, declare, demonstrate, display or in any manner advertise or attract the attention of the public by means of words, letters, figures, colors, illumination or iridescence, publicly displayed out-of-doors or located indoors but directed out-of-doors and particularly illuminated, reflective or iridescent for the purpose of exterior display, or painted or permanently affixed to window glass. It shall not include traffic or directional signs erected or placed by the Village, state or county in connection with its governmental or proprietary functions. A sign may be single-faced or double-faced. The area of the face or side of a double-faced sign shall be deemed one-half (1/2) the area of the sign.
- E. Permits for signs. No person, firm or corporation shall erect, post, affix or maintain any sign in the Village, except as specifically permitted by this Chapter, unless a permit therefor has been granted, in writing, and signed by the Mayor. A permit shall be granted for any sign complying with the requirements of this Chapter upon filing an application with the Building Inspector and payment to the Village Clerk of a fee of \$5 or such other sum as may be determined from time to time by resolution of the Board of Trustees. Every application for a sign permit shall be in writing, signed by the applicant, and shall be accompanied by a plan in duplicate showing the size of the sign, the exact width of the building or structure on which the sign is to be located, color, lighting, if any, and location of the proposed sign. One copy of the plan shall be returned to the applicant upon the issuance of the permit.
- F. Temporary signs. Permits shall be issued without payment of fee for temporary signs for public benefit, educational, religious and charitable uses, provided that such temporary signs shall not exceed an area of 32 square feet and shall not be used or maintained for a period exceeding 20 days. No permits shall be issued for temporary signs to be posted on or attached to utility poles or trees. Permits for small temporary and directional signs may be issued by the Building Inspector in his discretion upon written application by letter therefor, indicating the nature of the sign and the quantity to be erected.
- G. Prohibited signs.
 - (1) No sign shall be erected, affixed or maintained upon a roof of any building or structure, except at the

cornice of the roof of a one-story commercial or industrial building, which sign shall not exceed 24 inches in height above the cornice.

- (2) No flashing, mobile, directly illuminated or reflecting, cloth or flyer signs shall be erected, affixed or maintained, and the source of any exterior illumination shall not be visible across property lines.
- H. Commercial signs. Commercial signs, facing public streets only, shall be permitted only in districts zoned for retail commercial, general commercial and waterfront commercial uses and shall advertise only the business conducted on the premises upon which the same shall be placed or maintained. Such signs shall not exceed an area of $11\frac{1}{2}$ (1.5) square feet for each horizontal foot of the wall to which they are attached, nor project more than $\frac{1}{2}$ (0.5) foot from such wall, nor shall the top of such signs be more than 20 feet above the ground level.
- I. Detached and ground signs; off-street business directional signs.
 - (1) Detached and ground signs, except professional and temporary signs, shall be permitted only in districts zoned for retail commercial, general commercial and waterfront commercial. Such signs shall not exceed a total area of 24 square feet and shall advertise only the business conducted on the premises upon which the same shall be placed or maintained, and the top of the same shall be not more than 10 feet above the ground level.
 - (2) Pylon or pole signs shall be permitted only at gasoline or service stations and shall not exceed an area of 30 square feet, excluding supports, and the top of the same shall not exceed 20 feet in height above the ground level.
 - (3) Businesses which are not located on Front Street, Main Street or Third Street. south of Front Street may have one or more directional sign(s) on either Front Street, Main Street or Third Street, south of Front Street. Applications for such off-street business directional sign(s) must be approved by the Planning Board. Such off-street business directional sign(s) shall be limited to 8 inches x 24 inches in size. The sign(s) shall only be installed by the Greenport Public Works Department for a fee of \$50 per location. The sign(s) shall be licensed for a period of two years, and such license(s) shall be renewed upon expiration. When the business is discontinued the sign(s) will be taken down.
- J. Marquees and signs thereon. No marquee shall hereafter be erected over any public street or sidewalk in the Village.
- K. Existing signs. All signs in the Village at the time of the adoption of this Chapter which do not conform to the provisions hereof may be maintained hereafter, but if any major change, modification, structural repair or replacement thereof is hereafter made, such sign shall thereafter conform to the provisions of this Chapter, provided that a legal nonconforming sign may not be replaced by another nonconforming sign.
- L. Regulations regarding overhead signs.
 - (1) Overhead signs over sidewalks shall be permitted in the General Commercial, Waterfront Commercial and Retail Commercial Zoning Districts only, and only where there are sidewalks present.

- (2) For all businesses where there is only one business in the building, each business shall be permitted one overhead sign.
- (3) In the event that there is more than one business in a building, the building will be permitted one sign, and the businesses in the building must share the sign for that building.
- (4) Overhead signs shall be limited to an area of two square feet or less on each side, and may be two sides (front and back) only.
- (5) Overhead signs must be initially approved by the Village Planning Board. The Village Planning Board will set standards for overhead signs, and each application to the Village Planning Board will contain eight color copies of both sides of the proposed plan, in not less than one-inch-equals-four-inches scale. The Planning Board will decide on the appropriateness of each sign and the conformance of each sign with the standards that will be set by that Board.
- (6) A license shall be required for each overhead sign, and the license will be issued upon the business owner providing proof of Planning Board approval, providing proof of required insurance coverage for the sign, and payment of the required fee in full.
- (7) The business owner shall obtain and provide the Village with a certificate of liability insurance in the amount of not less than \$500,000 naming the Village as additional insured. In the event that the insurance coverage or policy expires or is terminated during the term of a license, the license will be automatically terminated.
- (8) The fee for a license shall be \$50 for one square foot of sign facing and \$100 for two square feet or such other sum as may be determined from time to time by resolution of the Board of Trustees. The license must be renewed each year with a new fee paid in full each year.
- (9) In the event of a sale of a business, the new business owner is required to obtain a new sign license, including providing proof of insurance coverage, and pay a new sign fee.
- (10) Any overhead sign which is existing in the Village on the date of the filing of this local law and which has been approved by the Village shall be grandfathered with regard to Planning Board approval and shall not require new Planning Board approval, but will require a license.

M. Enforcement.

- (1) Any sign erected or maintained in violation of any of the provisions of this Chapter shall be removed within 10 days after service of written notice in person or by mail upon the owner of such sign or any other person responsible for the property upon which the sign is maintained, or upon the agent or legal representative of such owner or other responsible person. Such notice shall specify the nature of the violation and shall be signed by the Mayor, Building Inspector or such other official of the Village as the Board of Trustees shall designate. Failure to comply with such notice shall be deemed a violation.
- (2) For every violation of the provisions of this Chapter pertaining to signs or for a failure to comply with a notice of violation issued by the Building Inspector, the owner, builder, contractor or their agents or any person who commits, takes part in or assists in any such violation or who shall fail to

comply with a notice of violation issued by the Building Inspector shall be guilty of a violation and, upon conviction, shall be punishable as provided in § 150-24.

§ 150-16 **Parking and loading regulations.**

- A. Off-street parking requirements. Off-street parking spaces, open or enclosed, are permitted accessory to any use, subject to the following provisions:
- (1) Schedule of parking requirements. Subject to Section 150-16(G) and Section 150-16(A)(10) below, accessory off-street parking spaces, open or enclosed, shall be provided in respect of any use in the CR, CG and WC Districts as specified below. Any land which is developed as a unit under single ownership and control shall be considered a single lot for the purpose of these parking regulations. Reasonable and appropriate off-street parking requirements for structures and uses which do not fall within the categories listed below shall be determined by the Planning Board upon consideration of all factors entering into the parking needs of each such use.

Use	Required Parking Spaces
Places of worship, libraries, theaters, museums, municipal buildings and other places of public assembly not otherwise classified	The greater of (a) 1 space for each 200 square feet of floor area and (b) 1 space for each 5 seats
Secondary schools	4 spaces per classroom, plus 1 space for each 5 seats in any auditorium or place of assembly
Elementary Schools	2 spaces per classroom, plus 1 space for each 5 seats in any auditorium or other place of assembly
Hospitals	1 space for each 3 beds
Undertakers and funeral homes	1 space for each 2 employees, plus 5 spaces for each chapel
Bars and tasting rooms	1 space per each 5 persons of rated capacity, <i>plus</i> 1 space per 2 employees
Restaurants and take-out food establishment	The greater of (a) 1 space per 5 permanent seats or (b) 1 space per each 5 persons of rated capacity, <i>plus</i> , in either case, 1 space per 2 employees

Use	Required Parking Spaces
Motel or hotel	1 space for each guest room, plus 1 space per employee
Bowling alleys	1 space for each 1/5 th of alley
Home occupation or accessory professional office, except physicians and dentists	3 spaces per each home occupation or accessory professional office
Professional offices of physicians and dentists	5 spaces per each physician or dentist
Offices (except those following in the above 2 categories)	1 space per 300 square feet of floor area
Retail stores, personal service stores, fitness facilities, service establishments, galleries and studios	The greater of (a) 1 space per 300 square feet of floor area and (b) 1 space per employee
Bank or financial institution	Same as for offices, plus a 5 space queuing line area for each drive-in teller's window
Dry cleaning	1 space per employee plus 2 spaces per 100 square feet of service area
Laundromat	0.75 per machine
Gasoline service stations or electric vehicle charging stations	4 spaces queuing line area for each pump, plus 1 space per employee
Yacht clubs	The lesser of (a) to the extent that such yacht club is associated with a marina or docking facility, the total spaces that would be required if such yacht club were a marina or docking facility and (b) 1 space per every 2 members, plus 1 space per employee
Marinas and docking facilities	1.25 space per boat slip, mooring, dock space or similar unit of capacity, plus 1 space per employee
Passenger Ferry Terminal	1 space per every 2 person ferry passenger capacity plus 1 space per employee
Shipbuilding yards	1 space per 500 square feet of employee working space floor area
Fish and shellfish processing plants	1 space per 500 square feet of employee working space floor area
Aquaculture Facilities	1 space per 500 square feet of employee working space floor area
Manufacturing, industrial or wholesale facilities or uses to the extent not	1 space per 500 square feet of employee working space floor area

Use

Required Parking Spaces

otherwise categorized
Warehouse to the extent 1 space per employee
not otherwise categorized
Exempted Uses, None
municipal parks and
fraternal lodges

- (2) Areas computed as parking spaces. Areas which may be computed as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than a street or a driveway. However, a driveway within a required front yard for a one-family or two-family dwelling may count as one parking space, other than on a corner lot as provided in § 150-13(B)(1).
- (3) Size of spaces. Three hundred square feet shall be considered one parking space, to provide room for standing area and aisles for maneuvering. Entrance and exit lanes shall not be computed as parking space, except for driveways for one-family and two-family dwellings as set forth in Subsection A(2) above. Minimum parking stall width shall be 10 feet and minimum length shall be 20 feet.
- (4) Access. Unobstructed access to and from a street shall be provided. Such access shall consist of at least one ten-foot lane for parking areas with less than 20 spaces and at least two ten-foot lanes for parking areas with 20 spaces or more. No entrance or exit for any off-street parking area shall be located within 50 feet of any street intersection.
- (5) Drainage and surfacing. All open parking areas shall be properly drained and all such areas shall be provided with a dustless surface, except for parking spaces accessory to a one-family or two-family dwelling.
- (6) Joint facilities. Required parking spaces, open or enclosed, may be provided in areas designed to serve jointly two or more establishments whether or not located on the same lot, provided that the number of required spaces in such joint facilities shall be not less than the total required for all such establishments.
- (7) Combined spaces. When any lot contains two or more uses having different parking requirements, the parking requirements for each use shall apply to the extent of that use. Where it can be conclusively demonstrated that one or more of such uses will be generating a demand for parking spaces primarily during periods when the other use or uses is not or are not in operation, the Planning Board may reduce the total parking spaces required for that use with the least requirement.
- (8) Location and ownership. Required accessory parking spaces, open or enclosed, shall be provided upon the same lot as the use to which they are accessory or elsewhere, provided that all spaces therein are located within 200 feet walking distance of such lot. In all cases such parking spaces shall conform to all the regulations of the district in which the parking spaces are located, and in no event shall such parking spaces be located in any residence district unless the use to which the spaces are accessory is permitted in such residence district or except upon approval by the Planning Board. Such spaces shall be in the same ownership as the use to which they are accessory and shall be subject to

deed restriction, approved by the Planning Board, binding the owner and his heirs and assigns to maintain the required number of spaces available either throughout the existence of such use to which they are accessory or until such spaces are provided elsewhere.

