

Village of Fairport



**CBC**

*Character-Based Code*

# ZONING CODE

## VILLAGE OF FAIRPORT



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# ARTICLE 1. GENERAL PROVISIONS

## 551-6 Title

This Chapter 551 is known, cited, and referred to as the “Zoning Code of the Village of Fairport, New York,” or “Zoning Code,” and incorporates the Village of Fairport Zoning Map(s).

## 551-7 Purpose

The purpose of this Chapter is to:

- A. Promote public health, safety, and general welfare.
- B. Implement the policies of the most recently adopted Village of Fairport Comprehensive Plan.
- C. Guide and regulate the growth, development, and redevelopment of the Village.
- D. Enhance the social and economic well-being of the community.
- E. Prevent adverse impacts to neighborhood character.
- F. Promote, in the public interest, the utilization of land for the purposes for which it is most desirable and best adapted.
- G. Prohibit uses or structures incompatible with the character of development or intended uses within districts.
- H. Divide the Village into districts, according to the areas’ overall character, including use of land and structures, design characteristics, height, location, intensity of the use of the lot, or other classification, as deemed best suited to carry out the purposes of this Chapter.
- I. Promote community sustainability and resiliency.
- J. Protect the natural resources of the community including, but not limited to trees, open space, waterways, and waterfronts.
- K. Provide relief where appropriate from the requirements and restrictions of the Chapter, including variances, and other administrative approvals.
- L. Provide administrative bodies, officials, and procedures as necessary to implement, enforce, and amend this Chapter.

## **551-8 Scope**

### **A. Territorial Application**

This Chapter applies to all land, uses, and structures within the corporate limits of the Village of Fairport.

### **B. Required Conformance**

Any part or whole of a building or structure must be erected, constructed, reconstructed, moved, and enlarged in conformance with the requirements of this Chapter. Any building, structure, or land must be used and occupied in conformance with the requirements of this Chapter.

### **C. Relation to Private Agreements**

This Chapter does not nullify any private agreement or covenant. However, where this Chapter is more restrictive than a private agreement or covenant, this Chapter shall govern. The Village is not bound by and will not enforce any private agreement or covenant.

### **D. Relation to Other Village Code Provisions**

Unless otherwise specifically provided, this Chapter controls over less restrictive Village codes, laws, or regulations, and more restrictive Village codes, local laws, or regulations control over the provisions of this Code.

### **E. Graphic Inconsistencies**

This Chapter contains graphics to assist the user in understanding and applying the Chapter. However, where there is any inconsistency between the text of this Chapter and any such graphics, the text controls unless otherwise specifically stated.

## **551-9 Applicability**

### **A. Structures Rendered Nonconforming**

If a structure existing on the effective date of this Chapter was a conforming structure before the effective date of this Chapter, but such structure does not meet all standards set forth in this Chapter in the zoning district in which it is located, that structure is deemed a nonconforming structure and is controlled by the provisions of Article 12.

## **B. Lots Rendered Nonconforming**

If a lot of record existing on the effective date of this Chapter was a conforming lot before the effective date of this Chapter, but such lot does not meet all standards set forth in this Chapter in the zoning district in which it is located, that lot is deemed a nonconforming lot of record and is controlled by the provisions of Article 12.

## **C. Previously Granted Special Process Approvals**

All approvals granted prior to the effective date of this Chapter remain in full force and effect, unless such approval is no longer needed after the effective date. The recipient of the approval may proceed to develop the property in accordance with the approved plans and any applicable conditions. However, if the recipient has failed to act on the approval before it expires, including any approved periods of extension, then it becomes null and void.

## **D. Previously Granted Variances**

### **(1) Area Variance**

An area variance granted prior to the effective date of this Chapter remains in full force and effect. The recipient of the variance may proceed to develop the property in accordance with the approved plans and all applicable conditions of the variance. However, if the recipient has failed to act on the approval before it expires then it becomes null and void.

### **(2) Use Variance**

A use variance granted prior to the effective date of this Chapter remains in full force and effect. The recipient of the variance may proceed in accordance with approval and all applicable conditions of the variance. However, if the recipient has failed to act on the approval before it expires then it becomes null and void.

## **E. Pending Applications**

Any application submitted prior to the effective date of this Chapter, or any subsequent amendment, is subject to the Chapter requirements in effect on the date that application is deemed complete.

## **F. Applicability to Right-of-Way**

The provisions of this Chapter do not apply to land located within the public right-of-way with the exception of a designated Landmark located within the right-of-way that is

subject to the authority of the Historic Preservation Commission and the applicable requirements of this Chapter.

#### **G. Utility Exemption**

The following utility uses are exempt from the provisions of this Chapter and permitted in any district: wires, cables, conduits, vaults, laterals, pipes, mains, hydrants, valves, and water supply wells.

#### **H. Severability**

If any section, paragraph, subdivision, clause, sentence, or provision of this Chapter or application of this Chapter to a particular property is adjudged by any court of competent jurisdiction to be invalid, that judgment does not affect, impair, invalidate, or nullify the remainder of this Chapter or the applicability of this Chapter to any other property unless otherwise specified. The effect of the judgment is confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which judgment or decree was rendered.

#### **I. Effective Date**

This Chapter shall take effect on February 11, 2026. Whenever used in this Chapter, the term "effective date" shall mean February 11, 2026.

## ARTICLE 2. GENERAL DEFINITIONS

This Article 2 contains general definitions. See also Article 5 for definitions and associated standards related to Uses and Accessory Uses.

### 551-10 Rules of Interpretation

The terms in the text of this Chapter are interpreted in accordance with the following rules of construction:

- A.** For the purposes of this chapter certain words and terms used herein shall have the meanings given in this Article. Except where specifically defined herein, all words shall carry their customary meanings.
- B.** The singular number includes the plural, and the plural the singular.
- C.** The present tense includes the past and future tenses, and the future tense includes the present.
- D.** The terms “must,” “shall,” and “will” are mandatory.
- E.** The terms “may” and “can” are permissive.
- F.** The terms “must not,” “will not,” “cannot,” “may not,” and “shall not” are prohibiting.
- G.** The word “and” indicates that all connected items, conditions, provisions, or events shall apply.
- H.** The word “or” indicates that the connected items, conditions, provisions, or events may apply singly or in combination.
- I.** The words “either...or” indicate that the connected items, conditions, provisions, or events may apply singly but not in any combination.
- J.** Any gender includes all genders.
- K.** The following terms are inclusive:
  - 1. The word “lot” includes the word “plot” or “parcel.”
  - 2. The word “person” includes an individual, firm, or corporation.
  - 3. A building or structure includes any part thereof.
- L.** The word “Village” means the Village of Fairport, New York.
- M.** The word “County” means the County of Monroe, New York.

- N. In case of any difference of meaning or implication between the text of this Chapter and any caption, illustration, or table, the text shall control.

### 551-11 General Abbreviations

The following abbreviations may be used within this Chapter:

- A. GFA is an abbreviation for “gross floor area.”
- B. ft is an abbreviation for “feet.”
- C. N/A is an abbreviation for “not applicable.”
- D. NYS is an abbreviation for New York State.
- E. sf is an abbreviation for “square feet.”

### 551-12 Definitions of General Terms

The following are definitions of general terms used throughout this Chapter. Definitions are not eligible for a variance.

**Aboveground Utility Structures.** Above ground utility structures including appurtenances and components for infrastructure: natural gas, water, sewer, stormwater, electricity, telephone (excluding wireless communications), cable television, fiber optic, and others.

**Accessory Building or Structure.** A detached structure located on the same lot as the principle building that is customarily incidental and subordinate to and serves the principal building and contributes to the comfort, convenience or necessity of occupants of the principal building use.

**Accessory Use.** The use of land or a structure, or portion thereof, that is related, incidental, and subordinate to the principal use of the land or structure.

**Addition.** Construction that increases the size of a structure in terms of building footprint, height, or floor area.

**Affordability level (purchase).** A for-purchase housing unit that is affordable to a household whose income does not exceed 80% of the area median income (AMI) for Monroe County as defined annually by the United States Department of Housing and Urban Development (HUD) and for which the annual housing cost of a unit, including

common charges, principal, interest, taxes and insurance (PITI), does not exceed 33% of 80% AMI, adjusted for family size; and

**Affordability level (rental).** A rental unit that is affordable to a household whose income does not exceed 80% AMI and for which the annual housing cost of the unit, defined as rent plus any tenant-paid utilities, does not exceed 30% of 80% of AMI adjusted for family size.

**Architectural Feature.** A part or projection that contributes to the aesthetics of a structure, excluding signs, that is not necessary for the structural integrity of the structure or to make the structure habitable.

**Awning.** A roof-like structure typically made of cloth, metal, or other material attached to a frame that extends from and is supported by a building. Awnings are typically erected over a window, doorway, or building front and they may be raised or retracted to a position adjacent to the building.

**Balcony.** A roofed or unroofed platform that typically projects from the exterior wall of a structure above the ground floor, that is exposed to the open air, has direct access to the interior of the building, and is not supported by posts or columns extending to the ground. A balcony may also be constructed in line with the building wall.

**Blank Wall.** The horizontal linear dimension of contiguous building wall that does not contain fenestration, doors, or decorative elements such as banding, medallions, artwork such as murals and mosaics, change in wall plane of at least three inches, or other architectural or material embellishment. Any wall less than five feet in height is not considered to be a blank wall.

**Blue Line.** The boundary of Canal Lands owned by the New York State.

**Blue Roof.** A roof designed to store water and discharge rainfall.

**Buildable Area.** The portion of a lot, excluding required setbacks, where a structure or building improvements may be erected.

**Building.** Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property.

**Building Code.** The NYS Uniform Fire Prevention and Building Code.

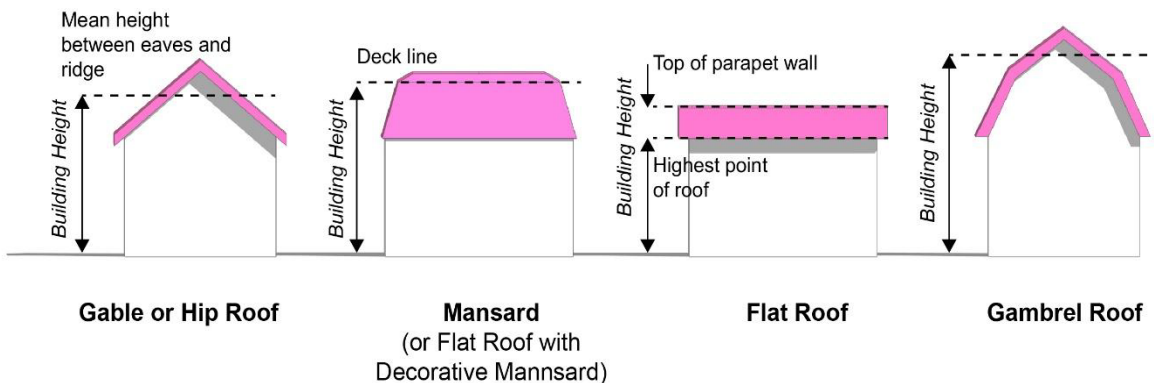
**Building Coverage.** That portion(s) of a lot developed with principal and accessory buildings. Building coverage includes all parts of the principal building including, but not limited to, bay windows, cantilevered floor space (“box-outs”), porches, decks, and covered breezeways, and the accessory buildings.

**Building Façade.** The exterior wall of a building. When this Chapter refers to a building facade that faces a street, a lot line, or the Canal, that includes the facades of buildings that are set back from the lot line. This also includes facades that are set back and have parking areas located in front of the building façade.

**Building Height.** Building height is measured from the average elevation of the finished grade at the front lot line to:

- A. The mean height between eaves and ridge for gable and hip roofs.
- B. The deckline for mansard roofs.
- C. The midpoint of the highest pitched section of a gambrel roof.
- D. The highest point of the roof for flat roofs with parapet walls of 48 inches in height or less. When parapet walls exceed 48 inches in height, the highest point of the parapet wall.

A building appurtenance such as a chimney, a parapet walls up to 48 inches in height, a skylight, a steeple, a flag pole, a smokestack, a cooling tower, an elevator bulkhead, a monument, a stack, an ornamental tower, a spire, a water tank, a standpipe, or a penthouse to house mechanical equipment, and such are exempt from the maximum height limitation



*Building Heights for various building types*

**Canopy.** A canopy is a roof-like cover designed for protection from the weather or as a decorative embellishment affixed to a building or freestanding, with supports that extend to the ground.

**Carport.** An open-sided, roofed vehicle shelter, typically attached on one side to a building, but may be freestanding.

**Change of Use.** A transition to a use that is different, in terms of specific use type, than the uses it replaces. Not included are changes in occupancy involving the same specific

use, reduction in the number of dwelling units in a multifamily dwelling where there is not an increase in floor area, extension of use or addition.

**Chimney.** A vertical shaft of reinforced concrete, masonry or other approved material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid, or gaseous fuel.

**Co-Location.** Placement of telecommunication equipment from more than one service or service provider on a single tower or site.

**Commercial Vehicle:** Any motor vehicle primarily used for the transportation, sale or distribution of goods, services or commercial equipment. This includes, but is not limited to, trucks, vans, buses, delivery vehicles, and vehicles with visible commercial signage, equipment or which bears a commercial License plate.

**Commercial/Industrial Materials.** Materials stored, warehoused, exchanged, used, consumed, assembled, repaired, salvaged, manufactured, generated, displayed, offered for sale, or discarded at a commercial or industrial use facility, including, but not limited to, raw materials, equipment, parts, merchandise, construction materials, by-products, regardless of whether they are intended to be used, salvaged, or discarded.

**Coordinated Signage Plan (CSP).** A Coordinated Signage Plan (CSP) shall be used to coordinate all signs within a development, establishing criteria to govern the design and construction of signs for current and future tenants.

**Deck.** An uncovered outdoor structure, attached or freestanding, built on supports.

**Development or Redevelopment.** Any change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling.

**District.** A portion of the Village of Fairport within which certain regulations and requirements or various combinations thereof apply pursuant to the provisions of this Chapter.

**Donation Box.** An unmanned receptacle designed with a door, slot, or similar opening intended to accept and store donated clothes and household items to be picked up and emptied by the organization operating the receptacle.

**Drainage.** The removal of surface or subsurface water from a given area either by gravity or by pumping. The term is commonly applied to surface and ground water.

**Driveway.** The private access delineated through pavement, gravel, or other surface

from a public right-of-way to a parking space or garage.

**Dwelling Unit.** One room, or a group of rooms joined to each other, located in a dwelling, designed, and maintained as unified living quarters, containing integrated facilities used for living, sleeping, cooking, eating, and sanitation.

**Dwelling Unit Conversion.** The rebuilding or remodeling of, addition to, alteration, expansion, enlargement, or conversion in any manner of an existing building to increase the number of dwelling units contained therein.

**Eave.** The projecting lower edges of a roof overhanging the wall of a structure.

**Electric Vehicle (EV) Charging Station.** An electric vehicle charging station, also called “EV charging station,” “electric recharging point,” “charging point,” and “EVSE (electric vehicle supply equipment),” that supplies electric energy for the recharging of plug-in electric vehicles, including all-electric cars, neighborhood electric vehicles, and plug-in hybrids.

**Encroachment.** The extension, placement, or existence of any structure, or a component of such, into a required setback, adjacent property or right-of-way.

**Enlargement.** The addition of floor area to an existing building that increases the size of an existing structure.

**Expansion.** An increase in the amount of existing floor area within an existing building or an increase in the amount of existing floor area occupied by a use within an existing building.

**External Illumination.** Illumination by an artificial source of light not internal to the sign face.

**Exterior Lighting.** The illumination of an outside area or object by any man-made device that produces light by any means.

**Exterior Stairwell.** One or more flights of stairs, and the necessary landings and platforms connecting them, to form a continuous passage from the entryway of a floor or level to another in a structure located on the exterior of a principal building.

**Exterior Wall.** Any wall that defines the exterior boundaries of a building or its courts or of a structure.

**Facade.** An exterior building wall, from grade to the top of the parapet or eaves. A facade incorporates the full width of a building elevation, including any projections or recesses occurring across an elevation.

**Fence.** A structure over two feet in height used as a boundary, screen, separation, means of privacy, protection, or confinement, and is constructed of wood, plastic, metal, chain link, masonry, or other similar material and is used as a barrier, excluding retaining walls.

**Floodlight.** A light, typically in a grouping of several lights, used to illuminate the exterior of a building or sign.

**Gazebo.** A freestanding accessory structure with a roof but otherwise open-air structure designed for recreational use only and not for habitation.

**Grade.** For completed surfaces, such as lawns, walks, and roads:

1. For buildings and structures more than five feet from any street line, the average level of the finished surface adjacent to the building or structure.
2. For buildings or structures any portion of which is located within five feet of a street line or lines, the center line of the streets.

**Green Roof.** A roof partially or completely covered with vegetation and a growing medium, typically planted over such layers as a waterproofing membrane, root barrier, and drainage and irrigation systems.

**Greenhouse.** A structure constructed chiefly of glass, glasslike or translucent material, cloth, or lath, which is devoted to the protection or cultivation of plants.

**Gross Floor Area (GFA).** The gross floor area of a structure is the sum of the gross horizontal areas of all floors of the structure as measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings.

**Hedgerow.** A row of closely planted shrubs, bushes, or any kind of plant forming a boundary.

**Hours of Operation.** The hours specified when businesses may be open to the public or permitted hours for loading, unloading and other service operations related to the business. The presence of an employer or employees within a building preparing for or closing out a business day is not considered to be a service operation.

**Loading Space.** An unobstructed, hard-surfaced area used for the standing, loading, and/or unloading of trucks and trailers.

**Local Landmark.** Any Village-designated structure (exterior only), improvement, or cultural site that by its architectural or historic merit or impact is worthy of special recognition and preservation.

**Light Pole.** Pole on which a luminaire is mounted.

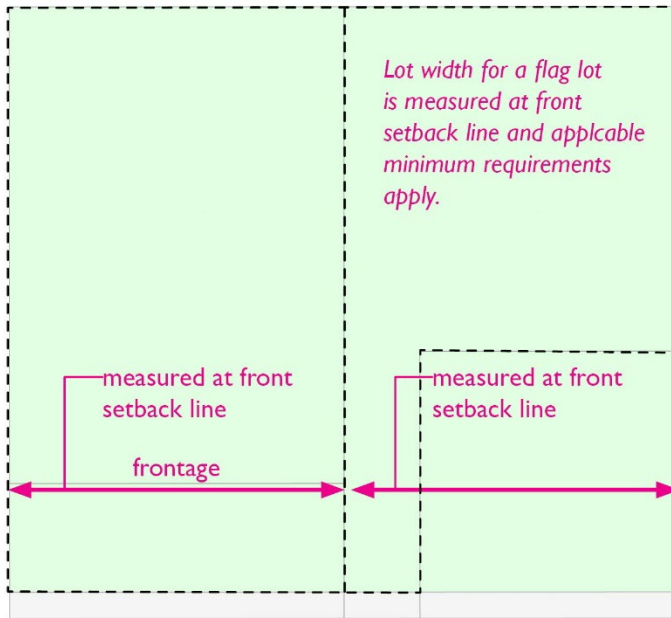
**Lot.** A tract of land under single ownership and occupied by, or designated to be developed for, a building and its accessory buildings, or a principal use, together with such open spaces and yards as are designed and arranged, or required under this Chapter, to be used with such buildings or use.

1. An **interior lot** is a lot other than a corner or double-frontage lot, bounded by two interior side lot lines.
2. A **corner lot** is a parcel of land at the junction of, and fronting on, two or more intersecting streets. For determination of minimum setbacks, all corner lots shall be deemed to have two front yards, a side yard, and a rear yard. Rear yard shall be determined as the area behind the house, opposite of the main entrance door to the structure.
3. A **flag lot** is platted so that the main building site area (the “flag”) is set back from the street on which it fronts and includes an access strip (the “pole”) connecting the main building site with the street.

**Lot Area.** The total area within the boundaries of a lot.

**Lot Width.**

1. Lot width is the horizontal distance between side lot lines measured at the required front yard setback line. This requirement applies to flag lots.
2. For townhouse developments, lot width requirements are used to calculate the required frontage of the overall development site for the townhouse development, not individual townhouse dwelling unit widths.



*Lot width measurement locations*

**Lot Width, Average.** Average lot width is calculated by the block frontage of lots on both sides of the street when both sides of the street are classified as the same zoning district. When the opposite side of the street is within a different zoning district, only the lot width of the block width on the side of the street where the lot is located is used within averaging.

**Lot of Record.** A parcel of land that is a lot in a subdivision recorded on the records of the Recorder of Deeds of Monroe County, New York, or that is described by a metes and bounds description which has been so recorded.

**New Construction.** Structures for which the start of construction commences on or after the effective date of the applicable sections of this Chapter.

**Noncommercial Message.** The expression of noncommercial ideas and messages. A noncommercial message does not promote a business, product, service, commercial entertainment, or other commercial activity offered on or off the premises.

**Nonconforming Lot.** A lawful lot of record existing on the effective date of this Chapter that does not comply with the lot requirements in the district in which it is located.

**Nonconforming Sign.** A sign lawfully existing on the effective date of this Chapter that does not comply with all of the standards and regulations of this Chapter or any subsequent amendment hereto.

**Nonconforming Structure.** A principal or accessory structure lawfully existing on the

effective date of this Chapter that does not comply with all of the standards and regulations of this Chapter or any subsequent amendment hereto.

**Nonconforming Use.** The use of a structure or land lawfully existing on the effective date of this Chapter that does not comply with all of the standards and regulations of this Chapter or any subsequent amendment hereto.

**Off-Street Parking.** The storage space for an automobile on premises other than public rights-of-way.

**Owner.** Includes the holder of legal title as well as holders of any equitable interest, such as trust beneficiaries, contract purchasers, option holders, lessees under leases having an unexpired term of at least ten years. Whenever a statement of ownership is required by this Chapter, full disclosure of all legal and equitable interests in the property is required.

**Parapet wall.** The extension of a wall above a roofline.

**Parking Facilities.** A parking lot or parking garage, or a combination of a parking lot and parking garage.

**Parking Pad.** Land area constructed as a parking space accessory to a single-family detached, two-family, or townhouse.

**Parking Space.** A space for the temporary parking of a motor-driven vehicle within a public or private parking area.

**Patio.** A hard surface laid directly on the ground designed and intended for gathering or cooking and not used as a parking space. Patios are constructed such that its finished walking surface is laid or poured directly on finished grade.

**Porch.** An architectural feature that projects from the exterior wall of a structure and is covered by a roof or eaves.

1. **Porch – Unenclosed.** A roofed open structure projecting from the exterior wall of a building and having at least 60% of the total area of the vertical planes forming its perimeter unobstructed.
2. **Porch – Enclosed.** A porch fully enclosed by walls, screens, lattice, or other material.

**Porch, Second Story.** An architectural feature that projects from the exterior wall of a structure and is covered by a roof or eaves and open on all sides that do not abut the principal building, which is located directly above and connected to a first story

unenclosed porch.

**Porte Cochere.** A permanent structure built over a driveway or entry drive attached to a dwelling that provides temporary shelter to persons exiting a vehicle. A porte cochere shall be considered an accessory structure.

**Premises.** A lot, plot, or parcel of land, together with the buildings and structures thereon. When used in the context of sexually oriented businesses, premises means the building in which a sexually oriented business is conducted as well as its surrounding yard and parking areas and any additional required parking areas.

**Principal Building.** A non-accessory structure in which a principal use of the lot on which it is located is conducted.

**Principal Use.** The main use or uses of land or structures as distinguished from an accessory use.

**Prominent Entrance.** An entrance that is visually distinctive from the remaining portions of the facade along which it is located. A prominent entrance contains at least three of the following elements: decorative pedestrian lighting/sconces; architectural details carried through to upper stories; covered porches, canopies, awnings, or sunshades; archways; transom or sidelight windows; pediments/entablatures with brackets, pilasters or columns, terraced or raised planters; common outdoor seating enhanced with specialty details, paving, landscaping, or water features; and stoops with ramps or stairs.

**Quonset Hut.** Formed metal or plastic structure designed and/or marketed for industrial or agricultural use.

**Recreational Vehicle.** Any licensed or unlicensed vehicle or boat designed for temporary living quarters, recreation, or temporary human habitation and not used as a commercial vehicle including, but not limited to, the following: boat/watercraft, camper trailer, motorized trailer, off-road vehicle, racing car or cycle, travel trailer, utility trailer and truck camper.

**Refuse Container.** A container for the collection of refuse.

**Recycling Containers.** A container for the collection of recyclables.

**Redevelopment.** See “Development or Redevelopment.”

**Residential Building.** A building the principal use of which is a residential use.

**Retaining Wall.** Any wall built or designed to retain or restrain lateral forces of soil or

other materials, said materials being similar in height to the height of the wall.

**Roofline.** The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys or minor projections.

**SEQRA.** The State Environmental Quality Review Act of New York State as defined in Article 8 of the New York State Environmental Conservation Law.

**Setback.** The distance between the property line and the exterior wall of the building. All measurements shall be made at right angles to or radially from the lot lines to the nearest portion of the building lines. Setbacks from street lines to building lines are defined as "**front setbacks.**" Setbacks from side lot lines are "**side setbacks.**" Setbacks from rear lot lines are "**rear setbacks.**"

**Sign.** Letters, numbers, symbols, pictures, and/or illumination designed to identify, announce, direct attention to, and/or inform about a product, service, place, activity, person, institution, business, or solicitation, that is visible from a public right-of-way or public place. Signs do not include public art; to be considered public art, such artwork cannot contain any commercial messages.

**Sign, Animated.** A sign that uses moving or changing lights to depict action, movement, or the optical illusion of movement of part of the sign structure, sign, or pictorial segment, or including the movement of any illumination or the flashing or varying of light intensity to create a special effect or scene. Animated signs do not include electronic message signs.

**Sign, Awning.** An awning sign is a sign printed or displayed upon an awning.

**Sign, Balloon.** A sign or advertising device designed to be airborne or inflated and tethered to the ground or other structure. This includes any air-inflated signs and any signs that inflate and move via air inflation.

**Sign, Banner.** A temporary sign printed upon flexible material mounted with or without rigid frames on a building or the ground.

**Sign, Blade.** A sign that is attached to a rigid structure that extends more than 18 inches beyond the surface of the structure to which it is attached.

**Sign, Cabinet Box Wall.** A type of wall-mounted sign constructed as within a box where the flat sign face is not an integral part of the structure and is specifically constructed to allow the sign face to be changed without any alteration to the box structure, and may or may not be internally illuminated. A cabinet box wall sign does not include molded wall signs, routed metal signs, or similar designs.

Generally, a cabinet box wall sign is designed by applying vinyl printed with the sign message onto acrylic/plexiglass sheets and then inserting such into the cabinet structure.

**Sign, Canopy.** A canopy sign is a sign printed, mounted, or installed upon a canopy.

1. **Canopy - Non-Structural.** A roofed structure attached to a building, that is not integral to the structure, that is made of durable, weather-resistant material such as canvas, canvas-like material, nylon, or vinyl-coated fabric, placed to extend outward from the building and supported both by mountings on the structure wall and by supports that extend to the ground.
2. **Canopy - Structural.** A roofed structure constructed of permanent building materials, such as metal, brick, or similar materials, that is constructed as part of and attached to a building, and extends outward from the building and supported both by the structure and by supports that extend to the ground. Certain structural canopies may also be constructed as a freestanding structure on the same lot with the principal use and/or structure.

**Sign, Electronic Message.** A sign designed where a portion of the sign area uses changing light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the electronic display panel(s) to form a message or messages in text and/or image from where the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. Time/temperature signs are not considered electronic message signs. Flashing signs, animated signs, and video display signs are not considered electronic message signs.

**Sign, Feather Flag/Sail.** A freestanding attention-getting device, vertical in orientation, typically constructed of cloth held taut by a single post.

**Sign, Flashing.** A sign with an intermittent or sequential flashing light source used primarily to attract attention. Flashing signs do not include electronic message signs.

**Sign, Freestanding.** A permanent sign that is placed upon or supported by the ground independently of any other structure on the lot.

**Sign, Gateway.** A sign that is installed over a pedestrian entryway and supported by the ground, independent of the principal structure on the lot, designed as an entryway feature to the property.

**Sign, Marquee.** A permanent roof-like structure that extends from the wall, with no

supports extending to the ground, constructed over the entrance of a building of permanent building materials that includes a sign along its edge for changeable messages, whether electronic or by hand. Marquees are supported solely by the building to which they are attached. No exterior columns or posts are permitted as supports.

**Sign, Moving.** Any sign that rotates, revolves, or has any visible moving part, or any sign that gives the appearance of movement, including signs designed to be moved by wind or other natural elements. This includes pennants, ribbons, streamers, sheets, spinners, or other moving devices. A tri-vision sign where triangular prisms rotate inside a frame to show a new message and/or information are considered moving signs. Moving signs do not include analog clocks or barber poles.

**Sign, Off-Premise Advertising Sign – Permanent.** A permanent sign directing attention to a specific business, product, service, entertainment event, activity, or other commercial activity that is not sold, produced, manufactured, furnished, or conducted at the property upon which the sign is located. Also called an “advertising sign.”

**Sign, Off-Premise Advertising Sign – Temporary.** A temporary sign directing attention to a specific business, product, service, entertainment event, activity, or other commercial activity that is not sold, produced, manufactured, furnished, or conducted at the property upon which the sign is located. This includes any ground-mounted, building-mounted, or sign painted, pasted, or otherwise affixed to any tree, rock, fence, utility pole, hydrant, bridge, sidewalk, parkway, curb or street, bench, or trash receptacle that directs attention off-premises.

**Sign, Portable Readerboard.** A readerboard sign that is intended, by design and construction, to rest upon the ground for support and may be easily moved or relocated for reuse and where a portion of the sign area allows for a message to be changed manually. Portable readerboard signs include, but are not limited to, signs mounted upon a trailer, wheeled carrier, or other non-motorized mobile structure, with wheels or with wheels removed.

**Sign, Roof.** A sign that is erected, constructed, or maintained on and/or extending above the roof structure or parapet of any building with the principal support attached to the roof structure.

**Sign, Skyline.** A sign attached to the topmost band or bands of the building façade.

**Sign, Wall.** A sign that is attached directly to an exterior wall of a building or dependent upon a building for support and projects 18 inches or less from the wall

of a structure with the exposed face of the sign in a plane substantially parallel to the face of the wall. Window signs are not considered wall signs.

**Sign, Wall - Projected.** A sign that is projected by an optical device that projects an image directly onto the exterior wall of a building or structure by light or other technological means.

**Sign, Window.** A sign that is attached directly to, placed directly upon, or printed directly on the interior or exterior of a window or door of a building, or a sign placed on the interior within three feet of a window intended for viewing from the exterior of such a building. A window sign may be either permanent or temporary. Shadowbox design within display windows, where the window display is designed with a background enclosure against which signs are mounted that blocks view into the establishment, is considered a window sign and the entire area of the shadowbox is subject to the maximum sign area limitation.

**Site Preparation.** The filling, stripping of vegetation, grading, or altering of existing topography.

**Solar Panel.** A photovoltaic device capable of collecting and converting solar energy into electricity.

**Solar Shade Structure.** An architectural element designed to provide shade and reduce solar heat gain from the sun typically constructed using materials that block and/or filter sunlight, such as fabric, mesh, or specialized shading materials. Solar shade structures offer protection from direct sunlight, UV rays, and excessive heat.

**Special Process.** A process where one or more of the following approvals is required: Site Plan Review, Area Variance, Use Variance, Special Permit, Certificate of Appropriateness, Zoning Map Amendment, Administrative Adjustment, Appeal of Administrative Decisions, and Planned Development.

**Stoop.** An exterior floor typically constructed of stone, concrete, and/or masonry, with a finished floor elevation higher than the adjacent ground level, often with steps leading up to it, and utilized primarily as an access platform to a structure.

**Story.** That portion of a building, excluding a basement, between the surface of any floor and the surface of the floor next above; also, any portion of a building used for human occupancy between the topmost floor and the roof.

**Street.** A public or private way, square, or lane, permanently open to common and general use, which affords the principal means of access to abutting properties.

**Street Frontage.** That portion of any lot line abutting the right-of-way line of any public street.

**Structural Alteration.** Any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.

**Structure.** Anything constructed or erected with a fixed location on the ground above grade but not including poles, lines, cables or other transmission or distribution facilities of public utilities.

**Substantial Repair or Rehabilitation.** Repair or rehabilitation of a structure in which the cost of repair or rehabilitation is equal to or exceeds 50% of the assessed value of the structure.

**Substantial Completion.** The stage in the development or construction of a project when all required zoning, site, and infrastructure improvements—excluding minor outstanding items—have been completed in accordance with approved plans and permits, to the extent that the project can operate or be used for its intended zoning-approved purpose, as determined by the Zoning Officer.

**Swimming Pool.** Any structure intended for swimming or recreational bathing, capable of containing water over 24 inches deep. This includes in-ground, aboveground, and on-ground swimming pools, hot tubs, and spas.

**Temporary Use.** A temporary use is one established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

**Trellis.** A frame of latticework used as a screen or as a support for climbing plants.

**Transparency.** The required amount of see-through window area as a percentage of the specified facade area. Doors are included in ground floor transparency when such doors are designed with glass or other transparent materials. Garage entrances shall not be included in ground floor transparency.

**Use.** The purpose or activity for which the land or structure is designed, arranged, or intended, or for which it is occupied or maintained.

**Vehicle Storage Area.** Any outdoor area used for the storage of vehicles.

**Video Display Screen.** A sign, or portion of a sign, that displays an electronic video, whether pre-recorded or streaming.

**Water Frontage.** That portion of any lot line abutting the Canal.

**White Roof.** A roof designed to deliver high solar reflectance, reducing heat transfer to the building.

**Yard, Front Yard and Front Setback**

The front yard and front setback extend the full width of the lot between side lot lines measured perpendicular to the front lot line.

1. **Front Yard:** A front yard is located between a principal building line and the front lot line.
2. **Front Setback:** A front setback is the required minimum distance per the zoning district that a principal building must be located from the front lot line.
3. Front setbacks on irregular lots are subject to the additional provisions:
  - i. On a lot with a radial (curved) front lot line, the required front setback, as measured from the right- of-way line follows the curve of the lot line.
  - ii. For flag lots, the front yard and setback is measured from the rear lot line of the lot that separates the flag portion of the lot from the street.

**Yard, Interior Side Yard and Interior Side Setback**

The interior side yard and interior side setback extend along the interior side lot line between the front and rear yard or setback, measured perpendicular to the interior side lot line.

1. **Interior Side Yard:** An interior side yard is located between a principal building line and the interior side lot line.
2. **Interior Side Setback:** An interior side setback is the required minimum distance per the zoning district that a principal building must be located from the interior side lot line.
3. **Total Interior Side Setback:** The total combined interior side setback required on the lot. This standard does not apply to corner lots.
4. For townhouse developments, the interior side yard and interior side setback are only applicable to end units of the overall townhouse building.

**Yard, Corner Side Yard and Corner Side Setback**

The corner side yard and corner side setback extend along the corner side lot line between the front yard or front setback and the rear lot line, measured perpendicular to the corner side lot line.

1. **Corner Side Yard:** A corner side yard is located between a principal building line and the corner side lot line.
2. **Corner Side Setback:** A corner side setback is the required minimum distance per the zoning district that a principal building must be located from the corner side lot line.

#### **Yard, Rear Yard and Rear Setback**

The rear yard and rear setback extend between interior side lot lines, measured perpendicular to the rear lot line.

1. **Rear Yard:** A rear yard is located between a principal building line and the rear lot line.
2. **Rear Setback:** A rear setback is the required minimum distance per the zoning district that a principal building must be located from the rear lot line.
3. In the case of a corner lot, the rear yard and rear setback extend between the interior side lot line to the required corner side setback, measured perpendicular to the rear lot line.

#### **Yard, Yard and Setback Requirements for Double-Frontage Lots**

For double-frontage lots, both the front and the rear required setbacks must meet the required front setback of the zoning district. In the case of a double-frontage lot, one of the front setbacks shall be considered a rear yard for the purposes of applying the accessory structure regulations of this Chapter; the required dimension of the front setback still applies.

**Zoning Officer.** The Zoning Officer of the Village of Fairport, or their designee.

## **ARTICLE 3. ZONING DISTRICTS**

### **551-13 Establishment of Districts**

In order to carry out the purposes and provisions of this Chapter, the Village of Fairport is hereby divided into the following districts:

- A. RLD – Residential Low Density**
- B. RN - Residential Neighborhood**
- C. RTN - Residential Transitional Neighborhood**
- D. GN - General Neighborhood**
- E. DTN - Downtown**
- F. CD - Canal District**
- G. IND – Industrial**

### **551-14 Zoning Map**

#### **A. Map Incorporated**

The boundaries of the zoning districts hereby established are shown on a map titled “Village of Fairport Zoning Map.” The Zoning Map and all notations, references, and other information shown thereon shall have the same force and effect as if fully set forth or described herein, and such map is hereby made part of this Chapter. The Zoning Map shall be properly attested and kept on file in the office of the Village Clerk.

#### **B. District Boundaries**

- (1) Where uncertainty exists with respect to the boundaries of the various districts, as shown on the Zoning Map, the following rules apply:
  - (a) The district boundaries are the centerlines of the streets, alleys, waterways, and rights-of-way. Where designation of a boundary line on the Zoning Map coincides with the location of a street, alley, waterway or right-of-way, the centerline of such street, alley, waterway, and right-of-way shall be construed to be the boundary of such district.
  - (b) Where the designation on the Zoning Map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary.

- (2) Where a district boundary divides a lot of record at the time such boundary is adopted, the district requirements of the greater portion of the lot will become the requirements of the entire lot.
- (3) If, upon the application of this section, the district boundary remains unclear, the Zoning Officer will interpret the district boundary lines on the Zoning Map.

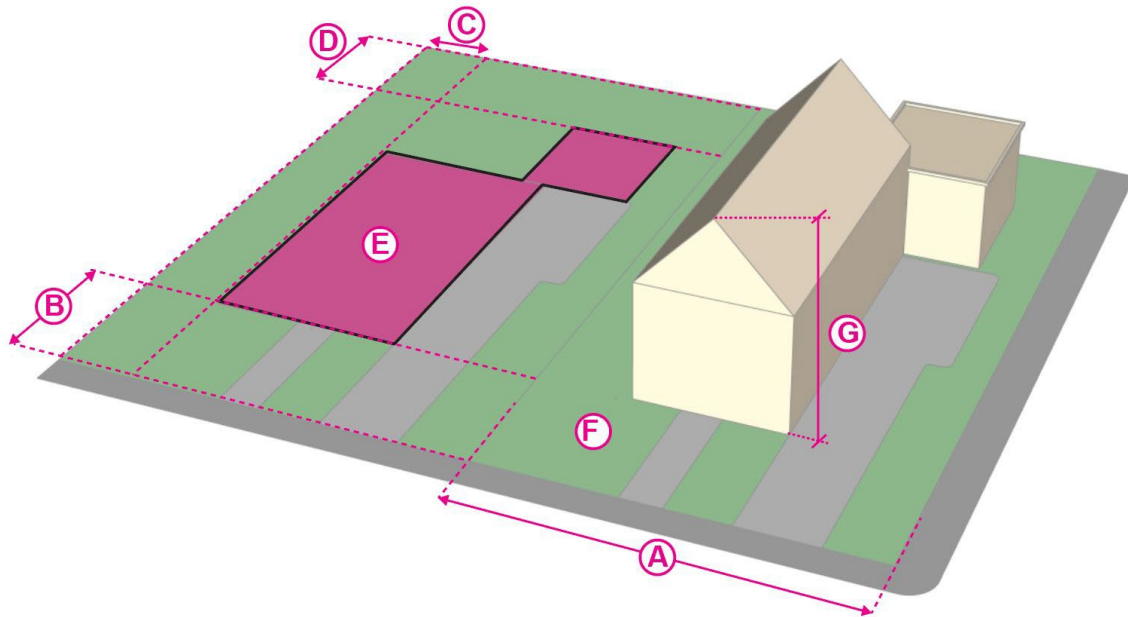
# ARTICLE 4. DISTRICT STANDARDS

## 551-15 Residential Low Density (RLD)

### A. Purpose

The RLD District is intended to maintain residential areas in relatively low densities. The RLD District is primarily characterized by predominantly single-family detached dwellings, while allowing for accessory structures, accessory dwelling units, and home occupations. This District has larger lot sizes and larger setbacks than the other residential districts.

