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June 11, 2026

**VIA HAND DELIVERY**

Chairman Scalzo  
and Members of the Zoning Board of Appeals  
Town of Newburgh  
21 Hudson Valley Professional Plaza  
Newburgh, New York 12550

Re: Supplemental Submission – Request for Zoning Determination/Interpretation,  
and, In the Alternative, Applications for Area Variances  
Applicants: Nick DiLemme, Jennifer McHugh DiLemme, & Di Lemme & Sons, Inc.  
Premises: 2201 State Route 300, Town of Newburgh, New York  
Tax ID: 3-1-91.2

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Dear Chairman Scalzo and the Members of the Zoning Board of Appeals,

On behalf of Nick DiLemme and Jennifer McHugh DiLemme, and Di Lemme & Sons, Inc.<sup>1</sup> (the “Company,” and collectively, the “Applicants”), we respectfully submit this letter and the referenced enclosures in furtherance of their Request for a Zoning Determination/Interpretation, and, in the alternative, Applications for Area Variances or a Use Variance (collectively the “Applications”). As you know, the Applications were timely filed to appeal from the October 28, 2025 determination of the Code Compliance Supervisor (the “Determination Letter” or “Determination”) that the Company’s use of certain improvements on the above-referenced premises (the “Premises”) are not legally nonconforming, namely the detached 2-car garage (the “Workshop”) and basement office in the single-family residence (the “Basement Office”).

For the foregoing reasons, the Applicants submit that the Company’s use of the Premises is entitled to the nonconforming use protections of Section 185-19 of the current Code and therefore may continue to:

- (i) store (3) commercial vehicles in garages on the Premises (one (1) in residence’s garage and two (2) in the Workshop);
- (ii) store one (1) commercial vehicle outdoors that is 25’ or less;
- (iii) store one (1) of its telehandlers outdoors;
- (iv) store materials and other equipment outside; and
- (v) continue to utilize the Basement Office as a Home occupation.

As is more fully detailed herein, based on the Zoning Code that was only recently made available to the Applicants by the Town on May 18, 2026 – and which information was originally requested by the Applicants on September 25, 2025 – the Applicants hereby amend their requests for Area Variances and seek variance relief to permit the outdoor storage of three (3) additional

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<sup>1</sup> D/B/A DiLemme & Sons, Inc.







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commercial vehicles outdoors and to permit two (2) additional non-resident Company employees to work out of Basement Office at any given time.

**PROCEDURAL HISTORY:**

After the Board opened the Public Hearing on the Applications at its meeting on January 22, 2026, the Board voted to continue the Public Hearing to its next regularly scheduled meeting on February 26<sup>th</sup> at the request of the Applicants to allow them to prepare responses to the oral testimony of certain neighbors and obtain copies of historical zoning regulations in effect during the relevant period (e.g., 1980s).<sup>2</sup>

As of February 17<sup>th</sup>, however, the Applicants had still not received copies of the historical zoning codes (e.g., Local Law No. 4 of 1974), which they had sought via a Freedom of Information Law ("FOIL") request dated September 25, 2025, and were still working to respond to the January 22<sup>nd</sup> submission from two (2) commentors. Accordingly, on this date, the Applicants asked for the Board to adjourn the Public Hearing on the Applications from the Board's February 26<sup>th</sup> meeting Agenda to the Board's March 26<sup>th</sup> meeting Agenda for continued review and Public Hearing.

In considering the Applicants' adjournment request at the Public Hearing at its February 26<sup>th</sup> meeting, the Board learned that the Chairman and one of its Members would not be present at its next regularly scheduled meeting on March 26, 2026. As such, to allow the Applicants to be heard by the full complement of the Board, and in keeping with precedent, the Board voted to further adjourn the Public Hearing on the Applications until its meeting on April 23<sup>rd</sup>. The Board also asked the Applicants to re-notice the continued Public Hearing on the 23<sup>rd</sup>, which the Applicants completed on Monday, April 6, 2026.

As documented in the April 23<sup>rd</sup> meeting minutes for Public Hearing on the Applications, the members of the Board agreed that the historical zoning codes (i.e., the "1980 Code"), which neither the Applicants nor the Board had received, are essential to informing the Board's decision on the Applications. Accordingly, the Board voted to adjourn the matter and continue the Public Hearing to its next regularly scheduled meeting on May 28, 2026, unless said historical zoning codes had not been received by the May 14, 2026, submission deadline for the May 28<sup>th</sup> meeting, in which case Applicants would request the Board further adjourn the matter and continue the Public Hearing to its regularly scheduled meeting on June 25, 2026.

The Applicants still did not receive Local Law No. 4 of 1974 and all of its subsequent amendments that were in effect during the 1980s prior to the submission deadline for the Board's May 28<sup>th</sup> meeting Agenda. Accordingly, and pursuant to its understanding of the Board's directives at its April 23<sup>rd</sup> meeting, the Applicants requested another one-month adjournment in order to obtain the remaining historical zoning codes. The Applicants then obtained the outstanding codes from the Town on May 18, 2026, with the Board granting the Applicants' adjournment request at its

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<sup>2</sup> Note: the Public Hearing testimony (both written and oral testimony) also included approximately thirty-two (32) comments in support of the pending Applications.





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meeting on May 28<sup>th</sup>.

**HISTORICAL ZONING CODES (1974-1991):**

The District regulations schedule of Local Law No. 4-1974,<sup>3</sup> as amended and effective through December 15, 1990 (hereinafter the “1980 Code”), permitted the following relevant Accessory Uses on the Premises due to its classification within the Agricultural Residence (AR) District: “Home occupations,”<sup>4</sup> “Private garage or carport for not more than four vehicles,”<sup>5</sup> “Off-street parking for commercial vehicles operated by the occupants of the permitted residence when such vehicles are housed in a garage or carport,”<sup>6</sup> and “Off-street parking, not under cover, for not more than one commercial vehicle not over 25 feet in length.”<sup>7</sup> Importantly, the aforementioned Accessory Uses contain several terms that are subject to interpretation because they were not defined and/or contained conflicting provisions in the 1980 Code, such as “commercial vehicle,”<sup>8</sup> “private garage,”<sup>9</sup> “carport,” “Farm equipment,” and “occupants.

In comparing these provisions of the 1980 Code with the corresponding regulations in Local Law No. 4 of 1991 (hereinafter the “1991 Code”), it seems that the aforementioned ambiguities, which are to be construed in favor of the Applicants,<sup>10</sup> were identified as problematic and therefore addressed by the amendments to these provisions in the 1991 Code.

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<sup>3</sup> See § 30.41 on pages 30.11-30.22 of **Exhibit B** – Excerpts of the 1980 Code.

<sup>4</sup> See Accessory Use no. 1 of the R-1 District and pages 30.12, .14, .16, and .20 of **Exhibit B**.

**Note:** This Accessory Use is permissible in the AR District on account of Accessory Use no. 1 of the AR District, which cross-references the “Same [Accessory Uses] as the R-2 district” and thereby incorporates by reference nos. “1 through 7” of the R-1 District. See pages 30.20, 30.14, and 30.12 of **Exhibit B**, respectively.

<sup>5</sup> *Id.*, page 30.12 (Accessory Use no. 2 of the R-1 District).

<sup>6</sup> *Id.*, Accessory Use no. 2 of the R-2 District.

<sup>7</sup> *Id.*, Accessory Use no. 3 of the R-2 District.

<sup>8</sup> The Town Code does not appear to have contained a definition for a “commercial vehicle” until the adoption of Local Law No. 10-1998 (“A vehicle with commercial license plates and commercial advertising on its sides, roof, hood, trunk or tailgate and used for business purposes.”).

<sup>9</sup> **Note:** The District regulations schedule in the 1980 Code (§ 30.41) restricts private garages and carports to no more than four (4) vehicles, but its definition in § 30.21B.16 states that private garages are “an enclosed space for the storage of one (1) or more motor vehicles.” This conflict appears to have been unresolved as of February 27, 2023, according to documents of the Town Comprehensive Plan Update Committee. See page 12 of the PDF available at the following link: [https://www.townofnewburgh.org/documents/Town\\_of\\_Newburgh\\_Comp\\_Plan\\_meeting\\_2-27-23\\_documents\\_redux\\_\(2\).pdf](https://www.townofnewburgh.org/documents/Town_of_Newburgh_Comp_Plan_meeting_2-27-23_documents_redux_(2).pdf).

<sup>10</sup> See discussion and notes 12-14 *infra*.







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THE 1980 CODE—LOCAL LAW NO. 4-1974 AS AMENDED THROUGH DECEMBER 20, 1990

As noted above, the 1980 Code expressly permitted Home occupations, detached garages/carports for “not more than four [4] vehicles,” the storage/parking of commercial vehicles so long as they are enclosed and “operated by the occupants of the permitted residence,”<sup>11</sup> and the outdoor storage of a commercial vehicle up to 25’ in length.<sup>12</sup> The 1980 Code also permitted the “[o]utdoor storage of farm equipment, provided it is not located in a required front yard,”<sup>13</sup> and otherwise only limited “accessory outdoor storage of trailers, machinery equipment or other materials or products” in non-residential districts.<sup>14</sup>

In reviewing these regulations, the Applicants highlight several ambiguities for the Board to review in its *de novo* consideration of the Appeal from the Determination. First, a plain reading of the 1980 Code’s District regulations schedule<sup>15</sup> allows for the accessory (i.e., permitted as-of-right) storage/parking of up to four (4) commercial vehicles so long as they are enclosed in a garage/carport and operated by *occupants* (not owners or residents) of the permitted residence.<sup>16</sup> Second, the accessory “outdoor storage of farm equipment” was *not* conditioned upon such equipment’s use in connection with an active farm and the 1980 Code did not provide a definition for “Farm equipment.” Last, these Accessory Uses *are separate and distinct* and do not have any relation to one another.

Accordingly, the type of Home occupation and the 1980 Code’s restrictions on Home occupations have no bearing on the number or type of commercial vehicles and farm equipment that could be stored on a property at the time. By way of example, the Applicants submit that under the 1980 Code an electrician with a single-family residence in the AR District could: have two (2) commercial vehicles in the garage of their residence; have four (4) commercial vehicles in a detached garage or carport; have one (1) commercial vehicle not greater than 25’ stored outdoors; store “Farm equipment” outdoors (not in the required front yard); and utilize their basement for an entirely different Home occupation, such as an artist/art studio.

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<sup>11</sup> Note: a plain reading of this provision also allows for the storage of not more than four commercial vehicles, so long as they are enclosed in a garage/carport and operated by the occupants of the Premises.

<sup>12</sup> Note: the outdoor storage of a commercial vehicle up to 25’ in length was not required to be “operated by an occupant of the permitted residence.”

<sup>13</sup> See Accessory Use no. 4 of the AR District on pages 30.20 of **Exhibit B**.

<sup>14</sup> See § 30.52G of the 1980 Code on pages 30.57-.58 of **Exhibit B**.

<sup>15</sup> See § 30.41 and pages 30.11-30.20 of **Exhibit B**.

<sup>16</sup> In addition to not defining “occupants,” the 1980 Code does not require commercial vehicles to be used *exclusively* by the occupants.





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THE 1991 CODE—LOCAL LAW NO. 4-1991<sup>17</sup>

In comparing the above provisions with their amended counterparts in the 1991 Code, it seems that many of the 1991 Code amendments were enacted to resolve the ambiguities that were identified above and which are to be resolved in favor of the Applicants. The most readily apparent differences are found in the 1991 Code's Schedules of District Regulations and noted as follows:

- Home occupations require a Special Permit from the Board under the 1991 Code,<sup>18</sup> whereas they were permitted accessory uses (i.e., as of right) under the 1980 Code.<sup>19</sup>
- The off-street parking of commercial vehicles was restricted to Agricultural Operations in the AR District and further subject to the provisions of Section 30.52 under the 1991 Code.<sup>20</sup>
- The outdoor storage of Farm equipment, other than in a front yard, was likewise restricted to Agricultural Operations in the AR District under the 1991 Code.<sup>21</sup>
- Accessory Uses in the 1991 Code District Regulations, located in Column A, "are permitted only in conjunction with the principal uses identified in Column B,"<sup>22</sup> whereas the District regulations schedule in the 1980 Code contained no such requirement and therefore "permitted accessory uses" were allowed as of right.<sup>23</sup>

Additionally, the 1991 Code prohibited the "outdoor storage of motor vehicles, trailers, building supplies, raw materials, finished products, [and] machinery and equipment" unless said storage is permitted Accessory Use to the Principal Use(s) in the District in which the property is located, which serves to prohibit such outdoor storage in the AR District except in connection with Agricultural Operations.<sup>24</sup> This is in contrast to the 1980 Code, which did not condition or restrict these Accessory Uses.

THE AMBIGUITIES IN THE 1980 CODE MUST BE CONSTRUED IN FAVOR OF THE APPLICANTS:

When considering the above and the detailed explanations provided herein, we note that New York law requires a plain reading of the Town's past and present Zoning Codes.<sup>25</sup> In addition,

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<sup>17</sup> Relevant excerpts of which are enclosed hereto as **Exhibit C**.

<sup>18</sup> See Column A on page 25 of **Exhibit C**.

<sup>19</sup> See *id.* page 25.

<sup>20</sup> *Id.*

<sup>21</sup> See *id.* pages 25 and 25A.

<sup>22</sup> See §§ 30.4.2.B and 30.4.3 on page 21 and the AR Schedule of District Regulations on pages 25 and 25-A of **Exhibit C**.

<sup>23</sup> See § 30.41 on page 30.11 and pages 30.20, .14, and .12 of **Exhibit B**.

<sup>24</sup> See discussion and notes 19-22 *supra*.

<sup>25</sup> See *Toys "R" Us v. Silva*, 89 N.Y.2d 411, 420-21 (1996).







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since zoning restrictions are in derogation of common-law property rights, their provisions must be strictly construed<sup>26</sup> with ambiguities interpreted in favor of an applicant (i.e., property owner).<sup>27</sup>

**APPEAL FROM THE DETERMINATION OF THE CODE COMPLIANCE SUPERVISOR—  
THE APPLICANTS SEEK A FAVORABLE DETERMINATION THAT THE COMPANY’S  
USE OF THE PREMISES IS A LEGALLY EXISTING NONCONFORMING USE:**

In further support of their appeal from the Determination Letter to the Board pursuant to Section 185-54A(1) of the current Code, the Applicants respectfully request the Board to favorably conclude that the Company’s use of the Premises are legally nonconforming Accessory Uses entitled to the protections of Section 185-19. As more fully explained below, the Determination Letter improperly concluded that the Company’s use of the Premises is not legally existing (i.e., lawfully permitted) on the grounds that “[t]he business use of the Premises which you represent was commenced in the early 1980s and continued by DiLemme & Sons does not fall within any of the Permitted Uses and Uses Subject to Site Plan Review listed in the AR District table of [the 1980 Code].” The Code Compliance Supervisor further concluded that the Company’s use of the Premises “does not fall within [the 1980 Code’s] definition of ‘Home Occupation.’”

Critically, the conclusions in the Determination Letter ignore the fact that the District regulations schedule in § 30.41 of the 1980 Code permitted Accessory Uses on the Premises such as “Home occupations,”<sup>28</sup> and allowed for the indoor (i.e., garaged) and outdoor storage of commercial vehicles,<sup>29</sup> “farm equipment,”<sup>30</sup> and “machinery equipment or other materials or products.”<sup>31</sup>

**THE USE OF THE BASEMENT OFFICE WAS A “HOME OCCUPATION” UNDER THE 1980 CODE**

As more fully detailed in the Applicants’ prior submissions to the Board dated December 26, 2025, and April 9, 2026, as well as the enclosed Affidavit of Nick DiLemme,<sup>32</sup> the Company’s use of the Basement Office satisfies requirements for a “Home occupation,” a permitted Accessory Use in the AR District under the 1980 Code, which was defined as follows:

- [i] Any gainful occupation or profession customarily conducted within a dwelling the [sic] residents thereof, clearly secondary to the use of the dwelling for living purposes, and which does not change the character of the structure as a residence.
- [ii] Said activity shall not have more than one (1) non-resident employee working

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<sup>26</sup> *Id.* at 421-22.

<sup>27</sup> *See Allen v. Adami*, 39 N.Y.2d 275, 277 (1976).

<sup>28</sup> *See* page 30.12 of **Exhibit B** (Accessory Use no. 1 of the R-1 District).

<sup>29</sup> *Id.* page 30.14 (Accessory Uses nos. 2 and 3 of the R-2 District).

<sup>30</sup> *Id.*

<sup>31</sup> § 30.52F, *id.* page 30.57.

<sup>32</sup> *See Exhibit A.*





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on the premises at any one time and shall not occupy more than one half (1/2) of the ground floor area of the dwelling or its equivalent elsewhere in the dwelling if so used. [iii] Permissible home occupations include, but are not limited to, the following: art studio; dressmaking; offices for a clergyman, lawyer, physician, dentist, architect, engineer, real estate agent or accountant; teaching with musical, dancing and other instruction limited to one (1) pupil at a time. However, home occupations shall not be construed to include uses such as the following: clinic or hospital, barber shop or beauty parlor, restaurant, animal hospital or commercial animal breeding.”

To briefly recapitulate the Company’s compliance with the then-existing requirements for a Home occupation, the Applicants respectfully submit the following:

- i. The Company’s use of the Basement Office was and continues to be for its back-of-office operations (i.e., estimating/planning, administrative work), and the Office was built out to provide office space for Nicandro DiLemme, his wife, Francesca, his sons, Nick and John, and his sister, Antonette, to run the family business. The presence of office space in a finished basement was and is “clearly secondary” to the DiLemme’s use of the single-family dwelling for residential purposes and cannot be said to have “change[d] the character of the structure.” Indeed, the enclosed pictures of the residence and Basement Office evidence that the latter is “Accessory”<sup>33</sup> to the family residence, the Principal Use of the Premises.<sup>34</sup> The same goes for the Workshop, a detached garage with a footprint equal to ±1.7% of the area of the Premises, which should likewise be classified as a structure that is Accessory to the DiLemme residence.
- ii. The Applicants submit that the Company’s historical use of the Basement Office complied with the Home occupation requirement to “not have more than (1) non-resident employee working on the premises at any one time,” as the only non-resident employee utilizing the Office in the 1980s was Nicandro’s sister, Antonette (Nick’s Aunt). The Applicants also submit that the Basement Office complies with the dimensional requirement for Home occupations. Per the Town’s current Property Card for the Premises,<sup>35</sup> the floor area of the Basement Office is 580 sq. ft.—approximately 28% of the dwelling’s total living area—well below the 1980 Code definition’s limit of “not ... more than one half (1/2) of the ground floor area of the dwelling or its equivalent elsewhere in the dwelling if so used.”

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<sup>33</sup> Per Section 30.21B.1 of the 1980 Code, “Accessory” shall mean a term applied to a use and/or structure clearly incidental or subordinate to the principal building or permitted use on the same lot.” See page 30.2 of **Exhibit B**.

<sup>34</sup> See **Attachment 1 of Exhibit A**.

<sup>35</sup> See **Attachment 6 of Exhibit A**.





- iii. The Company's use of the Basement Office for back-office and administrative purposes closely aligns with the expressly permitted Home occupations listed in the 1974 Code's definition. For instance, the Company's use of the Basement Office for estimating and planning is akin to the work of an engineer, and its payroll, accounting, and customer-facing work is like that of an accountant. The fact that the Company does not have "walk-in" customers further distinguishes it from several of the expressly prohibited Home Occupations above (e.g., "clinic or hospital, barber shop or beauty parlor").

The 1974 Code's definition of Home occupation leaves room for ambiguity when it comes to the Company's use of the Workshop and surrounding parking area for commercial vehicle and equipment storage. As noted previously, however, these are two distinct and unrelated uses and therefore the restrictions on Home occupations, specifically the limit of only one (1) non-resident employee to work on the Premises at any given time, should not be imputed upon the enclosed and outdoor storage of commercial vehicles. Such an interpretation is supported by well-established Appellate precedent that zoning restrictions are in derogation of common-law property rights and therefore zoning provisions must be strictly construed<sup>36</sup> with ambiguities interpreted in favor of the Applicants.<sup>37</sup>

Additionally, this ambiguity in the Town's zoning codes stood for decades and was not addressed until March 13, 2014, when the Town Board enacted Local Law No. 4 of 2014 "to clearly prohibit accessory home occupation activities outside of dwellings so that such accessory uses are restricted to uses within dwellings."<sup>38</sup> In light of this, the Applicants respectfully request that the Board determine that the Company's use of the Basement Office is a legally nonconforming Home occupation established under the 1980 Code.

THE COMPANY'S INDOOR AND OUTDOOR STORAGE OF COMMERCIAL VEHICLES AND FARM EQUIPMENT ON THE PREMISES AS OF DECEMBER 1990 WAS A PERMITTED ACCESSORY USE

The enclosed Affidavit of Nick DiLemme and its accompanying Attachments establish that the Company garaged three (3) commercial vehicles and stored at least one (1) commercial vehicle and one (1) tractor (i.e., Farm equipment) outdoors as of December 15, 1990, which was governed by the 1980 Code. Accordingly, the aforementioned storage (garaged and outdoor) were permissible Accessory Uses as of December 1990 and therefore the Company's continuance of these Uses are entitled to the protections of Section 185-19 of the current Code and State case law. Moreover, the fact that the Company's commercial vehicles and Farm equipment stored on the Premises have been replaced in-kind over the years does not affect the legally nonconforming

<sup>36</sup> *Toys "R" Us v. Silva*, 89 N.Y.2d 411, 421-22 (1996).

<sup>37</sup> *Allen v. Adami*, 39 N.Y.2d 275, 277 (1976).

<sup>38</sup> Section 2 of Local Law No. 4-2014.





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nature of these Accessory Uses because they have continued and not been enlarged or expanded. By way of example, JLG, the manufacturer of one of the Company's telehandlers, offers a line of Farm equipment and accessories specifically tailored "for farming and ranching operations," which "save time money and labor across a variety of applications, including: ... Handling and stacking heavy materials, Moving feed and seed, Stall bedding and cleanup, Defacing silage and haylage, Towing, [and] Maintenance."<sup>39</sup>

**I. IN THE ALTERNATIVE, THE APPLICANTS REQUEST AREA VARIANCES TO PERMIT THE COMPANY'S CONTINUED USE OF THE PREMISES:**

As set forth above, it is the Applicants' position that no Area Variances are required for:

- i. The Company's storage and use of four (4) commercial vehicles on the Premises (three (3) garaged and one (1) not longer than 25' unenclosed/outdoors);
- ii. The Company's outdoor storage and use of one (1) of the Company's telehandlers;
- iii. The Company's outdoor storage of materials; and
- iv. The presence of one or more (1+) Company employee(s) on the Premises at any one time in connection with the storage and use of the aforesaid Company commercial vehicles, telehandler, and materials, because these Accessory Uses are separate and distinct from the Company's use of the Basement Office as a Home Occupation under the 1980 Code.

As such, and to the extent necessary, the Applicants hereby amend their request for Area Variances to seek relief from the following standards to permit the Company to continue to use the Premises and its improvements but in a reduced capacity:

- An Area Variance to permit two (2) additional nonresident employees on the Premises at any time in connection with the Company's use of the Basement Office, whereas Section 185-48.6C of the current Code ("Home Occupations") limits the number of nonresident employees on the premises at any time to one (1) employee; and
- An Area Variance to permit the unenclosed/outdoor storage of three (3) additional commercial vehicles of not more than 16,500 lbs., whereas Section 185-13E(2) of the current Code ("Off-street parking of commercial ... vehicles in all residential districts") limits the number of commercial vehicles having a gross vehicle weight (GVW) of not more than 16,500 pounds, operated by an occupant of the principal building, and not contained in a garage or carport, to one (1) such vehicle (collectively, the "Requested Area Variances").

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<sup>39</sup> JLG Agriculture, [www.jlgagriculture.com](http://www.jlgagriculture.com).







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To address any concerns of the Board and certain neighboring property owners, the Applicants are also amenable to the installation of additional screening and other mitigative measures in support of the Requested Area Variances. For example, the Applicants are willing to accept a condition of approval prohibiting the cutting of rebar with a gas-powered saw and can only cut rebar with the hydraulic press inside the Workshop.

In further support of the requested relief, the Applicants respectfully submit that the Requested Area Variances comply with the statutory criteria under New York Town Law § 267-b.3 and Section 185-54B(1) of the current Code.<sup>40</sup> In undertaking the analysis of the Requested Area Variances, it is noted that the balancing factors in Town Law § 267-b.3 should be employed by the Board to weigh and evaluate relevant considerations and that no single factor is outcome-determinative in assessing requests for area variances.<sup>41</sup>

1. *Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.*

The granting of the Requested Area Variances would not cause an undesirable change in the character of the neighborhood or result in a detriment to nearby properties. Aside from three (3) complaints filed over forty (40) plus years, the commercial use of the Premises has not adversely impacted the character of the neighborhood or been a detriment to nearby properties.

The Applicants have and will continue to be good neighbors and citizens, as evidenced by the enclosed map depicting support for the Applications by neighboring property owners,<sup>42</sup> and the Applicants are amenable to undertaking additional mitigation measures to address concerns of the Board and neighboring property owners. Accordingly, the Applicants submit that granting the Requested Area Variances will not adversely affect the surrounding neighborhood or nearby properties.

2. *Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an Area Variance.*

The Applicants respectfully submit that the benefit sought by the Requested Area Variances cannot be obtained by methods other than the requested relief. When evaluating this factor, the range of appropriate alternatives is limited by two (2) standards: first, the alternative must still

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<sup>40</sup> The Applicants submit that the foregoing reasons also satisfy the criteria under Section 185-54B(1) of the current Code to the extent they do not conflict with or are superseded by State law(s). See Section 185-55I of the current Code.

<sup>41</sup> See *Church of Jesus Christ of Latter Day Saints v. ZEA of Town/Village of Harrison*, 745 N.Y.S.2d 76 (2d Dep't 2002); see also *Cohen v. Town of Ramapo Bldg., Planning & Zoning Dept.*, 150 A.D.3d 993, 994, 54 N.Y.S.3d 650, 651 (2d Dep't 2017).

<sup>42</sup> See **Attachment E** – Map and Table of Surrounding Neighbors Recommending Approval, No Objection, and Those Opposed.



provide the benefit sought by the Applicant; and second, it must be feasible for the Applicant to pursue.

Read together, this factor and the above limitations illuminate the lack of available alternatives that would obtain the benefits sought by the Applicants. This is because the Requested Area Variances seek to permit the Company's continued use of the Basement Office and the parking and storage of Company vehicles and equipment in the Workshop and on the Premises, all of which are existing improvements and cannot be readily replaced or replicated elsewhere.

The only potential alternative appears to be the demolition of the Workshop and its replacement with a larger detached garage, potentially with second-floor storage, but the Company and its employees' use of a larger detached garage would be nonetheless restricted and/or prohibited by Sections 185-48.6C and 185-13E(2) of the current Code. Accordingly, a larger garage would not provide the benefit currently sought by the Applicants. Moreover, such an alternative design also arguably constitutes a "profound departure" from, or substantially more costly than, the Company's continued use of the existing improvements on the Premises.<sup>43</sup>

### *3. Whether the requested Area Variances are substantial.*

In assessing the substantiality of a requested variance, the analysis is not simply a mathematical calculation. Instead, the overall impact of granting the relief is the appropriate inquiry.<sup>44</sup> New York courts have concluded that merely looking at the requested area variance's deviation from applicable zoning requirements is not dispositive.<sup>45</sup> Courts have also reviewed a municipality's Comprehensive Plan when analyzing the potential impacts of area variances.<sup>46</sup> Therefore, rather

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<sup>43</sup> See *Corporation of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. Zoning Bd. of Appeals of Town/Village of Harrison*, 296 A.D.2d 460, 462 (2d Dep't 2002).

<sup>44</sup> See *Lodge Hotel v. Town of Erwin Zoning Bd. of Appeals*, 21 Misc.3d 1120(A) \*1, \*5 (Sup. Ct. Steuben Cty. 2007), *aff'd*, 843 N.Y.S.2d 744 (4th Dep't 2007) ("[s]ubstantiality cannot be judged in the abstract; rather, the totality of relevant circumstances must be evaluated in determining whether the variance sought is, in actuality, a substantial one"); see also *Friends of Shawangunks, Inc. v. Zoning Bd. of Appeals of Town of Gardiner*, 56 A.D.3d 883, 886 (3d Dep't 2008) (holding that although the requested area variances were substantial, the Board properly determined they will not have a substantial impact on the community).

<sup>45</sup> E.g., *Pecoraro v. Bd. of Appeals of Town of Hempstead*, 781 N.Y.S.2d 234 (N.Y. 2004).

<sup>46</sup> See *Lodge Hotel*, 21 Misc.3d 1120(A) at \*5.







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than merely making a rote calculation of percentage deviation from the Code, this Board should consider and recognize the 2005 and 2022 Comprehensive Plan Updates in its analysis.<sup>47</sup>

The Applicants submit that the Requested Area Variances are insubstantial when considering the parking requirements for and other types permitted Home Occupations. The Company's request to park three (3) additional trucks outdoors, for a total of four (4), is appropriate and insubstantial given the 580 sq. ft. Basement Office is required to have five (5) off-street parking spaces under Section 185-13C(1)(b) of the current Code.<sup>48</sup> Additionally, the three (3) additional Company trucks will generate fewer or a comparable number of trips to other types of expressly permitted Home Occupations that are client/customer-facing, such as "dressmaking; offices for a ... lawyer, physician, dentist, real estate agent, or accountant ...."<sup>49</sup>

Further, the 2005 Town Comprehensive Plan Update, specifically the Opportunities for Economic Development noted in Section 3.C.14,<sup>50</sup> calls for the Town to continue to provide "new opportunities to existing industries." Similarly, the Town would promote the creation of higher-wage jobs in the construction industry by granting the Requested Area Variances and supporting the Company's employment of "local labor," as also encouraged in the 2005 Plan Update.<sup>51</sup> As such, the Applicants respectfully submit that the Requested Area Variances are insubstantial given the Company's long-standing use of the Premises and the conformance of the requested relief with the Town's 2005<sup>52</sup> and 2022<sup>53</sup> Comprehensive Plan Updates.

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<sup>47</sup> *Aydelott v. Town of Bedford Zoning Bd. of Appeals*, N.Y.L.J. June 25, 2003, p. 21, col. 4 (Sup. Ct. Westchester Co. 2003) ("consideration of the percentage alone, taken in a vacuum, is not an adequate indicator of the substantiality.... [A] large deviation can have little or no impact depending on the circumstances of the variance application."); see also *Friends of Shawangunks, Inc. v. Zoning Bd. Of Appeals of Town of Gardiner*, 56 A.D.3d 883, 886, (3d Dep't 2008) (although the requested variances were substantial, the Zoning Board of Appeals properly determined the area variances will not have a substantial impact on the community).

<sup>48</sup> "2 per 150 square feet of area given over to this component of the land use plus 1 for each additional 150 square feet or fraction thereof, but in no case fewer than 2 spaces."

<sup>49</sup> Section 185-3B of the current Code.

<sup>50</sup> Refer to Page III-45 of the Comprehensive Plan Update.

<sup>51</sup> *Id.*

<sup>52</sup> See page III-45 ("When ever [sic] possible, the Town should also promote the creation of higher wage jobs in a variety of sectors, not just retail.").

<sup>53</sup> See page 8 ("Goal 4: Create a Supportive Culture for Smal Business including streamlining the regulatory and review process and procedures for smart, desirable businesses.").



June 11, 2026

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As such, the Applicants respectfully submit that the Requested Area Variances are insubstantial given the Company's long-standing use of the Premises and the conformance of the requested relief with the Town's 2005<sup>54</sup> and 2022<sup>55</sup> Comprehensive Plan Updates.

*4. Whether the proposed Area Variance will have an adverse effect or impact on the physical or environmental considerations in the neighborhood or district.*

The granting of the Requested Area Variances will not adversely affect or impact the physical or environmental conditions in the neighborhood and surrounding community because they do not seek to increase the intensity of the existing use, propose new disturbance or improvements, or involve impacts on regulated environmental features or protected habitats. Indeed, the Requested Area Variances constitute an Unlisted Action pursuant to the New York State Environmental Quality Review Act ("SEQRA"); see 6 NYCRR §§ 617.2(al), 617.6(a)(3), and 617.7(a)(2); and the SEAF previously submitted by the Applicants<sup>56</sup> confirms that there are no environmentally, historically, or culturally sensitive features that will be affected by granting the requested relief.

The Company's use of the Premises will also not be expanded by granting the Requested Area Variances, and the granting of said Variances would only result in the Company and its employees being allowed to park additional commercial vehicles on the Premises and occupy the Basement Office in a reduced capacity compared to its existing operations. The Applicants are also willing to discuss the installation of additional screening and other mitigation measures to address the concerns of the Board and neighboring property owners.

Last, and as detailed above, the additional parking of three (3) Company vehicles outdoors and allowing two (2) additional non-resident employees to work in the Basement Office at any given time will not create nor result in more traffic or disturbance in the neighborhood when compared to other types of expressly permitted Home Occupations that are customer/client-facing and when considering the fact that the Basement Office is required to provide five (5) off-street parking spaces under the current Code.<sup>57</sup>

*5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the Area Variances.*

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<sup>54</sup> See page III-45 ("When ever [sic] possible, the Town should also promote the creation of higher wage jobs in a variety of sectors, not just retail.").

<sup>55</sup> See page 8 ("Goal 4: Create a Supportive Culture for Smal Business including streamlining the regulatory and review process and procedures for smart, desirable businesses.").

