

Village of Nassau

Local Law No. _____ of the year 2019

A local law amending Chapter 120 of the Code of the Village of Nassau, making certain changes to the zoning laws of the Village of Nassau.

Be it enacted by the Board of Trustees of the Village of Nassau as follows:

§ 1 The Article 120 of the Nassau Village Code is amended as follows:

Chapter 120 ZONING

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ARTICLE I Purposes

§ 120-1. Statement of purposes.

The zoning regulations and districts herein set forth and as outlined upon the map made a part of this chapter by § 120-3 are made in accordance with a Comprehensive Plan for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of the population and to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its suitability for particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the Village, while protecting both public and private investment in property.

To be consistent with and further the specific goals established in the adopted Village of Nassau Comprehensive Plan, additional purposes of this zoning law are to:

- A. Preserve and enhance the small-town character and appearance of the Village;
- B. Safeguard drinking water resources;
- C. Ensure for the high quality of the Village's surface waters, streams and wetlands;
- D. Promote a vibrant business district;
- E. Provide for safe and efficient transportation systems, parking, and walkable neighborhoods;
- F. Protect environmentally sensitive locations and preserve the character of remaining open spaces;
- G. Preserve and maintain historic resources and character of the Village;

ARTICLE II Establishment of Districts; Zoning Map

§ 120-2. Districts established.

For the purpose of this chapter, the Village of Nassau is hereby divided into the following seven classes of districts:

Very-Low-Density Residential District	R5A
Single-Family Residential District	R10,000
Single- and Multifamily Residential District	R3,500
General Business District	GB
Land Conservation Overlay District	LC
Planned Development District	PD
Senior Citizens Housing District [Added 8-14-1996 by L.L. No. 1-1996]	SC
Historic Overlay District	HD

§ 120-2. District Purposes.

- A. Very-Low-Density Residential District (R5A): To promote the less dense development pattern and protect environmentally sensitive areas by allowing for single-family residential use at a very low density and limited commercial uses, and other uses such as agriculture, forestry, parks, playgrounds and limited public uses on larger lots and in a manner consistent with the environmental constraints connected to the steep topography found in that portion of the Village.
- B. Single-Family Residential District (R10,000): To promote single family residential uses on smaller lots and to promote the existing community character and streetscapes found in these locations.
- C. Single- and Multifamily Residential District (R3,500): To promote a mix of residential uses (single, semidetached, row, multifamily) and limited non-residential uses, existing community character and streetscape at the highest density in the village and in a manner that reflects the uses and traditional design found in these areas.
- D. General Business District (GB): To promote a diversity of small business development, service businesses, and office uses in the center of the Village.

- E. Land Conservation Overlay District (LC): To protect sensitive environmental features including floodplains, wetlands, and steep slopes,
- F. Planned Development District (PD): A zoning designation to allow for the establishment of land uses in which diverse uses may be brought together in a unified plan of development on one or more contiguous large parcels of land and designed in a manner that ensures compatibility among all the land uses within and adjacent to the development, and to foster innovations in site planning that enhances village character, and encourages sound design practices.
- G. Senior Citizens Housing District (SC): A zoning designation to allow for the establishment of a housing development oriented solely to meet the needs of senior citizens or handicapped persons and designed in a manner that ensures compatibility with adjacent land uses, fosters innovation in site planning to enhance village character, and encourages sound design practices.
- H. Historic Overlay District (HD): To Protect and enhance the landmarks and historic districts which represent distinctive elements of the Village of Nassau's historic, architectural and cultural heritage, to foster civic pride in the accomplishments of the past, to protect and enhance the Village of Nassau's attractiveness to visitors and the support and stimulus to the economy thereby provided, and to ensure the harmonious, orderly and efficient growth and development of the village. This district is established through Chapter 73 of the Village of Nassau Code.

§ 120-3. Zoning Map.

The boundaries of these districts are hereby established on maps entitled "Zoning Map of the Village of Nassau, and Zoning Overlay Map of the Village of Nassau" which maps accompanies and are hereby declared to be a part of this chapter.¹

§ 120-4. Interpretation of district boundaries.

- A. Zoning Map. Where a district boundary line, as appearing on the Zoning Map, divides a lot or land in a single ownership as existing at the time of this enactment, the use authorized on and the district requirements applying to the less restricted portion of the property shall be construed as extending into the remaining portion of the property beyond the district boundary lines for a distance not exceeding 35 feet. Otherwise, unless shown to the contrary on the Zoning Map, the boundary lines of districts are the center lines of streets and alleys or such lines extended, railroad right-of-way lines, the center lines of creeks and waterways and the corporate limits line as it existed at the time of the enactment of this chapter.

¹ Editor's Note: The Zoning Map is included at the end of this volume.

- B. Zoning Overlay Map. The Land Conservation Overlay District boundaries are determined by natural features such as wetlands, floodplain and steep slopes greater than 15%. An overlay zone is a zoning district which is applied over one or more previously established zoning districts, establishing additional or stricter standards and criteria for covered properties in addition to those of the underlying zoning district. The overlay zone is established to protect special features related to wetlands, steep slopes, and floodplain areas. As such, the boundaries follow natural features and not property lines.

ARTICLE III Definitions and Word Usage

§ 120-5. Word usage.

The present tense shall include the future, and the singular number shall include the plural and the plural the singular. The word "shall" is always mandatory. Words not included in this Article shall be defined through its common use of the term.

The Village of Nassau has developed a series of drawings that illustrate many of the terms used in this zoning chapter. See Plates 1 through 32 for illustrations of the following terms:

1. Lot in single ownership
2. Alley; Net Land Area; Block
3. Building Height
4. Story; Street Line; Center Line
5. Court, Dwellings (one, two, multi-family and row/townhouse)
6. Floor Area Ratio
7. Semidetached; Family; Public/Private Garage; Lot
8. Corner Lot; Mobile Home; Mobile Home Park; Motel
9. Through Lot; Lot Width
10. Motor Vehicle Service Station
11. Signs
12. Drive-in Theater
13. Front; Rear and Side Yards
14. Rural Residential District
15. Between the Yards
16. Off Street Parking
17. 5 and 10 Acres
18. Location of Driveways
19. Single Family Residential District
20. One Acre
21. Cluster Development
22. Private or Commercial Parking Lot
23. Three Acres
24. Non Residential Use in a Residential District
25. Loading Dock
26. Spacing of Entrances and Exits
27. Planned Development
28. Access of a Commercial or Industrial Use
29. Individual Sewerage System
30. Sight Distance
31. Apartment House; Hospital
32. Private Garage on Steep Slopes

§ 120-6. Definitions.

Certain words and terms used in this chapter are defined for the purposes thereof as follows:

ACCESSORY APARTMENT: A second dwelling unit, either in, or added to, an existing single-family dwelling, or in a separate accessory structure such as barns and garages on the same lot as the existing single-family dwelling, for use as a complete, independent living facility with provisions in the accessory apartment for cooking, eating, sanitation, and sleeping. Such an apartment is a secondary and subordinate use to the principal dwelling. A mobile home or single-wide manufactured home shall not be considered as an accessory apartment.

AGRICULTURE — The production of crops or plants or vines and trees.

ALLEY — A public way having a right-of-way width of 20 feet or less.²

ANIMAL HUSBANDRY — The keeping, grazing, feeding and care of animals other than household pets; however, the term "animal husbandry" shall not be construed to include the activities of fur farms, pig farms or poultry.

AREA, BUILDING — The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between the exterior faces of walls.

AREA, LAND — When referring to the required area per dwelling unit, means a net land area, the area exclusive of streets and other public open space.

AUTOMOBILE SALES AREA — A premises including open areas, other than a street or way, and showrooms enclosed within a building used for the display or sale of new or used automobiles, trucks, cargo trailers and boats.

AUTOMOBILE WRECKING and/or AUTOMOBILE GRAVEYARDS or AUTO JUNKYARD — A lot, land or structure or part thereof over 200 square feet in area used for the dismantling, wrecking or burning of used automobiles, or the storage, sale or dumping of dismantled, partially dismantled or wrecked vehicles or their parts, or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof, except as accessory to a principal industrial use of the lot. Two or more motor vehicles not in operating condition shall be deemed to constitute a "junkyard."

BAR or TAVERN — An establishment licensed under the laws of New York State for the sale of alcoholic beverages and their consumption on the premises.

BASEMENT — A story partly underground but having at least 1/2 of its height above the average outside ground level.

BLOCK — The length of a street between two street intersections where street intersections are at intervals greater than 1,200 feet. One thousand two hundred feet shall be considered the length of a "block" for purposes of this chapter.

BOARDINGHOUSE and/or ROOMING HOUSE — A dwelling, other than a hotel or motel, wherein more than two people are sheltered and/or fed for profit.

BUILDING — Any structure constructed or used for residence, business, industry or other public or private purposes or accessory thereto, including tents, lunch wagons, dining cars, mobile homes, billboards, signs and similar

² Editors Note: See Plate 2 included at the end of this chapter.

structures, whether stationary or movable.

BUILDING, ACCESSORY — A building, the use of which is customarily incidental to that of a principal building and which is located on the same lot as that occupied by the principal building.

BUILDING, ACCESSORY USE OF — A use customarily incidental to the use of a principal building, not occupying more than 25% of the total aboveground floor area of the principal building thereof and including:

- A. The office or studio of a physician or surgeon, dentist, accountant, artist, musician, lawyer, architect, engineer, teacher, insurance agent, realtor or other such professional person residing on the premises, provided that there is no advertising display visible from the street, other than a small professional nameplate. The above shall not be interpreted to include the office or place of business of a mortician.
- B. Customary home occupations as defined herein, provided that there is no display of goods visible from the street and no exterior advertising, other than an unlighted sign not over two square feet in area, and such occupation is conducted in the main building by a person or persons residing therein.

BUILDING, ALTERATION OF — Any addition to a building, a change or rearrangement in the structural parts or exit facilities, or any change in the use from one district classification to another, or removal of a building from one location to another.

BUILDING, HEIGHT OF — The vertical distance measured from the average elevation of the finished lot grade at the front of the building to the highest point of the structure.

BUILDING INSPECTOR – The individual designated by the Village Board of Trustees to enforce the provisions of the building code. The Building Inspector may also serve as the Code Enforcement Officer.

BUILDING LINE, FRONT — The line of that face of a principal building nearest the street line. In the case of a corner lot, any building line nearest to a street line shall be considered a "front building line."

BUILDING OR STRUCTURE, NONCONFORMING — An established building or structure lawfully existing prior to the adoption or amendment of this chapter but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment.

BUILDING, PRINCIPAL — A building, including covered porches and decks, in which is conducted the principal use of the lot on which it is situated. In any residence district, any dwelling shall be deemed the "principal building" on the lot on which it is situated.

BUS PASSENGER SHELTER — A one-story structure not more than 50 square feet in building area, providing shelter at school bus and other bus stops.

CARNIVAL — An amusement show, usually traveling from place to place, having sideshows, Ferris wheels, merry-go-rounds, etc.

CELLAR — A portion of a building having more than 1/2 of its height below the average outside ground level.

CEMETERY — Land used or intended to be used for the burial of dead human beings and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated with and within the boundary of such cemetery.

CENTER LINE OF STREET OR ROAD — A line midway between and parallel to two street or road property lines, or as otherwise defined by the Planning Board.

CHURCH OR OTHER PLACE OF WORSHIP — A building for public worship.

CIRCUS — An exhibition of wild animals and acrobatic feats, together with sideshows and vending concessions.

CLINIC, DENTAL — A structure designed for the practice of dentistry in which nonresident patients are treated.

CLINIC, MEDICAL — A structure designed for the practice of medicine in which nonresident patients are treated.

CLUBHOUSE — A building to house a club or social organization not conducted for profit and which is not an adjunct to or operated by or in connection with a public tavern, cafe or other public place.

CLUSTERED CONSERVATION SUBDIVISION: A flexible subdivision technique where all the residences to be built on a parcel are located together on smaller lots in order to preserve open space or environmental features on the parcel.

CODE ENFORCEMENT OFFICER – The officer appointed to enforce all the New York State, local building and fire codes as well as all other local laws adopted by the Village of Nassau. The Code Enforcement Officer may also be the Building Inspector.

COMMERCIAL DESIGN STANDARDS: A set of guidelines to be followed in site and/or building design and development of commercial uses to help maintain the character of a community and prevent new commercial development from dramatically changing the physical and visual footprint of the community.

COMMERCIAL USE – Any non-agricultural activity involving the sale of goods or services carried out for profit.

COMPREHENSIVE PLAN: A document that details an underlying purpose to

control land uses for the benefit of the whole community based upon consideration of the community's problems and applying a general policy to obtain a uniform result and adopted pursuant to NYS Village Law 7-722.