### B. RLD - Lot Standards



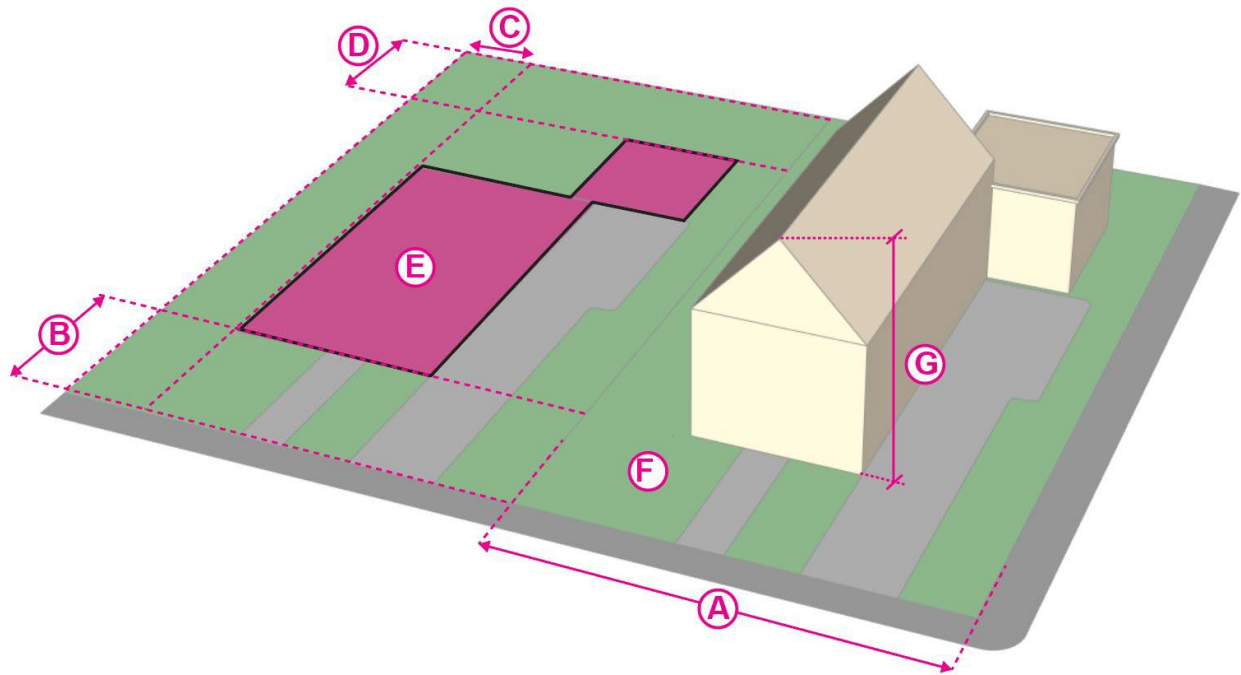
RLD			
<b>Lot Standards</b>			
Minimum Lot Area	-	15,000 sf	
Minimum Lot Width	A	85 ft	
		<b>Principal Building</b>	<b>Accessory Building</b>
Minimum Front Setback	B	50 ft or see Section 551-75	50 ft
Minimum Side Setback	C	15 ft	5 ft
Minimum Rear Setback	D	50 ft	5 ft
Maximum Building Coverage (% of area)	E	15	
Maximum Building Height (Feet)	G	30	

## 551-16 Residential Neighborhood (RN)

### A. Purpose

The RN District is a consists primarily a mix of single-family and two-family dwellings, while allowing for accessory structures, accessory dwelling units, places of worship, schools, and home occupations. This District has smaller lot sizes and less frontage, as well as smaller setbacks.

### B. RN District - Lot Standards



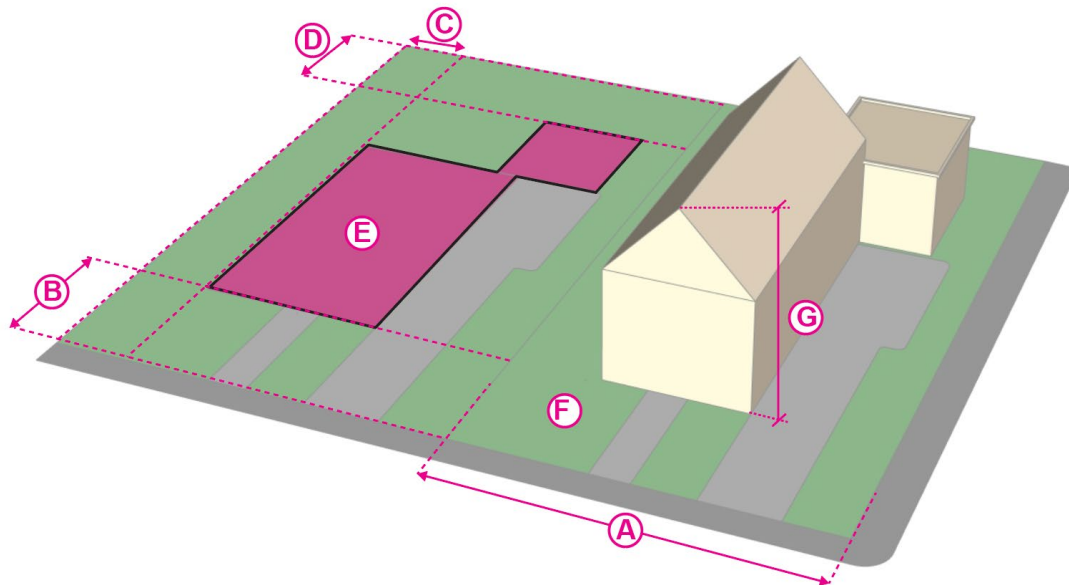
RN			
<b>Lot Standards</b>			
Minimum Lot Area	-	7500 sf	
Minimum Lot Width	A	50 ft	
		<b>Principal Building</b>	<b>Accessory Building</b>
Minimum Front Setback	B	30 ft or see Section 551-75	30 ft
Minimum Side Setback	C	10 ft	5 ft
Minimum Rear Setback	D	30 ft	5 ft
Maximum Building Coverage (% of area)	E	35	
Maximum Building Height (Feet)	G	30ft	

## 551-17 Residential Transitional Neighborhood (RTN)

### A. Purpose

The RTN District is a higher density residential district that includes a mix of single-family, two-family, and multifamily dwellings, while allowing for accessory structures, accessory dwelling units, places of worship, and home occupations. This District has smaller lot sizes and less frontage, as well as smaller setbacks. The RTN District is intended to provide residential areas that accommodate higher-density housing while maintaining, and enhancing existing residential uses. The RTN District is proximate to shopping and service opportunities.

### B. RTN - Lot Standards



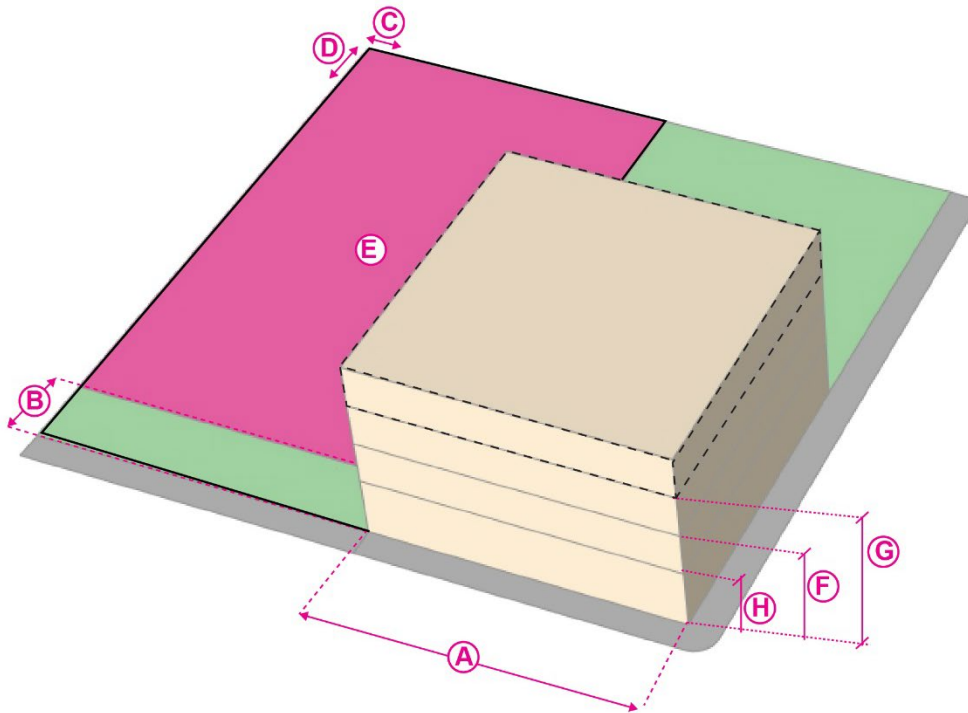
RTN			
<b>Lot Standards</b>			
Minimum Lot Width	A	25 ft: townhouses 50 ft: all other uses	
Minimum Lot Area	B	4,000 sf	
		<b>Principal Building</b>	<b>Accessory Building</b>
Minimum Front Setback	C	20 ft or see Section 551-75	20 ft
Minimum Side Setback	D	10 ft	5 ft
Minimum Rear Setback	E	15 ft	5 ft
Maximum Building Coverage (% of area)	F	55	
<b>Height Standards (Maximum Stories/Feet)</b>			
(Stories / Feet)	G	3 / 42	

## 551-18 Downtown (DTN)

### A. Purpose

The DTN District is an area that is the heart of the Village. This District is centered on Main Street and is primarily the downtown business district. The DTN District accommodates a wide range of uses that are compatible based on their design and performance. The District is characterized by mixed-use and commercial buildings that are located close to lot lines with consideration given to historic conditions and adjacencies. Buildings are generally multi-story and have shopfronts on the ground floor with commercial uses on the first floor and residential uses on the upper floors. This District also has a substantial degree of pedestrian activity, as parking is located behind buildings.

### B. DTN - Lot Standards



		DTN	
<b>Lot Standards</b>			
Minimum Lot Area		No minimum	
Minimum Lot Width	A	25 ft	
		<b>Principal Building</b>	<b>Accessory Building</b>
Front Setback	B	None	25 ft
Minimum Side Setback	C	None	5 ft
Minimum Rear Setback	D	None	None

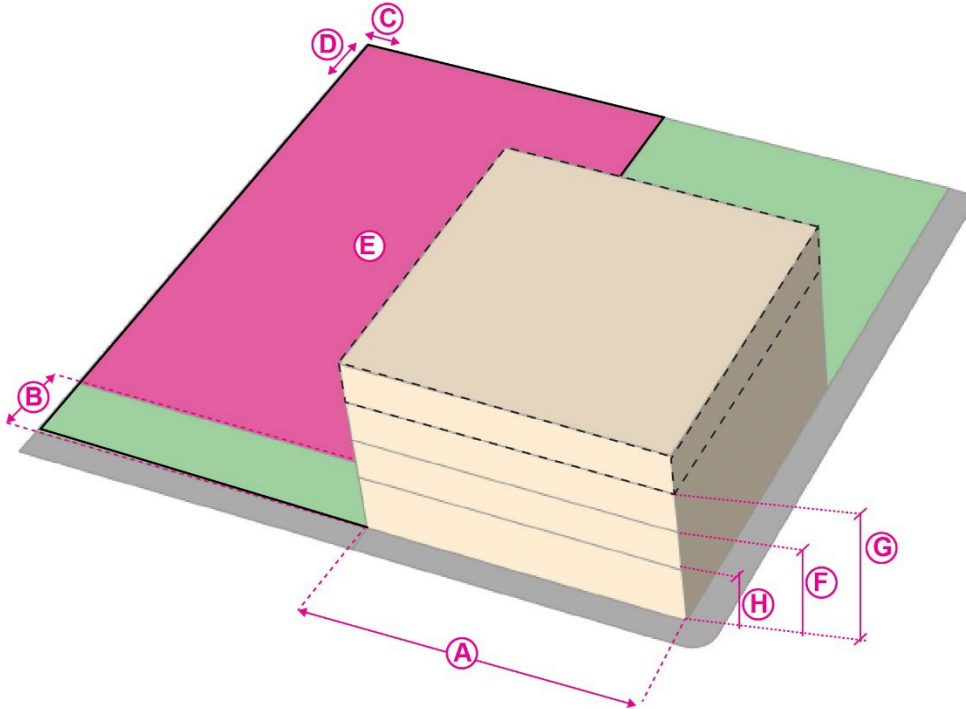
		<b>DTN</b>
Maximum Building Coverage (% of area)	E	100
<b>Height Standards</b>		
Minimum Building Height (Feet)	F	24
Maximum Building Height (Stories / Feet)	G	3 / 45 4 / 55 via Special Permit. See 551-23.
Minimum First Floor Height (Feet)	H	12

## 551-19 General Neighborhood (GN)

### A. Purpose

The GN District is situated near the DTN District and serves as a transitional area leading into the RTN District. It supports a broad mix of uses, including commercial, light industrial, multifamily residential, and mixed-use development. Due to its proximity to Downtown, the GN District promotes a walkable, pedestrian-friendly atmosphere.

### B. GN - Lot Standards



GN			
<b>Lot Standards</b>			
Minimum Lot Area	-	Residential: 10,000 sf Nonresidential: 4,000 sf	
Minimum Lot Width	A	35 ft	
		<b>Principal Building</b>	<b>Accessory Building</b>
Minimum Front Setback	B	25 ft	25 ft
Minimum Side Setback	C	15 ft	10 ft
Minimum Rear Setback	D	15 ft	10 ft
Maximum Building Coverage (% of area)	E	70	
Height Standards (Maximum stories/feet)			
Residential Uses	G	3 / 40	
Nonresidential / Mixed-use	G	3 / 45 4 / 55 via Special Permit. See 551-23.	

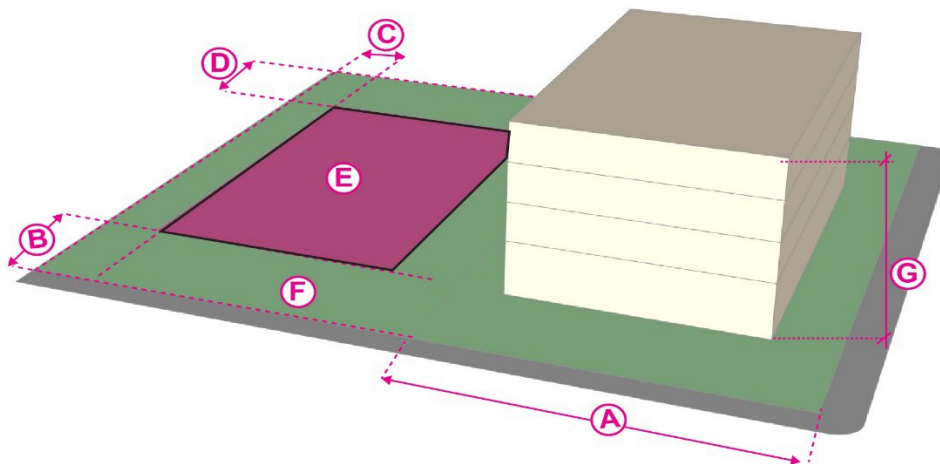
Note: Adaptive reuse of existing structures are exempt from the above dimensional requirements.

## 551-20 Industrial (IND)

### A. Purpose

The IND District provides an area where a range of light industrial uses may locate and where options for complementary uses exist in older two-story and multistory buildings. This District is intended to provide appropriate locations for manufacturing, processing, and assembly activities, as well as wholesale and warehousing activities and related supportive activities, that will not have any unreasonable adverse impacts on surrounding land uses. The obsolescence of many industrial buildings for traditional manufacturing purposes is recognized, and the re-occupancy and redevelopment of those buildings is encouraged.

### B. IND - Lot Standards



IND			
<b>Lot Standards</b>			
Minimum Lot Area	-	10,000 sf	
Minimum Lot Width	A	80 ft	
		<b>Principal Building</b>	<b>Accessory Building</b>
Minimum Front Setback	B	30 ft	30 ft
Minimum Side Setback	C	15 ft	15 ft
Minimum Rear Setback	D	25 ft	25 ft
Maximum Building Coverage (% of area)	E	50	
<b>Height Standards</b>			
Maximum Building Height (Stories / Feet)	G	4 / 52	

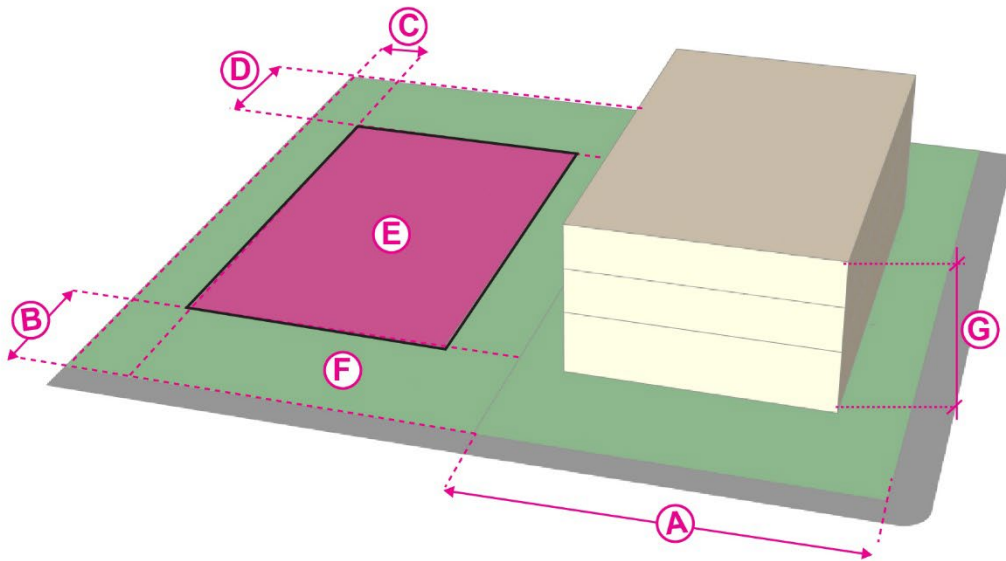
## 551-21 Canal District (CD)

### A. Purpose

The CD is an area that includes a mix of uses, including those that are water-dependent. Development occurs in a manner that protects the unique and sensitive environmental features that exist along the Canal, while promoting and encouraging public access to the Canal. The requirements of this District seek to:

- (1) Promote the most desirable and appropriate use of land and building development based upon consideration of soil characteristics and other natural features, environmental constraints, neighborhood characteristics and overall community needs; and protect the character of the district;
- (2) Provide a desirable mix of recreational opportunities, business uses and residential uses that complement each other and take advantage of the unique location and characteristics of the Erie Canal;
- (3) Preserve, to the maximum extent practicable, existing vegetation and natural features along the Erie Canal and prevent, as much as possible, erosion, sedimentation and problems with drainage both during and after construction.

### B. CD – Lot Standards



<b>CD</b>			
<b>Lot Standards</b>			
Minimum Lot Area		No minimum	
Minimum Width	A	40 ft	
		<b>Principal Building</b>	<b>Accessory Building</b>
Front Setback	B	None	25 ft
Minimum Side Setback	C	5 ft	5 ft
Minimum Rear Setback	D	None	10 ft
Maximum Building Coverage (% of area)	E	50	
<b>Height Standards</b>			
Minimum Building Height (Feet)	F	24	
Maximum Building Height (Stories/Feet)	G	3 / 45	
Minimum First Floor Height (Feet)	H	12	
<b>Parcels that abut the 'blue line' of the Erie Canal</b>			
		<b>Principal Building</b>	<b>Accessory Building</b>
Front Setback (Facing the Canal)		15 ft	25 ft
Minimum Side Setback		10 ft	10 ft

## **551-22 Residential District Design Standards**

The following design standards apply to buildings in the RLD, RN, and RTN Districts. They apply to new construction, including additions to existing structures, and to substantial repair or rehabilitation of the exterior facade of an existing structure. In the case of repair or rehabilitation, only those standards that relate to the specific repair or rehabilitation activities conducted shall apply.

### **A. Single-family detached, two-family, multifamily (3-4 unit buildings)**

(1) Building context and compatibility. New infill single-family, two-family, attached dwelling units, additions to such structures and accessory buildings shall be constructed to be generally compatible with other existing dwelling units or accessory buildings on the same block frontage within 200 feet. This provision shall be satisfied by constructing the subject dwelling unit or accessory building so that at least four of the following features are similar to the majority of other dwelling units or applicable accessory structures within 200 feet on the block frontage (both sides of the street):

(a) Roof style and overhang;

(b) Building type (e.g., ranch with attached garage; two-story with attached garage; bungalow);

(c) Floor area: The floor area of the proposed dwelling shall be no less than 80% and not more than 120% of the average floor area of other dwelling units, as indicated in the Assessor's records, within 200 feet of the subject lot, including dwelling units along both sides of the street of the same block.

(d) Front porches (existence of);

(e) Exterior building material; or

(f) Pattern of window and door openings (e.g., central door and four windows; offset door and three windows).

(2) Porches

(a) A porch visible from any public right-of-way shall not be removed unless the original design lacked such a porch.

(b) A porch visible from any public right-of-way shall not be fully enclosed.

- (c) Front setback. Front porches may be constructed no closer than 10 feet from the right-of-way.
- (d) Maximum depth. Front porches that do not meet the minimum front setback for the zoning district cannot exceed eight feet in depth.
- (e) Stairs. Stairs leading to a front porch must be set back at least five feet from the right-of-way.
- (f) Roof required. A front porch must be covered by a roof.

(3) Yard areas

- (a) Patios located in the front yard must be separated by a minimum of five feet from driveways by groundcover or other landscape materials.
- (b) To the maximum extent practical, the front yard, side yard and the unpaved area between the sidewalk and the street paving shall be covered with grass or vegetative ground cover.
  - (i) Decorative stone or gravel surfaces may be used when designed as an integral part of a landscape plan.
- (c) To the maximum extent practical, the rear yard shall be fine graded to ensure proper grades and drainage.

**B. Townhouses**

- (1) Windows, entrances, porches, or other architectural features are required on all street-facing facades to avoid blank walls.
- (2) Facades must maintain a minimum transparency of 20% on all street-facing facades, calculated on the basis of the entire area of the facade.
- (3) For a development that consists of multiple single-family attached developments, there must be a minimum separation of 15 feet between the end-walls. Where the front or rear wall of a one development faces the front or rear wall of another development, the minimum required separation between such structures must be 30 feet. Driveways and parking areas may be located within this minimum separation area.
- (4) The development must be designed with consistent building materials and treatments that wrap around all facades that face and are visible from a public street or abut a lot line in a residential district or of a residential use. There must

be a unifying architectural theme for the entire development, utilizing a common vocabulary of architectural forms, elements, materials, or colors in the entire structure.

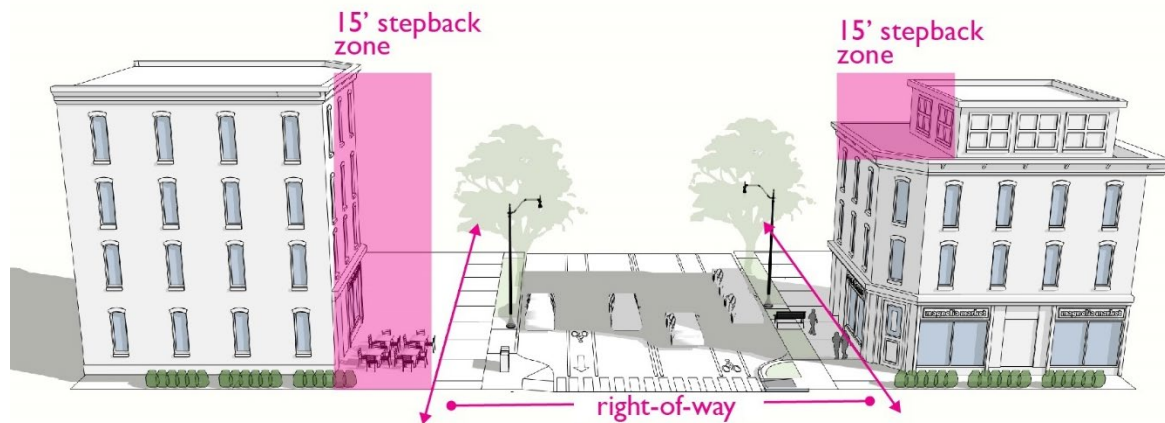
- (5) Each townhouse development is limited to a maximum building length of 300 feet.
- (6) The following building materials are prohibited on any facade facing a street or any facade that faces a residential use. However, such materials may be used as decorative or detail elements for up to a total of 25% of the facade, or as part of the exterior construction that is not used as a surface finish material.
  - (a) Plain concrete block
  - (b) Mirrored glass
  - (c) Exposed aggregate (rough finish) concrete wall panels
  - (d) Exterior insulating finish systems (EIFS) installed lower than eight feet above grade on any building facade
  - (e) Wood structural panel sheathing (e.g., plywood, OSB, particleboard, etc.)
  - (f) Plastic, not including light transmitting plastic.
  - (g) Vinyl
  - (h) Metal panels unless they meet the following requirement: Metal panels (flat, textured, corrugated, batten, box rib, etc.) whether standalone, composite, or part of a layered or insulated panel, shall be permitted provided they are part of a complete, manufacturer warrantied cladding system, including integral anchorage to structural supports. Steel panels shall be minimum US Standard 26 gauge.

## **551-23 Commercial and Mixed-Use District Design Standards**

This Section applies to the DTN and GN Districts. The design guidelines and standards are intended to guide development that preserves and improves the Village of Fairport character. Well-designed buildings and sites encourage lively, safe, pedestrian-friendly and attractive streets and public spaces, and promote vibrancy.

**A. Fourth Story.** A fourth story may be approved by the Planning Board via a Special Permit with consideration given to:

- (1) Height of adjacent buildings.
- (2) Enclosure created by the building in relation to street width and visual impacts on the pedestrian.
- (3) Vistas and views. Considerations include but are not limited to the effects of the proposed development on views of the Erie Canal, adjacency of structures that possess unique value to the Village, and views of North Main Street.
- (4) Maintaining the vision set forth in the Comprehensive Plan and these design standards.
- (5) Building Step-back Requirements
  - (a) Purpose. An upper floor building step-back reduces the visual impact of a building from the street. This requirement enhances the pedestrian environment and prevents excessive street enclosure and shadowing on narrower streets.
  - (b) Standard. Commercial, mixed use, and multifamily buildings four stories shall be required to be set back or stepped back a minimum of 15 feet from the street right-of-way. Front yard spaces created by building setbacks must comply with Section 551-23.D Front Yard Setback Requirements.



*Building setback, step-back and street closure*

## **B. Building Design Guidelines**

- (1) Building investments should strengthen the neighborhood, reinforce its intimate and historic scale, and contribute to the vitality, activity, and continuity of a walkable place. These design guidelines are intended to help achieve these goals. Project applicants are strongly encouraged to incorporate, as applicable. These guidelines complement the required standards of this section.
- (2) Buildings, structures, sites, signs and public spaces should be designed to:
  - (a) Retain, reflect, and enhance the dominant aesthetic or visual qualities of the neighborhood as much as possible.
  - (b) Encourage and promote a sense of design continuity that appropriately relates the historic past of the neighborhood to ongoing revitalization and redevelopment efforts.
  - (c) Appropriately relate proposed development to existing designs, styles, building forms and land uses.
  - (d) Encourage and promote the sensitive and contextual design of buildings, signs, sites, and public spaces through the use of design elements, details, styles and architectural features as well as other amenities, materials, or treatments that may be appropriate to further the design standards.
  - (e) Blank rear walls should be screened with landscaping.
  - (f) Encourage a pedestrian-oriented and human-scaled right-of-way, public realm and streetscape and promote safe pedestrian movement, access, and

circulation. Access from streets, sidewalks, and public rights-of-way should be clearly defined.

- (g) Encourage and promote the design of buildings, sites, signs and public spaces along the canal that protects, enhances and strengthens these areas as well as significant recreational, environmental, historic, scenic, and cultural resources.
  - (h) Encourage and promote the use of predominant existing building materials within the neighborhood and the predominant existing building materials, architectural features and fenestration on specific structures as a guide in determining appropriate replacement and new construction materials.
  - (i) Promote preservation of buildings of historic value to enhance and promote the history, culture, and architecture of the Village.
- (3) Architectural style of new development does not need to mimic previous buildings or styles, but should be designed in a way that complements and harmonizes with the character of nearby existing properties with respect to architecture, scale, landscaping and screening.
- (4) The scale of a building depends on its overall size and mass, its relationship to the open space around it, and the sizes of its doors, windows, porches and balconies. The scale gives a building “presence”; that is, it makes it seem big or small, awkward or graceful, overpowering or unimportant. The scale of a building should be visually compatible with its site and with its neighborhood.

### **C. General Building Design Standards**

- (1) Applicants must adhere to the standards of this section.
- (2) Building elevations
  - (a) Any building facade facing a sidewalk, street, or canal shall have an active building elevation. Active building elevations shall include windows, building

entrances and other architectural features that enhance the pedestrian scale and experience of the building facade.

- (b) New construction shall respect existing building widths by providing a division of the building facade into visible building increments no larger than the average width of existing buildings on the block.
- (c) Where the street frontage is defined by a continuous building facade, the proposed new building or infill construction shall maintain such continuous facade by building from side lot line to side lot line unless access is required for rear yard parking.
- (d) Building facades shall not contain blank wall areas that exceed 15 linear feet, measured parallel to the street. Building facades that are 100 linear feet or more shall include a repeating architectural pattern with two or more of the following elements: texture change, material change, or a wall articulation change such as a reveal, recess, offset, or pilaster.

(3) Design elements

- (a) Surface Relief with Architectural Features: Street-facing and canal-facing building facades should provide surface relief through the use of various traditional architectural elements, including but not limited to bay windows, cladding, columns, corner boards, cornices, alcoves, door surrounds, moldings, piers, pilasters, sills, sign bands, windows, and other equivalent architectural features that either recess or project from the average plane of the facade by at least four (4) inches.



*Examples of architectural features appropriate for the mixed-use and commercial districts.*

(b) Building entrances. The front facade and main entrance shall face a public street and shall have a direct pedestrian connection to the street.

(c) Roofs

[1] Rooflines shall be simple and consistent with the building style.

[2] Flat roofs shall have an articulated cornice that projects horizontally from the top of the building wall on all walls visible from the public realm.

[3] Green roof, blue roof, and white roof designs are permitted.

[4] Reflective surfaces that produce glare are prohibited, except for solar panels or white roofs intended to radiate absorbed or non-reflected solar energy and reduce heat transfer to the building.

(d) Canal views or vistas. The proposed design and arrangement of the building, structure, or use shall provide for public pedestrian and visual access to and along the Canal.

(e) Parking location. All parking must be located at the rear of the building.

#### **D. Front Yard Setbacks**

Where a building's front yard setback is greater than 0 ft, the following standards shall apply:

- (1) Within the front setback, the space shall be used for one or more combination of:
  - (a) Outdoor seating associated with a ground-floor establishment.
  - (b) Publicly available open space, such as a plaza or the like.
  - (c) Stoops leading to the building's entryway. In such cases the area outside of the stairs and associated walkway, if any, shall be highly landscaped with a variety of native plants, shrubs, grasses, and trees.
  - (d) An enclosed extended shopfront occupying a portion of the building.
  - (e) Front garden space.
- (2) The Planning Board may allow a waiver for greater setbacks whereby in its judgement, doing so will contribute to an improved public realm.
- (3) Parking is prohibited within the front setback.

#### **E. Pedestrian Facilities.** Internal pedestrian facilities, including sidewalks, paths, and crosswalks, within a lot shall be designed according to the following standards:

- (1) Pedestrian facilities adjacent to buildings shall be connected to pedestrian facilities within parking lots.
- (2) Internal and adjacent off-site pedestrian facilities shall be interconnected.
- (3) Shared parking lots shall include pedestrian linkages between parking areas and adjacent buildings.
- (4) Where multiple buildings exist on the lot, the buildings must be connected via pedestrian facilities.
- (5) Internal pedestrian facilities shall connect to public right-of-way pedestrian facilities.

#### **F. Nonresidential and Mixed-Use Building Standards**

The following design standards apply to nonresidential and mixed-use development. They apply to new construction, including additions to existing structures, and to substantial repair or rehabilitation of the exterior facade of an existing structure. In the case of repair or rehabilitation, only those standards that

relate to the specific repair or rehabilitation activities conducted shall apply.

(1) Building materials

(a) Façade Materials: Materials appearing heavier in weight should be used for the building's base, with materials appearing similar or lighter in weight used above.

(b) Exterior Walls Prohibited Materials. The following building materials are prohibited on any facade:

[1] Plain concrete block

[2] Glass block

[3] Exposed aggregate (rough finish) concrete wall panels,

[4] Exterior insulating finish systems (EIFS)

[5] T-111 plywood or oriented strand board (OSB) siding.

[6] Plastic.

[7] Vinyl, except cellular vinyl trim may be used as decorative or detail elements for up to 25% of the facade.

[8] Metal, except as decorative or detail elements for up to 30% of the facade.

[9] Concrete finishes or precast concrete panels (tilt wall) that are not exposed aggregate, hammered, embossed, imprinted, sandblasted or covered with a cement-based acrylic coating.

[10] Metal panels with a depth of less than one inch or a thickness less than U.S. Standard 26 gauge.

[11] Mirrored glass with a reflectance greater than 40%.

(2) Windows and transparency

(a) Renovations of the first floor of existing buildings facing a street right-of-way shall not decrease the area of transparency. Where feasible, renovations shall increase the area of transparency to that required for new construction unless the original historic character of the building requires less transparency area.

(b) All windows shall be clear or lightly tinted with no less than 70% light transmittance.

- (c) All new construction on building facades facing a street right-of-way shall provide areas of transparency equal to 70% of the wall area between the height of two feet and ten feet from the ground.
    - [1] For sites with frontage on one street, the transparency requirement is applied to that frontage.
    - [2] For sites with frontage on more than one street, the transparency requirement is applied to all frontage on streets.
  - (d) The use of opaque materials such as plywood, brick, metal or sheet rock to cover or fill a window opening is prohibited.
  - (e) The installation of any device that obstructs transparency or impacts the architectural design of a window is not permitted. This prohibition includes the blocking of windows with interior shelving or the like but does not apply to nonpermanent devices such as curtains, blinds, and shades.
- (3) Storefront conversion.
- (a) Residential use standards. The applicant for conversion of a commercial storefront to a residential use in an area that is predominantly residential shall have the option either to:
    - [1] Retain the storefront features (for example, display windows, transoms, lintels, etc.). Retaining the original storefront design is not subject to the first-floor transparency minimum; or
    - [2] Remove the entire storefront and redesign the facade to a residential appearance.
  - (b) Commercial conversions. When converting only one portion of a building, the entire commercial character of the storefront must be retained. In cases where demolition of a commercial addition to a residential structure is proposed, the new facade shall approximate, as closely as possible, the original design of the residential structure.
- (4) All new building construction within five feet of the front lot line shall be built parallel to the lot line for at least 80% of its frontage and up to a height of 20 feet. Up to 20% of this building frontage may be built skewed from the lot line; any

portion of the building above 20 feet in height may be built skewed from the lot line.

### **G. Multifamily Building Standards**

The following design standards apply to multifamily buildings. They apply to new construction, including additions to existing structures, and to substantial repair or rehabilitation of the exterior facade of an existing structure. In the case of repair or rehabilitation, only those standards that relate to the specific repair or rehabilitation activities conducted shall apply.

#### (1) Building facades

- (a) Building facades shall be designed with consistent materials and treatments. The consistency of materials and treatments shall also be maintained for a single building possessing multiple facades.
- (b) Building facades shall include windows, projected or recessed entrances, overhangs, and other architectural features.
- (c) The following building materials are prohibited on any facade facing a street or any facade that faces a residential use. However, such materials may be used as decorative or detail elements for up to a total of 25% of the facade, or as part of the exterior construction that is not used as a surface finish material.

[12] Plain concrete block

[13] Mirrored glass

[14] Exposed aggregate (rough finish) concrete wall panels

[15] Wood structural panel sheathing (e.g., plywood, OSB, particleboard, etc.)

[16] Plastic, not including light transmitting plastic.

[17] Vinyl

[18] Metal panels unless they meet the following requirement: Metal panels (flat, textured, corrugated, batten, box rib, etc.) whether standalone, composite, or part of a layered or insulated panel, shall be permitted provided they are part of a complete, manufacturer warrantied cladding system, including integral anchorage to structural supports. Steel panels shall be minimum US Standard 26 gauge.

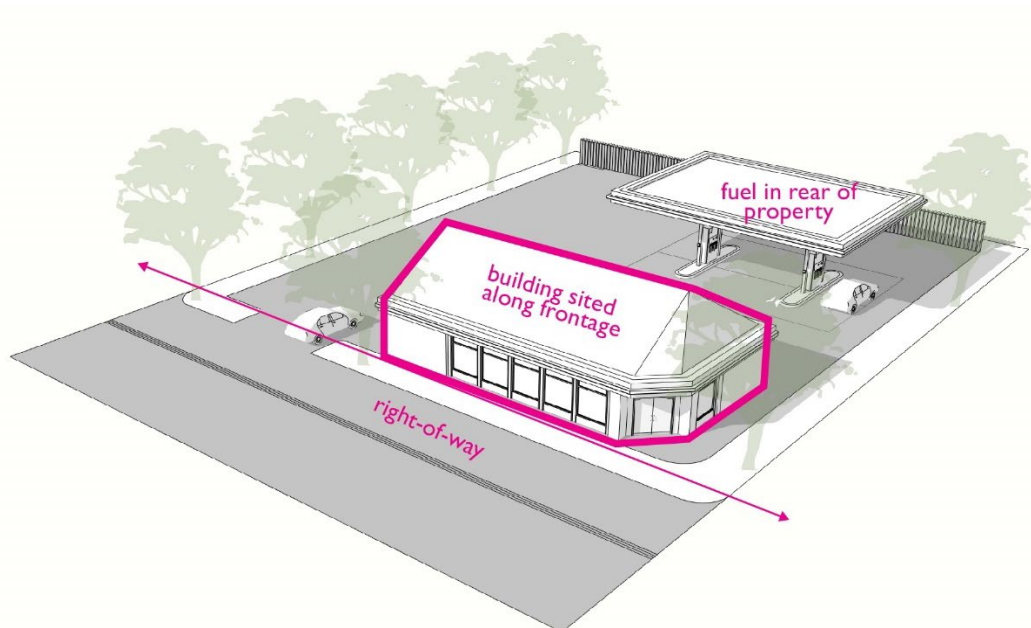
- (2) Windows and transparency. Multifamily buildings must contain a minimum transparency of 25% for any façade facing a street.
- (3) Roofs. Flat roofs shall include cornices, parapets, or similar architectural details to add variety and break up the roofline.

#### **H. Vehicle Gas Station**

- (1) General. Commercial structures associated with automobile fuel sales shall be located along the street frontage of a lot and shall follow the design standards of this section.
- (2) Purpose. This building type reverses the conventional site layout for gas stations with convenience stores by placing the storefront along the street line and the gas pumps and canopy behind. This reverse layout orients the building to the street and sidewalk.
- (3) Applicability. Any new automobile fuel sales, substantial redevelopment of existing automobile fuel sales, or exterior modification to existing automobile fuel sales beyond normal maintenance shall adhere to these standards.
- (4) Standards
  - (a) Retail structures associated with automobile fuel sales shall have a fully operational pedestrian entrance open during business hours along the public street; other entrances are permitted.
  - (b) Canopy structures shall be designed to fit into the traditional context of the neighborhood. Designs shall draw on historical precedents for canopy-type structures such as railroad stations, streetcar stops and lumber sheds and shall use traditional materials (wood, brick, metal) or high-quality modern alternatives. Pitched roofs are encouraged. Lighting of the canopy fascia,

parapet, or roof is prohibited. Downward lighting of the pump islands and area under the canopy is permitted.

- (c) For retail automobile fuel facilities located on corner lots, any buildings shall be oriented along the street frontage.
- (d) All facilities shall include landscaping/hardscaping along all street frontages in order to limit vehicular movement to established curb openings and protect any portion of the public sidewalk from on-site vehicle maneuvering.
- (e) Curb openings shall be minimized, especially on the primary street frontage. Redundant curb openings shall be closed.
- (f) All facilities shall include a solid screening fence no less than six feet tall and no more than eight feet tall along any property line abutting the side or rear yards of lots with residential uses.



*Vehicle Gas Station Design Standards*

## **551-24 Canal District Additional Standards**

In addition to any other applicable standards in this Article, the following standards apply to the CD.

### **A. Canal views or vistas**

- (1) The proposed design and arrangement of the building, structure, or use shall provide for visual access to and along the Canal.
- (2) To the extent feasible, each nonresidential use abutting the Canal shall provide and maintain access to the Canal Path.
- (3) No parking area shall be allowed adjacent to the Canal Path.

### **B. Other Required Approvals**

Prior to final action by any Village agency or board on a proposed development in the CD, plans of such development shall be submitted to the applicable agency having jurisdiction for review and approval of the following:

- (1) Location, design and installation of any proposed docks or boat slips.
- (2) Any proposed development within the state-owned land along the Canal, including any proposed trail or pedestrian connection to the Canal Path.
- (3) Any proposed development immediately adjacent to state-owned land for review of potential drainage impacts on state-owned land.

## 551-25 Industrial District Design Standards

The following standards apply to the IND District.

- A. Applicability.** The design standards apply to facades located along street frontages. The standards apply to development and redevelopment. When standards indicate that they are applicable when facing a street, this does not apply to alleys.
- B. Transparency.** Renovations of the first floor of existing buildings along a street shall not decrease the existing area of transparency. Where feasible, renovations shall increase the area of transparency to that required for new construction unless the original historic character of the building requires less transparency area.
- C. Orientation.** At least one prominent entrance along the main building facade must include a direct pedestrian connection to the adjacent public sidewalk. On a corner lot, only one façade along a street must have a prominent entrance connected to the public sidewalk or such entrance may be located at the corner.
- D. Façade Design**
  - (1) Building facades of 60' in length or greater that face a street must include a repeating architectural pattern with a minimum of two of the following elements: color change; texture change; material change; a wall articulation change, such as a reveal, recess, offset, or pilaster; or building recesses or projections. This includes patterns made by structural components visible through glass curtain walls.
  - (2) Buildings must be designed with consistent building materials and treatments that wrap around all facades.
- E. Roof Design.** Reflective roof surfaces that produce glare are prohibited, except for cool roofs intended to radiate absorbed or non-reflected solar energy and reduce heat transfer to the building.
- F. Prohibited Materials.** The following building materials are prohibited on any facade located along streets. However, such materials may be used as decorative or detail elements for up to a total of 25% of the facade, or as part of the exterior construction that is not used as a surface finish material.
  - (1) Mirrored glass
  - (2) Exposed aggregate (rough finish) concrete wall panels
  - (3) Exterior insulating finish systems (EIFS) installed lower than eight feet above grade

- (4) Wood structural panel sheathing (e.g., plywood, OSB, particleboard, etc.)
- (5) Plastic, not including light transmitting plastic
- (6) Vinyl
- (7) Metal panels unless they meet the following requirement: Metal panels (flat, textured, corrugated, batten, box rib, etc.) whether standalone, composite, or part of a layered or insulated panel, shall be permitted provided they are part of a complete, manufacturer warrantied cladding system, including integral anchorage to structural supports. Steel panels shall be minimum US Standard 26 gauge. Metal panels that meet this requirement are permitted as surface finish material without limitation.