<sup>56</sup> Dated December 26, 2025, and submitted with the Applicants' initial submission to the Board on the same date.

<sup>57</sup> See discussion and notes 45-46 *supra*.







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The Applicants' need for the Requested Area Variances was not self-created as they have merely continued the Company's long-time use of the existing improvements on the Premises. Moreover, a question of self-creation is not determinative for requests for Area variances.<sup>58</sup>

**CONCLUSION AND LIST OF ENCLOSURES:**

For the reasons set forth above, the Applicants respectfully request that the Board determine that the Company's use of the Basement Office and indoor (garaged) storage of three (3) commercial vehicles, and outdoor storage of one (1) commercial vehicle and one (1) telehandler, constitute legally nonconforming uses entitled to the protections of Section 185-19 of the current Town Code. In the alternative, should the Board determine that some or all of the Company's use of the Premises is not legally nonconforming, the Applicants respectfully request area variances to permit the Company's continued use of the Premises and its improvements in a reduced capacity.

In support of the Applicants' submission, please find enclosed copies of the following documents:

**Exhibit A:**

Affidavit of Nick DiLemme dated June 11, 2026, including:

- Attachment 1: Images of the Premises and Basement Office;
- Attachment 2: The DiLemme Property Chronology;
- Attachment 3: Actual and Representative Photographs of the Company's Vehicles and Equipment (Prior and Current);
- Attachment 4: Building Permit No. 0-5732, Filed June 12, 1984, Closed out September 10, 1985;
- Attachment 5: The Company's Certificate of Incorporation as filed with the Department of State on April 6, 1987;
- Attachment 6: Premises' Property Card from the Town of Newburgh Tax Assessor;
- Attachment 7: Gallery of Jobsite Photographs from the Company's Website; and
- Attachment 8: Written Testimony in Support of the Applications prepared by Virginia Aller, resident of 497 Strawridge Road.

**Exhibit B:**

Excerpts of Local Law No. 4 of 1974 as amended to and effective through December 15, 1990, i.e., the 1980 Code;

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<sup>58</sup> See *Millpond Management, Inc. v. Town of Ulster Zoning Board of Appeals*, 42 A.D.3d 804, 805 (3d Dep't 2007).





June 11, 2026  
Page 15

- Exhibit C:** Excerpts of Local Law No. 4 of 1991, effective December 16, 1990;
- Exhibit D:** 1994 Town of Newburgh Building Department Records, including:
- Request for Investigation Form dated October 5, 1994, with Inspection Findings dated October 24, 1994;
  - Order to Remedy Violation dated October 28, 1994;
  - Typewritten Report of Anonymous Complaint received October 5, 1994, Inspection Findings dated October 24, 1994, and Compliance Date of November 16, 1994; and
- Exhibit E:** Map and Table of Surrounding Neighbors Recommending Approval, No Objection, and Those Opposed.

The Applicants look forward to appearing before the Board to continue discussing the Applications during the continued Public Hearing at the Board's meeting on June 25, 2026. In the meantime, should the Board or Town Staff have any questions or comments with regard to the foregoing, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'TP', with a long horizontal flourish extending to the right.

Taylor M. Palmer

Enclosures

cc: David Donovan, Esq., Attorney to the Zoning Board of Appeals  
Gerald Canfield, Code Compliance Supervisor, Town Code Compliance Department  
Michael Matsler, Esq., Rider, Weiner & Frankel, P.C.  
Daniel Conant, Esq., Cuddy & Feder LLP









ZONING BOARD OF APPEALS  
TOWN OF NEWBURGH, ORANGE COUNTY

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In the Matter of the Applications of

***Jennifer McHugh DiLemme, Nick DiLemme, &  
Di Lemme & Sons, Inc. (d/b/a DiLemme & Sons, Inc.),***

2201 State Route 300, Wallkill (Town of Newburgh),  
New York 12589

***AFFIDAVIT OF  
NICK DILEMME***

-----X

STATE OF NEW YORK            )  
                                          ) ss.:  
COUNTY OF ORANGE         )

***NICK DILEMME***, being duly sworn, deposes and says that:

1. I am over the age of eighteen, suffer no legal disabilities, and am familiar with the facts of the above-captioned applications (the “Applications”) based on my personal knowledge.

2. I am the owner of the real property located at 2201 State Route 300 in Wallkill (Town of Newburgh) New York (the “Premises”), and the Principal of Di Lemme & Sons, Inc. (D/B/A DiLemme & Sons, Inc.) (the “Company”).

3. The photographs annexed hereto as **Attachment 1** are true and accurate representations of the Premises and its existing conditions.

4. I make this affidavit in support of an interpretation by the Zoning Board of Appeals of the Town of Newburgh (the “ZBA”) that the Company’s use of the Premises for commercial purposes, specifically the approximately 580 sq. ft. office in the basement of the residence (the “Basement Office”), the one-car garage adjacent thereto (the “Garage”), and the Premises’ detached two-car garage (the “Workshop”), for the purposes of back-of-office operations and business administration and the storage and repair of Company vehicles, equipment, and materials, both indoor and outdoor, is a legal nonconforming use that has continuously existed in the same form since the 1980s.





5. The “DiLemme Property Chronology” annexed hereto as **Attachment 2** is a true and accurate description of the Company’s use of the Premises.

6. The photographs of the Company vehicles and equipment annexed hereto as **Attachment 3** are actual and representative photographs of the Company’s prior and current vehicles and equipment that were/are kept on the Premises.

7. The Town of Newburgh Building Permit No. 0-5732 annexed hereto as **Attachment 4** is a true and correct copy of the Building Permit for the Workshop, which was closed out on September 10, 1985.

8. The Company has utilized the Garage and Workshop for vehicle, equipment, and materials storage since on or before September 10, 1985.

9. The Company’s Certificate of Incorporation annexed hereto as **Attachment 5** is a reproduction of a certified copy of the same from the Department of State and confirms the Company’s date of incorporation was April 6, 1987.

10. The Premises’ Property Card from the Town of Newburgh Tax Assessor annexed hereto as **Attachment 6**, which describes and depicts the Basement Office as consisting of a finished area of approximately 580 sq. ft., is a true and accurate representation of the area of the Basement Office.

11. The Company has used the Basement Office and/or this area of the residence’s basement since 1987 or earlier for back-office and administrative functions, including accounting, payroll, estimating, and project coordination.

12. Annexed hereto as **Attachment 7** are images from the Company’s website depicting its off-Premises work, i.e., masonry and concrete finishing.

13. Annexed hereto as **Attachment 8** is a true and correct copy of the written testimony of Virginia Aller, resident of 497 Strawridge Road, Wallkill (Town of Newburgh) since 1973, which was previously submitted to the ZBA in support of the Applications.



**WHEREFORE**, I respectfully request that the Zoning Board of Appeals of the Town of Newburgh grant the relief sought in the Applications.

Nick DiLemme

Nick DiLemme

State of New York  
County of Orange

Sworn to before me this  
11<sup>th</sup> day of June, 2026.

Julia Mae Geraghty  
Notary Public







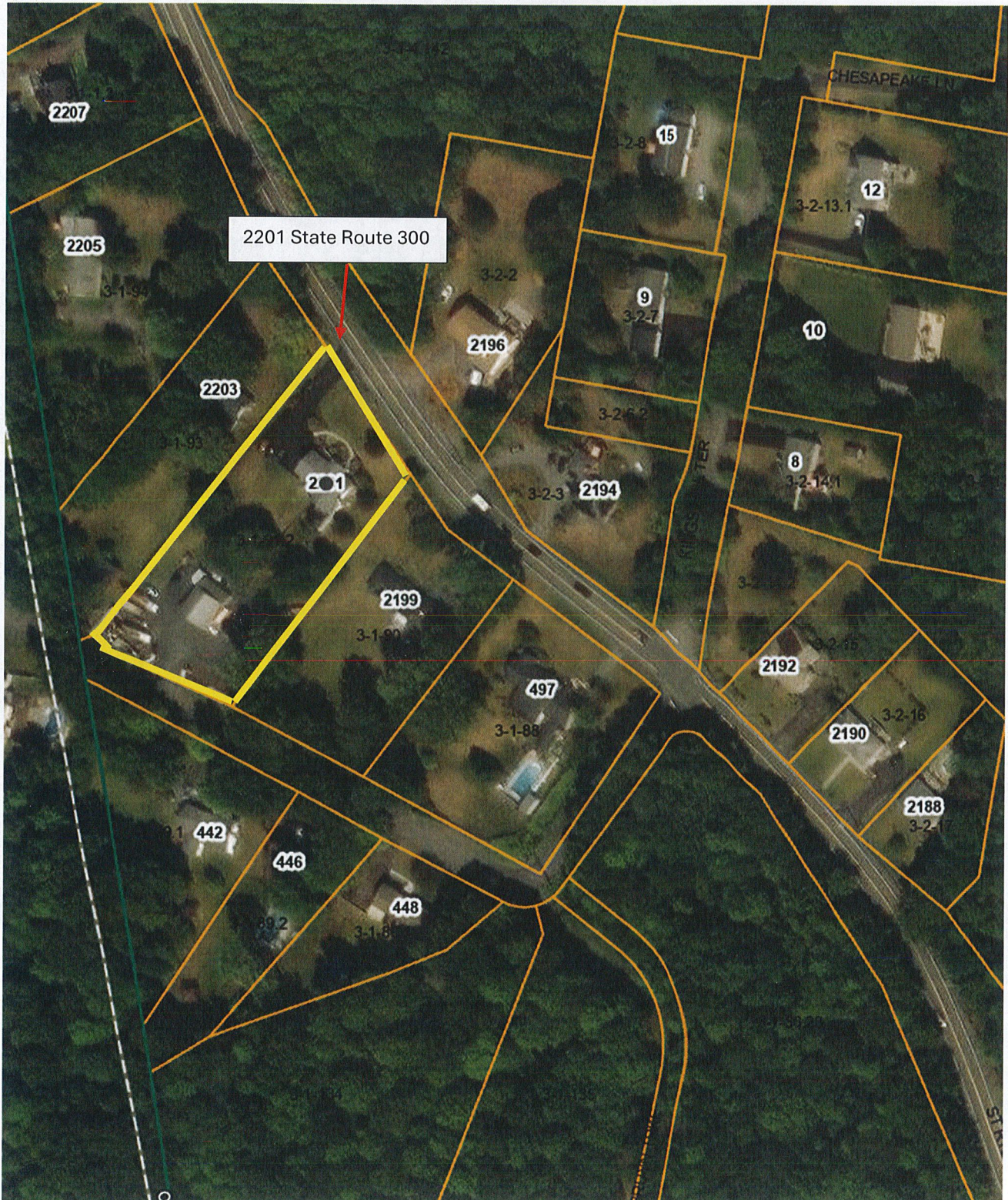






Exhibit 1: Images of the Premises and Surrounding Area

Orange County Parcel Access Viewer Image: 2201 State Route 300





**Exhibit 1: Images of the Premises and Surrounding Area (Cont.)**

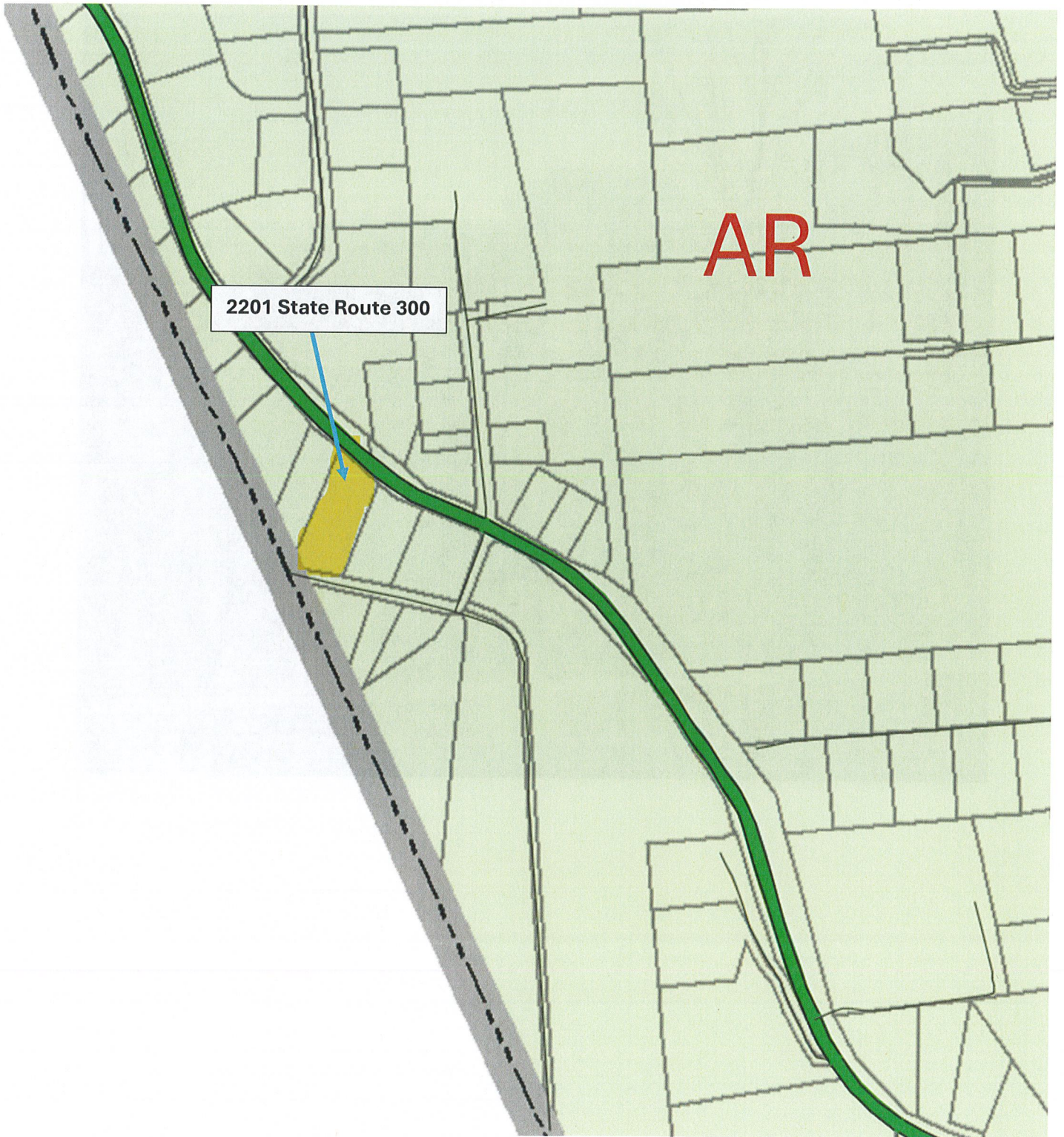
**Google Maps Aerial Image of the Premises and Surrounding Area and Neighboring**





**Exhibit 1: Images of the Premises and Surrounding Area (Cont.)**

**Excerpt of Town of Newburgh Zoning Map – AR District**





**Exhibit 1: Images of the Premises and Surrounding Area (Cont.)**

**Google Maps Street View – Front of Premises:**





**Exhibit 1: Images of the Premises and Surrounding Area (Cont.)**

**Google Maps Street View – State Route 300 looking East Toward Premises:**



**Google Maps Street View – State Route 300 looking West Toward Premises:**





Image of Basement Office:





Image of Basement Office:





Image of Basement Office:









CHRONOLOGICAL SUMMARY OF/  
COMPANY'S USE OF THE PREMISES

| <u>DATE</u>   | <u>USE DETAILS</u>                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11/12/1963    | Premises conveyed to Nicandro DiLemme, Nick DiLemme's father, by Lillian and Louis Carfizzi.                                                                                                                                                                                                                                                                                                           |
| 1974          | Town Board adopted Local Law No. 4-1974, thereby rezoning the Premises within the Agricultural Residence (AR) District and adopting new zoning regulations.                                                                                                                                                                                                                                            |
| Summer 1980   | Nicandro DiLemme began working as a mason out of the Premises after losing his job with the Ford Motor Company in connection                                                                                                                                                                                                                                                                           |
| 1980          | Nick DiLemme began working as a part-time mason with his father as a teenager.                                                                                                                                                                                                                                                                                                                         |
| 1984          | Nick DiLemme began working full-time for his father after graduating from Wallkill Senior High School.                                                                                                                                                                                                                                                                                                 |
| 9/10/1985     | Building Permit for the Workshop (detached 2-car garage) was closed out.                                                                                                                                                                                                                                                                                                                               |
| 1986          | John DiLemme, Nick's younger brother, began working full-time for his father after graduating high school.                                                                                                                                                                                                                                                                                             |
| April 6, 1987 | Company was formally incorporated via filing with Department of State.                                                                                                                                                                                                                                                                                                                                 |
| 1987          | Company employed Nicandro DiLemme and his wife, Nick, and Nick's Aunt, Brother, and Cousin. <sup>1</sup>                                                                                                                                                                                                                                                                                               |
| 1987-1990     | Company underwent period of growth as it expanded its services to include concrete finishing.                                                                                                                                                                                                                                                                                                          |
| 1990          | Prior to December 16, 1990, the Company kept the following vehicles and equipment on the Premises: (i) 1986 Ford Model 1910 Tractor with backhoe and front loader; (ii) 1987/88 Chevrolet 1-ton Box Truck; (iii) 1982 GMC TopKick; (v) 1987 Chevrolet 1/2-ton truck; (vi) 1987 Chevrolet 1-ton truck; (vii) John DiLemme's 1-ton truck; (vii) 1990 Marmon Boom Truck; and (viii) 1-ton square box van. |
| 12/16/1990    | Town Board adopted Local Law No. 4-1991.                                                                                                                                                                                                                                                                                                                                                               |

<sup>1</sup> The DiLemme household consisted of Nick, his parents (Francesca and Nicandro), his Brother (John), and sister. The Basement Office was utilized by the members of the DiLemme household and Nick's Aunt (Antonette).



CHRONOLOGICAL SUMMARY OF/  
COMPANY'S USE OF THE PREMISES

| DATE            | USE DETAILS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Oct./Nov. 1994  | Anonymous Request for Investigation filed with Building Department on October 5, 1994. A subsequent inspection on October 16, 1994, led to the issuance of an Order to Remedy to the Company dated October 28, 1994. The Company complied with the Order as of November 16, 1994 by removing certain vehicles in excess of those permitted under the former zoning regulations (i.e., Local Law No. 4-1974 as amended and effective through December 15, 1990). <sup>2</sup> The Findings of the Inspector on the Request for Investigation note that the Company was also in compliance with the zoning regulations as of January 25, 1995. |
| Feb./March 2003 | A Notice of Complaint was filed with the Town on February 25, 2003, and subsequently closed on March 3, 2003. The Code Enforcement Officer's notes state the following: "In business since 1980. Moving soon (site plan app by Fall 2003). Close 3/3."                                                                                                                                                                                                                                                                                                                                                                                       |
| 3/2/2004        | Francesca and Nicandro DiLemme conveyed the Premises to Nick and his wife, Julie.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

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<sup>2</sup> This resulted in the Company's only keeping of one of the one of the 1988 Chevrolet Box Truck, 1989 GMC 'Form Truck,' 1990 Marmon Boom Truck, and 1982 GMC Top Kick stored outdoors on the Premises at any given time.











**Actual and Representative Photographs of the Company's Vehicles and Equipment  
(Prior and Current)**



Representative Photo of Company's 1986 Ford Model 1910 Tractor with Backhoe and Front Loader  
(replaced in-kind with JLG G6-42A Telehandler and SkyTrak Telehandler)<sup>1</sup>

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<sup>1</sup> See page 4.







Photograph of the Company's 1987/8 Chevrolet Box Truck<sup>2</sup>  
(replaced by 2005 GMC C7500 Box Truck)<sup>3</sup>

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<sup>2</sup> Note: the 1987/8 Chevrolet Box Truck was less than 25' in length and has since been replaced in-kind by the Company's 2005 GMC C7500 Box Truck, which, upon information and belief, is also 25' or less in length. The Company's oversized vehicles (e.g., 1989 GMC Form Truck) were typically kept off-Premises and moved from jobsite to jobsite beginning in November 1994.

<sup>3</sup> See page 5.







Company's F550 (left) and 2024 F-600 (right) enclosed in the Workshop on the Premises  
(currently in use; replaced prior Company trucks)<sup>4</sup>

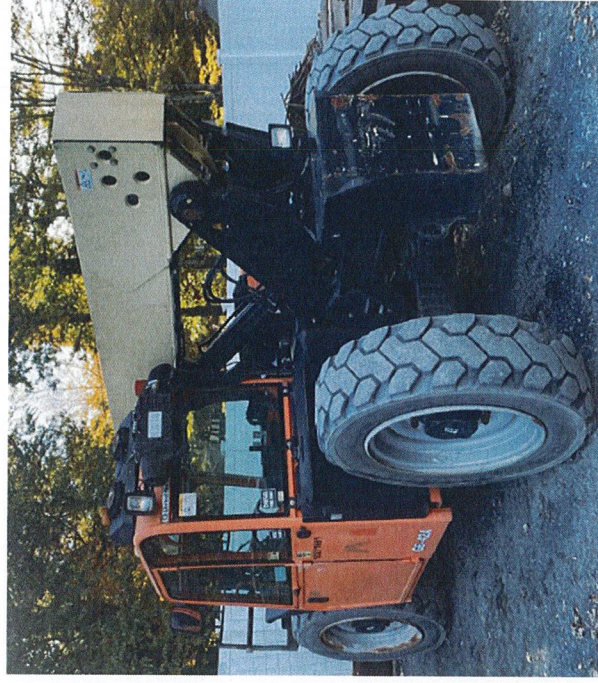
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<sup>4</sup> E.g., 1979 Ford F-150, 1987 Chevrolet, 1977 F350, 1991 Ford F-150, 1993 GMC 3500, 1999 F150, 2001 Ford F350, 2003 Ford F350, 2004 Ford F550, 2008 Ford F550, 2015 Ford F350, 2017 Ford F350.

Note: the Company did not own and/or store all the above trucks on the Premises at any one time.







Company's JLG G6-42A Telehandler and SkyTrak Telehandler, Respectively  
(currently in use; replaced 1986 Ford Model 1910 Tractor)<sup>5</sup>

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<sup>5</sup> See page 1.

Note: only one of the JLG G6-42A or Skytrak Telehandlers is kept on the Premises at any given time. The other is kept off-Premises and moved from jobsite to jobsite.







2005 GMC C7500 Box Truck

(currently in use and kept on the Premises; replaced 1988 Chevrolet Box Truck)<sup>6</sup>

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<sup>6</sup> See page 2.









TOWN OF NEWBURGH  
308 GARDNERTOWN ROAD  
NEWBURGH, NEW YORK 12550

GERALD F. CANFIELD  
CODE COMPLIANCE SUPERVISOR  
TELEPHONE: (845) 564-7801  
FAX LINE: (845) 564-7802

Permit No: 0-5732

File Date: 06/12/1984  
Expire Date: 12/13/1985

## BUILDING PERMIT

SEC-BLK-LOT: 3-1-91.2

Permit Fee: \$18.00  
C.O. Fee: \$0.00

A permit is hereby given by the Building Department, TOWN OF NEWBURGH,  
ORANGE COUNTY, N.Y., for the structure described herein:

Owner's Name: DI LEMME, NICANDRO (914)-564-2195  
Address: RD#2, BX 300, BOX 119, WALLKILL, NEW YORK

Architect's Name: N/A  
Address:

Builder's Name: DILEMME AND SONS (914)-564-2195  
Address: RD#2, BOX 119, WALLKILL, NEW YORK, 12589

Location of Structure: ROUTE 300

|                            |                     |                 |
|----------------------------|---------------------|-----------------|
| Material: FRAME            | No. Stories: 1.0    | No. Families: 0 |
| Dim. of Stru.: 30' X 30'   | No. Bedrooms: 0     | No. Toilets: 0  |
| Use of Stru.: 2=CAR GARAGE | Dim. of Lot: 1 ACRE |                 |
| Census Code: 438           | No. Bathrooms: 0.0  | Heating Plant:  |

Remarks: COMPLETED CLOSED OUT 9/10/85

Appx. Cost: \$6000.00

1. I am familiar with the Zoning and Building Ordinance of the TOWN OF NEWBURGH, and do hereby agree to abide by them.
2. The information stated above is correct and accurate.

Signature of Applicant

CODE COMPLIANCE DEPARTMENT

### IMPORTANT

1. A permit under which no work has commenced within six (6) months after issuance, shall expire by limitation, and a new permit must be secured before work can begin.
2. It is the responsibility of the owner and/or contractor to comply with all applicable town ordinances and to call for the required inspections at least one day in advance.

SEPTIC PERMIT:

Permit No: 0-5732

COPY









**STATE OF NEW YORK  
DEPARTMENT OF STATE**

I hereby certify that the annexed copy for DI LEMME & SONS, INC., File Number B480131-3 has been compared with the original document in the custody of the Secretary of State and that the same is true copy of said original.

WITNESS my hand and official seal of the  
Department of State, at the City of Albany,  
on December 22, 2025.

WALTER T. MOSLEY  
Secretary of State



*Brendan C. Hughes*

BRENDAN C. HUGHES  
Executive Deputy Secretary of State

**CERTIFICATE OF INCORPORATION**

**OF**

**DI LEMME & SONS, INC.**

**UNDER SECTION 402 OF THE BUSINESS CORPORATION LAW**

**IT IS HEREBY CERTIFIED THAT:**

1. The name of the corporation is:

**DI LEMME & SONS, INC.**

2. The purpose or purposes for which the corporation is formed as follows, to wit:

To own, operate, manage and do everything normally associated with conducting the business of a masonry contractor.

To engage in any lawful act or activity for which corporations may be formed under the Business Corporation Law. The corporation is not formed to engage in any act or activity requiring the consent or approval of any state official, department, board, agency or other body without such consent or approval first being obtained.

To own, operate, manage, acquire and deal in property, real and personal, which may be necessary to the conduct of the business.

The corporation shall have all of the powers enumerated in Section 202 of the Business Corporation Law, subject to any limitations provided in the Business Corporation Law or any other statute in the State of New York.

3. The county in which the office of the corporation is to be located in the State of New York is: Orange

4. The aggregate number of shares which the corporation shall have authority to issue is 200 shares, no par value.

5. The Secretary of State is designated as agent of the corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is:

The corporation  
Route 300, Box 119  
Wallkill, New York 12589

Diane L. Foley  
Diane L. Foley  
33 Rensselaer Street  
Albany, New York 12202

On this 3rd day of April, 1987, before me personally came Diane L. Foley to me known to be the individual described in and who executed the foregoing instrument, and she duly acknowledged to me that she executed the same.

**Barbara Kinnaw**  
**NOTARY PUBLIC, STATE OF NEW YORK**  
**No. 4720956**  
**Qualified in Albany County**  
**Term Expires May 31, 1988**

Barbara Kinnear

3480131

|   |   |    |        |
|---|---|----|--------|
| X |   | X  | L      |
| X |   | X  | L      |
|   | X | X  | L      |
|   |   | XX | L      |
|   | X | X  | L      |
|   | X |    | L      |
|   |   | X  | L      |
| X |   | X  | LLLLLL |

CERTIFICATE OF INCORPORATION

OF

DI LEMME & SONS, INC.

*Handwritten signature*

*BY/H*

**FILED**

FILED BY:

John A. Lewis, Esq.  
42 Wallkill Avenue, P.O. Box 368  
Wallkill, New York 12589

RECEIVED  
APR 3 11 AM '87

FILED

APR 6 8 31 AM '87

920314

STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED APR 8 1987

AMT. OF CHECK \$ 120  
 FILING FEE \$ 10.00  
 TAX \$ \_\_\_\_\_  
 COUNTY FEE \$ \_\_\_\_\_  
 COPY \$ \_\_\_\_\_  
 CERT \$ \_\_\_\_\_  
 REFUND \$ \_\_\_\_\_  
 SPEC HANDLE \$ 10

*Handwritten signature: Prange*







4-Current

OWNERSHIP & MAILING ADDRESS

LEGAL DESCRIPTION  
120 AC. 11/24/07  
3/2/04 L 11405 1587

Dilemme, Hickory G. & Jennifer M.  
McHugh  
P.O. Box 10355  
Newburgh NY 12550

PROPERTY IDENTIFICATION

334 600 3 1 912  
SWIS S B L SUFFIX  
CLASS CODE CARD NUMBER GRID COORDINATE  
480 1210 01 OF 01 E0594776 N1003781  
PROPERTY ADDRESS 2201

RECORD OF OWNERSHIP

Dilemme, Nicardo & Francesca

MEASURED BY: DATE  
LISTED BY: DATE  
SOURCE: 1-OWNER 2-SPOUSE 3-TENANT 4-OTHER 5-ESTIMATE 6-REFUSAL

| LAND DESCRIPTION |          | VALUATION | FRONTAGE | DEPTH | UNIT PRICE | DEPTH FACTOR | ADJUSTED PRICE | INFLUENCE CODE | % | LAND VALUE        |
|------------------|----------|-----------|----------|-------|------------|--------------|----------------|----------------|---|-------------------|
| 01 - PRIMARY     | LOT      |           |          |       |            |              |                |                |   |                   |
| 02 - SECONDARY   |          |           |          |       |            |              |                |                |   |                   |
| 03 - UNDEVELOPED |          |           |          |       |            |              |                |                |   |                   |
| 04 - RESIDUAL    |          |           |          |       |            |              |                |                |   |                   |
| 05 - TILLABLE    | S        |           |          |       |            |              |                |                |   |                   |
| 06 - PASTURE     | S        |           |          |       |            |              |                |                |   |                   |
| 07 - WOODLAND    | S        |           |          |       |            |              |                |                |   |                   |
| 08 - WASTELAND   |          |           |          |       |            |              |                |                |   |                   |
| 09 - MUCK        |          |           |          |       |            |              |                |                |   |                   |
| 10 - WATERFRONT  |          |           |          |       |            |              |                |                |   |                   |
| 11 - ORCHARD     | ( ) A.01 | 100       |          |       | 30000      |              |                |                |   | 30000             |
| 12 - REAR        | ( ) A.04 | 21        |          |       | 2000       |              |                |                |   | 400               |
| 13 - VINEYARD    | ( ) A.   |           |          |       |            |              |                |                |   |                   |
| 14 - WETLAND     | ( ) A.   |           |          |       |            |              |                |                |   |                   |
| 15 - LEASED LAND | ( ) A.   |           |          |       |            |              |                |                |   |                   |
| TOTAL            |          | 1.21      |          |       |            |              |                |                |   | 30400             |
| ASSESSMENT       | 19 08    | 19 09     | 19       | 19    |            |              |                |                |   | SPECIAL DISTRICTS |
| LAND             | 30400    | 30400     |          |       |            |              |                |                |   | SCHOOL 515201     |
| IMPROVEMENTS     | 52200    | 53600     |          |       |            |              |                |                |   | FIRE FD 030       |
| TOTAL            | 82600    | 84000     |          |       |            |              |                |                |   | SEWER             |
| EXEMPTION        |          |           |          |       |            |              |                |                |   | LIGHT             |
| TAXABLE          |          |           |          |       |            |              |                |                |   | PARK              |

NEIGHBORHOOD I.D. 21400

ZONING: 01 - NONE 02 - SINGLE RES. 03 - MULTI RES. 04 - FARM 05 - COMMERCIAL 06 - INDUSTRIAL 07 - MIXED 08 - GOVERNMENT

TOPOGRAPHY RATING: 1-GOOD 2-FAIR 3-POOR 4-VERY POOR

VIEW: 1-DETRIMENTAL 2-TYPICAL 3-ENHANCING

LAYOUT (FARMS ONLY) 1-POOR 2-AVERAGE 3-GOOD

FLOOD RATING: 1-ALWAYS 2-MIXED 3-OFTEN 4-SOME 5-NEVER

MUCK: 1 2 3 4

SITE ELEVATION: 1-BELOW GRADE 2-LEVEL 3-ABOVE GRADE

DWELLING SETBACK: NEAREST 10 FEET

ROAD: 1-NONE 2-UNIMPROVED 3-IMPROVED

WATER: 1-NONE 2-PRIVATE 3-COMM/PUBLIC

SEWER: 1-NONE 2-PRIVATE 3-COMM/PUBLIC

OTHER UTILITIES: 1-NONE 2-GAS 3-ELECTRIC 4-GAS AND ELECTRIC

NEIGHBORHOOD TYPE: 1-RURAL 2-SUBURBAN 3-URBAN 4-COMMERCIAL

SITE DESIRABILITY: 1-INFERIOR 2-TYPICAL 3-SUPERIOR

LOT LANDSCAPING: 1-EXCELLENT 2-GOOD 3-FAIR 4-POOR 5-NONE

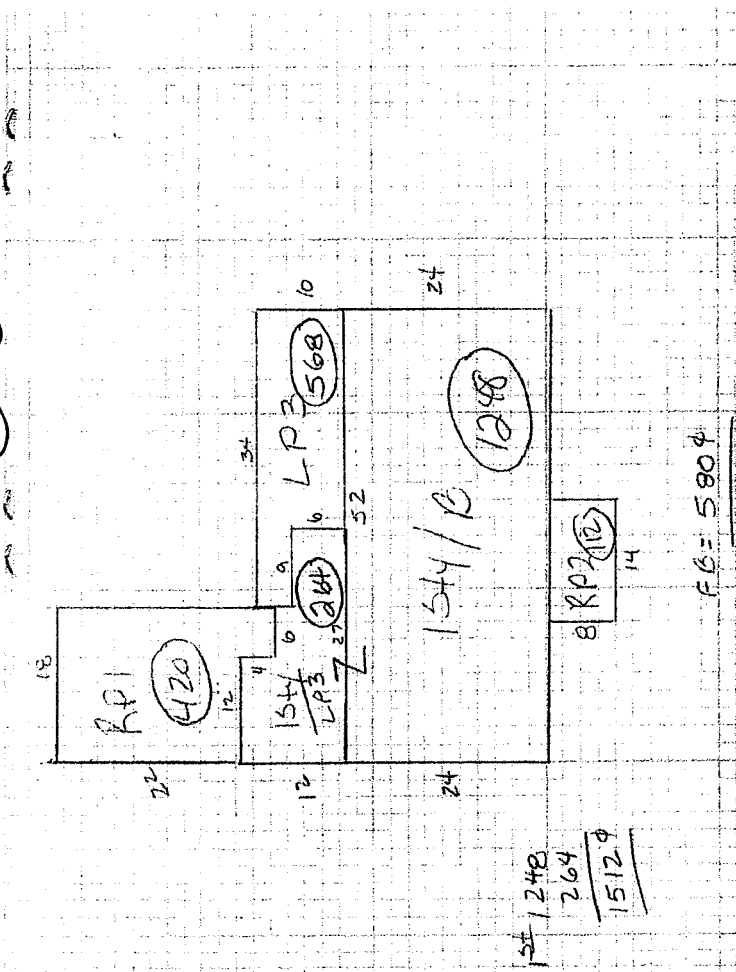
DRIVEWAY: 1-NONE 2-UNIMPROVED 3-IMPROVED