COMPLETE APPLICATION: An application for development that includes all required documents and submittals pursuant to this law, and where a negative declaration has been made or a draft environmental impact statement has been accepted by the reviewing agency.

CONSISTENT IN SIZE AND SCALE: Conveys the Village's intent that new development be similar to existing development in terms of size, height, bulk, intensity and aesthetics to its surroundings. This zoning law establishes various development standards such as height, setback, lot size, and lot coverage requirements that guides new development to be of the size and scale appropriate to each district as well as development standards for commercial buildings so that they can be consistent with the context where it is to be located.

CONSTRUCTION, FIRE-RESISTANT — That type of construction in which the walls, partitions, columns, floor and roof are noncombustible, with sufficient fire resistance to withstand the effects of a fire and prevent its spread from story to story, as required by the state building code.

COURT — An unoccupied open space other than a yard. An outer court is one that extends to the street or to the front or rear yard. An inner court is any other court.

COVERAGE — That percentage of the lot covered by the building area and impervious surfaces.

CURB LEVEL — The officially established grade of the curb in front of the midpoint of the lot.

DECKS ATTACHED — Decks attached to the house are considered to be part of the dwelling and, as such, part of the dwelling setback restrictions.

DECKS, UNATTACHED — Unattached decks are treated as an unattached accessory.

DORMITORY — See "fraternity house."

DRIVE-IN BUSINESS — Includes drive-in outdoor theaters, refreshment stands, banks and the like where patrons enter the premises and are served or entertained in automobiles. Deposit and pickup services shall not be considered "drive-in businesses" as defined herein.

DRIVEWAY — Land situated on a lot used or intended to be used to provide access to it by vehicular traffic.

DUMP — Land used for the disposal, by abandonment, dumping, burning or any

other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

DWELLING — A house or other building designed or used primarily for human habitation. The word "dwelling" shall not include tourist homes, motels, hotels or other structures designed for transient residence. A bus is not construed to be a "dwelling."

DWELLING, MULTIFAMILY — A dwelling or group of dwellings on one plot, containing separate living units for three or more families but which may have joint services or facilities, or both.

DWELLING, ONE-FAMILY — A detached building designed for the use of a single household, including one or more persons living as a family, and wherein not more than two boarders are sheltered and/or fed for profit.

DWELLING, ROW OR TOWNHOUSE — A dwelling accommodating or designed to accommodate but a single family in a single dwelling unit, the walls on two sides of which may be in common with the walls of adjoining dwellings and are party or lot-line walls.

DWELLING, SEMIDETACHED — A detached building containing two dwelling units separated by a party wall, each having one side yard.

DWELLING, TWO-FAMILY — A building having two side yards and accommodating but two families, with one family living over the other.

DWELLING UNIT — Any dwelling or portion thereof used or intended to be used by one family and providing complete housekeeping facilities therefor.

EDUCATIONAL INSTITUTION — A college or university giving general academic instruction. Included within this term are areas or structures used for administration, housing of students and faculty, dining halls and social or athletic activities when located on the institution's land that is not detached from land where classroom facilities are maintained.

ELECTRIC SUBSTATION OR GAS DISTRICT GOVERNOR STATION: See Public Utility.

ENVIRONMENTAL ASSESSMENT FORM (EAF): A form used to determine whether a project will have significant environmental impacts. Depending on the site's environmental features and the project's magnitude, either a short or full SEQRA Environmental Assessment Form will be completed.

ENVIRONMENTALLY SENSITIVE AREA: An area with one or more of the following environmental characteristics: 1) steep slopes > 15%; 2) flood plain mapped as per the FIRM for the Village of Nassau; 3) DEC and NWI wetlands.

FAIR — An occasional or periodic competitive exhibition of farm products and livestock, usually accompanied by amusement features and for which an

admission fee is charged.

FAMILY — One or more persons occupying a premise and living as a single nonprofit housekeeping unit, provided that, unless all members are related by blood, marriage or adoption, no single housekeeping unit shall contain more than five members.

FARM — Any parcel of land containing at least five acres which is used for gain in the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes fur farms, pig farms, cage- type poultry houses, public stables and dog kennels.

FARMHOUSE — The principal building used as a dwelling on any tract of land classified as a farm.

FENCE — Any structure, regardless of composition, except a living fence or temporary enclosure for playpen use, that is erected or maintained for the purpose of enclosing a piece of land or dividing a piece of land into district portions.

FENCE, DECORATIVE — Fencing enclosing gardens and/or shrubbery totally contained within the property limits, not exceeding 36 inches in height.

FENCE, LIVING — Any fence or hedge composed of live materials.

FLOOR AREA OF A BUILDING — The sum of the gross horizontal area of the several floors, including the basement, of a building and its accessory buildings on the same lot, including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

FLOOR AREA RATIO — The floor area of a building divided by the area of the lot which it occupies.

FLOODPLAIN OR FLOOD PRONE AREA: A land area adjoining a river, stream, watercourse, or lake, which is likely to be flooded experience occasional flooding.

FRATERNITY HOUSE, INCLUDING SORORITY HOUSE, DORMITORY AND

RESIDENCE HALL — A facility used for housing, with or without dining facilities, of students attending an educational institution as defined herein and which is approved as a residence for its students by the aforementioned educational institution.

FORMULA-BASED BUSINESS: A commercial use that uses a building design that is trademarked or identified with a particular franchise, chain or corporation and is generic or standard in nature.

FRONTAGE: That part of a property bounded by either a public or private road.

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.

GAME ROOM, AMUSEMENT AND RECREATION SERVICES – any premises wherein gaming, is done, or establishments are engaged in providing entertainment for a fee, including but not limited to such activities as dance halls, studios, theatrical productions, bands, and other musical entertainment, bowling alleys, billiard or pool establishments; commercial establishments such as arenas, rings, rinks and golf courses, coin-operated devices, amusement parks, membership and health clubs, and game parlors.

GARAGE, PRIVATE — A garage not conducted as a business or used for the storage space for more than one commercial vehicle which shall be owned by a person residing on the premises.

GARAGE, PUBLIC — A garage conducted as a business. The rental of storage space for more than two passenger cars or for one commercial vehicle not owned by a person residing on the premises shall be deemed a business use.

GRADE, ESTABLISHED — The elevation of the center line of the streets as officially established by the municipal, county or state highway authorities.

GRADE, FINISHED — The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

HOME OCCUPATION — Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental to and secondary to the use of the dwelling for dwelling purposes, does not utilize more than 25% of the dwelling for commercial purposes, and does not change the character thereof. "Home occupations" may be construed to include a home-based professional office, dressmaking, millinery, home cooking, musical instruction limited to a single pupil at a time, art studios and activities of a similar nature. "Home occupations" shall not be construed to include barbershops and beauty parlors, public stables, kennels, animal hospitals, restaurants and tearooms, musical instruction to groups, dancing instruction to groups, nursing homes, nursery schools, public garages, plumbing or electrical shops or other trades or businesses of a similar nature, nor shall any customary "home occupation" be construed to include that which requires the presence in the home of machinery or equipment normally associated with commercial or industrial activities or that which produces offensive noise, vibration, smoke, dust, odors, heat, glare or other nuisance.

HOME, TOURIST — A dwelling in which overnight accommodations are provided for not more than 10 transient, paying guests.

HOSPITAL — An establishment for temporary occupancy by the sick or injured for the purpose of medical diagnosis and treatment, including sanatoriums, and

shall be limited to the treatment or other care of humans.

HOSPITAL, ANIMAL OR VETERINARY CLINIC — An establishment for temporary occupancy by sick or injured animals for the purpose of medical diagnosis and treatment and shall exclude the treatment or other care of humans.

HOTEL — A building or group of buildings in which there are 12 or more rental sleeping rooms, and which may also include dining rooms, kitchens, serving rooms, ballrooms and other facilities and services intended primarily for the accommodation of its patrons.

HOTEL, RESIDENTIAL — A dwelling occupied by permanent guests only and not by transients. It may include restaurants, newsstands and other accessory services primarily for serving its occupants and only incidentally the public.

HUMAN HABITATION — A structure that is suitable for use by an individual or individuals as a dwelling, or for commercial operations and that has a valid certificate of occupancy issued by the Village of Nassau.

JUNKYARD — A lot, land or structure or part thereof over 200 square feet in area used primarily for the collecting, storage and/or sale of wastepaper, rags, scrap metal or discarded material.

KENNEL — Any establishment, including cages, dog runs and structures, wherein more than three dogs which are over six months old are harbored.

LAUNDRY/DRY CLEANERS, COIN-OPERATED — A business premises equipped with individual clothes washing and drying and/or cleaning machines for the principal use of retail customers.

LIGHT INDUSTRIAL — Light assembly and fabrication uses, including manufacturing of precision products such as optical goods, business machines, instruments, cameras, clocks, watches and musical instruments, or any use which the Board of Appeals find to be similar in its effect upon the character of the vicinity, including traffic, emission of noise, vibration, odor, smoke, dust or glare.

LOT — A piece, parcel or plot of land occupied or designed to be occupied by a principal building and its accessory building or buildings and including the yards and other open spaces required by this chapter.

LOT, CORNER — A lot which has an interior angle of less than 135° at the intersection of two street lot lines. A lot abutting upon a curved street or streets shall be considered a "corner lot" if the tangents to the curve at points beginning within the lot or at the points of intersection of the side lot lines with the street line intersect at an interior angle of less than 135°.

LOT DEPTH — The horizontal distance from the street line of the lot to its opposite

rear line, measured along the median between the two side lot lines.

LOT, INTERIOR — A lot other than a corner lot.

LOT LINES — The lines that bound a lot as defined herein.

LOT OF RECORD — Any lot which has been established as such by plat, survey, record or deed prior to the date of this enactment, as shown on the records of the Rensselaer County Clerk's Office.

LOT, THROUGH — An interior lot having frontage on two parallel or approximately parallel streets.

LOT WIDTH — The distance between the side lot lines measured along the front building line as determined by the front yard requirement prescribed by this chapter.

MAJOR EXCAVATION; GRADING or FILLING — Any operation (other than in connection with foundations for a structure or highway construction) involving:

- A. A volume of earth movement exceeding the average of one cubic foot per square foot of lot area or 1,000 cubic yards, whichever is the lesser; or
- B. A change in ground elevation from the previously existing grade exceeding 10 feet.

MIXED USE STRUCTURE — A single structure that allows for a combination of residential and non-residential uses provided the non-residential use is permitted or specially permitted for that district.

MOBILE HOME or HOUSE TRAILER — A portable structure for which the State of New York Department of Motor Vehicles will issue a license to move on any public way, having a ground area of not more than 1,100 square feet or not less than 400 square feet, with or without its own motive power, equipped for or used for living purposes, provided with complete sanitary facilities and mounted on wheels or designed to be so mounted and transported or transported on a flatbed trailer.

MOTEL or MOTOR COURT — A public inn containing not less than eight rental units, with provisions for, but not limited to, automobile parking space to accommodate not less than one car per unit and separate toilet facilities and hot and cold running water for each rental unit.

MOTOR FREIGHT TERMINAL — Any premises, owned or operated, by a motor freight company regulated by the Public Service Commission of New York and/or the Interstate Commerce Commission as a carrier of goods, which is the origin and/or destination point of goods being transported, for the purpose of storing, transferring, loading and unloading such goods.

MOTOR VEHICLE SERVICE STATION — Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and

oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means, body and fender work or the dismantling or replacing of engines.

NOISE, NUISANCE: See unreasonable noise as defined in Chapter 77 of the Village of Nassau Code.

NON-CONFORMING DIMENSION: That part of a building, other structure or tract of land which does not conform to one or more of the stated lot size, height, setback, coverage, density or other dimensional regulations established in this Law, either following its effective date or as a result of subsequent amendments thereto.

NON-CONFORMING STRUCTURE: A structure or building, the size, dimensions, or location or which was lawful prior to the adoption, revision, or amendment of the zoning law or subsequent amendments thereto, but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning law.

NON-CONFORMING USE: Any use of a building, structure, or tract of land, which was lawful prior to the adoption, revision, or amendment of the zoning law, but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

NURSERY SCHOOL — A school designed to provide daytime care or instruction for two or more children from two to five years of age, inclusive, and operated on a regular basis.

NURSING OR CONVALESCENT HOME — Any establishment where persons are housed or lodged and furnished with meals and nursing care for hire.

NWI: National Wetlands Inventory: a nationwide system of wetlands inventory and mapping.

OCCUPANCY — The utilization of a building, structure or land.

OCCUPANCY, SEASONAL — Occupancy for a period not exceeding four months during any one calendar year.

