

Village of Bloomingburg

ZONING LAW

Revised March 2005

Prepared by Laberge Group
2005

Bloomington Zoning Ordinance

ARTICLE I. GENERAL PROVISIONS..... **1**

 1.1 Title..... 1

 1.2 Enacting Clause..... 1

 1.3 Purpose of Zoning Law 1

ARTICLE II. DEFINITIONS..... **2**

 2.1 Definitions..... 2

ARTICLE III. ESTABLISHMENT OF DISTRICTS..... **20**

 3.1 Establishment of Districts:..... 20

 3.2 Official Zoning Map:..... 20

 3.3 Interpretation of District Boundaries:..... 20

ARTICLE IV. R - 1, SINGLE FAMILY RESIDENTIAL DISTRICT REGULATIONS..... **22**

 4.1 Purpose:..... 22

 4.2 Uses Permitted By-Right:..... 22

 4.3 Uses Requiring Site Plan Review Approval: (See Definitions Article II)..... 22

 4.4 Permitted Accessory Uses..... 22

 4.5 Lot Area and Bulk Requirements..... 23

ARTICLE V. NBD, NEIGHBORHOOD BUSINESS DISTRICT REGULATIONS..... **24**

 5.1 Purpose..... 24

 5.2 Uses Permitted By Right:..... 24

 5.3 Uses Requiring Site Plan Review Approval:..... 24

 5.4 Permitted Accessory Uses..... 25

 5.5 Lot Area and Bulk Requirements..... 26

 5.6 Design Guidelines for NBD 26

ARTICLE VI. PUDR, PLANNED UNIT DEVELOPMENT RESIDENTIAL REGULATIONS **29**

 6.1 Purpose..... 29

 6.2 Site Area and Location..... 29

 6.3 Permitted Uses..... 29

 6.4 Intensity of Uses..... 30

 6.5 Other Zoning Regulations..... 30

 6.6 Utilities..... 30

 6.7 Ownership 30

 6.8 Organization..... 31

 6.9 Homeowners' Association..... 31

 6.10 Deeds..... 32

 6.11 Site Plan Approval..... 32

 6.12 Approval of PUDR 32

Bloomington Zoning Ordinance

ARTICLE VII. PUDC , PLANNED UNIT DEVELOPMENT COMMERCIAL REGULATIONS..... **33**

7.1 Purpose..... **33**

7.2 Site Area and Location..... **33**

7.3 Permitted Uses..... **33**

7.4 Permitted Accessory Uses:..... **34**

7.5 Ownership:..... **34**

7.6 Deeds..... **35**

7.7 Site Plan Approval..... **35**

7.8 Approval of PUDC..... **35**

ARTICLE VIII: APPLICATION PROCEDURES FOR PUDRS & PUDC 'S..... **36**

8.1. Application:..... **36**

8.2 Planning Board Review :..... **36**

8.3 Planning Board Action:..... **37**

8.4 Village Board of Trustees Action:..... **37**

8.5 Compliance With the State Environmental Quality Review Act..... **37**

8.6 Sketch Plan Requirements..... **37**

8.7 Other Requirements..... **39**

ARTICLE IX . SUPPLEMENTARY REGULATIONS TO ALL DISTRICTS **40**

9.1 Exceptions to District Regulations..... **40**

9.2 Yard Requirements..... **41**

9.3 Access to Structures..... **41**

9.4 Accessory Buildings..... **42**

9.5 Fences and Walls..... **42**

9.6 Landscaping Requirements..... **42**

9.7 Performance Standards..... **42**

9.8 Temporary Building Permits..... **43**

9.9 Manufactured Homes (also known as Mobile Homes) (See definitions in Article II..... **43**

9.10 Prohibited Uses and Activities..... **46**

9.11 Clear-cutting..... **47**

9.12 Signs..... **47**

9.13 Calculation of Building coverage..... **49**

9.14 Abandonment of Construction or Excavation..... **49**

9.15 Minimum Habitable Floor Area..... **49**

9.16 Residential Front Yard Grade..... **49**

9.17 Areas of Special Flood Hazard..... **49**

9.18. Nonconforming Uses..... **53**

9.19 Off-Street Parking Requirements..... **55**

9.20 Swimming Pools..... **57**

9.21 Waterfront Lots..... **57**

9.22 Campgrounds..... **58**

9.23 Adult Oriented Business and/or Adult Entertainment Establishments:..... **58**

Bloomingsburg Zoning Ordinance

ARTICLE X : SPECIAL PERMIT **59**

 10.1 General Provisions 59

 10.2 Required Plan 59

 10.3 Expiration 60

 10.4 Standards Applicable to all Special Uses 60

ARTICLE XI: SITE PLAN REVIEW **62**

 11.1 Purpose 62

 11.2 Site Plan Review Authority 62

 11.3 Applicability 62

 11.4 Review Elements 62

 11.5 Stages of Submission: 63

 11.6 General Requirements: 65

ARTICLE XII. ENFORCEMENT AND ADMINISTRATION **68**

 12.1 Enforcement Officer 68

 12.2 Building Permits 69

 12.3 Certificate of Occupancy 70

 12.4 Sanitation 71

 12.5 Authority of Code Enforcement Officer in the Event of Violation 71

 12.6 Abatement of Violation 72

 12.7 Violation and Penalties 72

 12.8 Board of Appeals 72

 12.9 Variances 73

 12.10 Procedure 74

 12.11 Planning Board 75

 12.12 Payment of Professional Fees to Planning Board, Zoning Board of Appeals & Village Building
 Department 76

ARTICLE XIII. AMENDMENTS **77**

 13.1 Procedure for Amendments 77

 13.2 Mandated County Referral: 77

 13.3 Compliance with State Environmental Quality Review Act: 78

ARTICLE XIV . INTERPRETATION ,SEPARABILITY ,AND EFFECTIVE DATE **79**

 14.1 Interpretation 79

 14.2 Separability 79

 14.3 Effective Date 79

ARTICLE I. GENERAL PROVISIONS

1.1 Title

This document shall be known and may be cited as the "Village of Bloomingburg Zoning Law."

1.2 Enacting Clause

Pursuant to the authority conferred by Section 7-700 of the Village Law of the State of New York, the Village Board of Trustees of the Village of Bloomingburg hereby adopts and enacts as follows.

1.3 Purpose of Zoning Law

The purpose of this Zoning Law, its regulations, and its zoning district as outlined on the zoning map, is to provide for orderly growth in accordance with a comprehensive plan as presented in the Village of Bloomingburg 2004 Planning Policy Document, adopted March 3, 2005, to lessen congestion in streets, to secure safety from fire, flood and other dangers, to provide adequate light and air, to prevent overcrowding of land, to avoid concentration of population, to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefore, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, and to promote the health, safety, and general welfare of the public.

ARTICLE II. DEFINITIONS

2.1 Definitions

ACCESSORY APARTMENT - A second dwelling unit contained within a single family dwelling, for use as a complete independent living facility providing complete housekeeping facilities including kitchen, sleeping, and sanitary facilities for the inclusive use of the occupant(s).

ACCESSORY BUILDING - any building which is subordinate to and whose use is incidental to the use of the principal building on the same lot or an adjoining lot under the same ownership.

ACCESSORY USE - a use subordinate to the main use. In no case shall such use dominate in area, extent or purpose, the principal lawful use.

ACRE - for the purpose of calculating lot area under this Law, an acre shall be considered to consist of 43,560 contiguous square feet.

ADULT ENTERTAINMENT ESTABLISHMENT - A public or private establishment, which is licensed to serve food, drink, and/or alcoholic beverages, which features topless dancers, strippers, male or female impersonators or similar entertainers.

ADULT ORIENTED BUSINESS - An establishment having as a substantial or significant portion of its stock in trade books, magazines, films for sale or viewing on premises by use of motion picture devices or any other coin operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or related to specific sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material.

AGRICULTURE - shall include the cultivation of the soil for food products or other useful or valuable growths of the field or garden, tillage or husbandry; but shall not include dairying, raising of livestock, fowl or birds where the same is carried on as a business or gainful operation.

ALTERATION - a change or rearrangement in the structural parts of a building or an enlargement, whether by extending to a side or by increasing the height.

ANIMAL HUSBANDRY - the care and breeding of domestic animals, including but not limited to cattle, hogs, horses, poultry and sheep. For purposes of this Law operation of a kennel shall be considered animal husbandry. Animals for educational or cultural projects are exempt.

AREA OF SPECIAL FLOOD HAZARD - the land in the flood plain within a community subject to a one percent or greater change of flooding in any given year.

ARCHITECT - a professional architect licensed to practice in the State of New York.

APPROVED - shall mean approved by the Code Enforcement Officer under the regulations of this Law, or approved by an authority designated by law or this Law.

BANK - A business establishment for the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds.

BASE FLOOD - the Flood having a one percent change of being equaled or exceeded in any given year.

BASEMENT - that space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, above the average, established curb level or finished grade of the ground adjoining the building.

BED AND BREAKFAST - A building containing a single dwelling and in which one (1), but not more than four (4), sleeping rooms are provided by the owner/occupant for compensation for the accommodation of transient guests with or without meals.

BOARD OF APPEALS - a local body appointed by the Village Board whose responsibilities are to hear appeals from decisions of the local zoning law or administrative official and to consider requests for variances permissible under terms of the zoning law.

BOARDING HOUSE - a dwelling or part thereof, other than a hotel, motel, or restaurant having not more than six guest rooms and housing not more than fifteen persons for compensation. Meals may or may not be provided. Not to include rest homes or homes for the aged.

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

BUILDING DETACHED - A building surrounded by open space on the same lot.

BUILDING LINE - shall mean the line established by law, ordinance, or regulation, beyond which no part of a building, other than parts expressly permitted shall extend.

BUILDING PERMIT - A permit to construct, reconstruct, enlarge, relocate, extend or alter any building or structure that is in compliance with the provisions of the Village of Bloomingburg Law that is issued by the Code Enforcement Officer.

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

BUSINESS AND PROFESSIONAL OFFICES - offices in which an occupation or vocation requiring training and advanced study in a specialized field is practiced. Examples are medical, law, bookkeeping and real estate offices.

BULK - A term to describe the size, volume, area, and shape of buildings and structures, and the physical relationship of their exterior walls or their location to lot lines, other buildings and structures, or other walls of the same building; and all open spaces required in connection with a building, other structure, or tract of land.

CAMPGROUND - a general term describing a parcel of land providing sites for portable sleeping accommodations. Usually preceded with prefix designating type and extent of development.

CAR WASH - A building; premises or portions thereof, where automobiles are washed either by the patron or others using machinery and mechanical devices specifically designed for this purpose.

CELLAR - that space of a building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

CEMETERY - an area of land set aside as permanent open space for a final resting place.

CERTIFICATE OF OCCUPANCY - a form of protection afforded the owner or occupant of a structure by serving as proof of compliance of alteration.

CHURCH (OR PLACE OF WORSHIP) - A building or premises used for regular public worship by members or representatives of a religious sect or organization as defined by State statute.

CLEARCUTTING - denuding the land vegetation, expressly trees, in excess of one acre excluding commonly accepted agricultural activities.

CLUB - shall mean any organization catering exclusively to members and their guests, or premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, providing there are not any vending stands, merchandising or commercial activities except as required for the membership and purposes of such clubs; it shall include fraternal, social and service organizations.

COMMERCIAL RECREATION - a parcel of land which may include facilities or equipment for recreational purposes, utilized by the public for a fee. Activities include but are not limited to bowling alleys, ski slopes, canoe liveries, campgrounds, tennis courts and golf courses.

COMMERCIAL VEHICLE - A vehicle of more than one (1) ton capacity used for the transportation of persons or goods primarily for gain, or any vehicle carrying a sign or lettering of a commercial nature exceeding eighteen (18) inches by twenty-four (24) inches.

CONDOMINIUM - A building or group of buildings, in which residential, commercial or industrial units are owned individually while the structure, common areas and facilities are owned jointly by all the owners on a proportional basis.

CONTIGUOUS PARCEL - A tract of land under the control of the applicant or his agent that is not divided by any natural or manmade barriers such as existing streets and highways, public rights-of-ways identified on the official map and is not bisected by water bodies.

CURB LEVEL - The officially established grade of the curb in front of the mid-point of the lot.

DAY CARE CENTER - A building or structure where care, protection, and supervision are provided, for three (3) or more children away from their homes for more than three (3), but less than twenty-four (24) hours per day, by an individual, association, corporation, institution or agency, whether or not for compensation or reward.

DEC - New York State Department of Environmental Conservation.

DEVELOPMENT OF AREA OF SPECIAL FLOOD HAZARD - any man-made change to improve or unimprove real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations within the area of special flood hazard.

DISTRICT OR ZONE - That portion of the Village within which specific uses are permitted according to the designation applied thereto in Article 3 of this Law.

DOH - New York State Department of Health.

DOUBLE-WIDE (HOUSETRAILER) - (See Manufactured Home).

DRIVE-IN-USE - Shall mean any commercial or business activity which incorporates as a principal or accessory feature a service window, booth or other like arrangement

on the exterior of the building or structure designed primarily for drive-through or carryout service.

DUMP - A lot or land used primarily for the disposal by abandonment, burial, burning or any other means and for whatever purposes, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

DUPLEX - A single building having two dwelling units for occupancy by two different families.

DWELLING - a building designed or used as the living quarters for one or more families. The term dwelling shall include stick built seasonal homes and modular homes, provided that they meet all of the requirements of this Law, the Village of Bloomingburg building code, and all other regulations or ordinances, applicable to dwellings. The term shall not include mobile homes.

DWELLING, ONE-FAMILY - a detached building containing only one dwelling unit, and occupied by one family or household.

DWELLING, TWO-FAMILY - a building designed for and occupied exclusively as a home or residence for not more than two families or households.

DWELLING, MULTIPLE-FAMILY - shall mean:

- a. building containing three or more dwelling units;
- b. building containing living, sanitary and sleeping facilities, occupied by one or two families or households and more than four lodgers residing with either one of such families or households;
- c. building with one or more sleeping rooms, other than a one or two family dwelling, used or occupied by permanent or transient paying guests or tenants;
- d. building with sleeping accommodations for more than five persons used or occupied as a club, dormitory, fraternity or sorority house, or for similar uses.
- e. building used or occupied as a convalescent, old age or nursing home, but not including private or public hospitals or public institutions.

DWELLING UNIT - a building or entirely self-contained portion thereof containing housekeeping facilities for only one family or household, including any domestic employees employed on the premises, and having no enclosed space (other than vestibules, entrances or other hallways or porches) and no cooking or sanitary

facilities in common with any other "Dwelling Unit." A boarding house, mobile home, dormitory, hotel, inn, nursing home or other similar structure shall not be deemed to constitute a dwelling unit.

EATING AND DRINKING ESTABLISHMENTS - a parcel of land which includes facilities primarily used for the sale of prepared food or beverages for public consumption.

EDUCATIONAL INSTITUTIONS - an institution, either public or private, providing full time day instruction and a course of study which meets with the requirements of the New York State Educational Law or a nursery, day care, or kindergarten which meets all pertinent requirements set by the New York State Educational Law or the New York State Health Code.

EFFICIENCY APARTMENT ñ A set of rooms, usually provided in a multiple dwelling, or as an addition to a single family home, designed to house one or two persons, with a bathroom and minimal kitchen. For efficiency in conserving space, the eating, living and sleeping areas may be combined into one room.

ENGINEER - a professional engineer licensed to practice in the State of New York.

FAMILY - one or more persons related by legal adoption, blood, or marriage.

FARM - any parcel of land containing at least 10 acres which is used for gain in the raising of agricultural products, livestock, poultry, dairy products and cultivation and harvesting of trees. It includes necessary farm structures within the prescribed limits and the storage of equipment used.

