



NEW YORK
STATE OF
OPPORTUNITY.

**Hudson River
Valley Greenway**

***Town of North
Greenbush***

***Chapter 197 (Zoning) of
the North Greenbush
Town Code***

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Greenway***

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[HISTORY: Adopted by the Town Board of the Town of North Greenbush 1-27-1981 by L.L. No. 2-1981 as Ch. 116 of the 1981 Code. Amendments noted where applicable.]

- 197 Table 1 Use Regulations
- 197 Table 2 Area, Bulk Regulations
- 197 Table 3 Parking and Loading Regulations

ARTICLE I. GENERAL PROVISIONS

§ 197-1. Title.

This chapter shall be known as the "Comprehensive Zoning Law of the Town of North Greenbush, New York."

§ 197-2. Purpose.

The Town of North Greenbush is hereby divided into zoning districts, and all land and buildings are regulated as to use, occupancy, location, construction and alteration for the purpose of protecting and promoting public health, safety, morals, comfort, convenience, economy, aesthetics and the general welfare.

ARTICLE II. DEFINITIONS AND WORD USAGE

§ 197-3. Definitions and word usage.

- A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future; and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall" is intended to be mandatory; and "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied."
- B. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY STRUCTURE

A detached subordinate structure(s), the use of which is incidental to that of the principal structure and located on the same lot therewith and located in the same zoning district as the principal structure, and is without living quarters or cooking facilities.

ACCESSORY TEMPORARY APARTMENT

See "Dwelling, Caregiver/Receiver Temporary".

ACCESSORY USE

A use customarily incidental and subordinate to the principal use of a building and located on the same lot with such principal use of a building.

ADULT USE

Any use or business that uses land, structures or premises for an adult oriented purpose by which the provisions of the Penal Law is required to restrict the access thereto by minors. Such establishments may include but are not limited to:

ADULT BOOKSTORE

A commercial establishment which, as one of its principal business purposes, offers "for sale or rental for any form of consideration" any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations, which depict or describe specified anatomical areas.
- (2) Instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be defined as an "adult bookstore" or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration of the specified materials which depict or describe specific sexual activities or specified anatomical areas.

ADULT CABARET

A nightclub, bar, restaurant or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity;
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (3) Films, motion pictures, video cassettes, slide or other photographic reproductions, which are characterized by the depiction or description of specified anatomical areas or specified sexual activities.

ADULT MOTEL

A hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
- (2) Offers sleeping room for rent for a period of time that is less than ten hours, or
- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

ADULT MOTION PICTURE THEATER

A commercial establishment where (for any form of consideration) films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER

A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

ADULT VIDEO STORE

See "adult bookstore."

NUDITY

The appearance of a human bare buttocks, anus, genitals or full female breasts.

SEMI-NUDE

A state of undress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portion of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER

A business or commercial enterprise that, as one of its primary business purposes offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex, or
- (2) Activities between male and female persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

SEXUALLY ORIENTED BUSINESS

An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

SPECIFIED ANATOMICAL AREAS

The male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

SPECIFIED SEXUAL ACTIVITIES

Any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
- (3) Masturbation, actual or simulated.
- (4) Excretory functions as part of or in connection with any of the activities set forth above.

STATE OF NUDITY

See "nudity."

AGRICULTURE

The use of land for sound agricultural purposes, including farming, dairy, horse boarding, pasturing, grazing, horticulture, floriculture, viticulture, timber harvesting, animal and poultry husbandry, and those practices necessary for the on-farm production, preparation, and marketing of agricultural commodities including animals or crops raised for personal consumption or recreational purposes. Agriculture does not include dude ranches or similar operations.

AUTOMOTIVE REPAIR SHOP

Any area of land, including buildings, which is used primarily for repair and/or maintenance of motorized vehicles.

BASEMENT

A story partly underground but having at least 1/2 of its height above the average level of the adjoining ground. A "basement" shall be counted as a story for the purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or if used for business or dwelling purposes.

BUILDING, ACCESSORY

A detached supplemental building, the use of which is incidental to that of a main or principal building and on the same lot therewith.

BUILDING, PRINCIPAL

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

BUILDING

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

BUILDING HEIGHT

The vertical distance measured from average finished grade to average roof height.

BUSINESS PARK

A group of flex-type or incubator one or two story buildings served by a common roadway system. Tenant space is flexible to house a variety of uses with the rear side of the building served by a garage door. The average mixture of uses is 1/3 office-commercial and 2/3 industrial-warehousing. [Added 2-13-1997 by L.L. No. 9-1997]

CAREGIVER

A person with the responsibility of providing care and/or assistance to the resident(s) of the caregiver/receiver temporary dwelling unit.

CARE-RECEIVER

Resident(s) of a caregiver/receiver temporary dwelling unit who receive care from a caregiver. It is intended that such care-receiver shall include customary family members of the owners or occupants of the single-family dwelling, such customary family members typically include grandparents, parents, siblings, children, and/or in-laws.

CARRIAGE HOUSE

An ancillary dwelling located on the same lot as the primary residence. The carriage house is secondary to the principal residence and further defined through the restrictions.[Added 10-23-2008 by L.L. No. 9-2008]

CELLAR

A story partly underground and having more than 1/2 of its clear height below the average level of the adjoining ground. A "cellar" shall not be considered in determining the permissible number of stories.

COMMERCIAL RECREATIONAL FACILITY

Any facility used for purposes of play, amusement or relaxation, such as a playground, ball field, conservation area, education area, gymnasium, tennis court, bowling alley or other like activities, having a minimal detrimental impact and operated with the intent of producing a profit.

CORPORATE HEADQUARTERS BUILDING

A single-tenant office building housing the corporate headquarters of a company or organization and generally containing offices, meeting rooms, space for file storage and data processing, a restaurant or cafeteria and other service functions. [Added 2-13-1997 by L.L. No. 9-1997]

COVERAGE

That percentage of the plot or lot area covered by the building area.

DESIGN GUIDELINES

A set of subjective standards and recommendations governing the physical form and appearance of development within the district to which they apply. Design guidelines are to be applied by the Planning Board and are set forth in the Site Plan Review Act.

[Added 5-13-2004 by L.L. No. 5-2004]

DESIGN REQUIREMENTS

A set of mandatory, objective parameters to which proposed development must conform. The Building Department or Code Enforcement Officer will evaluate, in the first instance, proposed development for compliance with design requirements. The design requirements are set forth in the Zoning Law and are subject to the provisions of that law.

[Added 5-13-2004 by L.L. No. 5-2004]

DUPLEX

See "Dwelling, Two-Family".

DWELLING, CAREGIVER/RECEIVER TEMPORARY

A permitted independent, subordinate dwelling unit, either in or added to an existing single-family dwelling unit, which may include completely separate and independent cooking, eating, sanitation, and sleeping areas. Such a dwelling unit shall be clearly accessory and incidental to the principal dwelling and shall not be deemed to be a two-family dwelling.

DWELLING, MULTI-FAMILY

A structure, or group of structures, each containing three or more dwelling units and occupied or designed for occupancy by three or more families living independently of each other. May include apartments, condominiums, townhouses, and cooperatives.

DWELLING, SINGLE-FAMILY

A detached building designed for or occupied by one family and containing not more than one dwelling unit, but shall not include a mobile home.

DWELLING, TWO-FAMILY

A building designed as a single structure, containing two separate living units each designed to be occupied as a separate permanent dwelling unit for one family, and each dwelling unit is entirely separated by vertical walls that are unpierced except for access to the outside or to a common cellar.

DWELLING UNIT

Any single unit, which may include one or more rooms, providing complete independent living facilities for the use by one family, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EXCAVATION

The removal or addition of soil or rock greater than one foot in depth covering an area of 600 square feet or 25 cubic yards, whichever is less.

FAMILY

- A. Family shall be considered one of the following:
 - (1) One, two or three persons occupying a dwelling unit; or
 - (2) Four or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.
- B. It shall be presumptive evidence that four or more persons living in a single dwelling unit who are all not related by blood, marriage, or legal adoption do not constitute the functional equivalent of a traditional family.
- C. In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:
 - (1) The group is one which in theory, size, appearance, structure, and function resembles a traditional family unit;

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- (2) The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family;
- (3) The group shares expenses for food, rent, or ownership costs, utilities and other household expenses;
- (4) The group is permanent and stable. Evidence of such permanency and stability may include:
 - (a) The presence of minor dependent children regularly residing in the household who are enrolled in local schools;
 - (b) Members of the household have the same address for purposes of voter's registration, driver's license, motor vehicle registration, and filing of taxes;
 - (c) Members of the household are employed in the area;
 - (d) The household has been living together as a unit for a year or more whether in the current dwelling unit or other dwelling units;
 - (e) There is common ownership of furniture and appliances among the members of the household; and
 - (f) The group is not transient or temporary in nature;
- (5) Any other factor reasonably related to whether or not the group is the functional equivalent of a family.

GARAGE, PRIVATE

An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

GARAGE, PUBLIC

Any garage, other than a private garage, available to the public, operated for gain and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

GASOLINE STATION

Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubrication, washing or otherwise servicing motor vehicles.

GENERAL HEAVY INDUSTRIAL

Typical heavy industrial facilities are limited to the manufacturing of large items and have a high number of employees per industrial plant. Sometimes such facilities are categorized as manufacturing.

[Added 2-13-1997 by L.L. No. 9-1997]

GENERAL LIGHT INDUSTRIAL

Typical light industrial activities have an emphasis other than manufacturing and include printing plants, material testing laboratories, assemblers of data processing equipment and power stations. Light industrial facilities usually employ fewer than 500 persons, are usually freestanding and devoted to a single use. [Added 2-13-1997 by L.L. No. 9-1997]

GENERAL OFFICE BUILDING

A facility that houses multiple tenants where affairs of businesses, commercial or industrial organizations or professional persons or firms are conducted. An office building may contain a mixture of tenants, including professional services, insurance companies, investment brokers and tenant services such as a bank or savings and loan, a restaurant or cafeteria and retail service facilities. [Added 2-13-1997 by L.L. No. 9-1997]

GOVERNMENT OFFICE BUILDING

An individual building containing the entire function or simply an agency of a city, county, state, federal or other governmental unit and differs from a government office complex in that it is not a group of buildings which are interconnected with pedestrian walkways. [Added 2-13-1997 by L.L. No. 9-1997]

GOVERNMENT OFFICE COMPLEX

SEE "GOVERNMENT OFFICE BUILDING." [ADDED 2-13-1997 BY L.L. NO. 9-1997]

HEALTH CLUB

Privately owned facilities which may include swimming pools, whirlpools, saunas, tennis, racquetball and handball courts, exercise classes, weightlifting and gymnastics equipment, locker rooms and a restaurant or snack bar. [Added 2-13-1997 by L.L. No. 9-1997]

HIGH-CUBE WAREHOUSE

Used for the storage of manufactured goods prior to their distribution to retail outlets. These facilities consist of large shells of steel buildings, are often subdivided for individual tenants and generally have a ceiling height of 24 to 26 feet. In addition, they are generally characterized by small employment numbers due to a high level of mechanization, have truck activities frequently outside of the peak hour of the adjacent street system and have good major highway access. [Added 2-13-1997 by L.L. No. 9-1997]

HOME OCCUPATION

An accessory use carried out for gain customarily conducted entirely within a single-family dwelling or its accessory buildings by the resident owners thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than that permitted. Such home occupations may include, but are not limited to:

- (1) Professional engineer
- (2) Licensed surveyor
- (3) Attorney
- (4) Certified public accountant
- (5) Licensed realtor
- (6) Web designer
- (7) One, chair owner operated hair stylist/barber

INDUSTRIAL PARK

Industrial parks are areas containing a number of industrial or related facilities and are characterized by a mix of manufacturing, service and warehouse facilities. Parks can have a wide variation in proportion of each type of use from one location to another, some with a large number of small businesses and others with one or two dominant industries. [Added 2-13-1997 by L.L. No. 9-1997]

JUNKYARD

A lot, land or structure or part thereof used for the collecting, storage and sale of wastepaper, rags, scrap or discarded material or for the collection, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the salvage or sale of parts thereof.

LOT

A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this chapter.

LOT, WIDTH OF

The mean width measured at right angles to its depth along the rear line of the required front yard.

LOT LINES

The lines bounding a lot as defined herein.

MANUFACTURING

Manufacturing facilities are sites where the primary activity is the conversion of raw materials or parts into finished products with the size and type of facility varying from one facility to another. In addition to the actual production of goods, manufacturing facilities generally also have office, warehouse, research and associated functions. [Added 2-13-1997 by L.L. No. 9-1997]

MEDICAL/DENTAL OFFICE BUILDING

A facility which provides diagnoses and outpatient care on a routine basis but which is unable to provide prolonged in-house medical/surgical care. Such facility is generally operated by one or more private physicians or dentists. [Added 2-13-1997 by L.L. No. 9-1997]

MINI-WAREHOUSE

A building in which a storage unit or vault is rented for the storage of goods. Each unit is physically separated from other units and access is usually provided through an overhead door or other common access point. [Added 2-13-1997 by L.L. No. 9-1997]

MOBILE HOME

Any portable vehicle which is designed to be transported on its own wheels or those of another vehicle; which is used, designed to be used and capable of being used as a detached single-family residence; and which is intended to be occupied as permanent living quarters containing sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities and plumbing and electrical connections for attachment to outside systems.

MOBILE HOME PARK

Any parcel of land which is planned and improved for the placement of two or more mobile homes which are used as dwellings and for occupancy of more than 90 consecutive days.

MOTEL

A building or a group of two or more detached or semidetached buildings containing rooms or apartments with automobile parking or storage space serving such rooms or apartments provided directly or closely in connection therewith, which building or group of buildings is designed, intended or used primarily for the providing of sleeping accommodations for travelers, including groups designated as auto cabins, motels, motor lodges and by similar designations.

NONCOMMERCIAL PARKING

Parking used in conjunction with an allowed use in a district, but does not include parking where consideration or fees are provided in exchange for parking accommodations.

[Added 5-13-2004 by L.L. No. 5-2004]

NONCONFORMING USE

A building, structure or use of land existing at the time of enactment of this chapter which does not conform to the regulations of the district or zone in which it is situated.

OFFICE PARK

Generally suburban subdivisions or planned unit developments containing general office buildings and support services such as banks, savings and loan institutions and restaurants, arranged in a park or campus-like atmosphere.

[Added 2-13-1997 by L.L. No. 9-1997]

PARKING SPACE

An off-street space available for the parking of one or more motor vehicles and having an area of not less than 162 square feet and minimum dimensions of nine feet by 18 feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to a street or alley.

[Added 2-13-1997 by L.L. No. 9-1997]

PROFESSIONAL

An attorney admitted to practice in the State of New York or as otherwise duly admitted under the laws of the State of New York, or a certified public accountant, professional engineer, an architect, a landscape architect, a physician, a dentist, a speech pathologist, an audiologist, a chiropractor, a podiatrist, a physical therapist, or an individual licensed to practice psychology, all as defined in the Education Law of the State of New York, or those engaged in otherwise legal business and/or personal services.

[Added 5-13-2004 by L.L. No. 5-2004]

PUBLIC RECREATIONAL FACILITY

Any facility used for purposes of play, amusement or relaxation, such as a playground, ball field, conservation area, education area, gymnasium, tennis court, bowling alley or other like activities, having a minimal detrimental impact upon the environment and operated on a nonprofit basis.

QUARRY, SANDPIT, GRAVEL PIT OR TOPSOIL STRIPPING

A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or topsoil for sale as an industrial operation and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.

RECREATIONAL COMMUNITY CENTER

Public or nonprofit-organization-owned facilities similar to and including YMCA's, often including classes and clubs for adults and children, day-care or nursery school, meeting rooms, swimming pools and whirlpools, saunas, tennis, racquetball and handball courts, exercise classes, weightlifting and gymnastic equipment, locker rooms and a restaurant or snack bar.

[Added 2-13-1997 by L.L. No. 9-1997]

RESEARCH AND DEVELOPMENT CENTER

Facilities or groups of facilities devoted nearly exclusively to research and development activities.

[Added 2-13-1997 by L.L. No. 9-1997]

RESTAURANT, DRIVE-THROUGH

An eating establishment, such as a fast-food restaurant or snack bar or refreshment stand, so designed and constructed to allow consumers to be served while in a vehicle outside of the building and generally from a designated travel lane. Such service shall be from a window or counter where food is sold to be taken from the premises for consumption, primarily off-site.

[Added 2-13-1997 by L.L. No. 9-1997]

RESTAURANT, FAST-FOOD

[Added 2-13-1997 by L.L. No. 9-1997]

An establishment whose principal business is the retail sale of food from a counter-type installation from which quickly prepared or prepared foods are taken away by customers in a ready-to-consume state for consumption on or off the premises at the option of the consumer and whose design or principal method operation includes:

- (1) Use of a menu generally containing a limited number of special items;
- (2) Sale of foods, primarily in paper, plastic or other disposable containers;
- (3) Service and clean-up are primarily performed by the consumer; and/or
- (4) The percentage of the restaurant's floor area devoted to customer seating is less than 60% of the gross floor area of such restaurant.

SETBACK

The distance perpendicular from the nearest edge of the street right-of-way or easement to the building or structure. For curved streets, "setback" shall be determined from the nearest tangent to the curve.

SHOPPING CENTER

An integrated facility occupying one or more structures and consisting of three or more stores, shops and similar entities which provide parking, internal roads and other infrastructure within one site, with a minimum combined square footage of 50,000 square feet gross floor area.

Editor's Note: The definition of "sign," which immediately followed this definition, was repealed 7-4-2005 by L.L. No. 4-2005. See now Art. VIII, Signs. [Added 12-11-1997 by L.L. No. 23-1997]

SINGLE TENANT OFFICE BUILDING

A building which contains the offices, meeting rooms and space for file storage and data processing of a single business or company with other possible service functions such as restaurant or cafeteria. [Added 2-13-1997 by L.L. No. 9-1997]

SNACK BAR/REFRESHMENT STAND

[Added 2-13-1997 by L.L. No. 9-1997]

An eating establishment with similar characteristics to a fast-food restaurant, except for the following:

- (1) Generally seasonal in operation;
- (2) Generally with counter-type service;
- (3) Generally with limited or no indoor customer table space or seating;
- (4) Generally with outdoor table and seating space.

STANDARD RESTAURANT

[Added 2-13-1997 by L.L. No. 9-1997]

An establishment whose principal business is the sale of food to customers in a ready-to-consume state and whose principal method of operation includes one or both of the following characteristics:

- (1) Customers, normally provided with an individual menu, are served their food and beverage by a restaurant employee at the same table at which food and beverage are consumed;
- (2) A cafeteria-type operation where food and beverage generally are consumed within the restaurant building.

STORY

That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between any floor and the ceiling next above it.

STREET

Includes streets, roads, avenues, lanes or other trafficways between right-of-way lines.

SWIMMING POOL

A structure intended for bathing, swimming or diving purposes, made of concrete, masonry, metal or other impervious materials, and provided with a recirculating and/or controlled water supply. [Added 5-14-1998 by L.L. No. 3-1998]

TRUCK TERMINAL

Facilities where goods are transferred between trucks, trucks and railroads or trucks and ports. [Added 2-13-1997 by L.L. No. 9-1997]

TWIN HOMES

See "Dwelling, Two-Family".

UNITED STATES POST OFFICE

A federal building housing service windows for mailing packages and letters, post office boxes, offices, sorting and distribution facilities for mail and vehicle storage area. [Added 2-13-1997 by L.L. No. 9-1997]

USE

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

WAREHOUSING

Warehouses are primarily devoted to the storage of materials; however, they may also include office and maintenance areas. [Added 2-13-1997 by L.L. No. 9-1997]

YARD, FRONT

An open, unoccupied space on the same lot with a building, between the front line of the building and the front line of the lot and extending the full width of the lot.

YARD, REAR

An open, unoccupied space on the same lot with a building, between the rear line of the building and the rear line of the lot and extending the full width of the lot.

YARD, SIDE

An open, unoccupied space on the same lot with a building, situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

ARTICLE III. ZONING DISTRICTS; ZONING MAP

§ 197-4. Zoning districts.

[Amended 5-10-1990 by L.L. No. 7-1990; 11-14-1991 by L.L. No. 9-1991; 2-13-1997 by L.L. No. 10-1997; 5-13-2004 by L.L. No. 5-2004]

The Town of North Greenbush establishes and is hereby divided into the following 17 zoning districts:

AR	Agriculture Residential District
R-1	Residential District 1, Single-Family
R-2	Residential District 2
R-3	Residential District 3
R-4	Residential District 4
PDD	Planned Development District
PBD	Professional Business District
BN	Neighborhood Business District
H	Hamlet
BG	General Business District
C	Commercial District
IG	Industrial District
TP	Technology Park District
NP	Natural Products Extraction District
SC	Senior Citizens Housing District
PWDD	Planned Waterfront Development District
T	Transportation Corridor Overlay

§ 197-5. Official Zoning Map.

Editor's Note: The Zoning Map is on file and available for inspection in the office of the Town Clerk.

The location and boundaries of the zoning districts established in ~ 197-4 are shown on the Official Zoning Map of the Town of North Greenbush, which, together with everything shown thereon and all amendments thereto, is hereby adopted by reference and declared to be an appurtenant part of this chapter.

- A. The Official Zoning Map, hereby adopted, shall be identified by the signature of the Town Supervisor, attested by the Town Clerk and shall bear the Seal of the Town and the following statement: "This is to certify that this is the Official Zoning Map adopted in accordance with Chapter 197 of the North Greenbush Town Code by Local Law number 14 for 1997.

[Amended 5-10-1990 by L.L. No. 9-1990; 7-23-1992 by L.L. No. 8-1992; 2-13-1997 by L.L. No. 14-1997]

- B. If any changes or amendments to district boundaries or to other data which is shown on the Official Zoning Map are duly made in accordance with the provisions of this chapter and Town Law, such changes or amendments shall be entered or caused to be entered on the Official Zoning Map by the enforcement officer before the effective date of such change or amendment, and the following statement shall be entered on the Official Zoning Map: "The following changes are made in the Official Zoning Map on (date of passage) by official action of the Town Board. (Give brief description of the change)." Such statement shall be signed by the Town Supervisor and attested by the Town Clerk.
- C. No changes, alterations or additions whatsoever shall be entered on the Official Zoning Map except in accordance with the provisions of this chapter, and any person making such change not in accordance with the provisions of this chapter shall be held in violation of this chapter and subject to penalties under ~ 197-54.
- D. The Official Zoning Map shall be continuously and conspicuously displayed in such place as is designated by the Town Board.

- E. The Official Zoning Map shall be the final authority as to the delineation of zoning districts and the location of zoning district boundaries regardless of the existence of alleged reproduced copies of said Official Zoning Map which may show districts or boundaries in conflict with the Official Zoning Map.

§ 197-6. Interpretation of district boundaries.

- A. The Zoning Board of Appeals, hereinafter referred to as "ZBA," shall, upon request, determine the exact location of any zoning district boundary about which there may be uncertainty or disagreement.
- B. Where district boundaries are indicated as approximately following the center lines or right-of-way lines of streets, highways, railroads or public utility easements, said boundaries shall be construed to be coincident with such lines. Said boundaries shall be deemed to be automatically moved if a center line or right-of-way line of such street, highway, railroad or public utility easement is moved a maximum of 50 feet.
- C. Where district boundaries are so indicated that they are approximately parallel to the center lines or right-of-way lines of streets, highways, railroads or public utility easements, said boundaries shall be construed as being parallel thereto and at such distances therefrom as are indicated on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.

Editor's Note: The Zoning Map is on file and available for inspection in the office of the Town Clerk

- D. Where district boundaries are indicated as approximately following the town boundary line, property lines, lot lines or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
- E. Where district boundaries are so indicated that they are approximately parallel to the town boundary line, property lines, lot lines or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances therefrom as are indicated on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.

Editor's Note: The Zoning Map is on file and available for inspection in the office of the Town Clerk.

- F. Where district boundaries are indicated as approximately following streams, other than the Hudson River, said boundaries shall be construed to be coincident with the center lines of the main channels of such streams, and said boundaries shall be deemed to be automatically moved if the main channels of such streams are moved by natural or artificial means up to a maximum of 50 feet.
- G. Any district boundary indicated as approximately following the Hudson River shall be construed as being coincident with the pierhead line, if established, or a line parallel to and 200 feet distant from the mean high-water shoreline. If more than one zoning district is established along the Hudson River, the boundary line between districts which extends into the river shall be an extension of the zoning boundary line which meets and is perpendicular to the pierhead line, if established, or a line parallel to and 200 feet distant from the mean high-water shoreline.
- H. Where a street, highway, railroad or public utility easement center line or right-of-way line is coincident with a zoning boundary line and varies from the actual on-the-ground physical monument or mark, then such on-the-ground physical monument or mark shall determine said zoning district boundary.

ARTICLE IV. SCHEDULE OF ZONING DISTRICT REGULATIONS

§ 197-7. Use schedule (Table 1).

The Schedule of Use Regulations shall be deemed to be a part of this chapter and is referred to herein as Table 1.

Editor's Note: Table 1 is included at the end of this chapter.

This use schedule is meant to be illustrative of the type of facilities which may be allowed in each zone and is neither all-inclusive nor all-exclusive.

§ 197-8. Bulk schedule (Table 2).

The Schedule of Area and Bulk Regulations shall be deemed to be a part of this chapter and is referred to herein as Table 2.

Editor's Note: Table 2 is included at the end of this chapter.

§ 197-9. Parking schedule (Table 3).

The Schedule of Parking and Loading Regulations shall be deemed to be a part of this chapter and is referred to herein as Table 3.

Editor's Note: Table 3 is included at the end of this chapter. Original ~ 116-9, entitled "Home Occupation Schedule (Table 4)" was deleted 1-14-1991 by L.L. No. 9-1991.

§ 197-10. Interpretation of provisions.

[Amended 4-13-2006 by L.L. No. 2-2006]

The ZBA shall interpret the meaning of this chapter within the context of determining the rights of any party appealing from a decision of the Building Director or his designee or applying for a variance or special permit. Such interpretation shall be included in the official minutes of the ZBA.

ARTICLE V. REGULATIONS APPLICABLE IN ALL DISTRICTS

§ 197-11. Primary uses.