FRONTING TRAFFIC: 1-HEAVY 2-MEDIUM 3-LIGHT

BUILDING PERMIT RECORD

DATE MO. YR. TYPE 1-DEMOL 2-ADDN AMOUNT NUMBER

AMD10



4504

## DETACHED IMPROVEMENTS

[illegible]

• UNITS: 1 QUANTITY 2 DIMENSIONS 3 SQUARE FEET 4 DOLLARS (MS1 ONLY)  
+ CONDITION: 1 POOR 2 FAIR 3 NORMAL 4 GOOD 5 EXCELLENT  
• GRADE: A EXPENSIVE B GOOD C AVERAGE D ECONOMY E MINIMUM

|                                                                                                                                                                                                                                                                   |  |                                                                                                                                                                                                                                                                                                                                                                                                                         |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>RESIDENCE DESCRIPTION</b><br>STYLE: 01<br>06 CONTEMPORARY 11 LOG CABIN<br>01 RANCH 12 DUPLEX<br>02 RAISED RANCH 07 MANSION<br>03 SPLIT LEVEL 08 OLD STYLE<br>04 CAPE COD 09 COTTAGE<br>05 COLONIAL 10 ROW 15 TOWN HOUSE<br><b>NUMBER OF STORIES</b> <u>1.0</u> |  | <b>INTERIOR CONDITION</b><br>1 POOR 2 FAIR 3 NORMAL<br>4 GOOD 5 EXCELLANT<br><b>COST FACTORS</b> <u>2+</u><br>GRADE PERCENT GOOD<br>FUNCTIONAL/ECONOMIC OCSOLESCENCE<br>CDU (EX. VG, G, AV, P, VP, UN)                                                                                                                                                                                                                  |  |
| <b>EXTERIOR WALLS:</b><br>1 WOOD/FRAME 7 STONE<br>2 BRICK<br>3 ALUM/VINYL 02<br><b>AGE: YEAR BUILT</b> <u>1964</u><br>REMODELED <u>1972</u><br>EFFECTIVE YR BUILT                                                                                                 |  | <b>LIVING AREA:</b> FIRST FLOOR (SF) <u>1512</u><br>SECOND FLOOR (SF)<br>ADDITIONAL FLOOR (SF)<br>HALF STORY FINISHED (SF)<br>HALF STORY UNFINISHED (SF)<br>THREE QUARTER STORY FIN. (SF)<br>THREE QUARTER STORY UNFIN. (SF)<br>FINISHED BASEMENT (SF)<br>FINISHED ATTIC (SF)<br>FINISH OVER GARAGE (SF)<br>UNFINISHED ROOM (SF)<br>TOTAL LIVING AREA (SF) <u>2092</u><br>UNFINISHED ATTIC (SF)<br>RECREATION ROOM (SF) |  |
| <b>ROOMS</b> <u>3</u> <b>BED</b> <u>1.5</u><br><b>FAMILY</b> <u>6</u> <b>BATH</b><br><b>TOTAL</b>                                                                                                                                                                 |  | <b>BASEMENT:</b> <u>4</u><br>1 PIERS/SLAB 2 CRAWL 3 PARTIAL 4 FULL<br>BASEMENT GARAGE CAPACITY<br><b>HEAT TYPE:</b> <u>3</u><br>1 NO CENTRAL 2 HOT AIR<br>3 STEAM/HOT WATER 4 ELECTRIC                                                                                                                                                                                                                                  |  |
| <b>FUEL TYPE:</b> <u>4</u><br>1 NONE 3 ELECTRIC 5 WOOD<br>2 GAS 4 OIL 6 SOLAR                                                                                                                                                                                     |  | <b>AIR CONDITIONING:</b> 1 YES <u>0</u>                                                                                                                                                                                                                                                                                                                                                                                 |  |

## NOTES:

(X) Completed  
 ASE of Strawbridge  
 (Re Reply - Eng's Coll)  
 See photo (00)  
 General Business

wood stove insert)

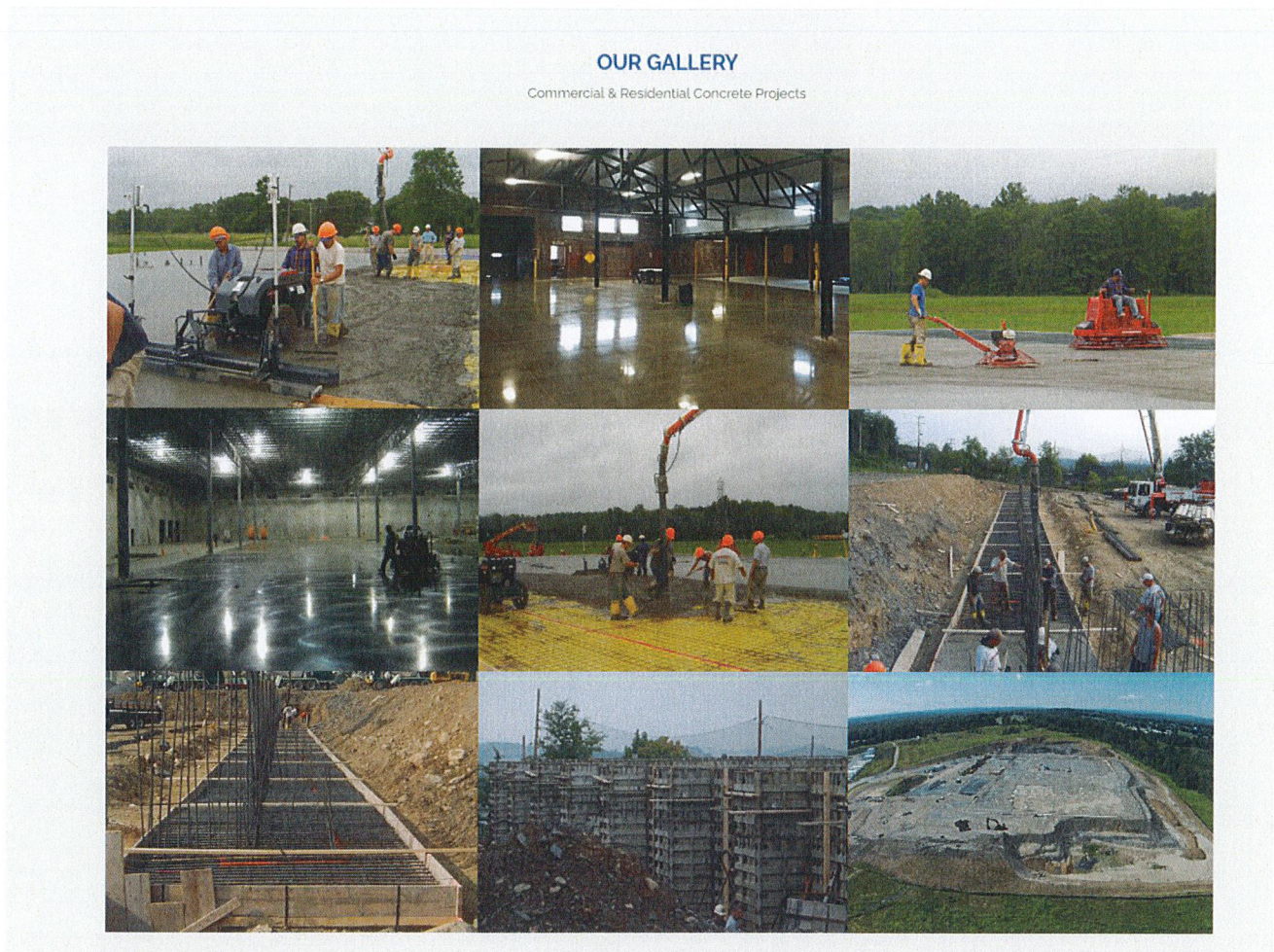
| ANTHROPIC IMPROVEMENTS |           |   |         | MEASURE |   | QUANTITY | YEAR BUILT | RATE | C FUNC + | OBSSO | TOTAL |
|------------------------|-----------|---|---------|---------|---|----------|------------|------|----------|-------|-------|
| STR CODE               | MOD. CODE | U | MEASURE | 1       | 2 |          |            |      |          |       |       |
| R61                    |           | 3 | 900     | /       |   | 01       | 1964       |      | 3        |       | (*)   |
| R62                    |           | 3 | 112     | /       |   | 01       | 1997       |      | 4        |       |       |
| R61                    |           | 3 | 540     | /       |   | 01       | 1997       |      | 4        |       |       |
| FC1                    |           | 2 | 12      | 20      |   | 01       | 2002       |      | 4        |       |       |
| LP3                    |           | 3 | 568     | /       |   | 01       | ?          |      | 4        |       |       |
| RP1                    |           | 3 | 420     | /       |   | 01       | 2007       |      | 4        |       |       |







## Exhibit 7 – Gallery of Jobsite Photographs from the Company's Website



Obtained from <https://www.dilemmeconcrete.com/#gallery> (April 9, 2026)









I have resided in my home since 1973. When the senior Mr. DiLemme sought support of his neighborhood to have his business established at the property now being addressed; my husband Dwight, deceased, and I gave full consent. This family business has continued without incidence, again fully supporting that it does so as established. They have always been honest, hard working, considerate neighbors. This property is well kept in appearance. To do otherwise is a cause of hardship and unwarranted expense to a family just wanting to continue their legacy. Anyone moving into this area has been fully aware of its existence and workings before doing so. Thank you for your consideration in this matter.

Sincerely, Virginia Aller









## CHAPTER 30

### ZONING

#### ARTICLE I

##### PURPOSES

##### § 30.1 Authority

There is hereby established a comprehensive zoning plan for the Town of Newburgh, which plan is set forth in the text and map that constitute this Chapter. Said plan is adopted for the purposes set forth in Sections 261 and 263 of Article 16 of the Town Law, which, in the interest of the protection and promotion of the public health, safety and welfare, shall be deemed to specifically include the following, among others:

1. The facilitation of the efficient and adequate provision of public facilities and services.
2. The provision of privacy for families.
3. The prevention and reduction of traffic congestion.
4. The maximum protection of residential areas.
5. The enhancement of the appearance of the Town as a whole.
6. The protection of business areas by reduction of over congestion caused by automobile traffic and parking.
7. The preservation of natural features in the Town.
8. The gradual elimination of nonconforming uses.

#### ARTICLE II

##### DEFINITIONS

##### § 30.21 Definitions

###### A. Generally.

Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the word "person" includes a corporation as well as an individual;

the word "lot" includes the word "plot". The term "occupied" or "used", as applied by any building, shall be construed as though followed by the words "or intended, arranged or designed to be occupied or used".

B. Specific terms.

As used in this Chapter, unless the context or subject matter otherwise requires:

1. "Accessory" shall mean a term applied to a use and/or structure clearly incidental or subordinate to the principal building or permitted use on the same lot.

2. "Alteration" shall mean a change, extension, enlargement or rearrangement in the structural parts of a building or structure, whether by extending to a side or by increasing the height, or the moving from one location or position to another.

2a. "Area of critical environmental concern" shall mean any area containing resources of critical concern to the Town as designated by Local Law No. 2 of the year 1987 of the Town of Newburgh adopted in accordance with 6 NYCRR 617.4(j), filed with the Commissioner of Environmental Conservation. [Added LL #4, 87, 8/3/87.]

3. "Boardinghouse" shall mean a building containing a single dwelling unit and lodging rooms accommodating, for compensation, four (4) or more persons who are not the keeper's family.

4. "Building" shall mean a structure wholly or partially enclosed within exterior walls and a roof, affording shelter to persons, animals or property.

5. "Cluster development" shall mean a tract of land designed for a single type of residential use and providing common space from lands gained by reducing lot sizes below the minimum of this Chapter. Said open space shall be integrated throughout the development and made available for the use of the residents thereon.

6. "Condominium" shall mean the individual ownership in fee simple of a one (1) family unit in a multi-family structure coupled with ownership of an undivided interest in the land and in all other parts of the structure held in common with all of the other owners of one (1) family units.

7. "Dump" shall mean a parcel of land or part thereof used



primarily for the disposal by abandonment, dumping, burial, burning, or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

8. "Dwelling, one-family" shall mean a detached building containing one (1) dwelling unit only.

9. "Dwelling, one-family attached" shall mean a one-family dwelling with two (2) common or party walls separating it from adjacent dwellings on both sides or one (1) common wall in the case of a dwelling located at the end of a group of attached dwellings, and no other dwelling above or below.

10. "Dwelling, two-family" shall mean a building containing two (2) dwelling units only.

11. "Dwelling, multiple" shall mean a building or portion thereof containing more than two (2) dwelling units either side by side or above and below each other.

12. "Dwelling unit" shall mean a building or entirely self contained portion thereof containing complete housekeeping facilities for only one (1) family, including any domestic servants employed on the premises and having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other "dwelling unit". A boardinghouse, dormitory, hotel, inn, nursing or other similar structure shall not be deemed to constitute a dwelling unit.

13. "Family" shall mean one (1) or more persons occupying a dwelling unit as a single nonprofit housekeeping unit. More than five (5) persons, exclusive of domestic servants, not related by blood, marriage or adoption, shall not be considered to constitute one (1) family.

13a. "Flood plain, one hundred (100) year" shall mean a tidal or riverline fringe area subject to flooding with a frequency of up to one (1) occurrence\* in one hundred (100) years as defined on a map prepared by the Federal Emergency Management Agency on June 5, 1985. [Added LL #4, 87, 8/3/87.]

14. "Floor area" shall mean the sum of the gross horizontal areas of the several floors of the building or buildings on a lot measured from the exterior faces of the exterior walls or from

\*So in original.

the center line of party walls separating two (2) buildings.

15. "Fowl" shall include but not be limited to domesticated birds such as chickens, ducks, geese, turkeys and pheasants raised in confinement.

16. "Garage, private" shall mean an enclosed space for the storage of one (1) or more motor vehicles.

17. "Garage, public" shall mean 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, but not including the sorting, holding or displaying of the same for sale or resale, lease or rental, except as to the holding of a vehicle for not more than sixty (60) days for insurance appraisal purposes covering property damage claims and except as to the holding of a vehicle for the required period to perfect or protect a garageman's lien pursuant to statute.

18. "Height" shall mean the vertical distance measured from the average elevation of the finished grade along the side of the structure fronting on the nearest street to the highest point of such structure.

19. "Home occupation" shall mean any gainful occupation or profession customarily conducted within a dwelling by the residents thereof, clearly secondary to the use of the dwelling for living purposes, and which does not change the character of the structure as a residence. Said activity shall not have more than one (1) non-resident employee working on the premises at any one time and shall not occupy more than one half (1/2) of the ground floor area of the dwelling or its equivalent elsewhere in the dwelling if so used. Permissible home occupations include, but are not limited to, the following: art studio; dressmaking; offices for a clergyman, lawyer, physician, dentist, architect, engineer, real estate agent or accountant; teaching with musical, dancing and other instruction limited to one (1) pupil at a time. However, home occupations shall not be construed to include uses such as the following: clinic or hospital, barber shop or beauty parlor, restaurant, animal hospital or commercial animal breeding.

20. "Junk yard" shall mean any area of land including buildings thereon which is used primarily for the collecting, storage and/or sale of wastepaper, rags, scrap metal or discarded

## ZONING

material; or for the collecting, dismantling, storage or salvaging of machinery or vehicles and/or for the sale of parts thereof. Two (2) or more motor vehicles stored outside without current license plates for a period of sixty (60) days shall constitute a junk yard.

21. "Livable floor area" shall mean all spaces within the exterior walls of a dwelling unit exclusive of garages, breezeways, unheated porches, cellars, heating rooms and basements having a window area of less than twenty percent (20%) of the square foot area of the room. Floor area shall include all spaces not otherwise excluded above such as: principal rooms, utility rooms, bathrooms, all closets and hallways opening directly into any rooms within the dwelling unit, and all attic space having a clear height of seven and one half (7 1/2) feet from finished floor level to pitch of roof rafter.

22. "Livestock" shall mean the animals, including but not limited to domestic animals, such as sheep, horses, cattle and goats.

23. "Lot" shall mean a parcel of land occupied or used by one (1) principal building or use with its accessory buildings and required open spaces or yards.

24. "Lot, corner" shall mean a lot at the junction of and fronting on two (2) or more intersecting streets.

25. "Lot coverage" shall mean the percentage of the area of the lot covered by a building or buildings.

26. "Lot, depth" shall mean the minimum distance from the street line of a lot to the rear lot line of such lot.

27. "Lot line" shall mean any boundary of a lot other than a street line.

28. "Lot line, rear" shall be the lot line generally opposite to the street line.

29. "Lot width" shall mean the distance between side lot lines at the front yard or setback line measured along a line parallel to the street.

30. "Manufacturing" shall mean any process whereby the nature,

size or shape or articles or raw materials is changed, or where articles are assembled or packaged, in quantity.

31. "Mobile home" shall mean a transportable single family dwelling, with body width exceeding eight (8) feet or a body length exceeding thirty-two (32) feet, which may be towed on its own running gear, and which may be temporarily or permanently affixed to real estate, used for non-transient, residential purposes and which conforms with American Standards Association Code Provision A-199 of 1963, "American Standard for Installation in Mobile Homes of Electrical, Heating and Plumbing Systems", or Mobile Home Manufacturers Association: "Mobile Homes Standard for Plumbing, Heating and Electrical Systems."

32. "Mobile home or modular home sales lot" shall mean any area of land upon which mobile or modular homes are placed for purposes of sale or display.

33. "Mobile home court" shall mean any area of land occupied by two (2) or more mobile homes that are used for dwelling purposes.

34. "Modular home" shall mean a factory fabricated, transportable building, for dwelling purposes, designed to be used by itself or to be incorporated with similar buildings and placed on a permanent foundation at the building site.

35. "Motor vehicle service station" shall mean a building or lot or part thereof, where refueling and related services, including washing, of motor vehicles are offered for gain, but not including the storing, holding or displaying of the same for sale or resale, lease or rental, except as to the holding of a vehicle for not more than sixty (60) days for insurance appraisal purposes covering property damage claims and except as to the holding of a vehicle for the required period to perfect or protect a garageman's lien pursuant to statute.

36. "Motel" shall mean any establishment consisting of a building or group of buildings providing living and/or sleeping accommodations with individual bathrooms, and designed for use by transient automobile travellers.

37. "Nonconforming building or use" shall mean a building or use that does not conform to the regulations prescribed for the district in which it is situated.

38. "Person" shall mean any individual, firm, company, asso-

ciation, society, corporation, or entity capable of being sued.

39. "Planned unit development" shall mean a tract of land providing more than one (1) land use and designed to be maintained and operated as a unit in single ownership or control and sharing certain facilities in common, such as open space, yards and off-street parking facilities.

40. "Sign" shall mean any letter, word, model, reproduction, banner, pennant, insignia, trade flag, device or representation used as, or which is in the nature of, an advertisement, attraction or directive.

41. "Sign area" shall mean and include all faces of a sign measured as follows:

a. When such sign is on a plate or framed or outline, all of the area of such plate or the area enclosed by such frame or outline shall be included.

b. When such sign consists only of letters, designs or figures, engraved, painted or projected or in any manner affixed on a wall, the total area of such sign shall be deemed the area within which all of the matter of which such sign consists may be inscribed.

42. "Street" shall mean a public way which affords principal means of access to abutting properties.

43. "Street line" shall mean the dividing line between a lot and a street.

44. "Structure" shall mean a combination of materials to form a construction that is safe and stable and includes, among other things, stadiums, platforms, radio towers, sheds, storage bins, billboards and display signs.

45. "Usable open space" shall mean an unenclosed portion of the ground area of a lot which is not devoted to driveways or parking spaces which is free from structures of any kind and which is available and accessible to all occupants of the building or buildings on the said lot for the purposes of active or passive outdoor recreation. Said usable open space may include buffer strips and fenced or screen planted children's play areas.



46. "Trailer, camping" shall mean any unit designed for temporary living purposes on a public or private campsite or as an accessory to such living purposes, with one (1) or more wheels, designed to be hauled by a private motor vehicle; or such a unit as is mounted upon a motor vehicle, or constructed as an integral part thereof. Such units shall not exceed thirty-two (32) feet in length and shall not be provided with water and sewer connection suitable for year round use.

47. "Use" shall mean the specific purpose for which land or a building is used or occupied or maintained.

47a. "Wetland, protected" shall mean an area of saturated soil or characteristic vegetation as defined on a map prepared by the New York State Department of Environmental Conservation in March 25, 1987. [Added LL #4, 87, 8/3/87.]

48. "Yard, front" shall mean an unoccupied ground area fully open to the sky between the street line and a line drawn parallel thereto.

49. "Yard, rear" shall mean an open, unoccupied space, within and extending the full width of the lot between the building and the rear line of the lot.

50. "Yard, side" shall mean an unoccupied ground area fully open to the sky between any property line other than a street or rear lot line and a line drawn parallel thereto, and between the front and rear yards.

### ARTICLE III - ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP

#### § 30.31 Establishment of Zoning Districts

The Town of Newburgh is hereby divided into the following zoning districts:

|     |                                                            |
|-----|------------------------------------------------------------|
| R-1 | Residence District                                         |
| R-2 | Residence District                                         |
| R-3 | Residence District                                         |
| RR  | Reservoir Residence District [Added LL #4, 87,<br>8/3/87.] |
| AR  | Agricultural Residence District                            |
| B   | Business District                                          |
| IB  | Interchange Business District                              |
| I   | Industrial Business District                               |

§ 30.32 Zoning Map\*

The boundaries of said districts hereby established as shown on the "July 1987 Zoning Map, Town of Newburgh", which accompanies, and which with all explanatory matter thereon, is hereby adopted and made a part of this Chapter. [Amd LL #5, 74, 8/9/74; LL #1, 76, 5/17/76; LL #1, 83, 6/16/83; LL #1, 84, 5/7/84; LL #4, 87, 8/3/87.]

§ 30.33 District boundaries

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

## A. Centerlines of streets, etc.

Unless otherwise shown, the district boundaries shall coincide with property lot lines, center lines of streets, alleys, highways, waterways, railroad and utility rights-of-way, or such lines extended, as shown on the map of the Town of Newburgh, N.Y. prepared by the Orange County Planning Department and dated 1971.

## B. Property lines of public lands.

Where such boundaries are indicated as approximately following the property lines of publicly owned lands, such lines shall be construed to be such boundaries.

## C. Measurements.

Measurements stated on the Zoning Map are perpendicular or radial distances from street lines measured to the district boundary line, which in all cases where distances are given, are parallel to the street line.

## D. Division of existing lot.

Where a district boundary divides a lot in single ownership the regulations for either portion of the lot may in the owner's discretion, extend to the entire lot but not more than thirty (30) feet beyond the boundary line of the district.

\*Town Law § 264 requires Town Clerk to maintain a separate file or filing cabinet for each and every Zoning Map available for public inspection.

E. Use of scale.

In all other cases, where dimensions are not shown on the map, the location of the boundaries shown on the map shall be determined by the use of the scale appearing thereon.

§ 30.34 Effect of establishment of zoning districts

A. Compliance with regulations.

No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, moved, altered, rebuilt or enlarged except in conformity with the regulations herein specified for the district in which it is located.

B. Yards or open space.

No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.

C. Reduction of yards or lots.

No yard or lot existing at the time of passage of this Chapter shall be reduced in size or or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Chapter shall meet the minimum requirements established by this Chapter.

D. Interpretation of regulations.

Within each district, the regulations set by this Chapter shall be minimum regulations and shall apply uniformly to each kind of structure or land.

E. Permits issued before adoption of Chapter.

Nothing contained in this Chapter shall be construed as changing the plans or uses of present buildings, or the construction, use or occupation of any building for which a building permit has heretofore been issued according to law, and the construction of which shall have been diligently prosecuted within six (6) months of the date of the permit and which entire building shall have been completed within one (1) year from the effective date of this Chapter.

## ARTICLE IV

## DISTRICT REGULATIONS

§ 30.41 District regulations schedule

The following schedule entitled "Schedule of District Regulations" sets forth the permitted accessory uses; permitted principal uses; permitted uses subject to site plan review by the Planning Board; minimum lot sizes including lot area, lot width, lot depth, front yard, rear yard, side yards; minimum livable floor area per dwelling; maximum dwelling units per acre; maximum percentage of lot coverage and maximum building heights.

# MUNICIPAL CODE

USES SUBJECT TO SITE  
PLAN REVIEW BY THE  
PLANNING BOARD

| DIST. | ACCESSORY USES                                                                                                                                                                                                                                                                                                        | PERMITTED USES                                                       |                                                                                                                                                                                                                        |
|-------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| R-1   | 1. Home occupations                                                                                                                                                                                                                                                                                                   | 1. Single family dwellings not to exceed one dwelling units per lot. |                                                                                                                                                                                                                        |
|       | 2. Private garage or carport for not more than four vehicles.                                                                                                                                                                                                                                                         |                                                                      |                                                                                                                                                                                                                        |
|       | 3. Garden house, tool shed, wading or swimming pool not operated for gain, provided that pools in excess of 200 sq ft shall be located at least 10 ft from any lot line and enclosed by a suitable fence with a min. height of four feet.                                                                             | 2. Two family dwellings not to exceed two dwelling units per lot.    |                                                                                                                                                                                                                        |
|       | 4. Signs, limited to:<br>a. one non-illuminated name plate or professional sign with an area not greater than 2 sq ft.<br>b. One illuminated announcement sign for schools, churches and other public or semi-public institutions with an area not greater than 12 sq ft located at least 15 ft from any street line. |                                                                      | 1. Conversion of existing dwellings for multi-family use provided that the exterior of such dwellings shall not be enlarged or extended nor altered except as required for compliance with the multiple residence law. |
|       | 5. Keeping not more than five dogs and/or cats over six months of age.                                                                                                                                                                                                                                                |                                                                      | 2. Cluster developments for single family detached dwellings in accordance with Subd. C of § 30.52.                                                                                                                    |
|       |                                                                                                                                                                                                                                                                                                                       |                                                                      | 3. Membership clubs, not operated for gain, providing recreational and clubhouse facilities including                                                                                                                  |



# ZONING

## MINIMUM REQUIRED

## MAXIMUM PERMITTED

| LOT<br>AREA                             | LOT<br>WIDTH | LOT<br>DEPTH | FRONT<br>YARD | REAR<br>YARD                                             | ONE<br>SIDE | BOTH<br>SIDES | LIVABLE<br>FL. AREA/<br>DWELLING                                                | DWEL.<br>UNITS<br>ACRE | %<br>LOT<br>COVERAGE | BLDG.<br>HEIGHT |
|-----------------------------------------|--------------|--------------|---------------|----------------------------------------------------------|-------------|---------------|---------------------------------------------------------------------------------|------------------------|----------------------|-----------------|
| 40,000<br>sq ft                         | 150'         | 150'         | 50'           | 40'                                                      | 30'         | 80'           | 1500<br>sq ft                                                                   | 1.0                    | 10                   | 35'             |
| 60,000<br>sq ft                         |              |              |               |                                                          |             |               |                                                                                 | 1.5                    | 10                   |                 |
| 40,000<br>sq ft<br>per<br>dwel.<br>unit |              |              |               |                                                          |             |               | first<br>dwelling<br>2000 sq<br>ft-each<br>additional<br>dwelling<br>1000 sq ft | 1.0                    | 10                   |                 |
|                                         |              |              | 100'          | 100'                                                     | 100'        | 200'          | 1500<br>sq ft                                                                   | 1.0                    | 10                   |                 |
|                                         |              |              |               | (as measured<br>from the bound-<br>aries of the<br>site) |             |               |                                                                                 |                        |                      |                 |
| 10<br>acres                             | 300'         |              | 200'          | 200'                                                     | 400'        | 200'          |                                                                                 |                        | 10                   |                 |

# MUNICIPAL CODE

USES SUBJECT TO SITE  
PLAN REVIEW BY THE  
PLANNING BOARD

| DIST.           | ACCESSORY USES                                                                                                                                                                                                                                                                                                               | PERMITTED USES                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                            |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| R-1<br>(cont'd) | <p>6. Keeping not more than 2 domestic animals, other than dogs or cats nor more than 25 fowl, provided that the lot contains an area of at least 2 acres.</p> <p>7. Separate living quarters within the permitted use structure for persons employed on the premises.</p>                                                   | <p>3. Municipal buildings and uses of and by the Town of Newburgh. [Amd LL # 1, 1975.]</p>                                                                                                                                                             | <p>the sale of food and drink in accordance with Subd. F of § 30.52.</p> <p>4. Places of worship and related parish houses, seminaries, convents, dormitories and related uses.</p> <p>5. Public utility structures and rights-of-way.</p> |
| R-2             | <p>1. Same as items 1 through 7 above.</p> <p>2. Off-street parking for commercial vehicles operated by the occupants of the permitted residence when such vehicles are housed in a garage or carport.</p> <p>3. Off-street parking, not under cover, for not more than 1 commercial vehicle not over 25 feet in length.</p> | <p>1. Same as item 1 above.</p> <p>a. without central sewer system.</p> <p>b. with central sewer and town water system</p> <p>2. Same as item 2 above.</p> <p>a. without central sewer system.</p> <p>b. with central sewer and town water system.</p> | <p>1. Same as item 1, R-1 District.</p> <p>2. Same as item 2, R-1 District.</p> <p>3. Planned unit developments in accordance with Subd. D of § 30.52.</p>                                                                                 |

# ZONING MINIMUM REQUIRED

## MAXIMUM PERMITTED

|      |       |       |       |      |      |       |                       |                   |          |        |
|------|-------|-------|-------|------|------|-------|-----------------------|-------------------|----------|--------|
|      |       |       |       |      |      |       |                       |                   |          |        |
| LOT  | LOT   | LOT   | FRONT | REAR | ONE  | BOTH  | LIVABLE               | DWEL.             | %        | BLDG.  |
| AREA | WIDTH | DEPTH | YARD  | YARD | SIDE | SIDES | FL. AREA/<br>DWELLING | UNITS LOT<br>ACRE | COVERAGE | HEIGHT |

|                                 |      |      |     |                                                |     |      |              |     |    |     |
|---------------------------------|------|------|-----|------------------------------------------------|-----|------|--------------|-----|----|-----|
|                                 |      |      |     |                                                |     |      |              |     |    |     |
| 20,000<br>sq ft                 | 100' | 125' | 40' | 40'                                            | 15' | 30'  | 900<br>sq ft | 1.0 | 25 | 35' |
| 15,000<br>sq ft                 |      |      |     |                                                |     |      |              | 1.8 |    |     |
| 30,000<br>sq ft                 | 125' | 150' |     | 50'                                            | 25' | 50'  |              | 1.0 |    |     |
| 22,500<br>sq ft                 |      |      |     |                                                |     |      |              | 1.8 |    |     |
| 15,000<br>sq ft<br>per dwelling | 150' | 150' |     |                                                |     |      |              |     |    |     |
| 25<br>acres                     | 300' |      | 50' | 50'                                            | 50' | 100' | 900<br>sq ft | 2.5 | 15 |     |
| 100<br>acres                    |      |      |     | (as measured<br>fr. boundaries of<br>the site) |     |      |              | 3.0 |    |     |

# MUNICIPAL CODE

USES SUBJECT TO SITE  
PLAN REVIEW BY THE  
PLANNING BOARD

| DIST.           | ACCESSORY USES              | PERMITTED USES                                                       |                                                                                                                            |
|-----------------|-----------------------------|----------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| R-2<br>(Cont'd) |                             |                                                                      | 4. Same as item 3, R-1 District<br>a. With outdoor recreational facilities.<br>b. Without outdoor recreational facilities. |
|                 |                             |                                                                      | 5. Same as item 4, R-1 Districts.                                                                                          |
|                 |                             |                                                                      | 6. Nursery schools for pre-school children.                                                                                |
|                 |                             |                                                                      | 7. Schools for general education including colleges, with related activities.                                              |
|                 |                             |                                                                      | 8. Hospitals and nursing homes for general medical care.                                                                   |
|                 |                             | 3. Same as item 3, R-1 District.                                     | 9. Same as item 5, R-1 District.                                                                                           |
| R-3             | 1. Same as the R-2 District | 1. Same as item 1, R-1 District.<br>a. Without central sewer system. |                                                                                                                            |
|                 |                             | b. With central sewer and town water system.                         |                                                                                                                            |