## **551-26 Accessory Structures Standards**

### **A. General Regulations for Accessory Structures**

All accessory structures are subject to the following regulations, unless otherwise permitted or restricted by specific regulations of this Article and Chapter.

- (1) A building permit is required for all accessory structures.
- (2) All accessory structures are required to be in the rear yard, unless otherwise indicated in the regulations below.
- (3) The maximum height of any detached accessory structure is 24 feet, unless otherwise permitted or restricted by this Chapter. However, the height of any accessory structure cannot exceed the height of the principal structure.
- (4) The footprint of any single detached accessory structure cannot exceed 75% of the footprint of the principal structure. Where no principal structure is part of the principal use of the lot, accessory structures are limited to a maximum building coverage of 40% of the lot, unless a stricter maximum building coverage is required by the district.
- (5) No accessory structure may continue after the principal use or structure is abandoned or permanently removed.
- (6) A detached accessory structure may not contain cooking facilities or a full bath. Plumbing fixtures above the first floor are prohibited.

### **B. Specific Accessory Structures Regulations**

The following regulations apply to specific types of accessory structures.

- (1) Garages (excluding multifamily buildings)

- (a) General standards

- [1] Garage orientation and access (e.g., attached/front-loaded, attached/side-loaded, detached/street-loaded, or detached/alley-

loaded) shall conform with the majority of other existing residential parcels on the same block frontage within 200 feet.

[2] Single-family attached dwellings shall not have street-loaded garages if alternative access can be provided.

[3] Garages shall not be in the style of a Quonset hut or other similarly formed metal or plastic structures designed and/or marketed for industrial or agricultural use.

(b) Attached garage

[1] The width of front-loaded attached garages shall be limited to 30% of the front setback line or 22 feet, whichever is less.

[2] Attached garages shall be set back a minimum of 10 feet from the front setback line of the principal use or structure.

(c) Garage, Detached

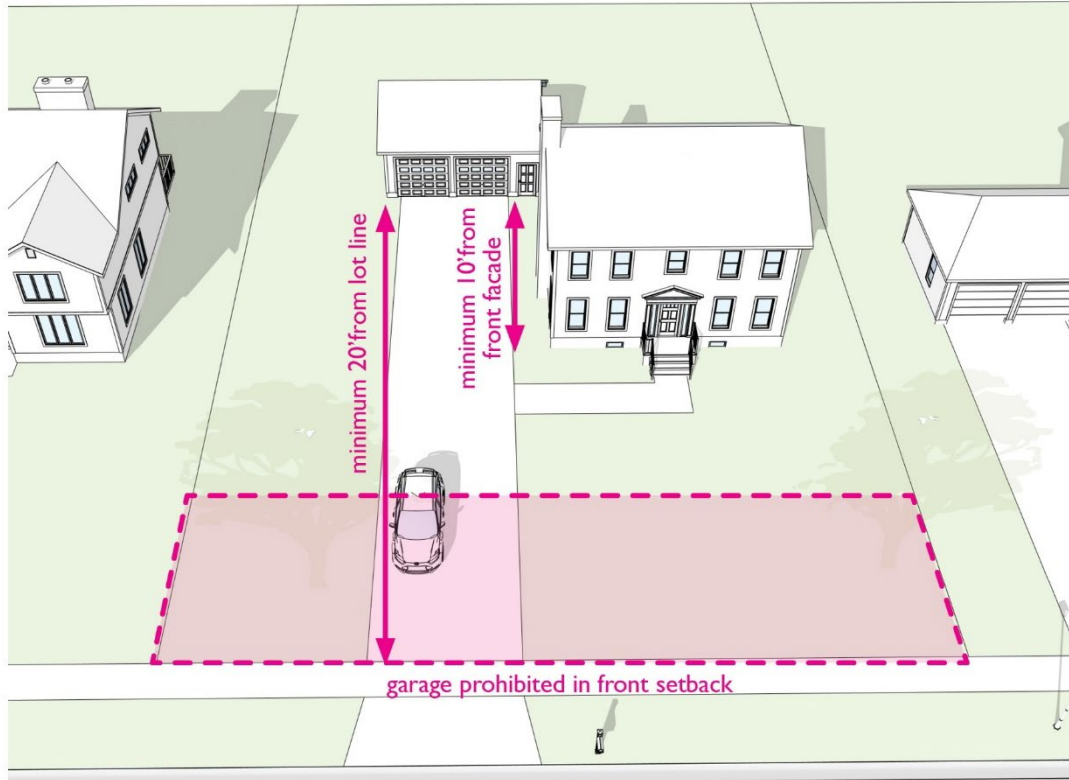
[1] Detached garages are permitted in the interior side, corner side, and rear yards. One detached garage is permitted per lot.

[2] The area above the vehicle parking spaces in a detached garage shall not contain a kitchen or sleeping area.

[3] Detached garages shall be set back a minimum of ten feet from the front setback line of the principal use or structure.

[4] When accessed from a street, other than an alley, detached garages must be set back a minimum of 20 feet from the lot line parallel to the garage door.

[5] When a property is abutting an alley, access to a garage must be from the alley.



Accessory Structure Garage Standards

(2) Sheds

- (a) One shed is permitted per lot.
- (b) Sheds must be generally conforming to the design of the primary structure.

(3) Swimming Pools

- (a) Swimming pools are allowed in the rear yard only.
- (b) Swimming pools are subject to the requirements of the Building Code.
- (c) Swimming pools shall be setback 10' from the side and rear property lines, as measured from the edge of the water.

(4) Prohibited accessory structures

The following structures are prohibited.

- (a) Carport
- (b) Quonset hut

## **551-27 Planned Development District**

### **A. Purpose**

The Planned Development Districts recognize a defined area for unified and integrated development and are intended to create more flexible development opportunities than would be possible through the strict application of the land use and development regulations of this Chapter. Planned Development Districts allow diversification in the uses permitted and variation in the relationship of uses, structures, and open spaces and are conceived as cohesive unified projects with unique standards and regulations. The Zoning Map may be amended from time to time, by ordinance duly enacted by the Board of Trustees, to provide for planned development districts upon approval of a development concept plan as set forth herein. Planned Development Districts shall achieve the following objectives:

- (1) An alternative development pattern in harmony with the objectives of the Village's current Comprehensive Plan.
  - (a) A creative use of land and related physical development allowing an orderly transition from one land use to another.
  - (b) Diversification in the uses permitted and variation in the relationship of uses, structures, open spaces, and height of structures in developments conceived as cohesive unified projects.
  - (c) Unique standards for site and building design.
  - (d) The preservation and enhancement of desirable site characteristics, such as open space, natural topography, vegetation, geologic features, and the prevention of soil erosion.
  - (e) Provision of public benefits to the Village, which may include, but are not limited to:
    - [1] Community amenities, including public plazas, formal gardens, and public art.
    - [2] Bicycle, transit, and pedestrian facilities.
    - [3] Preservation of historic features.
    - [4] Public access to existing adjoining public trails.

[5] Sustainable design, including reduction of impervious surfaces, LEED-rated or equivalent building designs, and/or alternative energy production.

[6] Adaptive reuse of existing buildings.

[7] Affordable/workforce and/or senior housing set-asides.

## **B. Location**

The Planned Development District shall be applicable to any area of the Village of Fairport where the applicant can demonstrate that the characteristics of the development will satisfy the intent and objectives of this Chapter and applicable requirements can be met. Where a planned development is deemed appropriate, the rezoning of land to a Planned Development District will replace all use and dimensional specifications contained elsewhere in this Chapter, unless otherwise stated.

## **C. District Ownership and Size**

(1) All owners of the tract shall be included as joint applicants on all applications, and all approvals shall bind all owners. The violation of any owner as to any tract shall be deemed a violation as to all owners and all tracts.

(2) No Planned Development District shall be established having an area of less than eight contiguous acres.

## **D. Requirements and Standards**

The requirements and standards for a Planned Development District shall be determined for each individual project. At a minimum, the Planned Development District application shall include:

(1) Purpose statement that includes how the project meets the objectives of this Chapter and Village's Comprehensive Plan and any other adopted special area plans.

(2) The categories of permitted and/or special permit uses.

(3) Lot width, coverage, and setback dimensions.

(4) Building size and height limitations, including accessory structures.

(5) Building design and frontage requirements.

(6) Open space.

(7) Parking and access.

(8) Unless otherwise addressed in the development concept plan, the site development standards of Article 6 shall apply to the Planned Development District.

(9) The proposed ownership and management of the Planned Development District, including the buildings, landscaped areas, and open spaces.

#### **E. Additional Requirements**

(1) Planned Development Districts shall be served adequately by, and shall not impose an undue burden upon, essential public facilities and services such as streets, traffic control signals and devices, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools. Where any such facility or service is not available or adequate to service the Planned Development District, the applicant shall be responsible for establishing their ability, willingness, and binding commitment to provide such facilities and services.

(2) All covenants, deed restrictions, easements, and similar restrictions to be recorded in connection with a Planned Development District shall provide that they may not be modified, removed, or released without the express consent of the Board of Trustees and shall provide that they may be enforced by the Village of Fairport in addition to the landowners within the Planned Development Districts. Additionally, such documents shall require expiration and language to remedy nonperformance.

(3) Nothing in the Development Concept Plan shall override, contradict, or invalidate any discretionary review procedures authorized by Article 11.

#### **F. Procedures for Planned Development Districts**

(1) Development Concept Plan Approval and Amendments

(a) The Development Concept Plan is any plan hereinafter adopted by the Board of Trustees, after notice and a public hearing, for the development or redevelopment of an area with specific geographic boundaries, which clearly identifies the purposes of the development or redevelopment and involves one or more elements of land acquisition, site clearance, rehabilitation or construction of buildings, construction or reconstruction of public

improvements, and land disposition and which is specifically designated a "Development Concept Plan" for purposes of this Chapter.

(b) Along with the requirements and standards listed in Section 551-22, the applicant shall provide a Development Concept Plan for the proposed Planned Development District or amendment of a previously approved Development Concept Plan. The development concept plan or amendment to a development concept plan shall include:

[1] District boundary lines and any proposed property boundaries.

[2] Existing and proposed principal and accessory buildings with proposed use.

[3] Existing and proposed parking areas, including bicycle parking.

[4] Vehicular, bicycle, and pedestrian circulation systems.

[5] Lot coverage and building size (maximum gross square footage) calculations.

[6] Public and private open space.

[7] Existing and proposed utilities.

(c) The applicant may, at their option, submit an incremental development plan in accordance with Section G below for the Planned Development District simultaneously with the submission of the development concept plan. In such case, the applicant shall comply with all provisions of this Chapter applicable to submission of the development concept plan and to submission of the incremental development plan.

(d) The development concept plan for proposed Planned Development Districts, amendments to existing Planned Development Districts, and incremental development plans shall be subject to site plan review in accordance with Section 551-68.

(e) Action by Planning Board:

[1] Review by the Planning Board of Planned Development Districts or amendments shall follow the procedures for zoning text or map amendments set forth in Section 551-65.

[2] In considering the development concept plan and formulating its recommendations, the Planning Board shall specifically address the objectives and standards applicable to the proposed Planned Development District in this Article.

(f) Action by Board of Trustees:

Within 40 days following the receipt by the Board of Trustees of the report of the Planning Board, or its failure to act as above provided, the Board of Trustees shall conduct a public hearing. The Board of Trustees shall:

[1] Deny the development concept plan;

[2] Refer it back to the Planning Board for further consideration of specified matters; or

[3] By local law duly adopted, approve the development concept plan, with or without modifications to be accepted by the applicant as a condition of such approval, and amend the Zoning Map of the Village to designate the area included in the approved plan as "Planned Development District Number \_\_\_."

(i) If the development concept plan is approved with conditions, the Zoning Map shall not be amended until the applicant has filed with the Zoning Officer written consent to such conditions.

(ii) In the event that a development concept plan is approved, or approved with conditions acceptable to the applicant, no development shall be permitted unless and until an incremental development plan has been submitted and approved in accordance with the provisions of this Chapter.

#### **G. Incremental Development Plan Approval**

(1) The incremental development plan is a plan showing development occurring wholly within the boundaries of an approved Planned Development District that complies with all of the standards and requirements of the development concept plan approved for the district.

(2) All incremental development plan approvals shall require site plan approval as set forth in Section 551-68.

- (3) In addition to the requirements of site plan approval, if the Zoning Officer finds substantial conformity with the development concept plan and finds the incremental development plan to be in all other respects complete and in compliance with any conditions imposed by approval of the development concept plan, the Zoning Officer shall approve the incremental development plan. An incremental development plan shall be deemed not to be in substantial conformity with an approved development concept plan if one or more of the following occur:
- (a) Exceeds by more than 10% the maximum parking, building height, lot coverage, or setback requirements approved for the Planned Development District.
  - (b) Decreases by more than 10% the area approved for public and private open space or significantly changes the general location of such areas.
  - (c) Substantially relocates approved public circulation elements to any extent that would significantly decrease their functionality, adversely affect their relation to surrounding lands and circulation elements, or significantly reduce their effectiveness as buffers or amenities.
  - (d) Significantly alters the arrangement of land uses within the Planned Development District.
  - (e) Provides for uses not included in the approved development concept plan.
  - (f) Exceeds by more than 10% of the maximum gross square footage and massing for residential uses and nonresidential uses.
  - (g) Relies on a development characteristic that is insufficiently provided for in the development concept plan.
- (4) An approved incremental development plan may be amended or varied by submitting a new site plan to the Zoning Officer in accordance with Section 551-68. In the case that the adjustments exceed the thresholds established for the Zoning Officer by the development concept plan, the development concept plan must be amended as provided in this Article for original development concept plan approval.

## **H. Limitations to Approvals**

- (1) A development concept plan shall become null and void one year after the filing date with the Village Clerk, and the zoning district shall revert to the prior zoning district if an incremental development plan is not submitted for approval.
- (2) An incremental development plan approval shall become null and void six months after the date on which it was issued unless a building permit is obtained and maintained.

## **I. Appeals**

- (1) After a decision by the Zoning Officer on an incremental development plan application, an appeal of the application may be submitted to the Planning Board within 30 days of the Zoning Officer's decision. A public hearing shall be set, advertised, and conducted by the Planning Board in accordance with Section 551-60. The Planning Board shall review the Zoning Officer's decision and the application in accordance with the requirements and standards set forth above. The Planning Board shall render a decision within 30 days following the conclusion of the public hearing to either approve, approve with conditions, or deny the application. The failure of the Planning Board to act within 30 days shall be deemed an endorsement of the decision of the Zoning Officer.
- (2) An appeal from any final decision of the Planning Board may be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, department, bureau, board, or the Board of Trustees in accordance with Article 78 of the New York Civil Practice Law and Rules.

## **J. Current Plan Submission**

- (1) The current plan is a complete, comprehensive, and permanent public record of a Planned Development District. The current plan is intended only to put in final form the information contained in the development concept plan and shall conform to all prior approved and all approved conditions thereof resulting from the Planned Development District process. The current plan shall consist of a site map that reflects all approved incremental development as well as the development concept plan for all areas not yet approved through an incremental

development plan. It shall also contain references to all development concept plan components outlined in this Article.

- (2) A current plan must be submitted prior to any applications for amendments to the approved development concept plan or with request for approval of incremental development plans.

# ARTICLE 5. USES

## 551-28 Uses

- A. The Use Table identifies the principal, temporary, and accessory uses allowed within each zoning district.
- B. The Use Table shall be applied according to the following key:

KEY	
<b>P</b>	Permitted (P) - Additional requirements apply when a Chapter Section is indicated in the Use Standards Column
<b>SP</b>	Special Permit (SP) - Additional requirements apply when a Chapter Section is indicated in the Use Standards Column
-	Prohibited

- C. Certain uses within the table must meet required use standards. A reference is provided in the “Use Standards” column of the Table 5-1. In the case of conflict of required standards (i.e., a cross reference is missing from the table, but the numbering of standards in the Article has changed but not updated in the Table, etc.), the Use Standards.
- D. No lot in a residential district shall have erected upon it more than one residential dwelling building, except in the Residential Transitional Neighborhood (RTN).

### Residential Districts

Low Density Residential	RLD
Residential Neighborhood	RN
Residential Transitional Neighborhood	RTN

### Commercial and Mixed-Use Districts

General Neighborhood	GN
Downtown	DTN

### Industrial Districts

Industrial	IND
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### Canal District

Canal District	CD
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TABLE OF USES								
Use Category	RLD	RN	RTN	GN	DTN	IND	CD	Use Standards
<b>Principal Uses</b>								
Animal Care Facility	-	-	-	SP	SP	SP	-	N/A
Bed-and-breakfast	SP	SP	SP	-	-	-	P	551-25.A
Cannabis Establishment: Retail Dispensary	-	-	-	P	P	-	-	551-25.B
Clinic, Outpatient	-	-	-	P	P	-	-	N/A
Commercial Use, Indoor (retail sales, personal services, office uses, eating and drinking establishments)	-	-	-	P	P	P	P	551-25.C
Community Center	-	-	SP	SP	-	-	-	551-25.D
Community Garden	SP	SP	SP	-	-	-	-	551-25.E
Community Home	SP	SP	SP	-	-	-	-	551-25.F
Craft Production	-	-	-	P	P	-	-	551-25.G
Day Care Center	-	-	-	P	P	-	-	551-25.H
Day Care Home	P	P	P	-	-	-	-	551-25.I
Day Care Home, Adult	P	P	P	-	-	-	-	551-25.J
Dwelling, Multifamily (3-4 units)	-	-	P	P	SP	-	-	N/A
Dwelling, Multifamily (5+ units)	-	-	-	P	SP	-	-	551-25.K
Dwelling, Residential Conversion from Single-Family to Two-Family	P	P	P					551-25.L
Dwelling, Single-family	P	P	P	-	-	-	SP	N/A
Dwelling, Townhouse	-	-	P	P	-	-	SP	N/A

TABLE OF USES								
Use Category	RLD	RN	RTN	GN	DTN	IND	CD	Use Standards
Dwelling, Two-family	-	-	P	-	-	-	SP	N/A
Dwelling, Within a Mixed-Use Building	-	-		P	P		P	551-25.K
Educational Facility	SP	SP	SP	P	P	-	-	N/A
Farmers Market	-	SP	SP	SP	P	-	P	551-25.M
Funeral Home	-	-	-	-	P	-	-	N/A
Hospice Residence	SP	SP	SP	-	-	-	-	551-25.N
Hotel	-	-	-	P	P	-	SP	551-25.O
Industrial, Heavy	-	-	-	-	-	SP	-	551-25.P
Industrial, Light	-	-	-	SP	SP	P	-	551-25.Q
Kennel	-	-	-	SP	-	SP	-	N/A
Live-Work Unit	-	-	-	P	P	-	SP	551-25.R
Museum	-	-	SP	P	-	-	SP	N/A
Parking Garage (Principal Use)	-	-	-	-	P	P	-	551-25.S
Personal Wireless Telecommunications Facilities	P/SP	P/SP	P/SP	P/SP	P/SP	P/SP	P/SP	551-25.T
Place of Worship	P	P	P	P	P	-	-	N/A
Private Club or Lodge	-	-	-	SP	SP	-	-	551-25.U
Public and Semipublic Use	P	P	P	P	P	P	P	N/A
Recreation, Indoor	-	-	-	SP	SP	SP	-	N/A
Recreation, Outdoor	-	-	-	-	-	P	P	N/A
Residential Cluster Development	SP	SP	SP	-	-	-	-	551-25.V

TABLE OF USES								
Use Category	RLD	RN	RTN	GN	DTN	IND	CD	Use Standards
Self-Storage Facility: Climate Controlled	-	-	-	-	-	P	-	551-25.W
Self-Storage Facility: Outdoor access	-	-	-	-	-	P	-	551-25.X
Sexually-Oriented Business	-	-	-	-	-	P	-	551-25.Y
Vehicle Fueling Station	-	-	-	SP	SP	P	-	551-25.Z
Vehicle Repair	-	-	-	SP	SP	P	-	551-25.AA
Water-dependent uses	-	-	-	-	-	-	P	N/A
Accessory Uses								
Accessory Dwelling Unit	P	P	P	-	-	-	-	551-26.A
Home occupations	P	P	P	P	P	-	-	551-26.B
Outdoor Animal Care						SP		551-26.C
Outdoor Sales and Display	-	-	-	P	P	-	P	551-26.D
Outdoor Seating / Activity Area	-	-	-	P	P	-	P	551-26.E
Outdoor Storage	-	-	-	-	-	P	-	551-26.F
Roof-Mounted Solar Energy System	P	P	P	P	P	P	P	551-26.G
Vehicle Rental	-	-	-	SP	SP	P	-	551-26.H

**E. Prohibited Uses in All Districts**

- (1) Boarding house
- (2) Car wash
- (3) Crematorium
- (4) Drive-through
- (5) Junkyard

- (6) Pawnbroker

**551-29 Use Standards: Purpose**

- A. The purpose of these use standards is to place requirements on specific uses, both permitted and special permit, because of potential impacts to surrounding properties. These restrictions are applied to a project to mitigate impacts including noise, off-site parking, traffic, unsightliness, odors, dust, and fumes. These standards promote the public health, safety, and character of the immediate neighborhood and the larger community.
  
- B. For uses listed in this Article that require a special permit, the Planning Board may waive any of the standards imposed by this Article when it finds such action is warranted by reason of the unique physical conditions of the particular property or by reason of the particular character of surrounding properties. When a use listed in this Article is a permitted use, an area variance from the Zoning Board of Appeals is required to waive any of the requirements imposed by this Article. Prior to making a waiver determination, the Planning Board or Zoning Board of Appeals shall evaluate the following factors when applying their respective standards:
  - (1) The size and intensity of such use.
  - (2) The capacity of adjacent and feeder streets to handle peak traffic loads and hazards created by the use.
  - (3) The obstruction of light or air or the emission of noise, light, smoke, odor, gas, dust, or vibration in noxious or offensive quantities, and the distance between offensive processes and abutting properties.
  - (4) Unusual topography of the location, and the nature, location and height of buildings, walls, stacks, fences, grades, and landscaping on the site.
  - (5) The extent, nature, and arrangement of parking facilities, entrances and exits.
  - (6) Problems of fire and police protection.
  - (7) Preservation and/or upgrading of the neighborhood character.
  - (8) The availability of adequate sewer and water supply.
  - (9) All other standards prescribed by these regulations.

## **551-30 Use Standards: Principal Uses**

### **A. Bed and Breakfast**

- (1) No alteration to either the exterior or the interior of any principal or accessory structure shall be made which changes the character and appearance of the residential premises.
- (2) Only rooms originally designed as bedrooms shall be used for guest lodging.
- (3) Cooking equipment is prohibited in individual guestrooms, with the exception of minor appliances such as mini-refrigerators, coffee makers, and/or microwaves.
- (4) No bed and breakfast dwelling may operate an eating and drinking establishment. Meals may be provided to registered guests only.

### **B. Cannabis Establishment: Retail Dispensary**

- (1) Operation of an Adult-Use Cannabis Dispensary is limited to the hours of Monday through Saturday 8:00AM to 9:00PM and Sunday 12:00PM to 9:00PM.

### **C. Commercial Use, Indoor**

- (1) The portion of the building used for the commercial use shall be designed and maintained to prevent vibration, odor, dust, smoke, or other emissions emanating from the use onto abutting uses, including as necessary to prevent such impacts, closing window and doors, screening window and doors, and installing proper ventilation or noise reduction equipment.

### **D. Community Center**

- (1) Permanently installed recreational equipment shall only be located in the rear and side yards.

### **E. Community Garden**

- (1) Only one small storage shed no larger than 144 square feet and one small greenhouse no larger than 144 square feet is permitted.
- (2) High tunnels, low tunnels, and temporary season extension equipment, water barrels, and other catchment/irrigation systems may be used. The total area of high tunnels and low tunnels shall be a maximum of 25% of the lot area. Structures shall not be located within any required front, corner side, or street setback and shall be located ten feet from any lot line.
- (3) The use of tires within the garden is not allowed.

- (4) On-site composting is permitted. A description of the composting system shall be described as part of the required application or permit. Compost facilities shall not be located within any required front, corner side, or street setback and shall be located ten feet from any other lot line.
- (5) No keeping of animals, chickens, or livestock is permitted.
- (6) No apiaries (keeping of bees) are permitted.
- (7) Community gardens may offer sales of product grown on-site, as well as value-added products made with product grown on-site, but no on-site permanent structure may be used for sales.

**F. Community Home**

- (1) Within existing residential structures, only rooms originally designed as bedrooms shall be used for lodging.
- (2) The Village shall be provided with the name and contact person of the service provider that sponsors the community home.
- (3) The name and phone number of the owner and service provider shall be posted inside the building.

**G. Craft Production**

- (1) The portion of the building used for the craft production shall be designed and maintained to prevent light, noise, vibration, odor, dust, smoke, or other emissions emanating from the use onto abutting uses, including as necessary to prevent such impacts, closing window and doors, screening window and doors, and installing proper ventilation or noise reduction equipment.
- (2) Loading and unloading shall be limited to the hours of 8:00AM to 6:00PM.

**H. Day Care Center**

- (1) Permanently installed recreational equipment shall only be located in the rear and side yards.

**I. Day Care Home**

- (1) Permanently installed recreational equipment shall only be located in the rear and side yards.

**J. Day Care Home, Adult**

- (1) Permanently installed recreational equipment shall only be located in the rear and side yards.

**K. Dwelling, Multifamily and Mixed-Use**

- (1) Attainable Housing Zoning. See Article 13.

**L. Dwelling, Residential Conversions: Single-Family to Two-Family**

The intent of this section is to provide standards for conversion of existing single-family dwellings that are 3,000 square feet or greater to convert to a two-family dwelling. Conversions that do not meet the standards established in this section may be permitted based on the standards for a use variance in Section 551-71.

- (1) Minimum Requirement. For a single-family dwelling to be eligible for conversion to a two family home, the floor area of the existing single-family dwelling must be 3,000 square feet or greater. Accessory structures and garages are excluded from this calculation.
- (2) No major structural changes shall be made to the front or sides of such existing dwellings other than to provide light and ventilation for the units.
- (3) Minor extensions to the rear of the dwelling shall not exceed the existing height or width of the dwelling.
- (4) No outside stairway of any description shall be permitted, except those required for emergency use by state or local municipalities. In such event, such stairways shall, whenever possible, be placed on the rear wall of the structure.

**M. Farmers Market**

- (1) A management plan, required as part of the application, shall demonstrate the following:
  - (a) The on-site presence of a representative of the farmers market during hours of operation who directs the operations of vendors participating in the market.
  - (b) An established set of operating rules addressing the governance structure of the market, hours of operation, and maintenance when open to the public.
  - (c) A general site plan including vendor stalls, parking areas, visitor facilities, such as any seating areas and restrooms, and all ingress and egress points to the site.

- (d) A lighting plan describing all temporary lighting to be installed.
  - (e) Provision for waste removal.
  - (f) The days and hours of all operations, including vendor set-up and take-down times.
- (2) Any accessory entertainment, live or pre-recorded, is limited to the hours of 9:00AM to 7:00PM.

**N. Hospice Residence**

- (1) Only rooms originally designed as bedrooms shall be used for lodging.
- (2) A hospice residence is limited to five bedrooms.
- (3) The name and phone number of the owner and service provider shall be posted inside the building.

**O. Hotel**

- (1) Overnight occupancy of recreational vehicles, camper trailers, and tents at the property where the hotel is located is not allowed.
- (2) Outdoor overnight sleeping of guests is prohibited.

**P. Industrial, Heavy**

- (1) No curb cuts or driveways shall be located within 150 feet of any residential district, or planned development lot line, as measured from the lot lines of the heavy industrial, but excludes any right-of- way.
- (2) No trucks, tractors or trailers shall be maneuvered, parked, fueled, stored, loaded, or unloaded within 100 feet of any residential district lot line, as measured from the lot lines of the heavy industrial but excludes any right-of-way.
- (3) No vehicles or equipment accessory thereto shall operate engines or motors between the hours of 10:00P.M. and 8:00A.M. the following day unless parked more than 150 feet from any residential district lot line, as measured from the lot lines of the heavy industrial, but excludes any right-of-way.

**Q. Industrial, Light**

- (1) The portion of the building used for the light industrial shall be designed and maintained to mitigate noise, vibration, odor, dust, smoke, observable gas or fumes, or other observable atmospheric pollutants emanating from the use onto

abutting uses, including as necessary to prevent such impacts, closing window and doors, screening window and doors, and installing proper ventilation or noise reduction equipment.

(2) Loading and unloading shall be limited to the following hours:

(a) In the General Neighborhood District: 8:00AM to 6:00PM

(b) In the Industrial District: 8:00AM to 10:00PM

#### **R. Live-Work Unit**

(1) Not more than one person who does not reside on the premises shall work at any one time in the live-work unit.

(2) No stock-in-trade shall be visible from the street.

(3) There shall be no outdoor storage of equipment or materials.

(4) Commercial vehicles are allowed per Section 551-35.J.

(5) Promotional and sales events shall be limited no more than four events per year and shall be limited to the hours of 10:00AM and 9:00PM. All promotional and sales events shall be indoors.

(6) No mechanical, electrical, or other equipment that produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisance outside the residential or accessory structure shall be used.

(7) No live-work unit shall be permitted that is noxious, offensive, or hazardous by reason of hours of operation, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation, or other objectionable emissions.

#### **S. Parking Garage, Principal Use**

(1) Parking garages shall be used exclusively for parking of passenger vehicles and other modes of personal transportation.

(2) Parking garages shall be equipped and controlled to discourage illegal parking, vandalism, and other unlawful or nuisance-creating activities.

(3) Parking garage design is subject to the requirements of Section 551-35.H.

## **T. Personal Wireless Telecommunication Facilities**

### **(1) Purpose**

The purpose of this section is to provide sound land use policies, procedures, and regulations for personal wireless telecommunication facilities. These will protect the community from the visual or other adverse impacts of these facilities, while encouraging unobtrusive development, and will ensure comprehensive wireless telecommunication service in the Village of Fairport with its benefits to residents and businesses. The standards reflect a policy that expresses a preference that antennas be located on existing buildings and towers rather than on newly constructed towers. The regulations of this section shall govern and control the erection, enlargement, expansion, alteration, operation, maintenance, relocation, and removal of all personal wireless communication facilities. The regulations of this section relate to the location and design of these facilities and shall be in addition to the provisions of the New York State Fire Prevention and Building Code, and any other federal, state, or local laws or Federal Communication Commission (FCC) regulations pertaining to such facilities. Where the following standards and requirements of this section are not met, a special permit shall be required.

### **(2) District Standards**

#### **(a) Residential and Downtown Districts**

[1] Antennas on Buildings. Antennas on buildings are permitted on all buildings that are three stories or greater in height, provided that the antennas and related support structures do not extend more than 10 feet above the roofline.

[2] Antennas on Existing Towers. Antennas on existing telecommunication towers or other structures shall require a special permit unless otherwise allowed by the terms of a prior special permit.

[3] Telecommunication Towers. Telecommunication towers shall require a special permit and shall be subject to the additional design standards set forth in this section.

#### **(b) General Neighborhood and Canal District**

[1] Antennas on Buildings. Antennas are permitted on all buildings that are three stories in height or greater, provided that the antennas and related support structures do not extend more than 10 feet above the roofline of such buildings.

[2] Antennas on Existing Towers. Antennas on existing telecommunication towers or other structures shall be permitted unless otherwise restricted pursuant to the terms of a prior special permit.

[3] Telecommunication Towers. Telecommunication towers shall require a special permit and shall be subject to the additional design standards set forth in this section.

(c) Industrial District

[1] Antennas on Buildings. Antennas are permitted on all buildings, provided that the height above grade does not exceed 100 feet and provided that antennas and related support structures that extend more than 20 feet above a roof are set back at least 100 feet from the nearest residential, preservation district or landmark.

[2] Antennas on Existing Towers. Antennas on existing telecommunication towers or other structures are permitted unless otherwise restricted pursuant to the terms of a prior special permit.

[3] Telecommunication Towers. Telecommunication towers are permitted provided that the height of the tower does not exceed 100 feet, and provided that the tower is located at least 100 feet from the nearest residential, open space, preservation district, or landmark.

(d) Preservation Districts

[1] Antennas on Buildings. Antennas on buildings shall require a special permit and shall be subject to the design standards set forth in this section.

[2] Antennas on Existing Structures. Antennas on existing telecommunication towers or other structures shall require a special permit, unless otherwise allowed by the terms of a prior special permit.

[3] Telecommunication Towers. Telecommunication towers are prohibited.

(e) Landmarks. Telecommunication antennas and towers are prohibited.

- (3) Design Standards. The following design standards shall apply to antennas and telecommunication towers installed or constructed pursuant to the terms of this Chapter:
- (a) Co-location. Telecommunication towers shall be designed to provide for co-location by two providers or designed so that they can be retrofitted to accommodate two providers.
  - (b) Fencing. The base area of a tower shall be enclosed with a fence not less than six feet in height.
  - (c) Landscaping. Landscaping shall be provided along the perimeter of the tower base area to provide a visual screen or buffer for adjoining private properties and the public right-of-way. Required front yard setback areas shall be landscaped. Compensatory site improvements may be provided in lieu of base area landscaping at the discretion of the Zoning Officer.
  - (d) Signs. Signs shall not be permitted on towers except for signs displaying owner contact information and safety instructions. Such signs shall not exceed five square feet in surface area.
  - (e) Color. Towers shall either be gray in color, have a galvanized finish or be colored appropriate to the tower's locational context to the extent that the tower is as unobtrusive as possible, unless otherwise required by the Federal Aviation Administration (FAA).
  - (f) Access. Access to tower or monopole areas shall be from established site access points whenever possible.
  - (g) Dish Antennas. Dish antennas shall be colored, camouflaged, or screened to the extent that they are as unobtrusive as possible, and in no case shall the diameter of a dish antenna exceed six feet.
  - (h) FAA Standards. Antennas and support structures required to be lighted and painted other than gray or a galvanized finish by FAA regulations shall be allowed only upon the issuance of a special permit subject to the additional standards set forth in this section.
  - (i) Accessory Equipment. Accessory equipment may be located within an existing building, or in newly constructed buildings and structures when limited to 400 square feet in floor area.

- (j) Significant Architectural Features. Personal Wireless Telecommunication Facilities shall not obscure significant architectural features or details of buildings or other structures.

(4) Bulk, Space, and Yard Requirements

- (a) Height. Except as otherwise restricted by this section, antennas located on buildings and other structures and towers shall be subject to the applicable district regulations pertaining to height.

- (b) Setback

- [1] Setback requirements for towers and accessory buildings and structures shall be as prescribed by the applicable district regulations for principal uses except in Industrial.

- [2] Setback requirements in Industrial districts shall be as follows:

- (i) Street yards: Fifty feet.

- (ii) Other yards: Zero feet.

- [3] Street yard setback areas shall be landscaped and used for no other purposes.

(5) Additional Requirements and Standards

- (a) Personal Wireless Telecommunication Facilities Application. Each application for a personal wireless telecommunication facility shall be accompanied by a plan that shall reference all existing personal wireless telecommunication facility locations in the applicant's Village of Fairport inventory, any such facilities in the abutting municipalities that provide service to areas within the Village of Fairport and any changes proposed within the following 12 month period, including plans for new locations and the discontinuance or relocation of existing wireless facilities.

- (b) Special Permit Applications. In addition to the requirements and standards for special permit applications, the following requirements and standards shall apply:

- [1] Special permit applications for towers and antennas shall be subject to the following additional standards:

- (i) Each application shall include a site location alternative analysis describing the location of other sites considered, the availability of

those sites, the extent to which other sites do or do not meet the provider's service or engineering needs, and the reason why the subject site was chosen.

(ii) The Planning Board may retain technical consultants as it deems necessary to provide assistance in the review of the site location alternatives analysis. The service provider shall bear the reasonable cost associated with such consultation.

(iii) The provider shall document, to the satisfaction of the Planning Board, that a good-faith effort has been made to locate or co-locate on existing towers or other available and appropriate buildings and structures and that the proposed location is necessary to provide adequate service to the public.

[2] In reviewing special permit applications required by this section, the Planning Board shall consider the Village's policy preferring that antennas are located on existing buildings, towers, and other structures, rather than on newly constructed towers. When considering appropriate height in conjunction with such applications, the Planning Board shall be more permissive when a facility is proposed for co-location by more than one service provider and less permissive when the facility is proposed for use by a single provider.

(6) Discontinuance of Use. If the use of any facility is discontinued, the provider shall notify the Zoning Officer within 90 days of such discontinuance. If the facility will be retained, the provider shall establish that the facility will be reused, and all necessary approvals obtained, within one year of such discontinuance. If a facility is not reused within one year, a demolition permit shall be obtained and the facility removed. At the discretion of the Zoning Officer, upon good cause shown, the one-year period for removal may be extended for a period not to exceed one additional year.

(7) Temporary Installations. Temporary personal wireless telecommunication facilities erected to meet peak service needs for special community events shall require only approval by the Building Inspector.

(8) Exceptions and Explanatory Notes

(a) Personal wireless telecommunication facilities may be repaired or maintained without restriction.

- (b) Antennas may be replaced in kind without restriction.
- (c) Other structures as referenced in this section include freestanding structures as well as structures attached to or located on buildings, such as antenna support structures, church spires, belfries, cupolas, domes, monuments, water towers, observation towers, penthouses, windmills, solar energy collectors and equipment used for the monitoring or operation of such collectors, chimneys, smokestacks, flagpoles, masts and similar structures.

#### **U. Private Club or Lodge**

- (1) A general admission fee or any other monetary donations (payment at the door to the general public) for entrance is prohibited, with the exception of fundraisers or events for bona fide non-profit organizations, places of worship, educational facilities, or similar uses.
- (2) The bylaws of the organization must be submitted to the Village upon establishment of the use.
- (3) A private club cannot exceed 2,500 square feet.

#### **V. Residential Cluster Development**

##### **(1) Purpose**

- (a) A residential cluster development allows for an alternative to conventional residential subdivisions by allowing for dwellings set in a more compact setting, thus preserving open spaces for community use.
- (b) A residential cluster development is intended to promote community cohesion and quality of life in a development that complements the existing neighborhood context.

##### **(2) Applicability**

A residential cluster development is allowed by Special Permit and may be proposed in all Residential districts.

##### **(3) Maximum allowable Dwelling Units**

The maximum number of residential units allowed is the equivalent of ten residential units per acre, rounded to the nearest whole number. For example, a half acre parcel would allow a maximum of five residential units.

**(4) Minimum area size**

The minimum size of a residential cluster development is 30,000 square feet comprised of a single lot or adjacent lots under common ownership.

**(5) General Development Standards**

(a) Residential cluster development may take one of two forms:

[1] A development may be designed on individual lots of record.

[2] A development may also be designed with multiple dwellings on a single lot of record.

(b) A Residential cluster development requires the establishment of a homeowners association (HOA), property management company, or other designated managing entity approved by the Village for the maintenance of all common elements.

**(6) Use Limitations**

(a) Single-family and two-family dwellings are permitted in a residential cluster development.

(b) Buildings and accessory structures for common facilities for use by the residents, such as laundry facilities, communal kitchens, and common rooms are also permitted.

**(7) Development Standards**

(a) The following standards apply to the residential cluster development as a whole:

[1] Along the lot lines of the development as a whole, a minimum setback of 15 feet is required.

[2] Along the front lot line of the development as a whole, a setback of the average frontage of lots on the block is required.

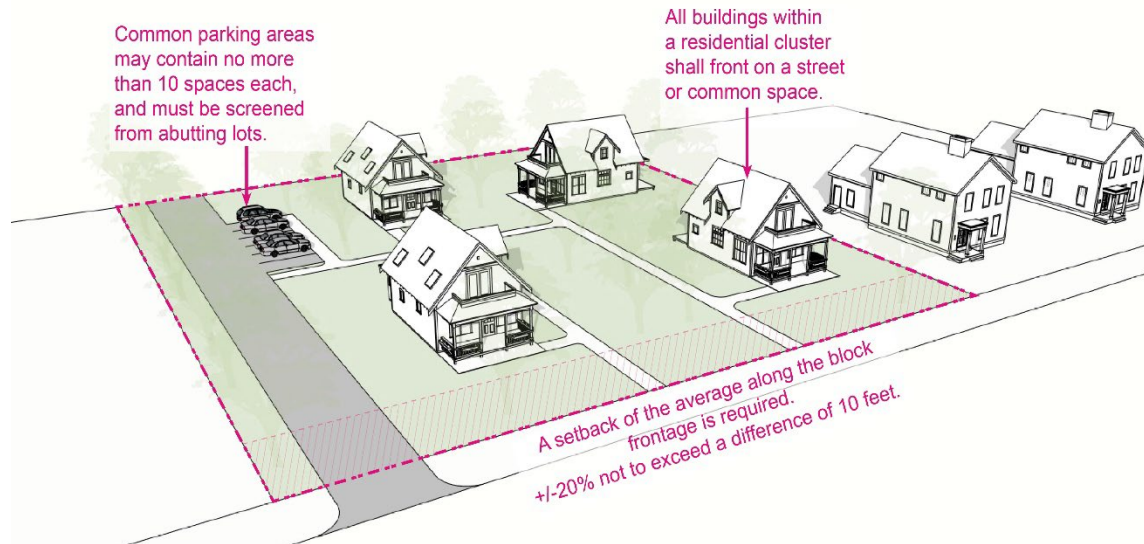
(b) All buildings within the residential cluster development shall front on a street or a common open space.