[Amended 2-13-1997 by L.L. No. 6-1997]

- A. General. Within any district, certain primary uses are permitted by right or by special permit as illustrated in Columns 2 and 3 of Table 1.

Editor's Note: Table 1 is located at the end of this chapter.

§ 197-12. Permitted accessory uses.

[Amended 11-14-1991 by L.L. No. 9-1991; 2-13-1997 by L.L. No. 6-1997]

- A. General. Within any district, certain permitted accessory uses are permitted by right as illustrated in Column 4 of Table 1.

Editor's Note: Table 1 is located at the end of this chapter.

All other accessory uses shall be by special permit only.

B. Swimming pools.

- (1) Location. A swimming pool 24 inches or more in depth at any point shall be located no closer than 20 feet to any lot line. [Amended 5-14-1998 by L.L. No. 3-1997]
- (2) Enclosure or fence. Any deck or similar structure attached to or part of an aboveground pool shall be constructed in such a manner that will maintain the pool's inaccessibility or a separate enclosure or fence shall be provided. Any deck attached to a pool and not attached to the primary residence shall meet the setback requirements for the pool as stated in section 197-12(B)1.

C. Carriage houses.

[Added 10-23-2008 by L.L. No. 9-2008]

- (1) A carriage house may be permitted in an R1 or AR District by the granting of a special permit by the Zoning Board of Appeals or be approved by the Planning Board as part of a subdivision application, provided that the carriage house complies with the following regulations:
 - (a) The lot size must be a minimum of five acres.
 - (b) The primary residence must be greater than 4,000 square feet (exclusive of porches, decks, terraces, patios, breezeways, basements, and garages).
 - (c) Only one carriage house is permitted on a given parcel.
 - (d) The carriage house may not be subdivided from the primary residence or vice versa.
 - (e) The carriage house and the primary residence must share a common driveway.
 - (f) The carriage house shall be consistent with the building type, architectural style, and color of the primary dwelling unit.
 - (g) The carriage house shall be limited to an average roof height of 28 feet and in no event exceeding the height of the main dwelling.
 - (h) The allowed living area of the carriage house shall be a minimum of 750 square feet and shall not exceed 25% of the living area of the primary dwelling unit.
 - (i) The construction of the carriage house shall conform to all property development regulations of the zone in which the property is located as well as all fire, health, safety and building provisions of this title.
 - (j) All property development regulations applicable to the principal residence shall also be applicable to the carriage house, including setbacks and height limitations.

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- (k) The location of both the sanitary sewage disposal system and the potable water supply system for each residence, whether they are together or separate, shall be approved by the Rensselaer County Health Department and the Town of North Greenbush Utilities Department.
- (2) Subdivision plat and site plan.
 - (a) Prior to the subdivision plat being signed by the Planning Board Chairman for locations where carriage house locations are shown on a subdivision plat and site plan, in substantial compliance with this subsection, a public hearing shall be held by the Town of North Greenbush Planning Board.
 - (b) Prior to issuance of a work permit by the Town of North Greenbush Building Department, the following conditions shall be complied with:
 - [1] All final Planning Board and engineering comments shall be addressed on the site plan.
 - [2] All necessary approvals for the potable water and sanitary sewage disposal systems shall be obtained.
 - [3] All necessary agreements shall be executed with the Town of North Greenbush as required.
 - [4] All necessary performance bonds and security agreements shall be filed with the Town of North Greenbush as required.
 - [5] Funding of the appropriate engineering review, observation and oversight account be established with the Town of North Greenbush Comptroller.
 - [6] Payment of all municipal review fees.
 - [7] The approved subdivision plat shall be signed by the Planning Board Chairman and filed in the Rensselaer County Clerk's office.

§ 197-13. Principal buildings and uses per lot.

There shall be only one principal building and principal use per lot in R1 Districts.

§ 197-14. Existing undersized lots.

- A. Any lot in a subdivision whose plat has been approved by the Planning Board and/or properly filed prior to the adoption of this chapter shall be exempt from the provisions of this chapter as provided by § 265-a of the New York Town Law.
- B. The provisions of § 265-a of the New York Town Law shall apply only if such lot does not adjoin a lot or lots held by the same owner whose aggregate area is equal to or greater than the minimum lot area required for that district, and all other bulk requirements for that district are to be complied with.

§ 197-15. Required yards.

- A. Corner lots. On a corner lot, each side which abuts a street shall be deemed a front lot line, and the required yard along each such lot line shall be a required front yard. The owner shall decide which of the remaining yards shall be the required side yard and the required rear yard.
- B. Double frontage. For any through lot fronting on parallel or abutting streets, both frontages shall comply with the front yard requirements of the district in which it is located.
- C. Side yards for attached buildings. Side yards for semidetached houses or row houses shall be required at the ends of the total structure.
- D. Distance between principal buildings. If two or more principal buildings are located on the same lot, one building's exterior walls containing windows shall be separated from the nearest point on any adjacent building by a horizontal distance, perpendicular to the wall with windows, equal to at least twice the width of the required side yard for the particular district in which the buildings are located.

§ 197-16. Encroachments.

- A. Accessory buildings.

[Amended 2-13-1997 by L.L. No. 5-1997]

- (1) No accessory buildings shall be constructed in front yards.
- (2) The aggregate ground area covered by accessory buildings, including that covered by any encroachments other than cornices and eaves, shall not exceed 15% of the rear yard area on any residential lot or 50% of the rear yard area on any nonresidential lot.

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- (3) Accessory buildings unattached to principal buildings shall be located no closer to the principal buildings than 12 feet or a distance equal to the height of each accessory, whichever is the greater.
- (4) Setbacks for accessory buildings shall meet the following requirements for both minimum lot size and for the accessory building footprint.
 - (a) As determined by the lot size, all accessory buildings shall have the following minimum setbacks:
 - (a) Lot size of less than 20,000 sq. ft shall be no closer than 3 feet to a side or rear property line.
 - (b) Lot size of 20,000 – 40,000 sq. ft. shall be no closer than 7 feet to a side or rear property line.
 - (c) Lot size of over 40,000 sq. ft. shall be no closer than 10 feet to a side or rear property line.
 - (b) All accessory buildings shall also meet the following setback requirements based upon the size of the accessory building footprint:
 - (a) Accessory building footprint of less than 200 sq. ft. shall be no closer than 3 feet to a side or rear property line.
 - (b) Accessory building footprint of 200-499 sq. ft. no closer than 7 feet to a side or rear property line.
 - (c) Accessory building footprint of 500-999 sq. ft. no closer than 10 feet to a side or rear property line.
 - (d) Accessory building footprint of greater than 1,000 sq. ft. no closer than 20 feet to a side or rear property line.

Editor's Note: The Schedule of Area and Bulk Regulations is included at the end of this chapter as Table 2.

- (5) Two accessory buildings with the ground area covered by any one accessory building not exceeding 1,200 square feet and the ground area covered by both accessory buildings not exceeding 1,600 square feet, may be permitted in a required rear or side yard, provided that the standards in Subsection A(2) are not exceeded. The average roof height of accessory buildings shall not exceed 16 feet in R1, R2, R3 and R4 Zones or 20 feet in all other zones.
 - (6) Any accessory building physically attached to a principal building is deemed to be part of such principal building in applying bulk and setback regulations.
- B. Projections.
- (1) Windowsills, bay windows, cornices, eaves and other similar architectural features shall be permitted to project no more than three feet.
 - (2) Awnings and canopies shall be permitted to project no more than six feet.
 - (3) Open fire escapes shall be permitted to project a maximum of six feet into required side yards, rear yards or courts, but shall not project into required front yards or required open areas and shall not be placed on walls facing toward a street.
- C. Obstructions at street intersections. On a corner lot in any residence district, no fence, wall, hedge, structure or planting over 2 1/2 feet in height or closer than five feet to the ground shall be erected, placed or maintained within the triangular area formed by the intersecting street lines or their projections, where corners are rounded, and a straight line joining said street lines at points which are 50 feet distant from the point of intersection, measured along said street lines and/or projections.

D. Fences and walls.

[Added 2-13-1997 by L.L. No. 5-1997]

- (1) Fences and walls shall not exceed six feet in height when erected in side and/or rear yards.
- (2) Fences and walls shall not exceed four feet in height when erected along a front property line, along a side property line within the minimum front yard setback and within the front yard setback itself, except agricultural fencing, which may be five feet.
- (3) All fences and walls shall conform to the requirements of ~ 197-16C as it pertains to obstructions at street intersections.
- (4) All fences and walls shall be measured from the ground level at the base of the fence or wall, except that with a retaining wall, the height shall be measured from the average of the ground levels at each end of said retaining wall.
- (5) Fences and walls may be constructed of both man-made and natural materials; however, with the exception of agricultural fencing, no fencing or walls shall be made of or incorporate barbed wire, electrified wire or similar types.
- (6) "Razor ribbon" or other similar wire used for security purposes shall be allowed only by special permit by the Zoning Board of Appeals.

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- (7) The ornamental side of any fence, if there is an ornamental side, shall face away from the lot in which it is located.
- (8) A fence or wall associated with a swimming pool shall be considered an integral part of the swimming pool if it is part of the pool construction or within the immediate area of the pool. Fences or walls associated with swimming pools shall be subject to height requirements of ~ 197-12B, Swimming pools.

§ 197-17. Height exceptions.

The height limitations of this chapter, as shown in Table 2, shall not apply to the following structures: church spires; belfries; silos; cupolas; domes not used for human occupancy; chimneys; ventilators; skylights; water tanks; bulkheads and other necessary mechanical appurtenances usually carried above the roof level, parapet wall or cornice for ornament extending above such height limit not more than five feet; radio or television receiving antenna; or a public utility transmission tower or cable. No such uses shall in their aggregate coverage occupy more than 20% of the roof area on which located.

Editor's Note: Table 2 is included at the end of this chapter.

§ 197-18. Accessways.

- A. Access to lots. A lot to be used for building purposes shall have direct frontage on a public street. No portion of any driveway shall be located closer than 30 feet to the intersection of two intersecting streets or roads.
- B. Access to parking areas. Unobstructed and direct accessway between a street and a parking area shall be provided. There shall be a minimum of:
 - (1) One accessway at least eight feet but not more than 12 feet wide for parking areas with five spaces or less.
 - (2) One accessway at least 16 feet but not more than 24 feet wide for parking areas having six to 20 spaces.
 - (3) One accessway at least 24 feet but not more than 30 feet wide or two one-way accessways, each at least 12 feet but not more than 24 feet wide, for parking areas with over 20 spaces.
- C. Access to loading berths. Accessways at least 10 feet in width shall connect all loading berths or areas to a street. Such accessways may be coincidental with access roadways or driveways to parking areas.

ARTICLE VI. OFF-STREET PARKING AND LOADING

§ 197-19. General standards.

[Amended 2-13-1997 by L.L. No. 12-1997]

- A. Any required off-street parking or loading area shall be on the same lot or one contiguous to the principal building.
- B. Required off-street parking areas shall be used only for residential customer or employee parking. No vehicles, trucks, trailers or goods shall be serviced, stored, dismantled or abandoned in any off-street parking area or yard except as provided in ~ 197-20C and 197-21F of this article.
- C. Each required parking space shall be not less than 162 square feet and nine feet by 18 feet in width and length, exclusive of roadways and driveways, except that driveways for single-family residences are considered as part of the parking space.
- D. No parking or loading area shall encroach upon the parking and loading setback delineated in Table 3.

Editor's Note: Table 3 if located at the end of this chapter.

- E. Where off-street parking and loading areas are reviewed by the Planning Board under the provisions of Chapter 155, Site Plan Review, the Planning Board may approve such facilities to be constructed in phases. Such an approval may be granted, provided that the applicant demonstrates to the satisfaction of the Board that the number of parking spaces constructed initially is adequate to meet the needs of the proposed use and that the site plan approved has adequate area set aside for construction of the total required number of spaces in accordance with the standards identified in Table 3.

Editor's Note: Table 3 is located at the end of this chapter.

§ 197-20. Residential parking.

- A. Two parking spaces are required for each single-family dwelling and four parking spaces for each two-family dwelling, and 1 1/2 parking spaces are required per dwelling unit in each multifamily dwelling, regardless of district.
- B. No parking space shall be allowed in the front yard of multifamily residences, but required parking spaces shall be allowed in the front yard of single- and two-family dwellings, regardless of district.
- C. No front or side yard or parking area in an AR or R1 District shall be used for the storage of trucks or trailers, except that one camping or travel trailer and one boat, snowmobile or other utility trailer will be permitted per dwelling unit in the side or rear yard of residential units.

- D. No vehicle may be stored or parked in a front yard which does not have a valid registration sticker properly affixed and valid license plates properly affixed to the vehicle.

§ 197-21. Commercial and business parking and loading.

[Amended 2-13-1997 by L.L. No. 12-1997]

- A. In all Commercial and Business Districts, provisions for parking and loading facilities shall be in accordance with the requirements outlined in Table 3. The ZBA may grant permanent greenspace to be used in lieu of required parking spaces pursuant to an area variance.

Editor's Note: Table 3 is located at the end of this chapter.

- B. Open off-street parking and loading areas shall be screened for adjoining residential lots by walls, fences or hedges of sufficient height to prevent the viewing of parked vehicles by a line of sight originating five feet above any point within the area bounded by the minimum adjoining side or rear yard setback line of such adjoining residential lots.
- C. No parking space shall be within 15 feet of a street right-of-way line.
- D. Entrance and exit drives connecting the parking area and the street shall have at least 60 feet of unobstructed vision in both directions along the street on which they enter.
- E. Commercial parking lots, when allowed by special permit, shall be landscaped in accordance with provisions set forth by the ZBA in cooperation with the Town Engineer and/or Planning Board Consultant, and no vehicle shall be parked within 10 feet of any side property line or 25 feet of any street right-of-way.
- F. New and used vehicle sales lots may be used for the temporary storage of vehicles awaiting sale, subject to the requirements for commercial parking lots of Subsection E above.
- G. All loading areas shall be off street and shall have the following minimum dimensions:
 - (1) Length: 35 feet.
 - (2) Width: 12 feet.
 - (3) Height: 14 feet.

§ 197-22. Industrial parking and loading.

[Amended 2-13-1997 by L.L. No. 12-1997]

- A. For industrial and manufacturing establishments, parking shall be in accordance with the requirements outlined in Table 3.

Editor's Note: Table 3 is located at the end of this chapter.

- B. Open off-street parking and loading areas shall be screened from adjoining residential lots by walls, fences or hedges of sufficient height to prevent the viewing of parked vehicles by a line of sight originating five feet above any point within the area bounded by the minimum adjoining side or rear yard setback line of such adjoining residential lots.
- C. No parking space shall be within 15 feet of a street right-of-way line.
- D. Entrance and exit drives connecting the parking area and the street shall have at least 60 feet of unobstructed vision in both directions along the street on which they enter.
- E. All loading areas shall be off street and shall have the following dimensions:
 - (1) Length: 35 feet.
 - (2) Width: 12 feet.
 - (3) Height: 14 feet.
- F. For facilities located in the IG District which are allowed by right in BG, BN, and PBD Districts, the commercial and business parking and loading regulations shall apply.

§ 197-23. Places of public assembly.

For places of public assembly, such as churches, theaters, bowling alleys, etc., one parking space for each four seats or four persons, based on capacity attendance, whichever is greater, shall be provided.

ARTICLE VII. SUPPLEMENTARY REGULATIONS

§ 197-24. Home Occupations.

[Amended 2-13-1997 by L.L. No. 1-1997]

Home occupations shall be permitted only by special permit and shall be only incidental to the principal residential use. Whether or not a given activity is a home occupation shall be determined by the ZBA in accordance with the guidelines set forth in the definition of "home occupation" in § 197-3B, which contains illustrative activities which constitute home occupations and illustrative activities which are not considered to be home occupations. In addition, the following standards shall be applicable in determining whether or not a home occupation will be permitted:

- A. Any home occupation which may create objectionable noise, fumes, odors, dust, groundwater contamination, electrical or radio-frequency interference or significantly more than normal residential traffic shall be prohibited.
- B. There shall be no exterior indication of the home occupation except that an exterior sign may be permitted pursuant to Article VIII.
- C. No external alterations, additions or changes which may vary the residential appearance of the principal building shall be permitted in order to accommodate or facilitate a home occupation.
- D. There shall be no exterior storage of materials or equipment.
- E. There shall be only one home occupation permitted on any given lot, with such home occupation carried on only by the family residing within the dwelling plus not more than one additional employee at any given time.
- F. The floor area devoted to a home occupation shall not be more than 25% of the floor area of the principal building or 500 square feet, whichever is less.
- G. Parking shall be provided in such a way that there shall be no on-street parking except in sporadic, unusual situations.

§ 197-25. Automotive service facilities.

- A. No fuel pump shall be located closer than 20 feet to any side lot line nor closer than 25 feet to any street line, measured from the outside edge of the fuel island.
- B. The area for use by motor vehicles, except access drives thereto, as well as any structures, shall not encroach on any required yard area.
- C. Minimum distance between gasoline filling stations shall be 1,500 feet.

§ 197-26. Drive-in movies.

Drive-in movies are hereby prohibited except by special permit in BG Districts.

§ 197-27. Mobile home parks.

Mobile home parks are specifically prohibited in all districts except in R4 Districts by special permit or as provided by town legislation directed specifically to mobile home regulation.

Editor's Note: See Ch. 125, Mobile Homes and Mobile Home Parks.

§ 197-28. Cemeteries and crematories.

- A. Cemeteries. No burial or memorial plots or buildings shall be located closer than 50 feet to any residential lot line, except that when a dense evergreen hedge or a wall or fence at least six feet in height providing complete visual screening from all adjacent residential property is provided, burial or memorial plots of less than six feet in height may be located no closer than 20 feet to any residential lot line.
- B. Crematories. Crematories shall be located only in cemeteries.

§ 197-29. Junkyards.

Junkyards are specifically prohibited in all districts except in IG Districts where they may be allowed by special permit.

§ 197-30. Earthwork.

[Amended 6-27-1991 by L.L. No. 6-1991; 2-13-1997 by L.L. No. 7-1997]

A. General.

- (1) Earthwork, as defined in Article II, shall be by earthwork permit only and shall generally include such activities as the excavation and/or filling and/or grading of a site. [Amended 4-13-2006 by L.L. No. 2-2006]
 - (a) The Building Director or the Building Director's designee shall be authorized to issue an earthwork permit for the removal and/or addition of not more than 150 cubic yards of fill or the grading of the site to an extent less than the threshold identified in Subsection B, herein. Separate permits for the removal and/or addition of fill for a single lot shall not total more than 150 cubic yards within a ten-year period.
 - (b) The Building Director shall be authorized to issue an earthwork permit for the removal and/or addition of greater than 150 cubic yards of fill or the grading of a site to an extent greater than the threshold identified in Subsection B herein only under one of the following circumstances:
 - [1] After a special permit has been granted by the ZBA;
 - [2] After site plan approval has been granted by the Planning Board;
 - [3] After subdivision approval has been granted by the Planning Board.
- (2) Fees. Notwithstanding the fee schedule established in Chapter 95 of the Town Code, applications for earthwork shall be in accordance with a fee schedule established by the Town.

B. Earthwork involving the grading of a site:

- (1) Site grading shall be permitted in any district, provided that such grading does not adversely affect any existing drainage system and adjoining properties.
- (2) Where the grading of a site is proposed, finished grade of such site shall not deviate more than eight feet in elevation at any one point thereon from the topographical elevations shown existing at the time of application unless the procedures and requirements outlined in Subsection F of this section have been complied with prior to a concept approval of said site plan.

C. Earthwork where no building construction is proposed. Earthwork involving the removal and/or addition of fill on a site where no building construction is proposed and in an amount greater than 150 cubic yards shall be permitted in any district only after issuance of a special permit by the Zoning Board of Appeals, in accordance with procedures and requirements outlined in Subsection F, of this section.

D. Earthwork for construction of buildings.

- (1) Earthwork involving the removal and/or addition of fill in conjunction with the construction on the same lot of a building for which Planning Board site plan approval has been granted shall be permitted in any district. Such excavations shall include only that which is ordinarily required for the construction of the type of building approved.
- (2) Finished grade of building lots shall not deviate more than eight feet in elevation at any one point thereon from the topographical elevations shown existing at the time of application unless the procedures and requirements outlined in Subsection F of this section have been complied with prior to a concept approval of said site plan.

E. Excavations for development of subdivisions.

- (1) Earthwork involved with the subdivision of land pursuant to a subdivision plat as approved by the Planning Board shall be permitted in any district. Such earthwork shall include only that which is ordinarily required for the development of the type of subdivision approved.
- (2) Finished grade of roads and any area of the site shall not deviate more than eight feet in elevation at any one point thereon from the topographical elevations shown existing at the time of application unless the procedures and requirements outlined in Subsection F of this section have been complied with prior to the preliminary approval of said subdivision.

F. Procedures and requirements.

- (1) Where required, all applications for special permits from the ZBA, and those applications for site plan approval and/or subdivision approval from the Planning Board which exceed the thresholds identified herein, shall consider the following:

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- (a) No excavation of soil or rock shall adversely affect natural drainage or the structural stability and safety of adjoining buildings or lands.
 - (b) Excavations shall not create objectionable dust or noise nor create any kind of noxious or injurious substance or condition or cause a public hazard.
 - (c) Excavations shall not disturb or adversely affect natural drainage, creeks or other bodies, sources and supplies of water, both surface and ground, or adjacent or nearby vegetation.
 - (d) No slope shall be created which slopes down from any adjoining property steeper than one foot vertical to three feet horizontal nor shall any point in the excavation be lower than a line drawn from the adjoining property line on a slope of one foot vertical to three feet horizontal unless an adequate retaining wall is constructed in accordance with plans prepared by a professional engineer licensed to practice in New York State.
 - (e) No fill or embankment shall be created which slopes upward from any adjacent property line steeper than one foot vertical to three feet horizontal nor the highest point of which extends above a line drawn from the adjoining property line on a slope of one foot vertical to three feet horizontal unless an adequate retaining wall is constructed in accordance with plans prepared by a professional engineer licensed to practice in New York State.
- (2) Where required, all applications for special permits from the ZBA, and those applications for site plan approval and/or subdivision approval from the Planning Board which exceed the thresholds identified herein, shall consider the following:
- (a) Property boundaries for the entire parcel affected;
 - (b) Existing topography of the site to be shown by contours at an interval no greater than two feet or spot elevations if contours do not adequately show topographic conditions;
 - (c) Pertinent existing site conditions, including but not limited to streams, drainageways, easements, areas of vegetation, buildings, driveways, water supply and sanitary systems, utilities;
 - (d) Existing off-site structures not less 200 feet from any point on the boundary of the site;
 - (e) Proposed grading of the site, as a result of placement of fill and or the removal of cut material, to be shown by contours at an interval no greater than two feet or spot elevations if proposed contours will not adequately show proposed finished grade surfaces;
 - (f) Written estimates of quantities of materials to be imported and/or removed, including a proposed schedule or duration of activities proposed;
 - (g) Stormwater pollution prevention plan. A stormwater pollution prevention plan (SWPPP) consistent with chapter 165, Stormwater Management and Erosion and Sediment Control, may be required for earthwork permit approval. The SWPPP shall meet the performance, design criteria and standards set forth in Chapter 165. The approved earthwork permit shall be consistent with the provisions of Chapter 165.
- [Added 1-10-2008 by L.L. No. 1-2008]
- (h) Such additional information as the Zoning Board or Planning Board finds necessary to adequately review the submission and discuss with the applicant and public the proposed application.
- (3) If, in the determination of the ZBA or Planning Board, the proposed excavation and fill activities warrant professional review and study, it shall be the option of the ZBA or Planning Board to either require such professional review and study by the applicant or retain such assistance on its own.
- G. Excavations for extraction or mining of mineral resources.
- (1) Excavation for the purpose of extraction of mineral resources, such as sand and gravel pits, soil borrow pits and quarries shall be allowed only in NP Districts by special permit issued by the Town Board. Such special permit application shall include limitations and restrictions as shall be imposed by the Town Board, including proper drainage, noise and dust control and restoration of mined areas to a condition acceptable to the Town Board. Such restoration may include landscaping, seeding and fertilizing.
 - (2) Any application for a special permit under this subsection shall be in accordance with procedures and requirements outlined in Subsection F of this section.

§ 197-31. Livestock, poultry and fur-bearing animals.

[Amended 2-13-1997 by L.L. No. 3-1997]

- A. Permitted by right. The raising or keeping of livestock, poultry or fur-bearing animals shall be allowed by right in AR District.
- B. Permitted only by special permit. The raising or keeping of livestock, poultry or fur-bearing animals shall be allowed in other districts only by special permit where adequate land is available and said operations are only incidental to a single-family occupancy and the products thereof are only for the use or consumption of the occupants.

§ 197-31.1 Caregiver/Receiver Temporary Dwelling Unit.