- (9) Parking lots divided by district boundaries. When a parking lot is located partly in one district and partly in another district, the regulations for the district requiring the greater number of parking spaces shall apply to all of the lot. Parking spaces on such a lot may be located without regard to district lines, provided that no such parking spaces shall be located in any residence district unless the use to which they are accessory is permitted in such district or except upon approval of the Planning Board.
 - (10) Parking Requirements applicable to Exempted Uses and Change of Use. If at any time after the effective date of Local Law No. 3 of 2023, a business that constituted a permitted use pursuant to Section 150-9(A)(3)(b)(ii) or 150-9(A)(3)(c) is the subject of a substantial expansion, then the calculation of the total number of parking spaces such business is required to provide pursuant to this Section 150-16(A) shall be calculated only with respect to the additional seats and/or rooms and/or occupancy arising as a result of the relevant substantial expansion and not with respect to any pre-existing seats, rooms or occupancy. In addition, in the case of any change of use, the only additional off-street parking required shall equal the difference between the parking required for the new use and the parking required for the existing use, to the extent applicable.
 - (11) Fractional Parking Calculations. Where calculations of parking requirements result in fractional amounts they shall be rounded up to the next highest number.
 - (12) Floor area. Unless otherwise stated, all square footage-based off-street parking standards shall be computed on the basis of floor area used or intended to be used for service to customers, patrons, clients, or patients. It need not include floors or parts of floors used principally for non-public purposes, such as bulk storage, cellar, or food preparation areas. These provisions notwithstanding, the "floor area" used as the basis for computing off-street parking requirements shall never be less than 80% of the total gross floor area.
 - (13) Number of Employees. Where calculations of parking requirements take into account the number of employees, the number to be used shall be the highest number of employees predicted to be present on site at any one time for more than two consecutive hours during any point of time during the year. The owner or operator of the relevant use shall provide the Building Inspector with their reasonable projection of employees to be located on site as of each month of the calendar year and include the highest number of employees projected to be on site during such calendar month for any two hour period, the lowest number of employees projected to be on site during such calendar month and the average number of employees projected to be on site during such calendar month together with a narrative description of the methodology used in calculating such projections.
 - (13) Seating Plan. Where calculations of parking requirements take into account the number of seats, such requirements shall be determined by reference to the seating capacity permitted by the Building Code and otherwise approved as part of the applicable site plan for the relevant use. When determining seating capacity for a building, use, or structure utilizing bench seating, each 22 inches of bench shall be considered one seat.
- B. Off-street loading requirements. Off-street loading berths, open or enclosed, are permitted accessory

to any use, except one- or two-family dwellings, subject to the following provisions:

- (1) Uses for which required. Accessory off-street loading berths shall be provided for any use specified below. Any land which is developed as a unit under single ownership and control shall be considered a single lot for the purpose of these loading requirements.
 - (a) For a public library, museum or similar quasi-public institution or governmental building, community center, hospital or sanatorium, nursing or convalescent home, institution for children or the aged or school with a floor area of 10,000 square feet, one berth; for each additional 25,000 square feet or fraction thereof, one additional berth.
 - (b) For buildings with professional, governmental or business offices, or laboratory establishments, with a floor area of 10,000 to 25,000 square feet, one berth; for each additional 25,000 square feet or fraction thereof up to 100,000 square feet, one additional berth; for each additional 50,000 square feet or fraction thereof, one additional berth.
 - (c) For buildings with offices and retail sales and service establishments, one berth for 8,000 to 25,000 square feet of floor area, and one additional berth for each additional 25,000 square feet of floor area or fraction thereof so used.
 - (d) For undertakers and funeral homes, one berth for each chapel. Such berths shall be at least 10 feet wide and 20 feet long.
 - (e) For hotels or motels, one berth for each 25,000 square feet of floor area.
 - (f) For manufacturing, wholesale and storage uses and for dry-cleaning and rug-cleaning establishments and laundries, one berth for 5,000 to 10,000 square feet of floor area in such use, and one additional berth for each additional 20,000 square feet of floor area or fraction thereof so used.
- (2) Size of spaces. Each required loading berth shall be at least 12 feet wide, 33 feet long and 14 feet high.
- (3) Location and access. Unobstructed access at least 10 feet wide to and from a street shall be provided. Such access may be combined with access to a parking lot. All permitted or required loading berths shall be on the same lot as the use to which they are accessory, except as provided in Subsection **B(4)** below. No entrance or exit for any off-street loading berth shall be located within 50 feet of any street intersection. No off-street loading berth shall be located in any front yard.
- (4) Joint facilities. Permitted or required loading berths, open or enclosed, may be provided in spaces designed to serve jointly two or more adjacent establishments, provided that the number of required berths in such joint facilities shall not be less than the total required for all such establishments.
- (5) Lots divided by district boundaries. When a lot is located partly in one district and partly in another district, the regulations for the district requiring the greater number of loading berths shall apply to all of the lot. Loading berths on such a lot may not be located in any residence district unless the use to which they are accessory is permitted in such district or except upon approval by the Planning Board.

- C. Regulations for parking spaces adjacent to lots in any residence district.
- (1) Whenever a parking area of over five spaces abuts or is within 15 feet of the side or rear lot line of a lot in any residence district, said parking lot shall be screened from such adjoining lot by a substantial wall, fence or thick hedge approved by the Planning Board. Generally such screen shall be not less than three nor more than eight feet in height.
 - (2) Whenever a parking area of over five spaces is located across the street from other land in any residence district, it shall be screened from the view of such land by a thick hedge, wall or fence approved by the Planning Board, located along a line drawn parallel to the street and a distance of 20 feet therefrom, such screening to be interrupted only at points of ingress and egress. Generally no such screening shall be less than three feet nor more than eight feet in height. The open area between such screening and the street shall be landscaped in harmony with the landscaping prevailing on neighboring properties fronting on the same street. Two identification and directional signs located on the street side of such screening shall be permitted; however, they shall not exceed an area of three square feet each.
- D. Driveways. No driveway shall provide access to a lot located in another district, which lot is used for any use prohibited in the district in which such driveway is located.
- E. Commercial vehicles.
- (1) One commercial vehicle not exceeding 25 feet in length may be parked on an occupied lot in any residential district, but not within the required front yard of such lot, and in no case between the street line and the principal building.
 - (2) One commercial vehicle not exceeding 25 feet in length may be parked within a private garage in any residence district.
- F. House trailers, mobile homes and boats.
- (1) The storage or parking and use of a house trailer by any person or persons is hereby prohibited in all districts, except that:
 - (a) One camping trailer not over 25 feet in length may be stored, but not used for any purpose, on an occupied lot in any R-1 or R-2 Residence District, provided that such trailer is not stored within the required front or side yards of said lot nor between the street line and the principal building.
 - (b) Where a building permit has been issued for the construction or alteration of a building, the Building Inspector may issue a temporary permit for one trailer for a period not to exceed six months. Said temporary permit may be extended for one additional period of six months if the Building Inspector finds that construction has been diligently pursued and that justifiable circumstances require such an extension. Said trailer may be occupied during the term of the temporary permit and shall be situated upon the lot for which the building permit has been issued. Prior to the issuance of such a temporary permit by the Building Inspector, the location of said trailer on the lot shall be subject to Planning Board approval. Said Board may attach to its approval whatever conditions it deems necessary to carry out the intent of this Chapter.

- (c) A house trailer may be parked in the McCann Trailer Park and is subject to the trailer parks rules and regulations.
- (2) Not more than two boats per dwelling unit may be stored on an occupied lot in any residence district, provided that such boat is not stored within any required front or side yard of such lot nor between the street line and the principal building.

G. Parking Impact Mitigation Fee

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- (1) New commercial development may generate parking needs and demands in excess of the existing availability of on-site parking capabilities or public parking facilities. To mitigate potential adverse consequences of not providing for sufficient on-site parking, a parking impact mitigation fee may be required to be paid by the new development in accordance with this section. In filing a site plan or conditional use application for any use or property where the applicant believes that it will be unable to provide the number of parking spaces required in respect of the applicable use pursuant to this Section 150-16, the applicant shall indicate whether (a) it intends to seek a variance in respect of the requirement to provide such parking spaces, in which case such applicant shall pursue relief from the Board of Appeals in accordance with the provisions of Article X prior to requesting any relief from the Planning Board pursuant to this Section 150-16(G) or (b) it waives its right to appeal to the Board of Appeals and wishes to proceed with a request for relief from the Planning Board in accordance with this Section 150-16(G). If an applicant elects to seek a variance and such variance is denied by the Board of Appeals, the applicant shall continue to have the right to request relief from the Planning Board pursuant to this Section 150-16(G).

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Deleted: In the event that the Planning Board determines that the payment of lieu of parking is not in the best interests of the Village as required pursuant to Section 150-16(G), the particular applicant's sole remedy shall be an appeal to the Village Board as contemplated by Section 150-16(G) below.

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- (2) Before the Planning Board may approve a site plan where the applicant neither provides on-site parking in accordance with the minimum parking requirements established in the Village Code nor has obtained a variance from the Zoning Board of Appeals for the number of additional parking spaces required by the Village Code, the Planning Board, upon a finding that a proper case exists for the need for additional off-site parking be required for a proposed new use or substantial expansion, may require that the applicant make a payment to the Village on account of such additional parking. Such finding shall include an evaluation of the anticipated need for additional parking resulting from the proposed use in comparison to the required parking for the existing use of the premises and an analysis of the considerations set forth in Sections 150-16(G)(4) and (5). Where the Planning Board determines that such finding cannot be made without a parking needs assessment report, the Planning Board may obtain such report. The cost of such report shall be paid in the same manner as other costs for Planning Board consultants.

- (3) If the Planning Board makes a finding that the proposed development presents a proper case for requiring additional parking, but that the applicant cannot provide such parking on-site and has not obtained a variance for the required parking spaces, the Planning Board may require the applicant to pay a sum of money in lieu thereof in a sum to be determined by the Planning Board based on the pro rata increase in parking resulting from the development in relation to the cost of acquiring, constructing and improving facilities for parking to accommodate the increased need. Any monies required to be paid as provided herein and in accordance with a Planning

Board determination, shall be deposited into a trust fund to be used exclusively by the Village for parking purposes, including facility acquisition, construction and expansion.

- (4) In determining whether the impact of the proposed development requires a payment to mitigate the parking impacts resulting from the proposed development, the Planning Board shall take into account the following:

- a. The likely nature of the parking requirements of the applicable business, including the likely duration of parking by customers of such business and whether such parking is likely to be seasonal or limited during specific days or months of the year;
- b. The location and size of the applicable business or use including the nature and intensity of operations, the site layout and the likely impact on parking in surrounding residential neighborhoods and on municipal lots maintained by the Village;
- c. Whether the applicant has demonstrated viable alternative modalities of transportation that customers and employees will use that will mitigate the impact from the additional parking spaces otherwise produced by the proposed development;
- d. Any capital improvements proposed as part of the relevant conditional use or site plan application that are likely to benefit the public and/or provide public amenities;

- (5) To determine the costs, if any, necessitated by the new development and any required fee to be paid by the owner or applicant, the Planning Board may utilize a needs assessment report in accordance with the following guidelines and considerations:

- a. Inventory of existing public parking facilities within 0.25 miles of the new development;
- b. Identify the parking space requirements to be generated by the new development and the availability of parking spaces for use by the new development;
- c. Identify parking space deficiencies resulting from the proposed new development;
- d. Identify public parking facility or improvement needs based on the proposed new development;
- e. Estimate reasonable capital costs of anticipated facilities to address the development's parking deficiency;
- f. Quantify other sources for payments for capital costs, including grants or other developments anticipated to participate in the payment of impact mitigation fees;
- g. Calculate a parking impact fee attributable to the new development's pro rata share.

- (6) The impact mitigation fee shall be paid at the time of issuance of a building permit. The payer may apply for a refund if the building permit for which the fee has been paid has lapsed and the payer affirmatively certifies that the building permit shall not be restored. The payer may apply for a partial refund if the development is modified in a manner that reduces the parking needs.

Deleted: If an applicant has elected to request relief from the parking requirements set forth in this Section 150-16 pursuant to this Section 150-16(G), the Planning Board may authorize such relief following a public hearing and upon a determination that the granting of such relief is in the best interests of the Village

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Deleted: <#>Whether the applicable business or use is particularly well suited for the Village, will be open on a seasonal or year round basis and whether such business will contribute to a vibrant year-round community in the Village;

Whether there are other less parking intensive uses for which the relevant property is well-suited which would otherwise provide substantial benefits to the Village community;

Whether the applicable property has been vacant or unused for a significant period of time and the reasons contributing to such vacancy or non-use;

Deleted: <#>Whether the applicable business or use is reasonably likely to provide a substantial benefit to the Village and its community, including by providing year-round full time job opportunities to local residents;

Upon a written request for a refund, which must be submitted within six (6) months of the event giving rise to the refund and prior to the issuance a certificate of occupancy for the new development, the Board of Trustees may grant or deny any such refund or partial refund.

- (7) Any owner or applicant upon whom an impact fee has been imposed may contest the amount or requirement to pay the fee by filing a notice of appeal to the Board of Trustees. The notice of appeal must be filed within 60 days of the date of the determination appealed from. The notice of appeal shall include a statement detailing the relief sought and any legal or factual basis for the relief requested and shall include all supporting documentation upon which the requestor relies in making the appeal. Within 45 days of the date of the filing of the notice of appeal and the submission of all documents and information determined by the Board of Trustees to be necessary for the Board to review and consider the appeal, the Board of Trustees shall adopt a resolution approving, approving in part or denying the appeal. A party aggrieved by the Board of Trustees has the right to challenge the determination by commencing a proceeding in Supreme Court, Suffolk County.

§ 150-17 Prohibited uses.