OFFICE, BUSINESS – A room or group of rooms used for conducting the affairs of a business, service, industry, or government and generally furnished with desks, tables, files and communication equipment.

OFFICE, PROFESSIONAL – the office of a member of a recognized professional maintained for the conduct of that profession.

OFFICIAL MAP, VILLAGE — A map adopted by the Board of Trustees pursuant to the provisions of § 7-724 of the Village Law, which may be or may have been revised according to the provisions of § 7-724 of the Village Law and which

shows streets, highways and parks theretofore laid out, adopted and established by law and which may show drainage systems.

OPEN SPACE — Land left in a natural state for conservation, devoted to the preservation of distinctive ecological, physical, visual, architectural, historic, geologic or botanic sites. It shall also mean land left in a natural state and that is devoted to active or passive recreation. The term shall not include land that is paved, used for the storage, parking or circulation of automobiles, used for playgrounds or manicured recreational lands such as ball fields, lawns, or occupied by any structure.

OVERLAY DISTRICT: A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone. Overlay zones deal with special situations that are not appropriate to a specific zoning district or apply to several districts.

PARK:

PUBLIC – A tract of land owned by a branch of government and available to the general public for recreational purposes.

PRIVATE – A tract of land owned or controlled and used by specific and designated entities or persons for active and/or passive recreational purposes.

PARKING LOT – An off-street, ground-level open area that provides temporary storage for motor vehicles, including an area dedicated for commuters.

PARKING SPACE — A space for the on-street or off-street parking of a motor vehicle within a public or private parking area. Standard parking spaces are 9' x 18' in size.

PERFORMING ARTS CENTER – A structure or complex of structures used for the visual and/or performing arts.

PERSONAL SERVICE ESTABLISHMENT: A commercial enterprise primarily engaged in providing services involving the care of a person or his/her personal goods or apparel.

PLAYGROUND – An active recreational area with a variety of facilities, including equipment for younger children as well as court and field games.

PORCH, OPEN — A porch open on three sides except for wire screening. A porch shall not be considered open if enclosed by either a permanent or detachable glass sash. A structure having a driveway running to it, under it or through it shall not be considered to be an "open porch."

PORTABLE OR TEMPORARY STORAGE UNITS – An accessory use intended to cover any structure used for temporary storage including but not limited to portable on demand storage (PODS), storage and semi-trailers, or commercial

box vans that are parked for temporary construction, or during renovation, or moving preparation.

PUBLIC USE: A land or building available to the general public including but not limited to schools, streets, highways, government buildings, parks and recreational trails, flood control, safety facilities, bridges, and numerous other purposes designated as beneficial to the public.

PUBLIC UTILITY: A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary to the public health, safety, and welfare including all uses deemed to be a public utility by New York State. Other uses may be a public utility if it provides a service that is essential to the public health, safety and general welfare, is regulated by a government agency, is granted an exclusive or near exclusive franchise for a specific geographic area and is required to provide service to all who apply within their franchised area.

QUARRY, SANDPIT, GRAVEL PIT or TOPSOIL STRIPPING — A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or topsoil for sale as an industrial operation, exclusive of the process of grading preparatory to the construction of a building for which a building permit has been issued or highway construction.

RECREATION SERVICES: A place operated as a business and open to the public for a fee and that is designed and equipped for the conduct of sports and leisure-time activities. This includes but is not limited to game rooms and amusement facilities.

REAL ESTATE ESTABLISHMENT – An establishment engaged as an agent for the rental or sale of land of buildings.

RETAIL – Establishments engaged in the selling or rental of goods or merchandise and in rendering services incidental to the sale of such goods. It is an establishment that makes or buys goods for resale. If the bulk of the products made on site are sold on premises, it would be classified as retail trade, otherwise it would be light manufacturing. This includes retail outlet store, outdoor retail sales, convenience retail store, etc.

RIDING ACADEMY — Any establishment where horses are kept for riding, driving or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.

ROADSIDE STAND — A stall or booth for business which shall be limited to the sale of farm products produced on the premises.

SANATORIUM or SANITARIUM — A private hospital, whether or not such a facility is operated for profit.

SANITARY SEWER, PUBLIC — A sewer connected to a municipal sanitary sewer system or a sanitary sewer connected to a nonmunicipal sanitary sewer system,

the construction plans and plans for the operating of which shall be approved by the Rensselaer County Department of Health. Any facility which provides for the disposal of sanitary sewage on a lot occupied by a principal or accessory building or structure, other than a sewage disposal plant, shall not be deemed a "public sanitary sewer."

SCHOOL, ELEMENTARY — Any school having regular sessions with regularly employed instructors who teach those subjects that are fundamental and essential in general education under the supervision of the State of New York or a lawfully constituted ecclesiastical governing body or a private corporation meeting the requirements of the state.

SCHOOL, SECONDARY — The same as "elementary school," except that secondary education is provided.

SCHOOL, VOCATIONAL — Any school having regular sessions with regularly employed instructors who, as a principal activity, provide training in a trade or vocation and teach those subjects that are fundamental and essential in elementary or secondary education under the supervision of the State of New York or a lawfully constituted ecclesiastical governing body or a corporation meeting the requirements of the state.

SCREENING: Vegetation, fencing, or earthen materials used to block visibility toward and/or away from a site. Screening may also be used to lessen noise, lighting or visual impacts from a particular site or from adjacent land uses.

SENIOR HOUSING or HANDICAPPED HOUSING DEVELOPMENT – Dwelling units that are arranged as individual dwelling units for occupancy by senior citizens. Senior housing may be located in structures having one, two, or multiple dwelling units but are designed for and dedicated to housing for people 62 or older. This includes adult retirement community, independent living facilities, and retirement communities. It does not include nursing homes or assisted living facilities.

Occupancy within a Senior Citizens Housing District is limited to senior citizens or handicapped families and to handicapped persons, as defined and discussed below, regardless of race, creed, color, religion or sex.

(1) A "senior citizen" or "handicapped family" means:

(a) Families of 2 or more persons, the head of which (or his or her spouse) is 62 years of age or over or is handicapped;

(b) The surviving member or members of any family described in Subsection (1)(a) above, living in a Senior Citizens Housing District with the deceased member of the family at the time of his or her death;

(c) A single person who is 62 years of age or over or a handicapped person between the ages of 18 and 62; or

(d) Two or more senior citizen or handicapped persons living together or one or more such persons living with another person who provides essential care to said senior citizen or handicapped persons based upon a certification of such by a licensed physician provided by the tenant family or prospective tenant family.

(2) A "handicapped person" means:

(a) Any adult having an impairment which is expected to be of long-continued and indefinite duration, is a substantial impediment of his or her ability to living independently and is of a nature that such ability could be improved by more suitable housing conditions; or

(b) A person who is developmentally disabled, i.e., if he or she has a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological condition found by the United States Secretary of Health and Human Services to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individuals attain age 18, and which constitutes a substantial handicap to such individual.

(c) Nothing herein contained is intended to prevent the occupancy of a dwelling unit by a person employed as a resident custodian who is not otherwise eligible to reside within a Senior Citizens Housing District along with such custodian's immediate family.

SEPTIC SYSTEM – An underground system with a tank or vault used to treat, convey and dispose of domestic wastewater on-site.

SIDEWALK – A concrete paved surface paralleling and usually separated from the traveled way, used as a pedestrian walkway.

SIGN — Any structure or part thereof attached thereto or painted or represented thereon which shall display or include any letter, work, model, banner, flag, pennant, insignia, device or representation, but not including the flag, pennant or insignia of any nation, state, city or other political unit or of any political, educational, charitable, philanthropic, civic, professional, religious or like organization on the property thereof.

SIGN, IDENTIFICATION — A sign used to identify the individual or organization occupying the premises or the name of the building or structure in connection with which the sign is displayed.

SIGN, REAL ESTATE — A sign advertising property on which it is located or a building thereon for sale, rent or lease.

SORORITY — See "fraternity house."

SPDES General Permit for Construction Activities GP-02-01: A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPECIAL PERMIT: A land use which is deemed permissible within a given zoning district or districts, but which may have the potential to exhibit characteristics or create impacts incompatible with the purposes of such district. The special use shall, therefore, be subject to approval by the Planning Board in accordance with conditions set forth for such use, as well as other applicable provisions of this law.

STABLE, PRIVATE — An accessory building in which horses are kept for private use and not for hire, remuneration or sale.

STABLE, PUBLIC — A building in which horses are kept for remuneration, hire or sale.

STEEP SLOPE: Land areas where the slope exceeds 20%.

STORAGE, OPEN — Land used for the keeping of goods, wares or supplies on land outside of any building or structure. This, however, shall not be construed as including the activities of junkyards as defined herein.

STORY — That part of a building included between any floor, other than a cellar floor, and the floor or roof next above.

STREET — Any public way, dedicated to public travel, greater than 20 feet in width.

STREET LINE — The right-of-way line of a street as indicated by dedication or by deed of record.

STRUCTURE — Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. Fences and retaining walls do not apply.

STRUCTURE, ALTERATION OF — Any addition to a structure, a change or rearrangement in the structural parts, or any change in use from one district classification to another, or removal of a structure from one location to another.

STRUCTURE, TEMPORARY – A structure that is erected without any foundation or footings and is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

STUDIO (DANCE, MUSIC, PRODUCTION) – a) A place where radio shows, television shows, movies, or music are produced; b) The workshop of an artist, sculptor, photographer or craftsperson; c) A place where dancers or musicians practice, teach and produce their craft.

SWIMMING POOL — Any body of water (excluding natural bodies of water fed

by rivers, streams, brooks or springs) or receptacle for water having a depth, at any point, greater than two feet and used or intended to be used for swimming or bathing and constructed, installed or maintained in or on the ground outside any building.

TAVERN — See "bar or tavern."

THEATER — A building or part of a building devoted to presenting entertainment on a paid-admission basis.

THEATER, DRIVE-IN OUTDOOR — Open land with its appurtenant facilities devoted to the showing of motion pictures to patrons seated in automobiles.

TOURIST HOME — See "home, tourist."

TRAILER, BOAT — A vehicle designed exclusively for the transportation of one boat of less than a ten-foot beam and twenty-four-foot length.

TRAILER, CAMP OR TRAVEL — A vehicle or portable structure, not over 256 square feet in floor area, equipped but not regularly used for sleeping but which may not have sanitary facilities.

TRAILER, CARGO — A vehicle, not over 70 square feet in floor area, used for the hauling of cargo.

TRANSPORTATION TERMINAL – a) An area and building where trucks load and unload cargo and freight and where cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation, b) as a transshipment facility – similar to a distribution center or warehouse to handle containers, liquid or raw products.

UNOCCUPIED – A structure that is not used by an individual or individuals overnight in a dwelling unit, or for the storage or use of equipment, merchandise, or machinery in any public, commercial or industrial building. An unoccupied building does not have a valid Certificate of Occupancy.

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

USE, ACCESSORY — A use which is customarily incidental to and subordinate to the principal use of a premises, building or structure and located on the same premises as the principal use, building or structure.

USE, NONCONFORMING — An established use of a building or structure or use of land lawfully existing prior to the adoption or amendment of this chapter but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment.

VACANT BUILDING: Property encumbered with a mortgage that is delinquent,

which the owner has abandoned, but which the mortgagee fails to foreclose on. See also Chapter 44 for definitions.

VARIANCE, AREA: A variance from the area and bulk requirements or supplementary regulations of a related character (such as amount, size, location of design or access, off-street parking, landscaping, signs) to authorize on a specific lot a permitted use which could not feasibly be established without relief from one or more of the dimensional requirements pertaining to the district.

VARIANCE, USE: A variance from the use regulations to allow the establishment on a specific lot of a use otherwise prohibited in the district.

WAREHOUSE: A building used primarily for the storage of goods and materials as well as serving as a distribution center where products are received, broken down into smaller quantities, and then shipped.

WATER, SURFACE: Water contained in streams, rivers, ponds, wet areas, lakes, and other water-bodies and watercourses, or that drains across land.

WETLANDS: Lands and submerged lands commonly called, but not limited to swamps, marshes, sloughs, bogs, flats, pools, vernal pools, fens, natural ponds, kettle ponds, wet meadows, lakes, and streams supporting aquatic or semi-aquatic vegetation as defined and used by the NYS Department of Environmental Conservation (DEC) and US Army Corps of Engineers (ACOE). The US ACOE or NYS DEC is the governing body for matters affecting wetlands, depending on the size of those wetlands. If wetland is less than 12.4 acres, US Army Corps of Engineers definition shall apply; If 12.4 acres or larger, NYS Department of Environmental Conservation definition shall apply.