- A. One dwelling unit serving as a Caregiver/Receiver Temporary Dwelling Unit shall be permitted as an accessory use within a single-family dwelling in any district subject to special use permit approval by the Zoning Board. The Caregiver/Receiver Temporary Dwelling Unit shall be located within the principal building upon the granting of a special use permit by the Zoning Board of Appeals. The certificate of occupancy for the principal use shall clearly identify such Caregiver/Receiver Dwelling Unit and its floor area.
- B. Special Use Permit will be issued for a person or persons. When those person or persons are no longer occupying the unit the special permit will terminate.
- C. In addition to the above, a Caregiver/Receiver Temporary Dwelling Unit shall comply with the following provisions:
 - (1) The Caregiver/Receiver Temporary Dwelling Unit shall be clearly subordinate and attached to the single-family dwelling unit.
 - (2) The number of bedrooms in the Caregiver/Receiver Temporary Dwelling Unit shall be not more than two.
 - (3) The floor area of the Caregiver/Receiver Temporary Dwelling Unit shall be no greater than 1,000 net square feet.
 - (4) The Caregiver/Receiver Temporary Dwelling Unit and the single-family dwelling shall have a safe and proper means of entrance and egress, clearly marked and with a separate walkway, if applicable, for the purpose of fire safety and other uses, and may be assigned separate 911 addresses.
 - (5) In the Caregiver/Receiver Temporary Dwelling Unit there shall be a direct interior access from the Caregiver/Receiver Temporary Dwelling Unit to the primary residence.
 - (6) No more than three (3) persons may reside in the Caregiver/Receiver Temporary Dwelling Unit.
 - (7) Homeowners shall supply proper certification from the requisite authorities having jurisdiction over said property, including but not limited to, the entities approving the sufficiency of the water supply and sewage system to serve both the primary and Caregiver/Receiver Temporary Dwelling Unit. These approvals must be obtained prior to the issuance of a special use permit.
 - (8) Stairways leading to any floor or story above the first floor shall be located within the walls of the building wherever practicable. Stairways and fire escapes shall be located on the rear wall in preference to either side wall. In no instance shall a stairway or fire escape be located on any wall fronting on a street.
 - (9) The homeowner(s) of the single-family lot upon which the Caregiver/Receiver Temporary Dwelling Unit is located shall reside in one of the dwelling units on the premises.
 - (10) Any Caregiver/Receiver Dwelling Unit within a single-family dwelling that is in existence at the time of the adoption of this subsection, but has not received a special use permit or variance from the Zoning Board of Appeals, shall be subject to the provisions outlined above.
- D. Special Use Permit. For newly created Caregiver/Receiver Dwelling Unit, the Homeowner shall make an application for a building permit following approval of the special use permit. The review of such building permit and site/plot plan shall be limited in scope to the physical improvements, impacts and mitigation that are directly caused by and/or related to establishment of the Caregiver/Receiver Dwelling Unit. In no instance shall the approval of a special permit or site/plot plan for a Caregiver/Receiver Dwelling Unit be construed to prevent alterations to the premises that are unrelated to the Caregiver/Receiver Temporary Dwelling Unit, or to require an amendment to the approved special permit and site/plot plan for such unrelated alterations.
- E. Permit Duration. A special use permit issued pursuant to this provision is temporary and shall cease upon notice to or determination by the Town that the Caregiver/Receiver Temporary Dwelling Unit fails to meet any of the requirements of this Section.
- F. Exceptions. Any Caregiver/Receiver Temporary Dwelling unit that was granted a variance by the Zoning Board of Appeals and issued or entitled to a certificate of occupancy on or before the effective date of this section or that existed prior to the adoption of Chapter 16 of the 1981 Code of the Town of North Greenbush, L.L. No. 2-1981, are exempt from the requirements of this section except for paragraphs (9) and (11) of subsection (C) which shall be applicable. Homeowners

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claiming an exemption under this provision shall have the burden of proving the applicability of such exemption in accordance with the above requirements.

ARTICLE VIII. SIGNS

[Amended 1-14-1991 by L.L. No. 9-1991; 2-13-1997 by L.L. No. 2-1997; 7-14-2005 by L.L. No. 4-2005]

§ 197-32. Compliance required.

All signs hereafter constructed, erected, painted or otherwise established, moved, altered or changed shall comply with the following regulations.

§ 197-33. Purpose; definitions.

A. Purpose.

- (1) The purpose of this article is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty and provide a more enjoyable and pleasing community. It is further intended to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more visual open space, and curb deterioration of the community's appearance and attractiveness.
- (2) This article is intended to promote attractive signs which clearly present the visual message in a manner that is compatible with their surroundings. The appearance, character and quality of a community are affected by the location, size, construction and graphic design of its signs. Therefore, such signs should convey their messages clearly and simply to enhance their surrounds.

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

AWNING SIGN

Any visual message incorporated into an awning attached to a building.

DIRECTIONAL SIGN

A sign limited to providing information on the location of an activity, business or event.

FREESTANDING SIGN

Any sign not attached or part of any building but separate and permanently affixed by any other means, in or upon the ground. Included are pole signs, pylon signs and masonry wall-type signs.

PORTABLE SIGN

A sign, whether on its own trailer, wheels, or otherwise designed to be movable and not structurally attached to the ground, a building, a structure or another sign.

PROJECTING SIGN

A sign which is attached to the building wall or structure and which extends horizontally more than 15 inches from the plane of such wall or structure.

SIGN

Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out-of-doors, or on the exterior of any building, or indoors as a window sign, displaying an advertisement, announcement, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia cause when such is placed in view of the general public.

TEMPORARY SIGN

A sign related to a single activity or event having duration of no more than 30 days.

WALL SIGN

A sign which is painted on or attached to the outside wall of a building with the face of the sign in the plane parallel to such wall, and not exceeding more than 15 inches from the face of such wall.

WINDOW SIGN

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A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within four feet of the window.

§ 197-34. Permits; fees.

A permit shall be required for all signs hereafter constructed, erected, painted or otherwise established, moved, altered or changed, unless otherwise exempted in this article, and shall comply with the following regulations:

- A. Permit.
 - (1) Upon the filing of a completed application for a sign permit and payment of the required fee, the Building Director or his designee shall examine the plans, specifications, and other data submitted and the premises on which the sign is to be erected or now exists. If it shall appear that the sign is in compliance with all the requirements of this article, he shall then, within 15 days, issue a permit for the erection of the proposed sign or for an existing sign. The issuance of a permit shall not excuse the applicant from conforming to other laws and ordinances of the municipality. [Amended 4-13-2006 by L.L. No. 2-2006]
 - (2) If the erection of the sign authorized under any such permit has not commenced within six months from the date of issuance, the permit shall become null and void, but may be renewed within 30 days prior to the expiration, for good cause shown, for an additional six months, upon payment of 1/2 of the original fee.
 - (3) Every sign shall bear the permit number, permanently and visibly shown. Failure to do so shall constitute cause for revocation of the permit.
- B. Permit fee. Any sign requiring a permit shall have a permit fee in accordance with § 95-2.

§ 197-35. Exempt signs.

The following types of signs are illustrative of the kinds that may be erected and maintained without permits, or fees, providing such signs comply with the general requirements of this article and other conditions specifically imposed by the regulations:

- A. Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel or similar material; and emblems installed by governmental agencies, religious or nonprofit organizations; not exceeding six square feet.
- B. Flags and insignia of any government, except when displayed in connection with commercial promotion.
- C. On-premises directional signs for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits and similar signs, not exceeding four square feet per face and six feet in height.
- D. Privately owned merchandise sale signs for garage sales and auctions, not exceeding seven days.
- E. Temporary non-illuminated "For Sale," "For Rent," real estate signs and signs of similar nature concerning the premises upon which the sign is located.
 - (1) In a residential zoning district, one sign not exceeding four square feet per side.
 - (2) In a business or industrial zoning district, one sign not exceeding 50 square feet set back at least 50 feet.
- F. Temporary non-illuminated window signs and posters, which shall not exceed 25% of the window space or four square feet, whichever is greater.
- G. One sign not exceeding six square feet in the residential districts nor 16 square feet in the business districts, listing the architect, engineer, contractor and/or owner, on the premises where construction, renovation, or repair is in progress.
- H. Posters. Temporary, nonpermanent posters covering such things as political events, sporting events, shows and elections shall not be displayed until four weeks prior to the event and must be removed within one week after the event. Such posters shall not be placed within the right-of-way of any public highway.
- I. Political posters, banners, promotional devices and similar signs, not exceeding four square feet in the residential districts or 16 square feet in the business districts, providing:
 - (1) Placement shall not exceed 30 days.
 - (2) The names and address of the sponsor and the person responsible for removal are identified.

§ 197-36. General regulations and standards.

- A. Any sign or use of signs not specifically allowed by provision of these regulations may be permitted upon approval of the Zoning Board of Appeals.
- B. No sign shall be located in such a way as to interfere with driver vision or other traffic.
- C. Any illuminated sign or lighting device shall employ only lights emitting a constant intensity, and no sign shall be illuminated by or contain a flashing, intermittent, rotating or moving light or lights. In no event shall an illuminated sign or lighting device

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be placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.

- D. No portable or temporary sign shall be placed on the front or face of a building or any premises, except as otherwise provided herein.
- E. No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices. Included in this prohibition are signs which are mechanically animated, such as moving, rotating or revolving signs. Said devices, as well as strings of lights, shall not be used for the purposes of advertising or attracting attention when not part of a sign.
- F. All signs shall be constructed of wood, metal or other durable material approved by the Building Director or his designee.
[Amended 4-13-2006 by L.L. No. 2-2006]
- G. All signs shall be of simple forms, such as rectangles, squares, ovals or circles. Lettering, coloring, and decorative elements are subject to review and approval by the Planning Board.
- H. No swinging signs which may cause a hazard shall be permitted.
- I. A-frame or sandwich board, sidewalk or curb signs other than exempted temporary signs are prohibited.
- J. All illuminated freestanding signs shall have lighting to the sign turned off within one hour of the close of business.
- K. Signs consisting of letters painted on or attached to a building surface or to a freestanding masonry wall shall be computed by multiplying the average height of the letters by the linear distance from the first letter to the last letter of the sign.
- L. Where advertising material is displayed in a random manner without an organized relationship of elements, each element shall be considered to be a single sign.
- M. Nonaccessory advertising signs, including but not limited to billboards, shall be strictly prohibited, except as temporary and off-site directional signs are provided for in announcement signs.
- N. All nonaccessory signs and sign structures shall be removed within five years of the effective date of this article.
- O. Permanent professional and business signs, whether affixed to buildings or freestanding, that are located on or associated with a shopping center (as defined in § 197-3) or within a contiguous multibuilding commercial/retail development site shall be approved by the Planning Board during site plan review in lieu of the requirements set forth in § 197-37D, E, F and G.

[Added 12-10-2009 by L.L. No. 5-2009]

§ 197-37. Specific sign regulations.

- A. Announcement signs.
 - (1) Announcement signs of clubs, lodges, and public and semipublic buildings shall be not greater than 12 square feet in area and shall be on the premises of the facility, except that a single announcement sign not exceeding six square feet may be located off-premises as a direction sign if the facility is not located on a county or state road or highway. Such signs may be illuminated.
 - (2) Announcement signs of churches, charitable institutions and clubs not exceeding six square feet may be located at strategic entrances to the Town of North Greenbush and other locations as approved by the Zoning Board of Appeals upon written request from the appropriate officials of the facilities. Such signs may be illuminated.
- B. Professional and home occupation signs.
 - (1) Home occupation signs shall not exceed two square feet in area.
 - (2) Such signs must be affixed to the main wall of the building, except that plate signs not exceeding one square foot in area may be placed in the front yard.
 - (3) Such signs may be illuminated, provided that such lighting does not produce a direct glare beyond the limits of the property line.
 - (4) No more than two signs shall be permitted for any residential structure or building.
- C. Exterior advertising.
 - (1) One permanently fixed advertising display or message board may be permitted in BG, BN, H, and IG Districts only by special permit or by Planning Board site plan approval. Such display may be wall-mounted or freestanding.
 - (2) Where permitted, such advertising displays or message boards may only advertise the products or service offered on the premises on which the sign is located and shall meet the following minimum standards:
 - (a) Maximum size per sign face: 20 square feet.
 - (b) Minimum setback from highway right-of-way: five feet.

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(c) Maximum height: eight feet.

D. Business and professional signs in business and industrial districts.

- (1) There shall be no more than two signs per business unit, one of which can be a freestanding sign.
- (2) Such signs or lettering must contain only the name of the lawful owners or occupants or their trademarks as well as services dispensed on the premises. Such signs may contain a street address, phone number and fax number.
- (3) Except as provided in Subsection D(6) herein, the total area of all professional and business signs shall not exceed two square feet per linear foot of width of each store unit. The greatest dimension of any sign shall not exceed 20 feet.
- (4) Such signs may be illuminated, provided that such lighting is not intermittent, does not produce a direct glare beyond the property line and does not use a color or shape which may be confused with official traffic lights or signals.
- (5) Such signs shall not be placed in such a manner as to fully or partially obstruct a Town, county or state highway or sidewalk.
- (6) Where the building is more than 150 feet from the road right-of-way, then the greatest dimension of any sign shall not exceed 1/3 of the linear width of the building or 33 feet, whichever is less.

E. Wall signs.

- (1) The total area of a wall sign shall not exceed 60 square feet.
- (2) Wall signs shall not extend beyond the ends or over the top of the walls to which attached, and shall not extend above the level of the second floor of the building.
- (3) Wall signs shall not extend more than nine inches from the face of the buildings to which attached.
- (4) Any part of a sign extending over pedestrian traffic areas shall have a minimum clearance of seven feet six inches.

F. Projecting signs.

- (1) The total area of a sign face of a projecting sign shall not exceed 20 square feet.
- (2) Projecting signs shall not have more than two faces.
- (3) The exterior edge of a projecting sign shall extend not more than five feet from the building face.
- (4) No part of a projecting sign shall extend beyond the lot line of the premises on which the sign is located.
- (5) Projecting signs shall have a minimum clearance of seven feet six inches. Projecting signs shall not extend above the level of the second floor of the buildings to which attached, or in any case be higher than 12 feet.
- (6) No projecting sign shall be closer than 15 feet to the corner of a building located at a street intersection.

G. Freestanding signs.

- (1) Freestanding signs shall not be more than 32 square feet per side for a double-faced sign.
- (2) Such signs shall not exceed the highest part of the building or 25 feet, whichever is greater.
- (3) No freestanding sign shall extend over or into the public right-of-way, nor shall it overhang the property lines.
- (4) Freestanding signs under which a pedestrian walkway or driveway passes must have a ten-foot vertical clearance.
- (5) Masonry wall-type signs shall not exceed four feet in height and shall not be placed so as to impair visibility for motorists.
- (6) No freestanding sign shall be located less than 15 feet from the front property line nor less than five feet from the side property line. No freestanding sign may be located less than 50 feet from any other freestanding sign.

§ 197-38. Maintenance; review and appeals.

A. Maintenance.

- (1) The owner of any sign shall maintain the same in a safe condition. All signs shall be subject to inspection by the Code Enforcement Officer or his duly authorized representatives and, if found by such inspector to be in an unsafe condition, shall be repaired or removed by the owner. If the owner shall fail to make the needed repairs or removal, the Code Enforcement Officer shall have the authority to have the sign removed at the expense of the owner.

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- (2) It shall be the responsibility of the owner to maintain its appearance in all respects and, where signs constructed upon the ground are permitted by this chapter, to cut the grass or remove any other growth and to remove all rubbish from the base area of the sign.
 - (3) Signs that advertise any activity, business, product or service no longer conducted or available on the premises shall be considered abandoned and shall be removed at the request of the Code Enforcement Officer or his duly authorized representatives. If the sign has not been removed 90 days after the date of a written request, the Code Enforcement Officer shall have the authority to have the sign removed at the expense of the owner.
- B. Review and appeals.
- (1) Any person aggrieved by a decision of the Code Enforcement Officer or his duly authorized representatives to the provision of this article may appeal such decision in writing to the Board of Appeals as provided in the Zoning Regulations and shall comply with all procedural requirements prescribed by such Board.
 - (2) In granting any variance from the provisions of this article, the Board of Appeals must find that the variance is necessary for the reasonable use of the land or buildings, that granting the variance is in harmony with the general purposes and intent of this article, that such will not be injurious to the neighborhood character or otherwise detrimental to the public welfare, and that denial of the variance would result in practical difficulty or unnecessary hardship to the applicant.
 - (3) Any person, firm or corporation, whether as owner, lessee, agent or employee, who proceeds to erect, re-erect, construct or structurally alter any sign without first applying for and obtaining the necessary permit, or who in any other way violates any provision of this article, shall be guilty of an offense and shall be subject to the penalties as established in § 197-54 of the Code of the Town of North Greenbush. Each week's continuous violation shall constitute a separate additional violation.
 - (4) In case of a violation of this article, the municipality and its officers may, in addition to any other remedies specifically conferred by law or ordinance, institute any appropriate proceedings to prevent unlawful erection, construction, reconstruction, alteration or use of any sign not in compliance with this article.

ARTICLE IX. BUFFER AND SETBACK REQUIREMENTS

§ 197-39. Required screening for nonresidential uses.

In all zoning districts, any nonresidential use permitted by this chapter shall be provided with a fence, screen and/or landscaping sufficient to obscure visually objectionable aspects of such use where such nonresidential property abuts a property located in a residential zoning district (R1, R2, R3, and R4). This section shall not apply to agricultural uses.

- A. Any use which is not conducted within a completely enclosed building shall not be located within the required front yard and shall be obscured from view from residential zoning districts in an effective manner, as determined by the Planning Board.
- B. Adequate plans for the installation of required fences, screens and/or landscaping shall be reviewed by the Planning Board in accordance with the provisions of this chapter. The retention and enhancement of existing vegetation, the introduction of substantial new vegetation, and the introduction of earthen berms, only if appropriate, shall be considered the preferred means to satisfy these screening requirements.
- C. Nonresidential uses in the Professional Business District (PBD) and the General Business (BG) District shall be located not less than 50 feet from any residential district boundary or a residential use and an effective visual buffer shall be provided.
- D. Industrial uses shall be located not less than 100 feet from any residential district boundary or a residential use and an effective visual buffer shall be provided.
- E. Any required fencing, screening and/or landscaping installed in accordance with this chapter shall, as a condition of the certificate of occupancy, be maintained in good order to achieve the objectives stated herein.

§ 197-40. RM, RS, AR and AG/RU Districts.

[Amended 5-11-1989 by L.L. No. 7-1989; 2-13-1997 by L.L. No. 4-1997]

Where property in an R4 District abuts property in an R1 or AR District, a minimum buffer of 50 feet shall be required in the R4 Zone. This buffer shall be measured from the district boundary line for a distance of 50 feet into the R4 District. No R4 use shall be located in the buffer zone.

§ 197-41. Setbacks.

Where the property on one side of the street is zoned partly for residential use and partly for business or industrial use, the front yard depth along such street shall be at least equal to the required front yard depth of the residential district.

ARTICLE X. NONCONFORMING USES

§ 197-42. Existing uses.

The lawful and substantial use of any building or land existing as of the second day of March 1971 may be continued although such use does not conform to the provisions of this chapter.

§ 197-43. Unsafe structures.

Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.

§ 197-44. Reconstruction or alteration.

[Amended 6-27-1991 by L.L. No. 7-1991]

A nonconforming building may not be reconstructed or structurally altered during its life without the consent of the ZBA, except that a building that is nonconforming because of minimum lot size or nonconforming yard dimensions may be reconstructed or structurally altered in a manner which does not further encroach on a required yard dimension.

§ 197-45. Extensions.

The extension of a legal nonconforming use shall be allowed by the ZBA only upon the granting of a special permit pursuant to § 197-61 of this chapter and any rules and regulations promulgated thereunder.

§ 197-46. Restoration.

If a building is damaged or destroyed by fire or other causes, the same may be rebuilt and restored within one year from the date of destruction; however, such building or restoration shall be limited to the size of the building destroyed, and the reconstruction and restoration of said building shall be of the same character as the original building, and the use to which said building shall be put shall be to the same use as the prior nonconforming use.

§ 197-47. Discontinuance.

Whenever a nonconforming use has been discontinued for a period of one year or more, such use shall be reestablished only upon the granting of a use variance by the ZBA pursuant to § 197-59 of this chapter and any rules and regulations promulgated thereunder.

§ 197-48. Changes in use.

Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to a use of the same or higher classification, and such use thereafter shall not be changed to a lower classification.

§ 197-49. Displacement.

No nonconforming use shall be extended to displace a conforming use.

ARTICLE XI. ADMINISTRATION AND ENFORCEMENT

§ 197-50. Enforcement officer.

[Amended 4-13-2006 by L.L. No. 2-2006]

This chapter shall be enforced by the Building Director or his designee, who shall be appointed by the Town Board of North Greenbush.

§ 197-51. Building permit.

[Amended 4-13-2006 by L.L. No. 2-2006]

No building shall hereafter be erected or structurally altered within the area covered by the Zoning Map until a permit authorizing the same shall have been issued by the Building Director or his designee.

Editor's Note: The Zoning Map is on file and available for inspection in the office of the Town Clerk.

§ 197-52. Building permit application.

[Amended 4-13-2006 by L.L. No. 2-2006]

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The Building Director or his designee shall require that the application for a building permit be accompanied by a plot plan, building plans and specifications which shall contain all the information necessary to enable him to ascertain whether the proposed building complies with the provisions of this chapter.

§ 197-53. Compliance required.

[Amended 4-13-2006 by L.L. No. 2-2006]

No building permit shall be issued until the Building Director or his designee has certified that the proposed building or alteration complies with the provisions of this chapter.

§ 197-54. Penalties for offenses.

[Amended 1-14-1991 by L.L. No. 9-1991]

- A. Any person who violates or causes to be violated any provision of this chapter shall be guilty of an offense and be punishable as follows:
- (1) For a first offense, by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both.
 - (2) For a second offense, both of which were committed within a period of five years, by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both.
 - (3) For a third or subsequent offense, all of which occurred within a period of five years, by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both.
- B. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate, additional violation.

ARTICLE XII. ZONING BOARD OF APPEALS

§ 197-55. Board established; membership; organization; removal.

There is hereby established a Zoning Board of Appeals (ZBA) to hear and decide appeals pursuant to § 267 of the Town Law and grant special permits as provided by § 197-61 of this chapter. The ZBA shall consist of five members appointed by the Town Board, and the Town Board shall designate its Chairman. A member of the ZBA shall not at the same time be a member of the Town Board. The Town Board may fix the compensation of such members and provide for the payment thereof. The Town Board shall have the power to remove any member of the ZBA for cause and after public hearing.

§ 197-56. Terms of office; vacancies.

The term of office shall be five years except for initial appointment, in which case one member's term shall expire on December 31 of the first year, one member's on December 31 of the second year, etc. A vacancy occurring otherwise than by expiration of term shall be filled by the Town Board by appointment for the unexpired term.

§ 197-57. Rules of procedure; bylaws, forms.

The ZBA shall have the power to make, adopt and promulgate such written rules of procedure, bylaws and forms as it may deem necessary for the proper execution of its duties and to secure the intent of this chapter. Such rules, bylaws and forms shall not be in conflict with nor have the effect of waiving any provisions of this chapter or any other law of the Town of North Greenbush. Such rules, bylaws and forms and any subsequent amendments or supplements thereto shall be submitted to the Town Board by the Board of Appeals for approval. The Town Board must approve, reject or modify such rules, bylaws and forms within 30 days after submission. Failure of the Town Board to so move shall be construed to constitute approval thereof.

§ 197-58. Staff assistance.

The ZBA may employ such clerical or other staff assistance as may be necessary and prescribe their duties, provided that it shall not at any time incur expenses beyond the amount of the appropriation made and then available for that purpose.

§ 197-59. Use variances.

A use variance is one which permits a use of land which is prohibited by the zoning regulations. The ZBA shall have the power to grant use variances upon a finding that a literal application of zoning regulations would result in unnecessary hardship and in accordance with standards and criteria delineated in any rules and regulations of the ZBA as shall be promulgated.

§ 197-60. Area variances.

An area variance is one which involves such matters as setback lines, frontage requirements, lot size restrictions, density regulations, parking and yard requirements. The ZBA shall have the power to grant area variances upon a finding that a literal

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application of zoning regulations would result in practical difficulties and in accordance with standards and criteria delineated in any rules and regulations of the ZBA as shall be promulgated.

§ 197-61. Special permits.

Pursuant to this chapter and as more specifically delineated in Table 1 hereof, certain uses are allowed in given zones only upon the granting of a special permit by the ZBA upon a finding that such permitted use is consistent with the public health, safety and general welfare and subject to appropriate conditions and safeguards, to include the public or commercial inconvenience of the applicant, and in accordance with standards and criteria delineated in any rules and regulations of the ZBA as shall be promulgated.

Editor's Note: Table 1 is included at the end of this chapter.

§ 197-62. Public hearings.

- A. Use or area variances or special permits shall be granted only after public notice and hearing as prescribed by the laws of the State of New York and any local law of the Town of North Greenbush.

Editor's Note: Original ~ 116-63, entitled "Fees," which immediately followed this section, was repealed 3-9-1989 by L.L. No. 2-1989.

- B. Posting of notice.

[Added 7-8-1993 by L.L. No. 2-1993]

- (1) Notice of the hearing required by this section shall also be given by conspicuously posting a sign or signs in the form and manner prescribed by the Building Department on the subject premises which state the time, date and location of the hearing as well as a brief description of the relief requested.
- (2) It shall be the responsibility of the applicant to post such required sign(s) for at least 10 consecutive days prior to the hearing. The applicant shall also take all steps necessary to ensure that such signs(s) remain legible.

ARTICLE XIII. AMENDMENTS; HEARINGS

§ 197-63. Amendments by Town Board.

The Town Board by law from time to time on its own motion or on petition by taxpayers or on recommendation of the Planning Board, after public notice and hearing as prescribed by town law, may amend, supplement, modify or repeal, in whole or in part, this chapter or the boundary of any district established by this chapter.

§ 197-64. Advisory reports by Planning Board.

- A. Any such proposed change in text or zoning district boundary shall first be referred to the Planning Board, which shall submit a written report to the Town Board prior to public hearing thereon by the Town Board. The Planning Board shall submit its advisory report in writing to the Town Board and shall favorably recommend adoption of an amendment or change in this chapter or in a district boundary only if:
- (1) Such change does not conflict with the general purposes, goals and intent of this chapter.
 - (2) Such change is consistent with the Comprehensive Master Plan.
- B. The Planning Board shall submit to the Town Board its advisory report within 45 days after receiving notice from the Town Clerk of the proposed change. The failure to make such report within 45 days shall be deemed to be a favorable recommendation.

§ 197-65. Changes in district boundaries.

An amendment to this chapter involving a change in zoning district boundaries shall become effective only when such change has been duly adopted, drawn on the Official Zoning Map and the proper entry recorded thereon in accordance with ~ 197-5B.

§ 197-66. Effective date of amendment.

If a copy of this chapter certified by the Town Clerk under the Town Seal and showing the date of adoption and entry in the minutes is served personally against a person, an amendment or change shall take effect immediately from the date of such service as against such person.

§ 197-67. Public hearing.

No such change in text or zoning district boundary of this chapter shall become effective until after a public hearing is held in relation thereto at which the general public shall have an opportunity to be heard.

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§ 197-68. Publication of notice.

A notice of the time and place of such hearing shall appear in the designated official town newspaper of general circulation in the town. Such notice shall describe the area, boundaries, regulations or requirements that such proposed change involves.