A. The following uses are prohibited in all districts:

- (1) Any use which is noxious, offensive or objectionable by reason of the emission of smoke, dust, gas, odor or other form of air pollution or by reason of the deposit, discharge or dispersal of liquid or solid wastes in any form in a manner or amount as to cause permanent damage to the soil and streams or to adversely affect the surrounding area, or by reason of the creation of noise, vibration, electromagnetic or other disturbance, or by reason of illumination by artificial light or light reflection beyond the limits of the lot on or from which such light or light reflection emanates, or which involves any dangerous fire, explosive, radioactive or other hazard, or which causes injury, annoyance or disturbance to any of the surrounding properties or to their owners and occupants, and any other process or use which is unwholesome and noisome and may be dangerous or prejudicial to health, safety or general welfare.
- (2) Artificial lighting facilities of any kind with light sources visible beyond the lot lines which create glare beyond such lines.
- (3) Amusement parks and circuses and related activities except for a temporary period upon special license from the Village Board.
- (4) Junkyard or dump except a dump established as an official Village dump or duly licensed as a dump by the Village Board.
- (5) Retail bulk storage of petroleum products in excess of 20,000 gallons; wholesale bulk storage of petroleum products; bulk storage of any liquids aboveground; processing, refining and/or packaging of petroleum products, chemicals and/or gases.
- (6) Ownership, operation, maintenance, distribution, sale or rental of an amusement device or amusement devices. An amusement device shall be any coin-operated mechanical or electrical device or contrivance which, by means of the insertion of a coin, token, slug, disk or other article into a slot, crevice, opening or attachment connected with or forming a part of any such devices or contrivance,

Deleted: <#>If the Planning Board has determined to grant relief from the parking requirements set forth in this Section 150-16 in accordance with clause (2) above, the owner of the relevant property shall be required to make a one-time cash payment in lieu of parking in an amount equal to (a) to the extent that the applicable business or use is required to provide 10 or fewer parking spots, \$25,000 per parking space not provided or (b) in all other cases, \$50,000 per parking space not provided. Said funds will be deposited with the Village Board and maintained by the Village Board in a dedicated fund and used by the Village Board solely for the construction, acquisition or maintenance of public road infrastructure, sidewalks and parking facilities in the CR District, CG District or WC District. ¶

Any decision of the Planning Board pursuant to this section may be appealed to the Village Board within 60 days of the filing of the Planning Board's decision. ¶

effects the operation thereof for use as a game, contest or amusement, or which may be so used. The term "amusement device" includes but is not necessarily limited to pinball machines and electronic devices. The term "amusement devices" does not include jukeboxes.

(7) Nightclubs.

- B. All fossil-fuel-burning units must meet Suffolk County air pollution levels.
- C. Where a proposed use is not specifically identified in this Chapter or the Chapter is unclear as to whether the use is allowed in a particular district, the Planning Board may find the use is similar to another use that is permitted, allowed conditionally or prohibited in the subject district and apply this Chapter accordingly. However, uses and activities that this Chapter specifically prohibits in the subject district and activities that the Planning Board finds are similar to those that are prohibited are not permitted.

Article VII
Multifamily Dwelling

§ 150-18 Standards.

Except with respect to buildings containing apartment dwelling units in the CR District which shall be subject to the provisions of Section 150-9(A)(18) and Section 150-12(B),12B, multifamily dwellings shall comply with the following standards:

- A. Minimum lot area: 48,000 square feet.
- B. Minimum lot width: 200 feet at the front building line.
- C. Minimum lot depth: 240 feet.
- D. Minimum street frontage of lot: 200 feet.
- E. Minimum front yard setback: 75 feet.
- F. Maximum height: two and one-half (2 1/2) stories or 35 feet, whichever is the lesser. No portion of any multifamily dwelling below the first story or above the second story shall be used for dwelling, sleeping or cooking purposes.
- G. Maximum building area, including garages, sheds and carports: not more than 25% of the lot area.
- H. Maximum density: six dwelling units or families per acre per lot.
- I. No structure shall contain more than six dwelling units.
- J. Minimum dwelling unit area: 1,000 square feet of living space, excluding bathrooms and other nonliving space.
- K. Bedrooms. A multifamily unit shall not contain more than two bedrooms.
- L. Minimum off-street parking area. There shall be provided on the rear of the same lot with any multifamily dwelling one and one-half (1 1/2) paved parking spaces per dwelling unit. Each parking space shall contain a minimum of 350 square feet.
- M. Minimum recreational area. In addition to parking space, there shall be provided on the same lot with any multifamily dwelling a play or recreational area containing not less than 200 square feet per dwelling unit or family. The recreational area may include play-lot facilities and equipment, sitting areas, group game areas or swimming pools. Landscaped areas which are not developed for recreational purposes shall not be deemed to satisfy the requirements of this section.
- N. At the discretion of the Planning Board, the recreational area and/or parking area of two or more lots may be combined, but, when combined, shall contain a total footage or area equal to the minimum required footage or area of each lot times the number of lots combined.

§ 150-19 **Application for building permit.**

- A. Application for a building permit for a multifamily dwelling shall be accompanied by:
- (1) A site plan showing the location of buildings, driveways, parking areas, recreational areas, landscaping, fencing, drainage facilities and paving specifications.
 - (2) Approval of the method of sewage disposal and water supply by the Suffolk County Department of Health.
- B. Said application shall be subject to approval by the Planning Board.

Article VIII

Nonconforming Uses and Nonconforming Buildings

§ 150-20 **Nonconforming uses.**

The following provisions shall apply to all nonconforming uses:

- A. Except as expressly provided herein, any nonconforming use may be continued indefinitely, except that such nonconforming use and any building, structure or property on which such nonconforming use is located:
- (1) Shall not be enlarged, altered, extended, reconstructed or restored or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this Chapter, nor shall any external evidence of such use be increased by any means whatsoever.
 - (2) Shall not be moved to another location where such use would be nonconforming.
 - (3) Shall not be changed to another nonconforming use without approval by the Board of Appeals, and then only to a use which, in the opinion of the Board of Appeals, is of the same or of a more restricted nature.

- (4) Shall not be reestablished if such use had been changed or replaced by a conforming use.

- (5) Subject to the following, any use rendered non-conforming upon the adoption of Local Law 3 of 2023, if thereafter abandoned may not be reestablished. Abandonment of such use consists of an overt act, or failure to act, that leads one to believe that the owner or user neither claims nor retains any interest in continuing the non-conforming use unless the owner can demonstrate to the Building Department an intent not to abandon the use. An involuntary interruption of a non-conforming use, as by fire, flood or other natural catastrophe, does not establish the intent to abandon the non-conforming use. However, if (a) after the halting of such use, no building permit application is filed with the Building Department within six (6) months after halting such use, or (b) after the timely filing of a building permit application, the applicant fails to diligently pursue the processing of the application and any municipal or administrative required approvals and complete such approvals and obtain a certificate of occupancy or completion within two (2) years after the halting of the use, the owner and or user, is presumed to have abandoned the non-conforming use, unless that presumption is rebutted by the presentation of sufficient evidence of intent not to abandon the use. If an owner or

Deleted: (4)-Shall not be reestablished if such use has been discontinued for any reason for a period of one year or more. Intent to resume a nonconforming use shall not confer the right to do so.

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user is unable to obtain a certificate of occupancy or completion within the two (2) year period, the owner may request an extension of time to complete the work and obtained the required certificate. This request must be submitted in writing to the Building Department setting forth the diligent efforts that have been made including a timeline of all actions taken by the owner or user. Upon the submission of such information, the Building Department shall refer the request to the Planning Board. Upon a showing of good cause, the Planning Board may determine that the non-conforming use is not abandoned on account of the diligent efforts shown, for a period not to exceed one (1) additional year beyond the original two (2) year period. ▼

(7) ▼

§ 150-21 Nonconforming buildings with conforming uses.

- A. Nothing in this Article shall be deemed to prevent normal maintenance and repair, structural alteration, moving, reconstruction or enlargement of a nonconforming building, provided that such action does not increase the degree of or create any new noncompliance with regards to the regulations pertaining to such buildings.
- B. Reconstruction of a damaged nonconforming building.
- (1) A nonconforming building containing a conforming use which has been damaged by fire or other causes to the extent of more than 50% of its fair value shall not be repaired or rebuilt unless such building is made substantially to conform to district bulk and parking regulations (§§ **150-12** and **150-16**).
- (2) Application for a permit to build or restore the damaged portion of any building damaged or destroyed as set forth in Subsection **B(1)** above shall be filed within one year of the date of such damage and shall be accompanied by plans for reconstruction which, as to such portion, shall comply with the requirements set forth above. If such permit is issued it shall lapse one year thereafter unless reconstruction in accordance with the approved plans has been initiated.
- (3) Where application for a permit to build or restore is not timely filed, or where a permit timely issued shall lapse as provided in Subsection **B(2)** above, the reconstruction or restoration of any building damaged or destroyed as set forth in Subsection **B(1)** above shall no longer be permitted unless a variance therefor shall have been granted by the Board of Appeals.

§ 150-21.1 Nonconforming buildings with nonconforming uses.

- A. A nonconforming building containing a nonconforming use shall not be enlarged, reconstructed, structurally altered or moved, unless such building is changed to a conforming use.
- B. A nonconforming building containing a nonconforming use which has been damaged by fire or other causes to the extent of more than 50% of its fair value shall not be repaired or rebuilt unless the use of such building is changed to a conforming use. The foregoing limitation shall not apply to any building or use rendered non-conforming by the adoption of Local Law 3 of 2023, referred to hereinafter as an “Exempt Building/Use”. The owner of an Exempt Building/Use shall be entitled to rebuild and restore an Exempt Building/Use to same condition that existed prior to the occurrence of any casualty, regardless of the extent of the casualty or the damage to “fair value” of the structure of the Exempt Building/Use. The owner of an Exempt Building/Use shall be required to secure a

Deleted: hall not be restored, repaired or rebuilt for other than a conforming use after damage from any cause, unless the nonconforming use is reinstated within one year of such damage; if the restoration of such building is not completed within said one-year period, the nonconforming use of such building shall be deemed to have been discontinued, unless such nonconforming use is carried on without interruption in the undamaged portion of such building.

Deleted: Notwithstanding § 150-20(A)(6), shall not be repaired or rebuilt unless the use is changed to a conforming use if the building containing the nonconforming use is damaged by fire or other causes to the extent of 50% of its fair value

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building permit in connection with its restoration or rebuilding and, so long as the restoration or rebuilding is identical to the Exempt Building/Use prior to the casualty and any previous discretionary zoning, planning or other land use approval has not lapsed, shall not be required to secure any discretionary zoning, planning or other land use approval in order to restore or rebuild the Exempt Building/Use to the condition that existed prior to the event of the casualty. The owner's right to rebuild and restore an Exempt Building/Use shall be governed by the provisions of §150-20(5) of this Article and the failure to comply with the deadlines for action set forth therein may result in the owner's loss of its right to restore and rebuild an Exempt Building/Use in the same manner that applies to the abandonment of a non-conforming building or use. For purposes of determining whether the restoration or rebuilding is identical, where any change in the Exempt Building/Use would require discretionary zoning, planning or other land use approval, the restoration or rebuilding shall not be deemed identical and such discretionary land use approval shall be obtained as a condition of the restoration or rebuilding of the Exempt Building/Use.

- C. A nonconforming building containing a nonconforming use shall not be altered, repaired or remodeled where such alteration, repair or remodeling shall create a new nonconforming use.

§ 150-22 Termination of nonconforming uses.

- A. Each of the nonconforming uses specified below is deemed sufficiently objectionable, undesirable and out of character in the district in which such use is located as to depreciate the value of other property and uses permitted in the district and to blight the proper and orderly development and general welfare of such district and the community to the point that each of such nonconforming uses shall be terminated on or before the expiration of the specified period of time after the effective date of this Chapter:
- (1) In any residence district, any nonconforming use of open land, including such uses as a parking lot, house trailer, junkyard or open storage yard for materials or equipment, may be continued for three years after the effective date of this Chapter, provided that after the expiration of that period such nonconforming use shall be terminated.
 - (2) In any residence district, any sign not of a type permitted, or of a permitted type but greater than the maximum size permitted, may be continued for one year following the effective date of this Chapter, provided that after the expiration of that period such nonconforming use shall be terminated.

§ 150-23 Repairs and maintenance.

Notwithstanding any of the foregoing regulations, nothing in this Article shall be deemed to prevent normal maintenance and repair of any use or building nor the carrying out upon the issuance of a building permit of major structural alterations or demolitions necessary in the interest of public safety. In granting such a building permit, the Building Inspector shall state the precise reason why such alterations are deemed necessary. However, where the repairs or improvements are identical to the Exempt Building/Use as defined in §150-21.1(B), the owner of any Exempt Building/Use shall be entitled to the issuance of a building permit authorizing the owner to make repairs or improvements to its Exempt Building/Use for any reason, and such owner shall not be obligated to show that any proposed repairs or improvements are necessary in the interest of public safety. Such repairs and improvements shall not affect the legal non-conforming status of the Exempt Building/Use and shall not require the owner to secure any discretionary

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zoning, planning or land use approval prior to its issuance, so long as such repairs and improvements do not pertain to the expansion of the structure or the intensification of the use or would result in a building or use that is not identical to the Exempt Building/Use, as identical is defined in §150-21.1(B).

Article IX Enforcement

§ 150-24 Penalties for offenses.

- i. The first violation of any provision or requirement of this Chapter within an eighteen (18) month period by the owner(s) or occupant of a premises shall be punishable by a fine of not less than \$500 nor more than \$1,500.
- ii. The second violation of any provision or requirement of this Chapter within an eighteen (18) month period by the owner(s) or occupant of a premises shall be punishable by a fine of not less than \$1,000 nor more than \$2,500.
- iii. The third violation of any provision or requirement of this Chapter within an eighteen (18) month period by the owner(s) or occupant of a premises shall be punishable by a fine of not less than \$1,500 nor more than \$5,000.
- iv. Each day that a violation of this Chapter should exist or occur shall constitute a separate violation of this Chapter with a separate and additional fine.
- v. For the purpose of conferring jurisdiction upon courts and judicial officers in general, a violation of this Chapter shall be deemed to be a violation and, for such purpose only, all provisions of law relating to violations shall apply.
- vi. When authorized by a duly adopted resolution of the Board of Trustees, the Village may bring and maintain a civil proceeding in a court of competent jurisdiction to enjoin the owner, tenant, occupant, subtenant or other person in the control and or occupancy of the property from conducting, maintaining or permitting said violation or for other relief as may be appropriate or to take such other civil action as may be necessary to correct, prevent or remove a violation or unsafe and hazardous condition. The commencement of a civil proceeding by the Village shall not be deemed or construed to be a waiver by the Village of the right to bring an action for prosecution or enforcement of the violation and the fines under this Section or as otherwise may be applicable under the law and the election of either a prosecution or civil proceeding by the Village shall not be exclusive of any other remedy. The Village shall be entitled to an award of all costs in the civil proceeding, including but not limited to, administrative, engineering, filing, and other costs and legal fees, and to seek those costs and fees as part of any civil proceeding or by separate action as may be necessary.
- vii. The Village may apply for a search warrant upon authorization by the Board of Trustees and law.
- viii. The provisions of this Chapter shall be enforced by the Village in accordance with the Village Law of the State of New York and other applicable laws. The fines contained herein and the election by the Village to seek and/or obtain such fines shall not be a waiver of or act to limit or prejudice any other rights of remedies of the Village, whether civil or otherwise.