WHOLESALE BUSINESS – Establishments or places of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesales, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. Lumber, and millwork yards, such as building materials establishments are generally classified as a wholesale business unless the primary operation is directly to the general public rather than to the building contractors. In such cases, they would be a retail operation.

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

YARD, FRONT — An open space extending across the entire width of the lot between the front building line or front main wall of a building and the front property line (street or road right-of-way line).

YARD, REAR — An open space extending across the entire width of the lot between the rear line of the lot and a line parallel to the rear line of the lot at a distance from the rear line of the lot specified for the zoning district in which

the lot is situated.

YARD, SIDE — An open, unobstructed space on the same lot with a principal building between the principal building and the side line of the lot and extending through from the front yard to the rear yard.

ARTICLE IV General Regulations

§ 120-7. Application of regulations.

No building, structure or land shall hereafter be used, and no building, structure or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided.

§ 120-8. Building and structure height.

No building or structure shall hereafter be erected or altered to exceed, in height, the limit designated for the district in which it is located. District building height regulations shall not apply to the following residential-related structures: flagpoles, spires, or cupolas, chimneys, elevator or stair bulkheads, parapets or railings, or any similar structures, provided that such structures in their aggregate coverage occupy no more than 10% of the roof area of the building.

§ 120-9. Space and area regulations.

No building or structure shall be hereinafter erected; nor shall any existing building or structure be altered, enlarged or moved; nor shall any lot, yard, lot width, open space or loading or parking space required in relation to any building or structure or use be encroached upon or reduced, in any manner not in conformity with the lot area, lot area per family, lot coverage, open space and building bulk regulations, yard requirements and other space and area regulations designated herein for the district in which it is located, unless such reduction is by a duly constituted public authority for a public purpose.

§ 120-10. Encroachments in required yards.

The space in any required yard shall be open and unobstructed except as follows:

- A. Window sills, belt courses, bay windows, cornices, eaves and other similar architectural features shall be permitted to project no more than three feet.
- B. Porches, awnings and canopies shall be permitted to project no more than six feet.
- C. Open fire escapes shall be permitted to project a maximum of six feet into required side yards, rear yards or courts but shall not project into required

front yards or required open areas and shall not be placed on walls facing toward a street.

§ 120-11. Exclusive nature of yards and open spaces.

No part of a yard or other open space required appurtenant to any building or use shall be included as a part of a yard or other open space required for any other building on any other lot, unless such yard or open space is part of a clustered subdivision or within a Planned Development District.

§ 120-12. Use of yards for storage restricted.

Yards, as required herein, shall not be used for the storage of merchandise, equipment, building materials, junk, vehicles, vehicle parts or any other material or for signs except as specific provision is made therefor.

§ 120-12.1 Vacant, Unsafe, and Deteriorated Buildings

- A. No person, corporation or association, who or which is the owner or occupant of vacant, blighted or deteriorating property or property with a vacant or boarded up building upon it, in the Village of Nassau, shall cause, suffer, allow or permit the said property to become dangerous or unsafe to the public. All requirements of Chapter 44 shall be met.

§ 120-12.3 Nuisance Noise.

No person shall cause, suffer, allow or permit unreasonable noise to be made pursuant to Chapter 77.

ARTICLE V Very Low-Density Residential District R5A

§ 120-13. Compliance required.

Except as otherwise provided by this chapter, no building or structure or land shall be used nor shall any building or structure be built or altered in a Very-Low-Density Residential District R5A, except for the purposes specified in the following sections. Any use not listed as a permitted use, permitted accessory use, specially permitted use, or use requiring site plan approval shall be deemed to be prohibited.

§ 120-14. Permitted principal uses.

In a Very-Low-Density Residential District R5A, permitted principal uses, buildings and other structures shall be as follows:

- A. Agriculture.
- B. Animal husbandry.
- C. Dwellings, one-family.
- D. Farms.
- E. Farmhouses.
- F. Forest nurseries, tree-seed gathering and extracting and gathering of gums and barks.
- G. Forestry service.
- H. Parks, public and private.
- I. Playgrounds.
- J. Post offices.
- K. Public utilities installations, including electric transportation lines.
- L. Schools, elementary.
- M. Schools, nursery.
- N. Schools, secondary.
- O. Home Occupation.

§ 120-15. Permitted accessory uses.

In a Very-Low-Density Residential District R5A, permitted accessory uses, buildings and other structures shall be as follows:

- A. Accessory use of a building as defined herein.
- B. Accessory buildings and structures customarily associated with the permitted principal uses, buildings and other structures.
- C. In a dwelling or farmhouse: the keeping of not more than two transient roomers and boarders. This shall not be construed however, to be an accessory apartment.

D. Between the yards of a dwelling:

- (1) Outdoor storage of not more than one of each of the following: a boat, boat trailer, camp trailer or cargo trailer, any of which shall be only for personal use by a resident on the premises.
- (2) A private garage or open parking for operative passenger vehicles owned by persons residing or visiting on the premises.
- (3) A playhouse, tool house or garden house.
- (4) A private swimming pool not operated for gain, subject to the additional provisions of § 120-68.

E. Off-street parking for commercial vehicles while loading and unloading as required by § 120-64.

F. Off-street parking and automobile storage space as required by § 120-63.

G. Signs as permitted by § 120-66.

H. Temporary structures as permitted by § 120-69.

I. Fences and hedges as permitted by § 120-59.

§ 120-16. Special permit uses and Site Plan Review Approval.

Special Permit Uses: In a Very-Low-Density Residential District R5A, uses for which the Planning Board may issue a special permit in accordance with the provisions of Article XI shall be as follows. All uses requiring a special use permit shall also require site plan approval from the Planning Board.

- A. Boardinghouse or rooming house.
- B. Bus passenger shelter, for which the Board of Appeals may waive the provisions of § 120-17.
- C. Cemetery.
- D. Clinic, dental.
- E. Clinic, medical.
- F. Clubhouse, as defined herein.
- G. Educational institution on a site not less than 50 acres, subject to the additional provisions of § 120-58.
- H. Electric substation, gas district governor station, telephone exchange or other public utility building or structure, except a business office, storage yard, repair shop or facility for the manufacture or storage of illuminating gas.
- I. Hospital.
- J. Hospital (animal) or veterinary clinic.
- K. Kennel on a site not less than 10 acres.
- L. Motel or motor court, subject to the additional provisions of § 120-61.

- M. Nursery school.
- N. Nursing or convalescent home.
- O. Private or commercial automobile parking lot on land directly abutting a business district at the side or rear, provided that no part of such lot extends more than 400 feet beyond the boundary line of such business district or extends into a front yard or extends closer to the side line of the lot than 50 feet, and provided that, wherever abutting on other than commercial property, the parking lot is to be densely planted with trees and shrubbery for a depth of not less than 25 feet. (See Plate 22.)
- P. Sanitarium or sanatorium.
- Q. Tourist home.

Site Plan Review and Approval: The following uses shall be reviewed through the Site Plan Approval Process (Article XII).

- A. Church or Parish House
- B. School, Vocational

§ 120-17. Area, yard, coverage and height provisions.

In a Very-Low-Density Residential District R5A, area, yard, coverage and height provisions shall be as follows:

- A. General. The area, yard, coverage and height provisions established by this section apply to all permitted uses in R5A Districts for which special criteria are not established elsewhere in this chapter.
- B. Area per establishment. Except as specified otherwise, the minimum area per establishment shall be one acre.
- C. Lot dimensions. Except as specified otherwise, the minimum width of the lot at the front building line shall be 100 feet.
- D. Front yards. Except as otherwise specified, no part of any building or structure shall extend nearer to the street line than 50 feet or nearer to the center line of the street than 75 feet, whichever distance requires the greater setback from the street line.
- E. Rear yard. There shall be a rear yard of not less than 50 feet.
- F. Side yards. There shall be two side yards having a total width of not less than 50 feet. One side yard shall be at least 1/3 of the total side yards.
- G. Height. Thirty-five (35) feet for the principal structure and 20' maximum for any accessory structure.
- H. Coverage. The maximum coverage shall be 25%.

§ 120-18. Location and Dimensions of driveways.

No driveway, as measured from its edge, shall intersect a street line less than 50 feet from the intersection of any two street lines. Driveways shall be no more than 18 feet wide for residential uses and 26' for commercial uses. Commercial uses 1) may have not more than two driveways or accessways from the main street or highway it fronts and 2) a maximum of 25% of the frontage shall be used as a driveway. For corner lots, both sides of the street frontage shall be considered front yards. Commercial uses on corner lots shall have a maximum of two driveways.

§ 120-18.1 Clustered Subdivision for a Major Subdivision when LC Overlay District is Present

- A. Major subdivisions proposed within the R5A are encouraged to and may be designed as a clustered subdivision to maximize the amount of open space preserved and to emulate traditional small, lot village neighborhoods. The Planning Board is further authorized to require a clustered subdivision when proposed on a parcel where the Land Conservation Overlay is present and when, in the Boards' opinion, a clustered subdivision would benefit the village by the further preservation of open lands contained within the LC Overlay District.
- B. For any proposed or required clustered subdivision, the Planning Board may waive the heretofore-established dimension requirements including width, front, side and rear yard requirements provided that:
 - (1) The net land area per dwelling unit in a development as defined herein is 1 acre. A clustered development shall result in a permitted number of building lots or dwelling units which shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the zoning law applicable to the R5A district.
 - (2) The minimum distance between any two buildings or structures shall not be less than 25 feet.
 - (3) The Planning Board as a condition of approval may establish such conditions on the ownership, use, and maintenance of such preserved open lands shown on the plat as it deems necessary to assure the preservation of the natural and scenic qualities of such open lands.
 - (4) The proposed cluster development shall be subject to review at a public hearing.
 - (5) All the subdivision procedures pursuant to the Village of Nassau Subdivision Law shall be followed.
 - (6) The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in this zoning law.

- (7) A stormwater pollution protection plan (SWPPP) shall be prepared and submitted for review to the Planning Board pursuant to New York State Department of Environmental Conservation regulations (CITATION) to ensure that no development will adversely impact wetlands, streams, or increase erosion or sedimentation.
- C. The clustered subdivision shall be designed to preserve at a minimum, all the lands of the parcel contained within the LC Overlay District.
 - (1) Upon approval of a clustered development, the Planning Board shall file the plan with the Village Clerk, and if a subdivision, with the office of the County Clerk.

ARTICLE VI Single-Family Residential District R10,000

§ 120-19. Compliance required.

- A. Except as otherwise provided by this chapter, no building or structure or land shall be used nor shall any building or structure be built or altered in a Single-Family Residential District R10,000, except for the purposes specified in the following sections. Any use not listed as a permitted use, permitted accessory use, specially permitted use, or use requiring site plan approval shall be deemed to be prohibited.
- B. Any new construction or alterations of structures within an historic district (See Historic District Overlay on Map) or to an historic building shall also be done pursuant to Chapter 73, Historic Preservation, of the Code of the Village of Nassau, New York.

§ 120-20. Permitted principal uses.

In a Single-Family Residential District R10,000, permitted principal uses, buildings and other structures shall be as follows:

- A. Dwelling, one-family.
- B. Park, public or private.
- C. Playground.
- D. Post office.
- E. School, elementary.
- F. School, secondary.
- G. School, nursery.
- H. Home Occupation.

§ 120-21. Permitted accessory uses.

In a Single-Family Residential District R10,000, accessory uses, buildings and other structures shall be as follows:

- A. Accessory use of building as defined herein.
- B. In a one-family dwelling: the keeping of not more than two transient roomers and boarders.
- C. Between the yards of a one-family dwelling:
 - (1) Outdoor storage of not more than one of each of the following: a boat, boat trailer, camp trailer or cargo trailer, each of which shall be owned for personal use by a person visiting or residing on the premises.
 - (2) A private garage or garages or open parking for operative passenger

vehicles of persons visiting or residing on the premises.

(3) A playhouse, tool house or garden house.

(4) A private swimming pool not operated for gain, subject to the additional provisions of § 120-68.

D. Off-street parking for commercial vehicles while loading and unloading as required by § 120-64.

E. Off-street parking and automobile storage space as required by § 120-63.

F. Signs as permitted by § 120-66.

G. Temporary structures as permitted by § 120-69.

H. Fences and hedges as permitted by § 120-59.

§ 120-22. Special permit uses and Site Plan Review Approval.

Special Permit Uses: In a Single-Family Residential District R10,000, uses for which the Planning Board may issue a special permit in accordance with the provisions of Article XI shall be as follows. All uses requiring a special use permit shall also require site plan approval from the Planning Board.