FARM STAND - a business operated on a seasonal basis to sell regionally grown farm products.

FAST FOOD RESTAURANT ñ A business primary engaged in the sale of pre-processed or quickly prepared food and beverages in disposable containers or wrappers, selected by patrons from a limited line of specialized items such as hamburgers, chicken, pizza, tacos, or hot dogs, for consumption either on or off the premises, in a facility in which a major portion of the sales to patrons is at a drive-through window or stand-up type counter.

FENCE - An artificially constructed barrier regardless of composition, that is erected for the purpose of enclosing a piece of land, dividing a piece of land into distinct portions, or separating two (2) contiguous lots, but shall not include a building or growing plants or trees.

FINISHED GRADE - The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal, the finished grade-in computing height of building and other structures or for other purposes shall be the average elevation of all finished grade elevations around the periphery of the building.

FLOOD OR FLOODING - a general or temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP - the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

GARAGE, PRIVATE - An accessory building of not more than nine-hundred (900) square feet, and of only one (1) story, which is designed for the parking and storage of motor vehicles and property owned and used by the occupants of the lot upon which it is erected. No business, occupation, or service shall be permitted in a private garage.

GARAGE, SERVICE/REPAIR - A building or premises used for the repair or service of motor vehicles, which may include lubricating, welding, polishing, washing, dry cleaning, or otherwise cleaning or servicing such motor vehicles. A junkyard or auto salvage yard is not to be construed as a Service/Repair Garage.

GASOLINE STATION - An area of land, including structures thereon, or any building or part of thereof, that is used primarily for the sale and direct delivery to the motor vehicle of gasoline or any other motor vehicle fuel or oil and other lubricating substances, which may include as accessory uses sale of motor vehicle accessories, but shall not include facilities for washing or otherwise servicing motor vehicles.

GREENHOUSE, PRIVATE - A building whose roof and sides are made largely of glass and which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for personal enjoyment.

HABITABLE FLOOR AREA - space occupied by one or more persons for living, sleeping, eating or cooking. This does not include space used for pantries, bath, toilet, laundry, stairs, storage, utility, heater and boiler rooms, closets, and other spaces for services and maintenance of the building.

HAZARDOUS MATERIALS - Any substances, solution, or mixture which, because of its quality, concentration, physical, chemical, or infectious characteristics may present a potential hazard to human health, drinking water or food supply quality if discharged to the land, air, or waters of the Village of Bloomingburg. In addition, any substances for which the NYS Department of Health has established a drinking water guideline value.

HOME GARDEN - A plot of land used for the growth of plants, flowers, or produce for family use or enjoyment.

HOME OCCUPATION - shall mean a subordinate use of a non-residential nature which is conducted within a dwelling unit, 'or building accessory thereto, by an occupant of the dwelling unit, which is clearly incidental and accessory or secondary to the use of the property for residential purposes, and which meets the following additional conditions:

- a. the occupation or activity shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
- b. not more than two (2) persons outside the resident household shall be employed in the occupation or as assistants.
- c. there shall be no exterior display or sign except as permitted under this Law, no exterior storage of materials and no other exterior indication of the home, occupation or variation from the residential character of the lot or of the surrounding neighborhood.
- d. no offensive odor, noise, vibration, smoke, dust, heat or glare shall be produced.
- e. the home occupation shall not generate traffic in any greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the occupation shall be met off the street and in accordance with the regulations of this Law.

In particular, a home occupation includes, but is not limited to the following: art studio, dressmaking, teaching (with musical instruction limited to a single pupil at a time), and the professional office of a physician, surgeon, dentist, lawyer, engineer, architect, real estate broker or insurance agent within a dwelling occupied by the same.

HOTEL - shall mean the building containing rooms occupied for sleeping purposes by guests and where a general kitchen and dining room are provided within the building or in an accessory building.

HOUSEHOLD ñ The persons occupying a dwelling unit. The household may be composed of one or more persons, either related by legal adoption, blood, or marriage, or by unrelated individuals.

HOUSE TRAILER (See Manufactured Home).

HOUSE OF WORSHIP - shall mean any structure used for worship or religious instruction including social and administrative rooms accessory thereto.

JUNK YARD - Any property on which there is stored one or more unregistered vehicles for dismantling, the dismantling or breaking up of automobiles for the salvage of parts thereof or processing the same for sale as scrap metal and the storage of vehicles and parts of vehicles. The term Junk Yard shall also include the disposal of waste material of any kind.

KENNEL ñ An establishment for the breeding or boarding of dogs. Households that breed more than one pair of dogs at a time are considered a kennel.

LAUNDROMAT - A commercial establishment equipped with clothes washing machines, and dryers, that are coin-operated and/or self-service.

LIBRARY -An institution, building, room or specified indoor area, either private or public, which contains an inventory of books and other literary materials that are available for public use.

LIVESTOCK UNIT - for purposes of this Law livestock unit shall be one cow or two calves or horse or two ponies or two pigs or two goats or sheep or one hundred fowl or fifty rabbits or equivalent.

LOT - A parcel or portion of land separated from other parcels or portions, for purpose of sale, lease or separate use by means of a description as indicated by a subdivision plat, a recorded map or by metes and bounds.

LOT AREA - the total horizontal area included within lot lines.

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

LOT COVERAGE - the percentage of the lot area that is occupied by the ground area of a building and its accessory buildings, if any.

LOT LINE - any boundary of a lot. Any lot line that is neither a rear line nor a front

line shall be deemed a side line.

LOT WIDTH - the distance from side lot line to side lot line of a lot measured parallel to the front street line at the front of the nearest roofed portion of the building. At the option of the owner, the lot width may be measured along the front street line.

MAJOR EXTERIOR REMODELING ñ Remodeling of the exterior of building, or improvement of lots, in which 50% of the facades are altered, or 50% of the front yards are altered.

MANUFACTURED HOME - A dwelling unit also known as a mobile home, bearing a seal issued by the Federal Department of Housing & Urban Development that is manufactured as a re-locatable living unit, which is built on a permanent chassis and designed to be transported in one (1) or more sections, and to be installed on a site without a permanent foundation when connected to utilities. This does not include Department of Motor Vehicle registered recreation vehicles/travel trailers.

MANUFACTURED HOME, SUBSTANDARD - A dwelling unit that is wholly, or in part, fabricated in an off-site manufacturing facility for installation or assembly at the building site, that was built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of June 15, 1976.

MANUFACTURED HOUSING PARK - A contiguous parcel of land which is planned and improved specifically for such purpose, on which two (2) or more manufactured/mobile homes (with or without wheels and axles in place) are located. Such a park consists entirely of manufactured/mobile homes, each located on a site leased or rented to its occupants who either own, rent or lease the living unit as a permanent residence.

MIXED USES ñ A development or redevelopment that allows for a mixture of uses in a single building, lot or district, which uses include, but not limited to two or more of the following: residential, commercial and industrial.

MEDICAL CLINIC - A facility where medical or dental care is furnished to persons on an out-patient basis by one (1) or more physicians who have common offices in a building which may also offer laboratory and diagnostic facilities to patients on an outpatient basis.

MOBILE HOME - (See Manufactured Home).

MODULAR HOME - A housing unit constructed off-site consisting of more than one (1) segment and designed to be permanently anchored to a foundation, to become a fixed part of the real estate, does not have a permanent chassis, and which meets all the standards of the New York State Building Code.

MOTEL - A building or group of buildings which: (A) contains living or sleeping accommodations used primarily for transient occupancy and (B) has individual entrances from, outside the building to serve each accommodation.

MOTOR VEHICLE SERVICE STATION - 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, fueling, or equipping of automobiles or other motor vehicles.

MINERAL EXTRACTION - operations extracting greater than 1,000 tons per year of material such as gravel, rock, stone, sand, fill or minerals from the surface or below the ground

MUSEUM ñ An institution, building, room or specified indoor or outdoor area for preserving, exhibiting, demonstrating or interpreting art, history, culture, nature, or scientific objects or ideas.

NONCONFORMING USE - a building, structure or use of land lawfully existing at the time of enactment of this Law which does not conform to the regulations of the district or districts in which it is located.

NON-CONFORMING SIGN - A sign or billboard, which was installed under laws or ordinances in effect prior to the effective date of this Zoning Law, but which is in conflict with the provisions hereof, and is subject to the requirements of Article 9 of this Law.

OPEN SPACE - an area between buildings, or between a building and a boundary line of the parcel, that is situated for recreation, gardening, or other outdoor activities conducive to the principal lot use and lot size. Such space must be free of automobile traffic, parking and undue hazards as well as being readily accessible to all those whom it shall be used by.

OUTDOOR RECREATION - any recreational use particularly oriented to and utilizing the outdoor character of an area including, but not limited to, a snowmobile, trail bike, jeep and all terrain vehicle trails; cross-country ski trail; hiking and backpacking trail; bicycle trail; horse trail; playground, picnic area, or similar use in which no physical alteration to the land occurs.

PARKING LOT - Any space used for the storage of more than three (3) vehicles on a continuing basis, such space either being for hire or accessory to an existing building or use of land.

PARKING SPACE - The area required for parking one automobile, which in this Law is held to be in an area not less than nine (9) feet wide and not less than eighteen (18) feet long not including driveways.

PARKING STRUCTURE - Any privately owned structure(s) in which motor vehicles may be parked or stored that is not accessory to any other use on the same lot, and contains parking spaces rented to the general public or reserved for a group of individuals by the hour, day, week, month, or year.

PERFORMANCE BOND ñ A security which may be accepted by the municipality in lieu of a requirement that certain improvements be made before the Board gives final approval to a subdivision plat. Such security shall be sufficient to cover the full cost of all uncompleted improvements in the subdivision as estimated by the Board or agency designated by the Board. Securities shall include such collateral or agreements acceptable to the Town Board or a bond issued by a surety company and to run for a term not to exceed three years provided, however, that the term may be extended by the Board with the consent of the parties thereto.

PERMITTED USE - for purpose of this Law, any use which is allowed by right in a zoned district without review by the Planning Board.

PERSONAL SERVICE ESTABLISHMENT - A commercial operation, office, store, or other place of business catering to the personal needs of a customer, such as normally conducted by a photographer, printing or graphic arts, barber, beautician, tailor, dressmaker, or similar occupation.

PLAT - The drawing of all or part of the subdivider's plan as presented to the Board for Final Approval and which if approved shall be filed for record with the County Clerk.

PRIVATE STABLE - a stable for horses used primarily by the owner or occupant of the property.

PROFESSIONAL OFFICE - see Business and Professional Office.

PUBLIC FACILITIES AND UTILITIES - land set aside for the development and maintenance of services provided for the public good such as comfort stations and information centers.

RECREATIONAL EQUIPMENT - includes motorized boats and boat trailers, trailers, pickup campers or coaches (designated to be mounted on automotive or truck vehicles) motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

RETAIL STORE - enclosed establishment for the sale of commodities or goods in small quantities to ultimate consumers, department store; shall exclude any drive-up service, free-standing retail stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service.

SERVICE STORE - a store or office offering the following types of services:

- a. personal services, including, but not limited to: barber shops, beauty shops, shoe repair, and dry cleaning shops.
- b. specialty services, including, but not limited to: photo studios, trailers, taxidermists, and catering services.
- c. financial services, including, but not limited to, banks credit unions and other financial institutions.

SIGN - any material, structure or device, or part thereof, composed of lettered or pictorial matter, or upon which lettered or pictorial matter is placed when used or located out of doors or outside or on the exterior of any building, including window display area, for display of an advertisement, announcement, notice, directional matter or name, and includes sign frames, billboards, sign boards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs or ground signs, and shall also include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person or business when the same is placed in view of the general public.

SIGN AREA - the entire area within a single continuous perimeter enclosing all elements of the sign which form an integral part of the display. The structure supporting a sign shall be excluded unless the structure is designed in a way to form an integral background for the display.

SIGN, DIRECTIONAL - a sign, either on or off premises, limited to providing information on the location of an activity, business or event.

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

SIGN, ILLUMINATED - any sign illuminated by electricity, gas or other artificial light, including reflective or phosphorescent light.

SIGN, OFF PREMISES - a sign unrelated to a business or a profession conducted or to a commodity or service sold, or offered upon the premises where such sign is located.

SIGN, PORTABLE - Any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported by means of wheels; signs made as A-frames or T-frames; menu and sandwich board signs; balloons used as sign; umbrellas used for commercial messages; and signs attached to or painted on vehicles parked and visible from the public right of way, unless said vehicle is used in

the normal day-to-day operations of the business.

SIGN, TEMPORARY - a sign related to a single activity or event having duration of no more than 30 days.

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

SITE PLAN - A rendering, drawing, sketch, or map prepared to specifications and containing necessary elements, as set forth in this Local Law, which shows the arrangement, layout and design of the proposed use of a single parcel of land.

SOLAR ENERGY SYSTEM - A complete design or assembly consisting of a solar energy collector (herein called a solar collector), an energy storage facility (where used), and components for the distribution of transformed energy (to the extent that they cannot be used jointly with a conventional energy system). Passive solar energy systems are included in this definition, but not to the extent that they fulfill other functions such as structural and recreational.

SPECIAL PERMIT - a permit issued by the Planning Board as a means of regulating the location, character of development, and impact of certain uses which, as a general rule, would not be desirable in an area unless the standards for the principal permitted uses were substantially modified.

SPECIAL USE - a use which because of its unique characteristics requires individual consideration through a review procedure established by the Planning Board, and may require certain conditions and safeguards before being permitted.

START OF CONSTRUCTION - the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

STORY - That portion of a building comprised between floor and the floor or roof next above it. A basement shall be considered a story. A cellar shall not be considered a story.

STORY, HALF - That portion of a building situated above a full story and having at least two (2) opposite exterior walls meeting a sloping roof at a level not higher above the floor than a distance equal to one-half (1/2) the floor-to-the-ceiling height of the story below. An attic with a finished floor shall be considered a half story.

STREET - A way for vehicular traffic, whether designated as a street, highway, parkway, throughway, road, avenue, boulevard, lane, place or however else designated. The term "street" includes the land between the street right-of-way lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, planted strips, parking areas and other areas within such street lines.

STREET, PRIVATE - A drive that services or is designed to serve no more than two principal uses and is built to Village specifications that remains in the ownership of and is maintained by the developer or development association and is not dedicated to the Village.

STREET, PUBLIC - A road or street that serves three or more principal uses, that is built to Village specifications and is dedicated to the Village for maintenance.

STRUCTURE - anything constructed or erected, the use of which requires location on the ground or attached to something having a location on the ground.

SUBSTANDARD LOT - any lot on record in the office of the County Clerk which does not meet the minimum area, width, or yard requirements for the district in which that lot is located.

SUBSTANTIAL IMPROVEMENT - any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent either:

- (1) before the improvement or repair is started, or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purpose of this definition "substantial improvements" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing State or local

health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

- (2) any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.

SURVEYOR - a land surveyor licensed to practice in the State of New York.

SWIMMING POOL - An artificial pool of water having a depth at any point of more than thirty (30) inches and a surface area greater than one-hundred (100) square feet, designed or intended for the purpose of bathing or swimming and including all accessory equipment.

SWIMMING POOL, PRIVATE - A swimming pool operated as an accessory use to a residential dwelling unit or units and located on an individual residential lot or site, subject to the requirements of Article IX Section 9.20 of this Law.

SWIMMING POOL, PUBLIC - A public or privately owned pool open to the general public or on a membership basis and having appropriate dressing room facilities, recreation facilities and offstreet parking.

TEMPORARY ENCLOSURE - Any moveable, tent-like structure intended to provide or actually providing protection from the elements for stored materials, vehicles, or other items. This would include temporary garages or canopies of tent-like construction, as well as tarpaulins of plastic, canvas or similar type materials supported by wooden or metal frameworks. Tents set up for special occasions, screenhouses and other recreational enclosures are specifically exempted from this definition unless used for storage as listed above.