ZONING  
MINIMUM REQUIRED

§ 30.41  
MAXIMUM PERMITTED

| LOT<br>AREA | LOT<br>WIDTH | LOT<br>DEPTH | FRONT<br>YARD | REAR<br>YARD | ONE<br>SIDE | BOTH<br>SIDES | LIVABLE<br>FL. AREA/<br>DWELLING | DWEL.<br>UNITS<br>ACRE | %<br>LOT<br>COVERAGE | BLDG.<br>HEIGHT |
|-------------|--------------|--------------|---------------|--------------|-------------|---------------|----------------------------------|------------------------|----------------------|-----------------|
|-------------|--------------|--------------|---------------|--------------|-------------|---------------|----------------------------------|------------------------|----------------------|-----------------|

|                 |      |      |      |      |      |      |              |     |    |     |
|-----------------|------|------|------|------|------|------|--------------|-----|----|-----|
| 10<br>acres     | 300' |      | 200' | 200' | 400' | 200' |              |     | 10 | 35' |
| 2<br>acres      | 150' | 150' | 50'  | 50'  | 50'  | 100' |              |     | 20 |     |
|                 |      |      |      |      |      |      |              |     |    |     |
|                 |      |      |      |      |      |      |              |     |    |     |
| 5<br>acres      | 300' |      | 75'  |      |      |      |              |     |    |     |
|                 |      |      |      |      |      |      |              |     |    |     |
| 15,000<br>sq ft | 100' | 125' | 40'  | 40'  | 15'  | 30'  | 900 sq<br>ft | 2.0 | 25 | 35' |
| 12,500<br>sq ft | 85'  | 100' |      |      |      |      |              | 2.5 |    |     |



USES SUBJECT TO SITE  
PLAN REVIEW BY THE  
PLANNING BOARD

| DIST.           | ACCESSORY USES | PERMITTED USES                                                            |                                                                                                                                              |
|-----------------|----------------|---------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| R-3<br>(Cont'd) |                | 2. Same as item 2,<br>R-1 District<br>a. Without central<br>sewer system. |                                                                                                                                              |
|                 |                | b. With central<br>sewer and town<br>water system.                        |                                                                                                                                              |
|                 |                |                                                                           | 1. Multiple dwell-<br>ings with central<br>sewer and Town<br>water facilities<br>including:<br><br>a. One family<br>attached dwell-<br>ings. |
|                 |                |                                                                           | b. Low rise<br>dwellings.                                                                                                                    |
|                 |                |                                                                           | c. High rise<br>apartments.                                                                                                                  |
|                 |                |                                                                           | 2. Same as item 1,<br>R-1 district.                                                                                                          |
|                 |                |                                                                           | 3. Same uses and as<br>regulated by<br>items 2 and 4<br>through 9 of<br>the R-2 Dist-<br>rict.                                               |
|                 |                |                                                                           | 4. Planned unit<br>developments in<br>accordance with<br>Subd. D of<br>§ 30.52                                                               |
|                 |                |                                                                           | 5. Funeral homes.                                                                                                                            |

# ZONING MINIMUM REQUIRED

\$ 30.41

MAXIMUM PERMITTED

LOT LOT LOT FRONT REAR ONE BOTH LIVABLE DWEL. %  
AREA WIDTH DEPTH YARD YARD SIDE SIDES FL. AREA/ UNITS LOT BLDG.  
COVERAGE HEIGHT

|                           |      |      |                                                      |     |                               |                           |                                                                                                                                                                                                           |      |    |     |
|---------------------------|------|------|------------------------------------------------------|-----|-------------------------------|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----|-----|
| 25,000<br>sq ft           | 125' | 130' | 40'                                                  | 50' | 25'                           | 50'                       | 900<br>sq ft                                                                                                                                                                                              | 2.0  | 25 | 35' |
| 20,000<br>sq ft           | 100' | 125' |                                                      |     |                               |                           |                                                                                                                                                                                                           | 2.5  |    |     |
| 10<br>acres               | 300' |      | 30'                                                  | 35' |                               |                           | efficiency<br>apt.-450sq<br>ft.<br>1 bedroom<br>apt.-600<br>sq ft<br>2 bedroom<br>apt.-800<br>sq ft<br>3 or more<br>bedroom<br>apt.-900<br>sq ft.<br>1'ea 2x<br>ft bldg re-<br>height quired<br>side yard | 4.0  | 35 |     |
|                           |      |      | 50'                                                  | 50' | 30'                           | 60'                       |                                                                                                                                                                                                           | 6.0  | 20 |     |
|                           |      |      | 65'                                                  | 60' | 1'ea<br>ft bldg re-<br>height | 2x<br>quired<br>side yard |                                                                                                                                                                                                           | 12.0 | 10 | 85' |
| 12,000<br>sf per<br>dwel. | 150' | 150' | 40'                                                  | 40' | 15'                           | 30'                       | 600 s.f.                                                                                                                                                                                                  | 2.5  | 30 | 35' |
|                           |      |      |                                                      |     |                               |                           |                                                                                                                                                                                                           |      |    |     |
| 100<br>acres              | 300' |      | 50'                                                  | 50' | 50'                           | 100'                      | 900 s.f.                                                                                                                                                                                                  | 6.0  | 15 | 85' |
|                           |      |      | (as measured from<br>the boundaries of<br>the site.) |     |                               |                           |                                                                                                                                                                                                           |      |    |     |
| 60,000<br>sq ft           | 200' | 200' | 50'                                                  | 40' | 30'                           | 80'                       |                                                                                                                                                                                                           |      | 20 | 35' |

USES SUBJECT TO  
SITE PLAN REVIEW  
BY PLANNING BOARD

| DIST. ACCESSORY USES                                                                         |                                                                       | PERMITTED USES                               | BY PLANNING BOARD                                                                           |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|----------------------------------------------|---------------------------------------------------------------------------------------------|
| R-3<br>Cont.                                                                                 |                                                                       | 3. Same as item 3, R-1 District              | 6. Cemeteries.                                                                              |
| RR*                                                                                          | Home Occupations                                                      | Single-Family Dwellings with Town Sewer 1    |                                                                                             |
|                                                                                              | Private garage or carport                                             | Without Town Sewer, tract under 10 acres 2   |                                                                                             |
|                                                                                              | Garden house, tool shed, wading or swimming pool                      | Without Town Sewer, tract over 10 acres 2, 3 |                                                                                             |
|                                                                                              | Signs, professional, nonilluminated - 2 sq. ft                        | Municipal Buildings and Town activities      |                                                                                             |
|                                                                                              | Keeping up to five (total) dogs or cats over six (6) mos. of age.     |                                              | Cluster developments for single-family detached dwellings in accordance with Section 30.52C |
|                                                                                              | Keeping up to two (2) domestic animals (total) excepting dogs or cats |                                              |                                                                                             |
| Separate living quarters within the permitted structure for persons employed on the premises |                                                                       |                                              |                                                                                             |
| *RR district added. LL #4, 87, 8/3/87.                                                       |                                                                       |                                              |                                                                                             |
| Town sewer in the Critical Environment Area and                                              |                                                                       |                                              |                                                                                             |

<sup>1</sup>There is presently no Town sewer in the Critical Environment Area and none in the planning stage.

<sup>2</sup>Tract size shall be fixed at the size existing on the effective date of this law.

<sup>3</sup>Intent is: 10 acres or more.

Supp. #11, 7/20/89

# ZONING

| MINIMUM REQUIRED      |           |           |            |           |               |                 | MAXIMUM PERMITTED   |               |            |
|-----------------------|-----------|-----------|------------|-----------|---------------|-----------------|---------------------|---------------|------------|
| LOT AREA              | LOT WIDTH | LOT DEPTH | FRONT YARD | REAR YARD | ONE SIDE YARD | BOTH SIDE YARDS | LIV. FL. AR. / D.U. | D.U. PER ACRE | % LOT COV. |
| 5 ac.                 |           |           |            |           |               |                 |                     |               |            |
| 40,000 sq.ft.         | 130ft     | 130ft     | 30ft       | 40ft      | 30ft          | 80 ft           |                     |               | 10%        |
| 2 ac.                 | 200ft     | 300ft     | 60ft       | 100ft     | 50ft          | 100ft           | 900 sq. ft.         | n/a           | 5%         |
| 3 ac.                 | 250ft     |           |            |           |               |                 |                     |               | 4%         |
|                       |           |           |            |           |               |                 | n/a                 |               | 10%        |
|                       |           |           |            |           |               |                 |                     |               |            |
| 10 acres <sup>2</sup> | 400ft     | 500ft     | 60ft       | 100ft     | 50ft          | 100ft           | 900 sq. ft.         | 0.67-1.0      | 6%         |
|                       |           |           |            |           |               |                 |                     |               |            |

MUNICIPAL CODE

| DIST. | ACCESSORY USES                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | PERMITTED USES                                                                                                                                                                                                                                                                         | USES SUBJECT TO<br>SITE PLAN REVIEW<br>BY PLANNING BOARD                |
|-------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|
| AR    | <p>1. Same as the R-2 District.</p> <p>2. Barns, silos, produce storage structures and packing warehouses.</p> <p>3. Seasonal roadside stands for sale of agricultural products grown principally on the premises, such stand shall not exceed 1 story in height nor 300 sq. ft. in floor area; and be located at least 15 ft. from any street line, and a suitable off-street parking area is provided.</p> <p>4. Outdoor storage of farm equipment, provided it is not located in a required front yard.</p> | <p>1. Same uses &amp; as regulated by items 1-3 of R-1 District. Lots served by central sewers and Town water supply systems shall be regulated by items 1b and 2b of the R-2 District.*</p>                                                                                           |                                                                         |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <p>2. The following agricultural operations provided that no animal housing or structure for the storage of odor or dust producing substances is located closer than 50 feet from any lot line.</p> <p>a. The growing of field or garden crops, vineyards, orchards and nurseries.</p> |                                                                         |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <p>b. The keeping of livestock.</p>                                                                                                                                                                                                                                                    |                                                                         |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <p>c. The keeping of fowl.</p>                                                                                                                                                                                                                                                         |                                                                         |
|       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                        | <p>1. Same uses and as regulated by items 2-9 of the R-2 District.*</p> |

\*Amended by Local Law #1, 1975.



# ZONING

| MINIMUM REQUIRED |              |              |               |              |                     |                       | MAXIMUM PERMITTED        |                       |             |              |
|------------------|--------------|--------------|---------------|--------------|---------------------|-----------------------|--------------------------|-----------------------|-------------|--------------|
| LOT<br>AREA      | LOT<br>WIDTH | LOT<br>DEPTH | FRONT<br>YARD | REAR<br>YARD | ONE<br>SIDE<br>YARD | BOTH<br>SIDE<br>YARDS | LIV.<br>FL. AR./<br>D.U. | D.U. %<br>PER<br>ACRE | LOT<br>COV. | BLDG.<br>HT. |
|                  |              |              |               |              |                     |                       | 900<br>sq. ft.           |                       |             | 35'          |
| 40,000<br>sq ft  | 150'         | 150'         | 50'           | 40'          | 30'                 | 80'                   |                          |                       | 10%         |              |
| 20 ac.           |              |              |               |              |                     |                       |                          |                       |             |              |
| 10 ac.           |              |              |               |              |                     |                       |                          |                       |             |              |
|                  |              |              |               |              |                     |                       |                          |                       |             |              |

[Next page is 30.22]

USES SUBJECT TO SITE  
PLAN REVIEW BY THE  
PLANNING BOARD

| DIST.          | ACCESSORY USES                                                                                                                                                                                                                                              | PERMITTED USES                                                          |                                                                                                                                                              |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| AR<br>(Cont'd) | 5. Veterinarian's offices, provided that all dogs are kept within a totally enclosed & suitably ventilated building between the hours of sundown and sunrise.                                                                                               |                                                                         | 2. Mobile home courts in accordance with Sub. A of § 30.52.                                                                                                  |
| B              | 1. Outdoor vending machines.                                                                                                                                                                                                                                | 1. Same uses and as regulated by items 1 through 3 of the R-2 District. |                                                                                                                                                              |
|                | 2. Manufacturing, cleaning or processing of goods where the product will be sold at the premises.                                                                                                                                                           | 2. Retail and services stores.                                          | 1. Retail and service stores, business and professional offices eating & drinking places when such buildings & structures exceed a floor area of 5600 sq ft. |
|                | 3. Non-flashing signs related to an establishment located on the same lot, provided<br>a. Illumination shall be diffused or indirect and shall be arranged so as not to reflect direct rays of light into adjacent residential districts or the public way. | 3. Business and professional offices.                                   |                                                                                                                                                              |
|                |                                                                                                                                                                                                                                                             | 4. Eating and drinking places.                                          |                                                                                                                                                              |
|                |                                                                                                                                                                                                                                                             | 5. Clubhouses without outdoor recreation facilities.                    |                                                                                                                                                              |
|                |                                                                                                                                                                                                                                                             | 6. Funeral homes                                                        | 2. Indoor amusement establishments.                                                                                                                          |

§ 30.41

MAXIMUM PERMITTED

DWEL. %

| LOT<br>AREA | LOT<br>WIDTH | LOT<br>DEPTH | FRONT<br>YARD | REAR<br>YARD | ONE<br>SIDE | BOTH<br>SIDES | FL. AREA/<br>DWELLING | UNITS<br>ACRE | LOT<br>COVERAGE | BLDG.<br>HEIGHT |
|-------------|--------------|--------------|---------------|--------------|-------------|---------------|-----------------------|---------------|-----------------|-----------------|
|-------------|--------------|--------------|---------------|--------------|-------------|---------------|-----------------------|---------------|-----------------|-----------------|

|                  |      |      |     |     |     |      |                 |   |                                                                                                                           |      |
|------------------|------|------|-----|-----|-----|------|-----------------|---|---------------------------------------------------------------------------------------------------------------------------|------|
| 20<br>acres      | 200' | 300' | 50' | 50' | 50' | 100' | 500 sq.<br>feet | 4 | 20                                                                                                                        | 15'* |
|                  |      |      |     |     |     |      |                 |   |                                                                                                                           | 35'  |
| 15,000<br>sq. ft | 100' | 125' | 40' | 30' | 15' | 30'  |                 |   | 40% with-<br>out cen-<br>tral sewer<br>& water<br>systems.<br><br>60% with<br>central<br>sewer &<br>water sys-<br>tems.** |      |
|                  |      |      |     |     |     |      |                 |   |                                                                                                                           |      |
|                  |      |      |     |     |     |      |                 |   |                                                                                                                           |      |
|                  |      |      |     |     |     |      |                 |   |                                                                                                                           |      |
|                  |      |      |     |     |     |      |                 |   |                                                                                                                           |      |
|                  |      |      |     |     |     |      |                 |   |                                                                                                                           |      |

\*Amd LL #1, 1975, adptd 6/16/75, changing regulations pertaining to mobile home courts.

\*\*Amd LL #5, 1974, adptd 8/19/74, changing percentage from 50% to 60%.

ARTICLE V

SUPPLEMENTARY REGULATIONS

§ 30.51 Regulations applicable to all districts

A. Architectural Review Board.

1. An Architectural Review Board is hereby created to promote architectural beauty and harmony of building design; avoid monotony of residential housing; and to prevent buildings or structures from being improperly designed and located in relation to existing buildings and structures, prominent site features, lot and street lines.

2. The Planning Board of the Town of Newburgh shall act as the Architectural Review Board for the purposes of this Chapter.

3. The Architectural Review Board shall review and approve every development proposal involving ten (10) or more dwelling units and every application requiring site plan approval by the Planning Board.

4. Application for approval by the Architectural Review Board shall be made concurrent with application for final subdivision or site plan approval, as the case may be, and prior to the issuance of a building permit. Said application shall meet the requirements of § 30.82 of this Chapter and further provide:

- a. Name and address of the applicant.
- b. Samples of material and colors to be used in proposed buildings and structures or alterations to existing buildings and structures.
- c. Topographic data as may be required by the Architectural Review Board.

5. In order to avoid monotony of architectural design, no building permit shall be issued for the construction of a dwelling located within an approved subdivision plat if it is substantially like any neighboring building which is existing or for which a building permit has been issued or is being concurrently considered.

- a. A building shall be considered neighboring if it fronts on the same street as the building being considered and

Supp. #1, August 23, 1974.

which is the first or second house along the street in either direction or which faces the building site being considered from across the street.

- b. Buildings shall be considered substantially alike unless they differ in at least three (3) of the following respects or dimensions:
  - (1) set back from the street;
  - (2) relation of a garage visible from the street to the main structure;
  - (3) length of the main roof ridge;
  - (4) height of the roof ridge above the first floor elevation;
  - (5) width, measured perpendicular to main roof ridge, if the building has a gable extending from the main roof visible from the street;
  - (6) relationship to each other of either windows, doors, chimneys, or any porch in the front elevation.

6. The Architectural Review Board may waive or vary any requirements of this section where the layout of the neighborhood, road pattern, topography, observation of natural features, views and the siting of individual structures is such to avoid monotony of appearance despite similarity of buildings.

B. Required performance standards.

No use shall be permitted that does not conform to the following standards of use, occupancy and operation, which standards are hereby established as the minimum requirements to be maintained:

1. Noise. Not to exceed in intensity, as measured from the boundaries of the lot where such use is situated, the average intensity, occurrences and duration of the noise of street traffic at adjoining streets.

2. Atmospheric effluence. No dust, dirt, smoke, odor or noxious gases shall be disseminated beyond the boundaries of the lot where such use is situated.



3. Glare and heat. No glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.

4. Industrial wastes. No solid or liquid wastes shall be discharged into any public sewer private sewage disposal system, stream or on or into the ground, except in accord with the standards approved by the New York State Department of Health or similar empowered agency.

5. Fire and explosion hazards. All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire fighting and fire suppression equipment and devices standard in the industry. Burning of waste materials in open fires is prohibited. The relevant provisions of state and local laws shall also apply.

6. Radioactivity or electromagnetic disturbance. No activities shall be permitted which emit dangerous radioactivity beyond the structure in which such activity is situated or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.

C. Off-street parking and loading facilities.

1. Permitted accessory parking.

a. There is no limitation on the number of agricultural vehicles permitted accessory to farm use.

b. The storage of a camping trailer or not more than one (1) boat is permitted, provided that such trailer or boat is not stored between the street line and the front yard set back line.

2. Permitted accessory loading berths.

Off-street loading berths are permitted accessory to any use except residence, providing that such facilities are not located in a required front yard.

3. Required off-street parking spaces:

# ZONING

§ 30.51

| USE                                                                                          | OFF-STREET PARKING SPACES                                                                                                                                         |
|----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Dwellings in a one or two family building                                                    | Two per dwelling unit                                                                                                                                             |
| Dwellings in a multiple family building                                                      | One and one half per dwelling unit, providing two bedrooms or less and two per dwelling providing more than two bedrooms.                                         |
| Motels                                                                                       | One per guest room, plus one for each employee engaged on the premises. Related uses, such as restaurants and meeting facilities, shall be calculated separately. |
| Church, meeting hall, auditorium or other places of public assembly not otherwise classified | One per three seats or fifty square feet of seating area where fixed seating is not provided.                                                                     |
| Elementary schools                                                                           | Two per classroom, plus one per five seats in any auditorium or assembly area.                                                                                    |
| Secondary schools                                                                            | Four per classroom, plus one per five seats in any auditorium or assembly area.                                                                                   |
| Home occupations, excepting doctors and dentists                                             | Two per first 150 sq. ft. of such use, plus one for each additional 150 sq. ft. or fraction thereof.                                                              |
| Retail stores and service shops                                                              | One per 150 square feet of floor area.                                                                                                                            |
| Offices                                                                                      | One per 300 square feet of floor area.                                                                                                                            |
| Office for a doctor, dentist or chiropractor                                                 | Six per doctor, dentist or chiropractor, plus one for each employee.                                                                                              |
| Nursing homes                                                                                | One per two beds, plus one for each employee engaged on the premises.                                                                                             |

| USE                        | OFF-STREET PARKING SPACES                                                                                                              |
|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Funeral homes              | One per 40 square feet of public room area.                                                                                            |
| Eating and drinking places | Two per 50 square feet of area available to patrons.                                                                                   |
| Bowling alleys             | Four per alley, plus one for each employee engaged on the premises. Related eating and drinking places shall be calculated separately. |
| Industrial establishments  | One per employee engaged on the largest shift.                                                                                         |
| For uses not specified     | Same as the most similar listed use.                                                                                                   |

4. Parking space standards.

- a. Areas which may be computed as the required off-street parking space may include a garage, carport or other area available for parking, other than a street. A driveway within a required front yard in an R district may be counted as one (1) space.
- b. Required accessory parking spaces, open and enclosed, may be provided upon the same lot as the use to which they are accessory, or elsewhere, provided all spaces therein are located within five hundred (500) feet walking distance of such lot. In all cases such parking spaces shall conform to all the regulations of the district in which they are located, and in no event shall such parking spaces be located in any residential district unless the uses to which they are accessory are permitted in such districts, or by permission of the Planning Board. Such spaces shall be in the same ownership as the use to which they are accessory or leased for not less than fifty (50) years and said owner or lessee shall maintain the required number of spaces available, either throughout the existence of such use or until such spaces are provided elsewhere.
- c. Three hundred (300) square feet shall be considered one (1) parking space (to provide room for standing areas and aisles for maneuvering). Entrance and exit lanes

shall be computed as parking spaces except for driveways, as set forth in (a) above. Minimum parking stall width shall be ten (10) feet, minimum length shall be twenty (20) feet.

- d. Unobstructed access to and from a street shall be provided. Such access shall consist of at least one ten (10) foot lane for parking areas with less than twenty (20) spaces, and at least two ten (10) foot lanes for parking areas with twenty (20) spaces or more.
- e. All open parking areas shall be properly drained with a dustless surface.
- f. Required parking spaces may be provided in spaces designed to serve jointly two (2) or more establishments whether or not located on the same lot, and the number of required spaces in such joint facilities shall be not less than the total required for all such establishments.
- g. When any lot contains two (2) or more uses having different parking requirements, the parking requirements for each use shall apply to the extent of that use. Where it can be conclusively demonstrated that one or more such uses will be generating a demand for parking spaces primarily during periods when the other use or uses is not or are not in operation, the Board of Appeals may reduce the total parking spaces required for that use with the least requirement.
- h. No entrance or exit for any accessory off-street parking area with over ten (10) parking spaces, nor any loading berth, shall be located within seventy-five (75) feet of a street intersection.
- i. All open parking areas shall be suitably landscaped. In parking lots with more than twenty (20) spaces, at least five percent (5%) of the area of the parking lot shall be devoted to landscaping within the interior of the parking area.
- j. All planting beds, landscaped islands and pedestrian walkways, if provided, shall be protected by sturdy posts, rails or walls one and one half (1 1/2) to two (2) feet in height, or such other protective devices as will prevent damage or injury. Additional barriers may

be required by the Planning Board to give better protection and improve pedestrian and vehicular circulation.

D. Sign regulations.

1. No sign, advertising display or structure, poster or device shall be erected, moved, enlarged or reconstructed except as expressly permitted by this Chapter.

2. One non-illuminated sign per lot advertising the sale or rental of the premises on which such sign is located, said sign not to exceed an area of twelve (12) square feet and located not nearer than fifteen (15) feet to any street or property line.

3. Prohibited types of signs and lighting:

- a. Flashing signs, including any sign or device on which artificial light is not maintained stationary and constant in intensity and color.
- b. Signs which may compete with or may be mistaken for a traffic signal.
- c. The perimeter outlining by direct illumination of all or any part of a building.
- d. No sign, advertising display or structure permitted under this Chapter shall exceed forty (40) feet in height.
- e. Signs not permanently affixed to a permitted building or structure.

E. Buffer strips.

A side or rear yard in IB and I districts adjacent to an R or AR district shall have a minimum width or depth of one hundred (100) feet. The fifty (50) feet nearest the R or AR district shall provide a buffer area planted with a screen of evergreens having a uniform height of not less than five (5) feet above ground level at the time of planting and set in a double staggered row spaced eight (8) feet apart on each row, and shall be properly maintained to afford an effective screen between the two districts. The remaining fifty (50) feet may be used for off-street parking.

## F. Accessory buildings.

1. A permitted accessory building may be located in any required side or rear yard, providing:

- a. Such building, except for farm purposes, shall not exceed fifteen (15) feet in height.
- b. Such building shall be set back five (5) feet from any lot line and at least ten (10) feet from the main building.
- c. Such building shall not occupy more than thirty percent (30%) of the required yard.

2. No such building shall project nearer to the fronting street than the main building.

## G. Fences and walls.

1. Fences and walls shall be permitted in any yard or along the edge of a yard.

2. Within a residential district fences or walls shall not exceed six (6) feet in height from ground level. [Amd L L #5, 1974, adptd 8/19/74].

3. There shall be no restriction on the type and height of a fence or wall in a nonresidence district.

4. Fences and wall shall conform to corner lot requirements where applicable. See Subdivision H of this Section.

## H. Corner lots.

1. Front yard setbacks are required on both street frontages and one (1) yard other than such front yards shall be deemed to be the rear yard and the other side yard.

2. At all street intersections no obstructions to vision shall be erected on any lot within the triangle formed by the intersecting street lines and a line drawn between points along such street lines thirty (30) feet distant from their point of intersection.

## I. Exceptions to district regulations.

1. Existing lots. Nothing shall prohibit the use of a lot of less than the prescribed area or width when such lot is owned individually or separate from any adjoining tract at the time of



- b. No septic tank or leaching field shall be located within one hundred fifty (150) feet of any perennial\* stream that is tributary to Chadwick Lake nor on any of the following soil types as mapped in the Soil Survey of Orange County published by the U.S.D.A. October 1981: Wayland Silt Loam, Alden Soils, Udifluvents and Fluvaquents Complex, Palms Muck, Carlisle Muck, Canandaigua Silt Loam and Madalin Silt Loam.
- c. All proposed construction and land management activities within the Chadwick Lake Area of Critical Environmental Concern shall be required to submit to a plan for approval by the Planning Board indicating:
  - i. the total site area to be disturbed by construction and site development, such area not to exceed twenty percent (20%) of the gross site area, and by land management activities.
  - ii. specific measures for controlling soil erosion and the transport of soil by storm runoff into Chadwick Lake or its tributaries. [Subd. L added. LL #4, 87, 8/3/87.]

§ 30.52 Regulations applicable to specific uses

A. Mobile home courts.

1. Permit required by Planning Board.

- a. No person shall own or operate a mobile home court without a permit, obtained as herein provided, and failure to have such a permit shall constitute a violation of this Chapter.
- b. A mobile home court shall be allowed by authorization of the Planning Board only in those districts where such use is permitted.
- c. Applications for a mobile home court shall be filed with the Building Inspector who shall submit same to the Planning Board for appropriate action. Upon approval by the Planning Board, the Building Inspector shall issue a permit.
- d. Permits shall not be transferable or assignable.
- e. After issuance of the permit, the same shall be valid

\*So in original. [Next page is 30.43]  
Supp. #11, 7/20/89 30.42-a

10. No motor vehicle, whether or not in condition for legal use on the public highway, shall be stored outdoors except in accordance with the following:

- a. Not more than three (3) motor vehicles licensed for operation on the public highways, when stored on a temporary basis for service or repair only.
- b. Motor vehicles shall be stored in line and in an orderly fashion, with not less than four (4) feet between any part of two (2) vehicles.

F. Membership Clubs.

Annual membership clubs providing recreation facilities such as tennis courts, swimming pools, golf courses, fishing and hunting preserves, with accessory structures for administration, operation or clubhouse purposes, including the sale of food and drink, provided that:

1. Any such club is incorporated pursuant to the laws of the State of New York and caters exclusively to members and their guests.

2. Permanent outdoor public address systems shall be prohibited.

3. Exterior lighting, other than essential for the safety and convenience of the members, shall be prohibited.

G. Outdoor storage in non-residential districts.

Unless otherwise provided in this Chapter, accessory outdoor storage of motor vehicles, trailers, machinery equipment or other materials or products is prohibited, except in accordance with the following:

1. The area devoted to the storage of such materials or products shall be located on the same lot as the use to which it is accessory.
2. No such materials or products shall be stored within the front yard and not closer than ten (10) feet to any side or rear lot line or fifty (50) feet from a side or rear lot line adjacent to a residence district or lot in residential

use; and such buffer strips shall be appropriately landscaped.

3. No storage area shall occupy more than thirty percent (30%) of the required side or rear yard.

#### H. Stripping or filling of land.

##### 1. General.

- a. Land may not be stripped or covered with fill for any purpose without review by the Planning Board and by any other governmental agency having jurisdiction.
- b. This section shall not be applicable to sand and gravel or other aggregate mining or quarry operations.

##### 2. Site Plan.

Applications to the Planning Board shall be accompanied by a site plan and shall follow the procedure outline in Article VIII of this Chapter. The following additional information shall be indicated on the site plan.

- a. Quantity of material to be removed or filled;
- b. Destination of stripped material, including stockpile areas and ultimate disposition of stripped material; or origin and character of fill material;
- c. Means of egress and ingress for trucks and equipment;
- d. Measures to control erosion, noise, dust, and loss of material during transportation;
- e. Duration of proposed stripping or filling of land;
- f. Restoration of area proposed to be stripped or filled during temporary interruptions in activities and after stripping or filling has been completed; and
- g. A plan for the disposition of woody vegetation growing in the area to be stripped or filled.

##### 3. Requirements and Standards.

ARTICLE VI

ENFORCEMENT AND PENALTIES

§ 30.61 Building permits\*

No building or structure in any district shall be erected or structurally altered without a building permit duly issued upon application to the Building Inspector. No building permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of this Chapter. Any building permit issued in violation of the provisions of this Chapter shall be null and void and of no effect, without the necessity for any proceedings for revocations or nullification thereof; and any work undertaken or use established pursuant to any such permit shall be unlawful.\*\*

A. Fee and plot plan.

Every application for a building permit shall be accompanied by a fee as prescribed by Chapter 102 of the Town of Newburgh Municipal Code and by a plot plan drawn to scale showing:

1. The actual shape, dimensions, radii, angles and area of the lot on which the building is proposed to be erected, or of the lot on which it is situated if an existing building.
2. The exact size and locations on the lot of the proposed building or buildings or alteration of any existing building and of other existing buildings on the same lot.
3. The dimensions of all yards in relation to the subject building and the distances between such building and any other existing buildings on the same lot.
4. The existing and intended use of all buildings, existing or proposed, the use of land and the number of dwelling units the building is designed to accommodate.
5. Such topographic or other information with regard to the building, the lot or neighboring lots as may be necessary to

\*See also § 26.33

\*\*See p. 26.14 for schedule of fees.

Supp. #5, 9/5/78.

determine that the proposed construction will conform to the provisions of this Chapter.

6. Applications for the construction of new buildings shall be accompanied by an accurate site plan. [Opening sentence amd LL #2, 1978.]

B. Planning Board approval.

No building permit shall be issued for any building where the site plan of such building is subject to approval by the Planning Board except in conformity with the plans approved by the said Board.

C. Filing in triplicate; return to applicant.

The application and all supporting documentation shall be made in triplicate. On the issuance of a building permit, the Building Inspector shall return one (1) copy of all documents filed to the applicant.

D. Time limitation on issuance or denial.

The Building Inspector shall within ten (10) days after the filing of a complete and properly prepared application, either issue or deny a building permit. If a building permit is denied, the Building Inspector shall state in writing the reasons for such denial.

E. Expiration of permits; extension.

Every building permit shall expire if the work authorized has not commenced within six (6) months after the date of issuance or has not been completed within eighteen (18) months from such date. If no zoning amendments or other town regulations affecting subject property have been enacted in the interim, the Building Inspector may authorize in writing the extension of either above period in additional six (6) months, following which no further work is to be undertaken without a new building permit.

#### § 30.62 Certificate of occupancy

A. Occupancy or change prohibited before issuance.

The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the Building Inspector:

Supp. #5, 9/5/78.

1. Occupancy and use of a building hereafter erected, structurally altered or moved or any change in the use of an existing building.

2. Occupancy, use or any change in the use of any land.

3. Any change in use of a nonconforming use.

B. Planning Board approval, when required.

No certificate of occupancy shall be issued for any use of a building or of land allowed by the Planning Board as specified in Article VIII of this Chapter unless and until such approval has been duly issued by the said Board. Every certificate of occupancy for which approval has been issued or in connection with which a variance has been granted shall contain a detailed statement of any conditions to which the same is subject.

C. Application.

Application for a certificate of occupancy, on a form furnished by the Building Inspector for a new building or for an existing building which has been altered, shall be made after the erection of such building or part thereof has been completed in conformity with the provisions of this Chapter. Such certificate shall be issued within ten (10) days after receipt of said application, but only provided all requirements of all applicable codes, ordinances or local laws in effect are complied with.

D. Time limitation on issuance.

If the proposed use is in conformity with the provisions of this Chapter and of all other applicable laws and ordinances, a certificate of occupancy for the use of vacant land or for a change of use of a nonconforming use shall be issued by the Building Inspector within ten (10) days after receipt of a written application therefor.

E. Fee\*.

Every application for a certificate of occupancy shall be accompanied by a fee as prescribed by Chapter 102 of the Town of

\*See § 26.37(B) of this Municipal Code.