§ 197-69. Agencies to receive written notice of amendment.

At least 10 days prior to the date of said public hearing, written notice of such proposed change or amendment affecting property within 500 feet of the boundaries of any city, village, town, county or state park or parkway shall be given, in the case of a city, village or town, to the respective Clerk, and in the case of a county, to the Clerk of the County Legislature or other person performing like duties, and in the case of any state park or parkway, to the Regional State Park Commission having jurisdiction. Such city, village, town, county, state park or parkway shall have the right to appear and to be heard at such public hearing with respect to any such proposed change or amendment. Written notice of a proposed change or amendment affecting property shown on the Official Zoning Map as a protective zoned area of a housing project authorized under the Public Housing Law shall be given to the housing authority erecting or owning the project and to the government providing financial aid for assistance thereto at least 10 days prior to the date of public hearing.

Editor's Note: The Zoning Map is on file and available for inspection in the office of the Town Clerk.

§ 197-70. Protests.

A protest against a proposed change or amendment to this chapter must be signed by the owners of 20% or more of the area of the land included in such proposed change or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land. Such change or amendment thus protested shall require the favorable vote of 3/4 of the members of the Town Board to become effective.

Editor's Note: Original ~ 116-72, entitled "Fees," which immediately followed this section, was repealed 3-9-1989 by L.L. No. 2-1989.

ARTICLE XIV. RENSSELAER POLYTECHNIC INSTITUTE REZONING

[Added 7-28-1981 by L.L. No. 4-1981]

§ 197-71. Legislative intent.

The Town Board of the Town of North Greenbush finds that it is in the best interests of the town residents to rezone certain lands owned by Rensselaer Polytechnic Institute in the Town of North Greenbush for the purpose of developing a technology center to be occupied by privately owned corporations that will construct and operate research and development facilities, light industry, provide employment for town residents and increase the town's tax base.

§ 197-72. Purpose.

The purpose of this Article is to amend the Official Zoning Map of the Town of North Greenbush to change the zoning of certain lands owned by Rensselaer Polytechnic Institute, thereby amending ~ 197-5 of the Code of the Town of North Greenbush.

Editor's Note: The Zoning Map is on file and available for inspection in the office of the Town Clerk.

§ 197-73. Title.

This Article shall be known and cited as the "Rensselaer Polytechnic Institute Rezoning."

§ 197-74. Zoning Map change.

Section 197-5, Official Zoning Map, of the Code of the Town of North Greenbush is hereby amended as follows.

Editor's Note: The metes and bounds description of this change is on file in the office of the Town Clerk.

§ 197-75. Conditions.

The zoning changes set forth in ~ 197-74 hereof are hereby granted upon the following conditions:

- A. The subject premises and any buildings, structures and improvements to be situated thereon will be erected, used and occupied for the purposes allowed in an IG Industry District as defined in this chapter, except that the following uses are specifically prohibited:
 - (1) Nuclear power generating plants.
 - (2) Nuclear waste material reprocessing plants.
 - (3) Public transportation garages.

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- (4) Clothing manufacturing.
 - (5) Automobile service establishments, repair facilities, auto laundries, garages, storage, used car lots and similar uses.
 - (6) Animal hospitals.
 - (7) Breweries, building material processing, processing of animal matter, chemical production, furnaces, forges and foundries, heavy fabricating, petroleum processing and commercial laundries.
 - (8) Junkyards.
 - (9) Advertising signs.
 - (10) Landfill and hazardous waste disposal sites.
 - (11) Independent warehousing and distribution operations.
- B. Rensselaer Polytechnic Institute shall keep open and undeveloped an area for a right-of-way approximately 150 feet in width occupying approximately 20 acres of land for an alternate Route 4 until such time as the New York State Department of Transportation resolves the existing traffic problems on Route 4 in the Town of North Greenbush. At this time, Rensselaer Polytechnic Institute will be free to develop this land if unused by the State of New York. Rensselaer Polytechnic Institute and the Town of North Greenbush will be free to release this condition at any time upon mutual consent.
- C. Rensselaer Polytechnic Institute shall record in the Rensselaer County Clerk's office a declaration of restrictive covenants as set forth on Pages 109 through 135 of the draft environmental impact statement, which will be binding upon any and all property owners in this industrial zone. Rensselaer Polytechnic Institute at its sole option may amend any restriction as set forth in the declaration of restrictive covenants so that such restrictions are added to or made more stringent. However, Rensselaer Polytechnic Institute may not permit any variance which would lessen the restrictions absent the prior approval of the Town Board of the Town of North Greenbush, which approval shall not be unreasonably withheld.
- D. Rensselaer Polytechnic Institute will convey to the Town of North Greenbush at such time as the Town Board may request a parcel of land approximately eight to 10 acres immediately south of the Niagara Mohawk Power Corporation right-of-way, with a four-hundred-foot frontage on the Hudson River bounded on the easterly side by the right-of-way of the Troy and Greenbush Railroad, the exact dimensions and description to be determined by an actual field survey, together with an easement approximately 30 feet in width through adjoining lands of Rensselaer Polytechnic Institute to provide ingress and egress for vehicular and pedestrian traffic. This easement shall be conveyed only if the Town of North Greenbush is unable to obtain a similar easement from Rensselaer County to be able to reach the parcel to be conveyed in fee from the public streets in the City of Troy. This parcel shall always be used for municipal purposes, and ownership of the parcel shall revert to Rensselaer Polytechnic Institute if the town shall fail to use the parcel for such purposes. An easement approximately 30 feet in width shall be reserved to Rensselaer Polytechnic Institute for ingress and egress of vehicular and pedestrian traffic.
- E. Rensselaer Polytechnic Institute will convey to the Town of North Greenbush at such time as the Town Board may request a parcel of land of approximately four to five acres with frontage on New York State Route 4 located immediately adjacent to and north of the parcel of land occupied by Millers Animal Hospital, to be used by the Town of North Greenbush as a location for a future town hall or municipal center. This parcel shall always be used for municipal purposes, and ownership of the parcel shall revert to Rensselaer Polytechnic Institute if the town shall fail to use the parcel for such purposes.
- F. The requirements of Article XI of Chapter 163, Subdivision of Land, of the Code of the Town of North Greenbush shall not apply to the lands herein rezoned.
- G. The requirements of §§ 103-7F(1) and 103-10 of Chapter 103, Streets and Sidewalks, of the Code of the Town of North Greenbush shall not apply to the lands herein rezoned with respect to the location of some utilities. Sanitary sewers and storm sewers shall be constructed under the roadbeds of the reconstructed Jordan Road and Glenwood Road.

Editor's Note: The references to §§ 103-7F(1) and 103-10 are to Ch. 103 of the former Code of the Town of North Greenbush. These sections were repealed by L.L. No. 1-1989, adopted 3-9-1989, which local law is included in this Code as Art. II, Street Specifications, of Ch. 159, Streets and Sidewalks.

ARTICLE XV. SENIOR CITIZENS HOUSING DISTRICT

[Added 5-9-1985 by L.L. No. 6-1985]

§ 197-76. Legislative intent.

The Town Board of the Town of North Greenbush finds that it is in the best interests of the town to provide for proper housing of the town's senior citizens. It is hereby recognized that the town has a high proportion of senior citizens living on fixed or limited incomes, many with physical restrictions along with the accelerating costs of maintaining a single-family residence, and the Town Board deems it necessary to provide for such housing within the town.

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§ 197-77. Purpose.

The purpose of this Article is to amend the Zoning Code of the Town of North Greenbush by adding a new zoning district to be known as "SC Senior Citizens Housing District."

§ 197-78. Title.

This Article shall be known and cited as "Senior Citizens Housing District."

§ 197-79. Establishment and approval of district.

The Town Board may, after Planning Board review, public notice and hearing, pursuant to ~ 197-63 of the Code of the Town of North Greenbush, approve the establishment of a Senior Citizens Housing District. Such district may be established in any existing zone. Approval of the district shall be subject to the following conditions.

§ 197-80. Uses; restrictions; regulations.

- A. In a Senior Citizens Housing District no building, premise or part thereof shall be used, erected, altered or occupied except for dwelling units especially designed for senior citizens and handicapped persons.
- B. Occupancy within a Senior Citizens Housing District is limited to senior citizen or handicapped families and to handicapped persons, as defined and discussed below, regardless of race, creed, color, religion or sex.
 - (1) A "senior citizen or handicapped family" means:
 - (a) Families of two or more persons, the head of which (or his or her spouse) is 62 years of age or over or is handicapped;
 - (b) The surviving member or members of any family described in Subsection B(1)(a) above, living in a Senior Citizen Housing District with the deceased member of the family at the time of his or her death;
 - (c) A single person who is 62 years of age or over or a handicapped person between the ages of 18 and 62; or
 - (d) Two or more senior citizen or handicapped persons living together, or one or more such persons living with another person who provides essential care to said senior citizen or handicapped persons based upon a certification of such by a licensed physician provided by the tenant family or prospective tenant family.
 - (2) A "handicapped person" means:
 - (a) Any adult having an impairment which is expected to be of long-continued and indefinite duration, is a substantial impediment of his or her ability to live independently and is of a nature that such ability could be improved by more suitable housing conditions; or
 - (b) A person who is developmentally disabled, i.e., if he or she has a disability attributable to mental retardation, cerebral palsy, epilepsy, autism or another neurological condition found by the United States Secretary of Health and Human Services to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age 18 and which constitutes a substantial handicap to such individual.
 - (3) Nothing herein contained is intended to prevent the occupancy of a dwelling unit by a person employed as a resident custodian who is not otherwise eligible to reside within a Senior Citizens Housing District, along with such custodian's immediate family.
- C. Buildings, accessory buildings or portions thereof shall meet the New York State Uniform Fire Prevention and Building Code for the handicapped.

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

- D. The following special restrictions and regulations apply only to Senior Citizens Housing Districts:
 - (1) The minimum required plot area for a Senior Citizens Housing District shall be two acres.
 - (2) The total building area, including accessory buildings, shall not occupy more than 40% of the total lot area. Accessory buildings shall not occupy more than 5% of the total lot area.
 - (3) The maximum density shall be 20 dwelling units per acre.
 - (4) The minimum habitable space shall be 500 square feet for apartment units and 600 square feet for single-family attached dwellings. Each dwelling unit shall contain at least one bedroom, except efficiency units, which may combine a bedroom and living room into a single room. In such case, the minimum habitable space shall be 415 square feet.
 - (5) Building height shall not exceed the height limit of the zoning district designation in effect at the time of Senior Citizens Housing District zoning application, unless the building is preexisting.

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- (6) Buildings or portions thereof shall be set back from property lines a minimum of 40 feet in front and 40 feet in the side and rear yards.
- (7) Driveways and interior roadways shall not be closer than 20 feet to property lines, except for entrances and exits.
- (8) Parking area location shall be approved by the Planning Board of the Town of North Greenbush as part of its site plan review.
- (9) On-site parking shall be provided at a rate of not less than one parking space for each 1 1/2 units.
- (10) A ten-percent minimum of the parking area shall be landscaped with trees, grass, shrubs or other planting material. A complete landscaping plan indicating all proposed planting shall be part of the site plan review process.
- (11) Site plan review and approval by the Town Planning Board as provided by Chapter 155 of the Town Code shall be required.
- (12) No business or commercial establishments shall be permitted except coin-operated vending and/or service machines for the benefit of the tenants, with a total area thereof not to exceed 500 square feet.
- (13) Additional site development programs may be directed by the Town Board and/or its designee for any specific site and may be required to be formalized as deed covenants and restrictions.

§ 197-81. Time limitation.

Any rezoning permitted by this Article shall be null and void and the zoning of the parcel described therein shall revert back to its original zoning classification unless a building permit is applied for and actual construction commenced within two years from the date of adoption of any rezoning.

ARTICLE XVI. PLANNED DEVELOPMENT DISTRICTS

[Added 5-10-1990 by L.L. No. 3-1990]

§ 197-82. Legislative intent; objectives.

[Amended 2-13-1997 by L.L. No. 13-1997]

A. General.

- (1) The planned development (PD) procedure provides a flexible land use and design regulation for both residential and nonresidential developments through the use of performance criteria so that developments may be designed with sensitivity to the unique characteristics of their site.
- (2) Large scale residential developments are intended to be planned, designed and developed with a mixture of dwelling types as integral units independent of adjacent building sites.
- (3) Nonresidential planned developments are intended to provide a mixture of business and nonresidential uses at a scale, spacing and design which is complementary to the essentially residential character of the Town of North Greenbush.

B. The planned development procedure recognizes that while the typical area and bulk zoning purpose and the subdivision and/or site plan approval process (platting and design) are appropriate for the development of land use in areas substantially already developed, such controls represent a type of rigid and uniform regulation which may be detrimental to the techniques of land development contained in the planned development concept.

C. Conventional area and density specifications set forth by other sections of this chapter are intended to be replaced by application of the planned development procedure as provided for herein to lands upon which the approved plan becomes the basis for control and development.

D. While flexibility in the strict application of standard regulation is encouraged, it is intended that this procedure shall ensure the general welfare through equal treatment under the law as well as precise control of all aspects of the development as approved.

E. In order to carry out the intent of this section, the application for a planned development shall pursue the following objectives:

- (1) Preservation of trees, outstanding natural topography and geologic features, while preventing soil erosion and uncontrolled surface water drainage.
- (2) Preservation and integration of historically significant structures and sites into viable adaptive reuses.
- (3) Incorporation of an adequate and well-designed system of open space and recreation areas intended to tie the planned development together internally and link it to the larger community.
- (4) Efficient use of land, resulting in reduced systems of streets and utilities and thereby lower development and maintenance costs.

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- (5) Creative site design and development planning of a quality that will result in a more desirable environment through improved functional relationships between buildings and uses.
- (6) Provide a maximum choice for residential land uses in occupancy options (e.g., individual ownership, leaseholds, condominiums), housing types (e.g., detached houses, townhouses, garden apartments), lot size and community facilities available to existing and potential town residents.
- (7) Provide a mix of uses of benefit and service to the town's residents in a location compatible with the goals and objectives of the Town of North Greenbush zoning and land use plans.
- (8) Produce a development pattern in harmony with the goals and objectives of the town.
- (9) Design a built environment that is compatible and in keeping with the uses intended in the underlying district, and of a scale and visual character as to be integrated into and compatible with the residential character of the town.

§ 197-83. General design standards.

[Amended 2-13-1997 by L.L. No. 13-1997]

The establishment of a Planned Development District (PDD) must take into consideration the following standards:

- A. Location. A Planned Development District (PDD) may be established at any one location within the town, provided that the objectives and provisions of this article are satisfied as determined by the Planning Board and Town Board and the PDD is consistent with the spirit and intent of the town's zoning and land use plans.
- B. Ownership. The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by the owners of all property included in the project. In the case of multiple ownership, the approved plan and its amendments shall be binding on all owners or their successors in title and interest.
- C. Development area. The minimum development area required to qualify for a residential PDD shall be 25 contiguous acres of land and for a nonresidential PDD shall be 15 contiguous acres of land. In the case of a mixed use PDD, the underlying zoning district shall dictate the minimum size required.
- D. Permitted uses.
 - (1) Permitted residential uses in PDD Districts. All residential uses presently permitted in the Town of North Greenbush may be proposed for development within a designated PDD District in accordance with the provisions of this article and the approved plan of the project.
 - (a) Residences may be of any variety or type as appropriate within the intent and objectives of this PDD regulation and may be of a density prescribed in ~ 197-83E, herein.
 - (b) Private garages, storage spaces, recreational and community facilities shall be permitted as appropriate within the PDD.
 - (2) Permitted nonresidential uses in PDD Districts. The following nonresidential uses may be proposed for development within a designated PDD District in accordance with the provisions of this article and the approved plan of the project. Where proposed, the following guidelines shall apply:
 - (a) Stores and shops for community business, when integrated together, form a unified development of common scale. Such uses may include stationery, pharmacy, dry goods stores; convenience or grocery/fruit and vegetable/meat markets; florist, arts and crafts, antiques, gifts/hobby/photo shops; hardware, garden supply, sporting goods stores; shoes, clothing stores;
 - (b) Professional, governmental and business offices, including medical and dental offices;
 - (c) Personal service establishments serving the community such as hair dressers, barbers, shoe repair, tailors, dressmakers, cleaners (drop-off pick-up only), self-service laundromat;
 - (d) Eating establishments, such as fully enclosed restaurants (exclusive of drive-through establishments);
 - (e) Bakery or other culinary facility where goods made on the premises are sold on the same premises;
 - (f) Bank or other financial service business;
 - (g) Art gallery or movie theatre;
 - (h) Day-care center or nursery school;
 - (i) Indoor recreation, health or fitness facility;
 - (j) Hotel or motel;

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- (3) Commercial, service and other nonresidential uses shall be scaled to serve the residents of the PDD if any, and the surrounding residential neighborhoods. To provide for such a balance in scale:
 - (a) No more than 25% of the total Gross Floor Area (GFA) shall be allowed as a use not complying with the underlying district uses;
 - (b) The gross floor area (GFA) of any one business unit shall not exceed 25% of the noncomplying nonresidential gross floor area (GFA) of the development; and
 - (c) The GFA of any one noncomplying nonresidential use shall not exceed 40,000 square feet
 - (4) Where a nonresidential PDD is proposed, it must be demonstrated that such uses are supportive of the community population in terms of workforce, economic development, design quality and neighborhood character and that such uses are consistent with the town's zoning and land use plans.
- E. Intensity and mix of land use. The density and/or intensity allowed within the planned development shall be determined by the approved planned development plan, except that:
- (1) In any residential planned development the density shall not exceed 150% of that otherwise permitted in the Area and Bulk Schedule for that district. Clustering is encouraged to a maximum localized density equal to that allowed in the R4 District - Multiple.

Editor's Note: The Schedule of Area and Bulk Regulations is included at the end of this chapter.

- (2) In any nonresidential planned development, there shall be no increase in density or gross floor area (GFA) over that which may be achieved in the underlying district or where such use is normally permitted elsewhere in the town; and
 - (3) In either case, there shall be no reduction in the amount of natural and recreational open space as required herein.
- F. Natural and recreational open space.
- (1) Not less than 35% of the total area of any tract developed or proposed to be developed as a residential PDD District, exclusive of the land area used primarily for vehicular modes of transportation and accessory uses, shall remain forever as common property reserved for an open space system. Not less than 35% of the total area of any tract developed or proposed to be developed as a nonresidential PDD District shall remain forever undeveloped as natural open space and/or landscaped area.
 - (2) The open-space system shall be developed to provide the following:
 - (a) Passive and active recreation spaces and facilities adequate to meet requirements based upon projected population and age distribution.
 - (b) Undeveloped open space as necessary to preserve outstanding natural features.
 - (c) Water areas to the extent appropriate for user needs.
 - (d) Such complementary structures, improvements and equipment as necessary and appropriate for the benefit and enjoyment of its users.
 - (3) The approved set of plans/plats for all planned developments shall contain or be supplemented by such material as required to establish the method by which the open space system shall be defined, maintained and administered. The approved plans/plats and other materials shall be construed as a contract between the landowners and the town and shall be specifically noted on all deeds.
 - (a) All land held for open space shall be so designated and noted on the plat.
 - (b) The approved set of plans/plats shall designate the use of open space, the type of maintenance to be provided and a landscape planting plan or schedule. In designating use and maintenance, the following categories may be used:
 - [1] Recreation area. An area designed and developed for a specific recreation use, including but not limited to tennis, swimming, shuffleboard, playfield and tot lot. Such areas shall be maintained so as to avoid creating a hazard or nuisance.
 - [2] Lawn. A grass area with or without trees which may be used by the residents for a variety of purposes and which shall be mowed regularly to ensure a tidy appearance.
 - [3] Natural area. An area of natural vegetation undisturbed during construction or replanted after construction. Such areas may contain pathways. Maintenance may be minimal but shall prevent the excessive growth of weeds and undesirable plants. Litter shall be removed and streams kept in free-flowing condition.

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- (c) Designated landscape planting and recreation development within the open space areas shall be provided by the developer. A performance bond or other guaranty may be required to cover the costs of installation in accordance with this chapter.
- (d) At the pleasure of the Town Board, any of the following methods may be used to preserve, own or maintain the open space areas: fee simple dedication, homeowners' association, condominium, dedication of development rights, formation of a special park district or developer owned. The following specific requirements are associated with each of these methods as well as any other provisions deemed necessary by the Town Board:
 - [1] Fee simple dedication. The town may, but not be required to, accept any portion or portions of the open space, provided that:
 - [a] Such land is freely accessible to the public.
 - [b] There is no cost involved.
 - [c] The town agrees to and has access to maintain such lands.
 - [2] Homeowners' association. The open space may be held in common ownership by a homeowners' association. This method shall at a minimum be subject to all of the provisions for homeowners' associations and such other provisions as may be required by the Town Board.
 - [3] Condominium. The open space may be controlled through the use of condominium agreements. All open space land shall be held as a "common element." Such land shall be eligible for sale to another method of ownership permitted under this section, but only where there is no physical change in the open space. All plats required by this article shall show required open space area, whether this land is to be conveyed or not.
 - [4] Dedication of development rights. The town may accept, but shall not be required to accept, title to the development rights or easements to any portion or portions of open space. In such cases, the land shall remain in the ownership of the individual, condominium or homeowners' association while the development rights are held in public ownership.
 - [5] Special park district. Application must be made in a suitable form for establishment of a special park district. All cost associated with establishment of such a district shall be borne by the developer.
 - [6] For a nonresidential PDD, ownership of all open space designated on the approved site plan may remain with the developer or successive owner(s).
- G. Environmental design. A proposed plan shall be designed in such a manner as to demonstrate a sensitivity toward and minimum disruption of the environment of the site and its surroundings. More specifically:
 - (1) Environmental quality of surrounding lands, air and water shall not be degraded.
 - (2) Mature trees, wooded areas, waterways, scenic vistas, historic sites and structures and other community assets shall be preserved to the extent such preservation is practicable.
 - (3) Excessive grading and clearing of topsoil, trees and natural features shall be discouraged.
 - (4) Design and construction of improvements and structures shall adequately control erosion, slippage, inundation and other environmental effects.
- H. Utilities. All required utilities shall be provided in accordance with applicable town, county and state regulations. Among other actions, the developer shall:
 - (1) Provide water and sanitary sewage disposal facilities in accordance with Rensselaer County Health Department, New York State Health Department and New York State Department of Environmental Conservation requirements.
 - (2) Make application in suitable form to the Town Board for establishment of any special utility district or district extension, as may be required, with the costs incurred in the establishment of such district(s) to be borne by the developer.
 - (3) Provide adequate and decorative lighting for pedestrian walkways, parking areas and streets.
 - (4) Provide stormwater management facilities, to the extent necessary, in accordance with requirements of the town.
- I. Off-street parking. Off-street parking shall conform to the standards set forth within Article VI of this chapter, except that the minimum number of spaces may be reduced if it can be demonstrated that a particular aspect of the PDD makes such reduction appropriate.
- J. Refuse disposal.

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- (1) Refuse storage areas shall be conveniently located and enclosed in structures compatible with surrounding architecture capable of keeping out vermin and animals.
 - (2) If inside storage is to be provided, the location should facilitate pickup.
- K. Transportation.
- (1) Relationship to major transportation facilities. A PDD District shall be so located as to be provided with direct access to major streets, highways or other transportation facilities so as to prevent the generation of traffic along minor streets in residential neighborhoods.
 - (2) Non-vehicular (pedestrian and bicycle) modes shall be included as a primary means of transportation with the PDD and to the adjacent community. Where appropriate, there shall be a network interconnecting the PDD community and linking it to recreation, commercial, community and open space facilities and to the adjacent community.
 - (3) All proposed public roads shall meet all requirements of Chapter 163, Subdivision of Land, and Chapter 159, Streets and Sidewalks, of the Code of the Town of North Greenbush.
- L. Public services.
- (1) A full complement of necessary urban services to accommodate the population in the planned development shall be available or provided by the developer.
 - (2) Consideration shall be given to the impact of the PDD on the school district, the transportation system and facilities, fire protection and the local tax structure. Large-scale development in an area may have to be deferred until the town can properly service such new growth.

§ 197-84. Required procedures.

- A. Whenever any planned development is proposed, the developer or his authorized representative and the landowner(s) shall apply for and secure approval of such planned development in accordance with the procedures detailed in this Article.
- B. This procedure generally combines the environmental impact assessment (SEQR) and the Zoning Map amendment procedure with the platting procedure of the subdivision process and/or the site design procedure of the site plan approval process and is designed to establish a means for:
 - (1) Assessment of the potential environmental impact and compliance with 6 NYCRR Part 617 of the Environmental Conservation Law, Section 8-0113;
 - (2) A change in the existing zoning district to a Planned Development District based upon an approved sketch plan; and
 - (3) Approval of a satisfactory preliminary and final site plan/plat.

§ 197-85. Procedure for establishing district.

A Planned Development District may only be established in accordance with the following procedure:

- A. Pre-application conference. In order to allow the Town Board, Planning Board and developer to reach an understanding on basic concepts and design requirements prior to the preparation of detailed design and engineering plans, the applicant or his representative shall meet informally with representatives of such Boards to discuss the proposed development prior to the formal filing of an application or preparation of a sketch plan. At this stage, the Planning Board shall notify the Town Board of the prospective proposal of a PDD District.
- B. Sketch plan.
 - (1) Based upon the concepts and design requirements developed during the pre-application conference, a sketch plan shall be submitted to the Town Clerk at least 10 days prior to a regular meeting of the Town Board. The sketch plan shall clearly show the following information:
 - (a) The location of the various uses and their areas in acres.
 - (b) The vehicular traffic circulation features, including a general outline of the interior road system and all existing rights-of-way and easements, whether private or public.
 - (c) Description of the various residential areas proposed, indicating the approximate building height, bulk and use for buildings in each such area, including the number of dwelling units, percentage by housing type (single-family detached, duplex, townhouse, garden apartment, etc.) and general description of the intended market (luxury, middle-income, moderate-income, elderly, family units, etc.), plus a calculation of the residential density in dwelling units per gross acre (total area, including interior roadways) for each such area.