(c) Central common open space is required and shall meet the following standards:

- [1] The minimum size of the central common open space is 3,000 square feet, or 500 square feet per dwelling unit, whichever is greater.
- [2] The central common open space shall maintain a minimum width of 50 feet, shall be contiguous and conveniently located to the dwellings of the residential cluster.
- [3] A maximum of 30% of the central common open space may be hardscape.

(d) Other Development Standards

- [1] Once central common open space requirements are met, additional common open space within the development is permitted.
- [2] Any part of a structure must be five feet from the back from any sidewalk or hardscape feature of the central common open space. This does not include steps, access ramps, and similar access features.
- [3] Vehicular access to a parking area for a pocket neighborhood shall meet the following standards:
  - (i) Required off-street parking may be provided on individual development sites for each dwelling within the residential cluster development, or in a shared parking area serving multiple dwellings on-site
  - (ii) Common parking must be screened from abutting lots that are not part of the development.
  - (iii) Parking may not be located between principal structures and the street, between a common area and a street, or within any required common area.



*Residential cluster development standards*

**W. Self-Storage Facility: Climate-Controlled**

- (1) Storage units cannot be used as a residence or place of business.
- (2) No plumbing connections are permitted in self-storage units.
- (3) All self-storage activities must be conducted exclusively indoors. Individual storage units may be accessed from inside the building only.
- (4) All facilities must meet the design standards of the district.
- (5) Access to loading areas must be located to the side or rear of the building.

**X. Self-Storage Facility: Outdoor Access**

- (1) Storage units cannot be used as a residence or place of business.
- (2) No plumbing connections are permitted in self-storage units.
- (3) Outdoor self-storage facilities are allowed to include an area for storage of recreational vehicles. Storage areas for recreational vehicles must be located in the rear yard.
- (4) No storage of recreational vehicles is allowed within 25 feet of any rear or interior side lot line. No storage of recreational vehicles is allowed within 40 feet of any front or corner side lot line.
- (5) If storage areas for recreational vehicles are provided, they must be screened along interior side and rear lot lines with a solid fence or wall, a minimum of six feet and a maximum of eight feet in height.

(6) Outdoor self-storage facilities must be a permanent building and cannot be constructed of shipping containers.

**Y. Sexually Oriented Business.** An adult arcade, adult cabaret, adult movie theatre, adult retail store, adult retail store -limited, and/or escort agency.

**(1) Purpose**

The purpose of this section is to regulate sexually oriented businesses to promote the health, safety, morals and general welfare of the citizens of the Village. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any speech, including sexually oriented speech. Similarly, this section is not intended to affect the restriction or denial of access by adults to speech protected by the First Amendment and New York Constitution, or to deny access by the distributors and exhibitors of sexually oriented speech to their intended market. Neither is the intent nor effect of this section to condone or legitimize the distribution of obscene material.

**(2) Single Adult Use Per Location**

There shall only be one sexually oriented business permitted on a single premises.

**(3) Measurement**

(a) Stock-In-Trade. The number of items in stock in the sales and display area at the time of a site inspection. The number of sexually oriented items shall be calculated as a percentage of total items.

(b) Sales and Display Area. The entire interior floor space of a business establishment devoted to sales and display, including aisles, measured in square feet at the time of a site inspection. The floor space devoted to sales and display of sexually oriented materials shall be calculated as a percentage of total sales and display area.

(c) Where sexually oriented materials are physically separated from other materials by an eight-foot wall, the separate sales and display area (including any aisles) shall be compared to the total sales and display floor area.

(d) Where floor area includes a mixture of sexually oriented material with any other material, it shall be counted as sexually oriented. Any such area shall

include 1/2 of the area of any aisles adjacent to the display or sales of sexually oriented materials.

**(4) Supplemental Standards**

- (a) Adult Movie Theater. All aisles shall have theater runway and aisle lighting that illuminates the entire floor surface of the aisle.
- (b) Adult Retail Store. The store shall separate all sexually oriented material from other sales and display areas using an opaque wall at least eight feet in height. Such an area shall incorporate a management-controlled system of access to ensure that only persons over the age of 18 years are allowed to enter. The owner or operator shall have the affirmative duty to prevent the public display of sexually oriented material at or within the portions of the business open to the general public.

**(5) Separation Requirements**

- (a) Measurement. The following separation requirements shall be measured from the lot line of a sexually oriented business to the lot line of a protected use (item b below) or other sexually oriented business listed below. Where a multitenant facility such as a shopping center is involved, measurement shall occur from the boundary of the leasehold interest instead of the lot line.
- (b) Protected Uses. For the purpose of measuring separation from sexually oriented businesses, “protected uses” include the following:
  - [1] Public and semipublic uses, except police and fire stations
  - [2] Places of worship
  - [3] Museum

**(6) Distance Requirements**

- (a) Limited Adult Retail Store or Escort Agency
  - [1] Distance from any protected use: None
  - [2] Distance from any residential district: 500 feet
  - [3] Distance from any other limited adult retail store or escort agency: None
  - [4] Distance from any other sexually oriented business: None

(b) Adult Arcade, Adult Cabaret, Adult Movie Theater, and Adult Retail Store

[1] Distance from any protected use: 1,000 feet

[2] Distance from any residential district: 500 feet

[3] Distance from any other limited adult retail store or escort agency: None

(c) Distance from any other sexually oriented business: 1,000 feet.

## **Z. Vehicle Fueling Station**

(1) Vehicle fueling station may also include any of the following activities:

(a) Electric vehicles charging stations.

(b) Retail dispensing or sales of automobile lubricants, including oil changing and chassis lubrication where substantial disassembly is not required.

(c) Retail dispensing or sales of automobile coolants.

(d) Incidental repair or replacement of parts, such as windshield wiper blades, light bulbs, air filters, oil filters, batteries, belts, fuses and the like. Vehicle wrecking, vehicle repair, and the operation of more than one towing vehicle are not permissible incidental uses of a vehicle fueling station.

(2) No outdoor storage of materials, merchandise, or equipment shall be permitted during nonbusiness hours. Storage of materials, merchandise and equipment during nonbusiness hours shall take place within the principal building or within closed, secure containers such as outdoor storage cabinets.

(3) Refuse and trash may be stored outdoors at all times only if placed in closed containers located in a refuse enclosure in the rear or side yard.

## **AA. Vehicle Repair**

(1) All repairs shall be performed within an enclosed principal building on the premises.

(2) The portion of the building used for vehicle repair shall be designed and maintained to prevent light, noise, vibration, odor, dust, smoke, or other emissions emanating from the use onto abutting uses, including as necessary to prevent such impacts, closing windows and doors, screening windows and doors, and installing proper ventilation or noise reduction equipment.

(3) No accessory sale of vehicles shall be permitted.

- (4) No outdoor storage of materials, merchandise, or equipment shall be permitted except in the Industrial District. Storage of materials, merchandise, and equipment shall take place within the principal building or within closed, secure containers, such as outdoor storage cabinets, with the exception of refuse and trash, which shall be stored in closed containers and in an area screened from view at all points on any public or private property or street when viewed from ground level.
- (5) Sufficient screening shall be provided along all lot lines abutting a residential district or residential use as follows.
  - (a) A solid fence or wall, a minimum of six feet and a maximum of eight feet in height.
  - (b) One shrub must be planted for every three linear feet and spaced sufficiently to form a continuous linear hedgerow at plant maturity; plantings must be placed inside the fence oriented to the interior of the lot.
- (6) No partially dismantled or wrecked vehicle shall be stored outside of a completely enclosed building.

## **551-31 Use Standards: Accessory Uses**

### **A. Accessory Dwelling Unit (ADU)**

- (1) One ADU is permitted per lot per single-family dwelling.
- (2) An ADU may be fully enclosed within the existing principal structure or attached to the existing principal structure. Detached ADUs, whether a new or existing structure are prohibited.
- (3) For attached ADUs, a minimum of 25% of the total wall area or the floor or ceiling of the ADU must be fully connected to a wall, floor, or ceiling of the principal residential structure.
- (4) An ADU must be connected by utilizing common structural elements including any combination of shared walls, floors, ceilings or roofs.
- (5) An ADU is limited to a maximum of one bedroom.
- (6) The maximum size of an ADU is 650 square feet.
- (7) The addition of an attached ADU to an existing structure cannot extend past the existing building's front building line.

### **B. Home Occupation**

- (1) Stock-in-trade shall be contained within the permitted portion of the floor area for the home occupation and shall not be visible from the street.
- (2) There shall be no outdoor storage of equipment or materials used for the home occupation.
- (3) No mechanical, electrical or other equipment that produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisance outside the residential or accessory structure shall be used.
- (4) No home occupation shall be permitted that is noxious, offensive, or hazardous by reason of hours of operation, vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation, or other objectionable emissions.
- (5) Instruction for no more than five attendees shall be allowed.
- (6) Not more than one person who is not a resident of the home shall work on the premises at any one time in the home occupation.

**C. Outdoor Animal Care Area**

- (1) Animal care facilities shall locate exterior pens, runs, training, and exercise areas to the side or rear of the building.
- (2) All exterior areas shall be completely fenced to contain all animals on the lot.
- (3) Exterior exercise areas must provide covered areas over a minimum of 20% of the exterior area to provide shelter against sun/heat and weather.
- (4) No exterior areas may be used for overnight boarding.

**D. Outdoor Sales and Display**

- (1) All outdoor display of merchandise shall be located adjacent to the principal structure and not in drive aisles, loading zones, or fire lanes.
- (2) No display may be placed within three feet of either side of an active door, or within 15 feet directly in front of an active door.
- (3) A minimum clear width for pedestrian traffic of eight feet shall be provided and maintained along any sidewalk.

**E. Outdoor Seating/Activity Area**

- (1) Outdoor seating/Activity areas shall comply with Chapter 330 Noise.

**F. Outdoor Storage**

- (1) The outdoor storage area shall be located a minimum of 30 feet from any lot line. No outdoor storage is permitted in the required front setback.
- (2) All lot lines abutting a district other than the Industrial District shall be screened by a solid masonry wall or fence not less than six feet nor more than eight feet in height.
- (3) Storage of any kind is prohibited outside the fence or wall.
- (4) No items stored within 50 feet of the fence may exceed the height of the fence or wall.

**G. Roof-Mounted Solar Energy Systems**

- (1) Roof-mounted solar energy systems that use the electricity generated on site or off site are permitted as an accessory use in all zoning districts when attached to any lawfully existing and lawfully permitted building.

- (2) Height. Roof-mounted solar energy systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.
- (3) Aesthetics. Roof-mounted solar energy system installations shall incorporate, when feasible, the following design requirements:
  - (a) Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and the highest edge of the system.
  - (b) Solar energy systems should be color-compatible with the principal structure.
- (4) Abandonment and decommissioning. Solar energy systems shall be considered abandoned after 12 consecutive months without electrical energy generation and must be removed from the property. Applications for extensions can be made to the Zoning Officer, which shall have authority to grant six-month extensions.

#### **H. Vehicle Rental**

- (1) Only storage of vehicles stocked by the establishment for rent shall be permitted.
- (2) Vehicle storage areas shall be surfaced with a paving material such as asphalt, concrete, or other material that provides a durable and dustless surface and shall be graded and drained to dispose of all surface water accumulation.
- (3) No repairs, other than minor repairs, shall be performed on the premises, and any such minor repairs shall be performed only within the principal building on the premises.
- (4) All storage of material, merchandise and equipment shall be within the principal building, with the exception of refuse and trash, which shall be stored in closed containers and in an area screened from view at all points on any public or private property or street when viewed from ground level.

## 551-32 Use Definitions

Definitions are not eligible for a variance.

**Accessory Dwelling Unit (ADU).** A subordinate dwelling unit added to or created within a single-family dwelling. The ADU provides living, sleeping, cooking, and sanitation facilities.

**Animal Care Facility.** An establishment that provides care for domestic animals, including veterinary offices for the treatment of animals, where animals may be boarded during their convalescence, pet grooming facilities, animal training centers and clubs, and facilities where animals are boarded during the day. Animal care facilities do not include animal breeders. Animals boarded for overnight and short-term stays are limited to three or fewer animals; however, this does not apply to veterinary clinics.

**Bed-And-Breakfast.** An owner-occupied and owner-operated dwelling unit, originally designed as a residential structure, used for providing overnight accommodations and a morning meal to not more than ten transient lodgers, and containing not more than five bedrooms for such lodgers. Only bedrooms are used for providing overnight accommodations for less than 31 consecutive days at a time. The dwelling unit is the owner's primary residence and at least one bedroom within the unit is reserved for the owner's exclusive personal use.

**Boarding House.** A dwelling that offers lodging within sleeping units for compensation, with or without meals, and not occupied as a single-family dwelling. Individual units are let by the owner or operator to non-family members. This includes dormitories, and fraternity and sorority houses. Boarding house does not include owner-occupied premises with sleeping units rented to two or fewer non-family members.

**Cannabis Establishment: Adult-Use Cannabis Retail Dispensary.** Premises licensed under the New York State Cannabis Law for the retail sale of cannabis to cannabis consumers.

**Car Wash.** Any building or premises, or portion thereof, the use of which is devoted to the business of washing automobiles for a fee, whether by automated cleaning devices or otherwise.

**Clinic, Outpatient.** A facility where medical, mental health, surgical, and other personal health services are provided exclusively on an outpatient basis by a group of physicians working in cooperation and sharing the same facilities. An outpatient clinic may include educational aspects such as medical instruction and/or training as well as

house a lab, radiology, pharmacy, rehabilitation, and other similar services as accessory uses.

**Commercial Use, Indoor.** A commercial activity involving the sale of goods or services, carried out for profit, which is within a completely enclosed building and not listed individually within Table 3-1 or listed within the prohibited uses: Use Table. This includes, but is not limited to, retail goods establishments, personal services, office uses, rental services, and eating and drinking establishments.

**Community Center.** A building or structure and related facilities operated by a community-based group, government agency, or organization on a nonprofit basis, the primary function of which is the provision of personal and other services to individuals, families, and groups. Services may include information, socializing, recreation, education, culture, and counseling but shall exclude the provision of sleeping quarters, except for one caretaker dwelling unit to be used for security and maintenance purposes.

**Community Garden.** An operation in which residents grow food and/or ornamental plants and create community-building spaces. Produce is consumed by local households or donated to community organizations. Community gardens may offer a small amount of their product to be sold to support garden operation costs, but no onsite permanent structure is used for sales. Community gardens may include small-scale composting systems, low tunnels and temporary season extension equipment, water barrels, and other catchment/irrigation systems.

**Community Home.** A building arranged or used for lodging and not occupied as a single-family unit, where the building is owned or operated by a New York State (NYS) registered organization that provides services to residents such as counseling, training, rehabilitation, or peer support, either on-site or off-site, where residents occupy individual sleeping units. A community home shares a kitchen. Occupants do not need 24 hour supervised room, board, and care, and are capable of living independently. Examples of community homes include transitional housing and sober homes.

**Completely Enclosed Building.** A structure where all activity associated with the use occurs inside. Drive-through facilities, whether a stand-alone kiosk or associated with a traditional retail or service structure, shall not be considered completely enclosed buildings.

**Craft Production.** Craft-related industrial processes within a completely enclosed building involving manufacturing, production, assembly, plant growing, and/or repair that includes a showroom or retail space open to the public.

**Crematorium.** A location containing a certified apparatus intended for use in the act of cremation.

**Day Care Center.** Any nonresidential establishment where care for children or adults is provided and is not considered a day care home or adult day care home.

**Day Care Home.** An operator-occupied dwelling unit where care for children is provided.

**Day Care Home, Adult.** A program caring for up to six adults for more than three hours per day per person in which day care is provided in an operator-occupied dwelling unit.

**Drive-Through.** The principal or accessory use that, by design of physical facilities or by service or packaging procedures, encourages or permits customers to receive a service or obtain a product directly while remaining in a motor vehicle, and may include drive-in outdoor theaters, fast-food establishments, banks, and similar uses.

**Dwelling, Multifamily.** A building that contains three or more dwelling units.

**Dwelling, Single-Family.** A structure that contains one dwelling unit and is surrounded by open space or yards and having no roof, wall, or floor in common with any other dwelling unit.

**Dwelling, Townhouse.** A dwelling unit attached to another dwelling unit, each of which is separated from the other by one or more unpierced walls extending from ground to roof.

**Dwelling, Two-Family.** A structure that contains two dwelling units.

**Dwelling, within a Mixed-Use Building.** Dwelling units located above ground-floor nonresidential uses or located behind ground-floor nonresidential uses.

**Educational Facility.** The use of a building or structure, or a portion thereof, by six or more persons at any one time for Pre-K through 12th grade education, vocational education, or technical education. This does not include a day care center, day care home, or adult day care home.

**Family.** One or more persons occupying the premises and living as a single housekeeping unit.

**Farmers Market.** The temporary use for the sale of a variety of fresh fruits, flowers, vegetables, or ornamental plants, and other locally produced farm and food products,

including value-added products, directly to consumers from farmers or from vendors that have taken such items on consignment for retail sale.

**Funeral Home.** A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

**Home Occupation.** A business, profession, occupation, or trade and conducted for gain or support entirely within a residential dwelling that is incidental and secondary to the use and occupies no more than 500 square feet of the floor area of the dwelling unit and is owned and operated by a resident of the dwelling unit. No alteration of the principal residential building is made that changes the character and appearance as a dwelling.

**Hospice Residence.** A residential dwelling operated for the purpose of providing care to more than two but not more than five hospice patients, pursuant to Article 40 of the Public Health Law, and as defined in Section 4002 of said law.

**Hotel.** A facility that provides sleeping accommodations and customary lodging services to guests for a fee. Related accessory uses may include, but are not limited to, meeting facilities, restaurants, bars, fitness rooms, and recreational facilities for the use of guests.

**Industrial, Light.** The assembly, manufacture, fabrication, processing, agriculture, aquaculture, or other handling of products, the operation of which is conducted solely within a building or group of buildings and does not create a nuisance from noise, vibration, odor, dust, smoke, observable gas or fumes, or other observable atmospheric pollutants beyond the exterior walls of the building where the use is conducted. This includes warehousing and wholesale distribution of products manufactured on-site and products manufactured off-site. Light industrial may also include a showroom and accessory sales of products related to the items manufactured or stored on-site.

**Industrial, Heavy.** Any factory, shop, yard, warehouse, mill or other nonresidential premises utilized in whole or in part for the processing, preparation, production, containerizing, storage or distribution of goods, wares, commodities, parts, materials, electricity, and the like. The processing, preparation and production activities customarily deal with man-made or raw materials and other manufactured items that are altered, restored, or improved by the utilization of biological, chemical, or physical actions, tools, instruments, machines or other such similar natural, scientific, or technological means. Heavy Industrial processes and treatments include but are not limited to such operations as mixing, crushing, cutting, grinding, and polishing; casting, molding, and stamping; alloying and refining; assaying, cleaning, coating, and printing;

and assembling and finishing, and handling of any waste products and materials. Also includes any indoor or outdoor place or premises where trucks, tractors, and/or trailers park or are assigned, stationed, fueled, stored, loaded, or unloaded. Heavy industrial may also include a showroom, accessory sales of products related to the items manufactured or stored on-site, and/or outdoor storage for materials related to processes on-site.

**Junkyard.** Any lot or parcel, building, or structure used in whole or in part for the storage, collection, processing, or disposal of waste or scrap materials.

**Kennel.** A facility where four or more dogs and/or cats over the age of six months are boarded indoors for overnight and short-term stays; outdoor kennels are prohibited. Boarding at veterinary clinics is not considered a kennel. Kennel also includes animal breeders.

**Live-Work Unit.** A dwelling unit or sleeping unit in which no more than 50% of the dwelling unit includes a nonresidential use that is operated by the resident.

**Museum.** An institution, building, room, or specified area for preserving, exhibiting, demonstrating, or interpreting art, history, culture, or nature or scientific objects or ideas.

**Outdoor Animal Care Area.** Outdoor areas reserved for the use of animals kept on-site accessory to a commercial animal care establishment, such as exercise pens, runs, training, and exercise areas.

**Outdoor Sales and Display.** Part of a lot used for outdoor sales and/or display of goods accessory to the principal use.

**Outdoor Seating/Activity Area.** An outdoor seating/activity area as an accessory use is located outside the permanent enclosed area, and is used for seating, for food and/or beverage consumption, and/or participatory activities, such as trivia or skill games like darts. This includes, but is not limited to, areas such as patios, decks, rooftops, and open areas.

**Outdoor Storage.** The storage of materials, supplies, equipment, vehicles, and similar items outdoors in conjunction with the principal use of land.

**Pawnbroker.** Any business or location in which a collateral loan broker, as defined in Article 5 of the New York State General Business Law, is operating.

**Personal Wireless Telecommunication Facilities.** Facilities for the provision of commercial mobile services, unlicensed wireless services and common carrier

wireless exchange access services, including but not limited to antennas, telecommunications towers and accessory facilities.

**Place of Worship.** A structure owned and/or used by a religious organization for worship, religious training, and/or accessory religious education.

**Private Club or Lodge.** A building and related facilities owned or operated by a corporation, association, or group of persons for social, educational, and/or recreational purposes of members regularly paying dues, but not primarily for profit nor to render a service that is customarily carried on as a business.

**Public and Semipublic Use.** Uses operated by a public or semipublic body such as public libraries, fire and public safety buildings, parks, and governmental buildings.

**Recreation, Indoor.** A commercial facility for predominantly participant uses where recreational activities or games of skill are conducted within a wholly enclosed building including, but not limited to, a bowling alley, pool/billiard hall, indoor child's play facility, arcades, indoor recreation facilities (soccer, tennis, etc.), or similar uses. This does not include facilities that are part of a public and semipublic use.

**Recreation, Outdoor.** A commercial facility for predominantly participant uses that take place outside of a building including, but not limited to, mini-golf courses, batting cages, outdoor recreation facilities (ball fields, soccer, tennis, etc.), and other similar facilities. This does not include facilities that are part of a public and semipublic use.

**Residential Cluster Development.** A residential development that allows for homes organized around shared spaces and designed as a cohesive whole.

**Roof-Mounted Solar Energy System.** A complete design or assembly consisting of a solar energy collector and other components for the transformation, processing, storage, transmission, and/or distribution of photovoltaic solar energy for the purposes of space heating and cooling, electricity supply, and/or water heating.

**Self-Storage Facility: Climate-Controlled.** A facility for the storage of personal property where individual renters control and access individual storage spaces located within a fully enclosed building that is climate controlled. Accessory retail sales of related items, such as moving supplies, and facility offices may also be included.

**Self-Storage Facility: Outdoor Access.** A facility for the storage of personal property where individual renters control and access individual storage spaces and where each storage unit has individual access from the outdoors, and which may have areas available for accessory outdoor storage. Ancillary retail sales of related items, such as moving supplies, and facility offices may also be included.

**Sexually Oriented Business.** An adult retail store, limited adult retail store, adult arcade, adult cabaret, adult movie theater, and/or escort agency.

**(1) Adult Arcade.** Any business enterprise that offers or maintains one or more adult video viewing booths.

**(2) Adult Video Viewing Booth.** Coin- or slug-operated, or electronically or mechanically controlled, still- or motion-picture machines, projectors, or other image-producing devices that present visual or audio material of any kind that is characterized by its emphasis on the description or depiction of specified anatomical areas or specified sexual activities and that are designed to be viewed by five or fewer persons per machine at any one time or are located in a room or booth of less than 150 square feet. No part of this definition shall be construed to permit more than one person to occupy an adult video viewing booth at any time.

**(3) Adult Cabaret.** Any business enterprise which regularly features or offers to the public, customers, or members, performances by persons who appear nude or seminude or live performances that are characterized by their emphasis on the exposure, depiction or description of specified anatomical areas or the conduct or simulation of specified sexual activities.

**(4) Adult Movie Theater.** Any business enterprise which regularly features or offers to the public the presentation of motion-picture films, movies or sound recordings which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities and which are presented to a common audience of more than five persons in an enclosed common area or are presented in a common area of more than 150 square feet.

**(5) Adult Retail Store.** A business enterprise that meets any of the following tests:

(a) Offers for sale or rental items from any two of the following categories:

[1] Sexually oriented materials;

[2] Lingerie; or

[3] Leather goods which are marketed or presented in a context to suggest their use in connection with specified sexual activities.

(b) Offers for sale sexually oriented toys and novelties, except a business enterprise which devotes less than 10% of its stock-in-trade and sales and display area to sexually oriented materials, with all sexually oriented toys and novelties separated from other sales and display areas by an opaque wall at

least eight feet in height with a management-controlled system of access to ensure that only persons over the age of 18 years are allowed to enter the area;

- (c) Devotes more than 10% of its stock-in-trade or sales and display area to sexually oriented materials without having all sexually oriented materials separated from other sales and display areas by an opaque wall at least eight feet in height with a management-controlled system of access to ensure that only persons over the age of 18 years are allowed to enter the area;
- (d) Devotes more than 40% of its stock-in-trade or sales and display area to sexually oriented materials; or
- (e) Advertises or holds itself out in signage visible from the public right-of-way as "X...," "adult," "sex" or otherwise as a sexually oriented business.

**(6) Adult Retail Store - Limited.** Any business enterprise which offers for sale or rental sexually oriented materials and which devotes at least 10% and not more than 40% of its stock-in-trade or sales and display area to sexually oriented materials, provided that:

- (a) The following items are not also offered for sale:

- [1] Lingerie; or

- [2] Leather goods which are marketed or presented in a context to suggest their use in connection with specified sexual activities.

- (b) All sexually oriented materials are separated from other sales and display areas by an opaque wall at least eight feet in height with a management-controlled system of access to ensure that only persons over the age of 18 years are allowed to enter the area; and
- (c) The business enterprise does not advertise or hold itself out in signage visible from the public right- of-way as "X...," "adult," "sex" or otherwise as a sexually oriented business.

**(7) Escort Agency.** A person or business enterprise that furnishes, offers to furnish, or advertises to furnish, for consideration, escorts who perform any escort services in the Village. An escort agency that advertises or holds itself out in signage visible from the public right-of-way as "X...," "adult", or "sex" are considered an adult retail store.

**Vehicle Fueling Station.** Any building, land area or other premises, or portion thereof, used or intended to be used for retail dispensing or sales of automobile fuels.

**Vehicle Repair.** Includes engine repair, upholstery, steam cleaning, electrical work, tune-ups, muffler/exhaust systems service, tire service and all other passenger vehicle repair activities within an enclosed building, excluding exterior body work.

**Vehicle Rental.** An establishment or service that rents automobiles, vans, and trucks, including incidental parking and servicing of rental vehicles.

**Water-Dependent Uses.** All uses that cannot exist in any other location and are dependent on the water by reason of the intrinsic nature of their operations. Examples of water-dependent uses are marinas, docking basins, boat slips and docks, marine repair shops and service shops and boat launching ramps.

## **ARTICLE 6. SITE DEVELOPMENT STANDARDS**

### **551-33 On-Site Development Regulations**

#### **A. Purpose**

The requirements of this section and this Article regulate activities, uses, structures, conditions, and treatments that may be present on a property, whether or not a principal structure or use is present. These requirements contribute to and promote the health, safety, comforts, conveniences and/or necessities of the property's occupants, the immediate neighborhood, and/or the entire Village of Fairport community.

### **551-34 Frontage Landscape Standards**

#### **A. Selection**

- (1) All plants must meet minimum quality requirements and be free of defects, of normal health, height, leaf density, and spread as defined by the American Standard for Nursery Stock (latest available edition), American Horticulture.
- (2) All plant materials must be capable to withstand the seasonal temperature variations of western New York, as well as the individual site microclimate.
- (3) The use of naturalized or adapted non-native vegetation is required. Invasive species are prohibited. Any species classified as invasive by the New York State Department of Environmental Conservation (NYSDEC) is prohibited. Salt tolerant landscape is encouraged where adjacent to salted infrastructure.

#### **B. Installation**

- (1) All landscaping must be installed according to sound horticultural practices in a manner designed to encourage quick establishment and healthy growth, and per the ANSI A 300 Standard Practice for Tree, Shrub, and other Woody Plant Maintenance, most current edition and parts.
- (2) Placement of plant material should be designed to help insulate and shade development, and to reduce energy consumption needs.
- (3) Parking lot landscape is encouraged to coordinate with the design of parking lot lighting, to avoid conflicts between lighting and plant material that may result in the need for pruning or topping of required plant material.

### **C. Existing Trees and Shrubs**

All existing trees and shrubs that are maintained on a site and in good health may be counted toward any required onsite landscape of this Article.

### **D. Minimum Planting Sizes**

- (1) Shade trees shall have a minimum trunk caliper of 2 inches at planting.
- (2) Evergreen trees shall have a minimum height of six feet at planting.
- (3) Single stem ornamental trees shall have a minimum trunk size of two inches in caliper at planting. Multiple stem ornamental trees shall have a minimum height of seven feet at planting.
- (4) Shrubs shall have minimum height of 24 inches at planting.

## **551-35 Exterior Lighting**

### **A. Applicability**

The following standards apply to all nonresidential, mixed-use, and multifamily developments.

### **B. Lighting Standards**

- (1) No use shall produce a strong, glaring light or reflect a strong light or glare that is visible from any point along a lot line.
- (2) Lighting for pedestrian areas and sidewalk shall not exceed 15 feet in height.
- (3) All light fixtures shall be concealed source fixtures except for pedestrian-oriented accent lights.
- (4) Security lighting fixtures shall not project above the facade or roofline of any building and are to be shielded. Security lighting fixtures shall not be substituted for parking lot or walkway lighting fixtures and are restricted to lighting only loading and storage locations or other similar areas requiring security lighting.
- (5) Service-area lighting shall be contained within the service yard boundary. No light spillover shall occur outside the service area; the light source shall not be visible from the street.

- (6) Exterior wall-mounted floodlights shall be prohibited except for security lighting in enclosed service courtyards.

### **C. Exceptions to Lighting Standards**

- (1) All temporary emergency lighting required by public safety agencies, other emergency services, or construction are exempt from the requirements of this Chapter.
- (2) Because of their unique requirements for nighttime visibility and limited hours of operation, outdoor recreational fields (public or private) such as, but not limited to football fields, soccer fields, baseball fields, softball fields, tennis courts, and other similar uses are exempt from the lighting standards of Item B above.
- (3) Temporary holiday and seasonal lighting designs are exempt from the requirements of this Chapter.

### **D. Prohibited Lighting**

The following applies to lighting that is mounted on the exterior of the building, as well as lighting internally mounted that is visible to the outside.

- (1) Flickering or flashing lights, including those externally visible from the interior.
- (2) Searchlights, laser source lights, or any similar high intensity.
- (3) Any light fixture that can be confused with or construed as a traffic control device.

## **551-36 Fences**

### **A. General Requirements**

- (1) When additional fence and wall requirements are found in the use standards of Article 5, such requirements control.
- (2) The following materials are prohibited in the construction of fences and walls:
  - (a) Scrap metal
  - (b) Corrugated metal
  - (c) Chicken wire
  - (d) Chain link with slats

- (e) Privacy screens (e.g. fabric, canvas)
- (f) Barbed wire
- (3) A fence or wall, including all posts, bases, and other structural parts must be located completely within the boundaries of the lot on which it is located.
- (4) All fences shall be installed so that the finished side shall face outward. All bracing shall be on the inside of the fence, and the outward-facing side shall be of similar materials and colors as the inward-facing side.
- (5) All required fences and walls shall be maintained in good condition and, when necessary, repaired or replaced.
- (6) Wooden retaining walls, when not integral to a natural topographic grade change, are prohibited.
- (7) The height of fences or walls is measured from the average finished grade within two feet of the fence line.

**B. Fence Regulations within Districts**

- (1) Residential Districts
  - (a) Front setback fence height: Maximum of four feet in height to the front building line. However, a retaining wall made necessary by a natural topographic grade change may exceed four feet. Gates within or that open into the front yard shall also be limited to four feet.
  - (b) Rear and interior side setback fence height: Maximum of six feet in height. However, if the rear or interior side lot line abuts a nonresidential district, then the maximum fence height of that allowed within abutting nonresidential district is permitted.
  - (c) Fences located in the front yard and corner side yard shall be a minimum of 30% open.
  - (d) No chain link fencing shall be permitted in the front yard of a residential district lot.



*Fence Standards*

(2) Nonresidential Districts

- (a) Fences are limited to a maximum height of eight feet in nonresidential districts except in the Canal District. In Canal District the maximum height is six feet.

**C. Exceptions**

- (1) A fence a maximum height of 12 feet is permitted to enclose a private or public tennis court or public basketball court.

**551-37 Refuse and Recycling Containers**

- A. These provisions do not apply to standard personal refuse and recycling bins, approximately 96 gallons or less in size.
- B. Refuse and recycling containers are prohibited in the front or corner side yard.
- C. Enclosures are required as follows:
  - (1) All refuse and recycling containers must be fully enclosed on three sides by a solid fence, wall, or wall extension of the principal building a minimum of six feet and a

maximum of eight feet in height. The wall or wall extension must be constructed as an integral part of the building's architectural design.

- (2) The enclosure must be gated. Such gate must be solid and a minimum of six feet and a maximum of eight feet in height. This requirement does not apply to refuse containers located adjacent to an alley.
- (3) The gate must be maintained in good working order and must remain closed except when refuse/recycling pick-ups occur.
- (4) Refuse and recycling containers must remain in the enclosure with the gate closed and/or locked.

### **551-38 Mechanical Equipment and Aboveground Utility Equipment**

Mechanical equipment, such as heating, ventilation, and air conditioning (HVAC) equipment, heat pumps, electrical generators, power storage, pool pumps, and above ground utility equipment is subject to the following standards.

#### **A. Ground-Mounted Equipment**

- (1) Equipment is prohibited in the front and corner side yard. Equipment is allowed in the interior side or rear yard.
- (2) For multifamily and nonresidential uses, ground-mounted equipment must be screened from public view by a decorative wall, solid fence, or year-round landscaping that is compatible with the architecture and landscaping of a development site. The wall, fence, or plantings, at maturity, must be of a height equal to or greater than the height of the equipment being screened.

#### **B. Roof-Mounted Equipment**

- (1) All roof equipment must be set back from the edge of the roof a minimum distance so as not visible from the ground view of the public way.
- (2) Where it is not feasible for roof equipment to meet the requirement of item 1 above, there must be either a parapet wall to screen the equipment or the equipment must be housed in a screening structure that is architecturally integrated with the principal structure.

## **551-39 Performance Standards**

All uses must comply with the performance standards established in this section unless any federal, state, or local law, code, or regulation establishes a more restrictive standard, in which case, the more restrictive standard applies.

### **A. Noise**

All uses shall be subject to Chapter 330 of the Village Code.

### **B. Glare and Heat**

Any activity or the operation of any use that produces glare or heat must be conducted so that no glare or heat from the activity or operation is detectable at any point off the lot on which the use is located. Flickering or intense sources of light must be controlled or shielded so as not to cause a nuisance across lot lines.

### **C. Vibration**

No vibration from the operation of any use may be detectable at any point off the lot on which the use is located.

### **D. Air Quality**

(1) Emissions to the outdoor atmosphere, including but not limited to any dust, fumes, gas, mist, odor, smoke, vapor, toxic or deleterious emission, either alone or in combination with others, are subject to the specific air quality standards and emissions limits set forth in the Federal Clean Air Act and the New York State Air Pollution Control Rules and Regulations as administered by the New York State Department of Environmental Conservation (NYSDEC).

(2) Notwithstanding the existence of any New York State or federal permits or approvals, no use or structure shall emit smoke, dust, heat or heated air, noxious odors, odorous gases or other matter in such quantities as to be readily discernible on neighboring property and detrimental to the use and enjoyment of such neighboring property.

### **E. Water Pollution**

Storage of materials must include all proper precautions to protect any surface water or groundwater sources, whether natural or manmade, from contamination.

#### **F. Radioactive and Hazardous Waste**

Radioactive and hazardous material waste must be transported, stored, and used in conformance with all applicable federal, state, and local laws.

#### **G. Odors**

Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the public health and welfare, or which interferes unreasonably with the comfort of the public, must be removed, stopped, or modified so as to remove or reduce the odor.

#### **H. Fire and Explosion Hazards**

Materials that present potential fire and explosion hazards must be transported, stored, and used only in conformance with all applicable federal, state, and local regulations.

#### **I. Drainage**

No stormwater which originated on the property, or water generated by an activity, such as swimming pools, may be drained across property lines. No natural drainage may be diverted to cross property lines unless transported in an approved or existing drainage system.

# ARTICLE 7. OFF-STREET PARKING AND LOADING

## 551-40 Off-Street Parking Requirements

**A. Completion of Off-Street Parking and Loading Facilities.** All construction and improvements, including landscaping and screening, for off-street parking and loading facilities must be completed prior to the issuance of the certificate of occupancy for the use.

**B. Calculation of Required Vehicle Spaces**

(1) Vehicle parking spaces are calculated based on the principal use of the lot. When more than one principal use occupies the same lot, the number of spaces required is the sum of the separate requirements for each principal use.

(2) When a calculation results in a fractional space, a fraction of 0.5 or less shall be disregarded, and a fraction of more than 0.5, shall be considered one space.

**C. Residential Districts Required Parking Spaces Parking Spaces**

(1) For the following uses, the number of off-street parking spaces shall include:

Use	Minimum Parking Requirement	Maximum Parking Limitation
Bed and Breakfast Establishment	1 per guest bedroom plus 1 for the owner	110% of the total minimum required parking
Community Home	.5 per sleeping unit	110% of the total minimum required parking
Day Care Home	1 per dwelling unit	3 per dwelling unit outside of garage
Day Care Home, Adult	1 per dwelling unit	3 per dwelling unit outside of garage
Dwelling, Multifamily	1 per dwelling unit	110% of the total minimum required parking
Dwelling, Single-Family detached, Single-Family attached, Accessory Dwelling Unit	1 per dwelling unit	2 per dwelling unit outside of garage
Two- Family	1 per dwelling unit	2 per dwelling unit outside of garage
Educational Facility	1 per 1,000 GFA	110% of the total minimum required parking
Hospice Residence	.5 per bed	110% of the total minimum required parking
Museum	1 per 1,000 GFA	110% of the total minimum required parking
Place of Worship	1 per 1,000 GFA	110% of the total minimum required parking
Public and Semi-Public Use	1 per 1,000 GFA	110% of the total minimum required parking

- (2) No use shall exceed the maximum number of parking spaces, except through the submission of a Parking Plan and approval of a special permit in accordance with Section 551-69.
- (3) All required parking spaces for residential uses must be located on the same lot as the residential use, including the residential component of a mixed-use property.
- (4) Vehicles parked within a driveway or off-street parking space shall not project over the right-of-way, which includes the sidewalk, and shall have approved paved access to a curb cut.

**D. Nonresidential Districts Required Parking Spaces.**

- (1) Buildings Less than 4,000 Square Feet Gross Floor Area. There are no minimum off-street parking spaces required in nonresidential districts.
- (2) Parking Plan
  - (a) Applicability. A Parking Plan is required for buildings 4,000 square feet or greater of gross floor area where there is a change of use within such building or new construction.
  - (b) Contents. A Parking Plan shall be submitted in a form and with such documentation as established by the Zoning Officer and made available to the public. At a minimum, such plans shall include the rationale for how parking demand will be accommodated.
  - (c) Review and approval procedure.
    - [1] In cases where five or fewer parking spaces are proposed to be supplied, the Zoning Officer shall be authorized to make a decision pursuant to the procedures for administrative adjustment in Section 551-75.
    - [2] In cases where six or more parking spaces are proposed to be supplied the Planning Board shall be authorized to make a decision.
  - (d) Eligible means of meeting parking demand. Potential means to be considered include, but are not limited to:
    - [1] On-site, off-street parking.
    - [2] Public parking, off-street and on-street. A portion of a site's parking demand may be accommodated through existing public parking lots and on-street spaces. Factors to be considered will be likely peak demand

times of the proposed use and parking utilization of the cited public parking.

[3] Shared parking. Shared parking is encouraged to promote efficient use of land and resources by allowing users to share off-street parking facilities for uses that are located near one another and that have different peak parking demands or different operating hours. Shared parking shall be subject to the following standards:

(i) Location. Shared off-street parking spaces shall be located no further than 1,000 feet from the buildings and uses they are intended to serve. This distance limitation may be waived by the Planning Board if adequate assurances are offered that shuttle service shall be operated between the shared lot and the principal use.

(ii) Shared parking agreement. A shared Parking Plan shall require a shared parking agreement, acceptable to the Zoning Officer, which shall include an agreement by the owners(s) of record of the parking area and of the applicant. The agreement shall be submitted to the Zoning Officer. A shared parking agreement shall be revocable by the parties to the agreement only if the off-street parking requirement is satisfied. The agreement shall specify that the shared spaces are not leased for a use that operates during the same time frame and would create a conflict. The agreement shall specify the time frame, number, and location of spaces to be shared.

(iii) Site plan. A site plan shall be submitted to indicate the spaces that are to be leased and the owners of the uses seeking a parking alternative that specifies the number of parking spaces and time frames for use of the spaces.

[4] Mixed-Use development. Certain uses have peak demands at different times and the applicant may demonstrate that demand for proposed uses are non-competing.

[5] On-site vehicle rental.