Article X
Board of Appeals

§ 150-25 Establishment and membership.

There shall be a Board of Appeals of five members pursuant to the provisions of § 7-712 of the Village Law.

§ 150-26 Powers and duties.

The Board of Appeals shall have all the powers and duties prescribed by §§ 7-712-a and 7-712-b of the Village Law and by this Chapter, which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of the Board that is conferred by law:

- A. Interpretation. On appeal from an order, requirement, decision, interpretation or determination made by an administrative official, or on request by any official, board or agency of the Village, to decide any of the following questions:
 - (1) Determination of the meaning of any portion of the text of this Chapter or of any condition or requirement specified or made under the provisions of this Chapter.
 - (2) Determination of the exact location of any district boundary shown on the Zoning Map.
- B. Variances.
 - (1) Use variances.
 - (a) The Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of such local law, shall have the power to grant use variances, as defined herein.
 - (b) No such use variance shall be granted by the Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - [1] The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - [2] That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
 - [3] That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - [4] That the alleged hardship has not been self-created.
 - (c) The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant and at the

same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(d) "Use variance" shall mean the authorization by the Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

(2) Area variances.

(a) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such local law, to grant area variances as defined herein.

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

[1] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

[2] Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

[3] Whether the requested area variance is substantial;

[4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

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

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

(d) "Area variance" shall mean the authorization by the Board of Appeals for the use of land in a manner which is otherwise not allowed by the dimensional or physical requirements of applicable zoning regulations.

C. Temporary certificate of occupancy.

(1) The Board of Appeals shall have the power and duty to authorize, upon denial by the Building Inspector of a certificate of occupancy, the issuance of a temporary certificate of occupancy by the Building Inspector for a period of not to exceed 90 days for collection of any alterations that are required under the provision of any law or ordinance or for the collection of a part of an uncompleted building, provided that the Board finds that:

(a) The denial of a certificate of occupancy prior to completion of the said alterations or of the building

would cause unnecessary hardship.

- (b) The safety of the occupants of the building and of adjacent buildings and land would be adequately assured under such terms and conditions as said Board may prescribe.
- (2) Such temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owner or of the Village in regard to the use or occupancy of the land or building or any other matter covered by this Chapter.

§ 150-27 **Procedure.**

The powers and duties of the Board of Appeals shall be exercised in accordance with Village Law § 7-712-a and the following procedure:

- A. The Board of Appeals shall not decide upon any appeal for a variance or for an interpretation of this Chapter without first holding a public hearing. Notice of the public hearing and of the substance of the appeal or application shall be given by publication in the official newspaper of the Village at least 10 days before the date of such hearing and by the posting of a placard notice of the public hearing to be posted on the premises by the applicant at least 10 days before the date of such hearing. The placard notice shall be provided by the Building Department, at the cost of the applicant, and shall state information regarding the application and the time, date and place of the hearing. In addition to such published and posted notice, the applicant, at least 10 days prior to the hearing, shall mail a copy of the public notice of the public hearing by certified mail, return receipt requested, to the owners of all properties which lie adjacent to the property that is the subject of the application and all other owners that the Board of Appeals may deem advisable. The list of the names and addresses of the owners of all properties requiring the mailed notice shall be provided to the applicant by the Building Department. Proof of the publication in the form of a sworn statement and proof of the posting and mailing in the form of a sworn statement and the post office return receipts shall be filed with the Village Clerk on or before the date of the hearing. Such notice shall contain the following information:
 - (1) A statement that the applicant proposes to apply to the Board of Appeals of the Village for a variance or other specified relief, as the case may be.
 - (2) A description sufficient to identify the property which is the subject of the application.
 - (3) The zone district classification of such property.
 - (4) A detailed statement of the relief sought by the applicant.
 - (5) The provisions of this Chapter applicable to the relief sought by the applicant.
 - (6) A statement that a public hearing with respect to such application will be held by the Board of Appeals of the Village before the relief sought can be granted; that the person to whom the notice is addressed, or his representative, has the right to appear and be heard at such hearing; and the time, location and date upon which the hearing will be held.

- B. In lieu of complying with the provisions of this section, written verified waivers of notice executed by the persons entitled to receive such notice may be filed with the Village Clerk at the time of filing the applications.
- C. Failure to comply with the provisions of this section shall not affect the validity of any action taken by the Board of Appeals.
- D. All appeals and applications made to the Board of Appeals shall be in writing, on forms prescribed by said Board, and shall be accompanied by a fee of not less than the actual and necessary costs of advertising and holding a public hearing. The Board of Appeals may, in its discretion, return to the applicant part or all of the fee paid in the event that the appeal, under § **150-26(A)**, Interpretation, is partially or wholly successful. The fee filed in connection with applications under § **150-26(B)**, Variances, shall not be returnable regardless of disposition of the case by the Board.
- E. Each appeal or application shall fully set forth the circumstances of the case. Every appeal or application shall refer to the specific provision of the Article involved and shall exactly set forth the interpretation that is claim or the details of the variance that is applied for, as the case may be, and the grounds on which it is claimed that the same should be granted.
- F. Should any appeal involve either of the two following conditions, the Secretary of the Board of Appeals shall transmit to the designated office or official a copy of the official notice of the public hearing not later than 10 days prior to the date of the hearing:
 - (1) Any change in the boundaries of any district, which change would occur within a distance of one mile of a nuclear power plant or 500 feet of the boundary of any Village, town or county or any boundary of a state park or parkway.
 - (2) Any change in the regulations prescribed for any district, any portion of which is located within a distance of one mile of a nuclear power plant or 500 feet of the boundaries listed in Subsection F)(1) above. The designated official for counties shall be the Clerk of the County Legislature. In Villages and towns, the designated official shall be the Clerk of the municipality. In the case of state parks or parkways, the designated office shall be the Long Island Park Commission.
- G. Prior to the date of any public hearing, the Secretary of the Board of Appeals shall transmit to the Secretary of the Planning Board a copy of any appeal or application, together with a copy of the notice of such hearing. The Planning Board may submit to the Board of Appeals an advisory opinion on said appeal or application at any time prior to the rendering of a decision by the Board of Appeals.
- H. Should any action by the Board of Appeals involve any of the areas specified in § **150-37**, then the matter shall be referred prior to final action by the Board of Appeals to the Suffolk County Planning Commission in accordance with Article **XIII** of the Suffolk County Charter or as otherwise required by law.
- I. Every decision of the Board of Appeals shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision of said Board shall be by resolution, and each such resolution shall be filed in the office of the Village Clerk by case number, under the heading "Interpretation" or "Variances," together with all documents pertaining thereto. Regarding its

decision in each case, the Board of Appeals shall notify the Building Inspector, Village Board, Village Planning Board and the Municipal Clerk of any affected municipality given notice of hearing as set forth in Subsection **F** above.

- J. All the provisions of this Chapter relating to the Board of Appeals shall be strictly construed. Said Board, as a body of jurisdiction, shall act in full conformity with all provisions of law and of this Chapter and in strict compliance with all limitations contained therein.
- K. Unless construction is commenced and diligently pursued within six months of the date of the granting of a variance, such variance shall become null and void.

Article XI Planning Board

§ 150-28 **Planning Board established.**

A Planning Board, as formerly established is hereby continued pursuant to § 7-718 of the Village Law, which Board shall have the powers as set forth in § 7-725 of the Village Law and as provided in §§ **150-29** and **150-30** of this Chapter.

§ 150-29 **Conditional uses.**

A. Conditional Use Review Criteria. Upon application and after notice and any required hearings in accordance with Section 150-31 of this Chapter, the Planning Board may authorize the issuance by the Building Inspector of a conditional use permit which shall be required for any of the conditional uses for which this Chapter requires such permit in the district in which such use is proposed to be located. In approving a conditional use, the Planning Board may prescribe such conditions and safeguards as may be required in its reasonable judgment to further the expressed intent of this Chapter 150 and the provisions set forth below. Subject to Section 159-29(G), the Planning Board shall only approve a conditional use if, after a public hearing, it determines in its judgment:

- (1) That the public health, safety and welfare and the comfort, convenience and order of the Village in general and of the residents of the immediate neighborhood in particular will not be adversely affected in any material respect by the proposed conditional use and its location.
- (2) That all proposed buildings, structures, equipment and other property relating to the proposed conditional use are readily accessible for fire and police and other emergency services and that the use and its improvements will not interfere with the provision of these services to the district in which it is proposed to be situated or the immediately surrounding neighborhood.
- (3) That the proposed conditional use is of such location, size and character as (a) will, in general, be in harmony and compatible with the appropriate and orderly development both of the district in which such conditional use is proposed to be situated as well as the immediately surrounding neighborhood, (b) will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties and (c) will enhance the mix of uses

or complement the other uses in the immediate vicinity of the proposed conditional use and not interfere with any of those uses.

- (4) That the location and size of such conditional use, the nature and intensity of operations involved in, or conducted in connection with, such conditional use, its site layout and its relation to access streets are such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with the surrounding area or conflict with the normal traffic of the Village in general and the immediately surrounding area in particular.
- (5) That appropriate landscaping, buffering and/or screening will be in place to reduce any impact of the proposed conditional use in respect of noise, light or other potential nuisances and the location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site where the conditional use is to be located are such that the conditional use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
- (6) That the number of buildings, structures or dwelling units, as the case may be, comprising such conditional use shall not result in an overcrowding of land or the undue concentration of population.
- (7) That the proposed conditional use will not result in environmental or ecological deterioration and is such that it will not have an adverse impact on natural resources of soil, air and water or have another impact that is detailed in §NYCRR617.7 or other environmental or ecological impact.
- (8) That the proposed conditional use satisfies all applicable criteria and standards set forth in this Code (or has otherwise received a variance in respect thereto duly issued by the Board of Appeals) and that such conditional use is otherwise consistent with the principles of any then applicable comprehensive land use and development plans (including the Village's current Local Waterfront Revitalization Plan) as it may be adopted by the Board of Trustees for the Village and will not be detrimental or have an adverse impact on the Village goal of protecting and fostering the working waterfront of the Village and the Village's water dependent uses.

B. Review Considerations. In making the determinations set forth in Section 150-29(A) above, the Planning Board shall take into consideration the impact of the proposed conditional use in respect of the factors set forth below in Section 150-30(B) as applicable to site plan approvals, as well as the following:

- (1) the character of the existing and probable development of uses in the district in which such conditional use is to be located and in the immediately surrounding areas of the Village and the peculiar suitability of such district for the location of any such conditional use;

- (2) the encouragement of the most appropriate uses of land to ensure a vibrant year- round community in the Village; and
 - (3) the Village goal of protecting and fostering the working waterfront of the Village and the Village's water dependent uses.
- C. Referrals. Should any conditional use approval involve any of the areas specified in § **150-37** or should any law so require, then the matter shall be referred prior to final action by the Planning Board to the Suffolk County Planning Commission in accordance with §§ 1322 and 1323 of Article **XIII** of the Suffolk County Charter or as otherwise required by law.
- D. Effect of Conditional Use. Any use for which a conditional use permit may be granted shall be deemed for the particular conditional use that was granted and on the specific property on which that use is located, to be a conforming use in the district in which such use is located; *provided* that such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted; *provided further* that the change of ownership, occupancy or tenancy in respect of any conditional use shall require the application for, and approval of, a new conditional use permit in respect of the continued operation of such conditional use by the new owner, occupant or tenant within [90] days of such owner, occupant or tenant taking over the operation of such use, otherwise on the expiration of the 90 days the permit and conditional use shall cease and the property shall be restored to a permitted use in the district in which that property is located.
- E. Term and Renewal. The Planning Board may set a term for the conditional use permit on its approval and issuance, and or may also require that conditional use permits be periodically renewed or reviewed by the Planning Board. Such renewal shall be granted following due public notice and hearing and may be withheld only upon a determination by the Planning Board to the effect that such conditions as may have been prescribed by the Planning Board in conjunction with the issuance of the original permit have not been or are being no longer complied with. In such cases a period of 90 days shall be granted the applicant for full compliance prior to the revocation of said permit. If the conditional use permit is issued for a use that has or requires a license from the State or other authority, the Planning Board shall take notice of that in setting the term or required renewal of the permit so as to be coterminous with the expiration of that license.
- F. Conditional Use and Site Plan Approval. A conditional use authorized pursuant to Section 150-29 as part of any site plan approval and undertaken or begun during the period of validity of such approval shall thereafter be deemed lawful, as if the same were permitted by this Chapter without a separate independent need for site plan approval; *provided* that any conditions imposed as part of any site plan or conditional use approval, unless by their express terms of limited duration, shall continue to apply.
- G. Conditional Use Review of Pre-existing Eating and Drinking Establishments. Notwithstanding Sections 150-29(A) and 150-29(B), to the extent that a conditional use application is filed in respect of any restaurant, bar, tasting room or hotel that was in existence and operating as such as of the effective date of Local Law No. 3 of 2023 as a result of any change of control or ownership or any relocation of such restaurant, bar, tasting room or take-out food establishment

to a different property, such approval shall be granted by the Planning Board so long as the Planning Board has determined the following:

- (1) there has been no pattern of violations of the Greenport Village Code or State or local regulations associated with the applicable business as operated by the predecessor business operator;
- (2) no substantial changes are proposed by the new owner/operator of such business with respect to the nature, scale and operating characteristics of the applicable business;
- (3) the proposed new operator/owner(s) of such business possesses the resources, background and qualifications to operate such business in accordance with applicable provisions of the Village Code and other State and Local regulations; and
- (4) there is no evidence that the proposed new operator/owner of such business has operated any similar type of business that has been the subject of routine violations of the Village Code or any other similar local or State laws governing the operation of restaurants, bars, taverns, tasting rooms, take-out food establishments or other similar eating or drinking establishments, including laws, governing noise and environmental, health and safety matters.