- A. Bus passenger shelter, for which the Board of Appeals may waive the provisions of § 120-23.
- B. Electric substation or gas district governor station.
- C. Public use.
- D. Office, professional.

Site Plan Review and Approval: The following uses shall be reviewed through the Site Plan Approval Process (Article XII).

- A. Church or parish house.

§ 120-23. Area, yard, coverage and height provisions.

- A. General. The area, yard, coverage and height provisions established by this section apply to all permitted uses in R10,000 Districts for which special criteria are not established elsewhere in this chapter.
- B. Area per dwelling unit. The minimum area per dwelling unit as defined herein shall be 1/2 acre.
- C. Lot dimensions for corner lots. The minimum width of the lot at the building line parallel to the street considered to be the front street shall be 75 feet for a lot as defined herein.

D. Yards on interior lots for dwelling structures.

- (1) Front yards. No part of any dwelling building or structure shall extend nearer to the street line than 25 feet or nearer to the center line of the street than 40 feet, whichever distance requires the greater setback from the street line. However, when a dwelling or structure is also located within one of the historic district overlays, the front setbacks shall maintain the build-to-line that currently exists either by emulating the setbacks of structures immediately adjacent or from an average of setbacks along the block.
- (2) Area per dwelling unit. The minimum area per dwelling unit as defined
- (3) Rear yards. There shall be a rear yard of not less than 25 feet.
- (4) Side yards. There shall be two side yards with a minimum total width of 30 feet. The width of the narrower of the two side yards shall not be less than 10 feet.

E. Yards on corner lots for dwelling structures. In the case of a corner lot, both yards abutting streets shall be considered front yards and shall be determined as provided in Subsection D(1) of this section. In addition, there shall be one rear yard with a minimum width of 25 feet and one side yard with a minimum width of 10 feet.

F. Yards on interior lots for nondwelling structures.

- (1) Front yards. No part of any nondwelling structure shall extend nearer to the street line than 25 feet or nearer to the center line of the street than 40 feet, whichever distance requires a greater setback from the street line. However, when a nondwelling use is also located within one of the historic district overlays, the front setbacks shall maintain the build-to-line that currently exists either by emulating the setbacks of structures immediately adjacent or from an average of setbacks along the block.
- (2) Rear yards. There shall be a rear yard of not less than five feet, except that, in the case of a through lot, the front yard requirements specified in Subsection F(1) shall be observed on both streets.
- (3) Side yards. Unless otherwise specified, each nondwelling structure shall have two side yards with a total width of not less than 50 feet. The width of the narrower of the two side yards shall not be less than five feet.

G. Yards on corner lots for nondwelling structures. In the case of a corner lot, both yards abutting streets shall be considered front yards and shall be determined as provided in Subsection F(1). In addition, there shall be a rear yard with a minimum width of five feet and a side yard with a minimum width of five feet.

H. Height.

- (1) Dwelling buildings or structures. Thirty-five Feet (35').
 - (2) Nondwelling structure. Thirty-five feet (35') for the principal structure. Accessory structures shall not exceed 20 feet. For each foot that a nondwelling structure exceeds 20 feet in height, such structure shall be offset four feet from the property lines, in addition to the applicable yard requirements.
- I. Coverage. The maximum coverage of lots as defined herein shall be 30%. Such coverage may be increased to 30% with a Special Permit.

§ 120-24. Location and Dimensions of driveways.

No driveway, as measured from its edge, shall intersect a street line less than 50 feet from the intersection of any two street lines. Driveways shall be no more than 18 feet wide for residential uses and 26' for commercial uses. Commercial uses 1) may have not more than two driveways or accessways from the main street or highway it fronts and 2) a maximum of 25% of the frontage shall be used as a driveway. For corner lots, both sides of the street frontage shall be considered front yards. Commercial uses on corner lots shall have a maximum of two driveways.

§ 120-25. Cluster or large-scale development.

- A. Major subdivisions proposed within the R10,000 are encouraged to and may be designed as a clustered subdivision to maximize the amount of open space preserved and to emulate traditional small, lot village neighborhoods. The Planning Board is further authorized to require a clustered subdivision when proposed on a parcel where the Land Conservation Overlay is present and when, in the Boards' opinion, a clustered subdivision would benefit the village by the further preservation of open lands contained within the LC Overlay District.
- B. The Planning Board may waive the lot size, frontage, lot coverage and other heretofore-established front, side and rear yard requirements to create a clustered development pursuant to State Village Law 7-738, provided that:
 - (1) The net land area per dwelling unit in a development as defined herein is 1/2 acre. A clustered development shall result in a permitted number of building lots or dwelling units which shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the zoning law applicable to the R10,000 district.
 - (2) The minimum distance between any two buildings or structures shall not

be less than 25 feet.

- (3) The Planning Board, as a condition of approval, may establish such conditions on the ownership, use, and maintenance of such preserved open lands shown on the plat as it deems necessary to assure the preservation of the natural and scenic qualities of such open lands.
- (4) The proposed cluster development shall be subject to review at a public hearing.
- (5) The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in this zoning law.
- (7) All the subdivision procedures pursuant to the Village of Nassau Subdivision Law shall be followed.
- (8) A stormwater pollution protection plan (SWPPP) shall be prepared and submitted for review to the Planning Board pursuant to New York State Department of Environmental Conservation regulations (SPDES General Permit GP-0-15-00-2) to ensure that no development will adversely impact wetlands, streams, or increase erosion or sedimentation.

D. The clustered subdivision shall be designed to preserve at a minimum, all the lands of the parcel contained within the LC Overlay District.

- (1) Upon approval of a clustered development, the Planning Board shall file the plan with the Village Clerk, and if a subdivision, with the office of the County Clerk.

E. (2) Upon approval of a clustered development, the Planning Board shall file the plan with the Village Clerk, and if a subdivision, with the office of the County Clerk.

ARTICLE VII Single- and Multifamily Residential District R3,500

§ 120-26. Compliance required.

- A. Except as otherwise provided by this chapter, no building or structure or land shall be used nor shall any building or structure be built or altered in a Single- and Multifamily Residential District R3,500, except for the purposes specified in the following sections. Any use not listed as a permitted use, permitted accessory use, specially permitted use, or use requiring site plan approval shall be deemed to be prohibited.
- B. Any alterations within an historic district or to an historic building shall also be done pursuant to Chapter 73, Historic Preservation, of the Code of the Village of Nassau, New York.

§ 120-27. Permitted principal uses.

In a Single- and Multifamily Residential District R3,500, permitted principal uses, buildings and other structures shall be as follows:

- A. Dwelling, one-family.
- B. Dwelling, row or townhouse.
- C. Dwelling, semidetached.
- D. Dwelling, two-family.
- E. Hotel, residential.
- F. Playground.
- G. Post office.
- H. School, elementary.
- I. School, secondary.
- J. School, nursery.

§ 120-28. Permitted accessory uses.

In a Single- and Multifamily Residential District R3,500, permitted accessory uses, buildings and other structures shall be as follows:

- A. Accessory use of a building as defined herein.
- B. In a one-family dwelling: the keeping of not more than two transient roomers and boarders.
- C. Between the yards of a one-family dwelling:

- (1) Outdoor storage of not more than one of each of the following: a boat, boat trailer, camp trailer or cargo trailer, each of which shall be owned for personal use by a person visiting or residing on the premises.
 - (2) Between the yards of a one-family dwelling, two-family dwelling, semidetached dwelling, multifamily dwelling, row or townhouse dwelling or residential hotel: garages or open parking for operative passenger vehicles of persons visiting or residing on the premises.
 - (3) Between the yards of a one-family dwelling: a playhouse, tool house or garden house.
 - (4) Between the yards of a one-family dwelling: a private swimming pool not operated for gain, subject to the additional provisions of § 120-68.
- D. Off-street parking for commercial vehicles while loading and unloading as required by § 120-64.
 - E. Off-street parking and automobile storage space as required by § 120-63.
 - F. Signs as permitted by § 120-66.
 - G. Temporary structures as permitted by § 120-69.
 - H. Fences and hedges as permitted by § 120-59.

§ 120-29. Special permit uses and Site Plan Review Approval.

Special Permit Uses: Uses for which the Planning Board may issue a special permit in accordance with the provisions of Article XI shall be as follows. All uses requiring a special use permit shall also require site plan approval from the Planning Board.:

- A. Creation of an accessory apartment (greater than 600 sf in size and with additional parking), within a single-family dwelling or within an accessory structure to a single-family dwelling. (See Section 120-28 and 120-57)
- B. Boardinghouse and/or rooming house.
- C. Bus passenger shelter, for which the Board of Appeals may waive the provisions of § 120-30.
- D. Clinic, dental.
- E. Clinic, medical.
- F. Clubhouse.
- G. Electric substation or gas district governor station.
- H. Hospital on a site of not less than three acres.
- I. Nursing or convalescent home.
- J. Office, professional.
- K. Playground.
- L. Private or commercial automobile parking lot on land directly abutting a business district at the side or rear, provided that no part of such lot extends more than 400 feet beyond the boundary line of such business district or

extends into a front yard or extends closer to the side line of the lot than 50 feet, and provided that, wherever abutting on other than commercial property, the parking lot is to be densely planted with trees and shrubs for a depth of not less than 25 feet.

- M. Public use.
- N. Tourist home.

Site Plan Review and Approval: The following uses shall be reviewed through the Site Plan Approval Process (Article XII).

- A. Church or parish house.
- B. New structures for multi-family dwelling.
- C. Conversion of a single-family dwelling into a multi-family dwelling.

§ 120-30. Area, yard, coverage and height provisions.

In a Single- and Multifamily Residential District R3,500, area, yard, coverage and height provisions shall be as follows:

- A. General. The area, yard, coverage and height provisions established by this section apply to all permitted uses in R3,500 Districts for which special criteria are not established elsewhere in this chapter.
- B. Area.
 - (1) Area per establishment. The minimum area per establishment as defined herein shall be 1/2 acre.
 - (2) Area per single-family, two-family or semidetached dwelling. The minimum lot area per two-family or semidetached dwelling as defined herein shall be 1/2 acre.
 - (3) Area per dwelling unit for multifamily, row or townhouse dwellings. The minimum lot area per dwelling unit for a multifamily, row or townhouse dwelling of three or more dwelling units shall be 20,000 square feet plus 3,500 square feet per dwelling unit for any dwelling units in excess of two.
- C. Lot dimensions.
 - (1) Interior lots. The minimum width of an interior lot as defined herein at the front building line shall be 60 feet.
 - (2) Corner lots. The minimum width of a corner lot as defined herein at the building line parallel to the street considered to be the front street shall be 60 feet.
- D. Yards on interior lots for dwelling structures.
 - (1) Front yards. No part of any dwelling building or structure shall extend nearer to the street line than 25 feet or nearer to the center line of the

street than 40 feet, whichever distance requires the greater setback from the street line. However, when a use is also located within one of the historic district overlays, the front setbacks shall maintain the build-to-line that currently exists either by emulating the setbacks of structures immediately adjacent or from an average of setbacks along the block.

(2) Rear yards. There shall be a rear yard of not less than 25 feet.

(3) Side yards.

(a) Single-family dwellings. There shall be two side yards with a total width of not less than 30 feet for a single-family dwelling located on an interior lot. The minimum width of any side yard shall not be less than 10 feet.

(b) Two-family dwellings. There shall be two side yards with a total width of not less than 30 feet for a two-family dwelling located on an interior lot. The minimum width of any side yard shall not be less than 10 feet.

(c) Semidetached dwellings. There shall be one side yard of not less than 15 feet for each semidetached dwelling located on an interior lot.

(d) Multifamily dwellings or residential hotels of three or more dwelling units. There shall be two side yards having a total width of not less than 36 feet plus six additional feet for each dwelling unit in excess of three contained in the building for multifamily dwelling buildings or residential hotels located on interior lots. The width of the narrower of the two side yards shall not be less than 1/3 of the total width of the two side yards. However, any side yard in excess of 60 feet accumulated under the above schedule may be applied as additional width for one or more outer courts which, to start with, are not less than 35 feet wide or 35 feet deep.

(e) Row or townhouse dwellings. There shall be two side yards per group of row or townhouse dwellings, having a total width of not less than 36 feet plus six additional feet for each dwelling in excess of three included in the group or row located on an interior lot. The total width of the two side yards shall be equally distributed between the two side yards.

E. Yards on corner lots for dwelling structures. In the case of a corner lot, both yards abutting streets shall be considered front yards and shall be determined as provided in Subsection D(1). In addition, there shall be one rear yard with a minimum width of 25 feet and one minimum side yard specified for the class of dwelling building to be located on the corner lot as specified in Subsection D(3).