[6] Pedestrian-oriented use and location.

[7] Shuttle/ valet parking.

#### **E. Bicycle Parking Requirements**

- (1) New construction or expansion of a commercial building, mixed-use building, or multifamily dwelling by 2,500 square feet or more must provide bicycle parking.
- (2) One space per 2,500 feet of gross floor area must be provided.
- (3) Bicycle parking shall be located and clearly designated in a safe and convenient location, at least as convenient as the majority of auto spaces provided.
- (4) Facilities shall be designed to accommodate U-shaped locking devices and shall support bicycles in a stable position without damage to wheels, frame or other components and shall be securely anchored and of sufficient strength to resist vandalism and theft.

#### **F. Use of Off-Street Parking and Loading Facilities**

- (1) The sales and display of goods in off-street parking areas is prohibited unless specifically permitted by this Chapter.
- (2) The property owner is responsible for ensuring that parking and loading facilities are used only by tenants, employees, and other authorized persons.
- (3) Space allocated to any off-street loading space shall not be used to satisfy the requirement for any off-street vehicle parking space or access aisle, or portion thereof. Conversely, the area allocated to any off-street vehicle parking space shall not be used to satisfy the requirement for any off-street loading space or portion thereof.
- (4) No vehicle of any kind or type without current license plates shall be parked or stored on any residentially zoned property other than a completely enclosed building.

#### **G. Design and Maintenance for Vehicle Parking**

##### **(1) Parking, General**

- (a) In addition to the requirements of this section, parking shall be subject to the lot, area, and yard requirements of the applicable district. In cases where the provisions of this chapter impose differing restrictions, the greater restrictions shall apply.
- (b) Parking for single-family, two-family and attached dwellings in all districts shall be limited to no more than three vehicles for each dwelling unit. No parking for such residential uses shall be located in the side or front yard

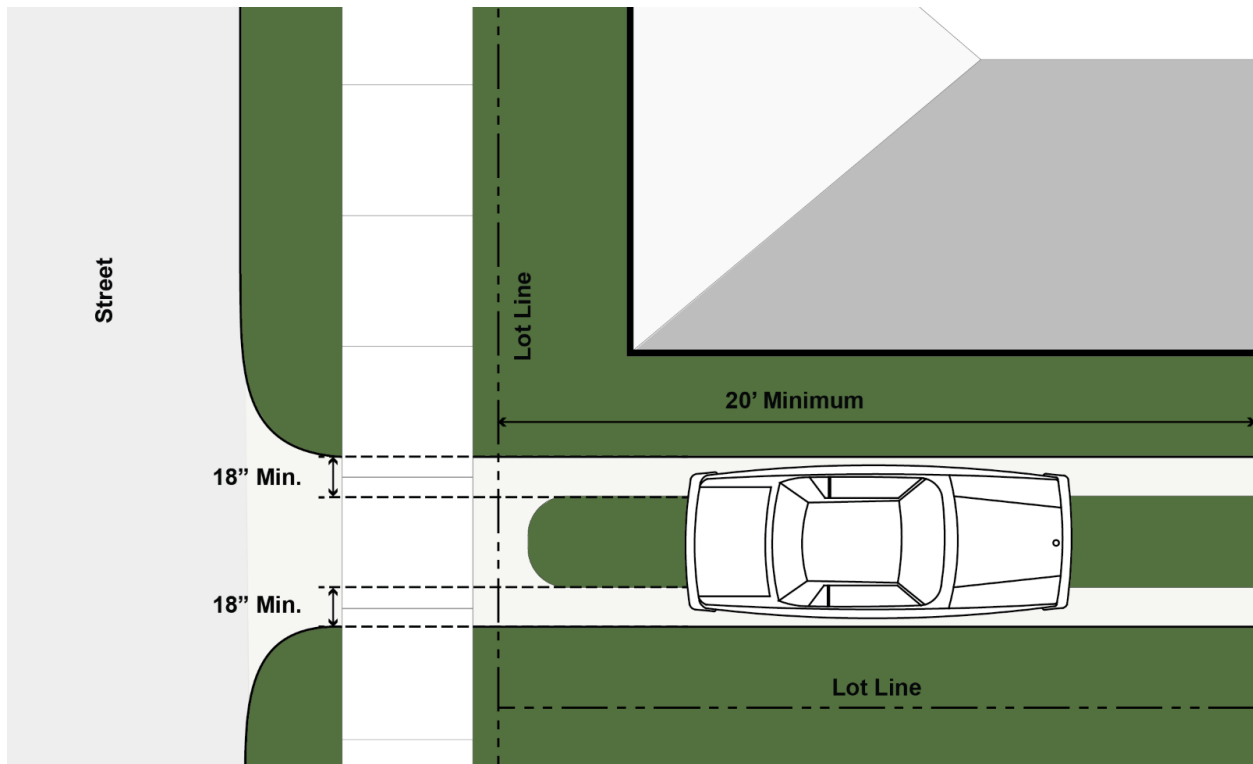
except in a legal driveway that provides access to the rear yard, a detached or attached garage.

- (c) Parking for nonresidential uses shall not be located within 10 feet of any residential district, except where a solid screening wall at least four feet in height is placed on the lot line with vehicle stops or a bumper to ensure the integrity of the fence, in which case no setback shall be required.
- (d) Except for residential uses listed in subsection b above or in the Industrial District, parking shall not be located within 10 feet of any street frontage, except where a decorative fence or wall of no more than three feet in height is used in conjunction with landscaping.

## (2) Single-Family, Two-Family, Townhouse Off-Street Parking Spaces

The following apply to single-family detached and attached, two-family, and townhouse dwellings. This does not apply to a townhouse development that is designed with a common parking lot or parking garage, including multiple common parking lots or structures for all residents/tenants.

- (a) All required off-street parking spaces must have vehicular access from a driveway.
- (b) Driveways shall not exceed ten feet in width in the front yard.
- (c) Driveways shall have a 5-foot setback from any street or property line, excepting the street or property line at the terminus of the driveway.
- (d) Townhouse developments are prohibited from constructing individual driveways for each dwelling unit. This restriction does not apply when the driveways are from an alley.
- (e) Required parking spaces for single-family and two-family dwellings may be designed so that the driver may back out into traffic. Only one curb cut is permitted for single-family and two-family dwellings.
- (f) All off-street parking spaces must be improved with a hard surfaced, all-weather dustless material. Pervious paving may be used and is encouraged.
- (g) For single-family and two-family dwellings, access to a driveway leading to a garage, either attached or detached may consist of two parallel paved parking strips. Each of must be at least 18 inches in width. The length of such parking strips must be a minimum of 20 feet in length as measured from the lot line.



### (3) Parking lot landscaping

- (a) A landscaped area shall have a minimum width of five feet, excluding curbs, retaining walls or similar enclosing structures.
- (b) All front yard perimeter landscaping shall include concrete, masonry or metal barriers to contain and/or protect landscaping materials.
- (c) All parking lot landscaping shall be salt tolerant.
- (d) Trees located in paved areas shall be provided with adequate tree pits to permit proper watering.
- (e) Parking lot stops shall consist of durable material, such as concrete, masonry, metal or rubber. In no case shall wooden stops be used.
- (f) All required screening and landscaping shall be maintained and, if required, replaced to comply with the requirements in this section or any approvals issued per this section.

### (4) Design standards

- (a) The following minimum standards shall apply to the width and length of required parking spaces. These requirements may be modified for various uses where the Zoning Officer has obtained plans verifying that stacked parking will not produce streetscape or on- and off-site traffic impacts.

Type of Parking	Angle	Stall Length	Stall Width	Aisle Width
Parallel	0°	23'00"	9'00"	N/A
Traditional	90°	19'00"	9'00"	24'00"
Traditional	60°	21'00"	9'00"	18'00"
Traditional	45°	19'10"	9'00"	13'00"

(5) Parking Facility Access

- (a) All parking facilities must have vehicular access from a street, driveway, alley, or cross-access connection.
- (b) All parking facilities must be designed with vehicle egress and ingress points that least interfere with traffic movement.
- (c) Every parking garage and parking lot of 10 or more spaces shall be provided with one two-way driveway at least 22 feet in width or two one-way driveways, each at least 11 feet in width.
- (d) When ingress and egress are less than 22 feet in width, marked separate entrances and exits shall be provided so that traffic shall flow in one direction only.

(6) Maneuvering space

- (a) Maneuvering space shall be located completely off the right-of-way of a public street, place or court.
- (b) Maneuvering space shall be designed to prevent any vehicles from backing into the public right-of-way, with the exception of alleys, and except for one-family, two-family and attached dwellings.

(7) Surface

- (a) Off-street parking lots and parking areas shall be constructed in such a manner so as to provide an all-weather, durable and dustless surface. Individual stalls shall be clearly identified by markings four to six inches in width.
- (b) Parking surfaces shall be graded and drained to dispose of all surface water accumulation in the area without shedding additional water on an adjoining property or right-of-way.
- (c) The Zoning Officer shall approve the surface material.

- (8) Striping. All off-street parking lots must delineate parking spaces with paint or other permanent materials, which must be maintained in clearly visible condition.
- (9) Required Turnaround for Rows of Dead-End Parking. Dead end rows of parking without a turnaround space are prohibited. A turnaround space must have a minimum depth and width of nine feet, and must be designated with signs stating “No Parking” and painted to indicate parking is prohibited.
- (10) Solar Shades. Parking lots may be designed with solar shade structures to protect from direct sunlight, UV rays, and excessive heat.
- (11) Lighting
  - (a) Illumination shall not be used for the purpose of advertising or attracting attention to the principal use.
  - (b) Lighting fixtures shall be designed, sized and located so as not to cast direct rays of excessive brightness upon adjoining premises or cause glare hazardous to pedestrians or persons using adjacent public streets.
  - (c) Parking lots used after sundown shall be lighted to give protection to persons using the lot and the light source shall cast down.
  - (d) All parking lots shall be required to provide lighting from dusk to dawn that meets the Illumination Engineers Society of North America (IESNA) standards.

#### **H. Garage Parking Design Standards**

- (1) In nonresidential districts, except the Industrial District, the façade facing a street must be lined with commercial or residential uses along the building length. Vehicular and pedestrian access points are excepted from this requirement.
- (2) On parking garage facades that front on public streets, façade design and screening must mask the interior ramps, unless the ramps are integral to a unique architectural design. Parking garages must meet any blank wall requirements of the district through architectural detail, public art, and/or landscape.
- (3) Nonresidential active use spaces must meet the design standards of the district.

- (4) For parking garages with rooftop open-air parking, a four-foot parapet wall is required for screening.
- (5) A vehicular-clear sight zone must be included at vehicular exit areas for all parking garages per the standards of this section.
- (6) The façade of vehicular exit areas must be set back from any pedestrian walkway along that façade a minimum of eight feet for the portion of the façade that includes the vehicle exit area and eight feet on each side of the exit opening.
  - (a) A clear sight zone is defined by drawing a line from the edge of the vehicular exit area to a point on the property line abutting the pedestrian walkway eight feet to the side of the exit lane.
  - (b) In the clear sight zone, groundcover, landscape, or decorative wall must be used to act as a buffer between the exit aisle and the pedestrian walkway. Landscape or a decorative wall must not exceed three feet in height in order to maintain driver sightlines to the pedestrian walkway.
  - (c) The upper story façade(s) of the parking garage may overhang the vehicular clear sight zone.



*Garage Entry Standards*

## **I. Required Electric Vehicle Charging Station**

- (1) Installation of electric vehicle (EV) charging stations as required by this section applies only to new construction as of the effective date of this Chapter.
- (2) Parking facilities, both accessory to a principal use and as a principal use, are required to have EV charging stations as follows:
  - (a) For parking facilities under 20 spaces, one EV charging station is required.
  - (b) For parking facilities of more than 20 spaces and up to 39 spaces, two EV charging stations are required.
  - (c) For parking facilities of 40 or more spaces, a minimum of 5% of the required spaces must be EV charging stations, with any fraction rounded down.
- (3) All required EV charging stations and associated electrical infrastructure must be capable of providing a minimum of 32amp 7.2 kW, or the equivalent if standard industry categorizations change.

## **J. Vehicle Storage**

### **(1) Commercial Vehicles on Nonresidential Lots**

On nonresidential lots, commercial vehicles with the logo of the commercial business painted on or applied to the vehicle that are being operated and stored in the normal course of business, such as signs located on delivery trucks, promotional vehicles, moving vans, and rental trucks, are permitted to be stored on the lot in areas related to their use as vehicles, provided that the primary purpose of such vehicles is not the display of signs. All such vehicles must be registered and in operable condition.

### **(2) Recreational Vehicles**

- (a) A maximum of one licensed recreational vehicle, owned by a full-time resident of the property, that is equal to or less than 25' in length and 11' in height, not including the tongue, hitch, satellite dish, antennas, HVAC units, et cetera,

may be stored outside in a residential driveway, 10' from the right of way from April 1<sup>st</sup> until November 1<sup>st</sup>.

- (b) Licensed recreational vehicles may be stored within the interior side yard behind the front building line or in the rear yard and it must be located at least ten feet from any lot line.
- (c) There is no limit on the storage of recreational vehicles within fully enclosed permanent structures. Temporary storage tents do not meet the requirement of a fully enclosed structure.
- (d) No recreational vehicle may be used for living, sleeping, housekeeping, or home occupation purposes in any district and shall not be hooked up to any public utilities.
- (e) The recreational vehicle, if required to be registered and/or inspected to be operated upon the roads or waterways of the state, was registered and/or issued a valid inspection certificate within the past 12 months or, if not required to be registered and/or inspected to be operated upon the roads or waterways of the state, is in operable condition.

## ARTICLE 8. SIGN REGULATIONS

### 551-41 Purpose

- A. The purpose of this chapter is to provide comprehensive time, place, and manner restrictions on signs, including but not limited to controls on size, height, quantity, location, spacing, shape, lighting, motion, design, and appearance, to promote community aesthetics, traffic safety, and economic development.
- B. Intent
  - (1) Protect and enhance Village appearance.
  - (2) Encourage appropriate and compatible signs and graphics
  - (3) Lessen objectionable competition in sign size and placement.
  - (4) Reduce the hazards of sign obstructions and distractions to motorists.
  - (5) Create a more attractive business environment.
  - (6) Create a more attractive residential environment.

### 551-42 Sign Measurements

- A. The sign area of each sign is the total exposed surface devoted to the sign's message, including all ornamentation, embellishment, symbols, logos, letters, characters, other figures, or frames, whether structural or decorative. The calculation of sign area does not include any supports or bracing.
- B. For channel letters or freestanding logos/symbols, the sign area is calculated as the customary, applicable mathematical formula for the total area of each square, circle, ellipse, rectangle, or triangle, or combination thereof that encompasses each individual letter, logo, background, or display.
- C. Window area for the purpose of calculating maximum area of window signs is calculated as a continuous surface until divided by an architectural or structural element. Mullions are not considered an element that divides window area. Only the individual letters or logos of the window sign shall be used in the calculation of surface area. The transparent film around the perimeter of the individual letters or logos comprising the window sign and used to affix the window sign to the

interior or exterior of a windowpane or glass door shall be exempt from the area calculations, provided that such portion of the transparent film maintains 100% transparency of the window.

- D. Measurement of Sign Height. Sign height is measured as the vertical distance measured from grade at the base of the sign to the highest point of the sign, including any decorative elements.
- E. Measurement of Vertical Clearance. Vertical clearance is measured as the vertical distance measured from the ground directly below the sign to the lowest point of the sign.
- F. Sign Setback. A required sign setback is measured from the applicable lot line to the closest component of the sign or sign structure.

### **551-43 General Standards**

All signs constructed, erected, modified, relocated, or altered must comply with the following standards.

#### **A. Exceptions**

All signs constructed, erected, modified, relocated, or altered must comply with the standards of this Article, whether such signs do or do not require a building permit, with the exceptions listed in this section. The following signs are not regulated by this Chapter:

- (1) Signs within a building or enclosed space within a development that are not visible from public right-of-way.
- (2) Signs installed by federal, state, or local governments.
- (3) Logos and labels on mechanical equipment, recycling bins, trash containers, and similar equipment, which are part of the equipment as manufactured and/or installed.
- (4) Decorative flags, flags of nations, states, and cities, or flags for fraternal, religious, and civic organizations.

#### **B. Tree Protection**

Sign placement, including projections from a building facade, must protect all trees. Removal of existing trees or significant trimming in order to install a sign or create more visibility for a sign is discouraged and may be considered in any discretionary approval process.

### **C. Location Restrictions**

- (1) No sign may be erected in a location that violates the New York State Fire Prevention and Building Code, and other applicable Village codes or local laws.
- (2) Only signs that have been placed by or authorized by federal, state, or the Village may be installed on public property. Any sign installed on public property, including rights-of-way, without prior authorization, may be removed by the Village without notice and disposed of at the Village's sole discretion.
- (3) No sign may be erected on private property without the consent of the property owner or their authorized agent.
- (4) No building-mounted sign shall be installed on a building in such a manner as to obstruct windows or cover architectural details.
- (5) No sign shall be attached to any tree, utility pole, or street appurtenances or be painted upon or otherwise affixed to any rock, ledge, or other natural feature.

### **D. Audio Components**

Audio components are prohibited as part of any sign, except for the following:

- (1) Signs owned and/or operated by a government agency.
- (2) Gas station pump video screens. The audio component of a gas pump video screen is limited in volume so that it is only audible at the pump. In no case may the audio component be audible at the property line.

### **E. Construction Standards**

- (1) Supports and braces must either be designed as an integral part of the overall sign or obscured from public view to the greatest extent feasible.
- (2) Conduits, raceways, and other components of a sign illumination system must be designed as an integral part of the overall sign structure and obscured from public view to the greatest extent feasible.
- (3) Permanent sign structures must be constructed of weather-proof, durable materials suitable for the conditions present at the mounting location.
- (4) Blade signs, banners, and wall signs must be constructed of durable weather resistant material, such as canvas, nylon, or vinyl-coated fabric.

## **F. Permitted Materials for Signs**

- (1) Permanent sign structures must be constructed of brick, wood or simulated wood, stone, concrete, metal, plastic, or high-density urethane (HDU) foam board or similar durable foam construction.
- (2) Banners must be constructed of durable weather resistant material such as canvas, nylon, or vinyl-coated fabric. Such material must be mounted within a frame so that they are held taut between all support posts. All ties must be secured so that the banner is held taut.
- (3) Reflective materials that create glare, either from sign illumination or from outside sources such as street lights or vehicle headlights, are prohibited.

## **G. Required Maintenance**

- (1) All signs must be kept in a safe and well-maintained condition and appearance, and must be repainted or otherwise maintained by the property owner or business owner to prevent corrosion or deterioration caused by the weather, age, or any other condition.
- (2) All signs must be maintained to prevent any kind of safety hazard, including faulty or deteriorated sign structures, a fire hazard, or an electrical shock hazard.
- (3) If a sign is maintained in an unsafe or unsecured condition, it must be removed or the condition corrected. The Village shall enforce this requirement pursuant to the Enforcement provisions of this Chapter (Article 15).
- (4) All unused sign hardware or wiring must be removed.
- (5) No sign frame may remain unfilled and no internal part or element of the sign structure shall be visible.
- (6) The Village may summarily repair or remove any sign that is an immediate health or safety threat to persons or property without notice. The owner of such sign shall be responsible for all costs of repair, removal, storage, or disposal of the sign as determined to be necessary by the Village and the Village shall not be liable for any damage to the sign or any other costs whatsoever. The Village may enforce this requirement pursuant to Enforcement provisions of this Chapter (Article 15).
- (7) Painting, cleaning, and other normal maintenance and repair of a sign shall not require any approvals. However, any design or structural changes, including the removal or replacement of electrical components, change of the sign face and any substantive increase in the size, dimensions, height, or location of the sign shall require a building permit.

#### **551-44 Illumination**

- A. Any sign illumination must be designed, located, shielded, and directed to prevent the casting of glare or direct light upon roadways and surrounding properties, and to prevent the distraction of motor vehicle operators or pedestrians in the public right-of-way.
- B. Internal illumination of signs is prohibited.
- C. All illumination of a sign must concentrate the illumination upon the sign face.
- D. No sign illumination may be combined with reflective materials, such as mirrors, polished metal, or highly-glazed tiles, which would increase glare.
- E. The maximum allowable foot-candle at the lot line is one foot-candle.
- F. Strobe lights, moving or fixed spotlights, floodlights/searchlights are prohibited.

#### **551-45 Abandoned Signs**

- A. Unless specifically allowed by this Article, any sign which is located on property which becomes vacant and unoccupied for a period of three months or more, or any sign and structure which pertains to a time, event or purpose that no longer applies, is deemed abandoned.
- B. Abandoned signs and structures are prohibited and shall be removed. If a sign on a shared support structure is abandoned, the sign and any structure particular to that sign shall be removed.

#### **551-46 Coordinated Sign Plan**

- A. Purpose. A Coordinated Sign Plan (CSP) shall be used to coordinate all signs within a development, establishing criteria to govern the design and construction of signs for current and future tenants.
- B. Applicability. Any development in any district with more than three tenants shall require a CSP.
- C. Applicability to Existing Development. For development existing as of the effective date of this Chapter, the property owner has the option to submit a CSP for approval. Once such CSP is approved, all future signs shall comply with the approved plan.
- D. Coordinated Sign Plan Requirements. A CSP shall provide details and specifications to establish a coordinated and consistent approach to all signs within a development. At a minimum, CSPs shall include the following:

- (1) A site plan for all lots within the development on which signs will be located, at a scale of not less than one inch to 100 feet and including the location of all buildings, parking lots, driveways, and landscaped areas. The site plan shall accurately indicate the number, location, and orientation of all signs for which a permit is being sought, and the anticipated location of future signs requiring a permit.
  - (2) A table or tables containing the following:
    - (a) A list of all signs proposed immediately and in the future.
    - (b) Dimensions of individual signs, including maximum area and maximum height.
  - (3) Specifications for standards that ensure consistency among signs within the development, including lighting, typical location of building-mounted signs, proposed materials, and sign proportions.
  - (4) For each sign included in the CSP:
    - (a) Sign elevation, including annotated dimensions, individual sign area dimensions, and description of sign elements.
    - (b) For building-mounted signs, elevations including the location of each sign on the building face.
    - (c) Description of illumination proposed for each sign.
- E. Compliance with Standards. All signs included in a CSP must comply with the standards set forth in this Article within 10% of all numerical requirements.
- F. Approval Procedure. CSPs shall be approved as an administrative adjustment unless a certificate of appropriateness is required.
- G. Amendments to CSPs
- (1) The Zoning Officer may approve minor modifications to an approved CSP, including modifications to sign dimensions of 10% or less, and relocation of a sign or signs to respond to final site engineering or building construction issues such as topography, drainage, underground utilities, structural safety, or pedestrian and vehicular circulation, when such relocation is deemed to maintain general compliance with the approved CSP.

- (2) After approval, any modification not considered a minor modification requires resubmittal of a new CSP. The application is subject to the same standards and limitations as provided in this section for original approval.

#### **551-47 Alternative Sign program**

In order to provide an imaginative, effective, visually compatible plan for all signs on a property, a property owner may submit a sign program containing provisions different from the requirements in this Article 8. The intent of this provision is to allow for creative responses to site-specific conditions or uses. Each such alternative sign program shall be reviewed as a special permit, in accordance with the provisions of Section 551-69, except that in the case of signs in Preservation Districts the Historic Preservation Commission shall be responsible for approval of an alternative sign program. The applicant shall submit graphic and written information indicating why the signage does not comply with existing sign regulations in using the alternative sign program.

#### **551-48 Prohibited Signs**

All signs not expressly permitted by this Chapter are prohibited unless approved as part of an Alternative Sign Plan. In addition, the following sign types are specifically prohibited.

- A. A-Frame signs
- B. Awning signs
- C. Banners displayed beyond two weeks, unless written authorization from the Village for an extension
- D. Balloon signs or other inflatable signs including displays designed to inflate or move by use of a fan or blower
- E. Canopy signs
- F. Digital / animated signs
- G. Feather flags/sails
- H. Flashing signs
- I. Moving signs. However, barber poles are permitted.

- J. Portable reader-board signs
- K. Projected wall signs
- L. Signs that constitute a traffic hazard, including signs that:
  - (1) Interfere with, obstruct the view of, or may be confused with any authorized traffic sign, signal, or device because of its position, shape, or color.
  - (2) May be confused with any public safety lighting.
  - (3) Mislead, interfere with, or confuse traffic.
- M. Temporary and permanent off-premise advertising signs. Also known as push signs, bandit signs, and snipe signs.
- N. Vehicle signs placed, mounted, installed, or painted on a vehicle for the primary purpose of attracting attention to an occupant's presence within a building at which the vehicle is being parked.
  - (1) This prohibition does not include signs painted on or applied to vehicles, trucks, or buses that are being operated and stored in the normal course of business, such as signs located on delivery trucks, moving vans, and rental trucks, provided that the primary purpose of such vehicles is not the display of such sign, and that they are properly parked or stored in areas related to their use as vehicles and all such vehicles are in operable condition.
- O. Video display screens, except video display screens on gas pumps.

### **551-49 Exempt Signs**

The following signs are permitted without a building permit, subject to the standards of this section. If an exempt sign does not meet these standards, an area variance is required.

#### **A. Construction Activity**

On a lot where active new construction is taking place to improve the structure or site, a temporary sign is permitted subject to the following.

- (1) Temporary signs are permitted in all districts on all sites during construction activity.
- (2) One sign is permitted per street frontage.

- (3) Temporary signs may be constructed as either freestanding signs, wall signs, or a sign mounted on a fence.
- (4) Temporary signs in residential districts are limited to six square feet in area. Freestanding temporary signs are limited to four feet in height and shall be located a minimum of five feet from any lot line and ten feet from any abutting residential lot line.
- (5) Temporary signs in nonresidential districts are limited to 32 square feet in area. Freestanding temporary signs are limited to six feet in height and shall be located a minimum of five feet from any lot line and ten feet from any abutting residential lot line.
- (6) Signs cannot be illuminated.
- (7) In the nonresidential districts, in lieu of a freestanding, wall, or fence-mounted sign, a building wrap sign may be used to wrap the fence or the structure under construction. A wrap sign requires review and approval by the Zoning Officer. Such wrap sign must be made of mesh or similar material that is not completely opaque. There is no maximum square footage limitation.
- (8) Signs may be installed only after approval of a building permit for such activity. Signs shall be removed within 14 days of completion of construction or the expiration of the building permit, whichever occurs first.

#### **B. On-Site Repair or Rehabilitation Activity**

For lots where on-site repair or rehabilitation of an existing structure or site is taking place, a temporary sign is permitted. Such temporary signs are subject to the following:

- (1) Such temporary signs are permitted in all districts on sites with active repair or rehabilitation projects. One temporary sign per lot is permitted.
- (2) Such temporary signs must be removed once the repair or rehabilitation is complete.
- (3) Such temporary signs are limited to six square feet in area.
- (4) Freestanding signs shall be limited to four feet in height and must be located a minimum of five feet from any lot line and ten feet from any abutting residential lot line.
- (5) Signs cannot be illuminated.

### **C. Parking Lot and Parking Structure Circulation Points**

- (1) Parking lots and structures in all districts are permitted permanent signs at parking lot and/or structure circulation points in accordance with this section.
- (2) Circulation points include, but are not limited to, entrances/exits, driveway intersections, fire zones, and parking lot drive aisles.
- (3) Signs are limited to four square feet in area and four feet in height.
- (4) Freestanding signs shall be located a minimum of five feet from any lot line and ten feet from any abutting residential lot line.
- (5) Signs shall not be used for off-premises advertising.

### **D. Real Estate Activity**

When a structure or lot is offered for sale, lease, or rent in all districts, such lot is permitted a temporary sign as follows:

- (1) Temporary signs are permitted in all districts and must be located on the site of the property for sale, lease, or rent.
- (2) Signs are limited to one per street frontage.
- (3) Signs may be constructed as either freestanding, wall, or window signs.
- (4) Signs are limited to six square feet in area for commercial and three square feet for residential uses.
- (5) Freestanding signs shall be limited to four feet in height and must be located a minimum of five feet from any lot line and ten feet from any abutting residential lot line.
- (6) Signs cannot be illuminated.
- (7) Signs shall be removed within 14 days of final closing, lease, or rental.

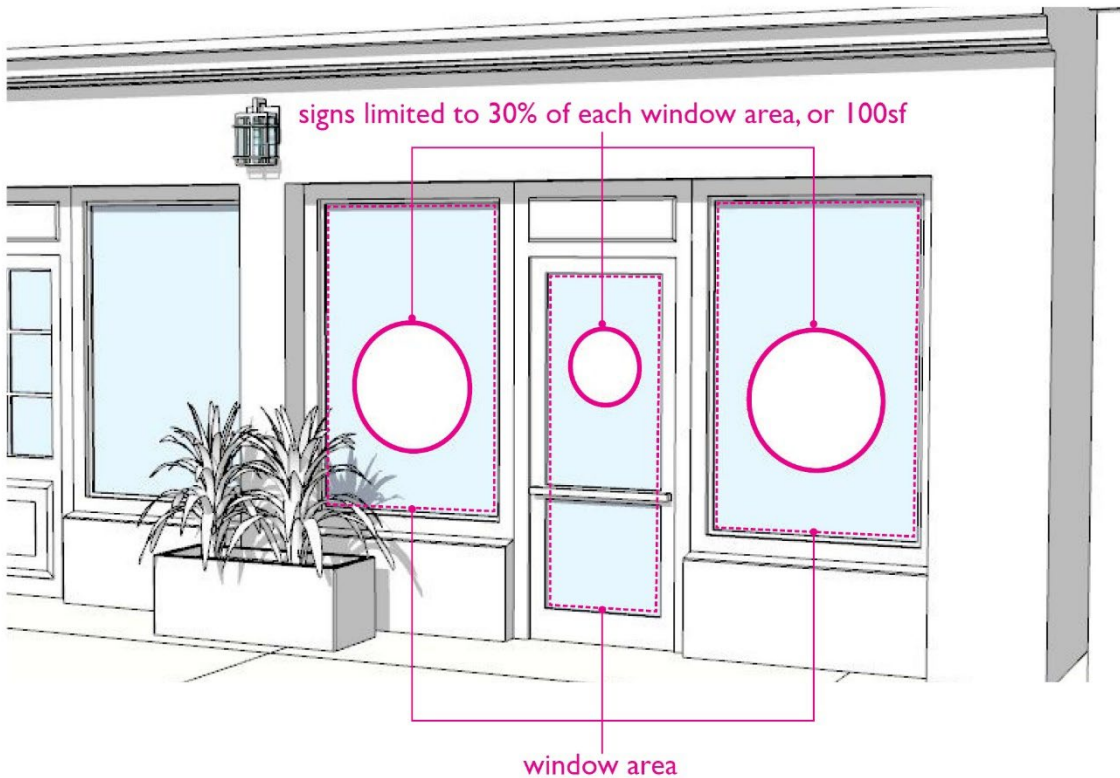
### **551-50 Residential District Specific Sign Standards: Nonresidential uses**

- (1) In cases where nonresidential uses occur in residential districts, signs at such uses are limited to two square feet in area.
- (2) Signs cannot be illuminated and must be mounted near the first-floor entryway and cannot be mounted above the first floor.

- (3) No additional signs are permitted.
- (4) Local, state, and federal offices are exempt from these requirements.

**B. Window Sign**

- (1) Window signs are permitted for all nonresidential uses in all districts.
- (2) All window signs cumulatively, whether temporary or permanent, are limited to no more than 30% of the surface of each window area. The total of all window signs may not exceed 100 square feet per tenant.



*Window sign design standards*

**551-51 Permit Required**

This section describes the types of signs allowed with a building permit.

**A. Banner**

- (1) A banner is permitted for nonresidential uses in the Downtown District prior to installation of a permanent sign. A permit for a banner must be submitted as part of the permit for the permanent sign.

- (2) Banners are allowed prior to the opening day of a use. Banners must be removed 30 days from opening day or when a permanent sign is installed, whichever comes first.
- (3) One banner is permitted per business, including one for each tenant in a multi-tenant development.
- (4) Banners are limited to a maximum area of 32 square feet or the size of the permanent sign to be installed, whichever is less.
- (5) Banners must be securely attached. No banner may extend above the first floor of a building.

## **B. Building-Mounted Signs**

### **(1) General Regulations**

- (a) The following are building-mounted signs: permanent awning signs, blade signs, canopy sign, standard wall signs, painted wall signs, and projected wall signs.
- (b) Each structure is permitted one building-mounted sign per facade. However, when a facade exceeds 100 feet or more in linear feet, one wall sign plus one additional building-mounted sign is permitted.
- (c) All building-mounted signs are subject to any restrictions on uses and/or districts permitted to install such signs per the specific sign provisions below.

### **(2) Blade Signs**

- (a) Blade signs are permitted in the Downtown and Canal Districts.
- (b) Blade signs cannot extend into the public right-of-way.
- (c) Blade signs are limited to six square feet.
- (d) One blade sign is permitted per establishment with frontage on a street, public pathway, or alley. For a corner lot, one blade sign is permitted for each street frontage.
- (e) Blade signs may project a maximum of 3 feet 6 inches from the facade.
- (f) Blade signs must maintain a minimum vertical clearance of eight feet. No blade sign affixed to a building may project higher than the first floor, including the sign support structure.

- (g) The method of installation of the blade sign must be approved by the Building Inspector.

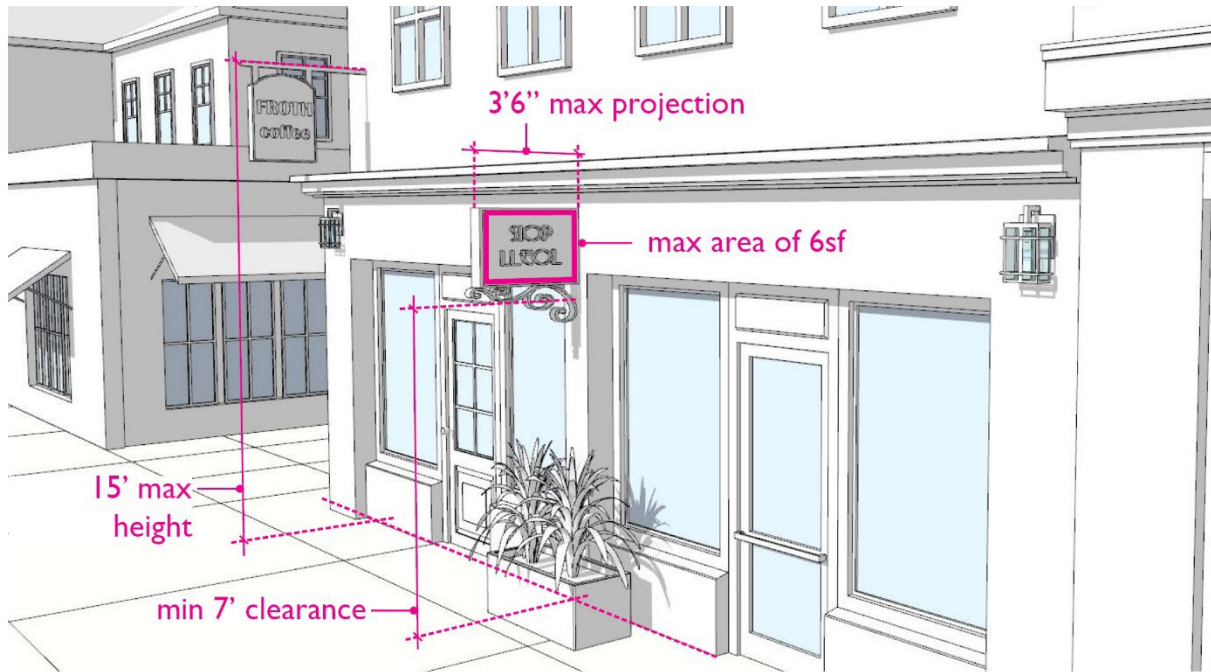


Figure 8.5: Design standards for blade signs

### (3) Wall Sign - Standard

- (a) Standard wall signs are permitted for all nonresidential uses in any district.
- (b) Wall signs are permitted on all facades of a structure. On a site consisting of multiple structures, each structure is permitted wall signs per the regulations of this section. The square footage from different structures cannot be combined to create a larger sign on any one structure.
- (c) For a single tenant structure, the maximum total wall sign area is 1.5 square feet per one linear foot of building wall where the wall sign(s) will be mounted. The square footage from different facades cannot be combined to create a larger sign on anyone facade.
- (d) For a structure that contains multiple tenants, each tenant that has exterior business facade area is permitted a total wall sign area of 1.5 square feet per one linear foot of business frontage along their individual frontage(s).

- (e) The number of individual wall signs on a facade is not limited, however the cumulative sign area of all signs on a facade cannot exceed the maximum allowable total wall sign area per facade.
- (f) Wall signs may be externally illuminated and must be directed onto the sign face.
- (g) Wall signs must be mounted below the second floor of multi-story buildings. No wall sign affixed to a building, including sign support structure, may project beyond the ends or top of the wall or higher than the roofline of the structure to which it is attached.
- (h) Signage is not permitted on a parapet wall.

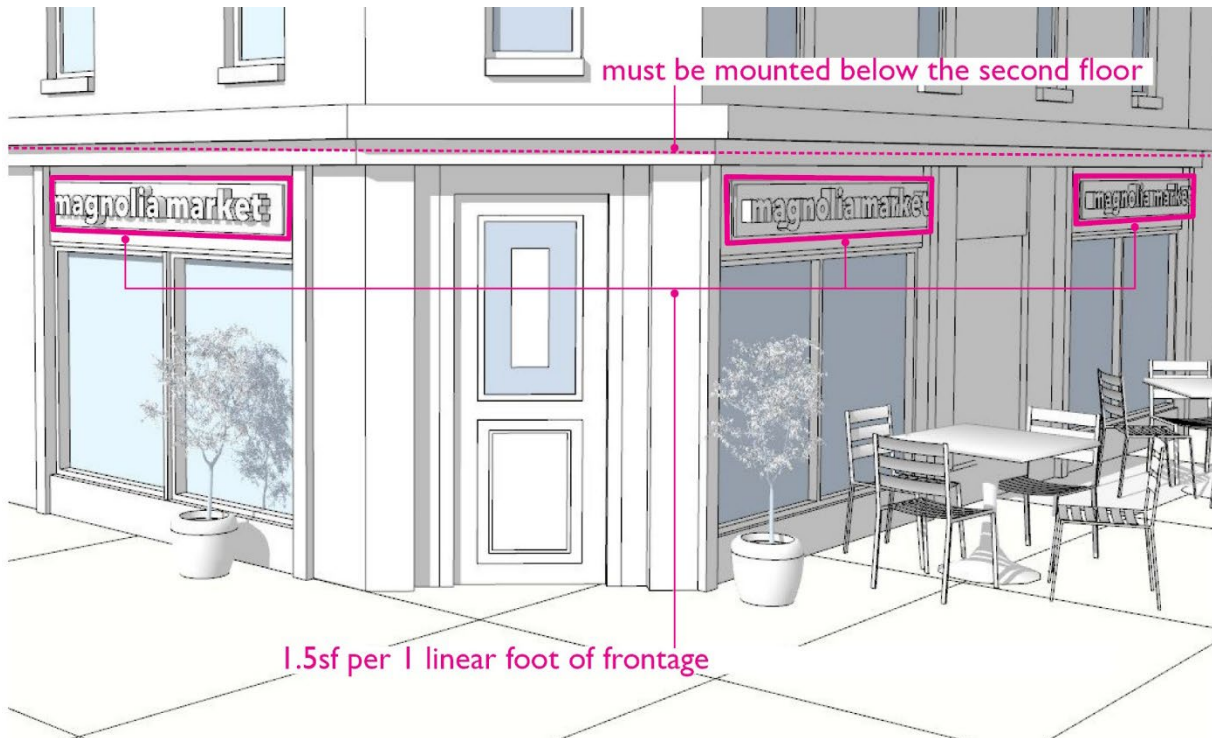


Figure 8.7: Design standards for wall signs

#### (4) Wall Sign - Painted

- (a) Painted wall signs are permitted for all nonresidential uses in any district.
- (b) Painted wall signs are permitted on each facade of a structure.
- (c) Painted wall signs are limited to 1.5 square feet per one linear foot of building wall where the wall sign(s) will be painted or 40 square feet, whichever is greater.

- (d) Painted wall signs cannot be painted on or obscure architectural features such as windows, doors, pilasters, or cornices.
- (e) Painted wall signs may be externally illuminated. If externally illuminated, all light must be directed onto the sign face.
- (f) Painted wall signs cannot project more than 0.25 inches from a building wall.
- (g) The property owner, or their authorized representative, is responsible for ensuring that a permitted painted wall sign is maintained in good condition and is repaired in the case of vandalism or accidental destruction.

### **C. Ground Signs**

#### **(1) General Regulations**

- a. The following are ground signs: gateway signs and freestanding signs.
- b. Each lot is permitted one ground sign per street frontage.
- c. All ground signs are subject to any restrictions on uses and/or districts permitted to install such signs per the specific sign provisions below.

#### **(2) Gateway Signs**

- d. Gateway signs are permitted in all commercial and mixed-use districts.
- e. One gateway sign is permitted per street frontage. Gateway signs must be located over a main pedestrian entryway.
- f. Gateway signs cannot encroach into the right-of-way or extend beyond the lot lines. Gateway signs are prohibited above driveways or any other vehicle drive aisles.
- g. Gateway signs are limited to a maximum of 12 square feet in area and 12 feet in height. A minimum eight foot vertical clearance is required.
- h. Gateway signs may only be externally illuminated.