THEATER - A building, room, or an outdoor structure for the presentation of plays, motion pictures, or other dramatic performances, not to include adult oriented businesses or adult entertainment establishments, as defined herein.

TOWNHOUSE - A building consisting of two or more dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by common walls without openings. A stand-alone townhouse is considered a "two-family" dwelling, providing there are no more than two (2) dwelling units within the structure. Two (2) or more townhouse structures per lot or any townhouse containing three (3) or more dwelling units is considered a "multi-family" dwelling.

TRAVEL TRAILER - A registered motor vehicle which is used or designed to be used, for seasonal and/or temporary living or sleeping purposes, and which is customarily standing on wheels or rigid supports. A recreational vehicle (RV) is also considered a travel trailer.

UNREGISTERED MOTOR VEHICLE - Any motor vehicle or motor vehicle chassis or part of such chassis which does not have an unobscured, current motor vehicle registration sticker affixed for a period of more than ten (10) days.

USE - This term is employed in referring to:

- a. The purpose, for which any buildings, other structures, or land may be arranged, designed, intended, maintained, or occupied.
- b. Any occupation, business activity, or operation conducted in a building or other structure, or on land.

USE, PRINCIPAL The main or primary purpose for which a building, other structure and/or lot is designed, arranged or intended or for which they may be used, occupied or maintained under this Law.

VARIANCE - a modification of a provision of this Law by the Zoning Board of Appeals where strict enforcement of said provision would cause undue hardship, owing to circumstances unique to the individual property on which the variance is sought.

VARIANCE, AREA - The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

VARIANCE, USE - The authorization by the Zoning Board of Appeals for the use of land for the purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

VEHICLE SALES AREA - A premise(s), including open areas, other than a street or way, and enclosed show rooms for the display and sale of new or used automobiles, trucks, trailers, motorcycles, and/or recreation vehicles.

VETERINARY CLINIC - A building for the treatment of animal illness including facilities for boarding animals receiving treatment.

WAREHOUSE - A building or premises, for storing of goods, wares and merchandise, whether for the owner or for others, prior to shipment to final retail sale operation and whether it is a public or private ownership and use.

WAY - A thoroughfare, however designated, permanently established for passage of persons or vehicles.

WHOLESALE BUSINESS - A business establishment engaged in selling to retailers rather than directly to consumers.

YARD - An unoccupied space open to the sky, on the same lot with the building or structure.

YARD, FRONT - An open area extending the full width of the lot situated between the street right-of-way and the building line projecting to the side lot lines.

YARD, REAR - An open area extending the full width of the rear lot line situated between the rear lot line and the building line projecting to the side lot lines.

YARD, REQUIRED - That portion of the open area of a lot extending open and unobstructed from the ground upward, along a lot line for a setback depth or width as specified by the bulk regulations of the district in which the lot is located. No part of such yard shall be included as part of a yard or other open space similarly required for building on another lot.

YARD, SIDE - an open, unobstructed space on the same lot with a principal building, between the principal building and the side line of the lot and extending through from the front yard to the rear, into which space there shall be no extension of building parts other than eaves with an overhang, rain water leaders, window sills, and other such fixtures and open steps.

ZONING DISTRICT, CONVENTIONAL - Conventional zoning districts, as shown on the official map of the Village of Bloomingburg, divide the Village into distinct areas with particular land use and building requirements. Conventional zoning districts for residential, commercial and other uses utilize standard building requirements for site plans, yard setbacks, height and bulk limitations and other development standards which apply equally to all properties in the district.

ZONING DISTRICT, FLOATING - A conceptual zoning district which may be added to the Zoning Map after it is approved by the Planning Board and the Village Board. The purpose of the Floating Zoning District is to allow for cluster development, the conservation of open space, and more creative site plans which may not be possible through conventional zoning.

ARTICLE III. ESTABLISHMENT OF DISTRICTS

3.1 Establishment of Districts:

For the purposes of this Law, the Village of Bloomingburg is hereby divided into the following classes of Zoning Districts:

3.1.1 Conventional Zoning Districts

1. Single-Family Residential District 1 (Rñ1).
2. Neighborhood Business District (NBD).
3. Conservation District ñ (CD)

3.1.2 Floating Districts

1. Planned Unit Residential Development (PUDR)
1. Planned Unit Development Commercial (PUDC)

3.2 Official Zoning Map:

The location and boundaries of the Zoning Districts established herein are shown on the map entitled ì Zoning Map of the Village of Bloomingburgî. Said map, together with everything shown thereon and all amendments thereto, is hereby adopted by reference and accompanies and is declared to be a part of this Law. Said map, indicating the latest amendments, shall be kept up-to-date in the office of the Village Clerk for the use and benefit of the general public.

3.3 Interpretation of District Boundaries:

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

1. Where district boundaries are indicated as approximately following the Village boundary line, property lines, or lot lines, said boundaries shall be construed as following the lot line or property ownership line.
2. Where district boundaries are so indicated that they are approximately parallel to the Village boundary line, street lines, property lines, lot lines or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances there from as are indicated on the Zoning Map or as shall be determined by the use of the scale show on the Zoning Map.
3. Where district boundaries are indicated as following a river or stream, said boundaries shall be construed to be coincident with the center line of such river or stream, and said boundaries shall be deemed to be automatically moved if the

main channels of such streams or rivers are moved by natural or artificial means up to a maximum of fifty (50) feet.

4. In all cases where a district boundary line is located not farther than fifteen (15) feet away from a lot line of record, the regulations applicable to the greater part of the lot shall be deemed to apply to the entire lot.
5. Where any uncertainty exists, the Village of Bloomingburg Planning Board, upon written application or on its own motions, shall determine the location of the boundary in question, giving due consideration to the location indicated on the zoning map and the purposes set forth in the zoning district regulations.

ARTICLE IV. R ñ 1, SINGLE FAMILY RESIDENTIAL DISTRICT REGULATIONS

4.1 Purpose:

To accommodate low-density residential uses in residential areas within the Village.

4.2 Uses Permitted ByñRight:

- a. Single-family dwelling, not including manufactured homes, as defined in Article II - Definitions.
- b. Public Parks and Playgrounds.
- c. Government Service Building

4.3 Uses Requiring Site Plan Review Approval: (See Definitions Article II).

- a. Churches/Places of Worship.
- b. Schools, public or private.
- c. Museums.
- d. Libraries.
- e. Accessory Apartments.
- f. Home Occupation.
- g. Bed and Breakfast.

4.4 Permitted Accessory Uses

All accessory structures and uses shall be located in the side or rear yard, subject to the side and rear yard setbacks, and shall include:

- a. Private swimming pools.
- b. Private gardens.
- c. Greenhouses.
- d. Tennis courts.
- e. Detached garages.
- f. Outdoor parking or storage of no more than one (1) boat and boat trailer, camping trailer, ATV, camping vehicle, or other motorized recreational vehicle.
- g. Storage sheds.

- h. Satellite dishes and antennas for private use by property residents.
- i. Free standing radio antennas for private use by property residents.
- j. Child's playhouse.
- k. Decks, patios and terraces.
- l. Guesthouse.
- m. Handicapped ramps.

4.5 *Lot Area and Bulk Requirements*

Lot Area and Bulk Requirements are given in Appendix A: Schedule of Lot Area and Bulk Requirements Schedule

ARTICLE V. NBD, NEIGHBORHOOD BUSINESS DISTRICT REGULATIONS

5.1 Purpose

To provide a mixed-use pedestrian-friendly commercial center for the Village for shopping and employment opportunities.

5.2 Uses Permitted By Right:

Although certain commercial uses are appropriate for the Neighborhood Business District, there are no uses permitted by Right. All uses require site plan approval as detailed in Article XI.

5.3 Uses Requiring Site Plan Review Approval:

- a. Retail and Service Stores.
- b. Business and Professional Offices.
- c. Eating and Drinking Establishments.
- d. Banks and Financial Institutions.
- e. Public Facilities and Utilities.
- f. Food Stores.
- g. Museums.
- h. Libraries.
- i. Health and Fitness Centers.
- j. Public Parks, Green Spaces and Plazas.
- k. Multi-family Housing.
- l. Apartments in Existing Residential Uses.
- m. Home Occupation in existing residential uses.
- n. Apartments in upper stories of Commercial Buildings.
- o. Churches/Places of Worship.
- p. Schools, public or private.
- q. Community Centers.
- r. Clubs and Fraternal Organizations.
- s. Meeting and Reception Facilities.

- t. Hotels and Motels.
- u. Bed and Breakfast Establishments.
- v. Fast Food Restaurants.
- w. Convenience Stores.
- x. Night clubs, bars and other uses that serve alcoholic beverages.
- y. Multi-purpose retail and service stores.
- z. Bus Passenger Shelters.
- aa. Motor Vehicle Service Stations.
- bb. Car Wash.
- cc. Day Care Center.
- dd. Medical Clinic.
- ee. Commercial Recreational Facilities.
- ff. Warehouses.
- gg. Vehicle Sales Facilities and Lots.
- hh. Transportation or taxi centers.
- ii. Theater.
- jj. Repair Shop.
- kk. Laundromat.

5.4 Permitted Accessory Uses

All accessory uses shall be located in the side or rear yards, subject to the side and rear yard setbacks. The following uses are permitted:

- a. Swimming pools.
- b. Detached garages.
- c. Sheds.
- d. Antennas and satellite dishes for the provision of service only to the property on which they are located.
- e. Free standing radio antennas located in the rear yard for the provision of service only to the property on which it is located.
- f. Off street parking lots.

- g. Commercial vending machines.
- h. Decks, patios and terraces
- i. Temporary outdoor display of retail merchandise.
- j. Walk-up service windows.

5.5 Lot Area and Bulk Requirements

Lot Area and Bulk Requirements are given in Appendix A: Schedule of Lot Area and Bulk Requirements Schedule

5.6 Design Guidelines for NBD

5.6.1 Purpose

The design guidelines for the Neighborhood Business District are intended to establish the district as an attractive pedestrian-friendly commercial district for the Village. The guidelines, along with the building standards presented in Appendix A, are established to preserve and promote the unique Village character of Bloomingburg and encourage lively, and attractive streetscapes, where residents and visitors will enjoy walking, biking, riving and shopping.

5.6.2 Design Guidelines for New Construction, the establishment of new uses, and Major Exterior Remodeling Projects

Design Guidelines are applicable when new construction proceeds on an undeveloped lot, when structures are converted from one use to another, and when 50% the exterior facades and/or front yards of existing uses are undertaken.

A. Buildings

1. Buildings shall be oriented to the street and have their main entrance facing the street and shall have a direct connection to the sidewalk. The faÁade shall be an active building elevation including windows, building entrances, and other architectural features that enhance the pedestrian scale and aesthetic appearance of the building faÁade.
2. Facades shall be composed to exhibit a clearly defined base, midsection and crown or roof. Facades shall maintain the alignment of horizontal elements of adjacent existing buildings. If there are buildings of different styles on adjacent existing buildings, the proposed building shall generally reflect the scale, character and styling of the surrounding neighborhood.
3. Primary construction materials on street facades shall be limited to clay brick, vinyl brick, natural stone, wood or vinyl clapboard, stucco, or decorative concrete. Excluding windows, a minimum 60% of one primary construction material shall be used on the front faÁade.

4. All first floor building facades shall be a minimum 30% and a maximum 60% window coverage. The second story shall be a minimum 15% and a maximum 60% window coverage.
5. Windows in facades shall not contain reflective glass. All faÁade glazing shall be clear or lightly tinted.
6. Color schemes and decorative treatments on building facades and building sides that are visible from streets or parking lots shall be compatible with the traditional existing neighborhood, and be subdued or pastel in nature. Soft earth colors are permitted. No neon colors, overly bright colors or gaudy colors such as hot pink, bright purple and bright orange are permitted on building facades, except for decorative or trim elements.
7. Awnings, window boxes and other decorative elements shall be in keeping with the character and scale of the building, and the traditional character of the neighborhood.
8. Signage shall be in keeping with the traditional character of the neighborhood in materials, coloration and style, and adhere to the standards given in the Building Schedule in Appendix A.
9. FaÁade lighting shall be wall-mounted luminaries and shall illuminate the building or sidewalk. No light shall be cast beyond the roof line or directly away from the building. No floodlighting is permitted.
10. Rooftop mechanical and telecommunications equipment shall be concealed so as not to be visible from the street.

B. Site Design

1. Building fronts shall be parallel to the street frontage property line.
2. Sidewalks shall be provided on the street frontage.
3. Building parking shall be located in the rear yard when possible and be hard surfaced. If, due to size or nature of lot, rear parking is not possible, building parking may be permitted in a side yard.
4. When a parking lot is located in the side yard, the parking lot must not extend into the front yard setback. Such parking lot shall be separated from the sidewalk with a fifteen landscaped front yard. See Article IX, 9.19 for additional parking requirements. In addition to landscaping, a fence or a railing not higher than four feet from the ground shall be permitted. Such fence shall be in keeping with the nature of the building and the Village character, and shall be made of traditional materials such as clay brick, natural stone, decorative metal railing or other visually attractive material.
5. Shared access roads and parking lots for adjoining properties shall be encouraged to eliminate frequent curb cuts.

C. Landscaping Requirements

1. Side and rear yards of non-residential uses that abut a residential use shall include at least a five-foot wide protective vegetative site screen along the property line.
2. At least 10% of front yards in commercial area shall be landscaped. Such landscaping shall include street trees, if the sidewalk width permits. Potted plants and other landscaping elements may be counted as part of the 10% requirement.
3. Street trees shall be provided in the front yard if space is available. The need for street trees shall be determined during the site review process. One street tree of an appropriate species, with a two inch diameter when measured four feet above the ground shall be provided for every 50 feet of building frontage. No tree may be planted closer to any curb or sidewalk than one and a half feet, and no street trees shall be planted closer than 35 feet to any street corner, measured from the point of the nearest intersection curbs or curb lines. No street tree shall be planted closer than 10 feet to any fire hydrant. Appropriate species are trees which have a tree height of less than 30 feet at maturity, and have small, unintrusive root systems. Recommended species are: Accolade Flowering Cherry, American Hornbeam, Amur Maackia, Aristocrat Ornamental Pear, Bradford Pear, Chanticleer Ornamental Pear, Crabapple species under 30', Eastern Redbud, Ivory Silk Lilac, Shadblow Serviceberry, Autumn Brilliance Serviceberry, Robin Hill Serviceberry, Cockspur Hawthorn, Winterking Hawthorn, Goldenrain Tree, Trident Maple and Hedge Maple.
4. Sidewalks, and other hard surfaced walking or seating areas shall be made of concrete, stone, brick pavers or other decorative materials. In no case shall asphalt be used to cover front yards, other than road surfaces.

ARTICLE VI. PUDR, PLANNED UNIT DEVELOPMENT RESIDENTIAL REGULATIONS

6.1 Purpose

To accommodate a subdivision of residential development based on the principals of conservation of open space through the clustering of buildings. The following objectives shall be sought:

1. Creation of a more desirable community environment than would be possible through conventional zoning regulations found elsewhere in this Local Law.
2. Preservation and enhancement of community natural resources such as water bodies, wetlands, forests, significant topographic and geologic features, and other areas of scenic and ecological value.
3. Efficient use of a site to facilitate adequate and economical construction and maintenance of streets and drainage facilities, and water supply and sewage systems.
4. Innovation and variety in the type and design of residential development, providing a wide choice of living environment, occupancy tenure, and housing cost.
5. Open space allocation and maintenance by private initiative as an integral part of residential development.