§ 150-30 Approval of site plans.

- A. Applicability. The purpose of site plan review and approval by the Planning Board is to assess and address the impacts of a proposed development activity on public convenience, the provision of essential services and emergency services, the public health, safety and welfare, traffic flow and parking, and the comfort and convenience of the residents of the Village and their guests and the public in the Village generally and in particular of the residents of the immediately surrounding neighborhood(s). All development activities within the Village shall require site plan review and approval by the Planning Board, except for the following:
- (1) construction or alterations of one-or two-family dwelling units and ordinary accessory structures and related land use activities in the R-1 One-Family Residence District or the R-2 One- and Two- Family Residence District;
 - (2) landscaping or grading which is not intended to be used in connection with any other matter expressly reviewable by the Planning Board under the provisions of this Chapter;
 - (3) development activities relating to the curb cuts and driveways which are subject to the provisions of Section 115-13(J);

- (4) subdivisions of property which are subject to the provisions of Chapter 118 of this Code; and
- (5) ordinary repair or maintenance or alterations in respect of any building or structure located in the CR Retail Commercial District, the CG General Commercial District or WC Waterfront Commercial District that falls within any of the following criteria: (a) any such repair, maintenance or alterations do not require the issuance of a building permit under Chapter 65 or the Uniform Code of the State of New York, (b) any such repair, maintenance or alterations will not result in a substantial expansion of the applicable building, structure or any use thereof or (c) such repair, maintenance or alteration relates solely to an apartment dwelling unit in any building or structure located in the CR Commercial Retail District and such apartment dwelling unit.

B. Review Criteria. In reviewing a site plan application submitted to it pursuant to this Chapter, the Planning Board shall seek to further the overall purposes and goals of this Chapter and of the other applicable provisions of the Village Code and State law. More particularly, the Planning Board shall ensure that any site plan it approves pursuant hereto satisfies the following criteria:

- (1) That the proposed site plan satisfies all applicable criteria and standards set forth in this Code (or has otherwise received a variance in respect thereto duly issued by the Board of Appeals) and is otherwise consistent with the principles of any then applicable comprehensive land use and development plans (including the Village's Local Waterfront Revitalization Plan) as may from time to time be adopted by the Board of Trustees for the Village.
- (2) That all proposed buildings, structures, equipment and other property relating to are readily accessible for fire and police and other emergency services and that the use and its improvements will not interfere with the provision of these services to the district in which it is proposed to be situated or the immediately surrounding neighborhood.
- (3) That the public health, safety and welfare and the comfort, convenience and order of the Village in general and in particular of the residents of the immediate neighborhood(s) will not be adversely affected in any material respect by the proposed site plan.
- (4) That the proposed site plan (including in respect of size and character of buildings and structures forming part thereof) (a) will, in general, be in harmony and compatible with the appropriate and orderly development of both the district in which it is located as well as the immediately surrounding neighborhood and (b) will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
- (5) That the site plan and its relation to access streets are such that both pedestrian and

vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with the surrounding area or conflict with the normal traffic of the Village in general and the immediately surrounding area in particular.

- (6) That appropriate landscaping, buffering and/or screening with an obligation to maintain and replace will be in place to reduce any impact of the proposed site plan in respect of noise, light or other potential nuisances and the location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site are such that they will not hinder or discourage the appropriate development and use of adjacent land and buildings.
- (7) That the proposed site plan shall not result in overcrowding of land or over burdening of services, or public benefits including but not limited to parking, or the undue concentration of population.
- (8) That the proposed site plan is in compliance with the objectives of the current LWRP and will not have a negative impact on the working waterfront or water-dependent uses of the Village.

C. Review Considerations. In making the foregoing determinations and reviewing any proposed site plan, the Planning Board shall take into account, among other things, the following:

- (1) the compatibility of the elements and uses of the proposed site plan to the site plan of adjacent properties, considering building orientation, proximity and location, site design and general character;
- (2) the quality of building design and materials and compatibility of the proposed site plan with the desired character of the district in which the applicable property is located as well as any immediately adjacent neighborhoods;
- (3) the extent to which any new construction and/or the renovation or rehabilitation of existing structures proposed as part of such site plan is to be undertaken in a manner that promotes and enhances the historical character and nature of the Village;
- (4) the adequacy and arrangement of parking, loading, vehicular traffic and circulation, including intersections, road widths, traffic controls, traffic-calming measures and accessibility to fire and emergency vehicles in respect of the proposed site plan;
- (5) the adequacy of fire lanes and other emergency zones and the provisions of fire hydrants in the surrounding area;
- (6) the location, arrangement, appearance and sufficiency of on-site off-street parking and loading applicable to the relevant property taking into account surrounding parking and

loading zones present in the Village and any parking and loading zones proposed as part of such site plan;

- (7) the degree to which the proposed site plan provides for preservation and protection of the aesthetics of the and the neighborhood including but not limited to views, noise, light pollution, public access to water, parks and natural resources, natural site features, open spaces and critical environmental resources;
- (8) the adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining properties which may be required by the Planning Board including a maintain and replace agreement;
- (9) whether the elements of the proposed site plan are reasonably likely to result in disturbing light, vibration or noise taking into account the district in which the applicable property is located as well as the immediately surrounding properties and neighborhoods;
- (10) the adequacy of stormwater, drainage and erosion management plans included as part of such site plan;
- (11) the adequacy and appropriate location of public utility equipment and systems included as part of such site plan;
- (12) the adequacy of proposed waste and trash management plan included as part of such site plan;
- (13) the adequacy of snow storage and proposed snow removal plan included as part of such site plan;
- (14) the effect of the proposed site plan development on air and water quality standards;
- (15) any capital improvements proposed to be implemented as part of such site plan that will benefit the public and/or provide public amenities including open space, sidewalks, gardens and the like that will be open to the public;
- (16) the extent to which the applicable site plan contemplates that construction and development will comply with LEED (Leadership in Energy and Environmental Design) green building certification standards;
- (17) the extent to which the principal contractors being used in connection with the construction activities contemplated by site plan are based within the Town of Southold; and
- (18) the potential for adverse effects to the economic stability, prosperity and health, safety and general welfare of nearby property owners and the Village community more generally arising as a result of such site plan.

D. Effect of Site Plan Approval.

- (1) No building permit shall be issued for any structure covered by this section until an approved site plan or approved amendment of any such plan has been secured by the applicant from the Planning Board and presented to the Building Inspector.
- (2) No certificate of occupancy shall be issued for any structure or use of land covered by this Section unless all requirements and conditions of the site plan approval have been implemented and an as-built survey, including thereon the location of all buildings, structures and curb cuts has been submitted to the Building Inspector.
- (3) Should any site plan approval involve any of the areas specified in § 150-37, then the matter shall be referred prior to final action by the Planning Board to the Suffolk County Planning Commission in accordance with Article XIII of the Suffolk County Charter.
- (4) A site plan approval granted in accordance with the provisions of this Chapter shall authorize only the particular lot layout or configuration depicted on the approved site plan. No other lot layout or configuration shall be permitted to be created or maintained.
- (5) No building permit or certificate of occupancy shall be issued for improvements authorized by a site plan approval unless the improvements comply with all requirements of this Chapter and the applicable site plan approval at the time such building permit or certificate of occupancy, as the case may be, is sought.

§ 150-30.1 Curb Cuts, Apron Rules and Regulations.

A. Permit Required for Curb Cuts. A person shall not, either at their own expense or on behalf of another person, make, construct or reconstruct, locate or relocate, re-lay or repair a driveway or curb cut abutting a Village street without first obtaining a Curb Cut Permit to be issued by the Village Building Inspector, or other Village employee so designated by the Village Administrator, after approval of the permit application by the Planning Board.

B. Construction Specifications. All curb cuts and driveways shall be constructed as detailed in the plan and specifications included with an approved application.

C. Materials for Curb Cuts and Aprons. All aprons and curb cuts must be constructed in concrete.

D. Application for Curb Cut Permit. Each application for a permit shall be signed and acknowledged by the applicant and shall set forth a fully dimensioned site plan showing the existing and proposed driveways, curbs and sidewalks of the subject property and for the properties located on each side of the subject property. The applicant may only be the owner of the property or a person employed or contracted by the owner with written authorization signed by the owner with the owner's signature notarized.

E. Planning Board Review. The Planning Board shall review each application and may approve the issuance of a permit upon compliance by the applicant with the provisions of the Village Code and if

the Planning Board determines that:

1. The proposed driveway entrance or curb cut will not interfere with the orderly and reasonable use of the adjacent properties or the properties across the street from the subject property.
2. The proposed driveway entrance or curb cut will not create undue interference with vehicular traffic in the adjoining roadway.
3. The proposed curb cut and driveway entrance or curb cut will not adversely affect the health, safety, welfare, comfort, or convenience of Village inhabitants.
4. Any other condition considered relevant by the Planning Board.
5. The issuance of a permit as provided herein does not constitute a waiver of any requirements respecting the subject property which may exist pursuant to statute, law or ordinance.

§ 150-31. **General Review and Procedures.**

- A. Generally. Any person or entity seeking approval of a conditional use or site plan as required pursuant to this Chapter shall first submit an application for such conditional use or site plan approval in accordance with this Section 150-31. Such application shall be submitted to the Building Inspector and comply with the provisions and requirements set forth below. Such application shall include all documentation required by the Building Department, including at a minimum the items set forth in this Section.
- B. Pre-Submission Conferences.
 - (1) In all cases involving a significant application and, in all other cases, at an applicant's request, a pre-submission conference in respect of an application for conditional use or site plan approval shall be held between the Planning Board and the relevant applicant prior to the submission and acceptance of a formal application for such conditional use or site plan approval. The intent of such a conference is to enable the applicant to inform the Planning Board of the intended plans for the applicable property prior to the preparation and submission of a definitive detailed application and for the Planning Board to review the basic site plan concept design or proposed conditional use and advise the applicant as to potential problems and concerns and to generally determine the information necessary to be submitted in connection with the relevant application.
 - (2) In order to accomplish the forgoing objectives, the applicant shall provide the following:
 - (a) a written statement describing the proposed use of the subject property and a rough sketch showing the locations and dimensions of principal and accessory

buildings and structures, parking areas (if any), access signs, existing and proposed vegetation and landscaping and other planned features, anticipated changes to the existing topography and natural features and where applicable, measures and features to comply with flood hazard and flood insurance regulations;

- (b) in the case of any application for a conditional use, a brief narrative description of the justification for such conditional use taking into account the other provisions of this Chapter governing the granting of conditional use applications;
- (c) an area map showing the property and lot under consideration for review and all properties, streets, rights-of-way, easements and other pertinent features within 500 feet of the boundaries of the applicable property;
- (d) a topographic or contour map of adequate scale and detail to show site topography; and
- (e) such other documentation, materials or information as determined necessary by the Planning Board or Building Department.

Materials presented during the pre-submission conference may be incomplete and/or conceptual in design. A formal complete application satisfying the requirements of this Chapter shall be required to be considered for approval prior to the taking of any action by the Planning Board.

- (3) The Planning Board shall publish notice of any pre-submission conference at least ten (10) days prior to the scheduled date of the scheduled pre-submission conference, in the official Village newspaper, and if that paper is not available or has been missed, then in a newspaper of general circulation. No additional advertisement shall be required for any adjournment date. In addition, to the extent that any pre-submission conference relates to any significant application, the applicant or their agent shall erect or cause to be erected a sign, which shall be displayed on the parcel for which the pre-submission conference is to be held, facing each public street on which the property abuts, giving notice that a pre-submission conference will be held before the Planning Board and stating the time and place where the conference will be held. The sign shall not be located more than 10 feet from the street line and shall not be less than two nor more than six feet above the natural grade at the street line. A copy of the sign shall be provided to the Planning Board. The sign shall be displayed not less than 10 days immediately preceding the applicable pre-submission conference or any adjournment date. The applicant shall file an affidavit with the Planning Board that he/she has complied with the provisions of this Section. Failure to submit such affidavit shall result in the adjournment of the pre-submission conference

and reposting pursuant to this section.