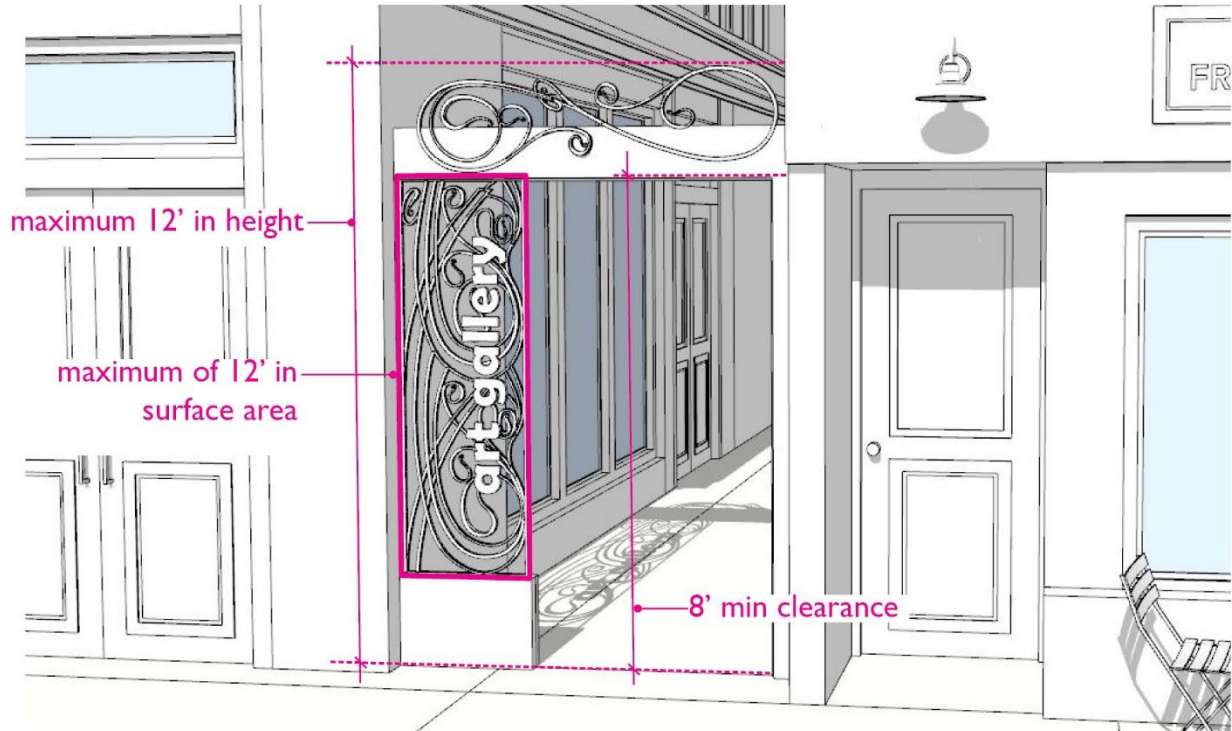


Figure 8.9: Design standards for gateway signs

### (3) Freestanding Signs

- (a) The maximum sign area is 24 square feet and a maximum height of six feet.
- (b) One monument sign is permitted per lot. Additional monument signs are allowed as follows:
  - [1] On a corner lot, a second freestanding sign is permitted on the street frontage if one of the street frontages is a minimum of 200 feet or more in length. Only one sign is allowed per frontage.
  - [2] On an interior lot, a second freestanding sign is permitted on the same street frontage if that frontage is a minimum of 200 feet or more in length and meets both of the following conditions:
    - (i) A separation of a minimum of 150 feet between signs.
    - (ii) The second sign is located at a pedestrian and/or vehicle access point.
- (c) A freestanding sign shall be located a minimum of five feet from any lot line. Monument signs shall not encroach into any internal pedestrian walkway or driveway.
- (d) Freestanding signs are limited to a maximum copy area of 50% of the sign face.

(e) Freestanding signs may be externally illuminated.

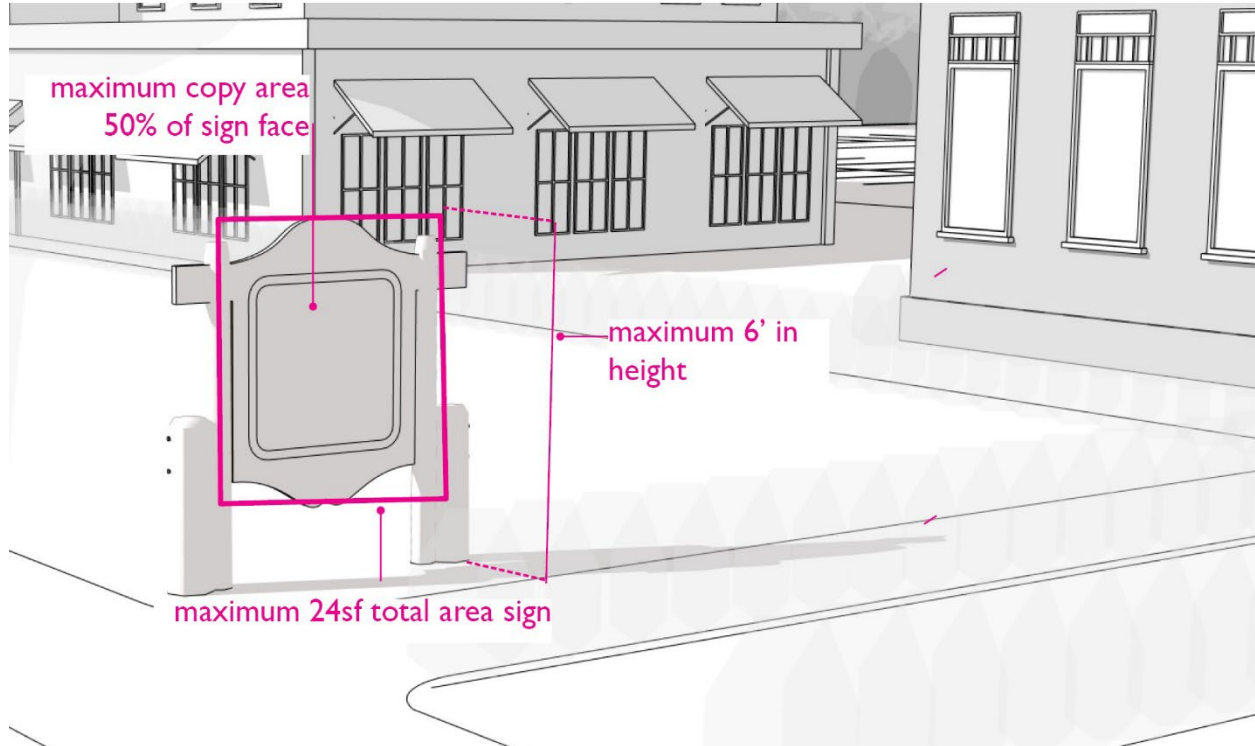


Figure 8.11: Design standards for freestanding signs

#### D. Multiple Tenant Building Entryway

Multifamily dwellings and nonresidential developments with multiple tenants, are permitted a permanent sign at the entryway subject to the following.

- (1) Signs may be constructed as either freestanding or wall signs.
- (2) Signs are limited to six square feet in area.
- (3) Wall-mounted signs must be installed at the building entryway.
- (4) Signs are limited to one per building entry.

#### 551-52 Culturally or Historically Significant Sites

A. A site or building with cultural or historical significance is permitted a permanent sign. Such signs are permitted in any district. However if such site or building is located in a preservation district or for a Local Landmark, a certificate of appropriateness is required.

- B. Signs on culturally or historically significant sites or buildings may be constructed as either freestanding or wall signs, subject to the following. Such signs may be designed as plaques, markers, monuments or tablets.
  - (1) Signs are limited to six square feet in area.
  - (2) Freestanding signs are limited to four feet in height. Freestanding signs shall be located a minimum of five feet from any lot line and ten feet from any abutting residential lot line.
  - (3) Wall mounted signs must be placed so as to be an integral part of the structure, cut into stone or masonry, or be a permanently affixed plaque of metal or other durable material.
  - (4) Signs may be externally illuminated.
- C. Signs on culturally or historically significant sites or buildings are limited to one per street frontage.

#### **551-53 Noncommercial Message**

- A. Sign structures used for the expression of noncommercial messages are permitted in all districts. Examples include, but are not limited to, signs advocating a public issue, recommending a candidate for public office, alerts, or warnings.
  - (1) Signs are permitted in all districts.
  - (2) Signs may be freestanding, wall-mounted, or window-mounted and are limited to a total of four signs per property. If there is a limitation in the district on the amount of window signs allowed, such window signs shall be included in such limitation.
  - (3) Signs shall not exceed six square feet in area.
  - (4) Freestanding signs shall be limited to four feet in height and must be located a minimum of five feet from any lot line and ten feet from any abutting residential lot line.
  - (5) Signs cannot be illuminated.
  - (6) Signs shall not be used for any on-premises or off-premises advertising.

**551-54 Residential District Specific Sign Standards: Day Care Home, Bed and Breakfast, and Home Occupation**

- A. Day care homes, bed and breakfasts, and home occupations in the residential districts are permitted one wall-mounted sign. Such signs are limited to the following maximum sign areas:
  - (1) RLD District: One square foot
  - (2) RN and RTN Districts: Two square feet
- B. Signs cannot be illuminated and must be mounted near the first floor entryway and cannot be mounted above the first floor.
- C. No additional signs are permitted regardless of the residential district in which the uses are located.

## **ARTICLE 9. REVIEW AUTHORITIES**

### **551-55 Responsibility for Administration**

Direct responsibility for the administration of the provisions of this Chapter shall be vested in the Board of Trustees, Planning Board, Zoning Board of Appeals, Historic Preservation Commission, Zoning Officer, and Building Inspector, all in accordance with the provisions of this Article. Other officials, departments and agencies of the Village shall cooperate in such administration and enforcement, as specified below.

### **551-56 Board of Trustees**

In addition to the jurisdiction conferred on it by other provisions of the codes and local laws of the Village, the Board of Trustees shall have the following jurisdiction and authority:

#### **A. Text Amendments**

The Board of Trustees shall be responsible for reviewing zoning text amendment applications and for taking final action to approve, approve with conditions, modify, or deny such applications.

#### **B. Map Amendments**

The Board of Trustees shall be responsible for reviewing zoning map amendment (rezoning) applications and for taking final action to approve, approve with conditions, modify, or deny such applications.

#### **C. Comprehensive Plan Amendments**

The Board of Trustees shall be responsible for reviewing applications for amendments to the Comprehensive Plan and for taking final action to approve, approve with conditions, modify, or deny such applications.

#### **D. Planned Development Designation**

The Board of Trustees shall be responsible for reviewing planned development designation applications and for taking final action to approve, approve with conditions, modify, or deny such applications.

## **E. Preservation District Designation**

The Board of Trustees shall be responsible for reviewing preservation district designation applications and for taking final action to approve, approve with conditions, modify, or deny such applications.

## **551-57 Planning Board**

### **A. Membership**

#### (1) Appointment and Terms

(a) A Planning Board is established, which shall consist of five regular members appointed by the Mayor, subject to confirmation by Board of Trustees.

(b) All new members shall be appointed for a five-year term; members may be appointed to subsequent terms of five years. There shall be no limitation on the number of terms served by a member of the Planning Board.

#### (2) Board Composition

Members of the Planning Board shall be residents of the Village of Fairport and shall not be officers or employees of the Village or any of its agencies or departments.

#### (3) Compensation

Members of the Planning Board shall serve without compensation but shall be entitled, to the extent of available funds appropriated, to reimbursement for reasonable expenses necessarily incurred in the performance of their duties.

#### (4) Vacancies

Permanent vacancies on the Planning Board shall be filled by the Mayor, subject to confirmation by Board of Trustees as set forth above.

#### (5) Mandatory Training

The Planning Board members shall be required to attend four hours of training annually.

#### (6) Removal

Any member of the Planning Board may be removed for cause by the Board of Trustees at any time, provided, however, that before any such removal, such member

shall be given an opportunity to respond to allegations of such cause in writing to the Board of Trustees.

(a) Cause for removal of a member shall include:

[1] Any undisclosed or unlawful conflict of interest.

[2] Any violation of the codes, ordinances or rules applicable to the member's performance of their duties.

[3] Any unwillingness or inability to carry out their duties in a prompt, conscientious and competent manner.

[4] Any conduct tending to cast doubt upon the integrity or objectivity of the member in performing their duties or any other specific conduct of the member found by the Board of Trustees to be detrimental to the proper functioning of the Board.

(b) No member who has been removed for cause shall be reappointed, except when the cause for removal is item b above in which case a member may be reappointed if the reason for the absences no longer exists.

#### **B. Chairperson and Vice Chairperson**

(1) The members of the Planning Board shall recommend a chairperson for the Board from among the members of the Planning Board. The Mayor shall appoint the chairperson for a one-year term, subject to confirmation by the Board of Trustees. The Chairperson shall preside at all meetings and hearings of the full Board and fulfill the customary functions of that office. The members of the Planning Board shall annually elect one of their members as Vice Chairperson. The Chairperson and Vice Chairperson may administer oaths.

(2) In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson and shall have all the powers of the Chairperson. The Vice Chairperson shall have such other powers and duties as may from time to time be provided by the rules of the Planning Board.

(3) In the absence of both the Chairperson and the Vice Chairperson, the members present shall vote to establish a temporary Chairperson.

### **C. Staff Secretary and Public Record**

- (1) The Zoning Officer shall be the Staff Secretary of the Planning Board and shall attend all its proceedings and, upon request, the proceedings of any of its committees.
- (2) The Staff Secretary shall provide for the keeping of minutes of the proceedings of the Board, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact and shall maintain all state-mandated permanent records of Board meetings, hearings and proceedings and all correspondence of the Board. The Staff Secretary shall provide for keeping a file of all records of the Board, and such records shall be public records open to inspection at reasonable times and upon reasonable notice.

### **D. Voting Procedures and Quorum**

#### (1) Quorum

- (a) As to any matter requiring a hearing before the Historic Preservation Commission, no business shall be transacted by the Commission without a quorum of three members. The concurring vote of three members shall be necessary for any action by the Board. If less than a quorum is obtainable, the hearing shall be adjourned to the next scheduled meeting or to a special meeting as determined by the Commission. However, the Historic Preservation Commission may hear testimony from members of the public who are present for the scheduled hearing. In such case, the applicant shall have the opportunity to listen to a recording and/or transcript of the testimony and shall have the ability to rebut the testimony at the next scheduled hearing or meeting. The Staff Secretary shall notify in writing all members of the date of the adjourned hearing and shall also notify such other interested parties as may be designated in the vote of adjournment.
- (b) A member absent from any portion of a hearing or meeting shall be qualified to vote at a subsequent hearing or meeting upon the matter heard provided they shall first certify on the record that they has reviewed the entire record of any such portion of the hearing or meeting during which they was absent and has been fully informed of the essential facts and issues of the matter being heard so as to be able to cast an informed and independent vote.

(2) Adjournment

- (a) If during the course of a public hearing there is a determination that a continuation of the hearing is needed and the date and time are announced, no further notification of the adjournment will be required.
- (b) If notification of the date and time of the adjourned hearing date cannot be determined at the hearing, notification requirements set forth in this Chapter shall be followed.

(3) Deliberation

As to any matter not requiring a hearing, the Planning Board may meet and deliberate at any properly called meeting regardless of the presence of a quorum or may continue consideration of such matter to any later meeting. However, no final action shall be taken on any such matter without a quorum.

**B. Meetings and Hearings**

(1) Meetings

Regular meetings of the Planning Board shall be held at the call of the Chairperson, the Zoning Officer, or as provided by rule of the Board. Special meetings shall be called by the Chairperson at the request of any three members of the Board or at the request of the Zoning Officer or Board of Trustees.

(2) Hearings

All meetings and hearings of the Planning Board shall be open to the public. All testimony at any hearing of the Planning Board shall be given under oath.

**C. Rules and Procedures**

The Planning Board shall adopt Rules and Procedures for the conduct of its business, consistent with this Code and the statutes of the State of New York, including establishing meeting times and related procedures. Such rules shall be filed with the Staff Secretary and the Village Clerk.

**D. Record and Decisions**

(1) Record

The following shall constitute the record:

- (a) The transcript of testimony, if any.

- (b) The minutes of the Staff Secretary, if any.
- (c) All applications, staff reports, requests, exhibits and papers filed in any proceeding before the Planning Board.
- (d) The decision of the Board.

(2) Decisions

- (a) The Planning Board may rely on the personal knowledge of its members, on testimony during public hearings, on its inspections of the property and on any reports available to it; provided, however, that reliance on such matter shall not be allowed unless the Board shall have made the particular knowledge, inspection or report a matter of record at the public hearing and afforded every party reasonable time to respond to it at the hearing.
- (b) Every decision of the Planning Board upon an application for amending this Chapter, for residential cluster development approval, for special permit approval, or for site plan approval shall be by written resolution which shall include findings of fact, shall refer to all the evidence in the record and to the exhibits, plans or specifications upon which such decision is based and shall contain the findings of fact which shall set forth the recommendation of the Board or shall approve, approve with conditions, or deny approval. Every resolution shall expressly set forth any limitations or conditions imposed on any approval or any development, work or use authorized.

(3) Final Decision

The Planning Board shall take no final or binding vote on any decision pertaining to the aforesaid applications unless it shall first state its findings and conclusions as above required at a meeting open to the public.

(4) Failure to Act

- (a) In any case where this Chapter provides that the failure of the Planning Board to act within a fixed period shall be deemed a denial of an application, such failure shall, notwithstanding the absence of required findings and conclusions, be considered to be a decision of the Board rendered on the day following the expiration of such fixed period. Such a decision may be appealed

in the same manner as any other decision but, on such appeal, shall be entitled to no presumption of correctness.

- (b) Where no decision is made by the Planning Board and the time period for rendering a decision has not expired, the action will be placed on the agenda of the next scheduled regular or special meeting.

(5) Notification of Decision

Within five business days following any decision on such applications, the Staff Secretary shall mail notice thereof to each person entitled to such notice and file such decision in the office of the Village Clerk. As to other matters brought before the Board, the Board shall prepare such report as it shall deem appropriate to the subject matter.

**E. Conflicts**

No member of the Planning Board shall participate in the hearing or disposition of any matter in which they have an interest. Any conflict of interest prohibited by Chapter 34, Code of Ethics shall disqualify a member.

**F. Appeals**

An appeal from any final decision of the Planning Board may be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, department, bureau, board, or the Board of Trustees of Trustees in accordance with Article 78 of the New York Civil Practice Law and Rules.

**G. Jurisdiction and Authority**

The Planning Board shall have the following jurisdiction and authority:

- (1) To review and recommend on matters relevant to the Comprehensive Plan and the Zoning Map to the Board of Trustees.
- (2) Subject to the provisions of Section 551-65, to initiate, hear, review, and offer its recommendations to the Board of Trustees on applications for amendment of this Chapter.
- (3) Subject to the provisions of Section 551-67, to hear, review, and offer its recommendations to the Board of Trustees on applications for planned development district approval.
- (4) Subject to the provisions of Section 551.25.V, to hear, review, and finally decide applications for residential cluster development approval.

- (5) Subject to the provisions of Section 551-68, to hear, review, and finally decide on applications for site plan approval referred to the Board.
- (6) Subject to the provisions of Section 551-69, to hear, review, and finally decide applications for special permit approval.
- (7) To hear, review, and approve subdivisions.
- (8) Upon reasonable written request, to make its special knowledge and expertise available to any official, department, bureau, board, commission, or agency of the Village, county, state, or federal governments to aid them in the performance of their respective duties relating to zoning and its administration in the Village.
- (9) In furtherance of the above jurisdiction and authority, to make such investigations, maps and reports, and recommendations in connection therewith, relating to zoning and its administration in the Village of Fairport as seem desirable to it, provided, however, that the expenditures of the Board shall not exceed the amount appropriated therefor.

#### **H. Alternate Members**

The Mayor is hereby authorized to appoint, subject to confirmation by Board of Trustees, up to two alternate members to the Board for purposes of substituting for a regular member in the event such regular member is unable to participate in the Board's consideration of any application or other matter.

##### **(1) Substitution**

The Chairperson of the Board may designate an alternate member to substitute for a regular member when such regular member is unable to participate in the consideration of any application or other matter before the Board due to a conflict of interest, illness, or any other reason that causes the regular member to be absent or otherwise unable to participate. When so designated, the alternate member shall possess all the powers and responsibilities of such regular member of the Board for the application or matter so designated by the Chairperson. Such designation shall be entered into the minutes of the Board meeting at which the substitution is made. Each alternate member shall be a resident of Fairport and shall be appointed for a five-year term.

##### **(2) Other Requirements**

All other provisions of this section and the rest of the Village Code relating to the eligibility, compensation, ethics, conflicts of interest, vacancies, mandatory training,

reappointment, and removal of regular Board members shall also apply to alternate members.

## **551-58 Zoning Board of Appeals**

### **A. Membership**

#### (1) Appointment and Terms

(a) A Zoning Board of Appeals is established, which shall consist of five regular members appointed by the Mayor, subject to confirmation by Board of Trustees.

(b) All new members shall be appointed for a five-year term; members may be appointed to subsequent terms of five years. There shall be no limitation on the number of terms served by a member of the Zoning Board of Appeals.

#### (2) Board Composition

Members of the Zoning Board of Appeals shall be residents of the Village of Fairport and shall not be officers or employees of the Village or any of its agencies or departments.

#### (3) Compensation

Members of the Zoning Board of Appeals shall serve without compensation but shall be entitled, to the extent of available funds appropriated, to reimbursement for reasonable expenses necessarily incurred in the performance of their duties.

#### (4) Vacancies

Permanent vacancies on the Zoning Board of Appeals shall be filled by the Mayor, subject to confirmation by Board of Trustees as set forth above.

#### (5) Mandatory Training

The Zoning Board of Appeals members shall be required to attend four hours of training annually.

#### (6) Removal

Any member of the Zoning Board of Appeals may be removed for cause by the Board of Trustees at any time; provided, however, that before any such removal such

member shall be given an opportunity to respond to allegations of such cause in writing to the Board of Trustees.

(a) Cause for removal of a member shall include:

[1] Any undisclosed or unlawful conflict of interest.

[2] Any violation of the codes, ordinances, or rules applicable to the member's performance of their duties.

[3] Any unwillingness or inability to carry out their duties in a prompt, conscientious, and competent manner.

[4] Any conduct tending to cast doubt upon the integrity or objectivity of the member in performing their duties or any other specific conduct of the member found by the Board of Trustees to be detrimental to the proper functioning of the Board.

(b) Failure to attend 50% or more of the meetings during the course of one calendar year or to meet their mandatory training requirements.

(c) No member who has been removed for cause shall be reappointed, except when the cause for removal is item b above, in which case a member may be reappointed if the reason for the absences no longer exists.

**B. Chairperson and Vice Chairperson.**

(1) The members of the Zoning Board of Appeals shall recommend a chairperson for the Board from among the members of the Zoning Board of Appeals. The Mayor shall appoint the chairperson for a one-year term, subject to confirmation by the Board of Trustees. The Chairperson shall preside at all meetings and hearings of the full Board and fulfill the customary functions of that office. The members of the Zoning Board of Appeals shall annually elect one of their members as Vice Chairperson. The Chairperson and Vice Chairperson may administer oaths.

(2) In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson and shall have all the powers of the Chairperson. The Vice Chairperson shall have such other powers and duties as may from time to time be provided by the rules of the Zoning Board of Appeals.

(3) In the absence of both the Chairperson and the Vice Chairperson, the members present shall vote to establish a temporary Chairperson.

### **C. Staff Secretary and Public Record**

- (1) The Zoning Officer shall be the Staff Secretary of the Zoning Board of Appeals and shall attend all its proceedings and, upon request, the proceedings of any of its committees.
- (2) The Staff Secretary shall provide for the keeping of minutes of the proceedings of the Board showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact and shall maintain all state-mandated permanent records of Board meetings, hearings, and proceedings and all correspondence of the Board. The Staff Secretary shall provide for keeping a file of all records of the Board, and such records shall be public records open to inspection at reasonable times and upon reasonable notice.

### **D. Voting Procedures and Quorum**

- (1) Quorum
  - (a) As to any matter requiring a hearing before the Zoning Board of Appeals, no business shall be transacted by the Board without a quorum. The concurring vote of three members shall be necessary to approve an application or appeal. Failure to obtain the concurring vote shall be deemed a denial. If less than a quorum is obtainable, the hearing shall be adjourned to the next scheduled meeting or to a special meeting as determined by the Board. However, the Zoning Board of Appeals may hear testimony from members of the public who are present for the scheduled hearing. In such case, the applicant shall have the opportunity to listen to a recording and/or transcript of the testimony and shall have the ability to rebut the testimony at the next scheduled hearing or meeting. The Staff Secretary shall notify in writing all members of the date of the adjourned hearing and shall also notify such other interested parties as may be designated in the vote of adjournment.
  - (b) A member absent from any portion of a hearing or meeting shall be qualified to vote at a subsequent hearing or meet upon the matter heard provided they shall first certify on the record that they have reviewed the entire record of any such portion of the hearing or meeting during which they were absent and has been fully informed of the essential facts and issues of the matter being heard so as to be able to cast an informed and independent vote.

(2) Adjournment

(a) If during the course of a public hearing there is a determination that a continuation of the hearing is needed and the date and time are announced, no further notification of the adjournment will be required.

(b) If notification of the date and time of the adjourned hearing date cannot be determined at the hearing, notification requirements set forth in this Chapter shall be followed.

(3) Deliberations

As to any matter not requiring a hearing, the Zoning Board of Appeals may meet and deliberate at any properly called meeting regardless of the presence of a quorum or may continue consideration of such matter to any later meeting. However, no final action shall be taken on any such matter without a quorum.

**E. Meeting and Hearing**

(1) Meetings

Regular meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson, the Zoning Officer, or as provided by rule of the Board. Special meetings shall be called by the Chairperson at the request of any three members of the Board or at the request of the Zoning Officer or Board of Trustees.

(2) Hearings

All meetings and hearings of the Zoning Board of Appeals shall be open to the public. All testimony at any hearing of the Zoning Board of Appeals shall be given under oath.

**F. Rules and Procedures**

The Zoning Board of Appeals shall adopt Rules and Procedures for the conduct of its business, consistent with this Code and the statutes of the State of New York, including establishing meeting times and related procedures. Such rules shall be filed with the Staff Secretary and the Village Clerk.

**G. Record and Decisions**

(1) Record

The following shall constitute the record:

(a) The transcript of testimony, if any.

- (b) The minutes of the Staff Secretary, if any.
- (c) All applications, staff reports, requests, exhibits and papers filed in any proceeding before the Zoning Board of Appeals.
- (d) The decision of the Board.

(2) Decisions

- (a) The Board may rely on the personal knowledge of its members, on testimony at the public hearing, on its inspections of the property and on any reports available to it; provided, however, that reliance on such matter shall not be allowed unless the Board shall have made the particular knowledge, inspection, or report a matter of record at the public hearing and afforded every party reasonable time to respond to it at the hearing.
- (b) Every decision of the Zoning Board of Appeals shall be by resolution which shall include findings of fact, shall refer to all the evidence in the record and to the exhibits, plans or specifications upon which such decision is based, shall specify the reason or reasons for such decision, shall contain a conclusion or statement separate from the findings of fact setting forth the specific relief approved or denied, and shall expressly set forth any limitations or conditions imposed on any relief approved or work or use authorized.

(3) Final Action

In taking final action, the Zoning Board of Appeals shall first state its findings and conclusions at a meeting open to the public and shall, in addition, state the special circumstances warranting such action.

(4) Failure to Act

- (a) In any case where this Chapter provides that the failure of the Zoning Board of Appeals to act within a fixed period shall be deemed a denial of an application, such failure shall, notwithstanding the absence of required findings and conclusions, be considered to be a decision of the Board rendered on the day following the expiration of such fixed period. Such a decision may be appealed

in the same manner as any other decision but, on such appeal, shall be entitled to no presumption of correctness.

- (b) Where no decision is made by the Zoning Board of Appeals and the time period for rendering a decision has not expired, the action will be placed on the agenda of the next scheduled regular or special meeting.

#### (5) Notification of Decision

Within five business days following any decision of the Zoning Board of Appeals, the Staff Secretary shall mail notice thereof to each person entitled to such notice and file such decision in the office of the Village Clerk. As to other matters brought before the Board, the Board shall prepare such report as it shall deem appropriate to the subject matter.

### H. **Conflicts**

No member of the Zoning Board of Appeals shall participate in the hearing or disposition of any matter in which they have an interest. Any conflict of interest prohibited by Chapter 34, Code of Ethics shall disqualify a member.

### I. **Appeals**

An appeal from any final decision of the Zoning Board of Appeals as to any matter over which it has final authority may be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, department, bureau, board, or commission of the Village in accordance with Article 78 of the New York Civil Practice Law and Rules.

### J. **Jurisdiction and Authority**

The Zoning Board of Appeals shall have the following jurisdiction and authority:

- (1) Subject to the provisions of Section 551-70, to hear and decide appeals from, and review orders, decisions or determinations made by the Zoning Officer and to that

end shall have the power of the Zoning Officer with respect to such order, decision or determination.

- (2) Subject to the provisions of Section 551-71, to approve or deny variances from the requirements of this Chapter.
- (3) Subject to the provisions of Section 551-65, to initiate amendments to this Chapter.
- (4) Upon reasonable written request, to make its special knowledge and expertise available to any official, department, bureau, board, commission, or agency of the Village, county, state, or federal governments to aid them in the performance of their respective duties relating to zoning and its administration in the Village.
- (5) In furtherance of the above jurisdiction and authority, to make such investigations, maps and reports, and recommendations in connection therewith, relating to zoning and its administration in the Village of Fairport as seem desirable to it, provided, however, that the expenditures of the Board shall not exceed the amount appropriated therefor.

#### **I. Alternate Members**

The Mayor is hereby authorized to appoint, subject to confirmation by Board of Trustees, up to two alternate members to the Zoning Board of Appeals for purposes of substituting for a regular member in the event such regular member is unable to participate in such Board's consideration of any application or other matter.

##### (1) Substitution

The Chairperson of the Zoning Board of Appeals may designate an alternate member to substitute for a regular member when such regular member is unable to participate in the consideration of any application or other matter before the Board due to a conflict of interest, illness, or any other reason that causes the regular member to be absent or otherwise unable to participate. When so designated, the alternate member shall possess all the powers and responsibilities of such regular member of the Board for the application or matter so designated by the Chairperson. Such designation shall be entered into the minutes of the Board meeting at which the substitution is made. Each alternate member shall be a resident of Fairport and shall be appointed for a five- year term.

(2) Other Requirements

All other provisions of this section and the rest of the Village Code relating to the eligibility, compensation, ethics, conflicts of interest, vacancies, mandatory training, reappointment, and removal of regular Board members shall also apply to alternate members.

**551-59 Historic Preservation Commission**

**A. Membership**

(1) Appointment and Terms

(a) A Historic Preservation Commission is established, which shall consist of five regular members appointed by the Mayor, subject to confirmation by Board of Trustees.

(b) All new members shall be appointed for a five-year term; members may be appointed to subsequent terms of five years. There shall be no limitation on the number of terms served by a member of the Historic Preservation Commission.

(2) Board Composition

All members of the Historic Preservation Commission shall be residents of the Village of Fairport and shall not be officer or employees of the Village or any of its agencies or departments.

(3) Compensation

Members of the Historic Preservation Commission shall serve without compensation but shall be entitled, to the extent of available funds appropriated, to reimbursement for reasonable expenses necessarily incurred in the performance of their duties.

(4) Vacancies

Permanent vacancies on the Historic Preservation Commission shall be filled by the Mayor, subject to confirmation by Board of Trustees as set forth above.

(5) Mandatory Training

Historic Preservation Commission members shall be required to attend four hours of training annually.

(6) Removal

Any member of the Historic Preservation Commission may be removed for cause by the Board of Trustees at any time; provided, however, that before any such removal, such member shall be given an opportunity to respond to allegations of such cause in writing to the Board of Trustees.

(a) Cause for removal of a member shall include:

[1] Any undisclosed or unlawful conflict of interest.

[2] Any violation of the codes, ordinances, or rules applicable to the member's performance of their duties.

[3] Any unwillingness or inability to carry out their duties in a prompt, conscientious, and competent manner.

[4] Any conduct tending to cast doubt upon the integrity or objectivity of the member in performing their duties or any other specific conduct of the member found by the Board of Trustees to be detrimental to the proper functioning of the Historic Preservation Commission.

(b) Failure to attend 50% of the meetings during the course of one calendar year or failure to meet their mandatory training requirements.

(c) No member who has been removed for cause shall be reappointed, except when the cause for removal is item b above, in which case a member may be reappointed if the reason for the absences no longer exists.

**B. Chairpersons**

(1) Chairperson and Vice Chairperson

(a) The members of the Historic Preservation Commission shall recommend a chairperson for the Board from among the members of the Historic Preservation Commission. The Mayor shall appoint the chairperson for one-year term, subject to confirmation by the Board of Trustees. The Chairperson shall preside at all meetings and hearings of the full Board and fulfill the customary functions of that office. The members of the Historic Preservation Commission shall annually elect one of their members as Vice Chairperson. The Chairperson and Vice Chairperson may administer oaths.

(b) In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson and shall have all the powers of the Chairperson. The Vice

Chairperson shall have such other powers and duties as may from time to time be provided by the rules of the Historic Preservation Commission.

- (c) In the absence of both the Chairperson and the Vice Chairperson, the members present shall vote to establish a temporary Chairperson.

**C. Staff Secretary and Public Record**

- (1) The Zoning Officer shall be the Staff Secretary of the Historic Preservation Commission and shall attend all its proceedings.
- (2) The Staff Secretary shall provide for the keeping of minutes of the proceedings of the Historic Preservation Commission, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact and shall maintain all state-mandated permanent records of Historic Preservation Commission meetings, hearings, and proceedings and all correspondence of the Historic Preservation Commission at the direction of the Village Clerk. The Staff Secretary shall provide for keeping a file of all records of the Historic Preservation Commission, and such records shall be public records open to inspection at reasonable times and upon reasonable notice.

**D. Voting Procedures and Quorum**

- (1) Quorum
  - (a) As to any matter requiring a hearing before the Historic Preservation Commission, no business shall be transacted by the Commission without a quorum of three members. The concurring vote of three members shall be necessary for any action by the Board. If less than a quorum is obtainable, the hearing shall be adjourned to the next scheduled meeting or to a special meeting as determined by the Commission. However, the Historic Preservation Commission may hear testimony from members of the public who are present for the scheduled hearing. In such case, the applicant shall have the opportunity to listen to a recording and/or transcript of the testimony and shall have the ability to rebut the testimony at the next scheduled hearing or meeting. The Staff Secretary shall notify in writing all members of the date of the adjourned hearing and shall also notify such other interested parties as may be designated in the vote of adjournment.
  - (b) A member absent from any portion of a hearing or meeting shall be qualified to vote at a subsequent hearing or meeting upon the matter heard provided they shall first certify on the record that they have reviewed the entire record

of any such portion of the hearing or meeting during which they was absent and has been fully informed of the essential facts and issues of the matter being heard so as to be able to cast an informed and independent vote.

(2) Adjournment

(a) If during the course of a public hearing there is a determination that a continuation of the hearing is needed and the date and time are announced, no further notification of the adjournment will be required.

(b) If notification of the date and time of the adjourned hearing date cannot be determined at the hearing, notification requirements set forth in this Chapter shall be followed.

(3) Deliberation

As to any matter not requiring a hearing, the Historic Preservation Commission may meet and deliberate at any properly called meeting regardless of the presence of a quorum or may continue consideration of such matter to any later meeting. However, no final action shall be taken on any such matter without a quorum.

**B. Meetings, Hearings, and Procedures**

(1) Meetings

Regular meetings of the Historic Preservation Commission shall be held at the call of the Chairperson, the Zoning Officer, or as provided by rule of the Commission. Special meetings shall be called by the Chairperson at the request of any three members of the Board or at the request of the Zoning Officer or Board of Trustees.

(2) Hearings

All meetings and hearings of the Historic Preservation Commission shall be open to the public. All testimony at any hearing of the Historic Preservation Commission shall be given under oath.

**C. Rules and Procedures**

The Historic Preservation Commission shall adopt Rules and Procedures for the conduct of its business, consistent with this Code and the statutes of the State of New York, including establishing meeting times and related procedures. Such rules shall be filed with the Staff Secretary and the Village Clerk.

## **D. Record and Decisions**

### (1) Record

The following shall constitute the record:

- (a) The transcript of testimony, if any.
- (b) The minutes of the Staff Secretary, if any.
- (c) All applications, staff report, consultant reports, requests, exhibits and papers filed in any proceeding before the Historic Preservation Commission.
- (d) The decision of the Board.

### (2) Decisions

- (a) The Historic Preservation Commission may rely on the personal knowledge of its members, on testimony from the public hearing, on its inspections of the property and on any reports available to it, provided, however, that reliance on such matter shall not be allowed unless the Historic Preservation Commission shall have made the particular knowledge, inspection or report a matter of record at the public hearing and afforded every party reasonable time to respond to it at the hearing.
- (b) Every decision of the Historic Preservation Commission upon an application for the designation of a preservation district, every decision of the Historic Preservation Commission approving, conditionally approving or denying a certificate of appropriateness or designating a landmark shall be by written resolution, including findings of fact, shall refer to all the evidence in the record and to the exhibits, plans or specifications upon which such decision is based and shall contain the findings of fact, which shall set forth the recommendation of the Commission or shall approve, approve with conditions or deny approval. Every resolution shall expressly set forth any limitations or conditions imposed on any approval or any development, work, or use authorized.

### (3) Final Action

The Historic Preservation Commission shall take no final or binding vote on any of the aforesaid decisions unless it shall first state its findings and conclusions as above required at a meeting open to the public.

(4) Failure to Act

(a) In any case where this Chapter provides that the failure of the Historic Preservation Commission to act within a fixed period shall be deemed a denial of an application, such failure shall, notwithstanding the absence of required findings and conclusions, be considered to be a decision of the Commission rendered on the day following the expiration of such fixed period. Such a decision may be appealed in the same manner as any other decision but, on such appeal, shall be entitled to no presumption of correctness.

(b) Where no decision is made by the Historic Preservation Commission and the time period for rendering decisions has not expired, the action will be placed on the agenda of the next scheduled regular or special meeting.

(5) Notification of Decision

Within five business days following any decision of the Historic Preservation Commission, the Staff Secretary shall mail notice thereof to each person entitled to such notice and shall file the decision with the Village Clerk. As to other matters brought before the Commission, the Commission shall prepare such report as it shall deem appropriate to the subject matter

**E. Conflicts**

No member of the Historic Preservation Commission shall participate in the hearing or disposition of any matter in which they have an interest. Any conflict of interest prohibited by Chapter 34, Code of Ethics shall disqualify a member.

**F. Appeals**

An appeal from any final decision of the Historic Preservation Commission as to any matter over which it has final authority may be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, department, bureau, board, or commission of the Village in accordance with Article 78 of the New York Civil Practice Law and Rules.

**G. Jurisdiction and Authority**

The Historic Preservation Commission shall have the following jurisdiction and authority:

(1) Subject to the provisions of Section 551-66, to initiate, hear, review, and offer its recommendations to the Board of Trustees on applications for designation of preservation districts.

- (2) Subject to the provisions of Section 551-73, to initiate, hear, review, and approve or disapprove proposals for the designation of landmarks.
- (3) Subject to the provisions of Section 551-69, to review and offer recommendations on applications for special permits that have been referred to it by the Zoning Officer.
- (4) Subject to the provisions Section 551-71, to review and offer recommendations on applications for variances that have been referred to it by the Zoning Officer.
- (5) To develop and adopt preservation guidelines.
- (6) To review and finally decide applications for certificates of appropriateness.
- (7) Upon reasonable written request, to make its special knowledge and expertise available to any official, department, bureau, board, commission, or agency of the Village, county, state, or federal governments to aid them in the performance of their respective duties relating to zoning and its administration in the Village.
- (8) In furtherance of the above jurisdiction and authority, to make such investigations, maps and reports, and recommendations in connection therewith, relating to zoning and its administration in the Village of Fairport as seem desirable to it, provided, however, that the expenditures of the Commission shall not exceed the amount appropriated therefor.

#### **H. Alternate Members**

The Mayor is hereby authorized to appoint, subject to confirmation by Board of Trustees, up to two alternate members to the Historic Preservation Commission for purposes of substituting for a regular member in the event such regular member is unable to participate in the Commission's consideration of any application or other matter.

##### **(1) Substitution**

The Chairperson of the Commission may designate an alternate member to substitute for a regular member when such regular member is unable to participate in the consideration of any application or other matter before the Historic Preservation Commission due to a conflict of interest, illness, or any other reason that causes the regular member to be absent or otherwise unable to participate. When so designated, the alternate member shall possess all the powers and responsibilities of such regular member of the Historic Preservation Commission for the application or matter so designated by the Chairperson. Such designation shall be entered into the minutes of the Commission meeting at which the substitution is

made. Each alternate member shall be a resident of Fairport and shall be appointed for a five year term.

(2) Other Requirements

All other provisions of this section and the rest of the Village Code relating to the eligibility, compensation, ethics, conflicts of interest, vacancies, mandatory training, reappointment, and removal of regular Board members shall also apply to alternate members.

**551-60 Zoning Officer**

**A. Staff Secretary**

The Zoning Officer, shall serve as Staff Secretary to the Zoning Board of Appeals, the Planning Board, and the Preservation Commission. The Zoning Officer shall, in that capacity:

- (1) Attend the meetings of each such body.
- (2) Inform each such body of all relevant and available facts and information with respect to any matter brought before such body.
- (3) Give notice, 30 days prior to the expiration of the term of any member of any such bodies, of the date on which the term of such member shall expire to such member and to the Mayor.
- (4) Perform such other duties as may be assigned to the Zoning Officer by this Chapter and by the rules of such bodies.