6.2 Site Area and Location

1. The minimum site area for a Planned Unit Development Residential shall be five (5) contiguous acres.
2. The PUDR District shall be a floating district that can be located in R1 or NBD zoning districts.
3. After a PUDR is approved, the Zoning Map shall be updated to reflect the location and boundaries of the PUDR.
4. Not less than thirty (30) percent of the gross area of a PUDR District shall be devoted to common open space. Such land is to be owned or controlled jointly by all residential property owners with the PUDR District and is to be used for recreational purposes or preserved in its natural state. The common open space shall include lands having significant ecological, aesthetic, and recreational characteristics, with topography, shape, dimension, location, access, and improvements suitable for its intended purpose.

6.3 Permitted Uses

1. Residential: may be any type, including related accessory uses as provided elsewhere in this Local Law.

2. Non-residential: may be permitted, or required, where such uses are designed to serve primarily the residents of the PUDR District.

6.4 *Intensity of Uses*

The number of units in a PUDR may exceed the intensity of the underlying zoning district if, in the judgment of the Planning Board, the site plan has been well designed. The base level number of dwelling units that may be approved in a PUDR shall be computed by multiplying the total gross acreage of the site by the appropriate number of dwelling units per acre based on the R-1 or NBD district as provided by this law (See Zoning Schedule). The proposed number of dwelling units shall not be approved if in the judgment of the Planning Board the site plan does not indicate adequate design and management of open space areas according to the following criteria:

- a. provision of recreation facilities;
- b. protection or enhancement of wildlife habitats;
- c. protection of surface water quality; and
- d. protection or enhancement of scenic quality.

6.5 *Other Zoning Regulations*

With the exception of minimum lot areas, and lot and yard requirements, the PUDR shall comply with all other provisions of this Law.

6.6 *Utilities*

All uses situated in a PUDR shall be served by central water and sewer systems. All water, sewer, and gas lines, and all other lines providing power and communication service, shall be installed underground in the manner prescribed by the state and local agencies having jurisdiction.

6.7 *Ownership*

- I. The land proposed for a PUDR may be owned, leased or controlled either by an individual, corporation, or by a group of individuals or corporations. The applications shall be filed by the owner, or jointly by all owners of the property included in the application. In the case of multiple ownership, the approved plan shall be binding on all owners.
2. Restrictions and covenants shall be established and filed of records prior to conveyance of any lots. No buildings or structures may be erected on such common lands except as shown on the approved site plan.

6.8 *Organization*

A PUDR development shall be organized as one of the following:

1. A Homeowners' Association approved by Federal Housing Administration -for mortgage insurance as a Planned Unit Development Residential, and the Village Board.
2. A Homeowners' Association approved by the Village Board upon recommendation of the Village Attorney. Whenever a Homeowners' Association is proposed, the Village Board shall retain the right to review and approve the articles of incorporation and charter of said Homeowners' Association, and to insure that the intent and purpose of this section are carried out.
3. Any other arrangement approved by the Village Board, upon recommendation of the Village Attorney, as satisfying the intent of this section, including condominiums, rental units, and special mixed-use districts.

6.9 *Homeowners' Association*

When considering the application, the Planning Board shall in part, require the PUDR development to meet the following conditions:

1. Be established as an incorporated non-profit organization operating under recorded land agreements through which each lot owner and any succeeding owner is automatically a member, and each lot is automatically subject to a charge as provided in the character of the Homeowners' Association.
2. Title to all common property, exclusive of land set aside for public schools, shall be placed in the Homeowners' Association, or definite and acceptable assurance shall be given that it automatically will be so placed within a reasonable period of time to be determined by the Planning Board.
3. Each lot owner shall have equal voting rights in the Association and shall have the right to the use and enjoyment of the common property.
4. Once established, all responsibility for operation and maintenance of the common land and facilities shall lie with the Homeowners' Association.
5. Dedicated of all common land areas shall be recorded directly- in the subdivision Plat, or shall be referenced on the Plat to a dedication in a separately recorded document. Resubdivision of such areas is prohibited. The dedication shall:
 - a. save the title to the common property to the Homeowners' Association free of any cloud of implied dedication,
 - b. commit the developer to convey the areas to the Homeowners' Association at the approved time to be determined by the Planning Board,
 - c. grant easements of enjoyment over the area to the lot owners',

- d. give the Homeowners' Association the right to borrow for improvements upon the security of the common areas, and,
 - e. give to it the right to suspend membership rights for non-payment of assessment or infraction of published rules.
6. The Homeowners' Association life shall be: perpetual, and it shall purchase insurances, shall pay taxes, shall specify in its charter and by-laws an annual homeowner's fee and provision for assessments, and shall establish that all such charges become a lien on each property in favor of said Association. The Association shall have the right to proceed in accordance with all necessary legal action for the foreclosure and enforcement of liens, and it also shall have the right to commence action against any member for the collection of any unpaid assessments in any court of competent jurisdiction
 7. The developer shall assume all responsibilities as previously outlined for the Homeowners' Association until a majority of the dwelling sites are sold, 'at which time the Homeowners' Association shall be established automatically.

6.10 Deeds

Each deed to each lot sold shall include by reference all recorded declarations, such as covenants, dedications, and other restrictions (including assessments and the provisions for liens for non-payment of such).

6.11 Site Plan Approval

1. Prior to the issuance of a building permit in a Planned Unit Development Residential, a site plan shall be submitted to and approved by the Planned Board in accordance with Article XI.
2. Nothing contained in this section shall relieve the owner or his agent, or the developer of a proposed Planned Unit Development Residential from receiving subdivision Plat Approval in accordance with the Village Subdivision Regulations.
3. Prior to Site Plan Approval the developer shall file with the Planning Board a performance bond to insure the proper installation of all park and recreation improvements shown on the site plan, and a maintenance bond to insure proper maintenance of all common lands until the Homeowners' Association is established. The amount and period of said bonds shall be determined by the Planning Board, and the form, sufficiency, manner of execution, and surety shall be approved by the Village Attorney and the Planning Board.

6.12 Approval of PUDR

A PUDR may be approved only by resolution adopted by the Village Board upon recommendation of the Planning Board.

ARTICLE VII. PUDC, PLANNED UNIT DEVELOPMENT COMMERCIAL REGULATIONS

7.1 Purpose

To facilitate increased flexibility to achieve more desirable development through the use of more creative and imaginative design of mixed use and commercial areas than is presently achievable under conventional land use techniques. The following objectives shall be sought:

1. To provide a creative use of land and related physical development which promotes an orderly transition from vacant and underutilized properties to commercial and mixed uses.
2. To promote an efficient use of land resulting in smaller networks of utilities and roads.
4. To promote efficient use of land resulting in better site access, internal traffic circulation, decreased curb cuts, and shared parking lots for multiple buildings.
5. To provide for a mix of uses in the Village center for the convenience of shoppers
4. To provide a development pattern in harmony with the objectives of the Development Policies of the Village.

7.2 Site Area and Location

1. The minimum site area for a Planned Unit Development Commercial shall be three (3) contiguous acres.
2. The PUDC serves as a floating zone applicable to the NB district within the Village. The conventional use, area, bulk and density specifications set forth by this Local Law are intended to be replaced through application of the planned development procedure by the approved Planned Commercial Development District (PUDC) which then becomes the basis legislatively established by the Village Board of Trustees for detailed design, review and control and subsequent development.
3. After a PUDC is approved, the Zoning Map shall be updated to reflect the location and boundaries of the PUDC.

7.3 Permitted Uses

- a. Retail and Service Stores.
- b. Business and Professional Offices.
- c. Eating and Drinking Establishments.
- d. Banks and financial institutions.

- e. Public Facilities and Utilities.
- f. Food Stores.
- g. Libraries.
- h. Health and Fitness Centers.
- i. Public Parks, Green Spaces and Plazas.
- j. Apartments in upper stories of Commercial Buildings.
- k. Multi-family Housing.
- l. Churches/Places of Worship.
- m. Schools, public or private.
- n. Community centers.
- o. Clubs and Fraternal Organizations.
- p. Meeting and Reception Facilities.
- q. Hotels and Motels.
- r. Bed and Breakfast Establishments.
- s. Convenience Stores.
- t. Laundromats.
- u. Day Care Centers.
- v. Bus Passenger Shelters.
- w. Commercial Recreational Facilities.
- x. Transportation or taxi centers.

7.4 Permitted Accessory Uses:

All accessory uses permitted in the NB District are allowed.

7.5 Ownership:

The tract of land for a project may be owned, leased, or controlled either by a single person or corporation, or by a group of individuals or corporations. The application must be filed by the owner or jointly by the owners of all property included in this project. In the case of multiple ownership, the approved plan and its easements shall be binding on all owners, or their successors in title or interest.

7.6 Deeds

Each deed to each lot sold shall include by reference all recorded declarations, such as covenants, dedications, and other restrictions (including assessments and the provisions for liens for non-payment of such).

7.7 Site Plan Approval

1. Prior to the issuance of a building permit in a Planned Unit Development Commercial, a site plan shall be submitted to and approved by the Planned Board in accordance with Article XI.
2. Nothing contained in this section shall relieve the owner or his agent, or the developer of a proposed Planned Unit Development Commercial from receiving subdivision Plat Approval in accordance with the Village Subdivision Regulations.
3. Prior to Site Plan Approval the developer shall file with the Planning Board a performance bond to insure the proper installation of all park and recreation improvements shown on the site plan, and a maintenance bond to insure proper maintenance of all common lands until the Homeowners' Association is established. The amount and period of said bonds shall be determined by the Planning Board, and the form, sufficiency, manner of execution, and surety shall be approved by the Village Attorney and the Planning Board.

7.8 Approval of PUDC

A PUDC may be approved only by resolution adopted by the Village Board upon recommendation of the Planning Board.

ARTICLE VIII: APPLICATION PROCEDURES FOR PUDRS & PUDCIS

8.1. Application:

Application for establishment of a PUDR OR PUDC shall be made in writing to the Village Board of Trustees. The application shall include five (5) copies of a sketch plan as described in Section 9.6 of this Article and five (5) copies of a completed long Environmental Assessment Form, Part I. The Village Board of Trustees is under no obligation to consider a PUDR OR PUDC application.

Upon resolution of the Village Board of Trustees to consider a PUDR OR PUDC application, the Applicant shall submit the applicable fees as determined by the Village Board of Trustees and posted in the Village Hall. The Village Clerk shall also forward a copy of the application to the Sullivan County Division of Planning & Community Development (DPCD) in accordance with Sections 239-i and 239-m of the General Municipal Law.

8.2 Planning Board Review:

The Planning Board shall review the sketch plan with the Applicant to determine if it meets the standards outlined herein. The Planning Board may require additional changes to the sketch plan as deemed reasonable to protect the sound growth and development of the Village. In reaching its decision on the proposed development and changes, if any, in the sketch plan, the Planning Board shall consider the following:

1. The location of the principal and accessory buildings on the site in relation to one another and neighboring development.
2. The existing character of the neighborhood in which the uses will be located.
3. The pedestrian circulation and open space in relation to structures and to prospective user needs.
4. The traffic circulation features within the site and amount, location and safety of access both to the site and within the site, including the provision of vehicular parking areas. The impact of the proposal on an existing transportation system.
5. The adequacy of proposed public/private utilities including water supply, sewage treatment and storm water drain facilities.
6. The height and bulk of buildings and their location to one another and neighboring development.
7. The protection of existing natural features, landscaping plans to be implemented subsequent to development, and a long-term maintenance plan for such landscaping.

8. The safe guards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general.
9. Such other matters as the Planning Board may consider pertinent.
10. Conformance with the Development Policies for the Village of Bloomingburg.

8.3 *Planning Board Action:*

Within sixty (60) days of the date of the referral of the Village Board of Trustees, or from the date that all information requested by the Planning Board is submitted, which ever is later, the Planning Board shall recommend approval, approval with modification, or disapproval to the Village Board of Trustees.

8.4 *Village Board of Trustees Action:*

Upon receipt of the Planning Board's report, or upon failure of the Planning Board to act within the prescribed time period, the Village Board of Trustees shall conduct a public hearing on the proposed Planned Unit Development District. Public notice of such hearing shall be published in a newspaper of general circulation in the Village at least ten (10) days prior to the date of the hearing. The Village Board of Trustees may, following the public hearing, adopt a Local Law defining the Planned Development District and amending the Zoning Map for the Village of Bloomingburg.

8.5 *Compliance With the State Environmental Quality Review Act*

The Village Board of Trustees shall comply with the requirements of the State Environmental Quality Review Act (SEQRA) in reviewing the proposal. If the time schedule for SEQRA is different, the schedule should be modified for SEQRA for projects that are subject to an Environmental Impact Statement.

8.6 *Sketch Plan Requirements*

8.6.1 General Requirements

The sketch plan shall be drawn at scale of not less than one (1) inch equals one-hundred (100) feet and shall show the lands to be developed or at an alternative scale as approved by the Planning Board. A boundary survey need not be submitted at this phase. The sketch plan shall include the following:

1. Property lines, existing and proposed, together with acreage of all lots, including any easements and dedication.
2. General topographic and drainage information, both existing and proposed.
3. Existing natural and man-made features, including streams, drainage improvements, wetlands, floodplains, slopes over fifteen percent (15%) grade and existing buildings and structures.

4. All existing and proposed elements of vehicular and pedestrian circulation, including but not limited to roadways, parking areas, loading areas, walkways, bike paths, and parking garages.
5. Delineation of the various use areas in the proposed PUDR OR PUDC indicating for each area its general extent, size and composition in terms of use and total number of buildings; for residential districts, approximate percentage allocation by residential type; for mixed-use and commercial districts, approximate percentage allocation by use.
6. Proposed location, type and size of landscaping, buffer areas and other aesthetic features.
7. Proposed public utilities, including type and method of water supply, sewage and storm water management.
8. Location map showing uses and ownership of adjacent lands.
9. Proposed location, type, and size of signs, driveways, and emergency zones.

8.6.2 Building Design Standards:

1. All buildings in the layout and design shall be an integral part of the development and have convenient access to and from adjacent uses and blocks.
2. Individual buildings shall generally be related to each other in design, masses, elevations, materials, elevation, placement, and connections, to provide a visually and physically integrated development.
3. Building design shall be in keeping with the general Village character in terms of style, materials and color scheme.
3. The design of buildings and parking facilities shall take advantage of the topography of the site where appropriate, to provide separate levels of access.
4. All building walls shall be so oriented as to ensure adequate light and air exposure to the rooms within and to adjacent properties.
5. All buildings shall be arranged as to avoid undue exposure to concentrated loading or parking facilities wherever possible and shall be so oriented as to preserve visual and audible privacy between adjacent buildings.
6. All buildings shall be arranged so as to be accessible to emergency vehicles.

8.6.3. Open Space Requirements:

1. Common open space totaling not less than thirty percent (30%) of the total PUDR and ten percent (10%) of the PUDC tract shall be provided in perpetuity. This land shall be exclusive of any land area used primarily for vehicular modes of transportation, including parking areas, garages, carports, and other features. The ownership of such open space land may be either public or private. When in private ownership, a homeowners' association or similar mechanism, the longñ

term ownership and maintenance of such common open space shall be provided, subject to the approval of the Village Board of Trustees and Planning Board. The grant of a conservation easement to further ensure the protection of this open space may be required.

2. The location, shape, size and character of the open space must be suitable for the PUDR OR PUDC.
3. Open space must be used for amenity or recreational purposes. The uses authorized for the open space must be appropriate to the scale and character of the PUDR OR PUDC, considering its size, density, intended uses, expected population, topography, and the number and types of dwellings to be provided.
4. Open space must be suitable for its intended use. If intended for active use, said open space shall be suitably improved. The buildings, structures and improvements, which are permitted in the open space, must be appropriate to the uses, which are authorized for the open space.
5. The development schedule which shall be part of the review process required as part of the final site plan must coordinate the improvement of the open space and the construction of buildings, structures, and improvements.
7. All land shown on the final site plan as open space must be maintained and used for said purposes.