F. Yards on interior lots for nondwelling structures.

- (1) Front yards. No part of any nondwelling structure shall extend nearer to the street line than 25 feet or nearer to the center line of the street than 45 feet, whichever distance requires the greater setback from the street line.
- (2) Rear yards. There shall be a rear yard of not less than five feet, except that, in the case of a through lot, the front yard requirement specified in Subsection F(1) shall be observed on both streets.
- (3) Side yards. Unless otherwise specified, each nondwelling structure shall have two side yards with a total width of not less than 30 feet. The width of the narrower of the two side yards shall not be less than five feet.

G. Yards on corner lots for nondwelling structures. In the case of a corner lot, both yards abutting streets shall be considered front yards and shall be determined as provided in Subsection F(1). In addition, there shall be a rear yard with a minimum width of 25 feet and a side yard with a minimum width of five feet.

H. Height.

- (1) Dwelling buildings or structures thirty-five feet for principal structures and 20' for accessory structures.

Nondwelling structure thirty-five feet for principal structures and 20' for accessory structures. s as defined shall be 40%.

§ 120-31. Location of driveways.

No driveway, as measured from its edge, shall intersect a street line less than 50 feet from the intersection of any two street lines. Driveways shall be no more than 18 feet wide for residential uses and 26' for commercial uses. Commercial uses 1) may have not more than two driveways or accessways from the main street or highway it fronts and 2) a maximum of 25% of the frontage shall be used as a driveway. For corner lots, both sides of the street frontage shall be considered front yards. Commercial uses on corner lots shall have a maximum of two driveways. § 120-32. Cluster or large-scale development.

- A. Major subdivisions or large developments proposed within the R3,500 district are encouraged to and may be designed as a clustered subdivision to maximize the amount of open space preserved and to emulate traditional small, lot village neighborhoods. The Planning Board is further authorized to require a clustered subdivision when proposed on a parcel where the Land Conservation Overlay is present and when, in the Boards' opinion, a clustered subdivision would benefit the village by the further preservation of open lands contained within the LC Overlay District.
- B. The Planning Board may waive the lot size, frontage, lot coverage and other heretofore-established front, side and rear yard requirements to create a clustered development pursuant to State Village Law 7-738, provided that:

- (1) The net land area per dwelling unit in a development as defined herein is 1/2 acre. A clustered development shall result in a permitted number of building lots or dwelling units which shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the zoning law applicable to the R3,500 district.
- (2) The minimum distance between any two buildings or structures shall not be less than 25 feet.
- (3) The Planning Board, as a condition of approval, may establish such conditions on the ownership, use, and maintenance of such preserved open lands shown on the plat as it deems necessary to assure the preservation of the natural and scenic qualities of such open lands.
- (4) The proposed cluster development shall be subject to review at a public hearing.
- (5) The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in this zoning law.
- (6) All the subdivision procedures pursuant to the Village of Nassau Subdivision Law shall be followed.
- (7) A stormwater pollution protection plan (SWPPP) shall be prepared and submitted for review to the Planning Board pursuant to New York State Department of Environmental Conservation regulations (SPDES General Permit GP-0-15-00-2) to ensure that no development will adversely impact wetlands, streams, or increase erosion or sedimentation.
 - (a) The clustered subdivision shall be designed to preserve at a minimum, all the lands of the parcel contained within the LC Overlay District. Upon approval of a clustered development, the Planning Board shall file the plan with the Village Clerk, and if a subdivision, with the office of the County Clerk.

ARTICLE VIII General Business DistrictGB

§ 120-33. Compliance required.

- A. Except as otherwise provided by this chapter, no building or structure or land shall be used nor shall any building or structure be built or altered in a General Business District GB, except for the purposes specified in the following sections. Any use not listed as a permitted use, permitted accessory use, specially permitted use, or use requiring site plan approval shall be deemed to be prohibited.
- B. Any alterations within an historic district or to an historic building shall also be done pursuant to Chapter 73, Historic Preservation, of the Code of the Village of Nassau, New York.

§ 120-34. Permitted principal uses.

In a General Business District GB, site plan review and approval by the Planning Board shall be required whenever one use in the following list is changed to another use in this list. Whenever a change in use occurs from one included in this list to one in 120-36, both special use permit and site plan approval from the Planning Board shall be required. Where there is no change of use, and no change to the lot configuration, exterior (except for routine maintenance) facade, or changes to parking lot, signage, lighting or other site features, the use can continue as a permitted use. However, any change in lot configuration, exterior facade (except for routine maintenance), parking lot, signage, lighting, or other site features, a new site plan review and approval by the Planning Board shall be required. All uses must meet all sidewalk, parking, signage, access, water and septic, and other development standards as required by this zoning law and other local, county or state requirements. Commercial design standards of Section 120-38.1 shall be required for all uses requiring site plan review or a special use permit.

- A. Retail store.
- B. Bank or financial establishment.
- C. Boardinghouse and/or rooming house.
- D. Bus passenger shelter.
- E. Clinic, dental.
- F. Clinic, medical.
- G. Clubhouse.
- H. Eating and drinking establishment/restaurant.
- I. Electric substation.
- J. Funeral home.
- K. Hotel.
- I. Insurance carriers, agents, brokers and services.

- M Legal services.
- N Library.
- Q Medical and other health services.
- P Mixed Use having residential in upper floors and commercial on ground floor.
- Q Motel, subject to the additional provisions of § 120-61.
- R Office, business.
- S BB. Office, professional.
- T Personal service establishment.
- U DD. Place of assembly.
- V. Post office.
- W. Real estate establishment.
- X. Security and commodity brokers, dealers and services.
- Y. Theater.
- Z. Tourist home.
- AA. Dance Studio
- BB. Music Studio
- CC. Production Studio/Company
- DD. Performing Arts Center

§ 120-35. Permitted accessory uses.

In a General Business District GB, permitted accessory uses, buildings and other structures shall be as follows:

- A. Accessory buildings and structures customarily associated with the principal permitted use.
- B. Off-street parking for commercial vehicles while loading and unloading as required by § 120-64.
- C. Off-street parking and automobile storage space as required by § 120-63.
- D. Signs as permitted by § 120-66.
- E. Temporary structures as permitted by § 120-69. Fences and hedges as permitted by § 120-59.

§ 120-36. Special permit uses.

Special Permit Uses: In a General Business District GB, uses for which the Planning Board may issue a special permit in accordance with the provisions of Article XI shall be as follows. All uses requiring a special use permit shall also require site plan approval from the Planning Board.

- A. Automobile sales area.
- B. Bar or tavern.
- C. Bowling alley or similar recreational establishment entirely enclosed within a building.
- D. Drive-in business other than a drive-in theater, subject to the additional provisions of § 120-55.

- E. Game room, amusement and recreation services.
- F. Garage, public, subject to the additional provisions of § 120-65.
- G. Hospital, including nursing home.
- H. Laundry dry cleaners, coin-operated.
- I. Light industrial.
- J. Miscellaneous repair services.
- K. Miscellaneous retail store, including the making of articles to be sold at retail on the premises, provided that any such manufacturing or processing shall be incidental to a retail business, and not more than five persons shall be employed in such manufacturing or processing.
- L. Motor vehicle service station, subject to the additional provisions of

§ 120-65.

- A. Nursing or convalescent home.
- B. Transportation terminal.
- C. Warehouse.
- D. Wholesale business.

Site Plan Review and Approval:

- A. Church or parish house.

§ 120-37. Bulk, coverage and yard provisions.

In a General Business District GB, bulk, coverage and yard provisions shall be as follows:

- A. Coverage. The maximum lot coverage permitted shall be 70% of the land area as defined herein provided all stormwater, drainage and septic system development and siting standards as required by the Village, County or State are met.
- B. Yards.
 - (1) Front yards. The minimum front yard setback shall be 10 feet and the maximum front yard setback shall be 25 feet. However, all buildings located in an historic district overlay shall be located so as to conform with all front yard setbacks of the abutting lots.
 - (2) Rear yards. There shall be a rear yard of not less than 30 feet, except that, in the case of a through lot, the front yard requirement specified in Subsection C (1) shall be observed on both streets.
 - (3) Side yards. Unless otherwise specified, each structure shall have two side yards with a total width of not less than 30 feet. The width of the narrower yards of the two sides shall not be less than five feet.
 - (4) All buildings and structures constructed on lots which abut nonbusiness districts shall be so located as to conform, in respect to the abutting yard width, to the side or rear yard requirements, as the case may be, for the district against which the lot abuts.

- C. Area. The area per establishment as herein defined shall be 1/2 acre.
- D. Height. Forty feet (40') for principal structure and 20' for accessory structure.
- E. Corner lots. All buildings and structures on corner lots shall conform to § 120-62.
- F. Mixed Use Buildings. No residential use is allowed on the first floor.
- G. The maximum size of an individual structure in the GB district shall be 5,000 sf.

§ 120-38. Location of driveways.

No driveway, as measured from its edge, shall intersect a street line less than 50 feet from the intersection of any street lines. Driveways shall be no more than 18 feet wide for residential uses and 26' for commercial uses. Commercial uses 1) may have not more than two driveways or accessways from the main street or highway it fronts and 2) a maximum of 25% of the frontage shall be used as a driveway. For corner lots, both sides of the street frontage shall be considered front yards. Commercial uses on corner lots shall have a maximum of two driveways.

§ 120-38.1. Commercial Design Standards

- A. The following design standards shall be met for all newly built commercial structures in any district:
 - (1) Sidewalks and Curbs. The pedestrian system must connect buildings to one another, to parking areas, and to public streets and sidewalks.
 - (2) Sidewalks and curbing shall be required along the frontage of any parcel within the GB District. Where sidewalks and curbs exist, but are cracked or in disrepair, new sidewalks and curbs shall be required.
 - (3) Parking Areas. The following standards shall be incorporated into the design, to the extent practical and consistent with parcel size and footprint of the structure:
 - (a) All parking shall be placed to the side or rear of the principal building
 - (b) Parking lot layout shall take into consideration pedestrian circulation. Where necessary and appropriate, crosswalks shall be provided for and be distinguished by textured paving and integrated into the larger pedestrian network.

- (c) Minimize the number of off-street parking spaces to the minimum necessary to adequately serve the intended use.
 - (d) Cross-easements between two commercial parcels can be used to provide shared access to parking to the maximum extent practical.
- (4) Lighting. Lighting poles shall be post style, with a maximum height of 18'. All luminaires shall be full-cut off and shielded to direct light downwards. Non-color corrected low-pressure sodium and mercury vapor light sources are prohibited. Glare beyond the property lines shall be minimized. The Planning Board may require a lighting plan to illustrate light levels at property lines. Lighting fixtures attached to the exterior of a building shall be architecturally compatible with the style, materials, colors and details of the building.
- (5) Buildings and Lot Layout.
- (a) All dumpster or trash receptacles shall be placed to the rear of a principal structure or if lot configuration is such that rear access is not feasible, in the side yard provided it is set back the farthest possible distance from the frontage.
 - (b) All facades shall be parallel to the frontage line.
 - (c) Where a mix of residential and commercial uses is allowed in one structure, residential uses shall be placed to the rear or upstairs of the commercial use. All ground floor spaces facing the frontage shall be the commercial use.
 - (d) Low impact development (LID) for stormwater management shall be incorporated to the maximum extent feasible and shall use the New York State Stormwater Management Design Manual, and in particular, Chapter 5 (Green Infrastructure Practices), Section 5.1 (Planning for Green Infrastructure: Preservation of Natural Features and Conservation Design).
- (6) Signs. All sign requirements of 120-66 shall be met. Signs affixed to the exterior of a building shall be architecturally compatible with the style, composition, materials, colors and details of the building.
- (7) Building Design. Buildings shall generally relate in scale and design features to the local context of the surrounding buildings. New buildings in the historic overlay district should be designed in a manner consistent with the general architectural features of such existing structures in terms of form, materials, and fenestration and roof shape. Trademarked architecture shall be made compatible with the existing architecture of the district and shall meet all other commercial design standards of this section.
- (a) There shall be no blank and windowless walls along any frontage. The Planning Board can evaluate the design treatments of all sides

of the proposed structure during site plan review.

- (b) Buildings shall be located to front towards and relate to public streets, both functionally and visually to the greatest extent feasible.
- (c) Dead-flat roofs are generally inconsistent with the existing character of the Village and should be avoided. Where the size or type of the building requires a flat roof, other architectural features shall screen or disguise the flatness of the roof.
- (d) All HVAC, stacks, pipes, and other utility structures shall be screened from view from the street and from adjacent properties.
- (e) Where drive through facilities are allowed, they shall be located at the side or rear of buildings and landscaping should be used to reduce the visibility of such facilities.