Newburgh Municipal Code. [Original Subd F repealed and replaced by this new Subd by LL #2, 1978.]

F. Required statement.

Every application for a certificate of occupancy shall state that the building or the proposed use of a building or land complies with all applicable provisions of this Chapter.

G. Required.

A certificate of occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of the building or land to which it applies.

H. Issuance at request of owner.

Upon written request by the owner, and upon payment of a fee as per schedule adopted by the Town Board, the Building Inspector shall, after inspection, issue a certificate of occupancy for any building or use thereof or of land existing at the time of the adoption of this Chapter, certifying such use (including the number of employees) and whether or not the same and the building conform to the provisions of this Chapter.

I. Records of certificates of occupancy.

A record of all certificates of occupancy shall be kept in the office of the Building Inspector and copies shall be furnished on request, to any agency of the town or to any persons having a proprietary or tenancy interest in the building or the land affected.

§ 30.63 Duties of the Building Inspector

A. Enforcement of Chapter.

It shall be the duty of the Building Inspector, who shall be appointed by the Town Board, to enforce the provisions of this Chapter and of all rules, conditions and requirements adopted or specified pursuant thereto.

B. Right of entry.

The Building Inspector or his duly authorized assistant(s) shall

Supp. #5, 9/5/78.

have the right to enter any building or enter upon any land at any reasonable hour in the course of their duties. He shall maintain files of all applications for building permits and plans submitted therewith and for certificates of occupancy and records of all building permits and certificates of occupancy issued by him, which files and records shall be open to the public inspection.

C. Coordination.

Said Building Inspector shall coordinate his activities with the activities of other applicable town agencies.

D. Records.

Said Building Inspector shall keep a record of every identifiable complaint of a violation of any of the provisions of this Chapter, and of the action taken consequent on each such complaint, which records shall be public records. He shall report to the Town Board, at intervals of not greater than three (3) months, summarizing for the period since his last previous report all building permits and certificates of occupancy issued by him and all complaints of violations and the action taken by him consequent thereon.

§ 30.65 Violations and penalties

A. Notice and punishment.

After the fifth day following written notice served by certified or registered mail or by personal service, by the Building Inspector to the effect that a violation of any of the provisions of this Chapter exists, for each and every such violation, any person who commits, takes part or assists in such violation, or who maintains any building or premises in which any such violation shall exist, shall be guilty of an offense, and upon conviction thereof shall be subject to a fine of not more than Two Hundred Fifty Dollars (\$250.00) or imprisonment for not more than six (6) months or both. 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. [Amd L L #5, 1974, adptd 8/19/74].

B. Procedure for abatement.

In case any building or structure is erected, constructed, re-

constructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Chapter, or of any regulation made under authority conferred hereby, the Town Board, or with their approval, the Building Inspector or other proper official in addition to other remedies, may institute any appropriate action of proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.





Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~  
~~City~~ of Newburgh  
Town of Newburgh  
~~Village~~

Local Law No. 4 of the year 1991

A local law Amending Chapter 30 entitled "Zoning" of the Town of Newburgh  
(Insert Title)  
Municipal Code

Be it enacted by the Town Board of the  
(Name of Legislative Body)

~~County~~  
~~City~~ of Newburgh  
Town of Newburgh  
~~Village~~ as follows:

Chapter 30 entitled "Zoning" of the Town of Newburgh Municipal Code  
is hereby amended to read as follows:

Zoning  
Chapter 30  
of the  
Municipal Code  
of the  
Town of Newburgh

(If additional space is needed, attach pages the same size as this sheet, and number each.)



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ZONING  
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## ARTICLE II

### DEFINITIONS

#### 30.2.1 Definitions

##### A. Generally

Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; masculine pronouns include the feminine; the word "person" includes a corporation as well as an individual; the word "lot" includes the word "plot." The term "occupied" or "used" as applied to any building, shall be construed as though followed by the words "or intended, arranged, or designed to be occupied or used."

##### B. Specific terms

As used in this chapter, unless the context or subject matter requires otherwise, the following terms shall have the meaning herein indicated.

**ACCESSORY** - A term applied to a use or structure clearly incidental to or subordinate to the principal building or permitted use on the same lot.

**ACCESSORY USE** - A use recognized in the schedule of district regulations as clearly incidental to a principal use (whether permitted by right or by special condition) and permitted only in conjunction with the principal use identified.

**ACCESSORY APARTMENTS** - A supplemental dwelling unit within a one-family detached dwelling or a separate dwelling unit accessory to a principal residential or nonresidential use. An accessory apartment within a one-family detached dwelling shall not constitute a semidetached or a two-family dwelling.

**ALTERATION** - A change, extension, enlargement, or rearrangement in the structural parts of a building or structure, whether by extending to the front, rear, or side, increasing the height, or moving from one location or position to another.

**BLOCK** - A tract of land or lot or group of lots bounded by one or more of the following: a street or highway, public park, parkway, railroad right of way, reservoir, lake or other body of water or watercourse, unsubdivided land, or a boundary line of the Town of Newburgh, or any combination of the above.

**BOARDINGHOUSE** - A building containing a single dwelling unit and lodging rooms accommodating, for compensation, four (4) or more persons who are not the resident owner's family. This use is prohibited in the Town of Newburgh.

**BORROW PIT** - An excavation for the purpose of obtaining sand, gravel, or other unconsolidated material of any type which affects more than four hundred (400) cubic yards of material within any parcel or any one subdivision in receipt of preliminary or final approval excluding proposed public roads.

**BUFFER or BUFFER STRIP** - A strip of land at least fifty (50) feet wide containing natural vegetative growth or plantings of trees or shrubs and which serves to separate distinct uses or activities either within a property or on adjacent properties.

**BUILDING** - A structure wholly or partially enclosed within exterior walls and a roof, affording shelter to persons, animals, or property.

**BUILDING HEIGHT** - The vertical distance measured from the average elevation of the finished grade along the side of the structure fronting on the nearest street to the highest point of such structure.

**BUSINESS PARK** - A tract of land on which are situated two (2) or more buildings providing business, professional, institutional, or research uses, or any combination of such uses.

**CAR WASH** - A structure or area that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, or which may employ hand labor and waxing. This use shall be regulated in accordance with section 30.6.5.

**CLUB, MEMBERSHIP** - An organization established under the laws of the State of New York catering exclusively to members and their guests, which is not conducted primarily for gain, and providing there are no vending stands, merchandising, or commercial activities conducted except as required generally for the membership and purposes of such club. Accessory uses or structures may include such subordinate purposes as administration, operation, accommodations, and the sale of food and drink primarily to members and their guests. Membership clubs may be:

a. Recreational, including recreation facilities such as tennis courts, swimming pools, golf courses, boating facilities, fishing or hunting preserves, or other athletic facilities; or

b. Nonrecreational, including premises and buildings for social, cultural, political, or fraternal purposes.

**CLUSTER DEVELOPMENT** - A tract of land on which buildings are situated, either on individual lots or in group ownership, and in which common open space is gained by use of lot dimensions smaller than the minimums required by the bulk regulations for the district in which the tract is located, as authorized by the



Town Board under authority of Section 281 of the Town Law of the State of New York and pursuant to the authority of the Municipal Home Rule Law. Cluster developments may be:

a. Residential, in which a permissible number of dwelling units that would result from conventional application of this chapter and Appendix A, Subdivision Regulations, may be concentrated on a smaller portion of land in detached, semidetached, attached, or multistory structures, of such type or combination of types as may be permitted in the district in which the tract is located; or

b. Nonresidential, in which the same principles may be applied to commercial, industrial, institutional, or recreational purposes.

COMMUNITY RESIDENCE FOR THE DISABLED - A dwelling unit that provides a supervised residence for four (4) to fourteen (14) mentally disabled persons and is subject to licensing by the State Office of Mental Health or the State Office of Mental Retardation and Developmental Disabilities. All residents in such a structure shall be construed to be one (1) family.

CONDOMINIUM - The individual ownership in fee simple of a building or a portion of a building, either residential or nonresidential, with indivisible joint interest with other such owners in all common facilities.

CONVENIENCE STORE - A retail business selling nondurable consumer products including, but not limited to, groceries, prepared and packaged foods, gasoline and providing no services. A convenience store shall be regulated in accordance with section 30.6.5 if it is on the same lot with a car wash or motor vehicle service station.

CRITICAL AREA OF ENVIRONMENTAL CONCERN - Any area containing resources of critical concern to the Town as designated by a Local Law of the Town of Newburgh adopted in accordance with 6 NYCRR 617.4(j), filed with the Commissioner of Environmental Conservation, and indicated on the Zoning Map which is part of this Chapter.

DOMESTIC ANIMALS - As herein defined shall be limited to cows, horses, sheep, goats, donkeys, dogs, and cats.

DUMP - (See Junk yards).

DWELLING, GARDEN-STYLE - A multiple dwelling wherein the entrance of a dwelling unit is no more than one floor above or below ground floor level. All ground floor units shall contain access to usable outdoor areas from a second entry.

DWELLING, HIGH-RISE - Any multiple dwelling with more than three (3) stories.

DWELLING, MULTIPLE - A building or portion thereof containing three (3) or more dwelling units, either side by side or above and below each other.

DWELLING, SINGLE-FAMILY ATTACHED - A single-family dwelling sharing a common or party wall with one or more adjacent dwellings in a multiple dwelling structure, and with no other dwelling above or below. Such use is synonymous with the terms "town house" and "row house."

DWELLING, SINGLE-FAMILY DETACHED - A detached building containing one (1) dwelling unit only in which the shortest median dimension, either longitudinal or transverse, must be at least twenty four (24) feet, which is erected on a permanent foundation and equipped for year-round occupancy.

DWELLING, SEMIDETACHED - A building containing two (2) single family attached dwelling units. When such dwelling units occupy different lots they are synonymous with the term "zero lot line dwellings." A semidetached dwelling shall not be construed to mean a single-family dwelling with an accessory apartment.

DWELLING, TWO-FAMILY - A building containing two (2) dwelling units only, arranged one above the other. A two-family dwelling shall not be construed to mean a single-family dwelling with an accessory apartment.

DWELLING or DWELLING UNIT - One (1) or more rooms with provisions for living, cooking, sanitary and sleeping facilities arranged for the use of one (1) family.

NOTE: The terms dwelling, single family dwelling, multifamily dwelling or dwelling unit shall not be deemed to include a hotel, motel, automobile court, tourist home furnished rooming house, dormitory, boarding home, convalescent home, rest home, nursing home, or other accommodation used for transient occupancy.

EATING AND DRINKING PLACE - A business establishment serving food or drink to be consumed on the premises.

FAMILY - One (1) or more persons occupying a dwelling unit as a single, nonprofit, housekeeping unit. A group of persons occupying a boarding house, lodging house, club, fraternity house, hotel, or motel shall not be deemed to constitute a family.

FAST-FOOD ESTABLISHMENT - An eating establishment, excluding bakeries and delicatessens, that provides quickly prepared or prepared foods without table service by waiters/ waitresses, for consumption on the premises or for takeout. A fast food establishment shall not be construed to mean an establishment that primarily dispenses alcoholic beverages.

**FILLING OF LAND** - Any activity which deposits natural or artificial material so as to modify the surface or subsurface conditions of land, lakes, ponds or watercourses and which exceeds a total of four hundred (400) cubic yards of material within any parcel or any one subdivision in receipt of preliminary or final approval excluding proposed public roads.

**FLOOD, BASE** - The streamflow having one percent (1%) chance of occurring in any year.

**FLOOD PLAIN, ONE HUNDRED (100) YEAR** - A tidal or riverine fringe area subject to flooding with a frequency of up to one (1) occurrence in one hundred (100) years as defined on a map prepared by the Federal Emergency Management Agency on June 5, 1985, and indicated on the Zoning Map which is part of this chapter.

**FLOODWAY** - That area occupied by the main flow or channel of a watercourse during a one hundred (100) year flood.

**FLOOR AREA** - The sum of the gross horizontal areas of the several floors, basement, and attic of the building or buildings on a lot, as measured from the exterior faces of the exterior walls or from the center lines of the party walls separating two (2) buildings or units thereof.

**FLOOR AREA, HABITABLE** - All spaces within the exterior walls of a dwelling unit exclusive of garages, breezeways, unheated porches, heating and mechanical equipment rooms, and basements having a window area of less than twenty percent (20%) of the square-foot area of the room. Habitable floor area shall include all spaces not otherwise excluded above such as: principal rooms, utility rooms, bathrooms, all closets and hallways opening directly into any room within the dwelling unit, stairways, and all attic area having a clear height of seven and one half (7-1/2) feet or more from finished floor level to roof rafter.

**FOOD PREPARATION SHOP** - A business devoted to the preparation of food not to be consumed on the premises including but not limited to delicatessens limited to take out items.

**FOWL** - Shall include but not be limited to domesticated birds such as chickens, ducks, geese, turkeys, and pheasants, raised in confinement.

**FUEL TANKS** - Storage tank for combustible petroleum product, including petroleum bulk storage.

**GARAGE, PRIVATE** - An enclosed space for the storage of one (1) or more motor vehicles not for gain through the commercial rental of space.

**HOME OCCUPATION** - Any gainful occupation or profession customarily conducted within a dwelling by the residents thereof,

clearly secondary to the use of the dwelling for living purposes, and which does not change the character of the structure as a residence. Said activity shall not have more than one (1) nonresident employee working on the premises at any one time and shall not occupy more than one half (1/2) of the ground floor area of the dwelling or its equivalent elsewhere in the dwelling, if so used. Permissible home occupations include, but are not limited to, the following: art studio, dressmaking, offices for a clergy-man, lawyer, physician, dentist, architect, engineer, real estate agent, or accountant; teaching with musical, dancing, and other instruction limited to one (1) pupil at a time. However, home occupations shall not be construed to include uses such as the following: clinic or hospital, barber shop or beauty parlor, restaurant, animal hospital, or commercial animal breeding.

**HOTEL** - One (1) or more buildings containing rooms intended to be used, or which are used, rented, or hired out to be occupied for sleeping purposes by transient individuals or families, which provide rooms or areas for group assembly, and a central kitchen only, and a central dining room within the building or in an accessory building. A hotel shall not constitute an individual's primary residence and shall not be construed to be a multiple dwelling.

**JUNK YARDS** - A parcel of land or part thereof, including any buildings thereon, which is occupied in any part by a deposit, collection, or storage, outside of a completely enclosed building, of; or which is used for the disposal by abandonment, dumping, burial, burning, or any other means or for whatever purpose, of: wastepaper, rags, scrap metal, garbage, sewage, trash, refuse, junk, discarded materials, tires, debris from construction and demolition activities, or waste material of any kind; or for the collecting, dismantling, storing, or salvaging of machinery, or the sale of parts thereof; excepting any substance that is flammable, combustible, explosive, reactive, corrosive, or toxic to humans, as defined in United States Environmental Protection Agency regulations under 40 CFR 116. One (1) cubic yard of refuse located on a property for more than thirty (30) days shall constitute a junk yard.

**JUNK YARDS, MOTOR VEHICLE** - An area of land, including any buildings thereon, which is used for or occupied in any part by a deposit, collection, or storage, outside of a completely enclosed building, of used or discarded motor vehicles or parts thereof, with or without dismantling, wrecking, salvage, sale, or other use or disposition of same. A deposit, collection, or storage on a lot of two (2) or more motor vehicles not in condition for legal use on the public highways, or parts thereof, for one (1) week or more in a residential district or for three (3) weeks or more in a nonresidential district shall constitute a motor vehicle junk yard.

KENNEL - A structure used for the harboring of more than five (5) dogs with attendant commercial services that may include any one (1) or a combination of the following: boarding, grooming, breeding, raising, or veterinary care.

LIVESTOCK - Animals including but not limited to, domestic animals, such as sheep, horses, cattle, and goats.

LOADING OR UNLOADING AREA - Any off- street area or space accessible from a street or driveway for the use of trucks or other vehicles while loading or unloading merchandise or materials.

LOT - Land or parcel of land not divided by streets, occupied, unoccupied or to be occupied by a building and its accessory buildings, or by a dwelling or group of dwellings and its accessory buildings, together with such open spaces as are required under the provisions of this chapter containing not less than the minimum area required by this chapter for a lot in a district in which such land is situated and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of law to be adequate as a condition to the issuance of a building permit for a building on such land.

LOT AREA - The total horizontal area included within the lot boundaries, excluding any area within any private or paper street and limited by the requirement set forth in Article IV Schedules of District Regulations.

LOT, CONFORMING - A lot having not less than the minimum area and dimensions required by this chapter for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as may be determined to be in accordance with the provisions of Section 280-a of the Town Law (Chapter 62 of the Consolidated Laws, Article 16) to be adequate as a condition of issuance of a building permit for a building on such land.

LOT, CORNER - A lot at the junction of and fronting on two (2) or more intersecting streets.

LOT , BUILDING COVERAGE - The percentage of the area of a lot covered by a building or buildings.

LOT DEPTH - The distance from the street line of a lot to the rear lot line, measured at the midpoint of the location of the principal building or, if there is no such building, measured in the general direction of the side lot lines.

LOT LINE - Any line bounding a lot other than a street line. (1)

LOT LINE, REAR - The lot line generally opposite the street line.

LOT, NONCONFORMING - A parcel of land owned individually and separately, and separated in ownership from any adjoining tracts of land, which has a total area or dimensions less than as prescribed in this chapter for a lot in the district in which such land is situated.

LOT SURFACE COVERAGE - The percentage of the area of a lot covered by buildings, parking areas, accessory structures and any other impervious materials or surfaces.

LOT WIDTH - The distance measured along a line drawn parallel to the front lot line at a distance equal to the minimum front setback requirement or at the building line.

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

MARINA - A waterfront facility for the mooring, sales, storage, and servicing of recreational boats.

MINI-MALL - A group of four to six (4-6) retail stores, shops, or similar commercial establishments otherwise permitted within the zoning district, but excluding eating and drinking places, developed or intended to be developed as a unit on one lot and constructed as a single structure designed and built as an architectural unit, which shall have associated common facilities for offstreet parking, loading, and pedestrian circulation.

MOBILE HOME - A transportable single-family dwelling with a body width exceeding eight (8) feet or a body length exceeding thirty two (32) feet, which may be towed on its own running gear, and which may be temporarily or permanently affixed to real estate, used for nontransient, residential purposes, and which conforms with "American Standard for Installation in Mobile Homes of Electrical, Heating and Plumbing Systems" or "Mobile Home Standard for Plumbing, Heating and Electrical Systems."

MOBILE HOME OR MODULAR HOME SALES LOT - Any area of land upon which mobile or modular homes are placed for purposes of sale or display.

MOBILE HOME COURT - Any area of land occupied by two (2) or more mobile homes that are used for dwelling purposes.

MODULAR HOME - A factory-fabricated, sectionalized transportable building, for dwelling purposes, designed to be used by itself or to be incorporated with similar building sections and placed on a permanent foundation at the building site.

MOTEL - A building or group of buildings, whether detached or connected, used as individual sleeping units for transient automobile travelers and provided with accessory offstreet parking facilities. A motel shall not constitute an individual's



primary residence and shall not be construed to be a multiple dwelling. The term motel includes all similar uses and terms, such as tourist courts, motor lodges, auto courts, and roadside cabins, but shall not be construed to include mobile homes or campers.

**MOTOR VEHICLE SALES DEALERSHIP** - A facility engaged primarily in the sales and servicing of a specific brand or brands of vehicle. Accessory or ancillary to sales, the facility may also rent or lease, hold in storage for sale, service or wash motor vehicles. The motor vehicle service facility shall be licensed by the State of New York to service, inspect and sell motor vehicles.

**MOTOR VEHICLE SALES (USED)** - The sale or display of more than two used vehicles on a site. Such use shall be licensed by New York State.

**MOTOR VEHICLE RENTAL AGENCY** - A facility at which automobiles, trucks and trailers are offered for rental or lease. Automotive service is limited to the storage, cleaning, refueling and basic servicing of the vehicle, but does not include repair.

**MOTOR VEHICLE SERVICE STATION** - A building or lot or part thereof where refueling and related services are available to the public, operated for gain, including repair, greasing, washing, servicing, adjusting, equipping, lease or rental of automobiles or other motor vehicles, but not including the storing, holding or displaying of the same for sale or resale, except as to the holding of a vehicle for not more than sixty (60) days for insurance appraisal purposes covering property damage claims and except as to the holding of a vehicle for the required period to perfect or protect a garageman's lien pursuant to statute.

**NONCONFORMING BUILDING OR USE** - A use or building whether or a building or land or both which does not conform to the requirements respecting permitted uses or coverage as set forth in this chapter for the district in which it is situated, but which lawfully existed prior to the enactment of a zoning law or any revision or amendment thereto which would prohibit the use, and which is maintained after the effective date thereof although it does not conform to the use or coverage regulations of the District in which it is located.

**NURSERY** - An agricultural operation involving the propagation, cultivation, and sale of horticultural plants intended for exterior landscaping. A nursery shall not be construed to mean a garden center or other retail sales yard or a landscape contracting business.

**NURSING, REST OR CONVALESCENT HOME** - Any dwelling where persons are housed or lodged and furnished with means and nursing care for hire.

OPEN SPACE - That area of a parcel unoccupied by structures or vehicular facilities and open to the sky.

OPEN SPACE, COMMON - Any area of open space of a parcel that is accessible and available to all occupants of the parcel for purpose of active or passive outdoor recreation. Common open space shall not be construed to mean areas within thirty (30) feet of a principal building or within ten (10) feet of a roadway, parking lot, or accessory building, and shall not include buffer strips or screening, slopes over twenty-five percent (25%), or wetlands.

PERSON - Any individual, firm, company, association, society, partnership, corporation or entity capable of being sued.

PETROLEUM BULK STORAGE - A commercial facility or a facility accessory to an industrial use for the storage or dispensing of petroleum products from one or more tanks having a total capacity of over one thousand one hundred (1,100) gallons.

PLACE OF WORSHIP - A building wherein the conduct of religious services is the principal use. Living accommodations and educational institutions shall not be construed to be places of worship.

PROHIBITED USE - A use of a building structure, lot or land, or part thereof, which is not specifically listed as a permitted use, use subject to site plan review, accessory use or special permit use. In addition (as stated in section 30.3.4 G), any use not specifically permitted as one of the above shall be deemed to be prohibited.

PUBLIC SEWER - Any sewage disposal system approved by the Town Board as meeting the standards required for municipal operation.

PUBLIC UTILITY PLANT - A facility for the generation or production of electricity, gas, or steam for distribution through a public utility system.

PUBLIC UTILITY STRUCTURE - A structural component of a public utility transmission or distribution system, such as a tower, substation, manhole, transformer, or valve. A public utility structure shall not be construed to mean a public utility plant.

PUBLIC WATER - Any water supply system approved by the Town Board as meeting the standards required for municipal operation.

QUARRY - An excavation for the purpose of obtaining minerals, stone, rock, gravel, sand, soil or other natural deposits which affects more than four hundred (400) cubic yards of material within any parcel or any one subdivision in receipt of preliminary or final approval excluding proposed public roads.

**RESTAURANT** - An eating establishment that provides table service. A restaurant shall not be construed to mean either an establishment that primarily dispenses alcoholic beverages or a fast food establishment.

**SATELLITE EARTH STATION** - A dish type antenna supported by a rigid frame on a concrete base or on another structure.

**SCHOOLS AND COLLEGES** - These categories consist of private, public and parochial facilities that provide a curriculum of elementary and secondary academic instruction, as well as higher education, including kindergartens; elementary, middle, junior and senior high schools; and two, four year and advanced degree institutions. Nursery schools and day care facilities licensed by the State are covered under nursery schools. All other schools such as business, beauty, or computer schools, dance or music schools, etc. are allowed in offices, business parks or business districts as office or service commercial uses and are regulated as such.

**SCREEN or SCREENING** - Either (a) a strip of land at least ten (10) feet in width supporting dense natural vegetative growth, or with dense plantings of trees or shrubs, of such types as will provide a year-round visual barrier; (b) an opaque wall, fence, or other visual barrier at least six (6) feet in height above the ground; or (c) any other island, barrier, emplacement, wall, fence, tree, planting, shrubbery, or other artificial or natural dividing strip or marker of any kind, wherever located on a parcel, that may be conditioned or required in any building permit, certificate of occupancy, site development plan, subdivision approval, special permit, variance, zoning amendment, or other requirement of any board, agency, commission, or official of the Town of Newburgh pursuant to this chapter.

**SELF-STORAGE CENTER** - A public facility for dead storage of personal, household, or business property, which is serviced by the owner of the stored property or an agent of the owner. The term self-storage center includes all similar uses and terms, but shall not be construed to mean a warehouse.

**SETBACK, FRONT** - The distance from a building or use to the front lot line.

**SETBACK, REAR** - The distance from a building or use to the rear lot line.

**SETBACK, SIDE** - The distance from a building or use to the side lot line.

**SHOPPING CENTER** - A group of stores, shops, or similar commercial establishments, otherwise permitted with the zoning district including eating and drinking places, developed or intended to be developed as a unit on one lot, which may be constructed as a single structure or adjoining structures, or neighboring

structures, but which shall be designed and built as an architectural unit and shall have associated facilities for offstreet parking, loading, and pedestrian circulation. A shopping center shall be designed to be operated and maintained as a unit, in single ownership and/or control, sharing certain facilities in common such as open space, yards and off-street parking and loading facilities.

**SIGHT DISTANCE** - The length of a continuous straight-line view along a street, measured from a point three feet six inches (3'6") above the ground (eye level of a driver) at the position of the viewer to a point where a four and a quarter foot (4'3") high vehicle protrudes six inches (6") above the street's horizon (the limit of view along the street).

**SIGN** - Any letter, word, model, reproduction, banner, pennant, insignia, trade flag, device, or representation used as, or which is in the nature of, an advertisement, attraction, or directive.

**SIGN AREA** - Shall mean and include all faces of a sign measured as follows:

a. When such sign is on a plate or framed or outlined, all of the area of such plate or the area enclosed by such frame or outline shall be included.

b. When such sign consists only of letters, designs, or figures, engraved, painted, or projected, or in any manner affixed on a wall, the total area of such sign shall be considered to be that area of the smallest basic geometric shape (rectangle, circle, or triangle, which encompasses all of the letters or symbols of the sign.

**SITE PLAN** - A plan which shows the proposed development and use of land situated within the town of Newburgh and which shall consist of a map affirmatively demonstrating compliance with and adequate provision for all of the criteria, matters and items listed in Article IX herein.

**SITE PLAN APPROVAL, USE REQUIRING** - A use which requires, prior to the issuance of a building permit or certificate of occupancy, a review process within which the Planning Board evaluates, considers and acts upon a site plan, including the compliance with all the requirements and conditions necessary for the proper enforcement of this chapter.

**SPECIAL PERMIT USE** - A use which because of its unique characteristics requires individual consideration through a special review process by the Planning Board as established by Section 274a of the town law of the State of New York or through a special review process by the zoning board of appeals as established by Section 267 of the Town Law, such a use may require the meeting of certain conditions and safeguards before being permitted.

STREET - A public or private way which affords principal means of access to abutting properties.

STREET LINE - The dividing line between a lot and a street.

STRIPPING OF LAND - The removal of vegetation, topsoil, or subsoil from an area exceeding ten thousand (10,000) square feet or ten percent (10%) of a lot, whichever is less.

STRUCTURE - Anything which is constructed or erected which requires a location on the land or attachment to something having such location including but not limited to the following:

- a. signs or billboards;
- b. fences over six (6) feet in height;
- c. walls, other than those less than four (4) feet high;
- d. radio and television antennae, except for such antennae installed on the roof of the "building."
- e. pergolas, porches, outdoor bins, tool sheds, carports, equipment and storage buildings or sheds, swimming pools, swimming pool filter pads, tennis courts, doghouses or sheds;
- f. tents, lunch wagons, trailers, dining cars or similar structures on wheels or other supports used for business or living purposes.

The term "structure" shall also include "building."

STRUCTURE, TEMPORARY - A "temporary structure" is one erected, constructed or placed upon the premises, to exist there for a brief or temporary duration of time, not exceeding one (1) year. all other structures shall be deemed and considered permanent for the purposes of this chapter.

SUBSTANCE ABUSE REHABILITATION HOME - A dwelling unit that provides a supervised residence and a therapeutic environment for four (4) to fourteen (14) individuals for a period not to exceed twenty-eight (28) days for any one (1) individual and is subject to licensing by the State Division of Substance Abuse Services.

TRAILER, CAMPING - Any unit designed for temporary living purposes on a public or private campsite or as an accessory to such living purposes with one (1) or more wheels, designed to be hauled by a private motor vehicle, or constructed as an integral part thereof. Such units shall not be provided with water and sewer connections for year-round use.

USABLE AREA - The area of a lot that is suitable for a major subdivision of single family residences, multiple dwellings and/

or townhouses. The usable area of the site shall not include those portions of the site that are covered by waterbodies, protected wetlands, one hundred (100) year flood plains, areas subject to tidal inundation, rights of way of existing public or private roads, and utility easements that would prevent use or development of the underlying land in any manner.

USE - The specific purpose for which land or a building is used or occupied or maintained.

WAREHOUSE - A building or group of buildings used for storage or storage and distribution by one or more commercial or business interests and not open to the public. A warehouse shall not be construed to mean a self-storage center.

WETLAND, PROTECTED - An area subject to continued marginal inundation or saturation of soil such that it contains specific indicator vegetation types as defined either (1) on a map prepared by the New York State Department of Environmental Conservation in March 1987 and as subsequently amended by the DEC, and all land within one hundred (100) feet of such wetland boundary; (2) or all lands subject to federal wetland regulation or jurisdiction; and either federal or state land which has not been granted a permit for development by either federal or state agency(s) having jurisdiction.

YARD, MINIMUM REQUIRED FRONT - An unoccupied ground area fully open to the sky between the street line and a line drawn parallel thereto at the distance specified in Article IV, Bulk Tables, of this chapter.

YARD, MINIMUM REQUIRED REAR - An unoccupied ground area fully open to the sky, extending the full width of the lot between the building and the rear line of the lot and a line drawn parallel thereto at the distance specified in Article IV, Bulk Tables, of this chapter.

YARD, MINIMUM REQUIRED SIDE - An unoccupied ground area fully open to the sky between any property line other than a street or rear lot line and a line drawn parallel thereto at the minimum distance specified in Article IV, Bulk Tables, of this chapter, or at a greater distance necessary to meet the minimum lot width as specified in Section 30.4.1.



## ARTICLE III

### ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP

#### 30.3.1 Establishment of Zoning Districts

The Town of Newburgh is hereby divided into the following eight (8) basic zoning districts and two (2) overlay districts:

|     |                                 |
|-----|---------------------------------|
| RR  | Reservoir Residence District    |
| AR  | Agricultural Residence District |
| R-1 | Residence District              |
| R-2 | Residence District              |
| R-3 | Residence District              |
| B   | Business District               |
| IB  | Interchange Business District   |
| I   | Industrial Business District    |

#### Overlay Districts

|   |                             |
|---|-----------------------------|
| A | Airport                     |
| O | Professional Office Overlay |

#### 30.3.2 Zoning Map

The boundaries of said districts hereby established are shown on the August 19, 1974 Zoning Map, Town of Newburgh, last amended August 1987 which accompanies, and which, with all explanatory matter thereon, is hereby adopted and made a part of this chapter. The exact location of each zoning district boundary is recorded on an official zoning map in the office of the Town Clerk in accordance with Section 264 of Town Law.

#### 30.3.3 District Boundaries

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

##### A. General

Unless otherwise shown, the district boundaries shall coincide with property lot lines, center lines of streets, alleys, highways, waterways, railroad and utility rights-of-way, or such lines extended, as shown on the Map of the Town of Newburgh, N.Y. as originally prepared by the Orange County Planning Department in 1971 and updated by Garling Associates in April 1989, and which map was used as the basis for the zoning map.

##### B. Property lines of public lands

Where such boundary lines are indicated as approximately following the boundary lines of publicly owned lands, such lines shall be construed to be such boundaries.

#### C. Measurements

Measurements stated on the Zoning Map are perpendicular or radial distances from street lines measured to the district boundary line, which in all cases where distances are given, are parallel to the street line.

#### D. Division of existing lot

Where a district boundary divides a lot in single ownership the regulations for either portion of the lot may, at the owner's discretion, be extended up to thirty (30) feet beyond the boundary line of the district.

#### E. Use of Scale

In all other cases where dimensions are not shown on the map, the location of the district boundaries shown on the map shall be determined by the use of a scale on the official zoning map with zoning district boundaries superimposed and maintained by the Town Clerk.

#### F. Multiple Uses

Multiple uses shall be permitted on a single lot provided they receive site plan approval from the Planning Board in accordance with all required regulations of Article VI (if applicable) and Article IX.

### 30.3.4 Effect of establishment of Zoning Districts

#### A. Compliance with regulations

No building, structure, or land shall hereinafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, moved, altered, rebuilt, or enlarged except in conformity with the regulations herein specified for the district in which it is located.

#### B. Yards or open space

No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building or use on the same or any other lot.

#### C. Reduction of yards or lots

No yard or lot existing at the time of this chapter shall be reduced in size or area below the minimum requirements set forth

herein. Yards or lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter.

D. Interpretation of regulations

Within such district, the regulations set forth by this chapter shall be minimum regulations and shall apply uniformly to each kind of structure or land.