- (4) Within 10 days following any pre-submission conference, the public may submit written comments to the Planning Board regarding the applicant's proposed project, which comments are relevant to the objectives of the relevant review process as set forth in Sections 150-29 or 150-30, as applicable, and SEQRA.
- (5) Within 45 days following the conclusion of any pre-submission conference (Planning Board has voted that the pre-submission conference has ended), the Planning Board shall issue a report providing the applicant with feedback and/or comments which may include a short description of issues the applicant should address going forward, any additional information the Planning Board may require or wish to review in connection with the proposed application and a brief statement of the Planning Board's approach to the proposed application. The report of the Planning Board issued pursuant to this subparagraph (5) shall be valid of a period of six (6) months from the date of issuance. No further Planning Board action in respect of any significant application will be taken after such expiration until a new pre-submission conference has been held; provided that the Planning Board in its sole discretion may agree to extend the foregoing six (6) month period for up to a total time of twelve (12) months.
- (6) In no way shall any comments or feedback provided by the Planning Board during or in connection with a pre-submission conference be constructed as an indication of decision or be legally binding in any way.
- (7) The fee for a pre-submission conference application shall be established, and changed as needed, by resolution of the Village Board of Trustees.

C. Application and Decision Procedure Generally.

- (1) Any application for a conditional use approval and/or site plan approval required pursuant to this Chapter shall be submitted to the Building Inspector along with the documents and information required pursuant to Section 150-31(D) below and shall be accompanied by the required fees payable in connection with such application as established, and modified from time to time, by resolution of the Village Board of Trustees. Such application shall be submitted to the Building Inspector with not less than nine (9) hard copies and one electronic or PDF copy of the application and all related materials. The deadline for an application shall be (a) in the case of any significant application, no later than six (6) months (or such longer period as the Planning Board has consented to pursuant to Section 150-29(B)(5) above but in any event no longer than twelve (12) months) after the applicable pre-submission conference was held but in any event at least 30 days prior to the Planning Board meeting at which the applicant desires to be considered and (b) in all other cases, no later than fifteen (15) days prior to the Planning Board meeting at which the applicant desires to be considered. The deadline for any supplemental materials and

amendments to any application already under review shall be (x) in the case of any significant application, at least fifteen (15) days and (y) in all other cases at least seven (7) days, prior to the next regularly scheduled meeting of the Planning Board. An applicant shall have the right to submit an application in respect of any site plan approval that does not constitute a significant approval without having attended a pre-submission conference in such applicant's sole discretion. No applicant shall be entitled to submit any application for approval of a conditional use or site plan if the applicable applicant, related business and/or property is the subject of any open Code violations that are not specifically related to the terms of, and curable by (to the extent approved), the proposed application.

- (2) The Building Inspector shall indicate that an application is considered complete and ready for processing only if it is submitted in the required number and form, includes all required materials and is accompanied by the required application fee. The acceptance of an application by the Building Inspector shall in no way be interpreted as a determination of the completeness, adequacy or accuracy of application materials, but rather serve as an acknowledgement to the receipt of the required application materials. The Building Inspector may consult with Village officials, members of the Planning Board and lawyers and other consultants hired to represent the Village or the Planning Board from time to time to confirm the relevant material required. If an application is determined to be inadequate, the Building Inspector shall provide paper or electronic written notice to the applicant, along with an explanation of all known deficiencies that prevent competent review. No further processing of inadequate applications will occur. When the deficiencies are corrected, the application will be placed in the next available processing cycle. If the deficiencies are not corrected within 60 days, the application will be considered withdrawn. An application also will be considered withdrawn if the applicant fails to appear at two consecutive Planning Board Meetings without written just cause as deemed so by the Planning Board.
- (3) The Planning Board may waive the strict application of submission requirements under this Article XI in the following instances:
 - (a) where the application is deemed by the Planning Board to not be a significant application; or
 - (b) where the application relates to a proposed conditional use in a building or on property where such conditional use already exists so long as:
 1. the proposed conditional use does not result in a substantial expansion of the use of such building or property in respect of conditional uses;
 2. the proposed conditional use does not result in a parking space requirement greater than the parking space requirement applicable to the current use of the property as set forth in Section 150-16;
 3. the proposed conditional use does not result in a different, increased, new or additional Health Department requirements; or

- (c) upon a finding that the relevant material is immaterial and/or unrelated to the application and is not necessary in order for the Planning Board to complete an adequate and informed review of the applicable application.
- (4) No application shall be deemed complete until any review process required pursuant to the State Environmental Quality Review Act (SEQRA) has been completed or if a positive declaration is made.
- (5) Upon receipt of an application, the Planning Board shall have the right to request additional information and shall provide the applicable applicant with prompt notice of any such request. In addition, the Planning Board may seek the opinion of any engineering, architectural, historical, planning, technical, environmental legal consultant or attorney, or other expert or professional to assist in its review of the relevant application and the costs thereof shall be paid by the applicable applicant in accordance with Section 150-40.
- (6) The applicant and/or their agent is expected to attend all meetings of the Planning Board at which an application is to be discussed. In all cases, the burden is on the applicant to show that the application complies with the Village Code and other applicable local laws and New York State laws, rules and regulations.
- (7) Referrals.
 - (a) The Planning Board shall make a specific determination that an application is complete and is accepted for consideration. Once an application has been accepted for consideration, the Planning Board may, and shall, in the case of all significant applications, transmit such application and/or solicit comments and review from the Fire Marshal and/or the Greenport Fire Department, the Southold Police Department and such attorneys or other consultants as the Planning Board may deem necessary and appropriate in its judgment to provide input to the Planning Board in consideration of such application.
 - (b) In the case of any application that requires a variance or a certificate of appropriateness, such application may be subject to preliminary review by the Planning Board prior to any action by the Board of Appeals or the Historic Preservation Commission but the Planning Board shall not make any final determination until such time as the Board of Appeals and/or Historic Preservation Commission, as applicable, has made a final determination of any related matters before them.
 - (c) The Fire Marshal and/or the Greenport Village Fire Department shall forward any comments they have in respect of a particular application within 45 days of a request for comment and review. Absence of any response following this

period shall be deemed to mean there are no potential adverse impacts on emergency services and no additional requirements are considered necessary in respect of the provision of emergency service for consideration by the Planning Board in its approval of the applicable application. The Fire Marshall and/or the Greenport Village Fire Department shall have the right to request a 30-day extension of time in responding and shall be accorded such extension upon request.

- (d) Site plan applications under some conditions are required to be referred to the Suffolk County Planning Commission under New York State General Municipal Law Section 239(l) or (m) As one or more of those conditions (within 500 feet of a State road, park, boundary of the Village, and other criteria), exist on nearly every commercial property in the Village, and properties or which site plan review would be required, every application for site plan review in the Village shall be referred to the Suffolk County Planning Commission, subject to the provisions of Sections 239(l) and (m) of the General Municipal Law.
- (8) Immediately following its determination that an application is complete, the Planning Board shall schedule and hold a public hearing (a) in respect of any significant application and (b) in respect of any other application upon its determination that a public hearing is necessary pursuant to requirements of law or otherwise advisable, within 45 days of determining an application is complete. In determining whether a public hearing is advisable, the Planning Board shall consider the degree of the public interest in the application and the extent to which a public hearing can aid the decision-making process by providing a mechanism for collection of relevant data. In the event that a public hearing is not required pursuant to this Section 150-31(C)(8), the Planning Board shall (a) pass a resolution at a regular public meeting stating that no public hearing is required in respect of the applicable application and (b) schedule a review and discussion of the applicable application at its next regularly scheduled public meeting.
- (9) Notice of any public hearing shall be given to the applicant and be made by publication at least 10 days prior to such hearing in the official newspaper of the Village. In addition to such notice, the applicant shall mail a copy of the public notice by certified mail, return receipt requested, at least 10 days prior to the date of the scheduled public hearing to all owners of property which lies adjacent and/or directly opposite (by extension of lot lines through any street) to that owned by the applicant and relevant to the application as determined by their appearance on the last completed assessment roll of the Village and shall file proof of that mailing with the Building Inspector not less than five days before the scheduled public hearing. The Planning Board may extend the radius of the required mailings to a larger area than required by this Section if the Planning Board deems that the mailings to the larger area would be in the best interest of the Village and public.
- (10) Within 60 days of conclusion of any public hearing or, if none was held, within 60 days of determining that an application is complete, the Planning Board shall render a decision in respect of the proposed application taking into account any

applicable requirements, conditions and other criteria set forth in this Chapter, including the criteria set forth in Section 150-29 or Section 150-30, as applicable. The foregoing 60- day period may be extended by mutual consent of the applicant and the Planning Board. The Planning Board may approve, approve with conditions or modifications or deny any application. Any applicant who receives approval of an application that is subject to conditions will be required, as a condition of such approval, to execute an affidavit which states that the applicant will notify any new property owners or tenants of the applicable conditions in the event that such applicant sells or leases the related property or business. All decisions of the Planning Board shall be in writing and bear the signature of the Chairperson or Acting Chairperson.

- (11) Amendments to any previously approved site plan shall be processed in the same manner as an application for site plan approval in the manner and procedure that an application for an original site plan review is required in this Chapter. Any such application shall comply with all applicable requirements under SEQRA.
- (12)
 - (a) Any approved site plan application shall be valid for a period of two (2) years from the date of approval. All work proposed on a site plan shall be completed within two (2) years from the date of approval and a valid certificate of occupancy shall have been issued, to the extent applicable, within two (2) years from the date of approval unless a longer period was approved by the Planning Board on the request of the applicant, or the applicant obtains an extension from the Planning Board. If a certificate of occupancy has not been issued, an application may be made for up to a six-month extension of a site plan approval on the application of the applicant, based on good cause demonstrated. If a certificate of occupancy has been issued, then the applicant may apply for up to a two-year extension, which shall be within the discretion of the Planning Board. An extension may be granted by the Planning Board without a hearing provided there is no change in the use or elements of the site plan and provided that the site have not changed from the original application and approval.
 - (b) Any approval of a conditional use shall cease to be effective if the relevant use ceases to be in operation for more than 12 consecutive months for any reason.
 - (c)
 - 1. The Planning Board shall have the right to revoke any site plan or conditional use approval granted pursuant to the terms of this Chapter if the applicant or owner violates the conditions of the relevant approval and such violation remains outstanding for a period in excess of 12 consecutive months.

2. In the event that the Planning Board is considering the revocation of any site plan or conditional use plan it shall deliver written notice of the proposed revocation to the applicable business, entity or property to which such site plan or conditional use approval has been issued at least fourteen (14) calendar days prior to the date of such proposed revocation. The owner of the applicable business may request a hearing on the proposed revocation by submitting a request for hearing, in writing to the Planning Board within ten (10) calendar days of receipt of such written notice. A failure to file any such request for hearing shall constitute a waiver of all right to a hearing and the revocation will be final.
 3. If any owner of a business has requested a hearing with respect to a proposed revocation of a site plan or conditional use approval applicable to such business pursuant to clause 2 above, the Planning Board shall schedule a public hearing at its next regularly scheduled meeting for which notice requirements can be satisfied, which notice requirements shall be the same as for the original public hearing on the application. The proposed revocation shall be deemed to be paused by the Planning Board provide the public hearing is requested and further provided that the applicant owner or business owner timely complies with all reasonable requests by the Planning Board and has provided a good faith effort is made by the applicant for the hearing. In the conduct of the public hearing and review of the proposed revocation, of any conditional use or site plan approval, the Planning Board shall take into account the severity of the actions and/or effects giving rise to the decision to considering revoking such approval and any actions which the applicant proposes to mitigate any adverse effects arising in connection with the applicable activities being engaged in by the business, entity or property and/or the presence of any structures or other deficiencies with respect to the applicable site plan that violate the terms of such site plan or conditional use approval, as applicable. The Planning Board may consider remedial actions, actions of third parties and other relevant information as part of the public hearing. The Planning Board shall give written notice of its final decision in respect of any proposed revocation within ten (10) calendar days following the holding of such public hearing.
- (13) A statement shall be placed on all site plans or conditional use permits approved by the Planning Board to the effect that the owner of the subject property or business agrees to comply with all terms and conditions applicable to the approval thereof and, in the case of any site plan, with the terms and conditions of the approved site plan. A responsible person for any proposed site plan or conditional use shall be required to sign such statement and provide such guaranty if required by the Planning Board in an amount determined by the Planning Board before any written approval will be released by the

Planning Board. In the event that the applicable site plan or conditional use permit is not signed by a responsible person within 90 days of the date of the resolution of the Planning Board approving the relevant application, the resolution shall be deemed null and void. The Planning Board may extend the 90-day period as circumstances require.

(14) Where the Planning Board has included or imposed conditions in an approval of an application for site plan or conditional use approval, no certificate of occupancy shall be issued nor any undertaking or guarantee required in connection therewith shall be released until all requirements of any applicable site plan or conditional use approval, including construction of improvements, are completed in a manner satisfactory to the Planning Board.

(15) Where an applicant is seeking both a site plan approval and a conditional use permit, the Planning Board may consider both such applications in tandem and issue its decision on both applications simultaneously except as may otherwise be required pursuant to SEQRA.

D. Required Materials. A completed application in respect of a conditional use or site plan shall consist of the following (unless expressly noted to the contrary) (without duplication):

(1) A completed application form, which shall include a narrative description of the particular business and property to which the application relates and identifying the name of the applicant, the relevant property owner and any other controlling parties related to the proposed site plan or conditional use.

(2) An environmental assessment form as required under Chapter 61 of this Code and by 6 NYCRR Part 617. For all actions deemed to be Type II actions in accordance with the New York State Environmental Quality Review Act and its implementing regulations (SEQRA), a short EAF is required. For all Type I SEQRA actions, a full EAF is required. For all unlisted SEQRA actions, a short EAF is required unless the Planning Board or the Building Department determine that a full EAF is required, in which case the applicant shall submit a full EAF.