8.6.4. Circulation System Design Standards

1. There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, offstreet parking and loading spaces.
2. Roads, pedestrian walks, and open spaces shall be designed as an integral part of an overall site design and shall be properly related to existing and proposed buildings, and appropriately landscaped.

8.7 Other Requirements

8.71 Upon approval of the PUDR OR PUDC by the Village Board of Trustees, application shall be made within six (6) months for approval of all or some portion of the intended PUDR OR PUDC development in accordance with the Site Plan Review procedures contained in Article 7 or Article 11. In addition, all other applicable regulations shall also apply.

8.7.2 Additional performance requirements that may have been specified by the Village Board of Trustees or the Planning Board in its PUDR OR PUDC approval action, such as a time limit for either initiation or completion of improvements and other construction work on the PUDR OR PUDC development, shall also be strictly enforced. If these performance requirements are not met, the property shall revert to its prior land use classification, unless the Village Board of Trustees, upon specific application and for good cause, authorizes an extension of such performance requirements.

ARTICLE IX. SUPPLEMENTARY REGULATIONS TO ALL DISTRICTS

9.1 Exceptions to District Regulations

9.1.1 Existing Lots

Notwithstanding the limitations imposed by any other provisions of this Law, the Code Enforcement Officer shall issue a building permit for the **construction** off a building or structure on a lot, which does not meet the minimum area, width, or yard requirements of this Law, provided such substandard lot was on record in the office of the County Clerk prior to the **enactment** of this Law.

Any such substandard lot must conform to and comply with all New York State Health Department requirements and certification of such compliance by a licensed **engineer** is mandatory. Adjacent substandard lots may be combined by the making and recording of a single deed in order to meet the minimum lot size. An exception to the minimum lot size shall be made in cases where **self-contained** sewage systems which meet New York State Health Department standards are installed provided there is no sewage flow into the ground or water.

9.1.2 Height Exceptions

The limitations in the Lot Requirements Schedule for building height shall be waived for barns and silos, private home **antennae**, spires, belfries, cupolas, water tanks, ventilators, chimneys, solar energy devices, windmills, private transmission towers, flag poles, skylights, or other opportunities usually required to be place above the roof level and not intended for human occupancy.

9.1.3 Substandard Lots Created by Governmental Action

Notwithstanding the limitations imposed by any other provision of this Law, the Code Enforcement Officer shall issue a building permit for the construction of a building or structure on a lot, which does not meet the minimum area, width or yard requirements of this Law, provided such substandard lot, was created by an action of a governmental agency such as, but not limited to taking of a portion of a lot for road construction, taking a portion of a lot for a park, or similar type situations.

Any such substandard lot must conform to and comply with all New York State Health Department requirements and certification of such compliance by a licensed engineer is mandatory. Adjacent substandard lots may be combined by the making and recording of a single deed in order to meet the minimum lot size requirement.

9.2 *Yard Requirements*

9.2.1. Exempt structures

The following structures are exempted from the yard requirements indicated in the Lot Requirements schedule:

- a. Chimneys, open trellis, unroofed steps, or terrace not higher than one foot from ground level.
- b. Overhanging roof not in excess of two feet.
- c. Awning or moveable canopy not extending more than 10 feet into required yard.
- d. Fences or walls.
- e. If two or more existing dwellings are located within 200 feet on each side of a proposed dwelling and on the same side of the street within the same block and district, said proposed dwelling need not have a front yard greater than the average setback of all existing dwellings so located.

9.2.2 Prohibited Activities

- a. The storage of inoperable autos is prohibited in any front, rear and side yards.
- b. Commercial uses may not be conducted in any front, rear and side yard without a special permit.
- c. The storage of recreational vehicles is prohibited in the front yard. When stored in the side yard, they must be screened from view from the road.
- d. Dumpster are prohibited in the front yard. Dumpsters are permitted in the side yard only if they are screened from view from the road.

9.2.3 Corner Lots

1. Front yard setbacks are required on both street frontages, and one yard other than the front yards shall be deemed to be the rear yard and the other a side yard.
2. No obstructions to vision, such as shrubbery, brush, dense low trees, or earth, shall be permitted at street intersections within the triangle formed by the intersections of street center lines and a line drawn between points along such lines 30 feet distant from their point of intersection.

9.3 *Access to Structures*

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

9.4 Accessory Buildings

Accessory structures and uses are permitted in any zoning district in connection with any principal use lawfully existing within such district. No accessory use of structure shall be established or constructed until the primary use or structure is constructed.

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

- 1. Such building shall not exceed 15 feet in height;
- 2. Such building shall be back 15 feet from any lot line and at least 10 feet from the main building; and
- 3. No such building shall project nearer to the fronting street than the main building.

9.5 Fences and Walls

- 1. For side and rear yards, fences shall not exceed eight feet in height from ground level.
- 2. For front yards, fences shall not exceed four feet in height from ground level.
- 3. Fences shall conform to corner lot requirements where applicable.
- 4. Front yard fences shall not be made of chain link, corrugated metal, or concrete block.

9.6 Landscaping Requirements

- 1. All open portions of any lot shall have adequate grading and drainage, and shall be continuously maintained in a dust-free condition and protected against erosion with suitable plantings of trees shrubs, or ground cover, or by paving with asphalt, concrete, rock or by other material as shall be approved by the Planning Board. Required yard areas shall be planned and maintained in such a manner as to provide a park-like setting for all buildings.
- 2. Required landscaping shall be installed and maintained in a healthy growing condition and shall take the form of any or all of the following: shade trees, deciduous shrubs, evergreens, well-kept grassed areas or ground, cover.
- 3. Landscaping requirements for NBD are given in Article V.

9.7 Performance Standards

In any Zoning District in the Village, uses are not permitted which exceed the following standards measured at individual property lines. The Planning Board under its powers of site plan review and approval shall decide whether uses meet the standards. Uses shall meet State air and water pollution standards and shall not:

1. Emit noise in excess of 70 decibels, dbA scale, of a standard sound level meter.
2. Emit odor which is considered offensive.
3. Emit dust or dirt which is considered offensive.
4. Emit noxious gases which endanger health, comfort, safety, or welfare of any person, or have a tendency to cause injury or damage to property, business or vegetation.
5. Cause, as a result of normal operations, a vibration which creates displacement of 0.003 of one inch at the property line.
6. Create glare by lighting or signs which could impair a driver's vision.
7. Cause a fire, explosion or safety hazard.
8. Cause harmful waste to be discharged into sewer, streams, or bodies of water, or to be stored on said property.

9.8 Temporary Building Permits

The Planning Board may authorize the issuance of a temporary building permit by the Code Enforcement Officer for uses and structures incidental to construction on the premises. Such use and structures may include the storage of building material and equipment, a real estate office for the sale of property on the premises, and a construction office for work being done on the premises. Such permit shall be authorized for a period of one year and may be extended for two similar periods when the code Enforcement Officer finds such work has been diligently pursued.

9.9 Manufactured Homes (also known as Mobile Homes) (See definitions in Article II.

9.9.1 Individual Manufactured Homes

1. Individual manufactured homes shall not be permitted in the Village; manufactured homes are permitted only in Manufactured Housing Parks.
2. Replacement of Existing Manufactured Homes

Any individual manufactured home lawfully installed prior to the enactment of this Zoning Law may be replaced by a newer manufactured home provided that such replacement occurs within one year of the removal of the preexisting manufactured home and the manufactured home installed is not less than 650 square feet and manufactured no earlier than 1990.

9.9.2 Manufactured Housing Park Permit

1. No person shall construct, own, or operate a manufactured housing park without a permit, obtained as herein provided, and failure to have such a permit shall

constitute a violation.

2. The construction of a new manufactured housing park in any zoning district shall be allowed only with the approval of a Special Permit by the Planning Board.
3. Applications for a manufactured housing park building permit shall be filed with the Planning Board for approval. Upon authorization of the Planning Board, the Code Enforcement Officer shall, upon receipt of the proper annual fee, issue a building permit for a manufactured housing park.
4. Permits shall not be transferable or assignable.
5. After issuance of the permit to build, the same shall be valid until the end of the calendar year and shall be renewable every six months.
6. Renewal applications shall be filed with the Code Enforcement Officer before the first day of December preceding the expiration of the original permit. Prior to the issuance of a renewal permit the code Enforcement Officer shall inspect the manufactured housing park 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 require a new conformance with these regulations. Upon approval of the Code Enforcement Officer or Planning Board, as the case may be, and payment of the proper annual fee, a renewal permit shall be issued.
7. Application for a manufactured housing park permit shall be in writing, signed by the applicant, and shall state:
 - a. the name and address of the applicant(s), and, if a corporation, the name and address of each officer, shareholder (if less than 10), and director;
 - b. the interest of the applicant in the property if not the owner of record; and
 - c. the name and address of the property owner.
8. Each application shall be accompanied by a site plan indicating the following information.
 - a. location of the proposed manufactured housing park, showing the boundaries and measurements of the premises, and location and number of manufactured homes to be situated therein;
 - b. means of egress and ingress to all public roads;
 - c. watercourse and drainage ditches;
 - d. internal roads and off-street parking facilities;
 - e. water supply and sewage disposal facilities;
 - f. fire extinguishers;
 - g. fences and screening;

- h. location of outdoor lights, signs, and other structures;
 - i. names of owners of adjoining properties;
 - j. location of all trees over eight inches in diameter, measured four feet from ground level, and proposed plantings;
 - k. recreation facilities; and
 - 1. location and type of trash and rubbish facilities.
9. The annual fee for a manufactured housing park permit shall be as provided by the Village Board of Trustees.
 10. There shall be no apportionment of the fee for a permit of less than 12 months duration.

9.9.3 Manufactured Housing Park Standards

1. The minimum lot area for a manufactured housing park shall be 3 acres and contain at least 8,000 square feet per manufactured home site.
2. Sewage disposal and water supply systems shall have the approval of the New York State Department of Health and shall conform to the requirements of any ordinance or Local Law of the Village governing such systems, whichever is more restrictive.
3. The area shall be well drained and shall have such grades and soil as to make it suitable for manufactured homes.
4. No manufactured home shall be less than 30 feet from any other manufactured home.
5. Each manufactured home site shall provide suitable **connections** to a central sewage disposal system and to an approved water supply system and an underground electrical service approved by the Board of Fire underwriters
6. Garbage and refuse shall be collected and removed from the premises at least once a week. All refuse shall be stored in flytight, watertight, rodent-proof containers, which shall be located not more than 150 feet from any manufactured home.
7. Fire extinguishers, approved by the local fire district officers, shall be furnished so that no manufactured home shall be more distant than 150 feet from such extinguisher.
8. The outside burning of garbage, trash, or rubbish is prohibited.
9. All manufactured homes and other structures shall be set back at least 50 feet from the right-of-way line of any public street or property line and 25 feet from any internal access street.
10. Access to a manufactured housing park from a public street shall be provided by

at least two connections, one for egress and one for ingress. All internal access streets shall be at least 30 feet wide and shall be provided with an asphalt surface.

11. Off-street parking spaces shall be provided containing at least 180 square feet per space. Two such spaces shall be furnished for every manufactured home.
12. All entrances and exits, internal access streets and public spaces shall be adequately illuminated.
13. One non-flashing, illuminated sign containing an area of not more than 32 square feet and not more than 10 feet above ground level at its highest point may be displayed. Such sign shall be set back at least 20 feet from any public road and at least 50 feet from any property line.
14. Manufactured housing parks shall be landscaped in accordance with the following specifications:
 - a. side or rear yard adjacent to an existing developed residential area shall be a minimum width or depth of 100 feet; the 50 feet nearest to the residential area shall be used as a planting strip, on which shall be planted hedges, evergreens, shrubbery, or other suitable plantings or screening as determined by the Planning Board; the remaining 50 feet may be used for off-street parking.
 - b. all open portions of any lot shall have adequate grading and drainage, and shall be continuously maintained in a dust-free condition by suitable landscaping with trees, shrubs, or planted ground cover, or by other suitable material as shall be approved by the Planning Board.
 - c. required front yard areas shall be planned and maintained in such a manner as to provide a park-like setting for all units.
15. The operator of a manufactured housing park shall keep a register in which there shall be noted the name and permanent address of every manufactured home situated in the park, the registration number of same, the date it was admitted, and the date of its removal. Such register shall be signed by the owner of the manufactured home or the person bringing the same into the park.
16. Upon consideration of the intensity of development and total number of manufactured homes proposed, the Planning Board may require the reservation of not more than 10 percent of the gross area of the manufactured housing park for the exclusive use of the residents therein for recreation purposes.
17. Sale of manufactured homes shall be permitted at any properly licensed manufactured housing park.
18. Each manufactured home shall have a sign on the lot, not exceeding one square foot, identifying the manufactured home owner and lot number.

9.10 Prohibited Uses and Activities

In any district, the following uses are prohibited:

9.10.1 Mineral

In any district, removal of soil, sand, gravel *or* quarried stone for sale, except when incidental to, or connected with, **construction** of a building on the same premises is prohibited. In addition Stripping of topsoil for sale or use on other premises, except as may be incidental, and no more than is necessary to a construction project, is prohibited within the Village without issuance of a special permit.

9.10.2 Animal Husbandry and kennels

In any district, animal husbandry and kennels shall be prohibited. Households that breed a pair of dogs, cats or other animals shall not be allowed to retain more than three animals of the same species on a permanent basis. This standard shall not apply to the keeping of birds, rodents, fish and other small animals that are kept in small cages or tanks, and housed inside the main building structure.

9.11 Clear-cutting

No clear-cutting shall be allowed in the Village without a special permit.

9.12 Signs

9.12.1 General construction and appearance

Signs shall be constructed of durable materials and keep in good condition. Signs must exhibit good design and be in keeping with the visual character of the building to which it relates, and to the general character of the Village. Signs must harmonize with its surroundings in terms of color, texture and scale.

9.12.2 Signs Prohibited

- a. Off-premises advertising signs, billboard and roof signs are not permitted in the Village.
- b. Flashing, oscillating and revolving signs are not permitted, unless necessary for public safety or welfare.
- c. Signs made of cardboard, paper or similar impermanent materials.

9.12.3 Signs Permitted

The following signs are permitted:

- a. Professional residence ñ One office and home occupation sign not exceeding six (6) square feet. Such sign shall be attached to the main building, mounted either

flush to the building or shingle style.

- b. One "For Rent" or "For Sale" sign not exceeding six (6) square feet on residential property, twelve (12) square feet on non-residential property.
- c. Direction or information signs not exceeding four square feet.
- d. Signs necessary for public safety or welfare.
- e. Signs identifying a construction project and the specialists concerned, not exceeding eight square feet for a dwelling and sixteen feet for other buildings.
- f. Trespassing or posted signs shall be allowed in all districts when such signs comply with the existing laws and regulations for posting property.
- g. Two (2) signs bearing the name of the commercial business shall be permitted on commercial buildings. The signs may be any combination of flush wall mounted signs, shingle style signs, detached, or ground signs. The size of any one sign may not exceed 15 square feet.
- h. Illuminated signs lit by a steady light shall be permitted, provided that lighting does not illuminate adjacent property.
- i. Neon tube signs shall be permitted, provided that the lighting is steady, non-glaring, and does not illuminate adjacent property.

9.12.4 Signs by Special Permit

Other signs may be permitted after issuance of a Special Permit if the Planning Board finds that such a sign:

- a. is in the public interest and is not detrimental to public safety, welfare or surrounding properties.
- b. is of a character, size and location that will be in harmony with orderly development of the district.