E. Permits issued before adoption of this chapter

Nothing contained in this chapter shall be construed as changing the plans or uses of present buildings, or the construction, use, or occupation of any building for which a building permit or variance has heretofore been issued according to law, and the construction of which shall have been diligently prosecuted within six (6) months of the date of the permit or variance and which entire building shall have been completed within one (1) year from the effective date of this chapter.

F. Unspecified uses

Any use not specifically permitted shall be deemed to be prohibited.

30.3.5 Overlay Districts

Several regulations found in this Local Law or elsewhere in state or federal regulations impact the use and development of land in the Town of Newburgh. These regulations are described or spelled out in this subsection.

A. O-Professional Office Overlay District

This district shown on the zoning map with an O is an overlay of various residential areas which are considered to be areas in transition from residential to commercial use. The residential uses are to be allowed and encouraged while office uses which have limited impact on residential uses and areas are encouraged. This is particularly true for areas along certain major roads.

## ARTICLE IV

### SCHEDULES OF DISTRICT REGULATIONS

#### 30.4.1 Establishment of Schedules of District Regulations

The general requirements affecting the use of buildings, structures and land use, and relating to the arrangement of buildings, structures, and uses occupying a lot, for each of the zoning districts established by Article III are hereby established in the Schedules of District Regulations, which are a part of this chapter and article. The Schedules are composed of pairs of tables entitled Use Table and Bulk Table for each zoning district.

#### 30.4.2 Utilization of Use Table

##### A. Columns

The Use Table is divided into columns with each column headed by a capital letter for reference. Separate pages divided the requirements for one district from those of another.

##### B. Permitted Uses, Accessory Uses, and Uses Subject to Site Plan Review.

In the Use Table, all uses listed in Column C are permitted by right and subject to the bulk and supplemental requirements as applicable. All uses listed in Column D are permitted only on approval of a site plan by the Planning Board, some of which uses are conditioned to special requirements that may be imposed to insure compatibility with neighboring uses. All uses listed in Column A are accessory to principal uses (whether permitted by right or by site plan review), and are permitted only in conjunction with the principal use identified in Column B.

##### C. Generic Descriptions.

Where any uses are identified by a generic word or description, the Planning Board shall determine whether a specific use shall be construed to be part of such generic class. In making such determination, the Planning Board shall consider to what extent the proposed use is similar to the class of use indicated in the Use Table.

#### 30.4.3 Utilization of Bulk Table

The uses identified in Columns C and D of the Use Tables are aligned with numbers that appear in the Bulk Table on the opposite page under headings, relating to lot area, lot width and depth, yard requirements, habitable floor area per dwelling unit, dwelling units per acre, percent lot coverage, and building height appropriate to each use. Accessory uses do not have

respective bulk requirements, and the requirements pertaining to the principal use shall apply.

# R R D I S T R I C T

| ACCESSORY USES                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | B. PERMITTED WITH:                                                                                        | C. PERMITTED USES                                                                                                | D. USES SUBJECT TO SITE PLAN REVIEW BY THE PLANNING BOARD                                                                                                                                                                                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Home occupations.<br>Private garage or carport for not more than 4 vehicles<br>Garden house, tool shed, wading or swimming pool, or tennis court, in accordance with Section 30.620.<br>Signs, in accordance with Section 30.622:<br>a. Professional.<br>b. Institutional.<br>c. Identification.<br>Keeping up to 5 (total) dogs or cats over 6 months of age<br>Keeping up to 2 horses on a lot of 2 acres or more.<br>Off-street parking as required by the principal use.<br>Separate living quarters within the permitted structure for persons employed on the premises.<br>Accessory apartments, in accordance with Section 30.615.1<br>Satellite earth stations in accordance with Section 30.617.<br>Nursery, School or Day Care | C1, D1<br>C1-3<br>D1<br>C1<br>D1<br>C1<br>D1-3<br>C1<br>D1-3<br>C1<br>ALL<br>C1<br>D1<br>C1<br>D1-3<br>D1 | 1. Single-family dwellings, not to exceed 1 dwelling unit per lot.<br>2. Municipal buildings and Town Activities | 1. Cluster developments for single-family detached dwellings, in accordance with Section 30.63.<br>2. Substance abuse rehabilitation home.<br>3. Community residence for the disabled.<br>4. Public utility structures and rights of way. |

Use requires a special permit from the Zoning Board of Appeals.

Table of Uses  
RR District

TABLE OF BULK REQUIREMENTS  
RR DISTRICT

| LOT<br>AREA<br>(acres) | LOT<br>WIDTH<br>(feet) | LOT<br>DEPTH<br>(feet) | FRONT<br>YARD<br>(feet) | REAR<br>YARD<br>(feet) | ONE<br>SIDE<br>YARD<br>(feet) | BOTH<br>SIDE<br>YARDS<br>(feet) | HABITABLE<br>FL. AREA<br>PER D.U.<br>(sq ft) | D.U.<br>PER<br>ACRE | LOT<br>BUILDING<br>COVERAGE<br>(PERCENT) | BUILD.<br>HEIGHT<br>(feet) | LOT<br>SURFACE<br>COVERAGE |
|------------------------|------------------------|------------------------|-------------------------|------------------------|-------------------------------|---------------------------------|----------------------------------------------|---------------------|------------------------------------------|----------------------------|----------------------------|
| 2 ac                   | 200                    | 300                    | 60                      | 100                    | 50                            | 100                             | 1,500                                        | n.a.                | 10                                       | 35                         | 10                         |
| n.a.                   | n.a.                   | n.a.                   | n.a.                    | n.a.                   | n.a.                          | n.a.                            | n.a.                                         | n.a.                | 20                                       | 35                         | 50                         |
| 10 ac                  | n.a.(a)                | n.a.(a)                | 100(a)                  | 100(a)                 | 100(a)                        | 200(a)                          | 1,500                                        | n.a.                | 10(b)                                    | 35                         | 20                         |
| 2 ac                   | 200                    | 300                    | 60                      | 100                    | 50                            | 100                             | 1,000<br>+100/person                         | n.a.                | 10                                       | 35                         | 10                         |
| 2 ac                   | 200                    | 300                    | 60                      | 100                    | 50                            | 100                             | 1,000<br>+100/person                         | n.a.                | 10                                       | 35                         | 10                         |
| n.a.                   | n.a.                   | n.a.                   | n.a.                    | n.a.                   | n.a.                          | n.a.                            | n.a.                                         | n.a.                | 20                                       | 35                         | 40                         |

a. As measured from the boundary of the property.

b. "Lot" applies to the overall parcel.



| ACCESSORY USES                                                                                           | B. PERMITTED USES             | C. PERMITTED USES                                                                      | D. USES SUBJECT TO SITE PLAN REVIEW BY THE PLANNING BOARD                                       |
|----------------------------------------------------------------------------------------------------------|-------------------------------|----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| Home occupations.*                                                                                       | CI-3, D1&2                    | 1. Single-family dwellings, not to exceed 1 dwelling unit per lot.                     |                                                                                                 |
| Private garage or carport for not more than 4 vehicles                                                   | CI-3&5<br>D1-12               | 2. Two-family dwellings, not to exceed two dwelling units per lot.                     |                                                                                                 |
| Garden house, tool shed, or loading or swimming pool, or tennis court in accordance with Section 30.620. | CI-3<br>D1-3<br>D10-12        | 3. Semidetached dwellings not to exceed two dwelling units per lot.                    |                                                                                                 |
| Signs, in accordance with Section 30.53:                                                                 |                               | 4. Municipal buildings and Town activities.                                            |                                                                                                 |
| a. professional.                                                                                         | CI-3                          | 5. Agricultural operations, as follows:                                                |                                                                                                 |
| b. institutional.                                                                                        | CI-26<br>C4, D4-7,<br>D1-12   | a. growing of field, greenhouse, and garden crops, vineyards, orchards, and nurseries. |                                                                                                 |
| c. identification.                                                                                       | CI-5                          | b. keeping of livestock.                                                               |                                                                                                 |
| Keeping up to 5 (total) dogs or cats over 6 months of age.                                               | CI-3&5<br>D1-12<br>D1-3, 8-12 | c. keeping of fowl.                                                                    |                                                                                                 |
| Keeping up to 2 domestic animals, excepting dogs and cats and up to 25 fowl on lots of 2 acres or more.  | CI-3&5<br>D1, 3-9             |                                                                                        | 1. Cluster developments for single family dwellings in accordance with Section 30.63.           |
| Off-street parking as required ALL by the principal use.                                                 |                               |                                                                                        | 2. Membership clubs, in accordance with Section 30.66:                                          |
| Off-street parking for commercial vehicles in accordance with Section 30.52.                             | CI-3&5<br>D1-12               |                                                                                        | a. providing outdoor recreational facilities.                                                   |
| Separate living quarters within the permitted structure for persons employed in the premises.            |                               |                                                                                        | b. providing nonrecreational facilities.                                                        |
| Fuel tanks in accordance with Section 30.616.                                                            | CI-5<br>D6&7                  |                                                                                        | 3. Places of worship, parish houses, seminaries, convents, dormitories, and related activities. |
| Satellite earth stations in accordance with Section 30.617.                                              | CI-C5<br>D1-12                |                                                                                        |                                                                                                 |

\* Also requires a special permit from the Zoning Board of Appeals.

TABLE OF USES  
AR DISTRICT

TABLE OF USES (continued)  
AR DISTRICT

| ACCESSORY USES                                                                                      | B. PERMITTED WITH: | C. PERMITTED USES | D. USES SUBJECT TO SITE PLAN REVIEW BY THE PLANNING BOARD                      |
|-----------------------------------------------------------------------------------------------------|--------------------|-------------------|--------------------------------------------------------------------------------|
| Accessory apartment in accordance with Section 30.615.                                              | C1<br>D1&2         |                   | 4. Nursery schools for preschool children.                                     |
| Barns, silos, produce storage structures and packing warehouses not within 50 feet of any lot line. | C5                 |                   | 5. Schools for general education, including colleges, with related facilities. |
| Seasonal roadside stands in accordance with Section 30.621.                                         | C5                 |                   | 6. Hospitals and nursing homes for general medical care.                       |
| Outdoor storage of farm equipment in other than a front yard.                                       | C5                 |                   | 7. Veterinarian offices, in accordance with Section 30.622.                    |
| Veterinarians' offices in accordance with Section 30.622.                                           | D9                 |                   | 8. Commercial kennels.                                                         |
| Nursery School or Day Care                                                                          | D1                 |                   | 9. Mobile home courts, in accordance with Section 30.61.                       |
|                                                                                                     |                    |                   | 10. Community residence for the disabled.                                      |
|                                                                                                     |                    |                   | 11. Substance abuse rehabilitation home.                                       |
|                                                                                                     |                    |                   | 12. Public utility structures and rights of way.                               |

TABLE OF BULK REQUIREMENTS  
25 DISTRICT

| LOT<br>AREA<br>(sq ft) | LOT<br>WIDTH<br>(feet) | LOT<br>DEPTH<br>(feet) | FRONT<br>YARD<br>(feet) | REAR<br>YARD<br>(feet) | CH<br>SIDE<br>YARD<br>(feet) | JOHN<br>SIDE<br>YARD<br>(feet) | FL. AREA<br>PER D.U.<br>(sq ft) | PER<br>ACRE | BUILDING<br>COVERAGE<br>(PERCENT) | BUILD.<br>HEIGHT<br>(feet) | SURFACE<br>COVERAGE<br>(PERCENT) |
|------------------------|------------------------|------------------------|-------------------------|------------------------|------------------------------|--------------------------------|---------------------------------|-------------|-----------------------------------|----------------------------|----------------------------------|
| 47,000                 | 150                    | 150                    | 50                      | 50                     | 30                           | 80                             | 900                             | n.a.        | 10                                | 35                         | 20                               |
| 60,000                 | 150                    | 150                    | 50                      | 40                     | 30                           | 80                             | 900                             | n.a.        | 20                                | 35                         | 40                               |
| 60,000/100,000         | 150/75(a)              | 150                    | 50                      | 40                     | 30/40(a)                     | 80/40(a)                       | 900                             | n.a.        | 20                                | 35                         | 40                               |
| n.a.                   | n.a.                   | n.a.                   | n.a.                    | n.a.                   | n.a.                         | n.a.                           | n.a.                            | n.a.        | 20                                | 35                         | 50                               |
| 40,000                 | 150                    | 150                    | 50                      | 40                     | 30                           | 80                             | n.a.                            | n.a.        | n.a.                              | 35                         | n.a.                             |
| 40 ac                  | 150                    | 150                    | 50                      | 40                     | 30                           | 80                             | n.a.                            | n.a.        | n.a.                              | 35                         | n.a.                             |
| 40 ac                  | 150                    | 150                    | 50                      | 40                     | 30                           | 80                             | n.a.                            | n.a.        | n.a.                              | 35                         | n.a.                             |
| 45 ac                  | n.a.(b)                | n.a.(b)                | 100(b)                  | 100(b)                 | 100(b)                       | 200(b)                         | 900                             | n.a.        | 10(c)                             | 35                         | 20                               |
| 40 ac                  | 300                    | 300                    | 200                     | 200                    | 200                          | 400                            | n.a.                            | n.a.        | 15                                | 35                         | 20                               |
| 40 ac                  | 150                    | 150                    | 50                      | 50                     | 50                           | 100                            | n.a.                            | n.a.        | 20                                | 35                         | 40                               |
| 40 ac                  | 150                    | 150                    | 50                      | 50                     | 50                           | 100                            | n.a.                            | n.a.        | 20                                | 35                         | 50                               |

a. Conventional semidetached (2 D.U. per lot/zero lot line (1 D.U. per lot).

b. As measured from the boundary of the site.

c. "Lot" applies to the overall parcel.

# A R DISTRICT TABLE

| A R DISTRICT TABLE      |                        |                        |                         |                        |                               |                                 |                                               |                     |                                          |                            |                                         |
|-------------------------|------------------------|------------------------|-------------------------|------------------------|-------------------------------|---------------------------------|-----------------------------------------------|---------------------|------------------------------------------|----------------------------|-----------------------------------------|
| MINIMUM REQUIRED        |                        |                        |                         |                        |                               | MAXIMUM PERMITTED               |                                               |                     |                                          |                            |                                         |
| LOT<br>AREA<br>(sq ft.) | LOT<br>WIDTH<br>(feet) | LOT<br>DEPTH<br>(feet) | FRONT<br>YARD<br>(feet) | REAR<br>YARD<br>(feet) | ONE<br>SIDE<br>YARD<br>(feet) | BOTH<br>SIDE<br>YARDS<br>(feet) | HABITABLE<br>FL. AREA<br>PER D.U.<br>(sq ft.) | D.U.<br>PER<br>ACRE | LOT<br>BUILDING<br>COVERAGE<br>(PERCENT) | BUILD.<br>HEIGHT<br>(feet) | LOT<br>SURFACE<br>COVERAGE<br>(PERCENT) |
| 2 ac                    | 150                    | 150                    | 50                      | 50                     | 50                            | 100                             | n.a.                                          | n.a.                | 20                                       | 35                         | 40                                      |
| 5 ac                    | 300                    | 300                    | 75                      | 50                     | 50                            | 100                             | n.a.                                          | n.a.                | 20                                       | 35                         | 50                                      |
| 5 ac                    | 300                    | 300                    | 75                      | 50                     | 50                            | 100                             | n.a.                                          | n.a.                | 15                                       | 35                         | 45                                      |
| 2 ac                    | 200                    | 200                    | 50                      | 50                     | 40                            | 80                              | n.a.                                          | n.a.                | 10                                       | 35                         | 20                                      |
| 10 ac                   | 400                    | 500                    | 100                     | 150                    | 150                           | 300                             | n.a.                                          | n.a.                | 5                                        | 25                         | 10                                      |
| 20 ac                   | 200                    | 300                    | 50                      | 50                     | 50                            | 100                             | 500                                           | n.a.                | 20                                       | 15                         | 40                                      |
| 60,000                  | 150                    | 150                    | 50                      | 50                     | 50                            | 100                             | 1,000 +<br>100/person                         | n.a.                | 20                                       | 35                         | 40                                      |
| 60,000                  | 150                    | 150                    | 50                      | 50                     | 50                            | 100                             | 1,000 +<br>100/person                         | n.a.                | 20                                       | 35                         | 40                                      |
| n.a.                    | n.a.                   | n.a.                   | n.a.                    | n.a.                   | n.a.                          | n.a.                            | n.a.                                          | n.a.                | 20                                       | 35                         | 40                                      |

TABLE OF BULK REQUIREMENTS  
(continued) AR DISTRICT

| A. ACCESSORY USES                                                                                        | B. PERMITTED WITH: | C. PERMITTED USES                                                  | D. USES SUBJECT TO SITE PLAN REVIEW BY THE PLANNING BOARD                                                                     |
|----------------------------------------------------------------------------------------------------------|--------------------|--------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| 1. Home occupations.*                                                                                    | C1-3, D2           | 1. Single-family dwellings, not to exceed 1 dwelling unit per lot. |                                                                                                                               |
| 2. Private garage or carport for not more than 4 vehicles.                                               | C1-3<br>D2-7       | 2. Two-family dwellings, not to exceed 2 dwelling units per lot.   |                                                                                                                               |
| 3. Garden house, tool shed, loading or swimming pool, or tennis court in accordance with Section 30.620. | C1&2<br>D2-6       | 3. Semidetached dwellings not to exceed 2 dwelling units per lot.  |                                                                                                                               |
| 4. Signs in accordance with Section 30.53:                                                               |                    | 4. Municipal buildings and town activities.                        |                                                                                                                               |
| a. Professional.                                                                                         | C1-3, D2           |                                                                    | 1. Conversion of existing dwellings for multifamily use in accordance with Section 30.62. x                                   |
| b. Institutional.                                                                                        | C4, D2&4           |                                                                    | 2. Cluster developments in accordance with Section 30.63.                                                                     |
| c. Identification.                                                                                       | C3, D1-6           |                                                                    | 3. Membership clubs:<br>a. Providing recreational facilities in accordance with Section 30.66.<br>b. no other type permitted. |
| 5. Keeping up to 5 (total) dogs or cats over 6 months of age.                                            | C1&2<br>D2         |                                                                    | 4. Places of worship, related parish houses, seminaries, dormitories and related activities.                                  |
| 6. Keeping up to 2 horses on a lot of 2 acres or more.                                                   | C1-3<br>D2&5       |                                                                    | 5. Substance abuse rehabilitation home.                                                                                       |
| 7. Offstreet parking as required by the principal use.                                                   | ALL                |                                                                    | 6. Community residence for the disabled.                                                                                      |
| 8. Separate living quarters within the permitted structure for persons employed on the premises.         | C1<br>D2-6         |                                                                    | 7. Marinas in accordance with Section 30.611.                                                                                 |
| 9. Accessory apartments in accordance with Section 30.615.1                                              | C1&2<br>D2         |                                                                    | 8. Public utility structures and rights of way.                                                                               |
| 10. Satellite earth stations in accordance with Section 30.617.                                          | C1-3<br>D2-6       |                                                                    |                                                                                                                               |
| 11. Nursery School or Day Care                                                                           | D2                 |                                                                    |                                                                                                                               |

\* Also requires a special permit from the Zoning Board of Appeals.

# TABLE OF USES R-1 DISTRICT

R - 1 DISTRICT TABLE

| IS - 1 DISTRICT TABLE |                  |                  |                   |                  |                      |                         |                                      |               |                                 |                      |                                |
|-----------------------|------------------|------------------|-------------------|------------------|----------------------|-------------------------|--------------------------------------|---------------|---------------------------------|----------------------|--------------------------------|
| MINIMUM REQUIRED      |                  |                  |                   |                  |                      | MAXIMUM PERMITTED       |                                      |               |                                 |                      |                                |
| LOT AREA (sq ft.)     | LOT WIDTH (feet) | LOT DEPTH (feet) | FRONT YARD (feet) | REAR YARD (feet) | ONE SIDE YARD (feet) | BOTH SIDES YARDS (feet) | HABITABLE FL. AREA PER D.U. (sq ft.) | D.U. PER ACRE | LOT BUILDING COVERAGE (PERCENT) | BUILD. HEIGHT (feet) | LOT SURFACE COVERAGE (PERCENT) |
| 40,000                | 150              | 150              | 50                | 40               | 30                   | 80                      | 1,500                                | n.a.          | 10                              | 35                   | 20                             |
| 60,000                | 150              | 150              | 50                | 40               | 30                   | 80                      | 1,500                                | n.a.          | 10                              | 35                   | 20                             |
| 60,000 / 30,000(a)    | 150/23.5(a)      | 150              | 50                | 40               | 30/40(a)             | 80/40(d)                | 1,500                                | n.a.          | 10                              | 35                   | 20                             |
| n.a.                  | n.a.             | n.a.             | n.a.              | n.a.             | n.a.                 | n.a.                    | n.a.                                 | n.a.          | 20                              | 35                   | 50                             |
| 40,000 / 20,000(b)    | 150              | 150              | 50                | 40               | 30                   | 80                      | 2000/1000(c)                         | n.a.          | 10                              | 35                   | 20                             |
| 25 ac                 | n.a.(e)          | n.a.(e)          | 100(d)            | 100(d)           | 100(d)               | 200(d)                  | 1,500                                | n.a.          | 10(e)                           | 35                   | 20                             |
| 10 ac                 | 300              | 300              | 200               | 200              | 200                  | 400                     | n.a.                                 | n.a.          | 15                              | 35                   | 30                             |
|                       |                  |                  |                   |                  |                      |                         |                                      |               |                                 |                      |                                |
| 2 ac                  | 200              | 200              | 50                | 60               | 50                   | 100                     | n.a.                                 | n.a.          | 15                              | 35                   | 30                             |
| 20,000                | 150              | 150              | 50                | 50               | 50                   | 100                     | 1,000 +100/person                    | n.a.          | 20                              | 35                   | 40                             |
| 60,000                | 150              | 150              | 50                | 50               | 50                   | 100                     | 1,000 +100/person                    | n.a.          | 20                              | 35                   | 40                             |
| 5 ac                  | 200              | 200              | 50                | 0(f)             | 50                   | 100                     | n.a.                                 | n.a.          | 40                              | 40                   | 80                             |
| n.a.                  | n.a.             | n.a.             | n.a.              | n.a.             | n.a.                 | n.a.                    | n.a.                                 | n.a.          | 20                              | 35                   | 40                             |

a. Conventional semi-detached (2 D.U. per lot) / zero lot line (1 D.U. per lot).

b. 40,000 sq. ft. for first dwelling unit; 20,000 sq. ft. each additional d.u.

c. First dwelling unit, 2,000 sq. ft.; each additional d. u. 1,000 sq. ft.

d. As measured from the boundary of the property.

e. "Lot" applies to the overall parcel.

f. No setback required at shoreline.

TABLE OF BULK REQUIREMENTS  
R1 DISTRICT

| A. ACCESSORY USES                                                                                        | B. PERMITTED WITH:  | C. PERMITTED USES                                                   | D. USES SUBJECT TO SITE PLAN REVIEW BY THE PLANNING BOARD |
|----------------------------------------------------------------------------------------------------------|---------------------|---------------------------------------------------------------------|-----------------------------------------------------------|
| 1. Home occupations.                                                                                     | C1-3, D2            | 1. Single-family dwellings, not to exceed 2 dwelling units per lot: |                                                           |
| 2. Private garage or carport for not more than 4 vehicles.                                               | C1-3<br>D1-10       | a. without both public sewer and public water systems.              |                                                           |
| 3. Garden house, tool shed, loading or swimming pool, or tennis court in accordance with Section 30.620. | C1-3<br>D2-4        | b. with both public sewer and public town water systems.            |                                                           |
| 4. Signs in accordance with Section 30.43.                                                               |                     | c. either public sewer or public water system only.                 |                                                           |
| a. professional.                                                                                         | C1-3, D3            | 2. Two-family dwellings, not to exceed 2 dwelling units per lot:    |                                                           |
| b. institutional.                                                                                        | C4, D4-8            | a. without both public sewer and public water systems.              |                                                           |
| c. identification.                                                                                       | C3, D2-10           | b. with both public sewer and public town water systems.            |                                                           |
| 5. Keeping up to 5 (total) dogs or cats over 6 months of age.                                            | C1-3<br>D1-5        | c. either public sewer or public water system only.                 |                                                           |
| 6. Keeping up to 2 horses on a lot of 2 acres or more.                                                   | C1-3<br>D2-3        | 3. Semidetached dwellings not to exceed 2 dwelling units per lot.   |                                                           |
| 7. Offstreet parking as required by the principal use.                                                   | ALL                 | a. without both public sewer and public water systems.              |                                                           |
| 8. Offstreet parking for commercial vehicles in accordance with Section 30.52.                           | C1-2<br>D4-6, 9, 10 | b. with both public sewer and public town water systems.            |                                                           |
| 9. Separate living quarters within the permitted structure for persons employed on the premises.         | C1-3<br>D1-5        | c. either public sewer or public water system only.                 |                                                           |
| 10. Accessory apartments in accordance with Section 30.618.                                              | C1-2<br>D2-3        | 4. Municipal buildings and town activities.                         |                                                           |
| 11. Satellite earth stations in accordance with Section 30.617.                                          | C1-3<br>D1-10       |                                                                     |                                                           |

Also requires a special permit from the Zoning Board of Appeals.

TABLE OF USES  
R-2 DISTRICT



2 - 2 DISTRICT TABLE

| MINIMUM REQUIRED   |                  |                  |                   |                  |                      | MAXIMUM PERMITTED      |                                       |               |                                 |                      |                                |
|--------------------|------------------|------------------|-------------------|------------------|----------------------|------------------------|---------------------------------------|---------------|---------------------------------|----------------------|--------------------------------|
| LOT AREA (sq. ft.) | LOT WIDTH (feet) | LOT DEPTH (feet) | FRONT YARD (feet) | REAR YARD (feet) | ONE SIDE YARD (feet) | BOTH SIDE YARDS (feet) | HABITABLE FL. AREA PER D.U. (sq. ft.) | D.U. PER ACRE | LOT BUILDING COVERAGE (PERCENT) | BUILD. HEIGHT (feet) | LOT SURFACE COVERAGE (PERCENT) |
| 1,000              | 125              | 150              | 40                | 40               | 15                   | 30                     | 900                                   | n.a.          | 15                              | 35                   | 30                             |
| 1,000              | 100              | 125              | 40                | 40               | 15                   | 30                     | 900                                   | n.a.          | 15                              | 35                   | 30                             |
| 1,500              | 100              | 125              | 40                | 40               | 15                   | 30                     | 900                                   | n.a.          | 15                              | 35                   | 30                             |
| 1,000              | 125              | 150              | 40                | 50               | 25                   | 50                     | 900                                   | n.a.          | 25                              | 35                   | 50                             |
| 1,500              | 125              | 150              | 40                | 50               | 25                   | 50                     | 800                                   | n.a.          | 25                              | 35                   | 50                             |
| 1,000              | 125              | 150              | 40                | 50               | 25                   | 50                     | 900                                   | n.a.          | 25                              | 35                   | 50                             |
| 1,000/1,225/63(a)  | 125/63(a)        | 150              | 40                | 50               | 25                   | 50/25(a)               | 900                                   | n.a.          | 25                              | 35                   | 50                             |
| 1,500/1,225/63(a)  | 125/63(a)        | 150              | 40                | 50               | 25                   | 50/25(a)               | 900                                   | n.a.          | 25                              | 35                   | 50                             |
| 1,000/1,225/63(a)  | 125/63(a)        | 150              | 40                | 50               | 25                   | 50/25(a)               | 900                                   | n.a.          | 25                              | 35                   | 50                             |
| n.a.               | n.a.             | n.a.             | n.a.              | n.a.             | n.a.                 | n.a.                   | n.a.                                  | n.a.          | 20                              | 35                   | 50                             |

a. conventional semidetached (2 D.U. per lot/zero lot line (1 D.U. per lot).

TABLE OF BULK REQUIREMENTS  
R2 DISTRICT

# - 2 DISTRICT TABLE

## TABLE OF BULK REQUIREMENTS (contin R2 DISTRICT

| LOT<br>AREA<br>sq ft | LOT<br>WIDTH<br>(feet) | LOT<br>DEPTH<br>(feet) | MINIMUM REQUIRED        |                        |                               |                                 | MAXIMUM PERMITTED                            |                     |                                          |                                   |                                         |
|----------------------|------------------------|------------------------|-------------------------|------------------------|-------------------------------|---------------------------------|----------------------------------------------|---------------------|------------------------------------------|-----------------------------------|-----------------------------------------|
|                      |                        |                        | FRONT<br>YARD<br>(feet) | REAR<br>YARD<br>(feet) | ONE<br>SIDE<br>YARD<br>(feet) | BOTH<br>SIDE<br>YARDS<br>(feet) | HABITABLE<br>FL. AREA<br>PER D.U.<br>(sq ft) | D.U.<br>PER<br>ACRE | LOT<br>BUILDING<br>COVERAGE<br>(PERCENT) | BUILD-<br>ING<br>HEIGHT<br>(feet) | LOT<br>SURFACE<br>COVERAGE<br>(PERCENT) |
| 1,000<br>r d.t.      | 150                    | 150                    | 40                      | 50                     | 25                            | 50                              | 900                                          | n.a.                | 20                                       | 35                                | 40                                      |
| 5 ac                 | n.a. (a)               | n.a. (a)               | 100 (a)                 | 100 (a)                | 100 (a)                       | 200 (a)                         | 900                                          | n.a.                | 15 (b)                                   | 35                                | 30                                      |
| 0 ac                 | 300                    | 400                    | 200                     | 200                    | 200                           | 400                             | n.a.                                         | n.a.                | 15                                       | 35                                | 30                                      |
| 2 ac                 | 150                    | 150                    | 50                      | 50                     | 50                            | 100                             | n.a.                                         | n.a.                | 20                                       | 35                                | 40                                      |
| 2 ac                 | 150                    | 150                    | 50                      | 50                     | 50                            | 100                             | n.a.                                         | n.a.                | 20                                       | 35                                | 40                                      |
| 2 ac                 | 150                    | 150                    | 50                      | 50                     | 50                            | 100                             | n.a.                                         | n.a.                | 20                                       | 35                                | 40                                      |
| 5 ac                 | 300                    | 300                    | 75                      | 50                     | 50                            | 100                             | n.a.                                         | n.a.                | 20                                       | 35                                | 40                                      |
| 5 ac                 | 300                    | 300                    | 75                      | 50                     | 50                            | 100                             | n.a.                                         | n.a.                | 20                                       | 35                                | 40                                      |
| 0.000                | 125                    | 150                    | 40                      | 40                     | 15                            | 30                              | 1,000<br>+100/person                         | n.a.                | 25                                       | 35                                | 50                                      |
| 0.000                | 125                    | 150                    | 40                      | 40                     | 15                            | 30                              | 1,000<br>+100/person                         | n.a.                | 25                                       | 35                                | 50                                      |
| n.a.                 | n.a.                   | n.a.                   | n.a.                    | n.a.                   | n.a.                          | n.a.                            | n.a.                                         | n.a.                | 20                                       | 35                                | 50                                      |

a. As measured from the boundary of the property.

b. "Lot" applies to the overall parcel.

# TABLE OF USES R3 DISTRICT

31

| A. ACCESSORY USES                                                                                          | B. PERMITTED WITH:            | C. PERMITTED USES                                                  | D. USES SUBJECT TO SITE PLAN REVIEW BY THE PLANNING BOARD |
|------------------------------------------------------------------------------------------------------------|-------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------|
| 1. Home occupations.                                                                                       | C1-3, D1, D3, D4              | 1. Single-family dwellings, not to exceed 1 dwelling unit per lot: |                                                           |
| 2. Private garage or carport for not more than 4 vehicles                                                  | C1-3, D1-13                   | a. without both public sewer and public water systems.             |                                                           |
| 3. Garden house, tool shed, or wading or swimming pool, or tennis court in accordance with Section 30.620. | C1-3, D1-5                    | b. with both public sewer and public town water systems.           |                                                           |
| 4. Signs in accordance with Section 30.633:                                                                |                               | c. with either public sewer or public water only.                  |                                                           |
| a. professional                                                                                            | C1-3, D3, D4                  | 2. Two-family dwellings, not to exceed two dwelling units per lot: |                                                           |
| b. institutional                                                                                           | C4, D5-13                     | a. without both public sewer and public water systems.             |                                                           |
| c. identification                                                                                          | C3                            | b. with both public sewer and public town water systems.           |                                                           |
| 5. Keeping up to 5 (total) dogs or cats over 6 months of age                                               | D1, D3-13, C1-3, D1-7, 10, 11 | c. with either public sewer or public water only.                  |                                                           |
| 6. Keeping up to 2 horses on a lot of 2 acres or more.                                                     | C1-3, D3, D4                  | 3. Semidetached dwellings not to exceed 2 dwelling units per lot:  |                                                           |
| 7. Off-street parking as required by the principal use.                                                    | ALL                           | a. without both public sewer and public water systems.             |                                                           |
| 8. Off-street parking for commercial vehicles in accordance with Section 30.52.                            | D5-13                         | b. with both public sewer and public town water systems.           |                                                           |
| 9. Separate living quarters within the permitted structure for persons employed on the premises.           | C1, D1-12                     | c. either public sewer or public water system only.                |                                                           |
| 10. Accessory apartments in accordance with Section 30.635.                                                | C1-3, D3, D4                  | 4. Municipal buildings and town activities.                        |                                                           |
| 11. Satellite earth stations in accordance with Section 30.617.                                            | C1-3, D1-11                   |                                                                    |                                                           |

\* also requires a special permit from the Zoning Board of Appeals.