ARTICLE IX Land Conservation District Overlay LC

§ 120-39. Compliance required.

- A. Except as otherwise provided by this chapter, no building or structure or land shall be used nor shall any building or structure be built or altered in a Land Conservation District LC, except for the purposes specified in the following sections.
- B. Any alterations within an historic district or to an historic building shall also be done pursuant to Chapter 73, Historic Preservation, of the Code of the Village of Nassau, New York.

§ 120-40. Permitted principal uses.

In a Land Conservation Overlay District LC, permitted principal uses, buildings and other structures shall be as follows:

- A. Agriculture.
- B. Nature trail.
- C. Parks, public and private.
- D. Playgrounds.
- E. Public uses.
- F. Public utilities installations, including electric transmission lines.
- G. Wildlife preserves.

§ 120-41. Permitted accessory uses.

In a Land Conservation Overlay District LC, permitted accessory uses, buildings and other structures shall be as follows:

- A. Accessory buildings and structures customarily associated with the principal permitted uses.
- B. Off-street parking for commercial vehicles while loading and unloading as required by § 120-64.
- C. Off-street parking and automobile storage as required by § 120-63.
- D. Signs as permitted by § 120-66
- E. Temporary structures as permitted by § 120-69.
- F. Fences and hedges as permitted by § 120-59.

§ 120-41.1. Site Plan Review and Special permit uses. [Added 10-13-1999 by L.L. No. 2-1999]

In a Land Conservation Overlay District LC, uses for which the Board of Appeals may issue a special permit in accordance with the provisions of Article XI shall be as follows:

- A. Site Plan Review
 - Church.
- B. Special Use Permit
 - School: elementary, secondary.

§ 120-42. Area, yard, height and coverage requirements.

In a Land Conservation District LC, area, yard, height and coverage requirements shall be as follows:

- A. General. The area, yard, coverage and height provisions established by this section apply to all permitted uses in Land Conservation Overlay District LC for which special criteria are not established elsewhere in this chapter.
- B. Area per establishment. Except as otherwise specified, the minimum area per establishment shall be one acre.
- C. Front yards. There shall be a front yard of not less than 80 feet in depth, into which space there shall be no encroachment of building construction or automobile parking.
- D. Side and rear yards. No building or structure or automobile parking space shall be placed closer to a side or rear property line than 50 feet.
- E. Height. Thirty-five feet for principal structures and 20' for accessory structures.
- F. Coverage. The maximum coverage permitted shall be 10%.

§ 120-43. Location of driveways.

No driveway, as measured at its edge, shall intersect a street line less than 50 feet from the intersection of any two street lines. There shall be a maximum of one driveway per parcel.

ARTICLE X Planned Development District PD

§ 120-44. Purpose.

- A. The purpose of the planned unit development classification is to provide for the rezoning of land to senior housing or handicapped housing developments, residential and/or commercial uses, either jointly or separately, in conformance with provisions and standards which ensure compatibility among all the land uses, foster innovations in site planning and development and encourage sound design practices. Provision is included for Planned Development Districts to permit establishment of areas in which diverse uses may be brought together in a compatible and unified plan of development which shall be in the interest of the general welfare of the public. In planned unit developments, land and structures may be constructed and used for any lawful purpose in accordance with the provisions set forth herein.
- B. Except as otherwise provided by this chapter, no building or structure or land shall be used nor shall any building or structure be built or altered in a Planned Development District PD, except for the purposes specified in the following sections.
- C. Any alterations within an historic district or to an historic building shall also be done pursuant to Chapter 73, Historic Preservation, of the Code of the Village of Nassau, New York.

§ 120-45. Permitted uses; standards.

In a Planned Development District PD, permitted uses, buildings and other structures shall be as follows:

- A. General. Provision for Planned Development Districts is included herein to permit the establishment of areas in which diverse uses may be brought together in a unified plan of development. In Planned Development Districts, land and buildings may be used for any purpose, residential or commercial as permitted elsewhere in this chapter when approved of by the Village Board as per 120-46.
- B. Size of district. The minimum size of a Planned Development District shall be 25 acres, except however, an application for a senior housing or handicapped person housing development shall have a minimum lot size of six acres.
- C. Standards. The standards for specific uses of land and buildings shall be those established in Articles V, VI, VII, VIII and IX. In the instance of a use of land or buildings permitted in two or more districts, the lowest standard (i.e., the smallest lot size, setback, etc.) may be applied.

D. Standards for Senior or Handicapped Housing shall be:

- 1) The total building area, including accessory buildings, shall not occupy more than 40% of the total lot area. Accessory buildings shall not occupy more than 5% of the total lot area.
- 2) The maximum density shall be four dwelling units per acre.
- 3) The minimum habitable space shall be 600 square feet for apartment units and 650 square feet for single-family attached dwellings. Each dwelling unit shall contain at least one bedroom.
- 4) Building height shall not exceed 20 feet.
- 5) Buildings or portions thereof shall be set back from property lines a minimum of 50 feet in front and 50 feet in the side and rear yards.
- 6) Driveways and interior roadways shall not be closer than 20 feet from the property lines except for entrances and exits.
- 7) Parking area location shall be approved by the Planning Board of the Village of Nassau as part of its site plan review.
- 8) On-site parking shall be provided at a rate of not less than 1 1/2 parking spaces for each unit.
- 9) A minimum of 10% of the parking area shall be landscaped with trees, grass, shrubs or other planting material. A complete landscaping plan indicating all proposed planting shall be part of the site plan review process.
- 10) Site plan review and approval by the Village Planning Board as provided by Article XII of Chapter 120 of the Village Code shall be required.
- 11) No business or commercial establishments shall be permitted, except coin-operated vending and/or service machines, for the benefit of the tenants with a total area thereof not to exceed 500 square feet.
- 12) Additional site development programs may be directed by the Village Board and/or its designee for any specific site and may be required to be formalized as deed covenants and restrictions.
- 13) Twenty-five percent of the site shall be green space.
- 14)

§ 120-45.1. Special permit uses. [Added 10-13-1999 by L.L. No. 2-1999]

The Village Board may determine that some uses proposed within a Planned Development District may be desirable, but that have characteristics that may make it harder to fit in and be consistent with surrounding land uses. In such a case, the Village Board may designate one or more uses proposed within a Planned

Development District to require a special use permit and/or site plan review from the Planning Board prior to final approval pursuant to the process of 120-46.

§ 120-46. Establishment procedure.

The procedure for establishment of a Planned Development District shall be as follows:

- A. **Application.** Application for the establishment of a Planned Development District shall be made to the Board of Trustees. This application shall include seven copies of the following sketch plan information developed to scale and shall delineate the parcel(s) to be developed and the following elements:
 - (1) Sketch plan based upon generalized topographical data (USGS five-foot contour interval) and soil conditions; said plan to show land use areas, approximate building locations, easements, natural features to be preserved, data concerning the number and type of residential units proposed and the amount (in area) of any other uses to be built.
 - (2) Sketch plan to show proposed traffic circulation, including existing public roads to be used, on-site circulation and/or approximate parking and loading.
 - (3) Schematic of proposed landscape and open space plan.
 - (4) Sketches of typical structures proposed.
 - (5) Proposed public utilities concept plan, including water supply, wastewater disposal and storm drainage facilities to be constructed.
 - (6) Proposed construction sequence for buildings, recreation and open spaces, parking areas and public utilities and roads.
 - (7) Project narrative. A narrative description of the proposed project is required, addressing its scope of operation, purpose, justification and impact on the immediate area of influence and the Village in general (school, traffic generation, population, utilities aesthetics and land use compatibility) and including the following:
 - (a) Address of site (street and number, Tax Map block and section).
 - (b) Name of applicant.
 - (c) Type of proposed tenant/business.
 - (d) Site zoning.
 - (e) Description of existing site and use.
 - (f) Description of intended site development and use.

- (g) Proposed gross floor area.
- (h) Building heights.
- (i) Number of dwelling units, where applicable.
- (j) Number of employees.
- (k) Hours and days of operation.
- (l) Proposed number of parking lots.
- (m) Site coverage statistics (building coverage, paved areas, green area, by percentage of site and square footage).
- (n) Impact on adjoining property: noise, visual, drainage, other.
- (o) Anticipated impact on services (quantify and discuss impacts): traffic, sewer, water, solid waste.
- (p) Storage and disposal method of chemicals used (solvents, soaps, etc.).
- (q) Any other information that the Planning Board may deem necessary for its review of the application.

- B. Referral to Planning Board. If the Village Board determines that the application does not merit review because it does not meet the objective of this chapter and/or the Village Comprehensive Plan, it shall so notify the applicant, shall not refer the application to the Planning Board, and no further action on the application shall be taken. If the Village Board determines that the application does merit Planning Board review, the application, plus an additional 7 copies of the sketch plan and narrative as per sub-section (A) above along with 7 copies of a completed Part I Full Environmental Assessment Form shall be provided to the Planning Board.
- C. The Planning Board shall review the application with the owner to determine if it meets the standards of this section. The Planning Board may require additional changes to the sketch plan as are deemed reasonably necessary to protect the established or permitted uses in the vicinity and to promote the orderly growth and sound development of the Village pursuant to this Section. The Planning Board shall initiate a coordinated review as per SEQR Part 617, and unless such coordinated review identifies another non-Village agency interested in being lead agency, shall take on the lead agency role for the purposes of SEQR.
- D. Only after the receipt of an advisory report from the Village Planning Board, or not less than 120 days after such referral in the event of the Planning Board's failure to act, may the Board of Trustees consider the application for a Planned Development District.
- E. Requirements of Planning Board. The Planning Board may require the

applicant to furnish such preliminary drawings and specifications as may be required for an understanding of the proposed development. In addition to the standards of § 120-45D, the Planning Board shall consider, among other things, the need for the proposed use in the proposed location, the existing character of the neighborhood in which the Planned Development District is proposed, and the safeguards needed to minimize possible detrimental effects of the proposed Planned Development District on adjacent property. In reaching its favorable or unfavorable decision on the proposed development and changes, if any, in the sketch plan, the Planning Board shall consider the following:

- (1) The need for the proposed land use in the proposed location.
- (2) The existing character of the neighborhood in which the uses will be located.
- (3) The pedestrian circulation and open space in relation to structures.
- (4) The traffic circulation features within the site and the amount, location and access to automobile parking areas; the impact of the proposal on existing transportation systems.
- (5) The adequacy of the proposed public/private utilities, including water supply, sewage treatment and stormwater drainage facilities. The project shall minimize impervious surfaces.
- (6) The height and bulk of buildings and their relation to other structures in the vicinity.
- (7) The proposed location, type and size of display signs, driveways and/or loading zones and landscaping.
- (8) The safeguards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general.
- (9) Such other matters as the Planning Board may consider pertinent.

F. Approval of Planning Board. Within 60 days of the referral, the Planning Board shall approve, approve with modifications or disapprove such application and shall report its decision to the Board of Trustees.

G. Action by Board of Trustees. Upon receipt of a report from the Planning Board, or in not less than 60 days after referral of the request for the establishment of a Planned Development District to the Planning Board in the event of the Planning Board's failure to act, the Board of Trustees shall arrange for a public hearing as required by § 7-708 of the Village Law for a change in the Zoning Law to create the Planned Development District.

H. The Board of Trustees shall refer the proposed planned development to Rensselaer County pursuant to GML 239-m prior to any final decision.

I. The Board of Trustees shall conduct an environmental review pursuant to

SEQR, NYCRR Part 617.

- J. No final decision on the PD application shall be made until either a decision from the County is received or 30 days have passed. Upon completion of County Review, SEQR and public hearing, the Board of Trustees may amend the Zoning Law and map so as to create the Planned Development District.
- K. The Village Board may attach to its zoning resolution any additional conditions or requirements it feels are necessary to fully protect the public health, safety and welfare of the community. The Village Board shall also identify uses which may be permitted by right or by special permit, density, and other requirements. Any conditions imposed by the Village Board shall run with the land and shall not lapse or be waived as a result of any subsequent change in the tenancy or ownership of any or all of said area.
- L. The law adopted by the Village Board will specify the owner's obligation to secure subdivision approval and/or site plan approval in accordance with the Village Code. Subsequent to the Village Board's decision to create the PD, the applicant shall submit appropriate applications to the Planning Board to conduct necessary subdivision, site plan and special use reviews.
- M. All costs related to the review of the development project including but not limited to engineering, legal, planning, and architecture shall be borne by the applicant. The Village Board shall require payment by the applicant of an amount equal to the estimated cost of such professional fees to be held in escrow by the Village, which estimated cost shall be paid prior to the Village incurring any professional costs.
- N. Effect of Board of Trustees approval of Planned Development District. The effect of the granting of permission for the establishment of the Planned Development District by the Board of Trustees shall be limited to the specific proposal presented for approval within the area designated and according to the plans and specifications submitted. If, after the passage of one year from the date of approval of a Planned Development District, construction has not started, the approval given under the terms of Subsection E is revoked and the land returned to the classification which it held prior to any action consummated pursuant to the provisions of Subsection E.