(3) In the case of any significant application, a community impact report.

(4) In the case of any application for a conditional use for a restaurant, bar, tasting room, take-out food establishment, hotel or motel, a summary of any Village Code or other statutory or regulatory violations for which any controlling person of the entity making the application for such conditional use (or any other property owned by such person or any business operated by such person in the United States) or the applicable business, entity or property that is the subject of the application, has received notice of in the immediately preceding five (5) years, together with information as to any resolution of such violations of the Code or other State or local regulations.

(5) A site plan drawn at scale with continuation on pages as necessary for written information and including the following:

(a) Legal data:

1. Lot, block and section numbers of the property, taken from the latest tax records.
2. The name and address of the owner of record.
3. The name and address of the person, firm or organization preparing the map.
4. The date, North point and written and graphic scale.
5. A sufficient description of information to define precisely the boundaries of the property. All distances shall be in feet and tenths of a foot. All angles shall be given to the nearest 10 seconds or closer. The error of closure shall not exceed one in 10,000.
6. The locations, names and existing widths of adjacent streets and curblines.
7. The locations and owners of all adjoining lands as shown on the latest tax records.
8. The location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjoining the property.
9. A complete outline of existing deed restrictions or covenants applying to the property.
10. Existing zoning.

(b) Natural features.

1. Existing contours at intervals of five feet or less, referred to a datum satisfactory to the Board.
2. Approximate boundaries of any areas subject to flooding or stormwater overflows.
3. The location of existing watercourses, marshes, wooded areas, rock outcrops, isolated trees with a diameter of 12 inches or more measured three feet above the base of the trunk and other significant existing features.

(c) Existing structures and utilities.

1. The location of uses and outlines of structures, drawn to scale, on the lot and within 100 feet of the lot line.
2. Paved areas, sidewalks and vehicular access between the site and public streets.
3. The locations, dimensions, grades and flow direction of existing sewers, culverts and water lines as well as other underground and aboveground utilities within and adjacent to the property.
4. Other existing development, including fences, landscaping and screening.
5. The location of historic buildings or structures on or adjacent to the site.

(d) Proposed development.

1. The location of proposed buildings or structural improvements.
2. The location and design of all uses not requiring structures, such as off-street parking and loading areas.
3. The location and plans for any outdoor signs.
4. The location, direction, power and time of use for any proposed outdoor lighting or public-address systems.
5. The location and arrangement of proposed means of access and egress, including sidewalks, driveways or other paved areas; profiles indicating grading and cross sections showing width of roadway, location and width of sidewalks and location and size of water and sewer lines.
6. Any proposed grading, screening and other landscaping, including types and locations of proposed street trees.
7. The location of all proposed water lines, valves and hydrants and of all sewer lines or alternated means of water supply and sewage disposal, including pump-out facilities, and treatment.
8. An outline of any proposed deed restrictions or covenants.
9. Any contemplated public improvements on or adjoining the property.
10. If the site plan indicates only a first state, a supplementary plan shall indicate ultimate development.

11. A drainage plan which demonstrates the containment of surface water runoff on the site during and after construction to ensure that surface water runoff does not discharge into surface water bodies or wetlands or cause flooding.
 12. The location of pedestrian walkways that provide public access to the waterfront in instances where a developer of a waterfront parcel has offered, and the Planning Board has accepted, such access for public use.
- (6) In the case of any application for a conditional use in respect of a hotel or motel, a vehicle and pedestrian traffic and safety impact analysis in respect of such hotel or motel from a consultant retained by the Planning Board at the sole cost of the applicant may be obtained by the Planning Board and paid for by the applicant directly or as reimbursement to the Village.
- (7) disclosure affidavits in accordance with New York State General Municipal Law Article 18. Affidavits must be provided by all property owners and applicants. Where the property owner and/or applicant is a limited liability company, all company members shall submit an affidavit. Where the property owner and/or applicant is a homeowners association, all association board members shall submit an affidavit;

§ 150-31-A Violations of Site Plan/Conditional Use Approvals.

It shall be a violation of this Chapter for any person to do any of the following:

- (1) To undertake or commence an activity for which site plan approval is required by the provisions of this Chapter without first having obtained such approval.
- (2) To alter or make improvements to property which has been the subject of a site plan approval without adhering to or following the approved site plan.
- (3) To violate or fail to comply with a condition or requirement of a site plan approval pursuant to this Chapter.

Article XII Amendments

§ 150-32 Amendments authorized.

This Chapter or any part thereof may be amended, supplemented or repealed from time to time by the Village Board on its own motion or upon recommendation by the Planning Board. Prior to public hearing, every such proposed amendment shall be referred by the Village Board to the Planning Board for a report. The Village Board shall not take action on any such amendment without such report from the Planning Board unless the Planning Board fails for any reason to render such report within 45 days after its next regularly scheduled meeting following the date of such referral.

§ 150-33 Report of Planning Board.

In making such report on a proposed amendment, the Planning Board shall make inquiry and determination concerning the items specified below:

A. Concerning a proposed amendment to or change in the text of this Chapter:

- (1) Whether such change is consistent with the aims and principles embodied in the Chapter as to the particular districts concerned.
- (2) Which areas, land uses, buildings and establishments in the Village will be directly affected by such change and in what way they will be affected.
- (3) The indirect implications of such change in its effect on other regulations.
- (4) Whether such proposed amendment is consistent with the aims of the comprehensive development plan of the Village.

B. Concerning a proposed amendment involving a change in the Zoning Map:

- (1) Whether the uses permitted by the proposed change would be appropriate in the area concerned.
- (2) Whether adequate public school facilities and other public services exist or can be created to serve the needs of any additional residences likely to be constructed as a result of such change.
- (3) Whether the proposed change is in accord with any existing or proposed plans in the vicinity.
- (4) The effect of the proposed amendment upon the growth of the Village as envisaged by the comprehensive development plan.
- (5) Whether the proposed amendment is likely to result in an increase or decrease in the total zoned residential capacity of the Village and the probable effect thereof.

§ 150-34 Fee for zoning amendment petition.

Each petition for a zoning amendment shall be accompanied by a fee as determined from time to time by resolution of the Board of Trustees, payable to the Village Clerk upon the filing thereof. No fee shall be required for petitions filed in favor of or against a pending application.

§ 150-35 Notice of hearing.

By resolution adopted at a meeting of the Village Board, the Village Board shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given in accordance with the provisions of § 7-706 of the Village Law. All notices of public hearing shall specify the nature of any proposed amendment, the land or district affected and the date and place where the public hearing will be held. At least 10 days' notice of the time and place of such hearing shall be published in the official newspaper.

§ 150-36 Notification of certain officials.

- A. Should any proposed amendment consist of or include either of the two following conditions, the Village Clerk shall transmit to the designated office or official a copy of the official notice of the

public hearing not later than 10 days prior to the date of hearing:

- (1) Any change in the boundaries of any district, which change would occur within a distance of one mile of a nuclear power plant or 500 feet of the boundary of any Village, town or county or any boundary of a state park or parkway.
 - (2) Any change in the regulations prescribed for any district, any portion of which is located within a distance of one mile of a nuclear power plant or 500 feet of the boundaries listed in Subsection **A(1)** above.
- B. The designated official for counties shall be the Clerk of the County Legislature. In Villages and towns, the designated official shall be the Clerk of the municipality. In the case of state parks or parkways, the designated office shall be the Long Island Park Commission.

§ 150-37 Proposed amendments referred to County Planning Commission.

Proposed zoning actions shall be subject to review by the Suffolk County Planning Commission as provided in the Administrative Code, § A14-14, of the Suffolk County Code.

§ 150-38 Protest against amendment.

In the case of a protest against any amendment, such amendment shall not become effective except in accordance with the provisions of § 7-708 of the Village Law.

Article XIII **Interpretation**

§ 150-39 Interpretation and application.

In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except where specifically provided to the contrary, it is not intended by this Chapter to repeal, abrogate, annul or in any way to impair or interfere with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings, structures, shelter or premises; nor is it intended by this Chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this Chapter imposes a greater restriction upon the use of a building or premises or requires larger open spaces than are imposed or required by any other statute, ordinance, rule, regulation or permit or by any easement or agreement, the provisions of this Chapter shall control.

Article XIV **Consulting Fees**

§ 150-40 Payment for consulting fees in applications to Village.

- A. In every application to an officer, official, department, agency or board of the Village for an action or approval by the Village related to the development, occupancy or use of a property or premises in the Village, upon the filing of the application, the applicant shall be responsible for all consulting fees incurred by the Village for the services of any lawyers, consultants or engineers that are

retained by the Village with regard to that application for services related but not limited to engineering, environmental, legal, planning and traffic.

- B. In every application to an officer, official, department, agency or board of the Village for an action or approval by the Village related to the development, occupancy, or use of a property or premises in the Village, upon the filing of the application, the applicant shall be responsible to deposit with the Village Clerk an amount of money to be held by the Village in escrow for the purpose of reimbursing the Village for the costs that are incurred by the Village for the services of any lawyers or consultants, including but not limited to engineering, environmental, legal, planning and traffic, that are retained by the Village in the review and/or processing of that application and the completion of environmental assessment and other required forms.
- C. The Village Administrator of the Village shall be responsible to compute the initial escrow deposit that is paid to the Village for consulting fees for an application pursuant to this section. In the calculation of the deposit required for consulting fees, the Village Administrator shall rely on written estimates provided by the consultants to be retained or that the Village is considering retaining for the work that is involved for that consultant or on previous costs incurred by the Village for similar applications. Where the Village Administrator determines that the application may involve significant review by consultants employed by the Village, the Village Administrator may require an initial escrow deposit of \$50,000.
- D. The Village Clerk shall place each deposit that is made to the Village by an applicant pursuant to this section in a separate non-interest-bearing account.
- E. Any application to an officer, official, department, agency or board of the Village for which a deposit for consulting fees is required shall not be considered to have been filed with the Village, no review of the application shall be undertaken by the Village or its consultants and no hearing on the application shall be scheduled by the Village until the amount that is required to be paid into escrow for consulting fees shall have been deposited by the applicant with the Village Clerk.
- F. If the amount that is being held in escrow by the Village should be below 20% of the amount of the initial escrow deposit, the Village, on the recommendation or request of the Village Administrator, may require that the applicant pay additional monies to the Village to be placed in the escrow account to maintain the balance of the escrow account at not less than 50% of the initial deposit amount.
- G. In the event that an application for which a deposit has been made is formally withdrawn in writing or when the application process and any judicial or other review of an application is completed, the balance of funds, if any, in the escrow account for that application shall be remitted to the applicant within 60 days of the final action by the Village. The applicant may request that the amount in the escrow account shall remain on deposit with the Village as the applicant's initial payment towards any post-approval fees for inspections or related matters.
- H. The applicant for any application to an officer, official, department, agency or board of the Village for which a deposit for consulting fees is required shall be responsible for all the consulting and engineering fees incurred by the Village as provided in this section, notwithstanding that the escrow account balance may be insufficient to pay for said fees or expenses.

Article XV
Alternate Members

§ 150-41 Creation of positions.

There shall hereby be created the positions of alternate members, of which there shall be two alternate members for both the Board of Appeals and the Village Planning Board of the Village.

§ 150-42 Qualifications.

The qualifications of an alternate member shall be the same as for any other member of the Board on which that alternate member is sitting.

§ 150-43 Duties and obligations.

The duties and obligations of an alternate member shall be the same as for every other member of the board on which that alternate member is sitting, including but not limited to regular attendance at meetings of that board.

§ 150-44 Terms.

The term of the alternate members of the Board of Appeals and the term of the alternate members of the Planning Board shall be for five years. The initial appointments of alternate members to these boards shall be for a term to end on the last day of an administrative year of the Village so as not to exceed the length of the respective term.

§ 150-45 Appointment.

The alternate members shall be appointed by the Mayor of the Village of Greenport, and the appointment of an alternate member shall be approved by the Board of Trustees of the Village.

§ 150-46 Participation.

Each of the alternate members may participate in the place of any member of the board on which the alternate member has been appointed when the member of the board is not participating in an application due to a conflict of interest.

§ 150-47 Discretion of Chairperson to participate.

It shall be within the sole discretion of the Chairperson of the Board as to whether the alternate members to that board shall participate and continue to participate in any particular application once a member of that board has indicated a conflict of interest.

§ 150-48 through § 150-49. (Reserved)

Article XVI
Stormwater Management

§ 150-50 Stormwater management and erosion and sediment control.

- A. To the extent applicable, all land development pursuant to this Chapter shall conform as well to the provisions of and be consistent with the requirements of Chapter 114, Stormwater Management and Erosion and Sediment Control, of this Code.
- B. Stormwater pollution prevention plans. An approved stormwater pollution prevention plan (SWPPP)

consistent with the requirements of Chapter **114**, Stormwater Management and Erosion and Sediment Control, of this Code shall be required for preliminary and final subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards of Chapter **114**, Stormwater Management and Erosion and Sediment Control. The approved subdivision plat shall be consistent with the provisions of Chapter **114**, Stormwater Management and Erosion and Sediment Control.

ARTICLE XVII

Entertainment Permits

§ 150-51 Entertainment Permits.