Nursery School or Day Care

R3 DISTRICT

| ACCESSORY USES | D. PERMITTED USES | E. PERMITTED USES<br>REVIEW BY THE PLANNING BOARD                                                                                                                                                                                                    |
|----------------|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                | 4.                | 10. Substance abuse rehabilitation home.<br>11. Community residence for the disabled.<br>12. Funeral homes.<br>13. Cemeteries.<br>14. Public utility structures and rights of way.<br>15. Senior Citizen Housing in accordance with Section 30.5.25. |

TABLE OF USES (continued)  
R3 DISTRICT

# TABLE OF BULK REQUIREMENTS R3 DISTRICT

| MINIMUM REQUIRED  |                  |                  |                   |                  |                      |                        |                           |      |    |    |    | HABITABLE |  |  |  | D.U. PER ACRE |  | LOT BUILDING COVERAGE (PERCENT) |  | BUILD. HEIGHT (feet) |  | LOT SURFACE COVERAGE (PERCENT) |  |
|-------------------|------------------|------------------|-------------------|------------------|----------------------|------------------------|---------------------------|------|----|----|----|-----------|--|--|--|---------------|--|---------------------------------|--|----------------------|--|--------------------------------|--|
| LOT AREA (sq ft)  | LOT WIDTH (feet) | LOT DEPTH (feet) | FRONT YARD (feet) | REAR YARD (feet) | ONE SIDE YARD (feet) | BOTH SIDE YARDS (feet) | FL. AREA PER D.U. (sq ft) |      |    |    |    |           |  |  |  |               |  |                                 |  |                      |  |                                |  |
| 20,000            | 25               | 150              | 40                | 40               | 15                   | 30                     | 900                       | n.a. | 15 | 35 | 30 |           |  |  |  |               |  |                                 |  |                      |  |                                |  |
| 15,500            | 85               | 100              | 40                | 40               | 15                   | 30                     | 900                       | n.a. | 15 | 35 | 30 |           |  |  |  |               |  |                                 |  |                      |  |                                |  |
| 15,000            | 100              | 125              | 40                | 40               | 15                   | 30                     | 900                       | n.a. | 15 | 35 | 30 |           |  |  |  |               |  |                                 |  |                      |  |                                |  |
| 30,000            | 125              | 130              | 40                | 50               | 25                   | 50                     | 900                       | n.a. | 20 | 35 | 40 |           |  |  |  |               |  |                                 |  |                      |  |                                |  |
| 20,000            | 100              | 125              | 40                | 50               | 25                   | 50                     | 900                       | n.a. | 20 | 35 | 40 |           |  |  |  |               |  |                                 |  |                      |  |                                |  |
| 15,000            | 125              | 130              | 40                | 50               | 25                   | 50                     | 900                       | n.a. | 20 | 35 | 40 |           |  |  |  |               |  |                                 |  |                      |  |                                |  |
| 30,000/ 15,000(a) | 125/63(a)        | 130              | 40                | 40               | 25                   | 50/25(a)               | 900                       | n.a. | 20 | 35 | 40 |           |  |  |  |               |  |                                 |  |                      |  |                                |  |
| 20,000/ 10,000(a) | 100/50(a)        | 125              | 40                | 40               | 25                   | 50/25(a)               | 900                       | n.a. | 20 | 35 | 40 |           |  |  |  |               |  |                                 |  |                      |  |                                |  |
| 25,000/ 12,500(a) | 125/63(a)        | 130              | 40                | 40               | 25                   | 50/25(a)               | 900                       | n.a. | 20 | 35 | 40 |           |  |  |  |               |  |                                 |  |                      |  |                                |  |
| 15,000            | 100              | 125              | 40                | 40               | 15                   | 30                     | 900                       | n.a. | 15 | 35 | 30 |           |  |  |  |               |  |                                 |  |                      |  |                                |  |

a. conventional semidetached (2 D.U. per lot)/zero lot line (1 D.U. per lot).

TABLE OF BULK REQUIREMENTS (continued)  
R3 DISTRICT

| MINIMUM REQUIRED  |                  |                  |                   |                  |                      |                        |                                             |               |                                 | MAXIMUM PERMITTED    |                                |  |  |  |
|-------------------|------------------|------------------|-------------------|------------------|----------------------|------------------------|---------------------------------------------|---------------|---------------------------------|----------------------|--------------------------------|--|--|--|
| LOT AREA (sq ft.) | LOT WIDTH (feet) | LOT DEPTH (feet) | FRONT YARD (feet) | REAR YARD (feet) | ONE SIDE YARD (feet) | BOTH SIDE YARDS (feet) | HABITABLE FL. AREA PER D.U. (sq ft.)        | D.U. PER ACRE | LOT BUILDING COVERAGE (PERCENT) | BUILD. HEIGHT (feet) | LOT SURFACE COVERAGE (PERCENT) |  |  |  |
| 1 ac              | 150              | 150              | 40                | 50               | 25                   | 50                     | eff 450<br>1 BR 600<br>2 BR 800<br>3 BR 900 | 6.0           | 35                              | 35                   | 60                             |  |  |  |
| 10 ac             | 300              | 300              | 30                | 35               | 25                   | 50                     |                                             | 6.0           | 35                              | 35                   | 65                             |  |  |  |
| 10 ac             | 300              | 300              | 50                | 50               | 30                   | 60                     |                                             | 6.0           | 35                              | 35                   | 60                             |  |  |  |
| 15,000 per d.u.   | 150              | 150              | 40                | 40               | 25                   | 50                     | 500                                         | n.a.          | 25                              | 35                   | 50                             |  |  |  |
| 25 ac             | n.a. (a)         | n.a. (a)         | 100 (a)           | 100 (a)          | 100 (a)              | 200 (a)                | 900                                         | n.a.          | 15 (b)                          | 35                   | 30                             |  |  |  |
| 10 ac             | 300              | 300              | 200               | 200              | 200                  | 400                    | n.a.                                        | n.a.          | 15                              | 35                   | 30                             |  |  |  |
| 2 ac              | 150              | 150              | 50                | 50               | 50                   | 100                    | n.a.                                        | n.a.          | 20                              | 35                   | 40                             |  |  |  |
| 2 ac              | 150              | 150              | 50                | 50               | 50                   | 100                    | n.a.                                        | n.a.          | 20                              | 35                   | 50                             |  |  |  |
| 2 ac              | 150              | 150              | 50                | 50               | 50                   | 100                    | n.a.                                        | n.a.          | 20                              | 35                   | 40                             |  |  |  |
| 5 ac              | 300              | 300              | 75                | 50               | 50                   | 100                    | n.a.                                        | n.a.          | 20                              | 35                   | 50                             |  |  |  |
| 5 ac              | 300              | 300              | 75                | 50               | 50                   | 100                    | n.a.                                        | n.a.          | 20                              | 35                   | 50                             |  |  |  |

a. As measured from the boundary of the property.

b. "Lot" applies to the overall parcel.



TABLE OF BULK REQUIREMENTS (continued)  
R3 DISTRICT

| LOT<br>AREA<br>(sq ft) | LOT<br>WIDTH<br>(feet) | LOT<br>DEPTH<br>(feet) | FRONT                   |                         |                         | REAR                   |                        |                        | ONE<br>SIDE<br>YARD<br>(feet) | BOTH<br>SIDE<br>YARDS<br>(feet) | HABITABLE<br>FL. AREA<br>PER D.U.<br>(sq ft) | D.U.<br>PER<br>ACRE | LOT<br>BUILDING<br>COVERAGE<br>(PERCENT) | BUILD.<br>HEIGHT<br>(feet) | LOT<br>SURFACE<br>COVERAGE<br>(PERCENT) |
|------------------------|------------------------|------------------------|-------------------------|-------------------------|-------------------------|------------------------|------------------------|------------------------|-------------------------------|---------------------------------|----------------------------------------------|---------------------|------------------------------------------|----------------------------|-----------------------------------------|
|                        |                        |                        | FRONT<br>YARD<br>(feet) | FRONT<br>YARD<br>(feet) | FRONT<br>YARD<br>(feet) | REAR<br>YARD<br>(feet) | REAR<br>YARD<br>(feet) | REAR<br>YARD<br>(feet) |                               |                                 |                                              |                     |                                          |                            |                                         |
| 30,000                 | 125                    | 130                    | 40                      | 50                      | 50                      | 50                     | 50                     | 50                     | 25                            | 50                              | 1,000<br>+100/person                         | n.a.                | 20                                       | 35                         | 40                                      |
| 30,000                 | 125                    | 130                    | 40                      | 50                      | 50                      | 50                     | 50                     | 50                     | 25                            | 50                              | 1,000<br>+100/person                         | n.a.                | 20                                       | 35                         | 40                                      |
| 60,000                 | 200                    | 200                    | 50                      | 50                      | 50                      | 50                     | 50                     | 50                     | 30                            | 80                              | n.a.                                         | n.a.                | 20                                       | 35                         | 40                                      |
| 5 ac                   | 300                    | 300                    | 4.55                    | 50                      | 50                      | 50                     | 50                     | 50                     | 50                            | 100                             | n.a.                                         | n.a.                | n.a.                                     | 35                         | n.a.                                    |
| n.a.                   | n.a.                   | n.a.                   | n.a.                    | n.a.                    | n.a.                    | n.a.                   | n.a.                   | n.a.                   | n.a.                          | n.a.                            | n.a.                                         | n.a.                | 20                                       | 35                         | 50                                      |

## ARTICLE V

### SUPPLEMENTARY REGULATIONS APPLICABLE TO ALL DISTRICTS

#### 30.5.1 Required performance standards.

No use shall be permitted that does not conform to the following standards of use, occupancy, and operation, which are hereby established as the minimum standards to be maintained:

a. Noise. Noise from a use or activity on a site as measured at the boundaries of the lot where such use is situated shall not exceed in intensity, occurrences, and duration, the noise of street traffic at adjoining streets according to the hour of the day and the day of the week.

b. Atmospheric effluence. No dust, dirt, smoke, odor, or noxious gases shall be disseminated beyond the boundaries of the lot on which such use is situated.

c. Glare and heat. No glare or heat shall be produced from any use that is perceptible beyond the boundaries of the lot on which such use is situated.

d. Industrial wastes. No solid or liquid wastes shall be discharged into any public sewer, private sewage disposal system, stream, or on or into the ground, except in accordance with the standards approved by the Town and the New York State Department of Environmental Conservation, the Federal Environmental Protection Agency or similarly empowered agency.

e. Fire and explosion hazards. All activities involving, and all storage of, inflammable and explosive materials shall be provided with state of the art safety devices against the hazard of fire and explosion and state of the art fire fighting and fire suppression equipment and devices. Burning of waste materials in open fires is prohibited. The relevant provisions of federal, state and local laws shall also apply.

f. Radioactivity and electromagnetic disturbance. No activities shall be permitted which emit either dangerous radioactivity beyond the structure in which such activity is situated, or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance. If federal and/or state licenses are required, the absence of a valid license is sufficient grounds for the Building and Code Enforcement Officer to revoke the certificate of occupancy.

### 30.5.2 Offstreet parking and loading facilities

#### A. Permitted accessory parking

1. There is no limitation on the number of agricultural vehicles permitted accessory to farm use.
2. The storage of not more than one (1) camping trailer and not more than one (1) boat is permitted, provided that no such trailer or boat is stored within a required front yard.

B. Permitted accessory loading facilities. Accessory on-street loading facilities are not permitted. Off-street loading facilities are permitted accessory to any use except residential, according to the Schedule of Offstreet Loading Space Facilities Requirements and subject to the following conditions:

1. All such facilities shall be on the same lot as the use to which they are accessory. However, such facilities may be designed to serve two (2) or more establishments on the same lot.
2. Such facilities shall not be located in a required front yard or in a side yard adjacent to a residential district.
3. Unobstructed access at least twelve (12) feet wide shall be provided between any loading facility and a street.
4. No access for any such facility shall be located within fifty (50) feet of any street or intersection.
5. All such facilities shall conform to the minimum required setbacks for the district in which they are situated, and they shall be screened from view from any residential district.

#### C. Minimum required offstreet parking spaces:

1. Accessory off-street parking spaces, either outdoors or enclosed, shall be provided according to the standard cited in the most recent edition of the Institute of Traffic Engineers' publication 'Parking Generation' (see chart 1 following) or as determined by the Planning Board upon consideration of all factors entering into the parking demands of each and every use proposed, whichever is less. To assist the Planning Board in this determination the applicant shall complete the applicable portion of Chart 3.

## SCHEDULE OF OFF-STREET TRUCK LOADING SPACE REQUIREMENTS

Every building or structure or lot used for nonresidential purposes shall be provided with off-street truck loading spaces in accordance with the following schedule:

| SQUARE FEET OF FLOOR AREA | REQUIREMENT: NO.OF SPACES                                                                   |
|---------------------------|---------------------------------------------------------------------------------------------|
| Under 25,000 sq.ft.       | 1 space                                                                                     |
| 25,000 to 39,999 sq.ft.   | 2 spaces                                                                                    |
| 40,000 sq.ft. or more     | 1 additional space for each 40,000 square feet in addition to the first 40,000 square feet. |

### C. Minimum required off-street parking spaces:

1. Accessory off-street parking spaces, either outdoors or enclosed, shall be provided according to the schedule of Offstreet Parking For Residential or Non-Residential Uses. A variation of these requirements may be necessary for the applicant to comply with this section. To assist the applicant and the Planning Board in determining parking requirements not covered by the Schedule, the standards cited in the most recent edition of the Institute of Traffic Engineers publication 'Parking Generation' (see Chart 1 following schedule) and the completion of the applicable portions by the applicant of Chart 3 may be necessary.

## SCHEDULE OF OFF-STREET PARKING SPACE REQUIREMENTS FOR RESIDENTIAL USES

| USES                                           | REQUIREMENT: NO.OF SPACES                                                       |
|------------------------------------------------|---------------------------------------------------------------------------------|
| Single- family and two- family dwelling units. | 2 per dwelling unit.                                                            |
| Multiple dwelling.                             | 2 per dwelling unit.                                                            |
| Residential membership club or fraternity.     | 1 per residence unit plus 1 per each two employees on the premises at one time. |

SCHEDULE OF OFF-STREET PARKING SPACE REQUIREMENTS  
FOR NON-RESIDENTIAL USES

| USES                                                                                                                     | REQUIREMENT: NO.OF SPACES                                                                                                                                                      |
|--------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Animal hospital.                                                                                                         | 1 per 200 square feet of floor area.                                                                                                                                           |
| Auditorium, church convention hall, stadium, theater, studio or other place of public assembly not otherwise classified. | 1 per 3 permanent seats or 1 per each 40 square feet of seating area where fixed seating is not provided.                                                                      |
| Bank, savings and loan association.                                                                                      | See Office.                                                                                                                                                                    |
| Bowling Alley.                                                                                                           | 3 per alley.                                                                                                                                                                   |
| Drive-in facility or outdoor sales lots.                                                                                 | 1 per each 600 square feet of lot area.                                                                                                                                        |
| Funeral home.                                                                                                            | 1 per 40 square feet of public room floor area.                                                                                                                                |
| Furniture and heavy appliance stores.                                                                                    | 1 per 500 square feet of gross leasable floor area.                                                                                                                            |
| Gasoline station, parking garage, repair garage.                                                                         | Sufficient parking spaces for all vehicles stored or being serviced at any one period of time PLUS a minimum of 5 additional spaces.                                           |
| Home occupation, home professional office.                                                                               | 2 per 150 square feet of area given over to this component of the land use, plus 1 for each additional 150 square feet or fraction thereof, but in no case less than 2 spaces. |
| Hospital.                                                                                                                | 1 1/4 per bed plus one per each 2 employees on the premises at any one period of time.                                                                                         |

Hotel, motel.

1 per guest bedroom plus  
1 per each two employees  
on the premises at any  
one period of time.

Manufacturing or  
industrial  
establishment,  
research institute  
or laboratory.

Parking area reservation  
equivalent to the total  
ground coverage of the  
building, with a minimum  
of 2 improved spaces per  
3 employees on the  
premises at any one  
period of time, with a  
minimum of 2 spaces.

Nursing home.

1 per each 3 beds plus 1  
per each 2 employees on  
the premises at any one  
time.

Offices, office  
building.

1 per 200 square feet of  
floor area.

Office buildings  
in excess 20,000  
square feet of  
gross leasable  
floor area.

1 per 300 square feet of  
gross leasable floor area.

Public or semi-  
public art gallery,  
library or museum.

See Auditorium, etc.

Restaurant, club.

1 per 4 permanent seats  
or floor area equivalent.

Retail stores,  
shopping centers  
and personal  
service stores.

1 per 150 square feet of  
gross leasable floor  
space.

Retail stores in  
excess of 25,000  
square feet of  
gross leasable  
floor area.

1 per 200 square feet of  
gross leasable floor area.

School.

1 per employee plus 1 per  
each 8 students in the  
12th grade or above or  
the parking requirement  
for the auditorium or  
gymnasium component of

the use, whichever is the greater.

Shop for custom work.

1 per 250 square feet of floor area.

Shopping centers in excess of 25,000 square feet of gross leasable floor area.

1 per 225 square feet of gross leasable floor area.

Trucking station.

Sufficient parking spaces for all trucks stored or being serviced at any period of time plus 2 per 3 employees on duty or on the premises at any one time.

Wholesale establishment, warehouse.

See manufacturing or industrial establishment.



4. In addition to the minimum required number of off-street parking spaces, the Planning Board may require a reserve area of up to twenty percent (20%) of the total area required for off-street parking to provide for additional parking, should future demand for parking spaces exceed the number of spaces provided. Such reserve area, which shall not reduce the maximum permitted percent of lot coverage, must be graded and available for parking use if required but need not be surfaced or otherwise developed for parking use until such area is required as determined by reconsideration of the minimum required off-street parking spaces by the Planning Board.

#### D. Parking space standards

##### 1. Areas which may be considered

Areas which may be computed as the required off-street parking space may include a garage, carport, or other area available for parking, other than a street. A driveway within a required front yard setback area in a residence district may be counted as one (1) space.

##### 2. Location of parking spaces

Required accessory parking spaces, open and enclosed, may be provided upon the same lot as the use to which they are accessory, or elsewhere, provided all spaces therein are located within five hundred (500) feet walking distance of such USE OR intended use. In all cases such parking spaces shall conform to all the regulations of the district in which they are located, and in no event shall such parking spaces be located in any residential district unless the uses to which they are accessory are permitted in such districts, or by permission of the Planning Board. Such spaces shall be in the same ownership as the use to which they are accessory or leased for not less than fifty (50) years, and said owner or lessee shall maintain the required number of spaces available, either throughout the existence of such use or until such spaces are provided elsewhere.

##### 3. Availability of spaces

All required parking spaces shall be available for the use to which they are related and shall not be otherwise used for long-term parking, parking unrelated to the use of the lot, or storage.

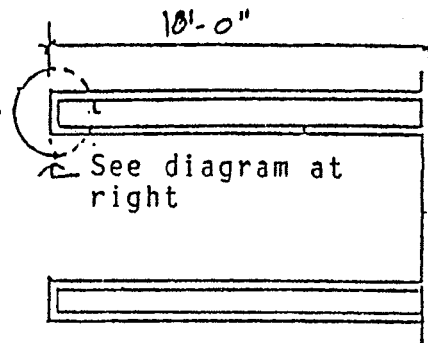
##### 4. Parking for handicapped drivers

Parking areas and parking garages shall provide parking spaces for handicapped drivers with dimensions, locations, and number as required by applicable provisions of the New York State Uniform Fire Prevention and Building Code.

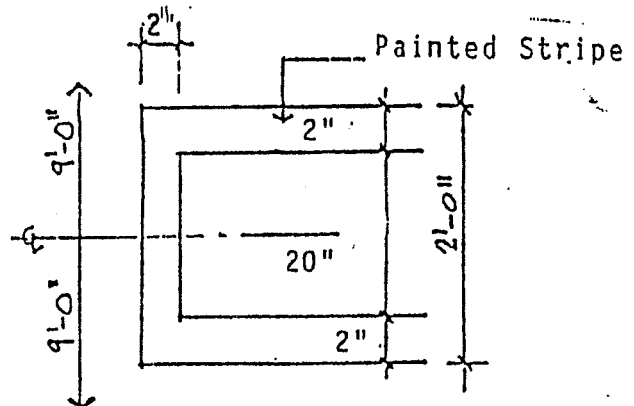
##### 5. Parking space size

The minimum parking space width shall be nine (9) feet, and the minimum length shall be eighteen (18) feet. Each space shall be delineated on the surface of the parking area by two (2) painted lines parallel to the longest dimension of the space, each of which lines shall be four (4) inches in width and beginning eight (8) inches and ending twelve (12) inches inside both dividing lines of the space. See Sketch B below.

SKETCH B



TYPICAL PARKING SPACE  
SCALE: 1/8" = 1'-0"



DETAIL @ PARKING SPACE  
SCALE: 3/4" = 1'-0"

#### 6. Access to street.

a. Unobstructed access to and from a street shall be provided. Such access shall consist of at least two (2) lanes of ten (10) foot width apiece.

b. No entrance or exit for an accessory off-street parking area with over ten (10) parking spaces, nor any loading berth, shall be located within one hundred fifty (150) feet of a street intersection.

#### 7. Surface

All open parking areas shall be constantly maintained so as to prevent potholes and to retain the clarity of all required markings. They shall also be properly drained with a dustless surface. All parking areas in regular usage shall be paved with a year-round surface of oil and stone, asphalt, or concrete.

#### 8. Combined parking areas

a. Required parking spaces may be provided in spaces designed to serve jointly two (2) or more establishments whether or not located on the same lot, and the number of required spaces in such joint facilities shall not be less than the total required for all such establishments.

b. When any lot contains two (2) or more uses having different parking requirements, the minimum parking requirement for each use shall apply to the extent of that use. Where it can be reasonably demonstrated, based on Chart 3 (see next page), that one (1) or more such uses will generate a demand for parking spaces primarily during periods when the other use or uses is not or are not in operation, the Planning Board may adjust the number of parking spaces required.

|                                             | WEEKEND                                       |
|---------------------------------------------|-----------------------------------------------|
|                                             | 6am-9am 9am-4pm 4pm-6pm 6pm-12midn 12midn-6am |
| Residential                                 |                                               |
| Commercial                                  |                                               |
| Office                                      |                                               |
| Industrial                                  |                                               |
| Institutions                                |                                               |
| Recreation/<br>Entertainm't/<br>Hospitality |                                               |

## 9. Landscaping

a. All open parking areas shall be suitably landscaped. In parking lots with more than twenty (20) spaces, at least five percent (5%) of the area of the parking lot shall be devoted to landscaping within the interior of the parking lot. Such landscaping shall be in addition to that which may be required along the street line, the lot lines, or the building foundation. In all parking lots providing eight (8) or more offstreet parking spaces, one (1) shade or flowering ornamental tree shall be planted for each eight (8) parking spaces and any additional number thereof, said tree or trees to be planted in median dividers, islands, or such other locations as may be acceptable to the Planning Board.

b. All planting beds, landscaped islands, and pedestrian walkways, if provided, shall be protected by curbs, sturdy posts, rails, or walls one and one half (1-1/2) to two (2) feet in height, or other protective devices, and shall be of sufficient width to prevent damage or injury to both plant materials and pedestrians. Additional barriers may be required by the Planning Board to give better protection and to improve pedestrian and vehicular circulation.

E. Off-street parking of commercial vehicles in the RR, AR, R-1, R-2, R-3 residential districts

1. Commercial vehicles may be parked off-street in residential districts provided:

a. The vehicle is engaged in the provision of service, delivery, or pick-up at a residence.

b. The vehicle is on a private lot, other than those cited in E, 1, a above and is operated by an occupant of the principal building and the commercial vehicle is totally contained within a garage or carport. One commercial vehicle, not over twenty-five (25) feet in length, may be permitted that is not so contained.

### 30.5.3 Sign regulations

A. No sign, poster, advertising display, structure, or device shall be erected, moved, enlarged, or reconstructed except as expressly permitted by this chapter.

#### B. Permitted types of signs

1. The following types of signs may be permitted as indicated in Article IV, Use Table, Column A of the Chapter:

a. Professional - A sign in a residential district, freestanding or attached to the building, which shall have an area not greater than four (4) square feet and if freestanding shall be set back at least ten (10) feet from any designated street line. Such signs may be indirectly illuminated by a light integral to the sign. In a non-residential district a professional sign shall be regulated as a business sign (see c. below).

b. Institutional - A freestanding announcement sign for a school, church, or other public or semi-public institution which may be illuminated, shall have an area not greater than twelve (12) square feet, and shall be located at least fifteen (15) feet from any street line.

c. Business - A sign or signs, freestanding or attached to a building, announcing a business establishment on the same lot in a business district or advertising a service or a product available on the same lot in a business district, which may be illuminated. The total area of all such signs on a lot shall not exceed one-half (1/2) of the total length of street frontage of the lot in lineal feet. There shall not be more than one (1) freestanding sign, which may not be located closer than fifteen (15) feet from any street line.

2. The following types of signs may be permitted in any district:

a. Identification - One freestanding identification sign at each point of access to the lot which may be illuminated and shall have an area of not more than three (3) square feet apiece.

b. Directional - Freestanding internal directional signs which may be illuminated and shall have an area of not more than three (3) square feet apiece.

c. Real estate - One (1) freestanding non-illuminated sign per lot shall be permitted advertising the sale or rental of the

premises on which such sign is located. Said sign shall not exceed a gross area of twelve (12) square feet and shall be located not closer than fifteen (15) feet to any street or property line.

C. Prohibited types of signs and lighting

1. Flashing signs, including any sign or device on which artificial light is not maintained stationary and constant in intensity and color.
2. Any sign for which illumination provided is not diffused or indirect or which is arranged so as to directly illuminate neighboring properties in residential districts or any public street.
3. Signs which may compete with or be mistaken for a traffic signal.
4. The outlining of the perimeter of the building by direct illumination of all or part of a building.
5. Signs not permanently affixed to a permitted building or structure.
6. Any sign, advertising display, or structure permitted under this chapter exceeding forty (40) feet in height.

D. Signs shall, in addition, conform to any other regulations set forth in other chapters of the Municipal Code.

30.5.4 Accessory buildings

A. A permitted accessory building may be located in any required side or rear yard, providing:

1. Such building, except for farm purposes, shall not exceed fifteen (15) feet in height.
2. Such building shall be set back at least five (5) feet from any side or rear lot line and at least ten (10) feet from the main building.
3. Such building shall not occupy more than ten percent (10%) of the required yard area in which it is proposed to be situated. )
4. An accessory use to a principal residential use, as listed in Article IV, Use Table Column A, Schedule of District Regulations, that is housed within an accessory building shall be limited to a maximum of one thousand (1,000) square feet or to a lower number as may be determined by the following formula:

$$\frac{A + (B \times C)}{100} = D$$

where:

- A = gross area of lot in square feet
- B = livable floor area of residence in square feet
- C = minimum requirement in the zoning district for one side yard, in feet
- D = total square footage permitted for all accessory buildings

B. No such building shall project closer to the fronting street than the front of the main building.

#### 30.5.5 Fences and walls

A. Fences and walls shall be permitted in any yard or along the edge of a yard, however, no fence shall be erected within the right of way of a public road.

B. Within any residence district fences or walls within required front or side yard areas shall not exceed six (6) feet in height from ground level.

C. No fences and walls shall be permitted in locations where they will interfere with adequate sight distance for vehicles exiting from a driveway on the parcel where the wall or fence is to be constructed, or from driveways on neighboring property.

D. Fences and walls shall conform to corner lot requirements where applicable. (see section 30.5.6 of this chapter)

E. With the exception of paragraph D of this section, there shall be no restriction on the type and height of a fence or wall in a nonresidence district.

#### 30.5.6 Corner lots

A. Front yard setbacks are required on both street frontages and one (1) yard other than such front yards shall be deemed to be the rear yard and the other yard shall be the side yard.

B. At all street intersections no obstructions to vision, such as but not limited to, shrubbery, low branching trees, finished grade of earth, earthwork in progress, berms, fences, walls, signs, or vehicles, shall be erected or permitted within the triangle formed by the intersecting street lines and a line drawn between points along such street lines forty (40) feet distant from their point of intersection.



in the R-1, AR, and RR Districts and reduced by five (5) feet for lots in the R-2 and R-3 Districts.

4. Additional yard requirements. a. No building or structure shall be placed within eighty (80) feet of the centerline of Rock Cut Road, Drury Lane, Forest Road, Union Avenue (from the New Windsor line north to Union Avenue Extension), Union Avenue Extension, or Plattekill Turnpike. b. Front yards abutting all county and state highways shall be at least sixty feet (60') in depth, except where the majority of existing buildings on either side of the road within 300 feet from the intersection of the nearest property line and street line are of a lesser average depth. In such case, the front yard depth shall be 50 feet or the average of all lot depths within said 300 feet, whichever is greater. c) For all new development projects, the first 35 feet of the front yards of all properties fronting on Route 17K from the City of Newburgh west to the Town of Montgomery shall be landscaped. Private service or marginal roads (except for access driveways) and parking of vehicles shall not be permitted in these landscaped areas. The 35 foot dimension shall be expanded to 45 feet for all properties on Route 17K which lie within 350 feet of the intersections of centerlines of intersecting streets.

D. Temporary construction office. A permit may be issued by the Building and Code Enforcement Officer upon application for permission to use a transportable or wheeled office on any premises for the exclusive use of personnel engaged in the construction of any structure or site improvement on the premises and for the storage of tools, materials, and equipment, provided that a valid building permit for said construction has been previously issued and is still in force, and provided further that said office shall not be used for sleeping or living quarters or any purpose other than that related to said construction. Said permit shall expire in six (6) months from the date of issuance, but may be renewed for two (2) additional six (6) month periods if the Building and Code Enforcement Officer finds that construction has been diligently pursued and circumstances justify an extension.

#### 30.5.8 Nonconforming buildings and uses

The following provisions shall apply to all buildings and uses existing on the effective date of this Chapter, unless otherwise provided, which buildings and uses do not conform to the requirements set forth in this Chapter; to all buildings and uses that become nonconforming by reason of any subsequent amendment to this chapter and the Zoning Map which is a part thereof; and to all conforming buildings housing nonconforming uses.

##### A. Nonconforming uses

A nonconforming use may continue indefinitely, subject to the following provisions:

1. Alterations

A nonconforming use shall not be enlarged, extended, reconstructed, or restored, except in accordance with Paragraph 2 of Subsection B herein, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever.

2. Displacement

A nonconforming use shall not be extended to displace a conforming use.

3. Changes in use

A nonconforming use shall not be changed to another nonconforming use without a special permit from the Board of Appeals, and then only to a use which, in the opinion of said Board, is of the same or a more restricted nature.

4. Discontinuance

A nonconforming use shall not be reestablished if such use has been discontinued for any reason for a period of one (1) year or more, or has been changed to or replaced by a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.

5. District changes

Whenever a zoning district boundary shall be changed so as to transfer an area from one district to another district, the foregoing provisions shall also apply to any nonconforming uses existing therein or to any uses that may become nonconforming thereby.

B. Nonconforming buildings

A nonconforming building or a building housing a nonconforming use shall not be modified in any way described below, except as provided in Subsection C below:

1. Relocation

A nonconforming building or structure shall not be moved to another location where such building or structure would also be nonconforming, unless such movement would decrease the nonconformity.

2. Restoration after damage

A nonconforming building shall not be restored for other than a conforming use after damage of more than fifty percent (50%) from any cause, unless a prior nonconforming use is reinstated within one (1) year of such damage; if the restoration of such building is not completed within said one (1) year period, any prior nonconforming use of such building shall be deemed to have been discontinued, unless such nonconforming use is carried on without interruption in the undamaged portion of the building. No enlargement of a nonconforming building shall be permitted as part of an allowed restoration.

#### C. Nonconformity to bulk requirements

Normal maintenance and repair, structural alteration, relocation, reconstruction, or enlargement of a building which does not house a nonconforming use, but is nonconforming as to district regulations for lot area, lot width, lot depth, front, side, or rear yards, building height, lot coverage, habitable floor area, or other such regulation, is permitted if the same does not increase the degree of or create any new nonconformity with such regulations in such buildings.

#### D. Normal maintenance

Nothing in this chapter shall be deemed to prevent normal maintenance and repair of any building or the carrying out, upon the issuance of a building permit, of major structural alteration or demolition in the interest of public safety. In granting such a permit the Building and Code Enforcement Officer shall state the precise reason why such alteration or demolition was deemed necessary.

#### E. Cessation

Each of the nonconforming uses specified below is deemed to jeopardize the safety of neighbors, the orderly, proper development and maintenance of adjacent neighborhoods, or the established character and the objectives of the Master Plan of the town for the district within which such use is located, and is, therefore, injurious to the general welfare of the district and the town. Each such nonconforming use shall be terminated on or before the expiration of the specified period of time after the effective date of this chapter, which period of time is specified for the purpose of permitting the amortization of the remaining value of such use, if any:

##### 1. Nonconforming uses of open land

a. In any district any preexisting nonconforming use of open land including but not limited to such uses as borrow pits, dumps, filling of land, fuel tanks, junk yards and motor vehicle junk yards, motor vehicle leasing, motor vehicle sales, off-street parking, outdoor storage of motor vehicles, trailers,

building supplies, raw materials, finished products, or machinery and equipment, quarrying, removal of sand and gravel, stripping of land, and transportation facilities including truck and bus terminals may be continued for three (3) years after the effective date of this chapter, provided that after the expiration of that period such nonconforming use shall be terminated. Specifically exempt from this requirement are the following uses: agricultural operations, outdoor storage of farm equipment, and cemeteries.

b. In any district any permitted use of open land that is not screened with dense evergreen plantings or an opaque fence according to the requirements of this chapter, including but not limited to such uses as borrow pits, dumps, filling of land, fuel tanks, junk yards and motor vehicle junk yards, motor vehicle leasing, motor vehicle sales, off-street parking, outdoor storage of motor vehicles, trailers, building supplies, raw materials, finished products, or machinery and equipment, quarrying, removal of sand and gravel, stripping of land, transportation facilities including truck and bus terminals, and interchange business district and industrial business district uses adjacent to a residence district, may be continued for three (3) years after the effective date of this chapter, provided that after the expiration of that period such use with nonconforming screening or buffering shall be terminated unless the Planning Board determines that adequate screening of such use has been provided prior to that time. Specifically exempt from this requirement are the following uses: agricultural operations, outdoor storage of farm equipment, and cemeteries.