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- (d) The interior open space system, including pedestrian circulation within that system.
 - (e) The overall drainage system.
 - (f) Principal relationship to the community at large with respect to transportation, water supply, sewage disposal and other infrastructure.
 - (g) General description of the provision of, and the demands to be placed on, other community facilities, such as schools, fire and protection.
 - (h) A location map showing uses and ownership of all abutting lands.
 - (i) Topography showing contour intervals at not more than five feet.
 - (j) A natural features overlay clearly indicating types of vegetation, soils, natural drainageways and other significant features, vistas, areas subject to flooding, areas of high erodibility, etc.
 - (k) Location and proposed use of any existing structures on property, including those which are historically significant.
- (2) In addition, the following documentation shall accompany the sketch plan:
- (a) The desirability for the proposed land use at the proposed location. The developer shall provide evidence of how the developer's particular land use or mix of land uses meets existing community needs. Such evidence may be in the form of specific studies or reports initiated by the developer or in the form of references to existing studies or reports relative to the proposed project.
 - (b) Evidence that the proposal is compatible with the goals of the town's Comprehensive Plan.
 - (c) General statement as to how any common open space is to be owned or managed.
 - (d) If the development is to be phased, a general indication of how the phasing is to proceed.
- C. Planning Board referral. The Town Board shall refer the application to the Planning Board for review and recommendation.
- D. Planning Board review of sketch plan.
- (1) The Planning Board may require such changes in the sketch plan as are found to be necessary or desirable to meet the requirements of this Article. The Planning Board shall notify the applicant of such changes, if any, and may further discuss those changes with applicant. When all of the necessary application material outlined in this Article has been presented, the Planning Board shall then submit a report to the Town Board recommending that the proposed sketch plan be approved, approved with modifications or disapproved.
 - (2) In its review, the Planning Board may seek the advice and recommendations of designated professional consultants and initiate coordination, as appropriate, with the Rensselaer County Bureau of Planning, the County Health Department, the school district, the local fire district and any other body or agency which the Planning Board deems desirable or necessary. The Planning Board's reasonable expenses for planning, engineering or other professional consultation shall be chargeable to and reimbursable by the applicant.
 - (3) A favorable report of the sketch plan shall not constitute or imply approval of the plan/plat of the development area included in the application. If a plan is approved subject to modifications, such modifications shall be fully set forth in the report. If the plan is disapproved, the report shall clearly and fully state the reasons therefor.
- E. Town Board action on sketch plan.
- (1) Upon receipt of a report from the Planning Board either approving or approving with modifications a proposed sketch plan, the Town Board shall set a date for a public hearing for the purpose of considering PDD districting for the applicant's plan in accordance with the procedures established by the Town Law or other applicable law for such rezoning. Such public hearing shall be conducted within 60 days of the receipt of a favorable report from the Planning Board.
 - (2) If the Town Board grants the PDD districting, the Zoning Map shall be so noted. The Town Board may, if it feels such is necessary in its exercise of the police power, impose additional requirements or conditions upon the plan for the applicant to meet, which may include, but shall not be limited to, visual and acoustical screening, land use mixes, order of construction and/or occupancy, pedestrian and vehicular circulation systems, availability of sites within the area for necessary public services, protection of natural and/or historic sites and other physical or social requirements.
 - (3) Conventional use and bulk regulations for the PDD are replaced by the approved sketch plan and, together with all modifications, are made a prerequisite for approval, in addition to requirements and conditions imposed on the plan as further developed during final site plan/plat approval, in accordance with the procedures set forth in this section.

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- (4) If no application for subdivision and/or site plan review is submitted within the twelve-month period following the creation of the PDD District, the Town Board shall consider a Zoning Map amendment and may return the zoning classification of the property to its former status.

§ 197-86. Fees.

Applications for the establishment and approval of Planned Development Districts shall be in accordance with a fee schedule established by the town.

Editor's Note: See Ch. 95, Fees.

ARTICLE XVII. CLUSTER DEVELOPMENTS

[Added 5-10-1990 by L.L. No. 4-1990]

§ 197-87. Legislative authority.

The Town Board of the Town of North Greenbush hereby elects to adopt the provisions of and exercise the powers granted by ~ 281 of the Town Law and hereby grants to the Planning Board of the Town of North Greenbush the full authority set forth thereby.

§ 197-88. Purpose.

Pursuant to the provisions of ~ 281 of the Town Law of the State of New York, the purpose of this Article is to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, to preserve the natural and scenic qualities of open lands, in order to provide larger areas of open space both for recreational and conservations, purposes and in order to implement objectives of this chapter of the Code of the Town of North Greenbush.

§ 197-89. Procedure.

- A. This Article shall be applicable only to lands zoned for residential purposes in the Town of North Greenbush and which are in the AR Agriculture Residential District under this chapter of the Code of the Town of North Greenbush, but nothing herein shall be construed to limit the existing authority of the Planning Board to control the layout of subdivisions or the design of site plans in any other district or zone.
- B. As provided in ~ 281(a) of the Town Law, if the owner makes written application to utilize the provisions of this Article, the Planning Board may use the authority given to it hereunder. At the discretion of the Planning Board, if in said Board's judgment an application to cluster would benefit the town in a manner outlined in ~ 197-88 above, the Board may require a cluster plan to be prepared.

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

- C. The Planning Board's authority to vary or modify zoning requirements, as limited by Town Law ~ 281 and by this Article, may be employed to impose conditions for the approval of any plat by the Planning Board, without regard to whether the owner makes application for same, if the condition is imposed in order to ensure that the plat complies with any of the requirements of this Article or if the condition is imposed in order to perpetuate the existence of or prevent the despoliation or degradation of environmentally sensitive areas or historic places, whether on or off the site.
- D. This Article shall apply only to land which shall be a contiguous parcel a minimum of five acres in size. In addition, it shall be determined by the Planning Board:
- (1) That such development will not be detrimental to the health, safety or general welfare of persons residing in the vicinity or injurious to property or improvements in close proximity;
 - (2) That the proposed development creates a residential environment that is in conformity with the objectives of this Article;
 - (3) That the application of this procedure shall result in a permitted number of building lots and/or dwelling units which shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot area and density requirements of the zoning requirements of this chapter as applicable to the district or districts in which such land is situated and conforming to all other applicable requirements;
 - (4) That the development would be in harmonious agreement with adjacent residential land uses or developments, if any exist, and, where providing an alternative type or architectural style of housing, would benefit the town; and
 - (5) That the development proposal guarantees permanent retention of open space areas and ensures the care and maintenance of same.

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- E. In approving a plat in accordance with the provisions of this Article, the dwelling units permitted may be, at the discretion of the Planning Board and subject to the conditions set forth by the Town Board, in detached, semidetached or attached structures.
- F. Where applicant can demonstrate that the characteristics of his holdings meet the objectives of this chapter, the Planning Board may consider parcels of lesser acreage.

§ 197-90. Design standards.

A. Density.

- (1) In determining the density for a cluster development, the Planning Board shall first determine the area for which such density calculation shall be made.
- (2) The calculation of the area shall not include easements, existing parks, existing streets or otherwise dedicated land; water areas in excess of 5% of the total gross acreage; lands designated on the Official Map for public purposes; or land undesirable by reason of topography, drainage or adverse subsoil conditions.
- (3) Prior to the establishment of the overall density, the owner shall provide the Planning Board with a sketch plan of the site showing how it may be subdivided in a conventional manner conforming to the requirements of this chapter for that district or districts.
- (4) As stated herein, the overall density established by the Planning Board shall be no greater than would normally be achieved under the standard subdivision development procedure.

B. Open space.

- (1) The application of this procedure shall result in the preservation of land on the plat in its natural state for passive recreational, open space, archaeological or historical resources. The Planning Board, as a condition of plat approval, may establish such requirements on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes. The details as to use and ownership shall be recorded by the owner as required by the town. Such requirements shall be approved by the Town Board prior to final approval and filing of the plat.
- (2) The open space created by the use of the provisions of this chapter must be clearly labeled on the subdivision plat as to its use and the rights of the owners in the subdivision as well as whether it is to be dedicated ultimately to the town or other governmental body or to an approved private or conservation corporation or to a homeowners' association or otherwise under conditions meeting with Planning Board approval. Such open space is to be preserved in perpetuity, and the Planning Board may require an open space easement running to the town as a condition of approval.
- (3) If said lands are to be offered for dedication to the town, the Town Board may require that such conditions be approved by the Town Board before said plan shall be approved for filing.
- (4) Homeowners' association.
 - (a) If the open space or an open space easement therein is not to be dedicated to the town or other governmental authority or to an approved private conservation corporation, the applicant must either simultaneously with the filing of the map create a homeowners' association or neighborhood corporation embracing some or all property owners within the cluster subdivision and providing for adequate contributions for maintenance of said open space or otherwise satisfy the Planning Board with regard to the maintenance of said open space.
 - (b) If a homeowners' association is offered by the applicant and accepted by the Planning Board as the method of maintenance of the open spaces to be preserved, the following must be adhered to:
 - [1] The homeowners' association must be set up before any lots are sold.
 - [2] Membership must be mandatory for each lot buyer and any successive buyer, or each lot created must be legally required by duly filed covenants and restrictions to pay to the homeowners' association a yearly fee to be used for maintenance of the open space.
 - [3] The open space restrictions shall be established in perpetuity or as otherwise approved by the Town Board.
 - [4] The association must be responsible for liability insurance of the volunteer board of directors and lands included in the homeowners' association, local taxes and the maintenance of recreational and other facilities.
 - [5] Property owners must pay their pro rata share of the costs and the assessments levied against the association. Failure to pay such pro rata share can result in a lien being placed on the individual homeowner's property.

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- [6] The association must be able to adjust the pro rata share to meet changing needs.
 - [7] The applicant shall make a conditional offer of dedication binding upon the homeowners' association for all open space to be conveyed to the association, such offer to be accepted by the town, should it so choose, upon the failure of the homeowners' association to take title to the open space from the applicant or other current owner or upon dissolution of the association at any future time.
- C. Uses for open space. The Planning Board may approve uses for open space, and these uses will be clearly indicated on the final map.
- (1) The Planning Board may approve recreational uses such as wooded park areas, bridle paths, hiking trails, etc.
 - (2) The Planning Board may approve conservational uses such as open woodland, wetlands, slopes, escarpments or farm fields.
 - (3) The Planning Board may approve cultural aspects, such as historic places and buildings, archaeological sites and such open spaces as will assure that each of the above cultural aspects is adequately protected in the public interest.
 - (4) Areas for active recreation which are to contain substantial improvements, impervious surfaces and other alteration from their natural state shall not constitute open space hereunder.

§ 197-91. Fees.

Applications for the establishment and approval of cluster developments shall be in accordance with a fee schedule established by the town.

Editor's Note: See Ch. 95, Fees.

ARTICLE XVIII. TRANSPORTATION CORRIDOR OVERLAY DISTRICT

[Added 5-10-1990 by L.L. No. 5-1990]

§ 197-92. District boundaries.

The boundaries of the Transportation Corridor Overlay District shall be as shown on the Official Zoning Map of the Town of North Greenbush, as amended. The district shall include, but not be limited to, those areas where future highway access will be necessary from Interstate 90 to Washington Avenue and New York State Route 4 and from Washington Avenue north through lands now or formerly Rensselaer Polytechnic Institute to New York State Route 4 at Hudson Valley Community College.

Editor's Note: The Zoning Map is on file in the office of the Township Clerk.

§ 197-93. Permitted uses.

Development within the Transportation Corridor Overlay District shall be limited to highway construction until such time as the actual highway or portions thereof are in place.

ARTICLE XIX. SNYDERS LAKE WATERSHED OVERLAY DISTRICT

[Added 5-10-1990 by L.L. No. 6-1990]

§ 197-94. District boundaries.

The boundaries of the Snyders Lake Watershed Overlay District shall be generally as shown on the Official Zoning Map of the Town of North Greenbush, as amended. The district shall include all of the area encompassed by the natural watershed of Snyders Lake and any additional area from which surface water runoff is directed into the watershed.

Editor's Note: The Zoning Map is on file in the office of the Township Clerk.

§ 197-95. District regulations.

Development within the boundaries of the Snyders Lake Watershed Overlay District shall be in accordance with rules and regulations as outlined below:

- A. A permit shall be required for the control of erosion and sedimentation related to land clearing, grading and construction activities associated with the development of any use permitted by right, any use permitted by special permit and any permitted accessory use within any zoning district underlying the Watershed Overlay District.
- B. Application for a permit shall be made in writing to the Planning Board where proposed development involves a site plan or subdivision approval or to the Zoning Board of Appeals where proposed development involves a variance or special permit.

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In all other cases, application shall be made in writing to the Building Director or his designee where proposed development involves a building permit or such other permit as may be deemed appropriate.

[Amended 4-13-2006 by L.L. No. 2-2006]

C. All applications for a permit shall be reviewed by the appropriate Board or by the Building Director or his designee at the same time as any request for approval or permit as described in Subsection B above.

[Amended 4-13-2006 by L.L. No. 2-2006]

D. Review of any permit application shall be in accordance with § 197-96, Erosion and sediment control guidelines, herein. Approval shall be made simultaneously with approvals or permits made as described in Subsection B above.

§ 197-96. Erosion and sediment control guidelines.

These guidelines shall be followed by the permittee in preparing and implementing an erosion and sediment control plan (ESCP) for a project site:

- A. Sediment control practices/measures shall be designed to protect the natural character of streams, lakes or other waterbodies on site and minimize erosion and sedimentation off site from the start of land disturbance activities to establishment of permanent stabilization. The off-site impacts of erosion and sedimentation related to land clearing, grading and construction activities shall not be any greater during and following land disturbance activities than under predevelopment conditions.
- (1) Turbidity. Stream reaches on site and downstream of construction areas shall always remain as clear as the reaches upstream of the construction area.
 - (2) Sedimentation. Sediment-laden runoff shall not be allowed to enter streams either directly or indirectly in such quantity as would result in deposition on stream bottoms.
 - (3) Land clearing.
 - (a) No person shall clear or disturb any land or soil for the purpose of constructing or maintaining an underground utility without first obtaining ESCP approval and permit from the Town of North Greenbush.
 - (b) No more than five acres of raw earth shall be exposed at any one time unless previous earthwork has been graded, limed and fertilized according to soil tests and seeded and mulched in accordance with approved design standards and specifications referenced in Subsection B(6) following.
- B. The permittee shall construct all erosion and sediment control measures in accordance with an approved ESCP, shall have them inspected by the Town of North Greenbush prior to beginning any other land disturbances, shall ensure that all runoff from disturbed areas is directed to the sediment control devices and shall not remove any erosion or sediment control measures without approval from the Town of North Greenbush.
- (1) Land grading.
 - (a) No permanent cut or fill slope with a gradient steeper than 4:1 will be permitted in lawn maintenance areas. A slope gradient of up to 3:1 will be permitted in low-maintenance areas, provided that those areas are indicated on the ESCP showing intended uses with low-maintenance ground cover specified. Slope gradients steeper than 3:1 shall have a combination of vegetative and structural control measures. There shall be no channelized flow of stormwater runoff on gradients steeper than 3:1 without properly designed conveyance structures.
 - (b) The permittee shall ensure that perimeter grading blends with adjoining property. The permittee shall not create new grades below or above the ground level of adjoining property at or before the boundary line, except where a retaining wall is properly designed and constructed entirely on the property of the owner who creates the grading or where the owner has a letter of authorization from the adjoining property owner to extend the slope onto the adjoining property.
 - (c) Where protection of trees and/or other vegetation is required, the location shall be shown on the ESCP. The method of protection should be described.
 - (2) Drainage control.
 - (a) The permittee shall not create a fill which causes water to pond on off-site or adjacent property unless such fill is associated with an approved temporary sediment control structure, permanent stormwater management structure or planned landscape structure and without first having obtained ownership or easement for such use from the owner of the off-site or adjacent property.
 - (b) Runoff from any land-disturbing activity shall not be discharged or have the potential to be discharged onto adjacent property not owned by the permittee (or his/her client) or into storm drains or watercourses unless

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such discharge is directed through an accepted, properly designed, installed and maintained structure to retain sediment on site.

- (c) For the finished grading, the permittee shall provide adequate gradients so as to:
 - [1] Prevent water from standing on the surface of lawns for more than 24 hours after the end of a rainfall, except in a swale flow area, which may drain as long as 48 hours after the end of a rainfall; and
 - [2] Provide positive drainage away from all building foundations or openings.
 - (d) Permanent swales or other points of concentrated water flow shall be stabilized with sod or seed with an approved erosion control matting as protective covering.
 - (e) Surface flows over cut and fill slopes shall be controlled either by redirecting flows from traversing the slopes or by installing mechanical devices to lower the water downslope without causing erosion. Dikes shall be installed and maintained at the top of cut or fill slopes until the slope and drainage area to it are fully stabilized.
- (3) Timing.
- (a) Except as noted below, the permittee shall apply sod, seed, mulch or other approved stabilization measures to all disturbed areas within 15 calendar days after stripping and grading activities have ceased on that area. Maintenance shall be performed as necessary to ensure continued stabilization.
 - [1] Active construction areas such as borrow or stockpile areas, roadway improvements and areas within 50 feet of a building under construction may be exempted from this requirement, provided that erosion and sediment control measures are installed and maintained to protect those areas.
 - [2] On cut sides of roads, ditches must be stabilized immediately with rock riprap or other nonerodible liners or, where appropriate, vegetative measures such as sod. Where seeding is approved, an anchor mulch must be used and soil must be limed and fertilized in accord with soil test recommendations.
 - [3] During the months of October 15 through March 15, when seeding and sodding are found to be impractical, an approved mulch shall be applied. In such cases, seeding shall be completed prior to the following May 20.
 - [4] All slopes steeper than 3:1, basin or trap embankments and perimeter dikes shall be stabilized with sod, seed and anchored straw mulch or other approved stabilization measures within seven calendar days of establishment. Areas disturbed outside of the perimeter sediment control system shall be minimized and immediately stabilized with approved measures. Maintenance shall be performed as necessary to ensure continued stabilization.
 - (b) Temporary sediment trapping devices shall be removed within 30 calendar days following establishment of permanent stabilization in all contributory drainage areas. Stormwater management structures used temporarily for sediment control shall be converted to the permanent configuration within this time period as well.
 - (c) The ESCP shall include a construction sequence which states that clearing for and installation of required sediment control measures shall be completed and inspected prior to commencing any other land-disturbing activities. Installation of storm drainage, utility construction, installation/conversion of stormwater management structures, temporary and permanent stabilization shall be included in the sequence with other construction activities. The sequence shall include removal of temporary sediment control measures with prior inspection and permission by the Town of North Greenbush.
- (4) Stream protection.
- (a) The permittee shall protect the bed and banks of all on-site and off-site streams that may be impacted by on-site land clearing, grading and construction activities to prevent stream bank erosion, stream enlargement and degradation or loss of fisheries habitat.
 - (b) Stormwater control and mitigation measures shall be required where increased flow rates from land clearing, grading and construction activities may cause accelerated erosion in a natural stream channel or drainage course. When in-stream measures are required, a DEC fisheries habitat technician should be involved with the planning and design of such measures.
 - (c) Where work roads or haul roads cross stream channels, temporary crossings maintaining adequate waterway openings must be constructed using spans, culverts, clean methods that will ensure that road construction and use does not result in turbidity and sediment downstream.
- (5) Maintenance.

- (a) The permittee shall inspect periodically and maintain continually in effective operating condition all erosion and sediment control measures until such times as they are removed by permission from the permit-issuing authority.
 - (b) The permittee shall protect all points of construction ingress and egress to prevent the deposition of materials onto traversed public thoroughfare(s) either by installing and maintaining a stabilized construction entrance or by washing all vehicle wheels in a safe disposal area. All materials deposited onto public thoroughfare(s) shall be removed immediately.
- (6) Design specifications. The following design standards and specifications are acceptable for use and shall be identified and shown in the ESCP to be approved by the Town of North Greenbush:

Empire State Chapter, Soil & Water Conservation Society, New York
Guidelines for Urban Erosion and Sediment Control, Syracuse, March 1988.

ARTICLE XX. PLANNED WATERFRONT DEVELOPMENT DISTRICT

[Added 6-14-1990 by L.L. No. 13-1990]

§ 197-97. Purpose.

It is the purpose of the Planned Waterfront Development District (PWDD) to encourage a mix of water-dependent and -enhanced uses which benefit from or take advantage of proximity to the river. Development of these uses will be subject to standards and a review process which provide that environmental features, including steep escarpments and ravines, wetlands, riverflats and indigenous vegetation, are protected and that opportunities for public access to the riverfront are retained and enhanced. It is also intended that landowners be provided with the ability to develop such a planned use development as an incentive for providing public access and amenities to and along the river.

§ 197-98. Legislative authority.

This Article is adopted under the authority of the Municipal Home Rule Law and Article 42 of the Executive Law, entitled the "Waterfront Revitalization of Coastal Areas and Inland Waterways Act."

§ 197-99. Supersession of statute.

In addition to the powers and duties conferred upon the Planning Board pursuant to Article 16 of the Town Law, ~ 27-a of the Town Law is superseded to empower the Planning Board to review and approve, disapprove or approve with modifications designs and plans for a planned use development within the PWDD.

§ 197-100. Considerations for review.

In conducting its review of the proposed planned unit development, the Planning Board shall be guided by the same considerations applicable in the case of site plan review, as well as the Local Consistency Law and the Town of North Greenbush Local Waterfront Revitalization Program.

§ 197-101. District boundaries.

The district shall include all lands within the town between the eastern shore of the Hudson River and the one-hundred-fifty-foot contour line or a line 2,000 feet from the eastern shore, whichever is closest to the shoreline. The Official Zoning Map shall be amended in accordance with this Article to clearly demarcate the district.

§ 197-102. Permitted uses.

A. Uses permitted by right. The following uses are permitted by right:

- (1) One-family residences and customary residential garages and sheds in compliance with the following area and bulk regulations:
 - (a) Minimum lot area: one acre.
 - (b) Width at setback: 200 feet.
 - (c) Front, side and rear setbacks: 50 feet.
 - (d) Maximum lot coverage percentage: 10%.
 - (e) Maximum building height: three stories, but not to exceed 40 feet.

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- (f) Maximum building coverage (living quarters only): 600 square feet.
- B. Uses permitted in a planned use development.
 - (1) The following uses are permitted in a planned use development upon approval of site plans in accord with the standards and procedures set forth below and in ~ 197-104 below:
 - (a) Marinas, boat launches, docks and similar public and private recreational uses.
 - (b) Facilities for the transfer of passengers between waterborne transportation and other means of transportation.
 - (c) Hotels, conference centers, offices, restaurants and supporting facilities.
 - (d) Cultural, educational and scientific uses.
 - (e) Navigational aids and shoreline protection structures.
 - (2) The following uses are permitted as part of a planned use development subject to issuance of a special permit by the Planning Board, subject to the criteria set forth in ~ 197-105 below:
 - (a) Residential uses.
 - (b) Uses not listed in Subsection A above which support or are deemed appropriate as part of the total site development master plan and the Local Waterfront Revitalization Program.

§ 197-103. Development standards.

- A. No structure shall exceed 40 feet in height. The Planning Board may authorize structures up to 80 feet in height, provided that the Planning Board makes written findings that both of the following are satisfied:
 - (1) The town official responsible for fire prevention has certified that the town has appropriate equipment to provide adequate fire-fighting services for such structures; and
 - (2) The wooded backdrop of the escarpment is not interrupted in a way that would diminish the visual relief it provides from adjacent urban development nor in a way that would make the town's waterfront area simply a continuation of this development.
- B. All structures shall be set back at least 40 feet from the river's edge except for those structures which house or are water-dependent uses as defined in the Town of North Greenbush Local Waterfront Revitalization Program.
- C. Total coverage by roads, rooftops, parking lots or other impermeable surfaces shall not exceed 1/3 of the gross site area of all lands west of the railroad and held in single ownership on the effective date of this Article. This ratio shall be maintained regardless of future subdivision of the site.
- D. With the exception of one access road and related improvements, no permanent structure shall be located in any area where the average grade for a distance of 50 feet exceeds 10%.
- E. Parking shall be provided in accord with the following standards:
 - (1) Marinas: two spaces for every three slips.
 - (2) Hotels and conference centers: 1.5 spaces per room.
 - (3) Residential: 1.5 spaces per dwelling unit.
 - (4) Uses not listed: based on the analysis of the specific use and its traffic-generating characteristics.
 - (5) Joint use of spaces: In the case of two or more uses located on the same site, the sum of the space required for all uses individually may be reduced to an amount no less than 125% of the largest number of spaces required by any single use, upon a determination by the Planning Board that such a reduced amount of parking space will be adequate to serve all uses on the lot due to their different character and hours of operation.
- F. No sign shall be visible from beyond the site with the exception of one unlighted sign not to exceed 20 square feet in area or 10 feet in height.

§ 197-104. Site plan review.

- A. Site plans for all uses shall be required in accord with the provisions of Chapter 155, Site Plan Review, of the Town Code.
- B. In its review of site plans, the Planning Board shall consider the following guidelines:
 - (1) The location, design, color and materials of buildings should be such as to minimize their visibility from the river and the opposite shore.

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- (2) Existing vegetation should be preserved to the greatest extent feasible where it provides natural screening, contributes to wetland or wildlife resources or is a significant or unusual species. New plantings should be used to maintain the natural, informal aspect of the site.
- (3) All utilities shall be placed underground to the maximum extent feasible.
- (4) Lighting should be spaced, shielded and directed to minimize glare and visibility from the river and the opposite shore.
- (5) Marina design should consider prevailing winds and navigation patterns, include at least one boat-launching facility and utilize natural vegetation and existing waterways as appropriate to minimize disturbance along the river shore. Marinas shall be designed to maintain proper circulation and flushing and avoid creation of "dead" areas. Marina sanitation pumpout facilities shall be provided in any marina; rest rooms available to the public shall be provided in any marina open to the general public.
- (6) A public walkway shall be provided from the Town Park through the site to the City of Rensselaer line. Such walkway shall be within a thirty-foot nonextinguishable easement to the Town Board for the people of and visitors to the Town of North Greenbush. The walkway shall be generally located between the developed portion of the site (buildings and parking lots) and the water's edge, shall be integrated with natural features such as mature vegetation and wetlands and shall provide opportunities for views to the river and the wetlands. Walkways shall also be screened from adjacent service areas, shall be suitably surfaced for pedestrian use and shall be provided with benches, lighting and observation points at appropriate locations.
- (7) Proposals for the access road shall include the following:
 - (a) Identification of pertinent visual analysis factors, such as landscape characteristics; areas where a concentration of viewers is likely, such as parks and recreation areas; prominent landforms which have inherent scenic qualities and/or could result in high visibility of the road if traversed; and routing factors, such as the use of vegetation and topography for screening and backdrop effects; and
 - (b) Analysis of the road alignment in terms of compatibility with existing features (form, scale); enhancement or degradation of the overall landscape quality; impact where there are likely to be high numbers of viewers; and visibility of the road in terms of degree, distance and place in the landscape (foreground, background). This analysis should take into consideration the visual compatibility of the proposed road with existing and proposed natural and artificial features along the waterfront.