**B. Records**

The Zoning Officer shall maintain a copy of all official records pertaining to the official duties as outlined in this Chapter and the various bodies for which the Zoning Officer serves as Staff Secretary. Such records shall be filed with the Village Clerk, as required by law.

**C. Applications: Receipt, Processing, and Notification**

(1) Receipt

The Zoning Officer shall receive all applications, other than applications for certificates of occupancy, required to be filed pursuant to this Chapter and such

other applications that the codes and ordinances of the Village may from time to time require to be filed with the Zoning Officer.

(2) Processing

Upon receipt of any such application, the Zoning Officer shall see to its processing, including its referral to and retrieval from each official, department, bureau, board, commission, or agency of the Village, or other government, with any interest in or duty with respect to such application.

(3) Notification

(a) Within five business days following the final disposition of any application submitted to the Zoning Officer pursuant to this subsection, the Zoning Officer shall file the decision with the Village Clerk and shall notify:

[1] The applicant.

[2] Any other department, bureau, board, commission, or officer of the Village whose duties may be affected by such action.

(b) In any case where an application has been denied, such notice shall inform the applicant of any right to appeal such denial that may exist pursuant to this Chapter.

**D. Failure to Act**

In any case where this Chapter provides that the failure of the Zoning Officer to act within a fixed period shall be deemed a denial of an application, such failure shall, notwithstanding the absence of required findings and conclusions, be considered to be a decision of the Zoning Officer rendered on the day following the expiration of such fixed period. Such a decision may be appealed in the same manner as any other decision but, on such appeal, shall be entitled to no presumption of correctness.

**E. Jurisdiction, Authority, and Duties**

(1) Whenever the Zoning Board of Appeals, the Planning Board, or the Historic Preservation Commission by general rule or specific direction so requests, the Zoning Officer shall conduct or request such surveys, investigations and field studies and shall prepare or cause to be prepared such reports, maps,

photographs, charts, and exhibits as shall be necessary and appropriate to the processing of any application filed with the Zoning Officer.

(2) In addition to the jurisdiction, authority, and duties conferred on the Zoning Officer by other provisions of the codes and local laws of the Village of Fairport, the Zoning Officer shall be charged with the administration of this Chapter and shall have all powers necessary to such administration and, in particular, shall have the following jurisdiction, authority and duties:

(a) Administrative Adjustments. Subject to the procedures, standards and limitations set forth in Section 551-75, the Zoning Officer shall review or cause to be reviewed applications for administrative adjustments and shall approve, approve with conditions, or deny such applications.

(b) Planned Development Modifications and Residential Cluster Development Modifications. The Zoning Officer shall have the authority to approve certain planned development district modifications (Section 551-22) and residential cluster development modifications (Section 551-25.V).

(c) Attainable Housing Zoning. Subject to the procedures, standards and limitations set forth in Article 13, the Zoning Officer shall monitor compliance with the Attainable Housing Zoning.

(d) Other Permits. The Zoning Officer shall issue all other certificates, permits, and approvals required by this Chapter or after being authorized to do so by the person or body responsible for authorizing such issuance. All such certificates, permits, and approvals shall contain any information required to be included therein by this Chapter or the authorizing person or body and, in particular, shall expressly set forth any limitations or conditions imposed on the issuance of such permit.

(e) Extensions of Time. The Zoning Officer may, upon written request by an applicant or a permittee prior to the expiration date of the approval, for reasonable cause shown and without notice of hearing, extend the original time limit imposed on an applicant or permittee by this Chapter or, unless a resolution shall expressly provide otherwise, by any resolution of any body acting pursuant to this Chapter, for a period not to exceed the length of the original period. For any additional time limit extensions, the Zoning Officer shall notify the appropriate approval body that shall make a recommendation for or against the extension. A nonrefundable fee, as may be established from

time to time by the Board of Trustees to defray administrative costs, shall accompany each extension request.

- (f) Input From Other Departments. The Zoning Officer may request technical and legal aid, assistance, and expertise from appropriate Village departments for the various boards and commissions as they may reasonably require in the performance of their duties.

### **551-61 Building Inspector**

#### **A. Building Permits**

See Chapter 215 of the Village of Fairport Code.

#### **B. Enforcement.**

The Building Inspector shall act as the Code Enforcement Officer for the Village of Fairport. See Article 15.

## **ARTICLE 10. GENERAL PROCEDURES**

### **551-62 Applications**

#### **A. Initiation of Application**

A property owner, or their duly authorized agent, or other persons having a contractual interest may make an application required under this Chapter for the subject property. Board of Trustees and Village agencies, commissions, or boards may submit applications as defined in this Chapter.

#### **B. Compliance Required**

No application for a special process approval shall be considered where there are existing violations or outstanding judgments pursuant to any other Village statute, local law, or code, except where such application is intended to cure the violation.

#### **C. Actions Requiring Multiple Approvals**

Whenever two or more forms of review and approval are required under this Chapter, the Zoning Officer shall determine the sequence of the review, including whether the review meetings, hearings, and other review procedures may be held simultaneously.

#### **D. Application Submission**

Applications shall be submitted as required by the Zoning Officer. The Zoning Officer shall have the authority to waive application requirements that are not applicable to a specific project.

#### **E. Application Filing Fees**

Applications shall be accompanied by the fee established by Board of Trustees. Fees are not required with applications submitted by the Board of Trustees and Village agencies, commissions, or boards. Application fees are nonrefundable, unless otherwise expressly stated.

### **551-63 Pre-Application Meeting**

A. The purpose of a pre-application meeting with Village and/or other agency staff is to inform the applicant of applicable procedures, submission requirements, development standards, and other relevant information before the applicant finalizes the development proposal. Prior to the submission of an application, a pre-application meeting may be requested by the Zoning Officer. The applicant shall be

required to attend any pre-application meeting required by the Zoning Officer and failure to do so may result in a delay of processing the application.

- B. Village and/or agency staff opinions presented during a pre-application meeting are advisory/informational only and are not a commitment by the Village or represented agency regarding the acceptability of the development proposal.

## **551-64 Application Intake and Completeness Review**

### **A. Application Intake Meeting**

The purpose of an application intake meeting is to allow a review to determine whether the application meets the minimum requirements for acceptance of the application. The intake meeting shall be made by appointment with the Zoning Officer. Application intake meetings shall be required for all applications unless waived by the Zoning Officer.

### **B. Application Completeness**

- (1) An application shall be considered complete if it is submitted in the required form, includes all mandatory information, including all exhibits, and is accompanied by the applicable fee.
- (2) If an application is determined to be incomplete, the Zoning Officer shall provide written notice to the applicant with an explanation of the application's deficiencies. No further processing of the application shall occur, and no public hearings shall be scheduled until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within 30 days, the application shall be considered withdrawn and the application shall be returned to the applicant.

### **C. Referrals to Monroe County Department of Planning and Development and Adjacent Municipalities**

Applications subject to New York State General Municipal Law § 239-m and § 239-n shall be referred to the Department of Planning and Development at Monroe County and applications subject to New York State General Municipal Law §239-nn shall be referred to adjacent municipalities as required.

**551-65 Administrative Decisions, Informational Meetings, Public Hearings, and Notice**

**A. Notice for Administrative Matters Not Requiring Informational Meetings or Public Hearings**

- (1) Public notice shall be made to abutting property owners for matters not requiring public hearings as required by this section.
- (2) Within ten business days of the date of notification, all property owners shall submit any written documentation concerning the pending application to the Zoning Officer.

**B. Informational Meetings Required and Notice**

(1) Required Informational Meetings

Informational Meetings shall be required for the following:

- (a) Planned Development Districts or amendments.
- (b) Comprehensive Plan adoption and amendments.
- (c) Zoning Map adoption and amendments.
- (d) Zoning Chapter text adoption and amendments.

(2) Informational Meeting Notice

(a) Mailed Notice

The Zoning Officer shall determine affected property owners and notify these owners as determined.

(b) Published Notice

The Zoning Officer shall cause notice for such meetings to be placed in an official newspaper or a newspaper of general circulation in the Village, at least five days prior to the meeting date.

**C. Public Hearings Required and Notice**

(1) Public Hearings Required

Public hearings shall be required for the following:

- (a) Certificate of appropriateness
- (b) Special permit
- (c) Planned Development District or amendments
- (d) Residential cluster development
- (e) Official Map adoption and amendments
- (f) Site Plan Review
- (g) Zoning Map adoption and amendments
- (h) Zoning Chapter text amendments
- (i) Preservation district designation
- (j) Variances
- (k) Appeals of administrative decisions
- (l) Subdivision

(2) Setting Public Hearing

For all matters properly brought before the Zoning Board of Appeals, the Planning Board, or Historic Preservation Commission for which a public hearing is required, the body charged with conducting the hearing shall, upon receipt of a completed application, select a reasonable time and place for such hearing; provided, however, that such time shall be not later than 62 days following the submission of the subject application, unless the applicant shall agree to some later time.

(3) Public Hearing Notice

(a) Mailed Notice

[1] The Zoning Officer shall determine affected property owners and be required to mail the appropriate notices for public hearings said owners. Where notice by mail is required, it shall be given at least 5 days in advance of the hearing date by regular United States mail.

[2] The time and manner for mailed notices for public hearings to be held by the Board of Trustees shall be determined by the Village Clerk.

(b) Published Notice

Where published notice is required, it shall be placed in an official newspaper or a newspaper of general circulation in the Village at least five days prior to the date of the hearing.

[1] Published notice shall include:

- (i) The general location of land that is the subject of the application.
- (ii) The legal description or street address.
- (iii) The description of the application.
- (iv) The current zoning district.
- (v) The time, date, and location of the public hearing.
- (vi) A phone number to contact the Village.
- (vii) A statement that interested parties may appear at the public hearing.

[2] The time and manner of published notice for public hearings held by the Board of Trustees shall be determined by the Village Clerk.

(c) Posted Notice

[1] For hearings related to a certificate of appropriateness, residential cluster development, special permit, landmark designation, variances, or property-specific map amendment, a sign shall be posted on the subject property. Other posted notices for applications involving multiple properties shall be placed in locations at the discretion of the Zoning Officer.

[2] Such sign shall be issued by the Zoning Officer to the applicant for posting at the time a completed application is filed and shall be posted on the property in a location with an unobstructed view from the right-of-way at least 10 days prior to the date set for a hearing on the application. Such shall be removed from the property by the applicant following, but not before, the conclusion of the hearing.

[3] Where such posting is required, compliance with posting requirements may require verification by the applicant prior to or at the hearing or during testimony under oath.

[4] Text amendments are exempt from this requirement.

(d) Constructive Notice

Minor defects in notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements.

(4) Pre-Hearing Examination of Documents

The application and all other documents on file with the Zoning Officer pertaining to the application shall be posted on the Village of Fairport website. In addition, hard copies of such application and documents shall be available upon request and payment of a fee as established by the Board of Trustees to cover the cost of such copies.

(5) Right to Submit Written Statements

Any person may at any time prior to the commencement of a hearing, or within such time as may be allowed by the hearing body following such hearing, submit written and signed statements in support of or in opposition to the application being heard.

**551-66 Adjournment of Meetings and Hearings**

Notification for adjourned meetings, special meetings and hearings shall follow the process outlined in this section unless an adjourned meeting or hearing date was announced at a prior meeting or hearing.

**551-67 Successive Applications**

A. Whenever any application, appeal, or other request filed pursuant to this Chapter has been finally denied on its merits or approved subject to specified conditions, a second application, appeal, or other request seeking essentially the same relief or a modification of such conditions shall not be brought within two years unless, in the opinion of the review authority, or, in the case of decisions of the Zoning Board, Historic Preservation Commission, and Planning Board, in the unanimous opinion of all members present, at least one of the following standards has been met:

(1) There is a substantial change in circumstances relevant to the issues and/or facts considered during review of the application that might reasonably affect the

decision-making body's application of the relevant review standards to the development proposed in the application.

(2) New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed.

(3) A new application is proposed to be submitted that is materially different (e.g., proposes new uses, or a substantial decrease in proposed densities and intensities) from the prior application.

(4) The final decision on the application was based on a material mistake of fact.

B. Upon approval of the right to bring a successive application, the new application shall be subject to the application, notification, fee, and all other requirements.

#### **551-68 Decisions Based on False Information**

Any decision issued based on false information submitted by the applicant shall be null and void.

#### **551-69 Letters of Credit or Other Form of Security**

To ensure that applicants complete site improvements required as part of the approval of an application.

A. At the discretion of the review authority, applicants may be required to provide a letter of credit, or similar security acceptable to the review authority, and a fully executed agreement in the form provided by the Village. The letter of credit or other security in favor of the Village of Fairport for the estimated cost of required site improvements shall be unconditional and irrevocable for a period of not to exceed two years. The agreement shall also be irrevocable for a period of two years. The agreement shall permit the Village to draw on the security and enter the subject property to install such improvements if the applicant fails to do so within the period of time specified in the agreement.

B. Such letter of credit or similar security, and the agreement, each in a form satisfactory to the review authority, shall be submitted prior to obtaining a building permit.

C. Should the applicant fail to perform the required site improvements within the agreed period of time, the Village Clerk shall issue a written notice of such failure to the

applicant. It shall be sufficient service of such notice if it is mailed to the applicant at the address provided by them in their application. If the applicant fails to perform the required site improvements within 15 business days of the issuance of such notice, the Village Clerk is authorized to draw upon the letter of credit or to access any other offered security as may be necessary to cover the costs to the Village to perform work which the applicant failed to perform.

D. The letter of credit or other security, as described in this subsection, may be waived by the review authority where the applicant has established at least one of the following:

- (1) No site improvements or alterations to the site are associated with the application and no site improvement conditions have been attached to such approval.
- (2) None of the proposed or required site improvements will have any discernible impact on adjacent private property or on the public right-of-way, and such improvements primarily affect the user of the property and not adjacent property owners or the general public.
- (3) Evidence of the applicant's satisfactory completion of prior approval conditions is provided.
- (4) Evidence of a satisfactory financing plan that guarantees completion of the required site improvements.

# ARTICLE 11. ZONING APPLICATIONS AND APPROVALS

## PART I: PROCEDURES APPROVED BY BOARD OF TRUSTEES

### 551-70 Amendments

#### A. Authority

This Chapter and the Zoning District Map may be amended by local law duly enacted by the Board of Trustees; provided, however, that no such amendment shall be enacted except in accordance with the procedures set out in this section.

#### B. Purpose

The amendment process herein established is intended to provide a means for making changes to the text of this Chapter and the Zoning District Map. It is not intended to relieve particular hardships nor to confer special privileges or rights to a particular property owner but is intended as a tool to adjust the provisions of this Chapter and the Zoning District Map in light of changing, newly discovered or newly identified conditions, situations or knowledge.

#### C. Procedure

##### (1) Initiation

##### (a) Proposal by Village

[1] Amendments may be proposed by either the Mayor, the Board of Trustees, the Planning Board, the Zoning Board of Appeals, or the Historic Preservation Commission by transmitting such proposal, together with such supporting materials as may be appropriate, to the Zoning Officer for processing in accordance with the provisions of this section.

[2] Minor text amendments addressing spelling, grammar, numerical references, and other minor modifications which are not substantive may be proposed by the Zoning Officer and submitted directly to Board of Trustees for approval.

##### (b) Proposal by Property Owner

A proposed amendment may be initiated by an owner of, or other person having a contractual interest in, real estate to be affected by the proposed amendment or

by the owners of 50% or more of the street frontage of real estate to be affected by the proposed amendment. The application for such amendment, addressed to the Board of Trustees, shall be filed with the Zoning Officer in accordance with Article 10.

(2) Action by Planning Board

(a) An informational meeting shall be set, advertised, and conducted by the Planning Board. Within 62 days following the conclusion of the informational meeting, the Planning Board shall make a recommendation to approve, approve subject to conditions, or deny the application. The failure of the Planning Board to act within 62 days following the conclusion of the informational hearing shall be deemed a recommendation for the approval of the proposed amendment as submitted. The recommendation of the Planning Board shall be transmitted to the Village Clerk for Board of Trustees action.

(b) In making recommendations regarding amendments to the text of the Zoning Chapter or to the Zoning Map, the Planning Board shall consider and make findings on the following matters regarding the proposed amendment:

[1] Consistency with the Village's Comprehensive Plan and any other adopted special area plans.

[2] Compatibility with nearby zoning, conforming uses of nearby properties, and with the character of the neighborhood.

[3] Suitability of uses proposed by the zoning amendment for the property affected by the amendment.

[4] Availability of public services and infrastructure generally suitable and adequate for uses allowed within the proposed district.

(3) Action by Board of Trustees

(a) Within 40 days of the receipt by the Board of Trustees of the Planning Board recommendation, or its failure to act as provided above, the Board of Trustees shall conduct a public hearing and either approve the application by local law duly enacted, adopt the proposed amendment, with or without conditions, or deny the application.

- (b) In the event a protest against a proposed amendment is presented to the Village Clerk no later than 24 hours before the Board of Trustees is scheduled to consider the amendment, duly signed and acknowledged by the owners of 20% or more of the area to be affected by the proposed amendment or by the owners of 20% or more of the area of the land immediately adjacent to the subject site, or immediately across a street and extending 100 feet from the subject site, such amendment shall not be adopted except by a four-fifths vote of the Board of Trustees.
- (c) The Village Clerk shall mail notice thereof to all parties entitled thereto as provided by Section 551-60. In the event that the Board of Trustees, prior to the expiration of the time limit herein specified for its refusal or adoption of the proposed amendment, requests further information from the Planning Board, the time limit for its refusal or adoption of the proposed amendment shall be extended to 120 days. The failure of the Board of Trustees to act within the time limit herein specified shall be deemed a refusal of the amendment.
- (d) Minor text amendments as outlined in Section 551-65.C.1.a.[2] above shall be handled in the same manner as all other proposed amendments except no recommendation from the Planning Board shall be required.

### **551-71 Preservation District Designation**

#### **A. Authority**

The Board of Trustees shall have the authority, in accordance with the procedures and standards hereinafter established, to create and to designate the boundaries of preservation districts within the Village and to amend such boundaries or rescind such designations as shall seem appropriate. Such preservation districts may include one or more zoning districts established pursuant to this Chapter.

#### **B. Purpose**

Preservation districts may be created in furtherance of the following public purposes, which are hereby found to be in the interest of the health, prosperity, and welfare of the Village and its residents:

- (1) To effect and accomplish the protection, enhancement, perpetuation and use of improvements and areas of special character or special historic or aesthetic interest or value which represent or reflect elements of the Village's broad and diverse cultural, social, economic, political, and architectural history.
- (2) To safeguard the Village's historic, aesthetic, and broad and diverse cultural heritage as embodied and reflected in such improvements and areas.
- (3) To foster civic pride in the beauty and noble accomplishments of the past.
- (4) To protect and enhance the Village's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided.
- (5) To strengthen the economy of the Village.
- (6) To promote the use of historic districts and landmarks for the education, pleasure, and welfare of the people of the Village.

#### **C. Preservation District Standards**

No area of the Village shall be designated a preservation district pursuant to the provisions of this section unless such area shall constitute a defined area of the Village and shall have the potential to provide cultural and civic benefits for the people of the Village by reason of the prevalence of at least two of the following factors:

- (1) The presence of special cultural or historical interest relating to local, state, or national history.
- (2) The presence of special character or aesthetic interest or value caused by the development pattern of the area or by natural, landscape, or topographical features of the area.
- (3) The presence of one or more periods or styles of architecture typical of one or more eras in the history of the Village that gives the area a distinct character.
- (4) The concentration of indigenous examples of local architecture which have not been significantly altered from their original design and which have a uniform scale and derive special value from the repetition of scale and form.
- (5) The presence of one or more distinguished buildings of high architectural quality, or cultural or historic interest.

## D. Procedure

### (1) Initiation

#### (a) Proposal by the Village

A preservation district, or the amendment of the boundaries of an existing district, may be proposed by either the Board of Trustees, the Planning Board, or the Historic Preservation Commission by transmitting such proposal, together with such supporting materials as may seem appropriate, to the Zoning Officer for processing in accordance with the provisions of this section.

#### (b) Proposal by Property Owner

A preservation district, or the amendment of the boundaries of such an existing district, may be proposed by an owner of, or other person having a contractual interest in real estate to be affected by the proposed designation, or by the owners of 50% or more of the street frontage of real estate to be affected by the proposed designation. The application for such designation shall be filed with the Zoning Officer as required in 551-66.

### (2) Action by Historic Preservation Commission

(a) The Commission shall conduct an informational meeting for all preservation district designation applications. If so determined by the Zoning Officer, such meeting shall be held jointly with the Planning Board

(b) Within 62 days of the conclusion of the informational meeting, the Commission shall make a recommendation to the Board of Trustees on the proposed preservation district.

(c) If the Commission recommends against designation, the application shall not be referred to the Planning Board, no further action shall be taken, and the application shall be deemed denied.

(d) The failure of the Commission to act within 62 days shall be deemed a denial.

(e) In the Zoning Officer's discretion, a joint meeting of the Preservation Board and Planning Board may be scheduled and held.

(3) Action by Planning Board

- (a) If the Historic Preservation Commission recommends designation, the Planning Board shall conduct an informational meeting for all preservation district designation applications. If so determined by the Zoning Officer, such meeting shall be held jointly with the Historic Preservation Commission.
- (b) The Planning Board shall consider:
  - [1] Potential impact of the designation upon the Village's Comprehensive Plan and overall planning program of the Village.
  - [2] Whether the proposed designation would have an adverse impact upon the growth and development of the Village.
- (c) Within 62 days of the conclusion of the informational meeting, the Planning Board shall make a recommendation to the Board of Trustees on the proposed preservation district.
- (d) The failure of the Planning Board to act within 62 days shall be deemed a recommendation for the approval of the proposed amendment as submitted.
- (e) In the Zoning Officer's discretion, a joint meeting of the Preservation Commission and Planning Board may be scheduled and held.

(4) Action by Board of Trustees

- (a) Within 40 days of the receipt by the Board of Trustees of the Planning Board's recommendations, or their failure to act as provided above, the Board of Trustees shall conduct a public hearing and either approve the application by local law duly enacted, adopt the proposed amendment, with or without conditions, or deny the application.
- (b) In the event a protest against a proposed amendment is presented to the Village Clerk no later than 24 hours before the Board of Trustees is scheduled to consider the amendment, duly signed and acknowledged by the owners of 20% or more of the area to be affected by the proposed amendment or by the owners of 20% or more of the area of the land immediately adjacent to the subject site, or immediately across a street and extending 100 feet from the subject site, such amendment shall not be adopted except by a four-fifths vote of the Board of Trustees.

(c) Within five business days of such action, the Village Clerk shall mail notice thereof to all parties entitled thereto as provided by Section 551-60. In the event that the Board of Trustees, prior to the expiration of the time limit herein specified for its refusal or adoption of the proposed amendment, requests further information, the time limit for its refusal or adoption of the proposed amendment shall be extended to 70 days. The failure of the Board of Trustees to act within the time limit herein specified shall be deemed a refusal of the amendment.

**E. Amendment and Rescission of Preservation District**

Any preservation district designated hereunder may be amended or rescinded in the same manner as herein provided for the designation of such district.

**551-72 Planned Development Designation**

See Section 551-22 for planned development designation.

## **PART II: PROCEDURES APPROVED BY PLANNING BOARD**

### **551-73 Site Plan Review**

#### **A. Authority**

Subject to the procedures, standards, and limitations set forth in this Chapter, the Planning Board shall review and approve, approve with conditions, or deny applications for site plans.

#### **B. Purpose**

The site plan review process recognizes that some developments and uses, even though generally suitable for a location in a particular district, are, because of their design, capable of causing adverse impacts. The review process provides comprehensive consideration of critical design elements such as materials, details, and textures, and potential impacts related to the character, nature, size, and complexity of the project.

#### **C. Actions Not Subject to Site Plan Review**

The following actions are not subject to site plan review:

- (1) Unless specifically required by item D below, projects involving no site alterations or external structural alterations, provided alterations comply with applicable standards.
- (2) Accessory structures.
- (3) Single-family and Two-family Structures

#### **D. Site Plan Review Thresholds**

- (1) Parking lots over ten spaces that do not meet the requirements for parking lots.
- (2) Any new structure or structures having a total floor area, or covering a contiguous land area, in excess of 20,000 square feet.
- (3) Any new construction on a vacant parcel of one acre or more.
- (4) Projects within 100 feet of the Canal.
- (5) New construction of mixed-use or multifamily dwellings.

- (6) The conversion of floor area designed for nonresidential use to a residential use and, the conversion of floor area designed for residential use to a nonresidential use.
- (7) Residential cluster subdivision (Section 551-25.V).
- (8) Any proposed demolition in Downtown, Canal, General Neighborhood, and Industrial Districts requires site plan review of a site preparation, restoration, development, and/or redevelopment plan prior to demolition.
- (9) Incremental development plans in a Planned Development District
- (10) Conversion to the following vehicle-related uses or the development or redevelopment of any sites devoted to such uses or services, including:
  - (a) Vehicle repair
  - (b) Vehicle fueling station
  - (c) Any use where outdoor places or premises where trucks, tractors, and/or trailers are parked or are assigned, stationed, fueled, stored, loaded, or unloaded.
- (11) Establishment of a use or development in a residential district which is not permitted as of right by the use regulations applicable in such district.
- (12) Establishment of a sexually oriented business.

#### **E. Regional Context Review Considerations**

As part of site plan review, the regional context shall be considered, including but not limited to:

##### (1) Pedestrian and Bicycle Linkages

To the maximum practical extent, new development shall be laid out and designed to provide walkways and paths that connect with destinations such as parks and trails, schools, and shopping areas within and outside the municipal boundaries.

##### (2) Transit Routes

Any proposed development shall consider the location of existing and planned transit routes and provide vehicular and pedestrian connections to any transit points within or adjacent to the development.

(3) Regional Sustainability

Regional sustainability plans, climate action plans, and other regional environmental goals shall be considered.

**F. Application For Site Plan Approval**

(1) Application for site plan approval shall be made in writing to the Zoning Officer and shall be accompanied by information drawn from the following checklist and prepared by New York State registered architect, engineer or surveyor:

- (a) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
- (b) North arrow, scale (i.e., one inch equals 50 feet) and date.
- (c) Boundaries of the property plotted to scale.
- (d) Existing watercourses.
- (e) Grading and drainage plan, showing existing and proposed contours.
- (f) Location, proposed use and height of all buildings.
- (g) Location, design and construction materials of all parking and truck loading areas, showing access and egress.
- (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) All construction plans shall include consideration of stormwater drainage needs. Whenever possible, site grading shall direct water away from buildings and structures to the natural drainageway.
- (l) Description of the method of sewage disposal and location, design and construction materials of such facilities.
- (m) Description of the method of securing public water, and location, design and construction materials of such facilities.

- (n) Location of fire and other emergency zones, including the location of fire hydrants.
- (o) Location, design and construction materials of all energy distribution facilities, including electrical, oil, gas and solar energy.
- (p) Location, size, design and construction materials of all proposed signs.
- (q) Location and proposed development of all buffer areas, including existing vegetative cover.
- (r) Location and design of outdoor lighting facilities.
- (s) Designation of the amount of building area proposed for retail sales or similar commercial activity.
- (t) General landscaping plan and planting schedule.
- (u) Other elements integral to the proposed development, including identification of any state or county permits required for the project's execution, and SEQR documents.
- (v) A map or tracing overlay showing all soil areas and their classifications and those areas, if any, with moderate to high susceptibility to flooding and moderate to high susceptibility to erosion. The overlay shall also include an outline and description of existing vegetation for areas with potential erosion problems.
- (w) A map detailing the proposed stormwater drainage system.

(2) Factors for Consideration during Site Plan Review

The Planning Board's review of a site plan shall include but is not limited to the following considerations:

- (a) The adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls.
- (b) The adequacy and arrangement of pedestrian traffic access and circulation, including the separation of pedestrian from vehicular traffic, walkway

structures, control of intersections with vehicular traffic and pedestrian convenience.

- (c) The location, arrangement, appearance and sufficiency of off-street parking and loading areas.
  - (d) The location, arrangement, size and design of buildings, lighting and signs.
  - (e) The adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or a noise-deterring buffer between these and adjoining lands.
  - (f) In the case of an apartment house, townhouse or multiple dwelling, the adequacy of usable open space for playgrounds and informal recreation.
  - (g) The adequacy of stormwater management and sanitary waste disposal facilities.
  - (h) The adequacy of water supply facilities.
  - (i) The adequacy of structures, roadways and landscaping in areas with a moderate to high susceptibility to flooding and ponding and/or erosion.
  - (j) The protection of adjacent properties against noise, glare, unsightliness or other objectionable features.
  - (k) Overall impact on the neighborhood, including compatibility of design, compatibility of the first-floor elevation of proposed buildings, and the effect of the project on the environment and preservation of natural features such as trees.
  - (l) Conformance with the Comprehensive Plan and other plans which the Village uses as a guide for appropriate development.
- (3) In its review, the Planning Board may consult with the Village Engineer and other Village and county officials, as well as with representatives of federal and state agencies, including the Natural Resources Conservation Service and the New York State Department of Environmental Conservation. The Planning Board may require that the exterior design of all structures be made by or under the direction of a registered architect, whose seal shall be affixed to the plans.

(4) When reviewing a site plan because of a change in the use or occupancy of land, a building or any portion thereof, the Planning Board shall consider the impact of the proposed change upon other uses within the same building or parcel. To the extent practical, the Planning Board may require such modification thereto as will promote the most efficient use of land consonant with compliance with the provisions of this chapter. In no event shall the Planning Board waive the direct application of a local law provision to the changed use or occupancy under review.

## **G. Procedure**

### **1. Application**

Applications for site plans shall be submitted in a form and in such numbers as required by the Zoning Officer in accordance with Section 551-68.

### **2. Action by Zoning Officer**

Within 30 days following receipt by the Zoning Officer of a completed application or such longer time as may be agreed to by the applicant, the Zoning Officer shall cause such application and the attached plans to be reviewed by the Planning Board.

### **3. Processing multi-action applications:**

In cases where site plan review applications are required in conjunction with applications to other review authorities, including, but not limited to, the Zoning Board of Appeals, Planning Board, and Historic Preservation Commission, site plan review shall precede all other applications.

### **4. Public Hearing**

A public hearing shall be set, advertised, and conducted by the Planning Board.

### **5. Action by Planning Board**

- a.** Within 62 days following the conclusion of the public hearing, the Planning Board shall:
  - i.** Approve the application.
  - ii.** Approve the application with conditions.

- iii. Deny the application.
  - b. The failure of the Board to act within 62 days shall be deemed a denial of the application.
  - c. Within 5 business days of such decision or the expiration of such period, the Board shall mail notice of such decision or failure to act to all parties entitled thereto as provided by Section 551-52, file such decision in the office of the Village Clerk.
- 6. Conditions on Site Plan Approvals**
- a. The Planning Board may impose such conditions upon the premises benefited by a site plan approval as may be necessary to prevent or minimize adverse effects upon other property in the neighborhood.
  - b. Such conditions shall be expressly set forth in the resolution authorizing the site plan approval.
  - c. Violation of such conditions shall be a violation of this Chapter.
  - d. Such conditions may be required to be performed in a specific order.

**7. Amendment**

An approved site plan may be amended at any time in the same manner and subject to the same standards and limitations as provided in this section for original site plan approval except as otherwise authorized by the Zoning Officer.

**H. Effect of Site Plan Approval**

If the Planning Board approves the application or approves it subject to further specified approvals or conditions, such approval shall not authorize the establishment or expansion of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure. A site plan approval shall merely authorize the preparation, filing, and processing of applications for any permits and approvals which may be required by the codes of the Village, including but not limited to a building permit.

**I. Limitations on Site Plan Approvals**

- 1. A site plan approval shall become null and void one year after the date on which it was issued unless a building permit is obtained and maintained.

2. A site plan approval expiration date shall be the expiration date for all other approvals for the subject project and shall override all other expiration dates of other approvals.

#### **J. Appeals**

An appeal from any final decision of the Planning Board as to any matter regarding the site plan review must be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, department, bureau, board, or commission of the Village in accordance with Article 78 of the New York Civil Practice Law and Rules.

### **551-74 Special Permits**

#### **A. Authority**

- (1) The Planning Board will act as the Special Permit Granting Authority. In this capacity it may, subject to the procedures, standards, and limitations hereinafter set out, hear, review, and finally decide special permit applications required by this Chapter.
- (2) All applications for a special permit shall comply with all standards imposed by the particular provision of this Chapter, unless the Planning Board may waive the standard, authorizing such use.

#### **B. Purpose**

The special permit procedure is intended to provide a means to establish those uses having some special impact or uniqueness which requires a careful review of their location, design, configuration, and special impact to determine, against fixed standards, the appropriateness of permitting their establishment on any given site. They are uses that may or may not be appropriate in a particular location depending on a weighing of the public need and benefit against the local impact and effect.

## **C. Special Permit Standards**

### **(1) Approval Standards**

A special permit shall be approved only if evidence is presented which establishes that:

- (a) The proposal will be in harmony with the general purpose, goals, objectives, standards and implementation strategies of the Comprehensive Plan, this Chapter, and, where applicable, the Subdivision Code.
  - (b) The proposal will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare.
  - (c) The proposed application will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring properties in accordance with the applicable district regulations.
  - (d) The proposal will be served adequately by essential public facilities and services, such as highways, streets, sidewalks, bike lanes, transit services, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools, or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services.
  - (e) The proposal will not result in the destruction, loss, or damage of any natural, scenic, cultural, or historic feature of significant importance.
- (2) In determining whether the evidence establishes that the foregoing standards have been met, the Planning Board may determine that an overriding public need mitigates certain impacts or effects of the proposed application and support approval.

## **D. Procedure**

### **(1) Application**

An application for a special permit shall be submitted in a form and in such numbers as required by the Zoning Officer in accordance with Article 10.

(2) Public Hearing

A public hearing shall be set, advertised, and conducted by the Planning Board.

(3) Action by Planning Board

(a) Within 62 days following the conclusion of the public hearing, the Planning Board shall:

[1] Approve the application.

[2] Approve the application with conditions.

[3] Deny the application.

(b) The failure of the Board to act within 62 days shall be deemed a denial of the application.

(c) Within 5 business days of such decision or the expiration of such period, the Board shall mail notice of such decision or failure to act to all parties entitled thereto as provided by Section 551-52, file such decision in the office of the Village Clerk.

(d) Where the district regulations authorizing any special permit in a particular district impose additional standards to be met by such use in such district, a permit for such use in such district shall be approved only if evidence is presented to establish compliance with such additional standards.

**E. Conditions on Special Permits**

(1) The Planning Board may impose such conditions upon the premises benefited by a special permit as may be necessary to prevent or minimize adverse effects upon other property in the neighborhood.

(2) Such conditions shall be expressly set forth in the resolution authorizing the special permit and in any associated permit.

(3) Violation of such conditions shall be a violation of this Chapter.

(4) Such conditions may be required to be performed in a specific order.

(5) Such conditions may be secured in accordance with Section 551-64.

(6) Such conditions may include but shall not be limited to the following:

- (a) Modification of specific features of the site plan to improve the safety of the site for the general public.
- (b) The hours of operation, loading, and deliveries.
- (c) Location on a site of activities that generate potential adverse impacts on adjacent uses such as noises and glare.
- (d) Placement of trash receptacles.
- (e) Location of loading and delivery areas.
- (f) Lighting location, intensity, and hours of illumination.
- (g) Placement and illumination of outdoor vending machines, telephones, and similar outdoor services and activities.
- (h) Additional landscaping and buffering.
- (i) Preservation of views of unique and important features from public property and rights-of-way.
- (j) Access to natural lighting and solar exposure.
- (k) Ventilation and control of odors and fumes.
- (l) Noise limitations.

**F. Renewal of Special Permits with Specified Time Periods**

Special permits that have been issued for a specific time period are subject to review for compliance with all of the conditions imposed at the time of approval of the initial permit and shall be required to apply for a new special permit. Following a public hearing on the matter, the Planning Board may decline to reissue the special permit if the applicant has failed to substantially comply with one or more of the conditions of the original approval. The applicant shall demonstrate that the use continues to meet the special permit standards and that it has complied with all of the special permit conditions during the entire time period of the operation of the approved use.

### **G. Modifications to Special Permits**

No expansion or modification of a use or its operation that is the subject of a special permit shall be permitted, except through the same process as required for initial approval of the special permit.

### **H. Effect of Issuance of Special Permit**

The issuance of a special permit shall merely authorize the preparation, filing, and processing of applications for any permits and other approvals which may be required by the codes of the Village, including but not limited to, a building permit.

### **I. Limitations on Special Permit**

- (1) A special permit shall become null and void unless a building permit is obtained and work is commenced within one year from the date of approval except in the case where site plan approval is required, the expiration date shall be the same as that of the site plan approval.
- (2) Where a violation of this Chapter has been cited against the property that is the subject of the special permit, the Planning Board may establish a shorter time limitation based on the nature and severity of the violation, taking into consideration the practical ability of the applicant to correct the violations in light of weather conditions, construction issues, or other relevant factors.
- (3) A special permit shall be deemed to authorize only the particular use or its operation for which it was issued, and such permit shall automatically expire and cease to be of any force or effect if such use shall, for any reason, be discontinued or abandoned for a period of one year.

### **J. Appeal**

An appeal from any final decision of the Planning Board as to any matter regarding the special permit must be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, department, bureau, board, or commission of the Village in accordance with Article 78 of the New York Civil Practice Law and Rules.

## **PART III: PROCEDURES APPROVED BY ZONING BOARD OF APPEALS**

### **551-75 Administrative Appeal**

#### **A. Authority**

The Zoning Board of Appeals shall hear and decide administrative appeals relating to each decision, interpretation, or determination by the Zoning Officer unless otherwise specified in this Chapter. In cases of administrative appeals, the Zoning Officer shall have the same powers and be subject to the same standards and limitations as the Zoning Officer with respect to any order, requirement, decision, interpretation, or determination being appealed.

#### **B. Purpose**

An administrative appeal provides redress for any person aggrieved or for any officer, department, board, or bureau of the Village affected by a decision of the Zoning Officer.

#### **C. Procedure**

##### **(1) Notice of Appeal**

A notice of appeal specifying the reasons for the appeal shall be submitted to the Zoning Board of Appeals within 60 days of the filing of each decision, interpretation, or determination by the Zoning Officer. The notice of appeal, together with all documents constituting the record upon which the action appealed from was taken shall be transmitted to the Zoning Board of Appeals

##### **(2) Public Hearing**

A public hearing shall be set, advertised, and conducted by the Zoning Board of Appeals.

##### **(3) Action by Zoning Board of Appeals**

Within 62 days following the close of the public hearing, the Zoning Board of Appeals shall render a decision on the appeal in the manner and form specified in Section 551-53. Such decision may reverse, affirm, or modify, in whole or in part, the action appealed. The failure of the Board to act within such 62 days shall be deemed a denial of the appeal. Within 5 business days of such decision, or the expiration of such period, notice of such decision, or failure to act, shall be mailed by the Zoning Board of Appeals to all parties entitled to such notice, pursuant to Section 551-53.

#### **D. Right to Approve Variance in Deciding Appeals**

In any case where the administrative appeal is accompanied by an application for a variance, the Zoning Board of Appeals, following the denial of the administrative appeal, shall have the authority to review and render a decision on the application for a variance.

#### **E. Conditions and Limitations on Use or Rights Approved by Appeal**

In any case where this Chapter imposes conditions or limitations upon any use or right, a decision of the Zoning Board of Appeals on an administrative appeal shall retain such conditions and limitations, unless a variance is granted removing or reducing the conditions or limitations.

#### **F. Stay of Proceedings**

An appeal shall stay all proceedings in the furtherance of the action appealed from, unless the Zoning Officer certifies to the Zoning Board of Appeals after the notice of appeal has been filed with them that by reason of facts stated in the certificate, a stay would, in their opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed other than by a restraining order, which may be granted by the Zoning Board of Appeals or by the Supreme Court on application, upon reasonable written notice to the Zoning Officer and on due cause shown.

#### **G. Appeals**

An appeal from any final decision of the Zoning Board of Appeals as to any matter regarding the administrative appeal must be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, department, bureau, board, or commission of the Village in accordance with Article 78 of the New York Civil Practice Law and Rules.

### **551-76 Variance**

#### **A. Authority**

The Zoning Board of Appeals shall have the authority, in accordance with the procedures hereinafter established, to authorize use, area or other variances within the Village. Minor deviations from this Chapter may be permitted under the provisions for administrative adjustment pursuant to Section 551-75.

## **B. Purpose**

The variance procedure is intended to provide a means by which relief may be granted only when no other applicable remedy is available, pursuant to this Article.

## **C. Use Variance**

- (1) A use variance shall mean the authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise prohibited by the applicable zoning regulations. A use variance is required for the following:
  - (a) Use of land for a purpose that is not allowed according to Article 5.
  - (b) Use of land that does not comply with the use requirements of Article 5.
  - (c) Increase in the intensity of an existing nonconforming use according to Section 551-76.C.
  - (d) Residential conversion that does not meet standards outlined in Section 551-25.L.
- (2) The Zoning Board of Appeals shall not grant a use variance without a showing by the applicant that the applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate that for each and every permitted use under the zoning regulations for the particular district where the property is located:
  - (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence. Proof that the property cannot realize a reasonable return must include verifiable facts, which the Zoning Board of Appeals deems sufficient. The unsupported opinion of the owner or others shall not be accepted as proof. Proof that the property could be used more profitably if not subject to the Chapter provision does not equate to a lack of a reasonable return.
  - (b) The alleged hardship relating to the property in question is unique and does not apply to other properties in a substantial portion of the district or neighborhood. The inability to realize a reasonable return must arise out of a

unique circumstance related to the property, not the personal situation of the owner.