9.12.5 Ground Signs

Every ground sign shall:

- 1. Not exceed 20 feet in height above grade.
- 2. Be set back at least 10 feet from any street line, and at least 20 feet from any other lot line.
- 3. Be at least 8 feet above any pedestrian walk

9.12.6 Traffic Hazard, Safety and obstruction Signs

Every sign shall be designated and located in such a manner as to:

- a. Not impair public safety.
- b. Not restrict clear vision between a sidewalk and street.
- c. Not be confused with any traffic sign or signal.
- d. Not prevent free access to any door, window or fire escape.
- e. Withstand a wind pressure load of thirty pounds per square foot.

9.13 Calculation of Building coverage

In determining the percentage of building coverage of a lot or size or yard, all principal buildings, roofed porches, garages, carports, and accessory buildings shall be included.

9.14 Abandonment of Construction or Excavation

1. Within three months following a construction project or the demolition or abandonment of a building or structure, all construction materials shall be removed
2. Unfenced excavation shall not be carried out for a period in excess of sixty days.

9.15 Minimum Habitable Floor Area

1. One-family and two-family dwellings shall have a habitable floor area of at least 900 square feet per dwelling unit.
2. No habitable rooms are permitted in basements or cellars of multiple family dwellings unless a separate outside entrance way is provided to all habitable areas.
3. Efficiency apartments shall have a habitable floor area of at least 500 square feet per apartment.

9.16 Residential Front Yard Grade

Surface grade of residential front yards, measured at the mid-point of a residence front wall, shall be at least one foot above the elevation of street center line, unless adequate site drainage is provided and approved by the Planning Board.

9.17 Areas of Special Flood Hazard.

9.17.1 Establishment and Delineation of Areas of Special Flood Hazard.

Special Flood Hazard Areas are hereby established to accomplish the purpose of protection of the residents of Bloomingburg from hazards due to periodic flooding. This shall include the protection of persons and property, the preservation of water quality and the minimizing of expenditures for relief, insurance and flood control

projects. This provision does not imply that land outside of the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damage.

The provision of Section 9.17, Areas of Special Flood Hazard, shall take precedence over any other zoning article to the extent that these provisions are inconsistent with such other less restrictive conflicting local laws, ordinances or codes.

Areas of Special Flood Hazard shall be deemed to be those areas delineated as such by the Federal Emergency Management Agency (FEMA), Flood Insurance Rate Maps for the Village of Bloomingburg, New York dated April 17, 1985, or any superseding maps used in administering the Federal Flood Insurance Program.

9.17.2 Permitted Uses

The following uses which have low flood damage potential and which do not obstruct flood flows may be permitted within Special Flood Hazard Areas to the extent that these uses do not constitute development or substantial improvement to a structure and are not otherwise prohibited by any other Law:

1. Agricultural uses such as pasture or grazing as long as they do not require development within the flood plain.
2. Private and public recreational areas such as swimming areas, open space, wildlife or natural preserves, hunting and fishing areas, hiking and horseback trails as long as they do not require development within the flood plain.

No uses shall diminish or constrict the capacity of the channel or floodway of any watercourse, or any tributary to the main stream, or any other watercourse, drainage ditch or any other facility or system to discharge the waters from the base flood.

9.17.3 Issuance of Building Permits

- a. No building shall hereafter be erected, relocated or altered as to outside dimensions or so to permit a change in its use and no excavation for any building shall be begun, unless and until a permit therefore has been issued. For purposes of this section, manufactured homes, modular homes or any other structure permanently affixed to a foundation shall be deemed a building.
- b. Permits will not be necessary for minor repairs, unenclosed patios, painting, plumbing, water wells, new roofs, and accessory structures as stated under the New York State Uniform Fire *Prevention* and Building Code.
- c. Upon receipt of the application for a building permit, the Code Enforcement Officer shall determine if the location of such proposed building falls within the Special Flood Hazard Area. Appeals to such determination shall be made to the Zoning Board of Appeals.
- d. If such proposed construction is outside the delineated boundaries of the special

Flood Hazard area, then a building permit shall be issued pursuant to Section 12.2.

9.17.4 Building Standards for Variances

All development uses within the Special Flood Hazard area as identified in Federal Insurance Administration Flood Insurance ' Rate Maps for the Village of Bloomingburg, New York, except those uses permitted by right under Section 4.16.2 of this Law are allowed only in compliance with Section 5.9. Variances, and must meet the following standards:

- a. New construction or substantial improvement of any residential structures shall have the lowest habitable floor, including basement, elevated to at least one foot above the base flood elevation at that point.
- b. New construction or substantial improvement of any nonresidential structures shall either have the lowest floor including the basement, elevated to, or above, the base flood level, or together with attendant utility and sanitary facilities, be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capacity of resisting external water pressure and effects of buoyancy. The design of flood-proofed structures may include the following measures or techniques as appropriate:
 1. Anchorage to resist flotation and lateral movement.
 2. Reinforcement of walls to resist water pressure.
 3. Installation of watertight doors, bulkheads and shutters.
 4. Use of paints, membranes, or mortars to reduce seepage of water through walls.
 5. Addition of mass or weight to resist flotation.
 6. Installation of pumps to lower water levels structures.
 7. Pumping facilities to relieve water pressure on external walls and basement floors.
 8. Elimination of gravity flow drains.
 9. Construction to resist rupture or collapse caused by water pressure or floating debris. Manufactured homes shall be anchored to resist floatation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specifically:
- c. Manufactured homes shall be anchored to resist floatation, collapse, or lateral movement by providing over-the top and frame ties to ground anchors. Specifically:
 1. Over-the-top ties shall be provided at each of the four corners of the

manufactured home with two additional ties per side, at intermediate locations, except that a manufactured home *less* than 50 feet in length requires only one additional tie per side.

2. Frame ties shall be provided at each corner of the manufactured home with five additional ties per side at intermediate points, except that a manufactured home less than 50 feet long need have only four additional ties per side.
 3. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
 4. Any additions to the manufactured home shall be similarly anchored.
- d. All new construction or substantial improvements of buildings and or other structures, including new or replaced utility and sanitary facilities, shall include the following measures as appropriate:
1. Anchored to prevent flotation, collapse, or lateral movement of structure.
 2. Constructed with materials and utility equipment resistant to flood damage.
 3. Constructed by methods and practices that minimize flood damage.
 4. Public facilities, and utilities such as sewer, electrical, and water systems located and constructed to minimize flood damage. '
 5. Adequate drainage provided to reduce exposure to flood damage.
 6. New and replacement water supply systems designed to minimize or eliminate the infiltration of floodwaters into the system. Design of such water supply, sanitary sewage, and on-site waste disposal systems shall be in compliance with the State Sanitary Code (Public Health Law Section 225; 10 NYCRR Section 1.1 et seq.), and, where applicable, with County and Village health or sanitary codes.
 7. New and replacement sanitary sewer systems designed to minimize or eliminate infiltration of flood waters into the systems and discharged from the systems into flood waters. Design shall be in compliance as above.
 8. On-site waste disposal systems located to avoid impairment to them or contamination from them during flooding. Design shall be in compliance as above,
- e. Where elevation of the first floor or basement floor above the base flood elevation is required, fill deposited shall extend at least 15 feet beyond the limits of any structure or building erected thereon, and such fill shall be protected against erosion by riprap, vegetation, bulk heading, or other forms of cover.

9.17.5 Encroachments

In all areas of special flood hazard in which base flood elevation data has been

provided, the cumulative effect of any proposed development, when combined with all other existing and-anticipated development, shall not increase the water surface elevation of the base flood more than 1 foot at any point.

9.17.6 Local Submission, Filing, and Public Record

- a. Applications for a variance within a Special Flood Hazard Area shall, in addition to standards set forth in Section 9.17, be accompanied by written certification of either a professional engineer or architect licensed to practice in the State of New York that the appropriate standards of Section 12.2 have been met, and all necessary permits have been obtained from those federal, state, and local governmental agencies from which prior approval is required. Such application shall be kept on file with the Village Clerk and shall be available for public inspection.
- b. The Code Enforcement Officer shall obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures in a Special Flood Hazard Area and whether or not the structure contains a basement. He shall also obtain, verify, and record the actual elevation to mean sea level to which any new or substantially improved nonresidential structures in a Special Flood Hazard Area have been flood proofed. All such records shall be maintained for public inspection.

9.17.7 Subdivision Proposals

For the purpose of maintenance of the provisions of this Law, the Planning Board shall require that all subdivision proposals and other proposed new developments within a Special Flood Hazard Area include within such proposals base flood elevation data.

9.17.8 Watercourse Alteration

To maintain in compliance with those regulations pertaining to Areas of Special Flood Hazard, the Planning Board shall notify, in riverine situations, adjacent communities and the New York State Department of Environmental conservation prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the administrator, and shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

9.18. *Nonconforming Uses*

The lawful use of any building or land existing at the time of the enactment of this Law may be continued although such use does not conform to the provisions of this Law.

9.18.1 Unsafe Structures

Any structure or portion thereof declared by the Code Enforcement Officer to be

unsafe by reason of fire or any other natural or unnatural occurrence shall within one year be removed or restored to a safe condition.

9.18.2 Extension

A nonconforming use shall not be extended. However, the extension of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this shall not be deemed the extension of such nonconforming use.

9.18.3 Construction Approved Prior to Adoption of This Law

Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three months of the date of such permit, and the ground story framework of which, including the second floor of beams, shall have been completed within six months of the date of the permit, and which entire building shall be completed according to such plans as filed within one year from the date of this Law.

9.18.4 Discontinuance

Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be conformity with the provisions of this Law.

9.18.5 Changes

Once changed to a conforming use no building or land shall be permitted to revert to a nonconforming use. A nonconforming use may not be changed to other than a conforming use.

9.18.6 Displacement

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

9.18.7 District Changes

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.

9.19 Off-Street Parking Requirements

9.19.1 Required Parking for Uses

For every building hereafter erected, altered or changed in use, there shall be provided off-street parking spaces as set forth in the following:

<i>USE</i>	<i>REQUIRED PARKING SPACE</i>
Dwelling Unit (Single Family and Two Family)	Two parking spaces per dwelling unit on the same lot with the main building.
Dwelling Unit (Multifamily)	One and one-half parking spaces per dwelling unit in the building(s) rounded off to the next highest whole number.
Business and Professional Office	Two parking spaces, plus one space for every 200 square feet of office area.
Retail and Service Establishments	One parking space for every ninety square feet of floor area devoted to sales plus one space for each two employees.
Eating and Drinking Establishments	One parking space for every three seats plus one space for each two employees.
Industrial, Wholesale, Warehouse, Storage, Freight and Trucking Uses	One parking space for every motor vehicle used directly in the business, plus additional parking as required by the Planning Board.
House of Worship, and other Places of Public Assembly	One parking space for every three seats, or one space per 100 square feet of floor area, whichever is greater.
Hotels/Motels	One parking space per room, plus one space for every 2 employees.
Unspecified Uses	As required by the Planning Board based on use intensity , turnover, customers, employees and vehicles used.

9.19.2 Dimensional Requirements

Each parking space shall have a minimum width of nine feet and a minimum length of twenty feet and shall be served by suitable aisles to permit access and automobile maneuverability into all parking spaces. Total parking area must provide a minimum of .270 square feet per parking space, including access, egress and circulation.

9.19.3 Location of Facility

All off-street parking facilities required under this Law shall be constructed on or adjacent to the site of the main use or on a lot directly across an adjoining street from the main use. Off-street parking for all uses is prohibited in the front yard. If off-street parking is provided, it shall be located in the rear yard when possible, or in the side yard, if the dimensions or configuration of the lot are not adequate. Parking lots shall adhere to the buffering requirements set forth in Article V.-5.6.2

9.19.4 Off-Street Loading Requirements

All commercial and industrial structures, erected after the adoption of this Law, shall provide adequate off-street loading facilities. Such facilities shall be sufficient in size to eliminate the projection of vehicles into a street right-of-way.

9.19.5 Parking, Storage or Use of Recreational Equipment

The parking, storage and use of major recreational vehicles or equipment shall be regulated as set forth in the following:

- a. Recreational vehicles or other equipment may be parked or stored on any lot in a residential district. Such vehicle or equipment shall be parked so as not to project nearer to the fronting street than the main building and within the setback requirements.
- b. Such vehicle or equipment may be parked or stored anywhere on residential premises not to exceed 48 hours during loading and unloading. No such equipment shall be used for permanent primary living, sleeping, or housekeeping quarters when parked or stored on a residential lot, or in any location not approved for such use.

9.19.6 Parking and Storage of Certain Vehicles

- a. Three or more automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residential zoned property other than in completely enclosed buildings or so they are visually screened from the road and adjacent properties.
- b. Farm vehicles shall be exempt.
- c. Vehicles licensed for part of the year shall be considered licensed for a full year.

9.19.7 Lighting

Parking lot lighting shall project downwards onto vehicles and pavement, and shall not project upward or outward toward other properties.

9.20 *Swimming Pools*

9.20.1 Accessory to Single - Family Dwellings

Swimming pools, whether permanent or portable, that are accessory to single-family dwellings, shall be located not closer than 20 feet to a front lot line. These regulations shall not apply to portable pools that do not exceed two feet in height or six inches in depth.

9.20.2 Accessory to Residential Developments

Swimming pools accessory to residential developments, whether clustered single-family dwellings, seasonal dwellings, bungalow colonies, camps, or multiple-family dwellings, shall be of permanent construction and shall be located not closer than 50 feet to any lot line and not closer than 50 feet to any dwelling unit.

9.20.3 Non-Residential

Swimming pools that are part of non residential uses, whether commercial or non-commercial, such as hotels, motels, clubs, campgrounds, day-use recreational facilities or institution shall be of permanent construction and shall be located not closer than 100 feet from any lot line.

9.20.4 Fencing

All outdoor swimming pools having a depth of 2 feet or more shall be completely enclosed with a wall, fence, or other barrier at least four feet high and not greater than eight feet high, the bottom of which must be no more than three inches from the ground, and equipped with a gate having a lock which shall be locked at all times that the swimming pool is not in use. All such swimming pools must remain empty of water until the barrier has been completed and approved by the Code Enforcement Officer as meeting the foregoing requirements and as being sufficiently strong in construction, to prevent any person from accidentally entering the pool enclosure. Fencing shall consist of a substantial structure of wood or metal or other rigid material built so that it will withstand exposure to the elements. Nonstructural material may be incorporated into a fence to control visual exposure; such material shall be capable of withstanding exposure to the elements without deteriorating. All fences shall be maintained in good condition at all times and shall not be allowed to deteriorate structurally or aesthetically. An effort must be made to provide for access to local fire department vehicles.

9.21 *Waterfront Lots*

9.21.1 Setback Requirements

The setback line from any water body for an on-site sewage disposal system shall be

not less than 100 feet from the high water line excepting substandard lots which were part of a subdivision' that received Preliminary or Final Approval by the Planning Board of the Village of Bloomingburg prior to the enactment of this Law.

9.22 Campgrounds

9.22.1 Campground Standards

The following additional standards must be provided for in the site plan before an annual special permit for a campground can be issued:

1. Evidence that all State Health Department regulations of campgrounds will be met.
2. A 25 foot planted or natural landscaped border shall be provided for on all perimeters of the campground property.
4. A minimum of ten acres of land will be, used for the campground.

9.23 Adult Oriented Business and/or Adult Entertainment Establishments:

9.23.1 No person shall operate an Adult Oriented Business and/or Adult Entertainment Establishments without obtaining approval from the Planning Board through the Site Review Process, complying with all the required yard restrictions and the following additional requirements:

- a. The Adult Oriented Business and/or Adult Entertainment Establishments must be located a distance greater than five-hundred (500) feet from a public or private school (grades pre-school through 12), church, or other house of worship, public park or playground, public swimming area, or day care center.
- b. The Adult Oriented Business and/or Adult Entertainment Establishments must be located a distance greater than five-hundred (500) feet from any private residence.