§ 197-105. Special permit uses.

In addition to the criteria set forth in ~ 197-61, the following criteria shall apply to uses listed in ~ 197-102B above:

- A. All uses permitted subject to a special permit shall comprise no more than 20% of the gross occupied floor area on the site at any time.
- B. Any use not specifically listed as permitted by right shall only be allowed upon a finding that is integrally related to other site uses, consistent with the purpose of this district and conforms to the schematic master plan for the site and the town's Local Waterfront Revitalization Program.

§ 197-106. Environmental review.

No site plan shall be approved for any uses which will result in cumulative development in the district exceeding 5,000 square feet of floor area or 25 parking spaces until the following actions have been completed:

- A. A schematic site master plan has been prepared for the entire site held in single ownership on the effective date of this article, indicating the approximate size, height and location of structures, systems of vehicular and pedestrian circulation and parking, the location and general character of open space and recreation facilities and the general design and location of utility systems. The purpose of the schematic master plan is to provide a sufficient basis for evaluation of potential environmental effects as required in Subsection B below; it is not intended to be a detailed design nor an approval action by the town, but, rather, to establish the basic parameters within which future detailed design and development will take place.
- B. A generic environmental impact statement (GEIS) shall have been prepared based on the schematic site master plan and, along with the requirements of SEQRA and its regulations, shall include the following elements:
 - (1) An analysis of the impact on the wetlands and wildlife habitats, including plans to restore and/or enhance existing features, and measures to mitigate identified impacts.
 - (2) Analysis of the visual impact of development as viewed from the Hudson River and the opposite shore.
 - (3) Evaluation of the impacts of site disturbance, drainage patterns, erosion protection measures and site maintenance and usage on water quality in the river.
 - (4) Analysis of the impacts of road construction, drainage improvements and vegetation removal on the unstable soils of the steep slopes above the river and mitigation measures to prevent adverse impacts.

ARTICLE XXI. TELECOMMUNICATIONS TOWERS

[Added 1-8-1998 by L.L. No. 1-1998]

Editor's Note: This local law also provided that it supersedes L.L. Nos. 17-1997, 19-1997 and 21-1997 of the Town of North Greenbush, §§ 130, 261 through 269 and 274-a of the Town Law and Executive Law § 381 to the extent inconsistent with the same and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law or any other statute.

§ 197-107. Regulations for telecommunications towers.

A. Enabling authority.

- (1) The Planning Board of the Town of North Greenbush is hereby authorized to review and approve, approve with modifications or disapprove site plans consistent with this section, the regulations of the Town of North Greenbush and Town Law §§ 274-a and 274-b.
- (2) The Zoning Board of Appeals of the Town of North Greenbush is hereby authorized to review and approve, approve with conditions or disapprove special permit applications consistent with this section, the regulations of the Town of North Greenbush and Town Law §§ 274-a and 274-b.

B. Purpose.

- (1) The purpose of these supplemental regulations is to promote the health, safety and general welfare of the residents of the Town of North Greenbush, to provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations, to protect the natural features, aesthetic character and property values of the town, and to minimize the number of telecommunications towers in the town by encouraging shared use of existing and future structures.
- (2) These regulations are not intended to prohibit or have the effect of prohibiting the provision of any federally licensed communications services nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

C. Application.

- (1) No transmission tower shall hereafter be used, erected, moved, changed or altered except in conformity with these regulations. No existing structure shall be modified to serve as a transmission tower unless in conformity with these regulations.
- (2) Applicants planning to construct new tower(s) or tall structure(s) must obtain a special permit from the Zoning Board of Appeals and site plan approval from the Planning Board.
- (3) Applicants planning to collocate on a previously approved telecommunications tower or construct facilities upon an existing tall structure must obtain site plan approval from the Planning Board.
- (4) No telecommunications towers may be approved upon any property within R1, R2, R3 or R4 zones (See § 197, Table 1).
- (5) Where these regulations conflict with other laws and regulations of the town, the more restrictive shall apply.

D. Exceptions. Exceptions to these regulations are limited to new uses or modifications to existing uses which are accessory to residential uses, and lawful or approved uses existing prior to the effective date of these regulations.

E. New towers; future shared use. The applicant shall design a proposed new telecommunications tower to accommodate future demand for similar reception and transmitting facilities. The applicant shall submit to the Board a letter of intent committing the owner of the proposed new tower and its successors in interest to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the Building Inspector prior to the issuance of a building permit. The letter shall commit the new tower owner and its successors in interest to:

- (1) Respond within 90 days to a request for information from a potential shared-use applicant.
- (2) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers.
- (3) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. Said charges may include but are not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, and depreciation, and all of the costs of adapting the tower or equipment to accommodate the shared user(s).

F. Site plan submission requirements for new towers.

- (1) Required submissions. An applicant proposing to construct a new tower shall submit a site plan as described in Town Code Chapter 155 (Site Plan Review). The site plan and supporting documentation shall include:
 - (a) Special permit approval.

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- (b) A site plan showing all existing and proposed structures and improvements including towers, antennas, roads, accessory facilities, parking, landscaping and any proposed screening methods.
 - (c) Engineering documentation describing the capacity for additional antennas and radio-frequency equipment.
 - (d) A visual environmental assessment form (EAF) with particular attention to visibility from key viewpoints within and outside of the municipality as identified within the visual EAF.
 - (e) A complete inventory of existing towers and other structures over 75 feet in height within one-half mile of the proposed site.
 - (f) A report demonstrating good faith efforts to secure shared use upon all structures identified in Subsection F(1)(e) which are of sufficient height and mechanical stability to support the proposed use or can be modified to meet the applicant's needs; and also justifying why the remainder cannot be outfitted to meet its requirements. Written requests and responses for shared use shall be provided.
 - (g) A report detailing the applicant's long-range plans for additional facilities within the town.
 - (h) A copy of applicant's Federal Communications Commission (FCC) license.
- (2) Visual impact assessment. The Planning Board may require the applicant to undertake a visual impact assessment which may include:
- (a) A Zone of Visibility Map indicating locations where the tower will be seen.
 - (b) Pictorial representations of "before and after" views from key viewpoints both inside and outside of the town.
- G. Site plan submission requirements for sharing existing facilities.
- (1) Required submissions. An applicant proposing to share use of an existing tall structure shall submit a site plan as described in Town Code Chapter 155 (Site Plan Review). The site plan and supporting documentation shall include:
- (a) A letter of intent from the owner of the existing facility to allow shared use by the applicant.
 - (b) A site plan showing all existing and proposed structures and improvements including towers, antennas, roads, accessory facilities, parking, landscaping and screening methods.
 - (c) In the case of use on a structure not originally designed as a telecommunications tower, a report, prepared by a New York State licensed professional engineer specializing in structural engineering, certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure and explaining what modifications, if any, will be required in order to certify to the above.
 - (d) A completed short EAF with completed visual EAF addendum.
 - (e) A copy of the applicant's FCC license.
- H. New tower design standards.
- (1) Setbacks. New towers and antennas shall comply with all existing setbacks within the affected zone. Furthermore, a minimum one-hundred-foot setback shall be required where the site adjoins residential or public property. Setbacks shall apply to all tower parts including guy wire anchors and to any accessory facilities.
- (2) Visual impact.
- (a) Siting. All new towers and accessory facilities shall be sited to have the least practical adverse visual impact upon the environment.
 - (b) Lighting and painting. New towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). New towers shall be a galvanized finish or painted gray above the surrounding treeline and painted gray, green, black or similar colors designed to blend into the natural surrounding below the surroundings treeline unless other standards are required by the FAA. New towers shall be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements pursuant to 47 CFR Part 17.
 - (c) Materials. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.
- (3) Existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place prior to approval of the site plan. Clear-cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.

- (4) Screening. Where the site abuts residential or public property, including streets, and includes construction of a new tower or an increase in height of an existing structure, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least 10 feet in height within two years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival.
 - (5) Access and parking. A road and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than 10 feet beyond the edge of any pavement. Roads shall be designed to minimize visual disturbance, soil erosion and excavation. Public road standards may be waived in meeting the objectives of this subsection.
 - (6) Consulting engineering services. The Planning Board may request a review of the application by a qualified engineer in order to evaluate the need for and/or the design of any new tower. The cost of this review shall be borne by the applicant.
 - (7) Signs. No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to company name, phone numbers, banners and streamers.
- I. Authority to impose conditions. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed site plan.
 - J. Removal. Before a building permit may be issued for the construction of a new tower, the applicant must first submit to the Building Inspector a letter of intent committing the tower owner and its successors in interest to notify the Building Inspector within 30 days of the cessation of service operation from the tower. Telecommunications facilities, including but not limited to antennas, towers and accessory structures, shall be removed from the site within one year of the expiration or forfeiture of the FCC license governing their operation.
 - K. Definitions. As used in this section, the following terms shall have the meanings indicated:

ANTENNA

A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, wireless and microwave communications. The frequency of these waves generally range from 20 kilohertz to 300,000 megahertz.

TELECOMMUNICATIONS ACCESSORY FACILITY

An accessory facility serves the principal use, is subordinate in area, extent and purpose to the principal use and is located on the same lot as the principal use. Examples of such facilities include transmission equipment and storage sheds.

TELECOMMUNICATIONS TOWER

A structure upon which transmitting and /or receiving antennas are located.

ARTICLE XXII. COMMERCIAL DISTRICT

[Adopted 5-13-2004 by L.L. No. 5-2004]

§ 197-108. District boundaries.

The boundaries of the Commercial District shall be shown on the Official Zoning Map of the Town of North Greenbush, as amended.

§ 197-109. Purpose of District.

This District encompasses developable lands in the area of the intersection of Routes 4 and 43, both major travel corridors in the Town. The purpose of this District is to provide for integrated, large-scale commercial and office development of these parcels. Development of these parcels shall be governed by design guidelines contained in Chapter 155 of the Town Code (Site Plan Review) and design requirements located in this Zoning Law, the intent of both being to govern the form, appearance and impact of development. It is the intent of this District that necessary traffic improvements be constructed concurrent with new development in order to provide adequate capacity on area roadways.

§ 197-110. Permitted uses.

The permitted uses in this District shall be set forth in Zoning Law Table 1, "Schedule of Use Regulations".

§ 197-111. Area requirements.

- A. Minimum lot size: five acres.

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- B. Minimum width at setback: 400 feet.
- C. Minimum front setback: 50 feet.
- D. Minimum side setback: 50 feet.
- E. Minimum rear setback: 50 feet.
- F. Maximum lot coverage: 75%.
- G. Minimum greenspace: 25% (inclusive of interior and exterior parking lot landscaping).
- H. Maximum building height: three stories/45 feet.

§ 197-112. Parking requirements.

The parking requirements in this District shall be set forth in Zoning Law Table 3, "Schedule of Parking and Loading Regulations".

§ 197-113. Design requirements and design guidelines.

Development within the District is subject to both objective and subjective requirements. The objective requirements are those that are readily measurable or quantifiable. These requirements are located in this Zoning Ordinance and are denominated "design requirements." The subjective requirements, known as "design guidelines" are those that regulate nonmeasurable matters and are located in the Site Plan Review Ordinance and are to be applied by the Planning Board during the site plan review process.

Editor's Note: See Ch. 155, Site Plan Review.

- A. District characterization. This District is located astride two busy state highways with steadily growing traffic volumes. It is a desirable area for commercial or office development. Residential neighborhoods adjoin the District primarily to the east. These neighborhoods are affected by increasing traffic volumes and could, in the future, be affected by other aspects of retail or office development. The district presently lacks cohesion and architectural focus. Existing new commercial development is characterized by large parking lots located in front of big box stores. Presently there are few internal connections between developments. There are no sidewalks, and the District presently is unfriendly to pedestrians.
- B. District objectives.
 - (1) Provide a landscaped edge and pedestrian accessibility to both sides of the Route 4 and 43 corridor, restoring the highway as a desirable and attractive feature.
 - (2) Provide for a unity of architectural expression at the Route 4/43 intersection in order to create a focal point and a hamlet center.
 - (3) Provide adequate buffering and other protection for adjoining residential uses.
 - (4) Provide for connection between parcels wherever practical.
 - (5) Reduce signage clutter.
 - (6) Minimize the adverse impacts of parking.
- C. The design requirements are as follows:
 - (1) Street edge. Provide a landscaped street edge along Route 4 and 43. Provide street trees of at least 2.5 inch caliper (as that term is defined by the American Association of Nurserymen) 35 feet on center.
 - (2) Interior parking lot landscaping.* Interior parking areas shall be landscaped in addition to the required landscaped street edge. Trees must be provided in each parking lot at a minimum average density of one shade tree (2.5 inch caliper) for each 15 parking spaces, or any fraction thereof. Additionally, interior parking lot landscaping shall be provided in accordance with the following table:

Total Parking Area (square feet)	Interior Landscaped Area
Less than 24,999	5%
25,000 to 49,999	8%
50,000 or larger	10%

- (3) Exterior parking lot landscaping.* A landscaped strip shall be provided around the perimeter of the site exclusive of driveways. The landscaped strip shall be a minimum of five-feet-wide for sites 10,000 square feet or greater and three-feet-wide for sites less than 10,000 square feet, except for any area abutting Route 4 or 43, in which

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case the requirements of Subsection C(1) (Street edge) above shall apply. Within the perimeter landscaped strip, one shade tree (2.5 inch caliper minimum) shall be provided per every 250 square feet, or any portion thereof, of landscaped strip.

- (4) Parking lot landscaping requirements.*
 - (a) To calculate the total parking area and the subsequent percentage of required interior lot landscaping, total the square footage of parking spaces, planting islands, curbed areas, and all interior driveways and aisles, except those with no parking spaces located on either side. Landscaped areas located outside the parking lot may not be used to meet the interior landscape requirement.
 - (b) All landscaped areas, including permeable areas and drip lines around trees and planting beds used for visual screening, which abut any parking lot or vehicular travel area shall be protected with curbs, parking blocks, or similar barriers sufficient to protect them from vehicular intrusion. Such areas shall have a minimum pervious area of 60% if they are for the purpose of housing landscaping including trees and 25% if they house landscaping other than trees. Landscaped islands will be a minimum five feet in dimension and must be a minimum of nine feet wide when adjacent to parking spaces where a car door would open into the island.
- (5) Pedestrian walkways. Pedestrian walkways are to be provided from parking lots in excess of 100 cars to all buildings. Such walkways shall be a minimum of five feet in width and must be landscaped for their entire length. Crosswalks are to be marked by a change in materials distinguished by color or materials.
- (6) Parking orientation. Parking of cars shall be oriented such that vehicles are parallel to buildings so that pedestrians move down rather than across rows of vehicles.
- (7) Buffers. All parcels shall maintain an undisturbed buffer of 100 feet from any adjoining parcel that is zoned residential and improved with a residence. Subject to review by the Planning Board, access roadways, landscaping, screening, berms and stormwater management facilities may be located in this buffer, but parking lots and structures may not.
- (8) Lighting. Parking lot lights may not exceed 20 feet in height. All lights, whether pole or building mounted, shall be shielded such that light is directed downwards.
- (9) Focal points. Buildings in excess of 40,000 square feet shall have a focal point. A focal point may be:
 - (a) An architectural feature a minimum of 25 feet high and a maximum of 45 feet high (e.g., spire or interesting roofline).
 - (b) Public art or statuary.
 - (c) Fountain or other water feature.
 - (d) Public plaza or other open space.
- (10) Public amenities. Public amenities shall be provided for all parcels in excess of 10,000 square feet at a ratio of two square feet per parking space. A public amenity, in the discretion of the Planning Board, may qualify as a focal point. A public amenity shall be accessible to pedestrians from both streets and parking lots. A public amenity is:
 - (a) Patio or plaza with seating area (but not including outdoor dining areas dedicated to a designated restaurant or restaurants).
 - (b) Mini park, square or green.
 - (c) Water feature.
 - (d) Public art.
 - (e) A similar feature meeting the intent of this section.

**The greenspace requirements of § 197-113C(1) through (4) are part of the overall greenspace requirement of 25% set forth in § 197-111G and not in addition to § 97-111G.*

ARTICLE XXIII. RESERVED

ARTICLE XXIV. GENERAL BUSINESS/NEIGHBORHOOD BUSINESS DESIGN GUIDELINE/DESIGN REQUIREMENT OVERLAY DISTRICT

[Adopted 5-13-2004 by L.L. No. 5-2004]

§ 197-120. District boundaries.

The boundaries of the General Business/Neighborhood Business Design Guideline/Design Requirement Overlay District shall be shown on the Official Zoning Map of the Town of North Greenbush, as amended.

§ 197-121. Purpose of District.

This District encompasses commercial lands zoned as Business General (BG) or Neighborhood Business (BN) in the area of the intersection of Routes 4 and 43. Development of these parcels shall be governed by design guidelines contained in Chapter 155 of the Town Code (Site Plan Review) and design requirements located in this Zoning Law, the intent of which is to govern the form, appearance and impact of development. It is the intent of these guidelines that necessary traffic improvements be constructed concurrent with new development in order to provide adequate capacity on area roadways.

§ 197-122. Design guidelines and design requirements.

- A. District characterization. This District is located along a busy state highway with steadily growing traffic volumes. It is a desirable area for commercial development and is already partly developed for such use. This District lacks cohesion and architectural focus. New commercial development is characterized by large parking lots located in front of big box stores. There are few internal connections between developments. There are no sidewalks and the District is unfriendly to pedestrians.
- B. Development within the District is subject to both objective and subjective requirements. The objective requirements are those that are readily measurable or quantifiable. These requirements are located in this Zoning Law and are denominated "design requirements." The subjective requirements, known as "design guidelines" are those that regulate nonmeasurable matters and are located in the Site Plan Review Law and are to be applied by the Planning Board during the site plan review process.

Editor's Note: See Ch. 155, Site Plan Review.

C. District objectives:

- (1) Provide a landscaped edge, pedestrian accessibility to both sides of the Route 4 and 43 corridor, restoring the highway as a desirable and attractive feature.
- (2) Provide for attractive architectural expression.
- (3) Provide adequate buffering and other protection for adjoining residential uses.
- (4) Provide for connection between parcels wherever practical.
- (5) Reduce signage clutter.
- (6) Minimize the adverse impacts of parking.

D. The design requirements are as follows:

- (1) Street edge. Provide a landscaped street edge along Routes 4 and 43. Provide street trees of at least 2.5 inch caliper (as that term is defined by the American Association of Nurserymen) 35 feet on center.
- (2) Parking areas.*
 - (a) Interior parking lot landscaping. Interior parking areas shall be landscaped in addition to the required landscaped street edge. Trees must be provided in each parking lot at a minimum average density of one shade tree (2.5 inch caliper) for each 15 parking spaces, or any fraction thereof. Additionally, interior parking lot landscaping shall be provided in accordance with the following table:

Total Parking Area (square feet)	Interior Landscaped Area
Less than 24,999	5%

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25,000 to 49,999	8%	
50,000 or larger	10%	(b)

Exterior parking lot landscaping. A landscaped strip shall be provided around the perimeter of the site exclusive of driveways. The landscaped strip shall be a minimum of five feet wide for sites 10,000 square feet or greater and three feet wide for sites less than 10,000 square feet, except for any area abutting a public street, in which case the requirements of Subsection D(1) (Street Edge) above shall apply. Within the perimeter landscaped strip, one shade tree (2.5 inch caliper minimum) shall be provided per every 250 square feet, or any portion thereof, of landscaped strip.

(c) Parking lot landscaping requirements.

[1] To calculate the total parking area and the subsequent percentage of required interior lot landscaping, total the square footage of parking spaces, planting islands, curbed areas, and all interior driveways and aisles, except those with no parking spaces located on either side. Landscaped areas located outside the parking lot may not be used to meet the interior landscape requirement.

[2] All landscaped areas, including permeable areas and drip lines around trees and planting beds used for visual screening, which abut any parking lot or vehicular travel area shall be protected by curbs, parking blocks, or similar barriers sufficient to protect them from vehicular intrusion. Such areas shall have a minimum pervious area of 60% if they are for the purpose of housing landscaping including trees and 25% if they house landscaping other than trees. Landscaped islands will be a minimum of five feet in dimension and must be a minimum of nine feet wide when adjacent to parking spaces where a car door would open into the island.

(d) Pedestrian walkways. Pedestrian walkways are to be provided from parking lots in excess of 100 cars to all buildings. Such walkways shall be a minimum of five feet in width and must be landscaped for their entire length. Crosswalks are to be marked by a change in materials distinguished by color or materials.

**The greenspace requirements of § 197-22D(2) are part of the overall greenspace requirement of 25% set forth in Table 2, Part 3 of the Zoning Law and not in addition to that table.*

ARTICLE XXVI. QUAKENDERRY COMMONS PLANNED DEVELOPMENT DISTRICT

Editor's Note: See also Art. XVI, Planned Development Districts.

[Added 9-13-2007 by L.L. No. 8-2007]

§ 197-124. Area.

The area of the Quakenderry Commons Planned Development District (PDD) consists of 52.97 ± acres in the Town of North Greenbush and is bounded and described as set forth in Exhibit A.

Editor's Note: Exhibit A is on file in the Town offices.

§ 197-125. Permitted uses.

The PDD site shall be developed for the following uses:

- A. Multifamily residential units, consisting of 180 units contained in 20 buildings as set forth in the conceptual site plan which is on file with the North Greenbush Town Clerk and is hereby incorporated into this article as Exhibit B.

Editor's Note: Exhibit B is on file in the Town offices.

- B. Hotel as set forth in the conceptual site plan which is on file with the North Greenbush Town Clerk and is hereby incorporated into this article as Exhibit C.

Editor's Note: Exhibit C is on file in the Town offices.

- C. Up to a fifteen-lot commercial subdivision on the lands set forth on a map which is on file with the North Greenbush Town Clerk and is hereby incorporated into this article as Exhibit D.

Editor's Note: Exhibit D is on file in the Town offices.

§ 197-126. Bulk standards.

Bulk standards for permitted uses are as follows:

- A. Multifamily Residential.

- (1) Minimum front yard setback: 20 feet.
 - (2) Minimum side yard setback: 10 feet.
 - (3) Minimum rear yard setback: 40 feet.
 - (4) Minimum distance between buildings: 20 feet.
 - (5) Minimum green space: 25%.
 - (6) Maximum building height: 40 feet (three stories).
- B. Hotel.
- (1) Minimum front yard setback: 25 feet.
 - (2) Minimum side yard setback: 20 feet.
 - (3) Minimum rear yard setback: 25 feet.
 - (4) Minimum green space: 25%.
 - (5) Maximum building height: five stories.
- C. Commercial subdivision.
- (1) Minimum lot size: 20,000 square feet.
 - (2) Minimum lot width: 100 feet.
 - (3) Minimum front yard setback: 25 feet.
 - (4) Minimum side yard setback: 20 feet.
 - (5) Minimum rear yard setback: 25 feet.
 - (6) Minimum green space: 25%.
 - (7) Maximum building height: five stories.

§ 197-127. Roadways.

- A. All roadways to be constructed shall be privately owned and maintained.
- (1) There shall be two types of privately owned roadways:
 - (a) Access roads which are labeled Road A on Exhibits B and C and Roads B and C on Exhibit D; and
 - (b) Driveways which are labeled Road D on Exhibits B and C.
 - (2) Cross-section for Roads A, B, and C and driveways, respectively, are on file with the North Greenbush Town Clerk and are hereby incorporated into this article as Exhibits E and F.

Editor's Note: Exhibits E and F is on file in the Town offices.

- B. Easements for access to all the privately owned roads shall be deeded to the Town of North Greenbush.
- C. An emergency access road shall be constructed to the multifamily site. The location of the emergency access road is shown on Exhibit B and shall provide for a gate also shown on Exhibit B.
- D. The geometry for all roadways shall be subject to review by the Town of North Greenbush's police, fire, and emergency services.
- E. The commercial project (Exhibit D) shall be designed so that there will exist a landscaped street edge along Route 4 utilizing street trees of at least 2.5-inch caliper.
- F. An area for an access easement from the commercial subdivision to the lands to the south shall be shown and required as a part of any project approval. The location of the access easement, which shall be 30 feet in width, is shown on Exhibit D.
- G. Frontage on the access road as defined herein shall be sufficient for subdivision of lands in this PDD.

§ 197-128. Parking and parking lots.

- A. Parking spaces shall be nine feet by 18 feet.
- B. Parking requirements.
- (1) Multifamily residential parcel: two parking spaces for each unit (A parking space may be a garage.)
 - (2) Hotel:

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- (a) One parking space per hotel room plus 10 spaces for employees/visitors.
 - (b) If a banquet facility, meeting room and/or restaurant is to be included, then add one parking space per 200 square feet.
 - (3) Commercial subdivision: see § 197-21 of the Town of North Greenbush Zoning Code for the parking requirements per type of use on each subdivided parcel.
- C. In the commercial subdivision and hotel there shall be interior and exterior parking lot landscaping. Interior parking lot landscaped area shall be a minimum of 5% of the total parking area. Exterior parking lot landscaping shall include a minimum five-foot wide landscaped strip.

§ 197-129. Infrastructure.

- A. All parcels shall be serviced by public water and sewer. The main water and sewer trunk line shall be deeded to the Town of North Greenbush or its designee; laterals for water and sewer shall be the responsibility of the property owner(s).
- B. The stormwater management system shall be designed to comply with NYSDEC stormwater regulations and any duly adopted Town of North Greenbush stormwater management plan. The stormwater management systems may be designed as a shared system, that is, a stormwater basin may service one or more subdivided parcels. The stormwater management system shall be owned and managed by the property owner(s).