- A. Permit Required. Subject to Section 150-51(I) below, no entertainment or hosting of a catered event or events shall take place on properties located in the CR Retail Commercial District, CG General Commercial District or WC Waterfront Commercial District unless the applicable business, property or entity hosting such entertainment or catered affair shall have first been issued a valid Entertainment Permit pursuant to this Section. Entertainment Permits issued pursuant to this Section 150-52 shall not exempt the need for compliance, or be excused from any noncompliance, with any other applicable provisions of this Chapter 150, Greenport Village Code, including, without limitation, the provisions of Chapter 88 (Noise) or any other State or local requirements or standards made applicable to such business and its operations pursuant to any other applicable local, State or Federal law.
- B. Application for Entertainment Permit. Any person, business or entity desiring to obtain an Entertainment Permit shall file an application for the Entertainment Permit with the Building Inspector on an application form to be furnished by the Building Inspector and approved by the Board of Trustees, which application shall include at least the following information and any other information determined by the Board of Trustees or the Building Inspector to be required:
- (1) Name, address, Suffolk County Tax Map number and telephone number of the business and property on which the entertainment and/or catered event or events is or are intended to be hosted.
 - (2) A description of the nature of the activity, use or business of the particular business, entity and/or property for which the permit is being requested (including whether such business or entity operates all or a portion of its business outdoors).
 - (3) An operating report in respect of the applicable business, entity or property that includes the following information:
 - a. a summary of the type of catered events and/or entertainment which such business, entity or property intends to provide, including the approximate maximum number of persons anticipated to be present within the business or on the applicable property in connection with the hosting of any entertainment or catered affair;

- b. the approximate anticipated days and hours during which such business, entity or property contemplates hosting entertainment and/or catered affairs; a description of the proposed placement of seating (to the extent seating is to be altered in or at the establishment or applicable property in connection with the hosting of any entertainment or catered affair from that which applies during normal operations of such business);
 - c. any stage or dancing areas, security arrangements and any proposed noise mitigation or buffering arrangements to be included in connection with the hosting of entertainment and/or catered affairs;
 - d. a statement as to the compatibility of the hosting of entertainment and/or catered affairs with the properties immediately adjacent to the property on which such entertainment or catered affairs will take place as well as the immediately surrounding neighborhood; and
 - e. such other information as to the operation and management of the applicable business, entity or property as the applicant feels is relevant to a determination as to whether such business, entity or property should be granted an entertainment permit.
- (4) A summary of the days and hours of event or operation of the applicable business, entity or property.
 - (5) The name or names of and contact information (address and phone number) of all responsible persons for such business, entity or property (which information, for the avoidance of doubt, shall be available to residents of the Village upon request).
 - (6) Confirmation as to whether or not any responsible person of the business or entity has been convicted of any criminal offenses, whether misdemeanor or felony within the past five (5) years, the nature of such offense(s) (if any) and the sentence(s) (if any) received therefore.
 - (7) A summary of any code violations for which any responsible person or any property owned by such responsible person or any business operated by such responsible person in New York State or the applicable business, entity or property that is the subject of such application has received notice of in the immediately preceding five (5) years, together with information as to any resolution of such code violations.
 - (8) Such other information as the Building Inspector may deem necessary for the purpose of review of such application and for the administering of the provisions of this Chapter.
- C. Issuance of Entertainment Permit.
- (1) All Entertainment Permits shall be subject to the payment of a permit fee as and in an amount to be established by a resolution of the Board of Trustees of the Village, which

amount and payment may be further set or amended by a resolution of the Board of Trustees, from time to time.

- (2) An Entertainment Permit shall be issued (a) in the case of any renewal of any Entertainment Permit, subject to the satisfaction of the conditions set forth in clause 3 below, by the Building Inspector and (b) in all other cases, by the Building Inspector following receipt of approval by the Planning Board in accordance with clause 4 below.
- (3) Prior to the expiration of any existing and valid entertainment permit, the Building Inspector shall send the relevant permit holder a form to verify that the information most recently provided in connection with the issuance of such entertainment permit pursuant this Section 150-51 is still accurate, other than in respect of any updated summary of any code violations that have arisen since such prior application. Once such completed form is returned, the Building Inspector may issue a new permit to the applicant, so long as such applicant is still eligible for a permit. Any permit holder who fails to return a completed form before the expiration of the then existing entertainment permit will need to make a new application for a permit. An applicant who files a renewal application shall be deemed to still be eligible for a permit renewal so long as (a) there has been no change of control of such applicant since the most recently filed application for an entertainment permit, (b) no more than three (3) code violations have been issued to the applicable business, entity or property since the last entertainment permit was issued and no more than five (5) code violations have been issued to any other business or property owned by any controlling person since the last entertainment permit was issued and (c) the then existing entertainment permit otherwise remains in full force and effect.
- (4) Following the receipt of an application for an entertainment permit for any business, entity or property and after public notice, the Planning Board shall hold a public hearing in respect of the issuance of such entertainment permit. Following such public hearing, the Planning Board may authorize the issuance by the Building Inspector of an entertainment permit for the applicable business or entity if the Planning Board determines the following:
 - a. No responsible person has, within the past five (5) years, been convicted of a felony or misdemeanor that is substantially related to the qualifications, functions or duties of a proprietor or manager of a business, entity or property that hosts entertainment or catered affairs.
 - b. Neither the applicant business, entity or property nor any responsible person has a history of pervasive code violations in connection with the operation of a business providing entertainment or catered affairs.
 - c. The applicable business, entity or property has not been the subject of pervasive code violations in the immediately preceding five (5) year period.

- d. The proposed entertainment and/or catered affairs will not unduly interfere with the public health, safety and welfare and the comfort, convenience, and order of the Village in general and of the residents of the immediate neighborhood in particular.
 - e. The nature, scale and operating characteristics of such business, entity or property in providing entertainment or catered affairs are compatible with existing and future land uses in the surrounding neighborhood.
 - f. The proposed operating plan for the applicable business, entity or property is sufficient to ensure compliance with applicable provisions of the Code and other applicable laws, including in respect of occupancy limits, noise and other potential nuisances to the surrounding neighborhood.
 - g. Appropriate buffering will be in place to reduce any impact of the proposed activities in respect of noise, light or other potential nuisances in the surrounding neighborhood.
 - h. The proposed entertainment and/or hosting of catered affairs will not generate noise of such character, intensity or duration as to be detrimental to the health or quality of life of reasonable persons of ordinary sensibilities.
 - i. Speakers and any other noise generating equipment are oriented away from residential dwellings or areas.
 - j. It does not appear that the application contains any false or misleading material information.
- (5) In approving any application for an Entertainment Permit, the Planning Board may impose such conditions and safeguards as it may deem reasonably necessary in connection with the activities to be permitted under such entertainment permit so as to take into account the public health, safety and welfare and the comfort and convenience of the public in general and in particular of the residents of the immediately surrounding neighborhoods, including additional restrictions in terms of the hours during which such entertainment may take place and requiring noise buffering to reduce the impact of any noise arising in connection with any activities permitted under the applicable entertainment permit. The Planning Board may also provide for specific exceptions to any restrictions set forth in this Section as applicable to any entertainment permit to the extent it reasonably determines that such exceptions will not have an adverse effect on public health, safety and welfare or the comfort and convenience of the public in general and in particular the residents of the immediately surrounding neighborhoods.
- (6) Anyone denied the issuance of an Entertainment Permit may appeal such denial within thirty (30) days to the Board of Trustees of the Village.
- (7) The Building Inspector shall keep a record of all Entertainment Permits issued and the term of each such permit.

D. Operation.

- (1) Except as otherwise expressly provided in any applicable entertainment permit, all entertainment or catered affairs will cease by no later than 11:00 p.m. or in the case of any Friday, Saturday or a Sunday that immediately precedes a federal holiday that falls between the Friday occurring immediately preceding Memorial Day and October 1st, 12:30a.m. and a responsible person shall be present at the applicable business or property hosting any entertainment or catered affair during all hours during which such entertainment is offered or such catered affair is occurring.
- (2) Each business, entity or property that is the recipient of any Entertainment Permit shall use all reasonable efforts to prevent or minimize disorderly conduct from arising within the relevant business or property and in the surrounding neighborhood as a result of the hosting of entertainment and/or catered events.

E. Duration of Permit. An Entertainment Permit issued pursuant to this Chapter shall be valid for two (2) years from the year it is issued subject to any conditions or restrictions included in connection with the issuance of such permit.

F. Suspension and Termination of Permit.

G. An Entertainment Permit may be suspended, modified or revoked by the Village Board of Trustees for any of the following reasons:

- a. Entertainment and/or catered events have been conducted in a manner contrary to any conditions set forth in the applicable entertainment permit.
- b. Entertainment and/or catered events have been conducted in a manner substantially different from that described in the summary of operations and other information included in the applicable application for the applicable entertainment permit.
- c. The activities being conducted by the relevant business, entity or property in connection with providing entertainment or hosting catered affairs have violated or are violating applicable federal, state or local laws, rules or regulations.
- d. Any controlling person has been convicted of a felony or misdemeanor occurring upon, or relating to the property upon which such entertainment or catered affairs are located which offense is classified as an offense involving sexual crimes against children, sexual abuse, rape, distribution of obscene material or material harmful to minors, prostitution, pandering, drug offenses, violence or unlawful possession of a weapon.

- e. Entertainment or catered events have been conducted in an illegal manner or routinely have resulted in disorderly conduct or are otherwise being conducted in such a manner as to constitute an unreasonable burden on the reasonable use and enjoyment of neighboring properties.
 - f. The application for such Entertainment Permit contained materially false, fraudulent or misleading information or knowingly omitted a material fact.
 - g. The applicable business, entity or property has violated Chapter 88 (Noise) or been the subject of repeated overcrowding in violation of applicable occupancy limits in connection with the conduct of such entertainment or hosting of catered affairs.
- (2) In the event that the Board of Trustees is considering the suspension or revocation of any entertainment permit it shall deliver written notice of the proposed suspension or revocation to the applicable business, entity or property to which such entertainment permit has been issued at least fourteen (14) calendar days prior to the date of such proposed suspension or revocation. The holder of the applicable entertainment permit may request a hearing on the proposed suspension or revocation by submitting a request for hearing, in writing to the Board of Trustees within ten (10) calendar days of receipt of such written notice. A failure to file any such request for hearing shall constitute a waiver of all right to a hearing and the suspension or revocation will be final.
- (3) If the recipient of an entertainment permit has requested a hearing in respect of any suspension or revocation of such entertainment permit pursuant to clause (2) above, the Board of Trustees shall schedule a public hearing at its next regularly scheduled meeting for which notice requirements can be satisfied. Pending such hearing, the proposed suspension or revocation shall be deemed paused. In connection with any public hearing in respect of any suspension or revocation of any entertainment permit, the Board of Trustees shall take into account the severity of the actions and/or effects giving rise to the decision to considering suspending or revoking such permit and any actions which the applicant proposes to mitigate any adverse effects arising in connection with the applicable activities being engaged in by the business, entity or property under its entertainment permit. The Board may consider remedial actions, actions of third parties and other relevant information as part of the public hearing. The Board of Trustees of the Village shall give written notice of its final decision in respect of any suspension or revocation within ten (10) calendar days following the holding of such public hearing.
- H. Display of Permit. Every business, entity or property which is the subject of an entertainment permit shall ensure that such permit is posted conspicuously on the property to which it is applicable.
- I. Non-transferability of Permit.
- (1) No entertainment permit issued under the provisions of this Chapter may be transferred or

assigned from one business, entity or property to any other business, owner or property or from one owner of such business, entity or property to any subsequent owner of such business, entity or property.

- (2) Any business, entity or property that is the subject of a change of control following the issuance of any entertainment permit, shall promptly give the Building Inspector notice of such change of control which shall in any event be no later than 30 days following the occurrence of such change of control.
- (3) Upon any change of control of any business, entity or property after the issuance of any Entertainment Permit, the applicable entertainment permit shall automatically become invalid and terminate 90 days following the occurrence of such change of control and the applicable business, entity or property shall be required to file a new application for an Entertainment Permit with updated details relating to such change of control for consideration pursuant to the terms of this Chapter and the issuance of a new Entertainment Permit.

J. Exemptions. The following uses and/or activities are exempted from the provisions of this Chapter requiring an entertainment permit in connection with the provision of entertainment or the hosting of catered affairs:

- (1) places of worship, libraries, museums, theaters, schools and fraternal lodges,
- (2) entertainment or catered affairs sponsored by any bona fide, nonprofit club or association organized for charitable, religious, dramatic or literary purposes and having an established membership which holds a meeting other than entertainment at regular intervals, so long as the proceeds from the relevant entertainment or catered affair are used solely for the benevolent purposes of such club or association,
- (3) performances by students which are performed under the supervision of a school,
- (4) dance lessons, theatrical and performing art lessons and student recitals,
- (5) normal and customary fitness services provided at any fitness facility,
- (6) businesses providing entertainment in connection with any event hosted in the Village that is the subject of a mass assembly permit issued by the Board of Trustees of the Village pursuant to Chapter 44, and
- (7) businesses providing entertainment and/or hosting catered affairs fewer than six (6) times in any calendar year (excluding for purposes of counting any entertainment provided by such business that would otherwise be permitted pursuant to the foregoing subsection (6)).

Section three. The Board finds that upon the adoption and restatement of Chapter 150, Chapter 42, entitled "Arts District", is no longer relevant. Chapter 42, entitled "Arts District", is hereby repealed

in its entirety.

Section four. Any local law or provision of the Code of the Village of Greenport in conflict with this local law is hereby repealed to the extent of such conflict, except that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of such local law, ordinance or resolution prior to the effective date of this local law.

Section five. If any clause, sentence, paragraph, section, article, or part of this local law shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate any other part of this local law, or the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section six. This local law shall take effect immediately upon adoption and filing pursuant to the Municipal Home Rule Law.