ARTICLE X: SPECIAL PERMIT

10.1 General Provisions

In every case where a Special Permit is required the Planning Board shall issue such permit only after:

1. The Planning Board has conducted a Public Hearing. The Hearing must be held within 62 days from the day the application is made.
2. All State Environmental Quality Review requirements have been fulfilled.
3. If applicable a copy of the application is referred to the Sullivan County Division of Planning & Community Development (DPCD) for its review in accordance with Section 239-m of the General Municipal Law. No action shall be taken by the Planning Board on such application until an advisory recommendation has been received from the DPCD or thirty (30) calendar days have been lapsed since the DPCD received such full statements: Applicable uses include any site plan within five hundred (500) feet of:
 - a. The boundary of any municipality.
 - b. The boundary of any existing or proposed County or State park or any other recreation area.
 - c. The right-of-way of any existing or proposed County or State parkway, thruway, expressway, road or highway.
 - d. The existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines.
 - e. The existing or proposed boundary of any County or State owned land on which a public building or institution is situate.
 - f. The boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the Agriculture and Markets Law, except this subparagraph shall not apply to the granting of area variances.

10.2 Required Plan

Application for a special permit shall be accomplished by five sets of preliminary plans, and/or other descriptive matter to clearly portray intentions of the owner. These documents shall become a part of the record. Such plans shall show location of all buildings, parking, traffic access and circulation drives, open spaces, landscaping, all existing structures and usages within 200 feet of the site boundaries, and any other information necessary to determine if the proposed special use meets the requirements of this Law.

10.3 Expiration

A special permit shall be construed to be authorization for only one particular special use and shall expire if the special use shall cease for more than six months for any reason. Special uses that are inherently of a seasonal nature including, but not limited to, nature centers, campgrounds, recreation areas, and roadside stands shall have the period extended to 12 months to expiration of special permits.

10.4 Standards Applicable to all Special Uses

All special uses necessarily require site plan review. Site Plan review may be waived if, in the opinion of the Planning Board, all of the following standards and conditions have been satisfied:

1. Location, use and size of structure, nature and intensity of operations involved, size of site in relation to it, and location of site with respect to existing or future streets giving access, are such that it will be in harmony with orderly development of the district.
2. Location, nature and height of buildings, walls, fences and signs will not discourage the appropriate development and use of adjacent land and buildings or impair their value.
3. Special use shall not conflict with the Planning Policies of the Village.
4. Operation of any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration, or flashing lights than would be the operation of any permitted use.
5. Necessary provisions have been made to assure that all surface runoff to adjacent properties does not exceed levels in existence prior to construction
6. Solar access of adjacent properties is not obstructed by said use.

If said conditions and standards are not met, a Site Plan Review shall be undertaken in accordance with Section 11.1; Site Plan Review.

No special permit shall be issued for a use on a property where there is an existing violation after **enactment** of this Law.

In addition, when making a determination **concerning** a special use within an area of Special Flood Hazard, the Planning Board shall consider the following factors:

- a. The danger to life and property due to increased flood velocities caused by encroachments;
- b. The danger that materials may be swept onto other lands to the injury of others;
- c. The susceptibility of the proposed facility and its **contents** to flood damage and the

effect of the damage on the individual owners;

- d. The importance of the services provided by the proposed facility to the community;
- e. The availability of alternative locations not subject to flooding damage, for the proposed use;
- f. The compatibility of the proposed use with existing and anticipated development;
- g. The safety of access to the property in times of flood for ordinary and emergency vehicles
- h. The expected height, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site. The cost of providing governmental services during' and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, electric and water systems, and streets and bridges.

ARTICLE XI: SITE PLAN REVIEW

11.1 Purpose

The Site Plan Review process recognizes that some developments and uses, even though generally suitable for location in a particular district, are, because of their design (materials, details, texture), character, nature, size, complexity or other indicia of probable impact, capable of adversely affecting the goals for which this Chapter is established unless careful consideration has been given to critical design elements. It is the purpose of the Section to provide a vehicle for the review of the application's attention to such elements.

11.2 Site Plan Review Authority

Pursuant to Village Law Section 7-725 the Planning Board shall have the authority to review and approve, or approve with modifications, or disapprove site plans for uses requiring Site Plan Review approval before a building permit is issued.

In addition, the Planning Board also has the authority to make a determination if Public Hearing and is necessary for the review of the Site Plan. If a Public Hearing is necessary, it must be held within 62 days after an application is made, on ten days public notice. The Planning Board must decide within 62 days after the public hearing or after filing if no public hearing is held.

11.3 Applicability

The following land use activities, prior to the issuance of a Building Permit or Certificate of Occupancy, receive Site Plan Approval from the Planning Board:

- a. All uses listed as requiring Site Plan Review in Articles IV and V.
- b. All proposed PUDR's and PUDC's pursuant to Articles VI and VII.
- c. All uses granted a variance by the Zoning Board of Appeals and required by the Zoning Board of Appeals to undergo Site Plan Review pursuant to Article XII.

11.4 Review Elements

In reviewing site plans, the Planning Board shall give consideration to the health, safety, and welfare of the public in general, and the residents or users of the proposed development and of the immediate neighborhood in particular. More specifically, the Planning Board shall ensure:

1. The adequacy and arrangement of access and circulation including, but not limited to, road widths, grade, alignment, sight distance, location, surfaces, traffic control, walkway, and pedestrian convenience.

2. The buildingsí, lightsí, and signsí compatibility in terms of location, arrangement, size, and design.
3. The adequacy of storm water and drainage facilities in preventing flooding, erosion, and improper obstruction of drainage ways.
4. The adequacy of water supply and sewage disposal facilities.
5. The adequacy, type and arrangement of trees, shrubs and other landscaping.
6. The retention of existing trees, wooded areas, watercourses and other natural features to the maximum extent possible.
7. The protection of adjacent or neighboring properties against noise, glare, dust, air pollution, unsightliness or other objectionable features.
8. The adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
9. The adequacy of exterior storage and parking and loading areas and their screening at all seasons of the year from the view of adjacent residential lots and streets.

11.5 Stages of Submission:

The review of site plans is divided into three phases: pre-submission conference (optional), preliminary application, and final application.

11.5.1 Phase 1 ñ Pre-submission conference (optional):

The Code Enforcement Officer shall refer the prospective developer to the Secretary of the Planning Board who shall schedule a preñsubmission conference for the next regularly scheduled Planning Board meeting. The purpose of the preñsubmission conference is to give the Planning Board and the Applicant an opportunity to discuss the project before the Applicant commits significant outlays of time and money.

At the preñsubmission conference the Applicant shall provide the Planning Board with basic data regarding the proposal. At a minimum, the Applicant shall provide:

- a. A map showing the important existing natural and man made features in and around the site.
- b. A sketch plan showing the major features of the proposal.

11.5.2 Phase 2 - Preliminary Site Plan Application:

The Applicant shall provide seven (7) copies of a preliminary site plan application in writing to the Planning Board. Scale of the site plan shall be one (1) inch equals fifty (50) feet, or in the case of large lots, as appropriate for the lot size and approved by the Planning Board. The preliminary application shall be accompanied by a fee as

determined by the Village Board and posted in the Village Hall.

The application shall be accompanied by the information listed below as determined necessary by the Planning Board. The Planning Board may require any or all of the following items, as it determined appropriate for the nature and scale of the proposed project. The pre-submission conference may be used to determine the application requirements. A licensed professional engineer, architect or land surveyor shall prepare the preliminary site plan, unless waived by the Planning Board:

- a. Title of drawing, date, north arrow, scale, name and address of Applicant, and person responsible for the preparation of such drawing.
- b. Boundaries of the property plotted to scale.
- c. Existing watercourses, wetlands, FEMA flood plains, landscaping and vegetative cover.
- d. Grading and drainage plan showing existing and proposed contours with intervals of five (5) feet or less.
- e. Location, use and height of all existing and proposed buildings.
- f. All existing and proposed means of vehicular ingress and egress to and from the site from and onto public streets.
- g. Design and construction materials of all parking and truck loading areas.
- h. Provision for pedestrian access.
- i. Location of outdoor storage, if any.
- j. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
- k. Description of the method of sewage disposal and location, design and construction materials of such facilities.
- l. Location of fire and other emergency zones, including the location of fire hydrants.
- m. Location, size, design and construction materials of all proposed signage.
- n. The proposed location, direction, power and hours of operation of proposed outdoor lighting.
- o. Designation of the amount of building area proposed for each use.
- p. Landscaping plan and planting schedule.
- q. Location and proposed development of all buffers areas, including indication of existing vegetative cover.
- r. Other elements integral to the proposed development, as considered necessary by

the Planning Board, including identification of any required County, State or Federal permits.

- s. Completed Environmental Assessment Short Form or Part I of the Long Form, if necessary.

Within sixty-two (62) days of the receipt of a completed application for preliminary site plan review; the Planning Board may hold a public hearing on the preliminary site plan if it determines such action would be in the public interest. Within sixty-two (62) days of the public hearing, or sixty-two (62) days of receipt of an application if no public hearing is held, the Planning Board shall approve, disapprove, or approve with modifications the preliminary site plan application. The Planning Board's action shall be in the form of a written statement to the Applicant. Nothing herein shall be interpreted as stating a public hearing is required.

The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan application, of which conformance with said modifications shall be considered a condition of approval. If the preliminary site plan application is disapproved, the Planning Board's statement shall contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and submission to the Planning Board after it has been revised or redesigned.

11.5.3 Phase 3 - Planning Board Review of Final Site Plan Application:

After receiving approval, with or without modifications, of the preliminary site plan application, the Applicant shall submit a final site plan to the Planning Board for approval. The final site plan shall conform substantially to the approved preliminary site plan and shall include any modifications that were required as a result of the preliminary site plan review.

Within sixty-two (62) days of the receipt of the final site plan application, the Planning Board shall approve or disapprove the final site plan application. Seven (7) copies of the final site plan application are required. A licensed professional engineer, architect or land surveyor shall prepare the final site plan, unless waived by the Planning Board.

Upon approval of the final site plan, the Planning Board shall endorse its approval on three (3) copies of the final site plan and shall forward one (1) copy to the Code Enforcement Officer and provide two (2) copies to the Applicant. Upon disapproval of a final site plan, the Planning Board shall notify the Applicant in writing of its decision and its reason for disapproval.

11.6 General Requirements:

11.6.1. Consultants:

The Planning Board shall consult with those officials or consultants it believes necessary to provide a sound review of the proposal. The Board may charge a fee to the project Applicant for the cost of such review provided that the fee charged reflects the actual cost of the assistance to the Planning Board.

11.6.2. Referral to the Sullivan County Division of Planning & Community Development:

Prior to taking action on the preliminary site plan application, if applicable the Planning Board shall refer a copy of the application to the Sullivan County Division of Planning & Community Development (DPCD) for its review in accordance with Section 239-m of the General Municipal Law. No action shall be taken by the Planning Board on such application until an advisory recommendation has been received from the DPCD or thirty (30) calendar days have been lapsed since the DPCD received such full statements: Applicable uses include any site plan within five hundred (500) feet of:

- a. The boundary of any municipality.
- b. The boundary of any existing or proposed County or State park or any other recreation area.
- c. The right-of-way of any existing or proposed County or State parkway, thruway, expressway, road or highway.
- d. The existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines.
- e. The existing or proposed boundary of any County or State owned land on which a public building or institution is situate.
- f. The boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the Agriculture and Markets Law, except this subparagraph shall not apply to the granting of area variances.

11.6.3. Compliance with the State Environmental Quality Review Act:

The Planning Board shall comply with the requirements of the State Environmental Quality Review Act (SEQRA) in reviewing the site plan application. If the time schedule for SEQRA is different, the schedule should be modified for SEQRA for projects that are subject to an Environmental Impact Statement.

11.6.4. Performance Guarantee:

No Certificate of Occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. Such performance guarantee shall be posted in accordance with the procedures specified in Village Law §730.9 relating to subdivisions. The amount and sufficiency of such performance guarantee shall be determined by the Planning Board after consultation with the Village Attorney, the

Code Enforcement Officer, other local officials, or its designated consultants.

11.6.5. Waiver of Final Site Plan Application:

If the preliminary site plan is approved without modifications, the final site plan application may be waived by the Planning Board.

11.6.6 Time limit for start of construction:

Construction shall commence no later than 18 full months after Planning Board approval of the site plan. If for any reason, construction does not commence during the first 18 months, the owner of the property may apply for a six month extension. If for any reason construction does not commence during the extension period, no further extension shall be granted.

11.6.7 Filing Fees

Filing fees for Site Plan Review shall be set by the Village Board and made available to the public in a schedule available at the Village Hall.

ARTICLE XII. ENFORCEMENT AND ADMINISTRATION

12.1 Enforcement Officer

12.1.1 Appointment and Function:

The Code Enforcement Officer, as appointed by the Village Board, shall serve at the pleasure of the Board, and shall administer and enforce the Zoning Law, and all other laws and ordinances applicable to the construction and/or alterations of buildings and structures. In the absence of the code enforcement official, or in the case of his inability to act for any reason, the mayor shall have the power, with the consent of the Village Board of Trustees to designate a person to act on behalf of the code enforcement official and to exercise all the powers conferred upon him by this Law.

12.1.2 Qualifications:

To be eligible for appointment, he shall be generally informed on quality and strengths of building materials, on the prevailing methods of building construction, on good Practice in fire prevention, on the acceptance and requirements for safe existing facilities, and on the proper installation of plumbing, and other installations for the safety, convenience, and comfort of the occupants. He shall be in good health, physically capable of making the necessary examinations and inspections of buildings in the course of construction, and shall not have any interest, directly or indirectly, in the sale or manufacture of any material, process, or device entering into, or used in, or in connection with the building construction.

12.1.3 Duties and Powers of the Code Enforcement Officer:

1. He shall receive and act on applications, and issue building permits for erection and alteration of buildings, or structures, or parts thereof, and shall examine the premises to which applications have been issued, and are in force, for the purpose of ensuring compliance with this Law and applicable laws governing building construction, and to further ensure that all construction done pursuant to a building permit has been performed in direct compliance with the, information and documents filed with the building permit application.
2. He shall issue a Certificate of Occupancy where appropriate, for a building constructed or altered in accordance with the provisions of this Law.
3. The Code Enforcement Officer shall keep a permanent official record of all transactions and activities conducted by him, including all applications received, permits, and certificates issued, fees charged and collected, and violations cited. All such records shall be public records, and are to be turned over to the Village Clerk at the final meeting of the Village Board at the conclusion of each calendar year.
4. The Code Enforcement Officer shall annually submit to the Village Board a

written report and summary of all business conducted by him, including approvals, permits, and certificates issued, fees collected, violations cited, and litigations pending or concluded.

5. A copy of all building permits will be forwarded to the local secretary of the appropriate fire department.

12.2 Building Permits

12.2.1 Application

No person, firm, corporation, association or other organization shall commence the erection, construction, enlargement, alteration, improvement, removal or demolition of any building or structure, except an agricultural building or structure, nor install heating equipment, without having applied for and obtained a permit from the code enforcement official. No permit shall be required for the performance of necessary repairs which do not involve material alteration of structural features, and/or plumbing, electrical or heating/ventilation systems, including, for example, the replacement of siding and roofing materials, nor for the erection of fences, nor for the construction of non-commercial storage facilities of less than 140 square feet of gross floor area. Such work shall nevertheless be done in conformance with the Uniform Fire Prevention and Building Code.

A building permit form shall be completed, and returned to the Code Enforcement Officer and must include the signature of the applicant, or authorized agent; a plot plan to scale certified by the owner of the property showing the location of the proposed work, including the driveway, or, at the discretion of the Code Enforcement Officer, a survey prepared by a licensed surveyor; a description of the site on which the proposed work is to be done, a statement of the use of or occupancy of all parts of the land and of the proposed building or structure, a brief description of the proposed work, and estimated cost of the proposed work where required, the full name and address of the owner, or, of the corporation, the names and addresses of responsible officers, three (3) sets of plans and specifications for buildings and structures. If a driveway or culvert permit is required by the Village, County, or State, the building permit will not be issued until driveway/culvert permit has been obtained.