- (c) The requested use variance, if granted, will not alter the essential character of the neighborhood. The requested variance must not materially impact the enjoyment, use or development of adjacent properties or the neighborhood because of issues of noise, traffic or parking congestion or undue demands on public utilities or services.
  - (d) The alleged hardship has not been self-created. The inability to realize a reasonable return may not be the result of any action or inaction by the owner or its predecessors. Acquisition or improvement of a property at any time after the effective date of the Chapter provision sought to be varied, shall be a rebuttable presumption that the hardship is self-created.
- (3) When a use variance application involves development or redevelopment, the Zoning Board of Appeals may review the application in two steps for the purpose of reducing administrative staff time and application costs.
- (a) The applicant may submit a request for a partial determination of unnecessary hardship by submitting the required information to the Zoning Board of Appeals to establish that the proposed development or redevelopment cannot realize a reasonable return, is unique to the property, and has not been self-created as set forth in items 2.a, 2.b, and 2.d above.
  - (b) If the Zoning Board of Appeals renders a decision that the applicant has demonstrated items 2.a, 2.b, and 2.d above, the applicant may submit the remainder of the application requirements to the Board for a final decision on the remaining standard(s) for the use variance.
  - (c) Within 5 business days following such decision or the expiration of such period, the Zoning Board of Appeals shall mail notice of such decision or failure to act to all persons entitled to such notice and file such decision in the office of the Village Clerk.
- (4) Conditions on Variances
- (a) The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and

restrictions as are directly related to and incidental to the proposed use of the property.

- (b) Such conditions or restrictions shall be consistent with the spirit and intent of the Chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- (c) Such conditions shall be expressly set forth in the resolution approving the variance and in the notice informing the applicant thereof and in any permit based thereon.
- (d) Modifications of such conditions or restrictions shall require approval of the Zoning Board of Appeals.
- (e) Violation of such conditions and safeguards shall be a violation of this Chapter.

(5) Approval of Variance Other Than Requested Variance

A variance offering less relief than that requested may be approved when the record supports the applicant's right to some relief but not to the relief requested.

**D. Modifications to Variances**

No expansion or modification that increases the intensity of a use or its operation that was originally approved by variance shall be permitted except through the same process as required for initial approval of the variance.

**E. Effect of Variance Approval**

The issuance of a variance shall merely authorize the preparation, filing, and processing of applications for any permits and other approvals which may be required by the codes of the Village, including but not limited to a building permit.

**F. Limitations on Variances**

- (1) A variance shall become null and void unless a building permit is obtained and work is commenced within one year from the date of approval except in the case

where site plan approval is required, the expiration date shall be the same as that of the site plan approval.

(2) Where a violation of this Chapter has been cited against the property which is the subject of the variance, the Board may establish a shorter time limitation based on the nature and severity of the violation, taking into consideration the practical ability of the applicant to correct the violations in light of weather conditions, construction issues, or other relevant factors.

(3) When the active operation of all or a portion of a use variance is discontinued or abandoned for a period of one year, regardless of any intent to resume or not to abandon the use, the use variance shall be null and void. The active operation of a use shall be the typical or normal activities associated with the use.

#### **G. Appeal**

An appeal from any final decision of the Zoning Board of Appeals as to any matter regarding the variance must be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, department, bureau, board, or commission of the Village, in accordance with Article 78 of the New York Civil Practice Law and Rules.

### **551-77 Interpretation**

#### **A. Authority**

The Zoning Board of Appeals, may subject to the procedures, standards, and limitations hereinafter set out, render interpretations of any provision of this Chapter.

#### **B. Purpose**

Interpretations by the Zoning Board of Appeals are intended to clarify the zoning text or map, including permitted uses, district boundaries, meaning and intent of various portions of this Chapter, and precise location of mapped district boundary lines.

#### **C. Interpretation Standards**

The following criteria shall govern the Zoning Board of Appeals in issuing use interpretations:

- (1) No interpretation shall allow a use in a district in which that use is listed as a permitted or special permit use.
- (2) No interpretation shall allow any use in any district unless such use is substantially similar to other uses allowed in such district

**D. Procedure**

- (1) Application. A request for interpretation of any provision of this Chapter shall be submitted in writing to the Zoning Board of Appeals. It shall set forth the specific provision or provisions to be interpreted, the facts of the specific situation concerning the request for an interpretation, and the precise interpretation claimed by the applicant to be correct. Before the rendering of any interpretation, the Zoning Board of Appeals may require such further facts and information as are, in their judgment, necessary to a meaningful interpretation of the provision in question. Informal oral or written opinions, clarifications, and other statements from the Zoning Officer shall not be deemed interpretations unless the procedures contained in this section have been followed.
- (2) Public Hearing. A public hearing shall be set, advertised, and conducted by the Zoning Board of Appeals.
- (3) Action by Zoning Board of Appeals. Within 62 days following the close of the public hearing, the Zoning Board of Appeals shall render an interpretation. Within 5 business days of such interpretation, notice shall be mailed to all parties entitled to such notice, pursuant to Section 551-53.
- (4) Interpretation Initiated by the Zoning Officer. Upon determination by the Zoning Officer that clarification of the Chapter or reconciliation of inconsistent provisions of the Chapter is necessary to ensure that the meaning and intent of the Chapter is applied, the Zoning Officer may issue an interpretation and shall subsequently submit an application for an amendment to the text of the Chapter.
- (5) Procedure Following Interpretation. Following an interpretation by the Zoning Board of Appeals, such interpretation shall be appended to the official project file. The interpretation shall not be applicable to any other property or project unless there is a subsequent amendment to the Chapter.

#### **E. Effect of Interpretation**

An interpretation finding a particular use to be permitted or a special permit in a specified district shall not authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure but shall merely authorize the preparation, filing and processing of applications for any permits and approvals which may be required by this Chapter, including but not limited to a permit for a special permit, a building permit, a certificate of occupancy, subdivision approval, and site plan approval.

#### **F. Limitation on Interpretations**

If not made part of this Chapter, an interpretation shall remain valid for the subject property only.

#### **G. Appeal**

An appeal from any final decision of the Zoning Board of Appeals as to any matter regarding the interpretations must be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, department, bureau, board, or commission of the Village in accordance with Article 78 of the New York Civil Practice Law and Rules.

## **PART IV: PROCEDURES APPROVED BY HISTORIC PRESERVATION COMMISSION**

### **551-78 Designation of Landmarks**

#### **A. Authority**

The Historic Preservation Commission shall have the authority, in accordance with the procedures hereinafter established, to designate Landmarks within the Village and to rescind such designations as shall seem appropriate.

#### **B. Purpose**

Landmarks may be designated in furtherance of the following public purposes, which are hereby found to be in the interest of the health, prosperity, and welfare of the Village and its residents. Inasmuch as the identity of a people is founded on its past and inasmuch as the Village has significant historic, architectural, and cultural resources which constitute its heritage this section is intended to:

- (1) Protect and enhance the landmarks and historic districts which represent distinctive elements of the Village's historic, architectural and cultural heritage.
- (2) Foster civic pride in the accomplishments of the past.
- (3) Protect and enhance Fairport's attractiveness to visitors and the support and stimulus to the economy thereby provided.
- (4) Ensure the harmonious, orderly and efficient growth and development of the Village of Fairport.

#### **C. Landmark Designation Standards**

The Commission shall designate an individual property as a landmark if it:

- (1) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation; or
- (2) Is identified with historic personages; or
- (3) Embodies the distinguishing characteristics of an architectural style; or
- (4) Is the work of a designer whose work has significantly influenced an age; or

- (5) Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.

**D. Procedure**

(1) Application

- (a) A Landmark may be proposed by the Board of Trustees, Historic Preservation Commission, or the property owner by transmitting such proposal, together with such supporting materials as may seem appropriate, to the Zoning Officer for processing in accordance with the provisions of this section.
- (b) Any other Village resident may submit a nomination request to the Historic Preservation Commission. If the Commission agrees to sponsor the application, the Commission shall provide supporting documentation that the proposed Landmark is worthy of designation by preparing all supporting materials for any application.

(2) Notice to Owner

In addition to any other required notification, a notice sent by certified mail with return receipt requested shall be forwarded within five business days of the Zoning Officer receiving a nomination request and upon receipt of the completed application to the last known property owner of the nominated Landmark as shown on records of the Village.

(3) Action by the Historic Preservation Commission

A public hearing shall be set, advertised, and conducted by the Historic Preservation Commission.

- (a) Within 32 days following the closing of their public hearing, the Commission shall approve and designate the Landmark, approve and designate the Landmark with modifications, or deny the designation.
- (b) The failure of the Historic Preservation Commission to act within 32 days of the closing of the public hearing, or such longer time as may be agreed to by the property owner, shall be deemed a refusal to approve the Landmark as proposed.

(c) In the event that the designation is not consented to by the owner of the proposed Landmark, such designation shall require a super-majority affirmative vote of the entire Commission.

(4) Publication, Recording, and Effective Date

(a) Upon the adoption of a resolution by the Historic Preservation Commission approving the designation of a Landmark, the location of such Landmark shall be recorded on the Zoning Map and the designation resolution shall be filed with the County Clerk's Office.

(b) The designation of such Landmark shall become effective upon the adoption of the resolution by the Historic Preservation Commission.

**E. Amendment and Rescission of Landmark Designation**

A Landmark designation made pursuant to this section may be amended or rescinded in the same manner as herein provided for the designation of such Landmark.

**F. Alteration to Property Pending Final Disposition**

When any proposal, nomination request or application has been filed pursuant to this section to designate a Landmark, and until such proposal or application has been finally disposed of, it shall be unlawful for any person to, and no person shall, perform, cause or permit any construction, alteration, remodeling, removal, movement, or demolition of any building, structure, other improvement, or premises which is included within such proposal or application except in accordance with the provisions of this section.

**G. Appeal**

An appeal from any final decision of the Historic Preservation Commission as to any matter regarding the Landmark designation must be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, department, bureau, board, or commission of the Village in accordance with Article 78 of the New York Civil Practice Law and Rules.

## **551-79 Certificate of Appropriateness**

### **A. Authority**

The Historic Preservation Commission shall have the authority to issue certificates of appropriateness within the Village.

### **B. Purpose**

The certificate of appropriateness is intended to provide a procedure for the review of plans for work in preservation districts and on Landmarks to ensure that such work will comply with standards established to preserve the integrity of any structure, improvement, landscape feature, or cultural site that has been determined to merit special protection.

### **C. Certificate of Appropriateness Required**

- (1) It shall be unlawful for any person to perform, cause or permit any construction, alteration, remodeling, removal, movement or demolition of any structure, improvement, landscape feature, or cultural site which has been designated a Landmark or which is located within an area which has been designated as a preservation district, unless a certificate of appropriateness shall have been issued by the Historic Preservation Commission or Zoning Officer in accordance with this Section.
- (2) The certificate of appropriateness requirement shall not apply to activities located within the public right-of-way, even if such right-of-way is located within an preservation district, except when such right-of-way is part of a designated Landmark.
- (3) No permit authorizing any such work shall be issued, unless a certificate of appropriateness with respect to such work and, in the case of demolition of a principal structure, with respect to the new construction proposed to replace such structure shall have first been issued pursuant to this section.
- (4) In addition, the following actions shall require a certificate of appropriateness:
  - (a) Use of the alternate sign program in preservation districts, subject to the criteria of Section 551-42.

- (b) Installation of mechanical equipment in a corner side yard, subject to the criteria of Section 551-33.

#### **D. Activities Exempt from Certificate of Appropriateness**

A certificate of appropriateness shall not be required for the following:

- (1) Replacement of historic features precisely in kind, using like material in the same configuration, size, and degree of detail.
- (2) Exterior painting of previously painted structures when a color change is proposed.
- (3) Routine repairs and maintenance that do not constitute alteration.
- (4) Improvements in the rear yard not deemed to be permanent as determined by the Zoning Officer.

#### **E. Certificate of Appropriateness Standards**

In reviewing applications for certificates of appropriateness, the Historic Preservation Commission shall consider and evaluate the propriety of issuing the certificate in terms of its effect on the purposes for which Landmarks, and preservation districts are designated. The Historic Preservation Commission shall not consider changes to interior space.

The Historic Preservation Commission's decision shall be based upon the following principles:

- (1) Properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible.
- (2) Any alteration of existing properties shall be compatible with their historic character, as well as with the surrounding district.
- (3) New construction shall be compatible with the district in which it is located.

In applying the principle of compatibility, the Historic Preservation Commission shall consider the following factors:

- (a) The general design, character and appropriateness to the property of the proposed alteration or new construction.

- (b) The scale of proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood.
- (c) Texture and materials and their relation to similar features of other properties in the neighborhood.
- (d) Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape and the rhythm of spacing of properties on streets, including setback.
- (e) The importance of historic, architectural or other features to the significance of the property.

## **F. Procedures**

### **(1) Application**

Applications for certificates of appropriateness shall be submitted to the Zoning Officer. Such applications shall contain:

- (a) The name, address and telephone number of the applicant.
- (b) The location and photographs of the property.
- (c) Elevation drawings of proposed changes.
- (d) Perspective drawings, including the relationship to adjacent properties.
- (e) Samples of materials to be used.
- (f) Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination and a plan showing the sign's location on the property.
- (g) Any other information which the Historic Preservation Commission may deem necessary in order to visualize the proposed work.

Upon receipt of all the information required herein, the application shall be deemed complete and shall be placed on the agenda of the next meeting of the Historic Preservation Commission.

## **(2) Other Approvals Required**

Where the proposed application requires the issuance of a special permit, a variance, or other approval, no final approval for a certificate of appropriateness shall be issued until all other required approvals have been issued. The issuance of any other approvals shall not be deemed to establish any right to a certificate of appropriateness, which shall be issued or denied solely on the basis of the standards established by this section.

## **(3) Action by Historic Preservation Commission**

- (a) The Historic Preservation Commission shall have the authority to issue a certificate of appropriateness.
- (b) Within 62 days following the conclusion of the public hearing, the Historic Preservation Commission shall render its decision that could include:
  - [1] To approve the certificate of appropriateness.
  - [2] To approve the certificate of appropriateness with modifications or subject to conditions.
  - [3] To deny the certificate of appropriateness.
- (c) In passing upon such applications the Historic Preservation Commission shall be guided by the purposes for which Landmarks and preservation districts are designated and by the particular standards and considerations set forth in this section. The failure of the Historic Preservation Commission to act within the specified time frame, or such longer period of time as may be agreed to by the applicant, shall be deemed a denial of the certificate of appropriateness.
- (d) Within 5 business days following the Historic Preservation Commission's action or its failure to act within the specified time frame, the Historic Preservation Commission shall mail notice of such action to each of the persons entitled to such notice pursuant to Section 551-54.

## **G. Emergency Provisions**

- (1) In any case where a Village Enforcement Officer shall order or direct the construction, removal, alteration, or demolition of any improvement which is a Landmark, or is in a historic district for the purpose of remedying conditions

determined to be dangerous to life, health, or safety, the Zoning Officer shall issue a certificate of appropriateness to permit compliance with such order or direction. The certificate may require that the work minimize the impact to those characteristics for which the Landmark or preservation district was nominated.

- (2) The Zoning Officer shall notify the Chairperson of the Historic Preservation Commission within 5 business days of issuance of a certificate of appropriateness for such emergency situations.

#### **H. Limitation on Certificates of Appropriateness; Extension of Approval**

- (1) A certificate of appropriateness shall become null and void one year after the date on which it was issued unless a building permit is obtained and maintained. Where a violation of this Chapter has been cited against the property which is the subject of the certificate of appropriateness, the Historic Preservation Commission may establish a shorter time limitation based on the nature and severity of the violation, taking into consideration the practical ability of the applicant to correct the violations in light of weather conditions, construction issues, or other relevant factors.
- (2) At least two months prior to expiration of the one year period, the owner may apply in writing, for an extension and shall explain the reasons for the extension request. The Historic Preservation Commission may grant up to two extensions of six months each. A written application for an extension of a certificate of appropriateness approval shall not be considered an application for a new certificate of appropriateness.

#### **I. Appeals**

An appeal from any final decision of the Historic Preservation Commission as to any matter regarding the certificate of appropriateness must be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, department, board, or commission of the Village in accordance with Article 78 of the New York Civil Practice Law and Rules.

## PART V: PROCEDURES APPROVED BY ZONING OFFICER

### 551-80 Administrative Adjustment

- A. Authority.** The Zoning Officer, or a designee, shall have authority to issue administrative adjustments, but only in accordance with the provisions of this section.
- B. Purpose.** For purposes of this section, carrying out the strict letter of a provision of this chapter may cause a practical difficulty and an administrative adjustment is permitted to alleviate these practical difficulties.
- C. Administrative adjustment standards.** To approve an application for an administrative adjustment, the Zoning Officer shall make an affirmative finding that the following standards are met:
- (1) The benefits to the applicant of the approval of the administrative adjustment outweigh any detriments to the health, safety and welfare of the neighborhood or community by such approval.
  - (2) There is no means other than the requested administrative adjustment by which the difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject lot or parcel.
- D. Procedures**
- (1) Application. An application for an administrative adjustment shall include a brief description of the requirement to be varied and any other material necessary to ensure the criteria in this section.
  - (2) Action by Zoning Officer. Within 45 days, the Zoning Officer shall review the application and approve, approve with conditions or deny the application based upon the criteria below. A written decision including affirmative findings on the criteria set forth below shall be mailed to the applicant.
  - (3) Approval or denial
    - (a) The Zoning Officer shall have the authority to approve an administrative adjustment of up to 10% from any numerical standard set forth in this chapter.

Any request greater than 10% shall be treated as a variance and reviewed by the Zoning Board of Appeals subject to the requirements of Section 551-71.

(b) The Zoning Officer shall have the authority to approve an administrative adjustment for any parking plan for five or fewer parking spaces.

(c) The Zoning Officer shall have the authority to approve an alternative front yard setback for residential districts, whereby the front yard setback shall be:

[1] The average front yard depth on the two lots adjoining a property, or

[2] The average front yard depth of buildings on the block frontage on which the property is located.

(d) The Zoning Officer shall have the authority to approve an administrative adjustment for mechanical equipment in the corner side yard.

[1] A proposed unit shall be reviewed to ensure that the installation will not have a detrimental impact on the adjacent properties. Such review shall include an evaluation of the following:

(i) Neighborhood characteristics, based both on a physical evaluation of the streetscape and comments received from the neighborhood.

(ii) Sound attenuation measures.

(iii) Screening

(iv) Impact on the historic and/or architectural integrity of the streetscape.

[2] When located in a preservation district, the Historic Preservation Commission shall have the authority to issue a certificate of appropriateness for corner side yard installations as outlined in Section 551-74. In such cases no administrative adjustment shall be required. The Preservation Board shall apply the above-listed standards.

(e) The Zoning Officer shall have the authority to approve an administrative adjustment for an addition, or the like, to an existing structure which does not

meet the side yard setback requirements of this chapter but is similar to the side yard setback of the existing structure.

(f) The Zoning Officer shall have the authority to approve an administrative adjustment to waive regulations pertaining to signs in the Downtown District, with the exception of signs associated with a project undergoing site plan review.

(g) The Zoning Officer shall have the authority to approve a Coordinated Sign Plan.

**E. Limitations on administrative adjustments.** An administrative adjustment shall become null and void unless a building permit is obtained and work is commenced within one year from the date of approval.

**F. Appeals**

(1) Appeal of a decision by the Zoning Officer on an administrative adjustment shall be taken to the Zoning Board of Appeals within 60 days of the date of the Zoning Officer's decision in accordance with the procedures outlined in Section 551-70.

(2) An appeal from any final decision of the Zoning Board of Appeals as to any matter regarding the administrative adjustment may be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, department, bureau, board or commission of the Village in accordance with Article 78 of the New York Civil Practice Law and Rules.

## ARTICLE 12. NONCONFORMITIES

### 551-81 Purpose

The purpose of this Article is to regulate nonconforming uses, structures, lots, and signs as follows:

- A. The zoning districts established by this Code are designed to guide the future use of the Village's land by encouraging the development of appropriate, compatible, and related uses and to promote and protect the public health, safety, and general welfare.
- B. Any use of property existing at the time of adoption or amendment of this chapter that does not conform to the regulations prescribed in the preceding sections shall be deemed a nonconforming use and may be continued subject to the requirements of this Article.
- C. Some nonconformities may continue to exist and afford adaptive reuse opportunities that can contribute to neighborhood character, diversity, and services. The continued existence of certain nonconformities may be inconsistent with the Comprehensive Plan and the gradual elimination of such nonconformities is often desirable.

### 551-82 Nonconforming Uses

#### A. Continuation

- (1) Any lawfully existing nonconforming use may be continued so long as it remains otherwise lawful, subject to the regulations contained in this section.
- (2) Ordinary repair and maintenance or replacement, and installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring, or plumbing, not involving an expansion or enlargement of an existing nonconforming use may be performed.

#### B. Damage or Destruction

- (1) When a structure is damaged or destroyed by any means not within the control of the owner, to the extent of more than 50% of the cost of replacement of the structure new, the structure shall not be restored unless its use thereafter conforms to the use regulations of the zoning district in which it is located.
- (2) No parking, yard, space or bulk nonconformity may be created or increased.

- (3) When a structure is damaged or destroyed by any means not within the control of the owner thereof to the extent of 50% or less of the cost of replacement of the structure new, repair or restoration of such structure may be made; provided, however, that:
  - (a) No parking, yard, space or bulk nonconformity is created or increased;
  - (b) A building permit is obtained and restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.
- (4) In no event shall any damage or destruction to such a structure by any means within the control of the owner be repaired or restored, except in accordance with this section.

#### **C. Relocation**

No nonconforming use shall be relocated in whole or in part within the Village, for any distance whatsoever, to any other location on the same or any other lot or structure unless the entire use conforms to all regulations of the zoning district in which the use is located.

#### **D. Modification**

- (1) A nonconforming use shall not be extended, expanded, enlarged or increased in intensity. Such prohibited activity shall include, but shall not be limited to:
  - (a) Expansion of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of this chapter, or any amendment hereto which causes such use to become nonconforming.
  - (b) Expansion of such use within a building or other structure to any portion of the floor area that was not occupied by such nonconforming use, or to any additional thereto or any new building or structure, on the effective date of this chapter, or any amendment to this chapter which causes such use to become nonconforming.
  - (c) An extension of the hours of operation of such use beyond the normal or previously approved or permitted hours of operation.
- (2) Notwithstanding Section 551-77.D.1, a residential use may be extended, expanded, or enlarged to any additional portion of an existing building or structure. The applicant must obtain an area variance from the Zoning Board of Appeals, which must find that the proposed extension, expansion, or

enlargement shall have a minimal detrimental effect upon adjoining conforming uses.

#### **E. Change in Use**

- (1) A nonconforming use shall not be changed to any use other than a use allowed in the zoning district in which the property is located.
- (2) Once changed to a permitted use, the use shall not be changed back to the prior nonconforming use. The use is deemed changed when an existing nonconforming use is terminated and a new use commences, including any change of use in violation of this section.

#### **F. Abandonment or Discontinuance**

- (1) When the active operation of all or a portion of a nonconforming use is discontinued or abandoned for a period of one year, regardless of any intent to resume or not to abandon the use, the use or portion thereof shall not be reestablished or resumed, and all future uses shall be in conformity with the provisions of this chapter. The active operation of a use shall be the typical or normal activities associated with the use. In the case of abandonment or discontinuance of all of a nonconforming use, any subsequent use or occupancy of such land or structure shall comply with the use regulations of the zoning district in which such structure is located. In the case of abandonment or discontinuance of a portion of a nonconforming use, the remaining occupied portion of the nonconforming use may continue subject to the provisions of this subsection.
- (2) Such discontinuance of the active and continuous operation of such nonconforming use or part or portion thereof for such period of one year is hereby construed and considered to be an abandonment of such nonconforming use, regardless of any reservations of an intent not to abandon the same or an intent to resume active operations. If actual abandonment in fact is evidenced by the removal of buildings, structures, machinery, equipment, and other evidences of such nonconforming use of the land and premises, the abandonment shall be construed and considered to be completed within a period of less than one year, and all rights to reestablish or continue such nonconforming use shall thereupon terminate.
- (3) Any period of discontinuance caused by government actions, strikes, material shortages or forces of nature, and without any contributing fault by the nonconforming user, shall not be considered in calculating the length of

discontinuance for purposes of this subsection, except that any period of discontinuance ordered by the Village or a court of law because of Chapter violations or failure to act shall be included in calculating the length of discontinuance of this subsection.

## **551-83 Nonconforming Structures**

### **A. Continuation**

Any nonconforming structure which existed lawfully or for which a valid building permit has been issued at the time of adoption of this chapter may be maintained.

### **B. Maintenance and Repair**

Any nonconforming structure may be maintained or repaired, provided no additional nonconformance is created or the degree of the existing nonconformity increased.

### **C. Modification and Replacement**

(1) A nonconforming structure shall be maintained in such condition as will not constitute a danger to the health, safety, or general welfare of the public.

(2) Modification

(a) A nonconforming structure shall not be added to or enlarged or altered in any manner in a way which increases its nonconformity. All such modifications which increase the nonconformity shall require an area variance from the Zoning Board of Appeals, and then only after a finding by the Zoning Board of Appeals that the proposed extension, expansion, or enlargement shall have a minimal detrimental effect upon adjoining conforming uses.

(b) Should such structure be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

### **D. Damage or Destruction**

(1) In the event that any part of a nonconforming structure which contributed to its nonconformity is damaged or destroyed, by any means, to the extent of more than 50% of the cost of replacement of said part new, such part shall not be restored unless it shall thereafter conform to the regulations of the zoning district in which it is located.

- (2) When any part of a nonconforming structure is damaged or destroyed, by any means, to the extent of 50% or less of the cost of replacement of such part new, no repairs or restoration, except in conformity with the applicable zoning district regulations, shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

#### **E. Relocation**

No nonconforming structure shall be relocated in whole or in part within the Village, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

### **551-84 Nonconforming Lots of Record**

#### **A. Use of a Nonconforming Lot**

Where a parcel legally existed prior to adoption of this Chapter, notwithstanding the regulations imposed by any other provisions of this Chapter, a structure which complies with the dimensional requirements of the district in which it is located may be erected on that parcel.

### **551-85 Nonconforming Signs**

#### **A. Continuance**

Subject to the limitations and termination provisions hereinafter set forth, any lawfully existing nonconforming sign may be continued so long as it otherwise remains lawful after the effective date of this Chapter.

#### **B. Alteration, Expansion or Relocation**

No nonconforming sign shall be:

- (1) Changed or altered in any manner which would increase the degree of its nonconformity.
- (2) Increased in size or any other sign dimension.
- (3) Changed or altered to prolong its useful life, except for a change solely to text or graphics on an existing background, not involving a change to any other part of the

sign or sign structure. A change in the sign face is considered a change that prolongs the sign's useful life.

- (4) Relocated in whole or in part to any other location where it would remain nonconforming.

### **C. Termination of Nonconforming Signs**

#### **(1) Termination by Abandonment**

(a) Any nonconforming sign, the use of which is discontinued for a period of 90 days, regardless of any intent to resume or not to abandon such use, shall be deemed to be abandoned and shall not thereafter be reestablished.

(b) Any period of such discontinuance caused by government actions, strikes, material shortages or forces of nature, and without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance for purposes of this subsection.

#### **(2) Termination by Damage or Destruction**

Any nonconforming sign damaged or destroyed, by any means, to the extent of 50% of its replacement cost new shall not be restored but shall be terminated.

#### **(3) Termination by Change of Business**

Any nonconforming sign advertising or relating to a business on the premises on which it is located shall be terminated upon any change of such business necessitating any change in the sign.

## ARTICLE 13. ATTAINABLE HOUSING

### 551-86 Introduction

- A. **Purpose.** The purpose of this section is to ensure that new residential development in the Village includes a reasonable supply of fair and affordable housing, and to facilitate housing that some seniors and members of the local workforce who could not otherwise rent or purchase by setting aside a portion of new multifamily development set at a below-market rate.
- B. **Applicability.** All residential developments of 10 or more units or the substantial rehabilitation of 10 or more units of rental or for-purchase housing shall be subject to the requirements of this section. This includes mixed-use developments and developments consisting of multiple buildings on the same lot.

### 551-87 Requirements

- A. **Required attainable units.** No fewer than 10% of the total number of units must be created as attainable units. Rounding shall occur to the nearest whole number. These units must be provided on the site of the proposed development.
- B. **Affordability level (purchase).** A for-purchase housing unit that is affordable to a household whose income does not exceed 80% of the area median income (AMI) for Monroe County as defined annually by the United States Department of Housing and Urban Development (HUD) and for which the annual housing cost of a unit, including common charges, principal, interest, taxes and insurance (PITI), does not exceed 33% of 80% AMI, adjusted for family size; and
- C. **Affordability level (rental).** A rental unit that is affordable to a household whose income does not exceed 80% AMI and for which the annual housing cost of the unit, defined as rent plus any tenant-paid utilities, does not exceed 30% of 80% of AMI adjusted for family size.
- D. **Maximum rent and sales price.** The maximum monthly rent for an attainable unit and the maximum gross sales price for an attainable unit shall be established in accordance with United States Department of Housing and Urban Development guidelines as published in the current edition of the "Monroe County Area Median Income (AMI) Sales and Rent Limits" available from the County of Monroe.

**E. Time period of affordability.** Units designated as attainable units must remain for a minimum of 50 years from the date of the initial certificate of occupancy, regardless of whether the attainable units are for-purchase units or rental units.

**F. Property restriction.** A property containing any attainable units must be restricted using a mechanism such as a declaration of restrictive covenants in recordable form acceptable to the Village Attorney which shall ensure that the unit shall remain subject to regulations for the minimum fifty-year period of affordability. Among other provisions, the covenants shall require that the unit be the primary residence of the resident household selected to occupy the unit. Upon approval, such declaration shall be recorded against the property containing the attainable unit prior to the issuance of a certificate of occupancy for the development, and the Village shall be named as a third-party beneficiary with the power to enforce the provisions of any such declaration.

**G. Unit appearance and integration**

(1) The attainable units shall be physically integrated into the design of the development, and where multiple attainable units are required, they shall be distributed among various bedroom counts (one-, two-, and three-bedroom units) in the same proportion as all other units in the development.

(2) The attainable units shall not be distinguishable from other market rate units from the outside or building exteriors. Interior finishes and furnishings must be compatible in design, appearance, and construction and must not be of a lower quality than the lowest quality finishes and furnishings found in the market rate units.

**H. Minimum floor area.** The minimum gross floor area per attainable unit shall not be less than 90% of the average floor area of nonrestricted housing units of the same bedroom count.

**I. Resale requirements**

(1) In the case of owner-occupied attainable units, the title to said property shall be restricted so that, in the event of any resale by the home buyer or any successor, the resale price shall not exceed the then-maximum sales price for said unit, as determined in this section, or the sum of:

(a) The net purchase price (i.e., gross sales prices minus subsidies) paid for the unit by the selling owner, increased by the percentage increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers in the local market, as published by the United States Bureau of Labor Statistics (the "Index") on any date between: a) the month that was two months earlier than the date on which the

seller acquired the unit, and b) the month that is two months earlier than the month in which the seller contracts to sell the unit. If the Bureau stops publishing this index and fails to designate a successor index, the Village of Fairport will designate a substitute index; and

(b) The cost of major capital improvements made by the seller of the unit while said seller of the unit owned the unit as evidenced by paid receipts depreciated on a straight-line basis over a fifteen-year period from the date of completion, and such approval shall be requested for said major capital improvements no later than the time the seller of the unit desires to include it in the resale price.

(2) Notwithstanding the foregoing, in no event shall the resale price exceed an amount affordable to a household at 80% of AMI at the time of the resale.

#### **J. Lease renewal requirements**

(1) Applicants for rental attainable units shall, if eligible and if selected for occupancy, sign leases for a term of no more than two years. As long as a resident remains eligible and has complied with the terms of the lease, said resident shall be offered renewal leases for a term of no more than two years each. Renewal of a lease shall be subject to the conditions of federal, state or county provisions that may be imposed by the terms of the original development funding agreements for the development or to the provisions of other applicable local law.

(2) If no such provisions are applicable and if a resident's annual gross income should subsequently exceed the maximum then allowable, as defined in this section, then said resident may complete their current lease term and shall be offered a nonrestricted rental unit available in the development at the termination of such lease term, if available. If no such dwelling unit shall be available at said time, the resident may be allowed to sign one additional one-year lease for the attainable unit they occupy but shall not be offered a renewal of the lease beyond the expiration of said term.

#### **551-88 Process**

A. **Administrative and monitoring agency.** The Zoning Officer shall be responsible for monitoring the attainable units during the units' periods of affordability.

## **B. Project review procedure**

- (1) Pre-application meeting. The Village's pre-application meeting process shall be followed in connection with developments which include attainable units. The purposes of the preapplication meeting will include discussion of means to expedite the development application review process through:
  - (a) The early identification of issues, concerns, code compliance and coordination matters that may arise during the review and approval process.
  - (b) The establishment of a comprehensive review process outline, proposed meeting schedule and conceptual timeline.
- (2) Developments that include attainable units shall be reviewed through the site plan review process.

## ARTICLE 14. INCENTIVE ZONING

### 551-89 Statement of Purpose

The purpose and intent of this article is to provide for a system of zoning incentives for the provision of amenities or benefits that advance the Village's specific physical, cultural and social policies in accordance with the Comprehensive Plan and other Village planning mechanisms and land use techniques, all as provided in Article 7 of the Village Law, as amended.

### 551-90 Applicability of Provisions

The provisions of this article shall be applicable to all zoning districts in the Village of Fairport.

### 551-91 Designated Amenities

- A. The following are amenities eligible for consideration hereunder:
- (1) Elder care.
  - (2) Child care.
  - (3) Infrastructure improvements (e.g., roads, parking facilities).
  - (4) Parkland, passive and active open space and related improvements.
  - (5) Cultural or historic facilities.
  - (6) Bicycle amenities and infrastructure beyond what is required by this Chapter, including covered bicycle storage, trail extensions, and connections to existing bicycle infrastructure.
  - (7) Amenities to incentivize active transportation options, such as showers for employees
  - (8) Affordable housing.
  - (9) Other facilities or benefits to the Village residents.
  - (10) Any combination of amenities and/or cash in lieu thereof.
- B. Amenities may be provided on or off site.
- C. Amenities otherwise required by law shall not be eligible for consideration hereunder.

### **551-92 Incentives Permitted under This Article**

The following incentives may be granted by the Board of Trustees to the applicant on a specific site:

- A. Increases in residential/nonresidential unit density.
- B. Changes of use.
- C. Increases in lot coverage.
- D. Changes in setbacks or height.
- E. Increases in floor area.
- F. Reduction of open space.
- G. Any other changes in requirements of this chapter.

### **551-93 Incentive Zoning Procedure and Criteria for Approval**

- A. The Board of Trustees shall have powers set forth in Village Law, as may be amended from time to time, with regard to incentive zoning. The Board of Trustees may, at its discretion, award incentives and bonuses to applicants who provide or make provision for specific physical, social, and/or cultural amenities, or cash in lieu thereof, of benefit to the residents of the Village, as from time to time determined by resolution of the Board of Trustees, provided such are in accordance with the Comprehensive Plan.
- B. To evaluate the adequacy of the proposed amenities to be accepted in exchange for the requested development incentives or bonuses, the applicant shall, as part of its initial submission to the Village, submit an application for development incentive bonuses and all applicable fees that shall be set, from time to time, by resolution of the Board of Trustees. The application for a development or incentive bonus shall include the following and such other documentation and information as may be requested by the Board of Trustees:
  - (1) A description of the proposed amenities outlining the benefits that will accrue to the community and how the amenity helps the Village implement the physical, social or

cultural policies of the Comprehensive Plan as supplemental by the local laws and ordinances adopted by the Board of Trustees;

- (2) The requested incentives;
- (3) The economic or cash value of the proposed amenities to the Village. The analysis shall include a comparison of the long-term economic impact of the proposed amenities to the Village compared to the long-term economic value of the incentives to the applicant. For purposes of this section "long-term" shall be defined as a term of 10 years or more;
- (4) A preliminary demonstration that there are adequate public facilities, including parking, transportation, water supply, waste disposal, and fire-protection facilities serving or proximate to the proposed development to handle the additional demands the increased density or other incentive or bonus may place on such facilities or the Village beyond the demand that would otherwise occur with as-of-right development;
- (5) A description of the effect, if any, on the potential development of affordable housing gained or lost by the provision of the incentive or bonus;
- (6) Demonstration that any additional height would not result in adverse visual impact on the nearby single-family residential areas, open space areas, streetscape, or, if applicable, the historic character of the proposed building site or nearby properties; and
- (7) In addition to any other applicable application fees, payment of a reasonable escrow deposit, as set by the Building Department, to cover actual costs and expenses incurred by the Village for legal and professional fees, including without limitation engineering, architectural, historical, planning, technical, environmental, or legal consultants, in connection with review of the application in order to enable the Village to review such application as required by law. Each of the consultants shall estimate their fees based on the services to be rendered on behalf of the Village from a review of the application, including such documents, maps, plans, specifications, drawings and the like as may be a part of the same. The unused portion of the escrow, if any, shall be refunded to the applicant following final determination of the application.

C. Authorization for development incentives and bonuses shall be subject to approval by the Board of Trustees. The Board of Trustees shall review the proposal and determine whether the proposal is worthy of further consideration. If it is deemed worthy of further consideration, the applicant shall submit a sketch plan containing the following

information, and such other information as may be requested by the Village to permit a proper evaluation of the proposal, as per the Site Plan requirements of Section 551-68.

- D. All applicable requirements of the State Environmental Quality Review Act shall be complied with as part of the review process.
- E. Prior to its final decision, and in conjunction with SEQR review and making the determinations specified in the preceding paragraph, the Board of Trustees shall conduct at least one public hearing, and such other public hearings as it may deem advisable in fulfilling its responsibilities hereunder, each on notice published in the official newspaper of the Village at least five days prior to the date of the hearing.
- F. Upon completion of the public hearings and compliance with the requirements of SEQRA, the Board of Trustees shall approve, approve with modifications or deny the proposed incentive zoning application. In order to approve an incentive zoning application, the Board of Trustees shall determine that the proposed amenity provides sufficient public benefit to provide the requested incentive or bonus and is consistent with the Comprehensive Plan. In the event that the Board of Trustees grants the application, it may impose such terms and conditions as it deems reasonable or necessary.
- G. Should the Board of Trustees grant a request for incentive zoning (either with or without modification), the Planning Board of the Village of Fairport is authorized to entertain and act upon an application for preliminary site plan and/or subdivision approval pursuant to this chapter and/or Chapter 455, Subdivision of Land, of the Code of the Village of Fairport.
- H. Unless otherwise specified in a particular incentive zoning approval resolution, every incentive zoning approval granted by the Board of Trustees shall become null, void and of no further force and effect upon the failure of the applicant to apply for all required building permits for the project that was the basis of the incentive zoning application within 12 months from the approval date by the Board of Trustees of the approval resolution(s) or such other date as otherwise required by the approval resolution(s) for said application.
- I. The Board of Trustees may, for good cause shown, extend the time, upon written application to it, for such extension of approvals. In determining whether good cause exists for such extension, the Board shall consider, among other things, the practical difficulties in obtaining all approvals from other necessary agencies and/or municipalities

needed to obtain a building permit. The fee for such application shall be as prescribed from time to time by the Board of Trustees.

- J. The Board of Trustees may, upon the recommendation of the Code Enforcement Officer, rescind any incentive zoning approval previously given upon a determination that the applicant has failed to diligently pursue such building permit application. Such rescission shall not occur, however, until a) at least 180 days have passed since the application was made for the building permit, and b) the applicant is first afforded an opportunity to be heard by the Board, and the making of specific findings of fact by the Board as to the applicant's failure to diligently pursue such application. In determining whether to rescind, the Board shall consider, among other things, the practical difficulties in obtaining all approvals from other necessary agencies and/or municipalities needed to obtain a building permit.

#### **551-94 Cash Payment in Lieu of Amenity**

Under this article, if the Board of Trustees determines that a suitable community benefit or amenity is not immediately feasible, or otherwise not practical, the Board may require, in lieu thereof, a payment to the village of a sum to be determined by the Board. If cash is accepted in lieu of other community benefit or amenity, provision shall be made for such sum to be deposited in a trust fund to be used by the Board of Trustees exclusively for specific community benefits authorized by the Board of Trustees.

## **ARTICLE 15. ENFORCEMENT**

### **551-95 Penalties**

Violations of this Chapter may be enforced pursuant to Chapter 207 of the Village Code, and violators shall be subject to the penalties set forth in this Code.

### **551-96 Code Compliance Required**

The commencement or continuation of any activity regulated by this Chapter that is not in compliance with the express provisions of this Chapter, or that is not in compliance with the express provisions of any permit or approval, including any attached findings or conditions, shall be a violation of this Chapter and subject to enforcement under the terms of this Article and New York Law.

### **551-97 Enforcement Responsibility**

The responsibility for the enforcement of this Chapter is delegated to the Code Enforcement Officer, or as otherwise designated in the Village Code.

### **551-98 Continuing Violations**

Pursuant to the procedures in Chapter 207 of the Village Code, whenever a notice of violation of this Chapter has been served, each day the offender continues such violation after such notification shall constitute a separate offense punishable by a fine or penalty.