§ 197-130. Building design.

- A. The multifamily residential buildings are to have the following design elements:
 - (1) All buildings shall be constructed or clad with material that is durable, economically maintained, and of a quality that will maintain their appearance over time.
 - (2) All buildings shall have a "carriage house" exterior design style to include traditional building materials such as wood, vinyl clapboard siding, asphalt roof shingles, brick, natural or synthetic stone.
 - (3) Elevations of the multifamily buildings are on file with the North Greenbush Town Clerk and are hereby incorporated into this article as Exhibit G.

Editor's Note: Exhibit G is on file in the Town offices.

- (4) Detached garage buildings shall be permitted and shall be a maximum of 120 feet in length and shall be constructed using materials complementary to the apartment buildings.
- (5) Accessory buildings such as a community center, storage facility, and maintenance building shall be permitted and they shall be constructed utilizing materials complementary to the multifamily residential buildings.
- B. The hotel site will include the following design elements:
 - (1) Building architectural design may include a flat roof. Parapets, mansard screens or other methods shall be used to hide mechanical equipment, however.
 - (2) All other site mechanical equipment, waste collection and electrical transformer areas shall be screened from view through the use of fencing or landscaping.
 - (3) A covered drop-off area located at building entrance shall be permitted.
- C. The commercial subdivision will include the following design elements:
 - (1) Buildings in excess of 40,000 square feet shall have a focal point.
 - (2) The commercial subdivision will include a public amenity or focal point located at the subdivision entrance. An amenity or focal point may include a bridge, water feature, mini park, square, patio, or plaza.
 - (3) There shall be, as much as much as practical, a uniform theme throughout the subdivision.

§ 197-131. Lighting.

- A. All lighting shall have shields which direct the lighting downward.
- B. A photometric plan for each parcel shall be required to show that, as much as practical, lighting will not cross onto residentially zoned properties.
- C. Lighting poles in the commercial subdivision may be 32 feet in height and, in the hotel and multifamily residential parcel, 20 feet in height.
- D. Street lighting shall be required for the multifamily residential portion of the PDD, and the street light to be used is on file with the North Greenbush Town Clerk and is hereby incorporated into this article attached as Exhibit H.

Editor's Note: Exhibit H is on file in the Town offices.

§ 197-132. Walkways; drive-through windows; hours for construction.

- A. Within the hotel parcel, pedestrian walkways shall be provided from all parking areas to the hotel building.
- B. Within the commercial subdivision, pedestrian sidewalk connections shall be designed between parcels wherever practical.
- C. Within the multifamily residential project, a walkway trail system and a community green area shall be included.
- D. Within the commercial subdivision, drive-through windows shall be permitted.
- E. No construction of any type except for emergencies shall be performed in the PDD prior to 7:00 a.m. or after 7:00 p.m.

§ 197-133. Subdivision plan; site plan.

Prior to the issuance of a building permit or certificate of occupancy for any building within the PDD, a subdivision plan and/or site plan in substantial compliance with the exhibits annexed hereto shall be submitted for final review and approval by the Town of North Greenbush Planning Board.

§ 197-134. Enforcement.

The Town of North Greenbush shall have the right to enforce this article. Any violation of a provision of this article shall be deemed a violation of the Town of North Greenbush Zoning Law, and the provisions hereof shall be enforceable pursuant to the enforcement provisions of said Town of North Greenbush Zoning Law.

§ 197-135. Signage.

In addition to the signage permitted by the Town Law, § 197-37, the PDD shall permit three pylon signs with the size and approximate locations shown on Exhibits C and D as well as a monument size with the sign and approximate location shown on Exhibits B and C.

ARTICLE XXVII. 261 WINTER STREET EXTENSION PLANNED DEVELOPMENT DISTRICT

Editor's Note: See also Art. XVI, Planned Development Districts.

[Added 9-25-2008 by L.L. No. 5-2008]

§ 197-136. Boundary.

- A. The boundary of the 261 Winter Street Extension Planned Development District is established as being Tax Map Parcel No. 123.00 – 5 – 18 on the 2008 Tax Assessment Rolls of the Town of North Greenbush, consisting of approximately 55.56 acres. Approximately 23 acres shall be developed for the residences.
- B. The remaining 32 acres shall be left undeveloped and deeded to the Town of North Greenbush for municipal purposes prior to construction being started on the residences for the project.

§ 197-137. Permitted uses.

The 261 Winter Street Extension Planned Development District shall be developed for a maximum of 75 units of townhomes only, located in two-unit and three-unit townhouse design structures as per Exhibit A, Proposed Planned Development District Townhouse Development 261 Winter Street Extension, dated January 2008 and last revised on June 4, 2008, prepared by ABD Engineers and Surveyors and attached hereto as Exhibit A.

Editor's Note: Exhibit A is on file in the Town offices.

§ 197-138. Setbacks.

General Setbacks, except as noted on Exhibit A, Proposed Planned Development District Townhouse Development 261 Winter Street Extension, are as follows:

- A. Minimum front yard setback: 30 feet.
- B. Minimum side yard setback: 10 feet on one side and zero feet (two-unit townhouse design) on other side of unit.
- C. Minimum side yard setback: 10 feet on one side and zero feet on one side with zero feet on both sides on the center three-unit townhouse design.
- D. Minimum rear yard setback: 20 feet.
- E. Maximum building height: two-story design with walk-out basements for certain lots.

§ 197-139. Parking.

- A. A minimum of two off-street parking spaces per unit shall be provided (Parking spaces may be in a garage or in a driveway located between the street right-of-way line and the front of the building.).
- B. An additional total of 30 unassigned off-street parking spaces shall be provided, in landscaped parking areas, for guests and visitors, of which three parking spaces shall be designed as handicapped spaces.
- C. Each parking space shall be a minimum of nine feet wide by 18 feet in depth for a total of 162 square feet.
- D. The residents shall be prohibited from utilizing exterior parking areas for storage or parking of recreational vehicles, motor homes, trailers, boats, unregistered vehicles or other items deemed unacceptable by the Town of North Greenbush Building Department.

§ 197-140. Roadway design and dedication.

- A. All roadways shall be designed and constructed in accordance with the Code of the Town of North Greenbush, Chapter 163, Subdivision of Land, and Chapter 159, Streets and Sidewalks, except as hereinafter noted and/or modified.
- B. For all roadways, the base course of asphalt, together with all utilities and infrastructure, shall be installed prior to the issuance of the first building permit. However, the developer will be eligible to receive a building permit for two model units in one building.
- C. All roadways shall be deeded to the Town of North Greenbush for future acceptance and dedication by the Town Board of the Town of North Greenbush. A current title report, executed deeds and recording paperwork shall be provided to the Town of North Greenbush prior to the Town's Building Department issuing any certificate of occupancy for this project. If the infrastructure is not 100% completed at time of roadway dedication by the Town of North Greenbush, a security in the amount of the cost for the remaining work as determined by the Town Engineer shall be submitted with the executed deeds. The security shall be in a form acceptable to the Town Attorney. The security shall be returned upon completion and acceptance of the remaining work.
- D. The roadways as shown on Exhibit A, Proposed Planned Development District Townhouse Development 261 Winter Street Extension, dated January 2008 and last revised on June 4, 2008, prepared by ABD Engineers and Surveyors and attached hereto as Exhibit A, shall include a roadway constructed up to the southerly property line to allow for the connection and continuance of the roadway to the property identified as Tax Map Parcel No. 123.00 – 5 – 14 on the 2008 Tax Assessment Rolls of the Town of North Greenbush currently under Town of North Greenbush Planning Board review known as the "Birchwood Hills Subdivision."
- E. A fifty-foot-wide access and right-of-way leading to the vacant land to the east of the project shall be located along the southerly property line. This area shall be graded and paved, with six inches of crusher run stone only, to the satisfaction of the Town Engineer, to allow for parking and access to the proposed vacant land to the east.
- F. An "emergency only" access (asphalt paved) driveway with breakaway barrier shall be constructed at a location near Willow Lane which would allow emergency vehicles access to the site in case the entrance roadway is blocked at the Winter Street Extension. The Wynantskill Fire Department's Chief and the Town of North Greenbush Police Chief shall approve this "emergency only" access.

§ 197-141. Infrastructure (water and sanitary sewer).

- A. All residential units of the 261 Winter Street Extension Planned Development District shall be serviced with public water and public sanitary sewers installed in accordance with plans approved by the Town Engineer and the Rensselaer County Health Department.
- B. All public water and public sanitary sewers shall be constructed in accordance with the Town of North Greenbush standards and as hereinafter noted.
- C. All public water and public sanitary sewers improvements, except as hereinafter noted, shall be deeded to the Town of North Greenbush for future operation and maintenance.
- D. All water laterals shall be the responsibility of the property owner from the curb box to the residence.
- E. All sanitary sewer laterals shall be the responsibility of the property owner from the right-of-way line to the residence.
- F. Each residence shall have its own water and sanitary sewer laterals separated by 10 feet as per NYSDOH regulations.
- G. A water permit (including water meter assembly and pressure-reducing valve) and sanitary sewer permit shall be obtained from the Town of North Greenbush Utilities Department for each residence.
- H. An eight-inch ductile iron water main, fire hydrants and appurtenances shall be connected to the existing twelve-inch water main for Water District No. 12 in Winter Street Extension and to the existing eight-inch water main in Willow Lane at locations approved by the Town Engineer.

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- I. An eight-inch ductile iron water main, fire hydrant and appurtenances shall be installed up to the southerly property line of the property identified as Tax Map Parcel No. 134.00 – 2 – 14 on the 2008 Tax Assessment Rolls of the Town of North Greenbush currently under Town of North Greenbush Planning Board review known as the "Birchwood Hills Subdivision" as approved by the Town Engineer.
- J. Due to the number of units being proposed as part of the 261 Winter Street Extension Planned Development District, the existing twelve-inch water system transmission main along Winter Street Extension needs to be enhanced for fire protection flow. This future enhancement has been planned for during the construction of Water District No. 12. The existing eight-inch water system main on Whiteview Road in front of 37 Whiteview Road shall be connected to the twenty-four-inch water main on Winter Street Extension north of Williams Road. This enhancement will allow for the water system surrounding this project to have redundancy in case of low water pressure in the project area.
- K. A gravity sanitary sewer system to service the entire 261 Winter Street Extension Planned Development District shall be installed in accordance with Town of North Greenbush standards and as herein noted.
- L. The developer must make application to the Town of North Greenbush Town Board for the establishment of a sewer district to serve the 261 Winter Street Extension Planned Development District.
- M. This new gravity sanitary sewer system shall be connected to an existing manhole for the Rensselaer County Sewer District No. 1 system located at Whiteview Road and Willow Lane. Authorization from Rensselaer County Sewer District No. 1 to connect to this manhole shall be obtained by the developer prior to construction.
- N. Prior to and during the construction of the sanitary sewer line in Willow Lane, through traffic must be maintained on Willow Lane or a temporary hard-surfaced roadway shall be constructed and maintained for vehicular traffic to enter and exit to Willow Lane from Winter Street Extension.
- O. The sanitary sewer system shall be eight-inch SDR-26 PVC pipe, precast concrete manholes and eight-inch-high heavy-duty twenty-four-inch diameter vented manhole castings installed in accordance with plans approved by the Town Engineer and the Rensselaer County Health Department.
- P. Access, for existing homes, to the new proposed eight-inch sanitary sewer in Willow Lane shall be via a precast concrete manhole to be located at the first intersection of Willow Lane south of Whiteview Road as approved by the Town Engineer.
- Q. Sanitary sewer service shall be provided to the property line of the existing homes at 261 and 281 Winter Street Extension as approved by the Town Engineer.
- R. An eight-inch SDR-26 PVC pipe and appurtenances shall be installed up to the southerly property line of the property identified as Tax Map Parcel No. 134.00 – 2 – 14 on the 2008 Tax Assessment Rolls of the Town of North Greenbush currently under Town of North Greenbush Planning Board review known as the "Birchwood Hills Subdivision" as approved by the Town Engineer.

§ 197-142. Infrastructure (electric, natural gas, telephone and cable TV).

- A. All electric, natural gas, telephone and cable TV lines shall be located underground.
- B. All aboveground structures/pads/junction boxes shall be screened as much as possible with landscaping as approved by the Town Engineer.

§ 197-143. Stormwater management system.

- A. The stormwater management system shall be designed to comply with the current NYSDEC stormwater regulations and the Town of North Greenbush local laws.

Editor's Note: See Ch. 152, Storm Sewers, and Ch. 165, Stormwater Management and Erosion and Sediment Control.

- B. A complete stormwater pollution prevention plan (SWPPP) shall be submitted to the Town Engineer for approval prior to any construction being started at the site.
- C. The Town Engineer shall approve the stormwater management system design. The design shall allow for easy maintenance and mowing.
- D. All stormwater ponds shall be fenced with a four-foot-high heavy-duty, black vinyl-clad chain link fence with access gates as approved by the Highway Superintendent.
- E. The stormwater management system shall be deeded by easement to the Town of North Greenbush for future operation and maintenance.
- F. If necessary, the developer must obtain all necessary permits and/or approvals from the United States Army Corps of Engineers (ACOE) with respect to impacts to federal wetlands resulting from the development of the 261 Winter Street Extension Planned Development District.
- G. No work shall commence in the federal wetlands prior to the developer obtaining such ACOE permits and/or approvals.

- H. A copy of all such ACOE permits and/or approvals shall be provided to the Town Engineer prior to any grading or construction activities in the federal wetlands.

§ 197-144. Building design elements.

- A. All buildings shall be constructed or clad with material that is durable, economically maintained and of a quality that will maintain its appearance over time.
- B. All buildings shall have an exterior design style to include traditional building materials such as wood, vinyl clapboard siding, asphalt architectural shingles, brick, natural or synthetic stone.
- C. Elevations and floor plans of the residences shall be as per the attached Exhibits B-1, B-2, B-3 and B-4, Building Elevations Proposed Planned Development District Townhouse Development 261 Winter Street Extension, dated June 2008, prepared by ABD Engineers and Surveyors. These exhibits represent a generalized style of the buildings, and the Building Department designee shall review any changes to this design. Any substantial changes shall be referred to the Planning Board for final approval.

Editor's Note: Exhibit B is on file in the Town offices.

- D. No accessory buildings or sheds shall be allowed in the 261 Winter Street Extension Planned Development District.
- E. Landscaping for each residence shall be as per the attached Exhibit C-1, Unit Landscaping Proposed Planned Development District Townhouse Development 261 Winter Street Extension, dated June 2008, prepared by ABD Engineers and Surveyors.

Editor's Note: Exhibit C-1 is on file in the Town offices.

Any changes shall be submitted to the Town Engineer for approval prior to installation. Any substantial changes shall be referred to the Planning Board for final approval.

- F. Landscaping for the entrance along Winter Street Extension shall be as per the attached Exhibit C-2, Entrance Landscaping Proposed Planned Development District Townhouse Development 261 Winter Street Extension, dated June 2008, prepared by ABD Engineers and Surveyors.

Editor's Note: Exhibit C-2 is on file in the Town offices.

Any changes shall be submitted to the Town Engineer for approval prior to installation. Any substantial changes shall be referred to the Planning Board for final approval.

- G. Landscaping along Willow Lane shall be as per the attached Exhibit C-3, Buffer Landscaping Proposed Planned Development District Townhouse Development 261 Winter Street Extension, dated June 2008, prepared by ABD Engineers and Surveyors.

Editor's Note: Exhibit C-3 is on file in the Town offices.

Any changes shall be submitted to the Town Engineer for approval prior to installation. Any substantial changes shall be referred to the Planning Board for final approval.

- H. Each residence shall have a post-lamp-type light with photometric sensor wired directly to the residence's electric panel box.
- I. Garages for each residence shall be capable of parking a vehicle at all times and shall not be used for storage of other material that would prevent the parking of a car completely within the garage.
- J. Refuse storage areas shall be enclosed in the structures.

§ 197-145. Trails; walking paths; mailboxes; newspaper boxes.

- A. A trail/walking path shall be constructed throughout the 261 Winter Street Extension Planned Development District as per the attached Exhibit D, Walking Trails Proposed Planned Development District Townhouse Development 261 Winter Street Extension, dated June 2008, prepared by ABD Engineers and Surveyors.

Editor's Note: Exhibit D is on file in the Town offices.

Any changes shall be submitted to the Town Engineer for approval prior to installation. Any substantial changes shall be referred to the Planning Board for final approval.

- B. The trail/walking path shall be connected to the proposed trail/walking paths areas for the adjacent Birchwood Hills and Westview Estates Subdivisions to allow for a continuous trail/walking path in the neighborhood as approved by the Town Engineer.
- C. The trail/walking path shall be constructed as a five-foot-wide path and be paved and compacted to a depth of six inches with a crusher-run stone material as approved by the Town Engineer.

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- D. The area around the existing pond shall be cleaned up, graded, seeded and all excess brush removed to allow for easy mowing and maintenance for future ice-skating during the winter months. The outfall pipe to this pond shall be repaired and new stone rip rapped installed as approved by the Town Engineer.
- E. A green space/recreation fee of \$300 per unit shall be paid at the time the individual building permits are issued for each structure.
- F. There shall be one common mailbox/newspaper box facility for all residences to pick up their mail and newspapers. This facility shall be attractively landscaped and located near the front of the project site and be served by at least four unassigned off-street parking spaces.

§ 197-146. Construction at site.

- A. A work permit shall be issued for the site work (grading and infrastructure), all in accordance with the Town of North Greenbush Building Department's fees and procedures.
- B. Individual building permits shall be issued for each residential structure, all in accordance with the Town of North Greenbush Building Department's fees and procedures.
- C. Prior to start of any construction, a preconstruction meeting shall be held to review all aspects of the project. Shop drawings shall be approved by the Town Engineer prior to being installed in the construction of the infrastructure. The Wynantskill Fire Chief shall be invited to the meeting with ample notice.
- D. An escrow account shall be established by the developer, prior to the start of site work, with the Town of North Greenbush to provide for engineering review, observation and oversight, by the Town of North Greenbush personnel/consultants, on all construction plans and site plan construction activities related to this project. The amount of such escrow account shall be subject to review from time to time during the construction activities to make sure that a sufficient balance is maintained to cover the costs for the engineering review and oversight.
- E. Site work and construction may take place between 7:00 a.m. and 7:00 p.m. Monday through Friday and 7:00 a.m. and 5:00 p.m. on Saturdays, without prior written approval from the Town of North Greenbush Building Department.
- F. No site work or construction shall take place on any Sunday, Christmas Day or New Year's Day.
- G. A project progress committee shall be established at the preconstruction meeting consisting of the Building Department designee, Planning Board Chairman, Fire Marshal, Utilities Department Supervisor, Town Engineer and the developer representative. The purpose of this committee shall be to review and authorize minor changes to the approved site plan prior to construction being allowed on these minor changes.
- H. The developer shall be responsible to submit to the Town Engineer an acceptable as-built set of plans for the project and infrastructure.

§ 197-147. Signage.

- A. All signage shall comply with the Town of North Greenbush signage regulations.
- B. One landscaped entrance type sign identifying the 261 Winter Street Extension Planned Development District or future designated project name shall be allowed at the entranceway near Winter Street Extension.
- C. The entrance sign shall be designed as a "nonhazardous roadside obstacle" type sign and shall be located outside of the public rights-of-way.
- D. The entrance sign shall be submitted to the Town of North Greenbush Planning Board for approval prior to installation.
- E. All traffic control signs for the 261 Winter Street Extension Planned Development District shall be in accordance with the NYSDOT Manual of Uniform Traffic Control Devices.
- F. A stop sign shall control traffic exiting the site onto Winter Street Extension.
- G. A street name sign shall be installed at the Winter Street Extension entrance.
- H. "No Parking" signs shall be installed as per the direction of the Fire Marshal throughout the site.

§ 197-148. Subdivision plat and site plan.

- A. Prior to the subdivision plat being signed by the Planning Board Chairman for the 261 Winter Street Extension Planned Development District, a subdivision plat and site plan, in substantial compliance with this article and the exhibits attached hereto, shall be submitted and approved after a public hearing by the Town of North Greenbush Planning Board.
- B. Prior to issuance of a work permit by the Town of North Greenbush Building Department, the following conditions shall be complied with:
 - (1) All final Planning Board and engineering comments shall be addressed on the site plan.

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- (2) All necessary approvals for the public water and sanitary sewer shall be obtained.
- (3) All necessary agreements shall be executed with the Town of North Greenbush as required.
- (4) All necessary performance bonds and security agreements shall be filed with the Town of North Greenbush.
- (5) Funding of the appropriate engineering review, observation and oversight escrow shall be established with the Town of North Greenbush Comptroller.
- (6) Payment of all municipal review fees.
- (7) The approved subdivision plat shall be signed by the Planning Board Chairman and filed in the Rensselaer County Clerk's office.

§ 197-149. Homeowners' association.

- A. The 261 Winter Street Extension Planned Development District homeowners' association's documents, including its covenants, restrictions and bylaws, shall be reviewed by the Town Attorney prior to filing with the office of the New York State Attorney General to ensure compliance with the requirements of this article.
- B. A property maintenance and snow removal plan shall be included in the homeowners' association agreement (HOA).

§ 197-150. Enforcement.

- A. The Town of North Greenbush shall have the right to enforce this article.
- B. Any violation of a provision of this article shall be deemed a violation of the Town of North Greenbush Zoning Code, and the provisions hereof shall be enforceable pursuant to the enforcement provisions of said Town of North Greenbush Zoning Code.

ARTICLE XXVIII. EASTWYCK VILLAGE SENIOR CITIZENS HOUSING DISTRICT

Editor's Note: See also Art. XV, Senior Citizens Housing District.

[Added 4-6-2009 by L.L. No. 1-2009]

§ 197-151. Legislative authority.

This article is enacted pursuant to the authority of Municipal Home Rule Law § 10(1)(ii)(a)(14) and §§ 197-79 and 197-63 of the Zoning Law of the Town of North Greenbush.

§ 197-152. Findings.

The Town Board has previously found that it is in the best interests of the Town to provide for proper housing of the Town's senior citizen residents and that the provision of such housing should be subject to criteria established by the Town Board in § 197-80 of the Town Zoning Law as well as such other criteria as the Planning Board may apply pursuant to Town Code Chapter 155 in its site plan review.

§ 197-153. Amendment to district boundaries.

- A. The Town Board has been presented with a proposal to rezone a certain parcel located on the southeast corner of the intersection of Best Road and Route 43 from its current zoning of PBD and RS to an SC District so as to permit the construction of a maximum of 144 rental units and a community center to be rented and occupied by senior citizens as that term is defined in the Town Code. Upon careful consideration of the request, as well as the favorable recommendation of the Town Planning Board and deference to local consideration by the Rensselaer County Bureau of Planning, the Town Board hereby deems it appropriate and does approve the designation of this parcel for SC housing, subject to the terms and conditions set forth herein and as may be established or required by the Town's Planning Board.
- B. The boundaries of said district shall include, in addition to all lands included therein, the parcel of land as set forth in Schedule A. There may be constructed upon this parcel of land not more than three multifamily residential dwellings, with associated parking and a community center.

Editor's Note: Schedule A is on file in the Town offices.

§ 197-154. Development regulations.

Pursuant to the authority vested in the Town Board by §§ 197-63 and 197-80D(13), the Town Board hereby imposes the following additional site development programs and restrictions to be required by the Planning Board in the site plan review process:

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- A. There shall be constructed within the boundaries of the Eastwyck Village Senior Citizens Housing District up to 144 senior citizen rental apartments, with parking, including garages, a community center and recreational facilities, all as set forth on the plan heretofore approved and placed on file by the Town Planning Board of the Town of North Greenbush. The Eastwyck Village Senior Citizens Housing District shall be developed in the following manner:
- (1) Multifamily homes: up to 144 rental units developed in up to three buildings on approximately 20 acres, with parking, in compliance with the Zoning Ordinance, which includes covered garages.
 - (2) A community center for the benefit of the Eastwyck Village residents.
- B. All sewerage and water shall be supplied by the developer from a source or sources approved by the appropriate New York State agencies and the Town Engineer.
- C. Fire hydrants will be installed by the builder, at no cost to the Town of North Greenbush, in accordance with the recommendations of the DeFreestville Fire District or as approved by the Planning Board. Typical details of hydrants and roadway cross sections must be submitted to the Town Engineer.
- D. All utilities to the subject premises will be installed underground.
- E. Appropriate written approvals for water, sewer and drainage systems shall be obtained from the appropriate authorities and from the Town Engineer prior to the issuance of any building permit or certificate of occupancy by the Town of North Greenbush for any buildings to be constructed pursuant hereto.
- F. The exact site details and configurations of principal and accessory buildings will be determined by the Town of North Greenbush Planning Board subject to the standards in this article. The Planning Board shall retain final site plan approval concerning this project, and no building permit shall be issued without the final approval of the site plan by the Town of North Greenbush Planning Board.
- G. All roads and any required drainage easements and related rights-of-way shall be constructed and/or located by the developer in accordance with the requirements of the Town of North Greenbush and shall be approved by the Town Engineer.
- H. Area requirements.
- (1) The dwellings to be erected on each lot shall be multifamily dwellings and shall contain a minimum living floor area of 600 square feet per apartment, a maximum height of 40 feet and a minimum road frontage lot width of 100 feet.
 - (2) Minimum yard dimensions for all principal buildings shall be 40 feet from the property boundary on all sides, and minimum yard dimensions for all accessory buildings shall be 10 feet from the property boundary on all sides.
 - (3) Garages which provide required parking shall not be included in the calculation for lot coverage for accessory uses, but all other accessory uses must comply with the limitation of 5% of lot coverage for such uses. Because the parcel is bounded on all four sides by public roads, the location of garages on the parcel shall be determined by the Planning Board, regardless of which area is classified as a front yard, notwithstanding any other provision in this chapter.
 - (4) Greenspace.
 - (a) In accordance with the plan heretofore filed, there shall be provided greenspace of an area equal to at least 25% of the developed area, excluding streets.
 - (b) The Town of North Greenbush Planning Board shall establish minimum landscaping requirements for the property.
 - (c) In addition, the developer shall provide landscaping and vegetation for the areas along the southerly and easterly boundaries of said property, all as shown on a map and plan dated November 13, 2008, and filed with the Town of North Greenbush Planning Board.
 - (d) The developer shall include sufficient landscaping to offset removal of vegetation, to be approved by the Town of North Greenbush Planning Board.
 - (e) The amount of greenspace fees shall be \$600 per unit.
- I. Prior to the construction of any apartments, the designs and plans to be used in the construction thereof shall be approved by the Town Planning Board and the Town Engineer of the Town of North Greenbush and such approval shall be filed in the Town Clerk's office.