## 2. Nonconforming signs

In any district, any sign not of a type permitted, or of a permitted type but greater than the maximum permitted size, may be continued for a period of one (1) year following the effective date of this chapter, provided that, after the expiration of that period, such nonconforming sign shall be terminated.

## ARTICLE VI

### SUPPLEMENTARY REGULATIONS APPLICABLE TO CERTAIN USES

#### 30.6.1 Mobile Home Courts

##### A. Permits

1. No person shall construct, own, or operate a mobile home court without a permit obtained as herein provided, and failure to have such a permit shall constitute a violation of this chapter.
2. A mobile home court shall be allowed only by authorization of the Planning Board and only in those districts where such use is permitted.
3. Each application for a mobile home court shall be filed with the Planning Board for appropriate action. Upon approval by the Planning Board, the Building and Code Enforcement Officer shall issue a permit.
4. Permits shall not be transferable or assignable.
5. After issuance of a permit, the same shall be valid until the end of the calendar year and shall be renewable annually.
6. Renewal applications shall be filed with the Building and Code Enforcement Officer before the first day of December next preceding expiration of the original permit. Prior to the issuance of a renewal permit the Building and Code Enforcement Officer shall inspect the mobile home court premises for compliance with these regulations. Any deviation from the application as originally approved by the Planning Board shall require a new application before the Planning Board and shall be in conformance with these regulations. Upon approval by the Building and Code Enforcement Officer or Planning Board, as the case may be, a renewal permit shall be issued.
7. Each application for a mobile home court shall be in writing, signed by the applicant, and shall state (a) the name and address of the applicant or applicants, if a partnership; or (b) the name and address of each officer and director, if a corporation; (c) the interest of the applicant in the property, if not the owner of record; and (d) the name and address of the property owner.
8. Each application shall be accompanied by a site plan in accordance with Article IX of this chapter.

##### B. Requirements and standards.

1. The site for a mobile home court shall be not less than twenty (20) acres, shall have not less than forty-eight (48)

a. No more than three (3) motor vehicles licensed for operation on the public highways, may be stored on a temporary basis for service or repair only.

b. Any such motor vehicles being stored shall be parked in a line and in an orderly fashion with not less than four (4) feet between any parts of any two (2) vehicles.

c. No such motor vehicles being stored shall be parked within the right-of-way of a public street or within ten (10) feet of any property line.

## 2. For lease or rental

a. No more than a total of ten (10) motor vehicles and trailers for lease or rental may be parked or stored outdoors in a B District. All such vehicles shall be licensed for use.

b. Any such vehicle or trailer shall be parked in a line in an orderly fashion, with not less than four (4) feet between any parts of any two (2) motor vehicles and not less than two (2) feet between any parts of any two (2) trailers.

c. No such vehicle or trailer may be parked in any required front yard area.

K. Appropriate plans shall be prepared to provide for the environmentally sound disposal or recycling of waste water, oil and gasoline products or discharges.

## 30.6.6 Membership Clubs

A. Permanent outdoor public address systems shall be prohibited.

B. Exterior lighting other than that essential for the safety and convenience of the members shall be prohibited.

## 30.6.7 Outdoor Storage

A. Unless otherwise provided in this chapter, outdoor storage of motor vehicles, trailers, building supplies, raw materials, finished products, or machinery and equipment is prohibited, except in accordance with the following:

1. Such use shall be an accessory use and shall be located on the same lot as the use to which it is accessory.

2. No such materials or products shall be stored within the front yard and not closer than ten (10) feet to any side or rear lot line or fifty (50) feet from a side or rear lot line adjacent to a residence district or lot in residential use.

3. All outdoor storage areas shall be appropriately screened with landscaping so as to provide an opaque sight barrier at least eight (8) feet in height. In no case shall materials be stored so as to exceed the height of the sight barrier.

4. No storage area shall occupy more than thirty percent (30%) of the required side or rear yard.

B. No material may be stored in such a storage facility that is flammable, combustible, explosive, reactive, corrosive, or toxic to humans as defined and quantified in United States Environmental Protection Agency regulations under 40 CFR 116.

### 30.6.8 Stripping or Filling of Land

#### A. General

1. Land may not be stripped or covered with fill for any purpose except in strict conformance with the clearing and grading control law chapter 191 of the Town of Newburgh municipal code.

2. This section shall not be applicable to sand and gravel or other aggregate mining or quarry operations. Those uses are covered in Section 30.6.13.

3. Besides the information and materials required to be submitted for site plan review in Article IX, the following additional information and materials shall be submitted:

a. Documentation regarding permit status with the New York State Department of Environmental Conservation or the U.S. Army Corps of Engineers prior to the issuance of a permit. Any New York State Department of Environmental Conservation or the U.S. Army Corps of Engineers permit required must be in effect prior to the Town's issuing a permit.

b. An agreement to indemnify and hold harmless the Town from any claims arising from the proposed activity.

#### B. Site plan

Applications to the Planning Board shall be accompanied by a site plan and shall follow the procedure outlined in Article IX of this chapter. The following additional information shall be indicated on the site plan at a scale no smaller than one inch equals one hundred feet, showing existing topography of the site at a contour interval of not more than two feet which presents a complete plan and which indicates:

1. The depth to bedrock on the site proposed for site preparation activities.



## ARTICLE VII

### ENFORCEMENT AND PENALTIES

#### 30.7.1 Building Permits

No building or structure in any district shall be erected, structurally altered, or moved, nor shall any site preparation be commenced, nor shall any activities be controlled by the clearing and grading control law Chapter 191 of the Town of Newburgh Municipal Code (including grading or clearing of trees or brush from 10,000 square feet or more of the area of a parcel, or any filling or excavating of 400 cubic feet or more, or timber harvesting), without a building permit duly issued upon application to the Building and Code Enforcement Officer. No building permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of this chapter. Any building permit issued in violation of this chapter shall be null and void and of no effect, without the necessity for any proceedings for revocation or nullification thereof; and any work undertaken or use established pursuant to any such permit shall be unlawful.

##### A. Fee and plot plan

Every application for a building permit shall be accompanied by a fee as prescribed by Chapter 102 of the Town of Newburgh Municipal Code, and by a plot plan drawn to scale showing:

1. The actual shape, dimensions, radii, angles, and area of the lot on which the building is proposed to be erected, or of the lot on which it is situated, if an existing building.
2. The exact size and locations on the lot of the proposed building or buildings or alterations of any existing building and of other existing buildings on the same lot.
3. The dimensions of all yards in relation to the subject building and the distances between such building and any other existing buildings on the same lot.
4. The existing and intended use of all buildings, existing or proposed, the use of land, and the number of dwelling units the building or buildings are designed to accommodate.
5. Such topographic and other information with regard to the building, the lot, or neighboring lots as may be necessary to determine that the proposed construction will conform to the provisions of this chapter.

##### B. Planning Board approval

No building permit shall be issued for any building where the site plan for such building is subject to approval by the Planning Board except in conformity with the plans approved by the said Board in accordance with Article IX of this chapter.

C. Filing of application

The application and all supporting documentation shall be made in triplicate. On the issuance of a Building Permit, the Building and Code Enforcement Officer shall return one (1) copy of all documents filed to the applicant.

D. Time limitation on issuance or denial

The Building and Code Enforcement Officer shall, within ten (10) days after the filing of a complete and properly prepared application, either issue or deny a building permit. If a building permit is denied, the Building and Code Enforcement Officer shall state in writing the reasons for such denial.

E. Expiration or extension of permits

Every building permit shall expire if the work authorized has not commenced within six (6) months after the date of issuance or has not been completed within eighteen (18) months from such date. If no zoning amendments or other Town regulations affecting the subject property have been enacted in the interim the Building and Code Enforcement Officer may authorize in writing the extension of either above period an additional six (6) months, following which no further work is to be undertaken without a new building permit.

30.7.2 Certificate of Occupancy

A. Required

A certificate of occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of a building or the land to which it applies. The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the Building and Code Enforcement Officer:

1. Occupancy and use of a building hereafter erected, structurally altered, or moved, or any change in the use of an existing building.
2. Occupancy, use, or any change in the use of any land.
3. Any change in use of a nonconforming use.

B. Planning Board and/or Zoning Board of Appeals approval

No Certificate of Occupancy shall be issued for any use of a building or of land allowed by either the Zoning Board of Appeals

in the course of its duties or by the Planning Board as specified in Article IX of this Chapter unless and until such approval has been duly issued by the said Board. Every Certificate of Occupancy for which approval has been issued or in connection with which a variance has been granted shall contain a detailed statement of the conditions to which the same is subject.

#### C. Application

Application for a Certificate of Occupancy on a form furnished by the Building or Code Enforcement Officer for a new building or for an existing building which has been altered shall be made after the erection of such building or part thereof has been completed in conformity with the provisions of this chapter. Every application for a Certificate of Occupancy shall state that the building or the proposed use of a building or land complies with all applicable provisions of this chapter. Such certificate shall be issued within ten (10) days after receipt of said application, but only provided all requirements of all applicable codes, ordinances, or local laws in effect are complied with.

#### D. Required landscaping

Where shade trees or other landscaping are part of the submission requirements of a site plan or a subdivision plat, either a performance bond shall be issued or a nurseryman's guarantee provided to ensure that required plantings survive in good health for a minimum of two (2) years or are replaced by stock that survives in good health for a minimum of two years. Evidence of such bond or guarantee shall be presented to the Building and Code Enforcement Officer prior to the issuance of a Certificate of Occupancy.

#### E. Time limitation on issuance

If the proposed use is in conformity with the provisions of this chapter and of all other applicable laws and ordinances, a Certificate of Occupancy for the use of vacant land or for a change of use of a nonconforming use shall be issued by the Building and Code Enforcement Officer within ten (10) days after the receipt of a written application therefore.

#### F. Fee

Every application for a Certificate of Occupancy shall be accompanied by a fee as prescribed in Chapter 102 of the Town of Newburgh Municipal Code.

#### G. Statement of compliance

##### 1. As-built plans

Every application for a Certificate of Occupancy that involves new construction or development shall be accompanied by as-built plans, certified by a licensed surveyor, and shall show the actual location of all site improvements including but not limited to, water supply facilities, sewage disposal facilities, drainage facilities, roadways, driveways, buildings, recreational facilities and any use of open land areas of the property.

##### 2. Certification by design professional

Every application for a Certificate of Occupancy that involves facilities or improvements that are to be dedicated to the Town shall be accompanied by a letter of certification from a licensed design professional stating that all such facilities were constructed in conformance with the approved plans.

##### 3. Site plan conformance

The Building and Code Enforcement Officer shall certify that the completed site construction complies with the approved plans and all amendments thereto, if any, prior to the issuance of a Certificate of Occupancy.

#### H. Issuance at request of owner

Upon written request by the owner and upon payment of a fee as set by Chapter 102 of the Town of Newburgh Municipal Code, the Building and Code Enforcement Officer shall, after inspection, issue a Certificate of Occupancy for any building or use thereof, or use of land existing at the time of adoption of this chapter, certifying such use (including the number of employees) and whether or not the use and the building conform to the provisions of this chapter.

#### I. Records of Certificates of Occupancy.

A record of all Certificates of Occupancy shall be kept in the office of the Building and Code Enforcement Officer and copies shall be furnished on request to any agency of the Town or to any person having a proprietary or tenancy interest in the building or the land affected.

### 30.7.3 Duties of the Building and Code Enforcement Officer

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 19 91 of the ~~XXXXXXXXXX~~ (Town) ~~XXXXXX~~ of NEWBURGH was duly passed by the TOWN BOARD on December 16, 1991, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19 \_\_\_\_\_, and was (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 19 \_\_\_\_\_.  
(Name of Legislative Body) (Elective Chief Executive Officer\*)  
in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19 \_\_\_\_\_, and was (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19 \_\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 19 \_\_\_\_\_, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19 \_\_\_\_\_, and was (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19 \_\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 19 \_\_\_\_\_.  
(Name of Legislative Body) (Elective Chief Executive Officer\*)  
in accordance with the applicable provisions of law.

\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

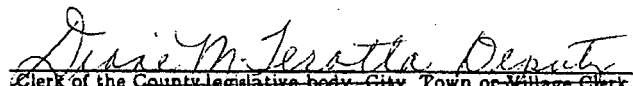
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 19\_\_\_\_, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 19\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

  
Clerk of the County legislative body, City, Town or Village Clerk  
or officer designated by local legislative body

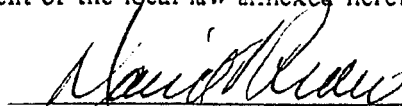
(Seal)

Date: December 20, 1991

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK  
COUNTY OF ORANGE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

  
Signature DAVID L. RIDER

Title TOWN ATTORNEY

XXXXXX

XXXX

Town

of Newburgh

XXXXXX

Date: December 20, 1991









**BUILDING DEPARTMENT**  
*Town of Newburgh, Orange County, N. Y.*

*Town of Newburgh, Orange County, N. Y.*

**REQUEST FOR INVESTIGATION**

(Please type or print)

Date Received: October 5, 1994

Requested by Anonymous

Address

OWNER DeLemme

| Complete Location | Straw Ridge Road about 1/4 mile |
|-------------------|---------------------------------|
| Complete Location | Straw Ridge Road about 1/4 mile |

off Route 300

Nature of Complaint      Storing concrete forms, wooden

pallets stacked 20 feet high, other building materials

also commercial vehicles parked on property.

**Signed:**

**Inspector:**

Date 10-24-94

### Findings:

There is 3 commercial

vehicles on the premises.

will send the order to

Penalty for having a ~~car~~ business is

in an a R zone, Dardale

11-16-94.4 1-25-95

Has moved: Large Truts to

~~Commercial~~ ~~Street~~ ~~Lot~~! Ever under

|                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |                                                                                             |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|---------------------------------------------------------------------------------------------|--|
| <b>SENDER</b><br>1. Complete items 1 and 2 for additional services.<br>2. Return your name and address on the reverse side, even if the form is torn or damaged.<br>3. Attach the form to the front of the mail piece, even if the piece does not normally contain return mail.<br>4. While returning, enclose a separate, dated mail piece below the return number to return the slip. If you wish to include the article, mail delivery will be provided. |  | 3. Addressee Addressed to:<br>Newcentro 1st Floor<br>8411 Route 100<br>Wallkill, N.Y. 12589 |  |
| 4a. Addressee Name:<br>P. 1456-832 457                                                                                                                                                                                                                                                                                                                                                                                                                      |  | 4b. Service type:<br><input type="checkbox"/> Registered <input type="checkbox"/> Insured   |  |
| 5. Return Receipt for:<br><input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise<br><input type="checkbox"/> Registered <input type="checkbox"/> Insured <input type="checkbox"/> Registered <input type="checkbox"/> Insured                                                                                                                                                                                        |  | 7. Package label:<br>10/31                                                                  |  |
| 8. Addressee's Address (Only if requested and certain paid)                                                                                                                                                                                                                                                                                                                                                                                                 |  | 9. Signature (Agent)                                                                        |  |
| 10. Also wish to receive the following services (for an extra fee):<br>1. <input type="checkbox"/> Addressee's Address<br>2. <input type="checkbox"/> Registered Delivery<br>3. <input type="checkbox"/> Certified Mail, Restricted (see instructions on the back)                                                                                                                                                                                          |  | 11. Signature (Agent)                                                                       |  |

Thank you for using Return Receipt Service

PS Form 3811, December 1991 \*USPS Form 3811-22-92

**DOMESTIC RETURN RECEIPT**

Is your RETURN ADDRESS completed on the reverse side

Building Department

(CITY, TOWN OR VILLAGE) OF Town of Newburgh  
(Address and Telephone Number)

County of: Orange

**Order to Remedy Violation**

Location 841 Route 300 Wallkill, N.Y. 12589

Map No. \_\_\_\_\_ Section: 3 Block: 1 Lot: 91.00

Date October 28th, 1994

TO Nicandro Dilemma  
(owner or authorized agent of owner)

841 Rt. 300, Wallkill, N.Y. 12589  
(address of owner or authorized agent of owner)

**PLEASE TAKE NOTICE** there exists a violation of:

The State Building Construction Code  
Zoning Ordinances  
Other Applicable Laws, Ordinances or Regulations

at premises hereinafter described in that you are operating a business out of an  
(state character of violation)  
AR Zoned property.

in violation of Town of Newburgh Municipal Code Chapter 30.4.2  
(state section or paragraph of applicable law, ordinance or regulation)

**YOU ARE THEREFORE DIRECTED AND ORDERED** to comply with the law and to  
remedy the conditions above mentioned forthwith on or before the 16th day of  
November 1994.

Failure to remedy the conditions aforesaid and to comply with the applicable provisions of law may constitute an offense punishable by fine or imprisonment or both.

*Wayne*

Building Inspector

**COPY**

DILEMME, NICANDRO  
841 Route 300  
Wallkill, N.Y. 12589  
(owner)

Section; 3 Block; 1 Lot; 91.00

10/5/94

Date Received: 10/5/94 Requested by: Anonymous Complaint: Storing concrete forms, wooden pallets stacked 20' high, other building materials also commercial vehicles parked on property.  
Inspected: W.C.Booth 10/24/94 Findings: There is 3 commercial vehicles on the premises. Sent O.T.R.V. (operating a business out of an AR Zoned property.) (Code 30.4.2)  
Compliance Date: Nov. 16th, 1994.

**COPY**

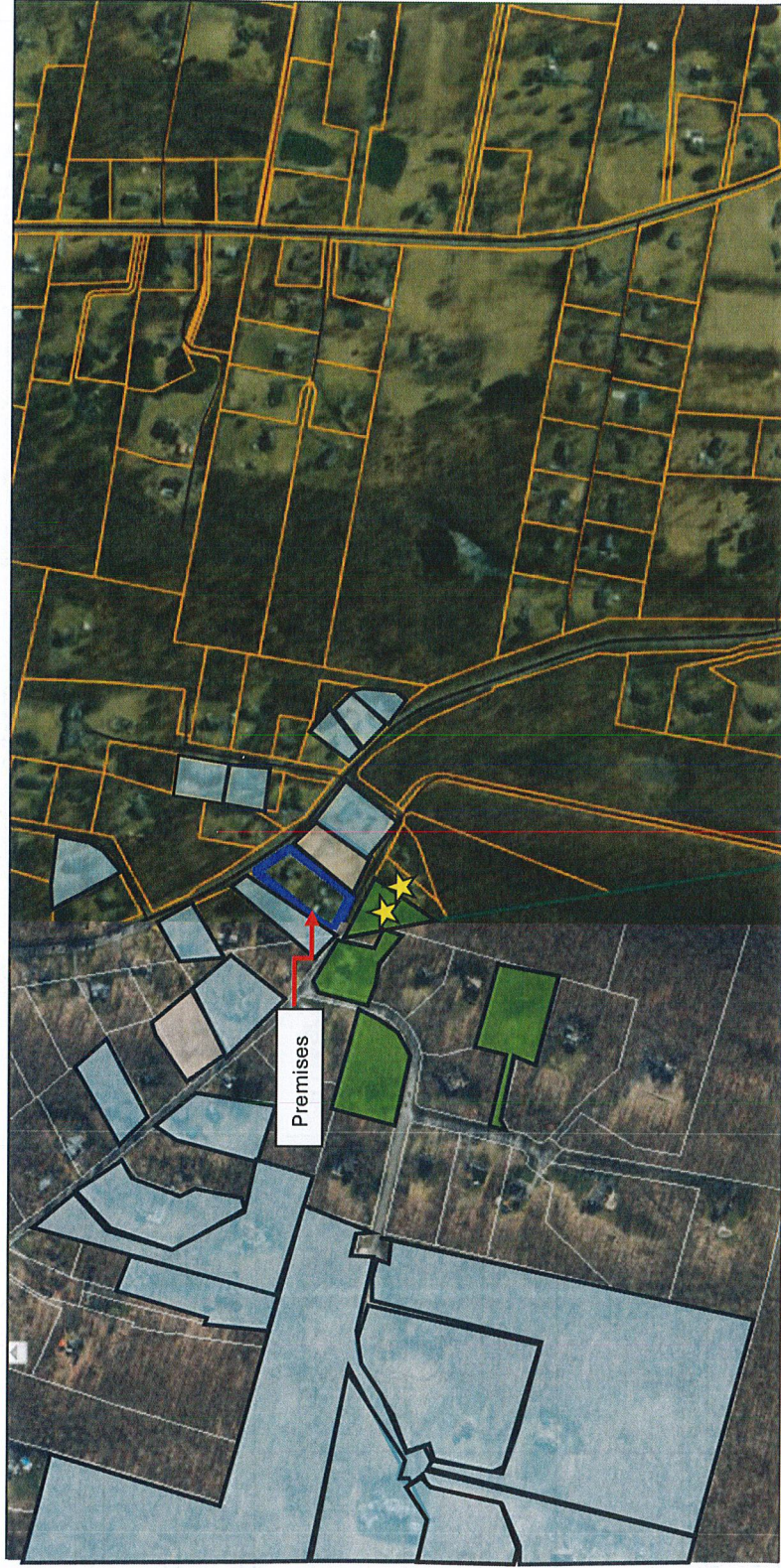








# Attachment J: Map of Supporting Neighbors Recommending Approval, No Objections and Those Opposed



April 8, 2026



Surrounding Neighbor  
Recommending Approval



Surrounding Neighbor  
No Objection



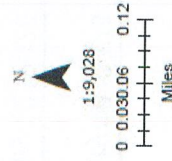
Surrounding Neighbor  
Opposed



★ Location of Former Neighbors Recommending Approval

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**Attachment J: Table of Surrounding Neighbor Recommending Approval, No Objection  
and Those Opposed**

| <b>No. of Households</b> | <b>Name</b>                         | <b>Address</b>                                             | <b>Support &amp; Approval Recommendation Or No Objection</b> | <b>Testimony (Written or Oral)</b> |
|--------------------------|-------------------------------------|------------------------------------------------------------|--------------------------------------------------------------|------------------------------------|
| 1                        | Virginia Aller                      | 497 Strawridge Rd.                                         | Support & Approval Recommendation                            | Letter (undated)                   |
| 2                        | Arthur & Donna Himmelberger         | 6 Deer Run Rd.                                             | Support & Approval Recommendation                            | Letter dated January 19, 2026      |
| 3                        | Philip A. LaRocco                   | 15 Arcadia Drive<br>(formerly 2221 State Route 300)        | Support & Approval Recommendation                            | Letter dated January 12, 2026      |
| 4                        | Janet & Roy Werner                  | 23 Grandview Ln.                                           | Support & Approval Recommendation                            | Letter dated January 13, 2026      |
| 5                        | Edward J. Madson                    | 61 Sands Ave., Milton, NY<br>(formerly 442 Strawridge Rd.) | Support & Approval Recommendation                            | Letter dated January 21, 2026      |
| 6                        | Angel Rios and Kathleen Sileno-Rios | Formerly 446 Strawridge Rd.                                | Support & Approval Recommendation                            | Letter dated? January 28, 2026     |
| 7                        | Daniel Grove                        | 35 Rugar Ln.                                               | Support & Approval Recommendation                            | Letter (undated)                   |
| 8                        | John and Elena Petrolese            | 2188 State Route 300                                       | Support & Approval Recommendation                            | Letter dated January 19, 2026      |
| 9                        | John Cirigliano                     | 10 Deer Run Rd.                                            | Support & Approval Recommendation                            | Letter dated January 13, 2026      |
| 10                       | Kim Leonette                        | 33 Grandview Ln.                                           | Support & Approval Recommendation                            | Letter dated January 14, 2026      |
| 11                       | John Leonette                       | 28 and 40 Grandview Ln.                                    | Support & Approval Recommendation                            | Letter dated January 14, 2026      |
| 12                       | Phillip B. Kirschen                 | 399 Strawridge Rd.                                         | Support & Approval Recommendation                            | Letter dated January 20, 2026      |

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|    |                                   |                                                    |                                   |                                                                             |
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| 13 | Nancy Wagner & Kurt Wagner        | 404 Strawridge Rd.                                 | Support & Approval Recommendation | Letter dated January 19, 2026 & testimony at January 22, 2026 ZBA Hearing   |
| 14 | The Alghadeer Residence           | 394 Strawridge Rd.                                 | Support & Approval Recommendation | Letter dated January 17, 2026                                               |
| 15 | Susan & Anthony Carffizi          | 9 Kings Hill Terrace (formerly 361 Strawridge Rd.) | Support & Approval Recommendation | Letter (undated)                                                            |
| 16 | Christine Betanzos                | 16 Sunny Ln.                                       | Support & Approval Recommendation | Letter dated January 20, 2026 and testimony at January 22, 2026 ZBA Hearing |
| 17 | Carin and Frank Foster            | 1813 Route 300                                     | Support & Approval Recommendation | Letter dated January 21, 2026                                               |
| 18 | Larry Hanke                       | 341 Strawridge Rd.                                 | Support & Approval Recommendation | Letter dated January 22, 2026                                               |
| 19 | Patricia Betanzos                 | 11 Fox Hill Rd.                                    | Support & Approval Recommendation | Letter dated January 19, 2026 and testimony at January 22, 2026 ZBA Hearing |
| 20 | Tim and Ivana Spindler            | 388 Strawridge Rd.                                 | Support & Approval Recommendation | Letter dated January 20, 2026                                               |
| 21 | The Popes                         | 15 Kings Hill Ter.                                 | Support & Approval Recommendation | Letter (undated)                                                            |
| 22 | Emily Vincenzo                    | No address listed.                                 | Support & Approval Recommendation | Letter dated January 14, 2026                                               |
| 23 | Janice Vincenzo & Steven Vincenzo | 6 Sloan Court                                      | Support & Approval Recommendation | Letter dated January 14, 2026                                               |
| 24 | Richard Bremer                    | 24 Grandview Ln.                                   | Support & Approval Recommendation | Letter dated January 13, 2026                                               |
| 25 | Mr. & Mrs. P. Kuzda               | 2190 Route 300                                     | Support & Approval Recommendation | Letter dated January 17, 2026                                               |

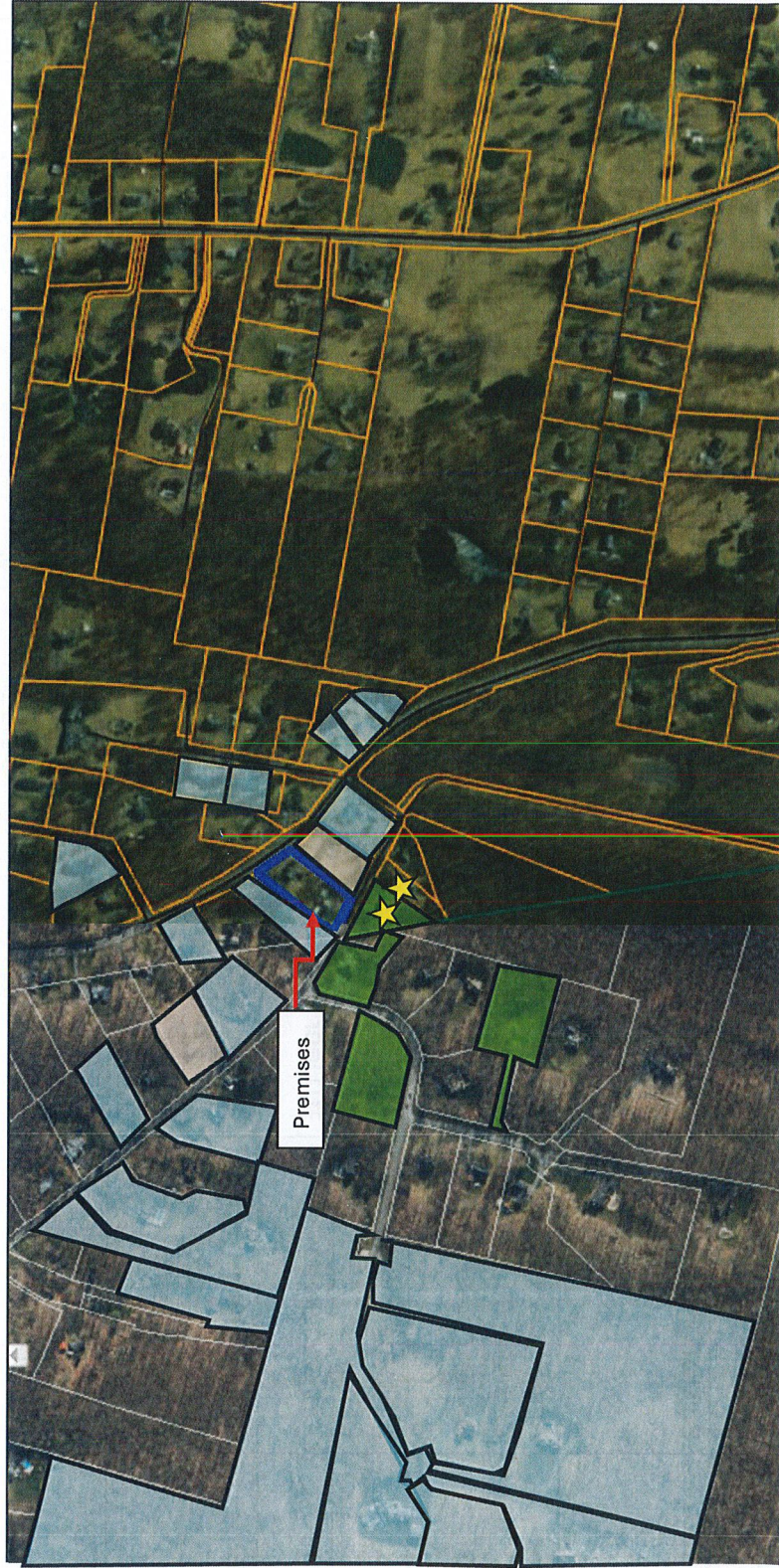
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|----|---------------------------|--------------------|--------------------------------------|-----------------------------------------------------------------|
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| 27 | Cindy Ortiz               | 2207 Route 300     | Support & Approval<br>Recommendation | Letter dated January 22, 2026                                   |
| 28 | Frank Magnanini           | 325 Strawridge Rd. | Support & Approval<br>Recommendation | Letter dated January 9, 2026                                    |
| 29 | Carl & Christa Rucker     | 425 Strawridge Rd. | Support & Approval<br>Recommendation | Letter dated January 21, 2026                                   |
| 30 | Victor and Donna<br>Tyner | No address listed. | Support & Approval<br>Recommendation | Letter dated January 19, 2026                                   |
| 31 | Mr. & Mrs. Sanchez        | 2203 Route 300     | Support & Approval<br>Recommendation | Testimony at January 22, 2026<br>ZBA Hearing                    |
| 32 | David Sherwood            | 1775 Route 300     | Support & Approval<br>Recommendation | Testimony at January 22, 2026<br>ZBA Hearing                    |
| 33 | Steven Diaz               | 2199 Route 300     | No Objection                         | Letter (undated) & testimony at<br>January 22, 2026 ZBA Hearing |
| 34 | Camille Reid              | 413 Strawridge Rd. | No Objection                         | Letter dated January 16, 2026                                   |

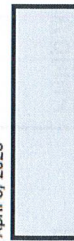
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|------------------------------|-------------------------------------|--------------------|----------------|---------------------------------------------------------------------------------------------------------------------|
| 1                            | Danielle Carollo &<br>Eric Jacobsen | 442 Strawridge Rd. | Opposed        | Letter dated January 28, 2026,<br>and testimony at January 22,<br>2026 ZBA Hearing (page 109-111<br>& page 143-148) |
| 2                            | Kayla Pillitteri                    | 3 Grandview Ter.   | Opposed        | Testimony at January 22, 2026<br>ZBA Hearing (page 101-109)                                                         |
| 3                            | Kimberly Behrens                    | 12 Grandview Ter.  | Opposed        | Testimony at January 22, 2026<br>ZBA Hearing (page 148-149)                                                         |
| 4                            | Ann Lathan Kerzner                  | 7 Arcadia Dr.      | Opposed        | Testimony at January 22, 2026<br>ZBA Hearing (page 136-143)                                                         |



# Attachment J: Map of Supporting Neighbors Recommending Approval, No Objections and Those Opposed



April 8, 2026



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Recommending Approval



Surrounding Neighbor  
No Objection



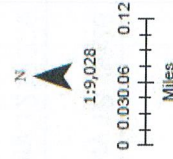
Surrounding Neighbor  
Opposed



★ Location of Former Neighbors Recommending Approval

CREDITS: Orange County, Esri Community Maps Contributors, Orange County, NY, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS, Vantor, Esri, NASA, NGA, USGS, FEMA, OCGIS

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