12.2.2 Review of Application

The Code Enforcement Officer will review the documents, and, if necessary, visit the site. The Code Enforcement Officer will make a determination on the application within a reasonable amount of time.

12.2.3 Issue of Building Permit

If the submitted documents meet the requirements of this Law, a building permit may be issued, and must be prominently displayed on the construction site. During the construction the Code Enforcement Officer will make periodic visits to the job to

ensure compliance with this Law and other governing codes and approved plans, if required. Permits are good for one (1) year, after which time a new application must be filed, unless work covered under the original permit is under active construction. However, the Code Enforcement Officer may extend the permits for a period not to exceed six (6) months, provided conditions under which the original building permit was issued have not changed.

12.2.4 Filing Fees

Filing fees as set by the Village Board must accompany these applications. A copy of the Schedule of Filing Fees will be furnished to the applicant with each building permit application.

12.2.5 Denial of applications

In the event that an application is not approved, the Code Enforcement Officer will notify the applicant in writing, stating the reason for the denial of the permit. The applicant may re-submit his application when the reasons for the denial have been removed, or, if he wishes the denial of his building permit application to be reviewed by the Village Board, he shall file a written request, supported by his building permit application, and all papers therewith to the Village Board at least ten (10) days prior to a regularly scheduled Village Board meeting. The review shall be made at such Village Board meeting, and both the applicant, and the Code Enforcement Officer will be entitled to be heard. At said meeting, the Village Board shall either uphold the denial, order the Code Enforcement Officer to issue the building permit, or advise the applicant to apply for a variance.

12.3 *Certificate of Occupancy*

12.3.1 Final Inspection

Upon the request of the owner, and prior to occupancy, the Code Enforcement Officer shall make a final inspection, to issue a Certificate of Occupancy. No new structure shall be used or occupied until a Certificate of Occupancy has been issued. Prior to issuance of any Certificate of Occupancy, the Code Enforcement Officer, must have written certification from the owner, contractor, builder or tradesmen, that all construction has been made in conformity with the New York State Uniform Fire Prevention and Building Code.

If electrical work is performed pursuant to a building permit, the Code Enforcement Officer shall require a New York State Underwriters certificate for all electrical work performed, or a certification from a duly licensed electrician that the Fire Underwriters certificates are not required, prior to the issuance of the Certificate of Occupancy.

12.3.2 Temporary Certificates of Occupancy

At his discretion, the Code Enforcement Officer may issue a Temporary Certificate of Occupancy, for a limited period of time, not to exceed sixty (60) days.

12.4 Sanitation

12.4.1 Use of New York State Sanitation Code

The Village of Bloomingburg adopts the NEW YORK STATE SANITATION CODE, and henceforth the new construction of sanitary systems shall be done in strict accordance with said code. Revisions to existing systems should comply with the New York Sanitation Code. Prior to the start of the construction for a new sanitary sewage disposal system, the Enforcement officer shall be furnished with the results of a percolation test done by a licensed engineer. Installation of the system for one or two family houses shall conform to the latest "Waste Treatment Handbook, Individual Household Systems", as published by the New York State Department of Health. Sanitary installations for buildings other than one or two family houses shall be done in accordance with the plans prepared by professional engineers. The owner or contractor shall give the Code Enforcement Officer a minimum of twenty four (24) hours notice, prior to backfilling, so that the Code Enforcement Officer shall have the opportunity to inspect or approve each installation. All private or publicly owned sewer systems shall be required to plant a 25 foot planted or natural landscaped border on all perimeters of the sewer plant and/or system.

12.5 Authority of Code Enforcement Officer in the Event of Violation

12.5.1 Notices:

Whenever the Code Enforcement Officer is of the opinion that the execution of any work for which a building permit has been issued is contrary to the Law, and other documents filed with the application submitted for the permit, he shall serve an ORDER upon the persons responsible, directing the discontinuance of such illegal or improper action and the remedying of the condition that is in violation, within time commensurate to the amount of work required to remove the violation.

12.5.2 Stopping Work:

In case of noncompliance with this order within the allotted time, the Code Enforcement Officer, by reason of the defective or illegal work in violation of provision or requirement of this Law, or the continuance of a building operation which is contrary to public welfare, shall order in writing that all further work be stopped, and may require suspension of work until the conditions in violation have been remedied.

12.6 *Abatement of Violation*

12.6.1 Prevention Proceedings

Appropriate action proceedings may be taken by law, or in equity to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent the illegal occupancy of a building, structure or premises; or to prevent an illegal act, or conduct a business in or about any premises. These proceedings shall be in addition to penalties otherwise prescribed by law.

12.7 *Violation and Penalties*

12.7.1 Notification of Violations

Violations of this Law will be notified by the Code Enforcement Officer via certified mail. If the violations have not been removed within ten (10) days of the date of receipt of letter, a summons will be issued subjecting the violator to fines of not more than \$100.00 per day, commencing at the termination on the ten (10) day grace period.

12.8 *Board of Appeals*

12.8.1 Creation, Appointment and organization

The Board of Appeals shall consist of three members to be appointed by the Village Board in accordance with Section.7-712 the Village Law. The Village Board shall designate a chairman and vice-chairman, and may remove any member of the Board of Appeals for cause after public hearing. The members of the Board shall be appointed for a term of three years. Of the members appointed, one shall hold office for the term of one year, one for the term of two years, one for the term of three years. Their successors shall be appointed for the term of three years from and after expiration of the terms of their predecessors in office. No person who is a member of the Village Board shall be eligible for membership on such Board of Appeals.

12.8.2 Meetings

Meetings shall be hold at the call of Chairman or at other times as the Board of Appeals may determine. A quorum shall consist of three members and in order to reverse a decision of the Code Enforcement Officer or authorize a variance an affirmative vote of at least three members shall be required. The Board shall keep minutes of its proceedings and show the vote of each member upon each question, and shall keep records of its examinations and other official actions.

12.8.3 Powers and Duties

The Board of Appeals shall have all the powers and duties prescribed by law and by this Law, which are more particularly specified as follows, provided that none of the

following provisions shall be deemed to limit the powers of the said Board of Appeals that is conferred by law.

12.8.4 Interpretation

On appeal from an order, requirement, decision, or determination made by an administrative official, or on request by an official, board, or agency of the Village, to decide on the following question:

12.8.5 Determination of the meaning of any portion of the text of this Law or of any condition or requirement specified or made under the provision of this Law.

12.9 Variances

To authorize, upon appeal in specific cases, such variances from the terms of this Law as will not be contrary to the public interest where, owing to exceptional and extraordinary circumstances, there are unnecessary hardships in the way of carrying out the strict letter of this Law subject to terms and conditions to be fixed by the Zoning Board of Appeals Board; provided, however, that no such variance shall be granted unless the Board finds:

- a. that there are physical conditions, such as the case of any exceptionally irregular, narrow, shallow, or steep lot, fully described in the findings of the Board, applying to the land or building for which the variance is sought, which conditions are peculiar to such land or building and have not resulted from any act of the applicant or any predecessor in title; and
- b. that, for reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this Law would deprive the applicant of the reasonable use of such land or building and the granting of the variance is necessary for the reasonable use, of the land or building, and that the variance that will accomplish this purpose; and
- c. that the granting of the variance under such conditions as the Board may deem necessary or desirable to apply thereto will be in harmony with the general purpose and intent of this Law, will not represent a radical departure therefrom will not be injurious to the neighborhood, will not change the character thereof, and will not be otherwise detrimental to the public welfare.

12.9.1 Basis for a variance clarified

The needs or desires of a particular owner or tenant or of a particular prospective owner or tenant shall not, either alone or in conjunction with other factors, afford any basis for the granting of a variance. The fact that the improvements already existing at the time of the application are old, obsolete, outmoded, or in disrepair, or the fact that the property is then unimproved shall not be deemed to make the plight of the property unique or to contribute thereto.

12.9.2 Deprivation due to zoning classification

Where the Board finds the zoning classification of a particular property to be conducive to the deprivation of the reasonable use of the land or building by the owner thereof, and where the Board deems the same condition to apply generally to other land or buildings in the same neighborhood or district, the said Board may call this condition to the attention of the Planning Board.

12.9.3 The intent of the Law

In all cases where the Board of Appeals grants a variance from the strict application of the requirements of this Law, it shall be the duty of such Board to attach conditions and safeguards as may be required in order that the result of its action may be as nearly as possible in accordance with the spirit and intent of the Law.

12.10 Procedure

12.10.1 Application of Village Law to appeals procedures

The Board of Appeals shall act in strict accordance with the procedures specified by the Village Law and by this Law. All appeals or applications made shall be in writing, on forms prescribed by such Board. Every appeal or application shall refer to specific provisions of the Law, and shall set forth interpretation claimed, or details of variance applied for the grounds on which it is claimed that a variance should be granted.

12.10.2 Scheduling of public hearings

At least thirty-five (35) days before the date of the public hearing required by law on an application or appeal to the Board of Appeals, the secretary of said Board shall transmit to the Planning Board a copy of said application or appeal and notice of hearing. The Planning Board shall submit a report of its advisory opinion prior to the hearing. Failure of the Planning Board to submit a report shall be deemed to signify approval of application.

12.10.3 Review by Sullivan County Division of Planning & Community Development

Where the land involved in any application for a variance lies within 500 feet of any municipal boundary, county or state park or other recreation area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road, or highway, or from the existing or proposed right-of-way of any county drainage channel, or from the boundary of any county or state-owned land on which a public building is situated, such application accompanied with the notice of public hearing, shall be forwarded to the Sullivan County Division of Planning & Community Development for review in accordance with the provisions of paragraph 1 and m of Section 239, Article 12-B of the General Municipal Law of the State of New York.

12.10.4 Notice to adjacent municipalities

If the land involved in an appeal lies within 500 feet of the boundary of any other municipality, the Secretary of the Board of Appeals shall also transmit to the municipality notice of public hearing thereon no later than the day after such notice appears in the official newspaper of the Village.

12.10.5 Use of standard forms and procedures

Every decision of the Board of Appeals shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision of the Board shall be by resolution and each such resolution shall be filed in the office of the Village Clerk.

12.10.6 Timeframe for execution of the variance

Unless construction is commenced and diligently prosecuted within six months of the date of the granting of a variance such variance shall become null and void. Provided there are no substantial changes in the immediate neighborhood the Code Enforcement Officer may grant a six month extension of the original variance if construction has not been commenced within the first six months and a request for an extension has been received by the Code Enforcement Officer prior to the expiration of the first six months. In the event the Code Enforcement Officer determines that there are substantial changes in neighborhood conditions a sixth month extension may be granted by the Board of Appeals which need not hold a hearing for the purpose of granting said extension. An applicant shall be entitled to only one extension without the requirement of re-filing for a variance.

12.11 *Planning Board*

All provisions of this Law relating to the Planning Board shall be strictly construed; the Board, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and of this Law, and in strict compliance with all limitations contained herein; provided, however, that if the procedural requirements set forth in this Law have been substantially observed no applicant or appellant shall be deprived of the right to appeal.

12.11.1 Planning Board review of site plans

In all cases where this Law requires authorization an approval of plans by the Planning Board, no building permit shall be issued by the Code Enforcement Officer except upon authorization of and in conformity with the plans approved by the Planning Board. The Village hereby authorizes the Planning Board to review and approve, to approve with modification, or to disapprove site plans. The Planning Board is further authorized to issue special permits upon determination that the public

health, safety, and welfare shall be served and neighboring properties will not be injured.

12.12 *Payment of Professional Fees to Planning Board, Zoning Board of Appeals & Village Building Department*

The Village Planning Board, Zoning Board of Appeals and the Village Building Department of the Village of Bloomingburg are hereby empowered to charge an applicant the expense for professional fees incurred by either of said Boards or Building Department for professional fees which are incurred as a result of the filing of an application seeking approval by them. These fees will include but will not be limited to engineering fees and legal fees.

The professional involved, who will be hired at the request of either of the above said Boards or Building Department will submit a fee request to the appropriate Board on written voucher, for work performed by him or her on an hourly basis, to be established by said Board or Building Department.

Payment of the fee by the applicant shall be a prerequisite for approval of the application but shall be paid regardless of whether approval is granted or not. If the relief sought by applicant is granted but the fee(s) is not paid the issuing authority can revoke their action ex parte, and afterwards notify applicant of same of said revocation and that the relief sought will not be re-granted until the fees are paid.

If payment is by check, payment is not to be considered final until check clears the bank of the drawer.

This Law will become effective immediately and is hereby made applicable to all applications filed on or after the official date of adoption of this Law.

ARTICLE XIII. AMENDMENTS

13.1 Procedure for Amendments

The Village Board may from time to time on its own motion, or on petition, or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this Law according to the following guidelines:

Official notice must be given and a public hearing held by the Village Board as required by law prior to approval of amendments or other such modifications as mentioned herein. Each petition requesting a change of zoning regulations or district boundaries shall be typewritten, signed by the owner, filed in triplicate, and accompanied by the required fee.

Every such proposed amendment shall be referred to the Planning Board for a report prior to the public hearing. The Planning Board may require a plan of proposed development for which a zoning district change is sought to assist said board in the understanding of the case.

In case, however, of a protest against such changes signed by the owners of twenty percent or more of the area of the land included in such proposed change, or of that immediately adjacent extending 100 feet therefrom, or of that directly opposite thereto and extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four members of the Village Board as set forth by Section 7-708 of the Village Law of the State of New York.

13.2 Mandated County Referral:

Should any proposed amendment consist of or include any of the following conditions, the Village Clerk shall, prior to final action refer the proposed amendment to the Sullivan County Division of Planning & Community Development (DPCD), in accordance with Section 239-m of the General Municipal Law. Any change in the district classification of or the regulations applying to real property lying within a distance of five-hundred (500) feet from:

- a. The boundary of any Village or Town.
- b. The boundary of any existing or proposed County of State park or other recreation area.
- c. The right-of-way of any existing or proposed County or State parkway, thruway, expressway, road or highway.

d. The right-of-way of any existing or proposed stream or drainage channel owned by the County or for which the County has established channel lines.

e. The boundary of any existing or proposed County or State owned land on which a public building or institution is situated.

f. The boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the Agricultural and Markets Law, except this provision does not apply to the granting of area variances.

If Sullivan County DPCD recommends modification or disapproval of a proposed action, the Village Board of Trustees shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof. In the case of an extraordinary vote against the County's recommendation, the Village must within thirty (30) days of the final action, file a report with the County Planning Board outlining the reasoning for the contrary action.

13.3 *Compliance with State Environmental Quality Review Act:*

The Village Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617 of the New York Codes, Rules and Regulations.

ARTICLE XIV. INTERPRETATION, SEPARABILITY, AND EFFECTIVE DATE

14.1 Interpretation

Whenever the requirements of any other lawfully adopted rules, regulations, or ordinances conflict in their interpretation and, application with those herein set forth, the most restrictive, or that imposing the higher standards, shall govern. The provisions of this Law shall be held to be minimum requirements, adopted for the promotions of the public health, morals safety, or the general welfare.

14.2 Separability

If any clause, sentence, subdivision, paragraph, section or part of this Law is adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

14.3 Effective Date

This Law shall take effect ten days after publication in a newspaper having general circulation in the Village, but said Law shall take effect from the date of its service as against a person served personally with a copy thereof, certified by the Village Clerk under the corporate seal of the Village; and showing the date of its passage and entry in the minutes.

Village Clerk,
Village of Bloomingburg