§ 197-155. Applicability.

The Zoning Ordinance of the Town of North Greenbush and all other terms, requirements and conditions for an SC Housing District set forth in § 197-80 of the Zoning Law shall also apply to the Eastwyck Village Senior Citizens Housing District, except insofar as varied by the requirements set forth herein.

§ 197-156. Submission of plans; approvals.

The property may be developed in stages, and before any construction is started and any building permit is issued relating thereto, final plats, plans and specifications of the specific stages shall be submitted to and approved by the Town Planning Board and the Town Engineer and filed with the Town Clerk.

§ 197-157. Severability.

If any part or provision of this article or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this article or the application thereof to other persons or circumstances, and the Town Board of the Town of North Greenbush hereby declares that it would have passed this article or the remainder thereof had such invalid application or invalid provision been apparent.

§ 197-158. Repealer.

All ordinances, local laws and parts thereof inconsistent with this article are hereby repealed.

§ 197-159. When effective.

Notwithstanding the provisions of § 197-65 of the Zoning Law of the Town, this article shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with § 27 of the Municipal Home Rule Law.

§ 197-160. Revocation; applicability of previous regulations; extensions.

This article shall be deemed automatically revoked and void, and the previous regulations shall obtain, if, within 24 months from the date of issuance of Planning Board approval subject to this amendment, commencement of the construction of the apartments has not begun. For proper cause shown, the Town Board may grant extensions of time not exceeding 12 months for any one extension for the construction of successive buildings.

ARTICLE XXIX. PARTRIDGE HILL APARTMENTS II PBD

[Added 8-12-2010 by L.L. No. 4-2010]

§ 197-161. Statutory authority.

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the governing Town Board of the Town of North Greenbush has the authority to enact local laws and amend local laws for the purpose of promoting the health, safety or general welfare of the Town of North Greenbush and for the protection and enhancement of its physical environment through the use of land use controls of developments and zoning. The Town Board may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

§ 197-162. Title.

This Article XXIX shall be known as "Town of North Greenbush Local Law No. 4-2010" and amends the Town of North Greenbush Zoning Code to provide for the creation of the Partridge Hill Apartments II PBD Zoning District.

§ 197-163. Rezoning district boundary.

The boundary of the Partridge Hill Apartments II PBD Zoning District is established as being Tax Map Parcel No. 133-2-1.132 and part of 133-2-1.131 on the 2010 Tax Assessment Rolls of the Town of North Greenbush, consisting of approximately nine acres.

§ 197-164. Permitted uses.

The Partridge Hill Apartments II shall be developed for a maximum of 104 units of apartments, located in four-three story structures as per Exhibit A, Partridge Hill Apartments II, dated March 2008, as prepared by ABD Engineers & Surveyors, and attached hereto as Exhibit A.

Editor's Note: Exhibit A is on file in the Town offices.

In the event that the Partridge Hill Apartments II development does not occur, any future development shall conform to all requirements of the PBD Zone regulations and shall be limited to residential uses.

§ 197-165. General setbacks.

- A. For development of the Partridge Hill Apartments II:

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- (1) Minimum front yard setback: 30 feet.
 - (2) Minimum side yard setback: 10 feet on one side.
 - (3) Minimum rear yard setback: 25 feet.
 - (4) Maximum building height: three story design with basements for underground parking.
 - (5) Maximum building coverage: 20%.
- B. For development of any other use:
- (1) PBD Zone requirements shall govern, but it shall be limited to residential uses.

§ 197-166. Parking.

- A. A minimum of 1.5 off-street parking spaces per unit shall be provided. (Parking spaces may be in a garage or in surface lots.)
- B. An additional total of 0.5 space per unit of off-street parking spaces shall be provided, for guests and visitors.
- C. Each parking space shall be a minimum of nine feet wide by 18 feet in depth for a total of 162 square feet for outside parking.
- D. The residents shall be prohibited from utilizing exterior parking areas for storage or parking of recreational vehicles, motor homes, trailers, boats, unregistered vehicles or other items deemed unacceptable by the Town of North Greenbush Building Department.
- E. Internal garage spaces shall not be used for storage of any materials. Only parking of registered vehicles shall be allowed.

§ 197-167. Roadway design.

All roadways shall be designed as privately maintained access and parking area and constructed in accordance with the specifications as noted on Exhibit A.

Editor's Note: Exhibit A is on file in the Town offices.

§ 197-168. Infrastructure (water and sanitary sewer).

- A. All buildings of the Partridge Hill Apartments II shall be serviced with public water and public sanitary sewers installed in accordance with plans approved by the Town Engineer and the Rensselaer County Health Department.
- B. All public water and public sanitary sewers shall be constructed in accordance with the Town of North Greenbush standards and as hereinafter noted.
- C. All public water and public sanitary sewers improvements, except as hereinafter noted, shall be deeded to the Town of North Greenbush for future operation and maintenance. Easements shall be provided for all water and sewer lines.
- D. All water laterals shall be the responsibility of the property owner from the main line to the structure.
- E. All sanitary sewer laterals shall be the responsibility of the property owner from the main line to the structure.
- F. A water permit (including water meter assembly and pressure-reducing valve) and sanitary sewer permit shall be obtained from the Town of North Greenbush Utilities Department for each structure.
- G. A gravity sanitary sewer system to service the entire Partridge Hill Apartments II shall be installed in accordance with Town of North Greenbush standards and as herein noted.
- H. This new gravity sanitary sewer system shall be connected to an existing manhole in the Rensselaer County Sewer District No. 1 system located on Valley View Boulevard. Authorization from Rensselaer County Sewer District No. 1 to connect to this manhole shall be obtained by the developer prior to construction.
- I. The sanitary sewer system shall be eight-inch SDR-26 PVC pipe, precast concrete manholes and eight-inch high, heavy-duty, twenty-four-inch diameter vented manhole castings installed in accordance with plans approved by the Town Engineer and the Rensselaer County Health Department.

§ 197-169. Infrastructure (electric, natural gas, telephone and cable TV).

- A. All electric, natural gas, telephone and cable TV lines shall be located underground.
- B. All aboveground structures/pads/junction boxes shall be screened as much as possible with landscaping as approved by the Town Engineer.

§ 197-170. Stormwater management system.

- A. The stormwater management system shall be designed to comply with the current NYSDEC stormwater regulations and the Town of North Greenbush local laws.
- B. A complete stormwater pollution prevention plan (SWPPP) shall be submitted to the Town Engineer for approval prior to any construction being started at the site.
- C. The Town Engineer shall approve the stormwater management system design. The design shall allow for easy maintenance and mowing.
- D. All stormwater ponds shall be fenced with a four-foot-high, heavy-duty, black-vinylclad, chain-link fence with access gates as approved by the Highway Superintendent.
- E. The stormwater management system shall remain privately owned and maintained by the apartment complex owners.

§ 197-171. Building design elements.

- A. All buildings shall be constructed or clad with material that is durable, economically maintained and of a quality that will maintain its appearance over time.
- B. Elevations and floor plans of the residences shall be as per the attached Exhibits B-1 and B-2, Building Elevations Partridge Hill Apartments II, dated November 2009, prepared by the Clover Group. These exhibits represent a generalized style of the buildings, and the Building Department Coordinator shall review any changes to this design. Any substantial changes shall be referred to the Planning Board for final approval.

Editor's Note: Exhibits B-1 and B-2 are on file in the Town offices.

- C. No more than one accessory building or shed shall be allowed in the Partridge Hill Apartments II, to be used to store maintenance equipment for the complex.
- D. Landscaping for each structure shall be as per the attached Exhibit A, Partridge Hill Apartments II, dated March 2008, as prepared by ABD Engineers & Surveyors. Any changes shall be submitted to the Town Engineer for approval prior to installation. Any substantial changes shall be referred to the Planning Board for final approval.
- E. Landscaping for the entrance along Valley View Boulevard shall be as per the attached Exhibit A, Partridge Hill Apartments II, dated March 2008, as prepared by ABD Engineers & Surveyors. Any changes shall be submitted to the Town Engineer for approval prior to installation. Any substantial changes shall be referred to the Planning Board for final approval.
- F. Refuse storage areas shall be enclosed in fenced structures.

§ 197-172. Sidewalk; mailboxes.

- A. A sidewalk shall be constructed in the Valley View Boulevard right-of-way to connect Partridge Hill Apartments II as per the attached Exhibit C, Sidewalks, Partridge Hill Apartments II, dated November 2009, prepared by ABD Engineers & Surveyors.

Editor's Note: Exhibit is on file in the Town offices.

Any changes shall be submitted to the Town Engineer for approval prior to installation. Any substantial changes shall be referred to the Planning Board for final approval.

- B. A per-unit green space/recreation fee of \$600 shall be paid at the time the individual building permits are issued for each structure.
- C. There shall be at least one common mailbox/newspaper box facility for all residences to pick up their mail and newspapers. This facility shall be attractively landscaped and located near the front of the project site and be served by at least four unassigned off-street parking spaces.

§ 197-173. Construction at site.

- A. A work permit shall be issued for the site work (grading and infrastructure), all in accordance with the Town of North Greenbush Building Department's fees and procedures.
- B. Individual building permits shall be issued for each structure, all in accordance with the Town of North Greenbush Building Department's fees and procedures.
- C. Prior to the start of any construction, a preconstruction meeting shall be held to review all aspects of the project. Shop drawings shall be approved by the Town Engineer prior to being installed in the construction of any infrastructure to be dedicated to the Town.
- D. An escrow account shall be established by the developer, prior to the start of site work, with the Town of North Greenbush to provide for engineering review, observation and oversight by the Town of North Greenbush personnel/consultants on all

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public utilities to be dedicated to the Town. The amount of such escrow account shall be subject to review from time to time during the construction activities to make sure that a sufficient balance is maintained to cover the costs for the engineering review and oversight.

- E. Site work and construction may take place between 7:00 a.m. to 7:00 p.m., Monday through Friday, and 7:00 a.m. to 5:00 p.m. on Saturdays, without prior written approval from the Town of North Greenbush Building Department.
- F. No site work or construction shall take place on any Sunday, Christmas Day or New Year's Day.
- G. A project progress committee shall be established at the preconstruction meeting, consisting of the Building Inspector, Planning Board Chairman, Fire Marshal, Utilities Department Supervisor, Town Engineer and the developer's representative. The purpose of this committee would be to review and authorize minor changes to the approved site plan prior to construction being allowed on these minor changes.
- H. The developer shall be responsible to submit to the Town Engineer an acceptable as-built set of plans for all infrastructure to be dedicated to the Town.

§ 197-174. Signage.

- A. All signage shall comply with the Town of North Greenbush signage regulations.
- B. Two landscaped entrance-type signs identifying the Partridge Hill Apartments II or future designated project name shall be allowed, one at each entranceway off Valley View Boulevard.
- C. The entrance signs shall be designed as a "nonhazardous roadside obstacle" type sign and shall be located outside of the public rights-of-way.
- D. The entrance sign shall be submitted to the Town of North Greenbush Planning Board for approval prior to installation.
- E. All traffic control signs for the Partridge Hill Apartments II shall be in accordance with the NYSDOT Manual of Uniform Traffic Control Devices.
- F. Stop signs shall control traffic exiting the site onto Valley View Boulevard.
- G. No-parking signs shall be installed as per the direction of the Fire Marshal throughout the site.

§ 197-175. Subdivision plat and site plan.

- A. Prior to the subdivision plat being signed by the Planning Board Chairman for the Partridge Hill Apartments II, a subdivision plat and site plan, in substantial compliance with this Part XXIX and the exhibits attached hereto, shall be submitted and approved after a public hearing by the Town of North Greenbush Planning Board.
- B. Prior to issuance of a work permit by the Town of North Greenbush Building Department, the following conditions shall be complied with:
 - (1) All final Planning Board and engineering comments shall be addressed on the site plan.
 - (2) All necessary approvals for the public water and sanitary sewer shall be obtained.
 - (3) All necessary agreements shall be executed with the Town of North Greenbush as required.
 - (4) All necessary performance bonds and security agreements shall be filed with the Town of North Greenbush.
 - (5) Funding of the appropriate engineering review, observation and oversight escrow shall be established with the Town of North Greenbush Comptroller.
 - (6) Payment of all municipal review fees.
 - (7) The approved subdivision plat shall be signed by the Planning Board Chairman and filed in the Rensselaer County Clerk's office.

§ 197-176. Traffic improvements.

Traffic mitigation fees, to be used for the design and/or construction of improvements to the NYS Route 4 and Valley View Boulevard intersection in the amount of \$1,500 per unit shall be paid by the developer of the Partridge Hill Apartments II to the Town of North Greenbush within 60 days from the date of final site plan approval by the Town of North Greenbush Planning Board.

§ 197-177. Enforcement.

- A. The Town of North Greenbush shall have the right to enforce this Part XXIX.

- B. Any violation of a provision of this Part XXIX shall be deemed a violation of the Town of North Greenbush Zoning Code, and the provisions hereof shall be enforceable pursuant to the enforcement provisions of said Town of North Greenbush Zoning Code.

ARTICLE XXX. ARIES COVE PLANNED DEVELOPMENT DISTRICT

[Added 5-12-2011 by L.L. No. 2-2011]

§ 197-178. Statutory authority.

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the governing Town Board of the Town of North Greenbush has the authority to enact local laws and amend local laws for the purpose of promoting the health, safety or general welfare of the Town of North Greenbush and for the protection and enhancement of its physical environment through the use of land use controls of developments and zoning. The Town Board may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

§ 197-179. Title.

This Part XXX shall be known as "Town of North Greenbush Local Law No. 2-2011" and amends the Town of North Greenbush Zoning Code to provide for the creation of the Aries Cove Planned Development District.

§ 197-180. Planned development district boundary.

- A. The boundary of the Aries Cove Planned Development District is established as being Tax Map Parcel No. 135.00-2-33.121 through 135.00-2-33.136, inclusive, as shown on the 2011 Tax Assessment Rolls of the Town of North Greenbush, consisting of approximately 37.7 acres. Approximately 25 acres shall be developed for the residences and public rights-of-way.
- B. The remaining 12.7 +/- acres shall be deeded to the Aries Cove homeowners' association.

§ 197-181. Permitted uses.

The Aries Cove Planned Development District shall be developed for a maximum of nine single-family residences and 18 town home residences, located in two-unit town home design structures as per attached Exhibit A, Town House/Single-Family Aries Cove Development, dated December 6, 2010.

Editor's Note: Exhibit A is on file in the Town offices.

§ 197-182. General setbacks.

- A. Single-family residences: Setbacks will be the same as provided for an AR District, Type D, as listed in the Code of the Town of North Greenbush, Table 2, except the required width at setback shall be 90 feet.
- B. Town homes: Setbacks will be the same as provided for an AR District, Type D, except the following:
- (1) Minimum side yard setback: 10 feet on one side, and zero feet on the other side.
 - (2) Minimum width at setback: 60 feet.
 - (3) Minimum lot size: 15,000 square feet.

§ 197-183. Parking.

- A. A minimum of two off-street parking spaces per unit shall be provided. (Parking spaces may be in a garage or in a driveway located between the street right-of-way line and the front of the building.)
- B. An additional total of five unassigned off-street parking spaces shall be provided for guests and visitors, of which one parking space shall be designed as a handicapped space.
- C. Each parking space shall be a minimum of nine feet wide by 18 feet in depth, for a total of 162 square feet.
- D. The property owners, residents and/or guests shall be prohibited from utilizing exterior parking areas for storage or parking of recreational vehicles, motor homes, trailers, boats, unregistered vehicles or other items deemed unacceptable by the Town of North Greenbush Building Department.

§ 197-184. Roadway design and dedication.

- A. All roadways shall be designed and constructed in accordance with the Code of the Town of North Greenbush, Chapter 163, Subdivision of Land, and Chapter 159, Streets and Sidewalks.

- B. All roadways shall be deeded to the Town of North Greenbush for future acceptance and dedication by the Town Board of the Town of North Greenbush. A current title report, executed deeds and recording paperwork shall be provided to the Town of North Greenbush prior to the Town's Building Department issuing any certificate of occupancy for this project. If the infrastructure is not 100% completed at the time of roadway dedication by the Town of North Greenbush, security in the amount of the cost for the remaining work as determined by the Town Engineer shall be submitted with the executed deeds. The security shall be in a form acceptable to the Town Attorney. The security shall be returned upon completion and acceptance of the remaining work.
- C. The roadway locations shall be substantially as shown on Exhibit A, Town House/Single-Family Aries Cove Development, dated December 6, 2010, and shall conform to the Code of the Town of North Greenbush, Chapter 163, Subdivision of Land, and Chapter 159, Streets and Sidewalks.
- D. A minimum of 15 feet of access to a publicly dedicated roadway shall be provided for all lots. The Planning Board shall have final approval of the lot layouts in order to comply with the 15 feet of access to a publicly dedicated roadway for each lot, as part of the final site plan and subdivision approval process.

§ 197-185. Infrastructure (water and sanitary sewer).

- A. All residential units of the Aries Cove Planned Development District shall be serviced with public water and public sanitary sewers installed in accordance with plans approved by the Town Engineer and the Rensselaer County Health Department.
- B. All public water and public sanitary sewers shall be constructed in accordance with the Town of North Greenbush standards and as hereinafter noted.
- C. All public water and public sanitary sewer improvements, except as hereinafter noted, shall be deeded to the Town of North Greenbush for future operation and maintenance as required by the Town of North Greenbush Utilities Department.
- D. All water laterals shall be the responsibility of the property owner from the curb box to the residence.
- E. All sanitary sewer laterals shall be the responsibility of the property owner from the right-of-way line to the residence.
- F. Each residence shall have its own water and sanitary sewer laterals separated by 10 feet as per NYSDOH regulations.
- G. A water permit (including water meter assembly and pressure-reducing valve) and sanitary sewer permit shall be obtained from the Town of North Greenbush Utilities Department for each residence.
- H. A twelve-inch ductile-iron water main, fire hydrants and appurtenances shall be connected to the existing twelve-inch water main for Water District No. 13 in Peck Road at locations approved by the Town Engineer.
- I. An eight-inch ductile-iron water main, fire hydrants and appurtenances shall be connected to the proposed twelve-inch water main in Peck Road and extended into the Aries Cove Planned Development District at locations approved by the Town Engineer.
- J. A gravity sanitary sewer system to service the entire Aries Cove Planned Development District shall be installed in accordance with Town of North Greenbush standards and as herein noted.
- K. The sanitary sewer system shall be eight-inch SDR-26 PVC pipe, precast concrete manholes and eight-inch-high, heavy-duty, twenty-four-inch diameter vented manhole castings installed in accordance with plans approved by the Town Engineer and the Rensselaer County Health Department.
- L. Sanitary sewer service laterals shall be provided to the property line of all existing homes along Peck Road between the connection point to the existing sanitary sewer and the entrance into the Aries Cove Planned Development District as approved by the Town Engineer.

§ 197-186. Infrastructure (electric, natural gas, telephone and cable TV).

- A. All electric, natural gas, telephone and cable TV lines shall be located underground.
- B. All aboveground structures/pads/junction boxes shall be screened as much as possible with landscaping as approved by the Town Engineer.

§ 197-187. Stormwater management system.

- A. The stormwater management system shall be designed to comply with the current NYSDEC stormwater regulations and the Town of North Greenbush local laws.
- B. A complete stormwater pollution prevention plan (SWPPP) shall be submitted to the Town Engineer for approval prior to any construction being started at the site.
- C. The Town Engineer shall approve the stormwater management system design. The design shall allow for easy maintenance and mowing.

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- D. All stormwater ponds shall be fenced with a four-foot-high, heavy-duty, black-vinyl-clad, chain-link fence with access gates as approved by the Highway Superintendent.
- E. The stormwater management system shall be deeded as part of the road right-of-way to the Town of North Greenbush for future operation and maintenance.
- F. If necessary, the developer must obtain all necessary permits and/or approvals from the United States Army Corps of Engineers (USACOE) with respect to impacts to federal wetlands resulting from the development of the Aries Cove Planned Development District.
- G. No work shall commence in the federal wetlands prior to the developer obtaining such USACOE permits and/or approvals.
- H. A copy of all such USACOE permits and/or approvals shall be provided to the Town Engineer prior to any grading or construction activities in the federal wetlands.

§ 197-188. Building design elements.

- A. All buildings shall be constructed or clad with material that is durable, economically maintained and of a quality that will maintain its appearance over time.
- B. All buildings shall have an exterior design style to include traditional building materials, such as wood, vinyl clapboard siding, asphalt architectural shingles, brick, or natural or synthetic stone.
- C. The Planning Board, as part of the final site plan and subdivision approval process, shall approve landscaping for each residence. Any changes shall be submitted to the Town Engineer for approval prior to installation. Any substantial changes shall be referred to the Planning Board for final approval.
- D. Each residence shall have a post-lamp-type light with photometric sensor wired directly to the residence's electric panel box.
- E. Garages for each residence shall be capable of parking a vehicle at all times and shall not be used for storage of other material that would prevent the parking of a car completely within the garage.
- F. Refuse storage areas shall be enclosed in the structures.

§ 197-189. Green space/recreation; mailboxes.

- A. A per-unit green space/recreation fee of \$600 shall be paid at the time the individual building permits are issued for each residence.
- B. The Planning Board, as part of the final site plan and subdivision approval process, shall approve one common mailbox/newspaper box facility for all residences to pick up their mail and newspapers. This facility shall be attractively landscaped and located near the front of the project site and be served by at least one unassigned parking space.

§ 197-190. Construction at site.

- A. A work permit shall be issued for the site work (grading and infrastructure), all in accordance with the Town of North Greenbush Building Department's fees and procedures.
- B. Individual building permits shall be issued for each residential structure, all in accordance with the Town of North Greenbush Building Department's fees and procedures.
- C. Prior to the start of any site construction, a preconstruction meeting shall be held to review all aspects of the project. Shop drawings shall be approved by the Town Engineer prior to being ordered and installed in the construction of the infrastructure.
- D. An escrow account shall be established by the developer, prior to the start of site work, with the Town of North Greenbush to provide for engineering review, observation and administration oversight by the Town of North Greenbush personnel/consultants on all construction plans and site plan construction activities related to this project. The amount of such escrow account shall be subject to review from time to time during the construction activities to make sure that a sufficient balance is maintained to cover the costs for the engineering review and oversight.
- E. Site work and construction may take place between 7:00 a.m. to 7:00 p.m., Monday through Friday, and 7:00 a.m. to 5:00 p.m. on Saturdays, without prior written approval from the Town of North Greenbush Building Department.
- F. No site work or construction shall take place on any Sunday, Christmas Day or New Year's Day.
- G. A project progress committee shall be established at the preconstruction meeting, consisting of a representative from the Building Department, the Planning Board Chairman, the Fire Marshal, the Utilities Department Supervisor, the Town Engineer and the developer's representative. The purpose of this committee would be to review and authorize minor changes to the approved site plan prior to construction being allowed on these minor changes.

- H. The developer shall be responsible to submit to the Town Engineer an acceptable as-built set of plans for the project and infrastructure.

§ 197-191. Signage.

- A. All signage shall comply with the Town of North Greenbush signage regulations.
- B. The Planning Board, as part of the final site plan and subdivision approval process, shall approve one landscaped entrance-type sign identifying the Aries Cove Planned Development District or future designated project name at the entranceway near Peck Road.
- C. The entrance sign shall be designed as a "nonhazardous roadside obstacle" type sign and shall be located as approved by the Town Engineer.
- D. All traffic control signs for the Aries Cove Planned Development District shall be in accordance with the NYSDOT Manual of Uniform Traffic Control Devices.
- E. A stop sign shall control traffic exiting the site onto Peck Road and at other locations as determined by the Town Engineer.
- F. A street name sign shall be installed at the Peck Road entrance and at other locations as determined by the Town Engineer.
- G. No-parking signs shall be installed as needed as per the direction of the Fire Marshal through out the site.

§ 197-192. Subdivision plat and site plan.

- A. Prior to the subdivision plat being signed by the Planning Board Chairman for the Aries Cove Planned Development District, a subdivision plat and site plan, in substantial compliance with this Part XXX and the exhibits attached hereto, shall be submitted and approved after a public hearing by the Town of North Greenbush Planning Board.
- B. Prior to issuance of a work permit by the Town of North Greenbush Building Department, the following conditions shall be complied with:
 - (1) All final Planning Board and engineering comments shall be addressed on the site plan.
 - (2) All necessary approvals for the public water and sanitary sewer shall be obtained.
 - (3) All necessary agreements shall be executed with the Town of North Greenbush as required.
 - (4) All necessary performance bonds and security agreements shall be filed with the Town of North Greenbush.
 - (5) Funding of the appropriate engineering review, observation and administration oversight escrow shall be established with the Town of North Greenbush Comptroller.
 - (6) Payment of all municipal review fees.
 - (7) The approved subdivision plat shall be signed by the Planning Board Chairman and filed in the Rensselaer County Clerk's office.

§ 197-193. Homeowners' association.

- A. The Aries Cove Planned Development District homeowners' association's documents, including its covenants, restrictions and by laws, shall be reviewed by the Town Attorney prior to filing with the office of the New York State Attorney General to ensure compliance with the requirements of this Part XXX.
- B. A property maintenance and snow removal plan shall be included in the homeowners' association agreement (HOA).

§ 197-194. Enforcement.

- A. The Town of North Greenbush shall have the right to enforce this Part XXX.
- B. Any violation of a provision of this Part XXX shall be deemed a violation of the Town of North Greenbush Zoning Code, and the provisions hereof shall be enforceable pursuant to the enforcement provisions of said Town of North Greenbush Zoning Code.