ARTICLE XI Special Permits

§ 120-47. Procedures.

- A. Application to the Code Enforcement Officer. As provided by § 120-79, application for a permit shall be made to the Code Enforcement Officer prior to the commencement of any excavation, grading, or clearing, or the construction of any building or structure or the use of land. If, upon receipt of such application, the Code Enforcement Officer determines that the excavation, construction or use of land for which the application is made requires the issuance of a special permit, he/she shall, within 15 days of its receipt, forward the application to the Planning Board for review and approval of a special permit.
- B. Application for Area Variance. Where a proposed Special Permit contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance without the necessity of a decision or determination of the CEO.
- C. Conditions. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special permit. Upon its granting of the special permit, any such conditions must be met in connection with the issuance of permits by the CEO.
- D. Waiver of Requirements. The Planning Board may, when reasonable, waive any requirements for the approval, approval with modifications, or disapproval of special permits submitted for approval. Any such waiver may be allowed only when such requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular special permit applications.
- E. Public Hearing. The Planning Board shall hold a public hearing within sixty-two days from the day an application is received on any matter referred to it under this section. Public notice for the hearing shall be printed in a newspaper of general circulation in the Village at least five days prior to the date of such hearing. The Planning Board shall decide upon the application within sixty-two days after the hearing. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Board.
- F. Notice to Application and County Planning Board. At least ten days before any hearing, the Planning Board shall mail notices of the hearing to the applicant and to the Rensselaer County Planning Board or agency, as required by General Municipal Law Section 239-m. The notice for this referral shall be accompanied by a full statement of the application under consideration, as defined in GML 239-m. If the Rensselaer County Planning

Board fails to report within 30 days after receipt of a full statement of such referred material, the Planning Board may act without such report. If the Rensselaer County Planning Board disapproves the proposal or recommends modifications thereof, the Planning Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution setting forth the reasons for the contrary action. The Board shall file a report of their final action taken with the County Planning Board within thirty days after its decision has been made.

- G. SEQR. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the ECL and its implementing regulations.
- H. Court Review. Any person aggrieved by a decision of the Planning Board may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice law and rules. Such proceedings shall be instituted within thirty days after the filing of a decision by the Planning Board in the office of the Village Clerk. The court may take evidence or appoint a referee to take such evidence as it may direct, and report the same, with findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter. The court shall itself dispose of the matter on the merits, determining all questions which may be presented for determination.
- I. Costs. Costs shall not be allowed against the Planning Board or other administrative body designated by the Village Board of Trustees unless it shall appear to the court that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from.
- J. Expenses. The applicant shall be responsible for the total cost of environmental reviews determined to be necessary to meet requirements of SEQRA as per 6NYCRR Part 617.13. The Planning Board may also incur other extraordinary expenses to properly review documents or conduct special studies in connection with the proposed application including but not limited to the reasonable costs incurred by the Planning Board for private consultation fees, fees for technical and engineering services, legal fees, or other expenses in connection with the review of a Special Permit application. All reasonable fees shall be charged to the applicant. The Planning Board shall make a reasonable estimate of the amount of expenses that it expects to incur during the course of each application for a Special Permit. The amount so determined by the Planning Board shall be deposited by the applicant in escrow with the Village Clerk prior to the Planning Board's commencing any review of the application. If the amount so deposited is exhausted or diminished to the point that the Planning Board determines that the remaining amount will not be sufficient to complete the review of the application, then the Planning Board shall notify the applicant of the additional amount that must be deposited with the Village Clerk. If the applicant fails to replenish the escrow account or there are unpaid amounts

for which the applicant is responsible the Planning Board, in its discretion, may cease review of the application until such amounts are paid or deny the application. In no event, however, shall any Special Permit be approved until such sums have been paid in full.

- K. Other Permits. The Planning Board shall require proof that all permits required by other agencies have been applied-for prior to final approval. The Planning Board may approve a Special Permit application contingent upon final approval of such application by other agencies. The Code Enforcement Officer shall ensure that all other agency approvals have been received and all conditions required by the Planning Board are met prior to issuing a Building Permit.

§ 120-48. Decisions and Permits

- A. Time of Decision. The Planning Board shall decide upon the Special Permit application within 62 days after the close of the public hearing, subject to compliance with the requirements of SEQRA and the General Municipal Law Sections 239-m. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.
- B. Type of Decision. In rendering its decision, the Planning Board shall approve, disapprove or approve with modifications and conditions the Special Permit application. In authorizing the issuance of a Special Permit, the Planning Board has the authority to impose such reasonable conditions and restrictions as are directly related to, and incidental to, the proposed special use. Upon its granting of said Special Permit, any such conditions must be met before issuance of permits by the Code Enforcement Officer.
- C. Filing. The decision of the Planning Board shall be filed in the office of the Village Clerk within five business days of the date such decision is rendered, and a copy thereof shall be mailed to the applicant.
- D. A Special Permit shall be deemed to authorize only the particular special use or uses permitted. Once a Special Permit has been granted, it shall apply to the approved use on that parcel regardless of ownership provided that such use has no greater impact on adjoining properties, complies with all terms and conditions of the Special Permit, and does not involve new construction, enlargement, exterior alteration of existing structures, increased parking, or other changed use of outdoor areas, or lapses in use.
- E. Lapses and Expiration. Special Permits will expire if the applicant fails to obtain a Building Permit or fails to comply with the conditions of the Special Permit, unless other provisions are set forth by the Planning Board in connection with its approval, three years after approval. A Special Permit will expire if the special use or uses shall cease for more than three years for any reason. If a use subject to an approved Special Permit had been in

continual operation but has since lapsed in operation for more than three years between Planning Board approval and re-initiation of such use, the Planning Board shall require a review of such use prior to reinstatement to ensure that all original conditions of the Special Permit are still valid. In either case, the Planning Board may, after review, reinstate, or reinstate with conditions such lapsed use. Such Planning Board review shall be initiated through action by the Code Enforcement Officer.

- F. **Renewal of Permit.** The Planning Board, as a condition of approval, may require that Special Permits be renewed periodically. When the Planning Board has established such a condition of approval, at least 90 days prior to the expiration of a Special Permit, the applicant shall apply to the Code Enforcement Officer for renewal of the Special Permit. The Code Enforcement Officer shall inspect premises, verify that conditions of the Permit have been met, and renew the permit for a time equal to the original Special Permit. Where the Code Enforcement Officer determines that the applicant has not complied with the Special Permit, permit renewal shall require Planning Board approval.
- G. **Existing Violation.** No Special Permit shall be issued for a property in violation of this Zoning Law unless the granting of a Special Permit and Site Plan approval will result in the correction of the violation.
- H. **Deemed to be Conforming.** Any use for which a Special Permit may be granted shall be deemed a conforming use in the district in which the use is located, provided that the Special Permit shall affect only the lot, or portion thereof, which is the subject of the Special Permit application.
- I. **Expansion of Special Use.** The expansion of any special use shall require amendment and approval of the Special Permit by the Planning Board in accordance with the procedures set forth in this Zoning Law. For purposes of this section, expansion shall be interpreted to mean an increase in the floor or lot area allocated to the special use, an increase in development coverage, increased hours of operation, or an increase in the intensity of the use, e.g., an increase in traffic or need for on-site parking.

120-49. Standards and Factors for Consideration.

- A. **General.** Such special permits may be authorized by the Planning Board only upon satisfaction in each instance of such conditions as to the general character, height and use of the structure or structures; as to the provision of surrounding open space and the treatment of grounds; as to the general fitness of the structure or use to its proposed location; as to the provision for automobile parking or storage; and as to street capacity and use as, in the opinion of the Board, may be necessary to safeguard the public health, comfort and convenience and as may be required for the preservation of the general character of the neighborhood in which such building and/or structure is to be placed or such use is to be conducted. Specifically, the

standards established by Articles V through IX shall be applied as they may be applicable to a specific request for a special permit. To assist the Board of Appeals in its determination, an application for a special permit shall be accompanied by plans and other descriptive matter sufficient to clearly portray the intentions of the applicant, and such plans and other descriptive matter shall become a part of the record. More specifically, the Planning Board shall ensure that the application will accomplish the following objectives:

- (1) Location, arrangement, size, nature, intensity of operations, and design of the special use, including all principal and accessory structures associated with that use, shall be compatible and consistent with the neighborhood in which it is located and with the character of the Village of Nassau as described in the Village's Comprehensive Plan.
- (2) It shall not allow any noise, glare, unsightliness, or other objectionable features that may adversely impact surrounding properties in the district pursuant.
- (3) The proposed use shall not produce dust, smoke, vibration, emissions or discharges that are hazardous to persons, structures, or the environment.
- (4) The proposed use shall protect natural environmental features.
- (5) No proposed specially permitted use will negatively impact traffic and shall have no greater overall impact on the site and its surroundings than would full development of uses of the property permitted by right.
- (6) The special use shall ensure accessibility by fire, police and emergency vehicles and such services shall have sufficient capacity to address any emergency related to such use.
- (7) The special use shall not negatively impact historic or scenic features.
- (8) The special use shall be in harmony with the orderly development of the district and shall not impair the value of other properties in that district.
- (9) The level of municipal and other services supporting the proposed activity or use is or will be available to meet the needs of the proposed activity or use. This consideration shall include the suitability of water supply and sanitary sewage facilities to accommodate the intended use, and protection from pollution of surface water or groundwater.
- (10) The Planning Board may impose additional conditions when approving a special use when deemed necessary to assure continued conformance with the standards and requirements of this Zoning Law. Such conditions shall be directly related and incidental to the proposed Special Use Permit. Further, these conditions shall be able to be responsibly monitored and enforced. The conditions imposed may be related to both structural design and operation of the use (including hours of operation) provided they ensure compatibility with the

surrounding uses or to protect the resources of the Village.

ARTICLE XII Site Plan Approval

§ 120-50. Procedure.

- A. Site plan shall be required for all non-residential uses allowed pursuant to this Local Law. Further, site plan review shall be necessary for all special permit uses. Whenever an application requires a special permit, the Planning Board shall conduct the special use and site plan processes concurrently and using the same application materials.
- B. Application to Code Enforcement Officer. As provided by § 120-79, application for a permit shall be made to the Code Enforcement Officer prior to the commencement of the excavation, grading, or clearing for or the construction of any building or structure or the use of land. If, upon receipt of such application, the Code Enforcement Officer determines that the permit for the excavation, construction or use of land cannot be issued without the approval of a site plan by the Planning Board, he/she shall, within 15 days of its receipt, forward the application for the permit to the Planning Board.
- C. Sketch Plan. A Sketch Plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal Site Plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his/her proposal prior to the preparation of a detailed site plan and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the Site Plan. In order to accomplish these objectives, the applicant shall provide the following:
 - (1) A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations.
 - (2) An area map showing the parcel under consideration for Site Plan Review, and all properties, subdivisions, streets, rights-of-way, easements and other pertinent features within 200 feet of the boundaries of the parcel.
 - (3) A topographic or contour map of adequate scale and detail to show site topography.

- D. **Public Hearing.** The Planning Board may conduct a public hearing on the Site Plan if considered desirable by a majority of its members. Such hearing shall be held within 62 days of the receipt of application for Site Plan Review and shall be advertised in the Village's official newspaper, or if there is none, in a newspaper of general circulation in the Village at least five days before the public hearing.
- E. **Conditions.** The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed site plan. Upon its granting of the site plan, any such conditions must be met in connection with the issuance of permits by the CEO.
- F. **Waiver of Requirements.** The Planning Board may, when reasonable, waive any requirements for the approval, approval with modifications, or disapproval of site plans submitted for approval. Any such waiver may be allowed only when such requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular application.
- G. **Notice to Application and County Planning Board.** At least ten days before any hearing, the Planning Board shall mail notices of the hearing to the applicant and to the Rensselaer County Planning Board or agency, as required by General Municipal Law Section 239-m. The notice for this referral shall be accompanied by a full statement of the application under consideration, as defined in GML 239-m. If the Rensselaer County Planning Board fails to report within 30 days after receipt of a full statement of such referred material, the Planning Board may act without such report. If the Rensselaer County Planning Board disapproves the proposal or recommends modifications thereof, the Planning Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution setting forth the reasons for the contrary action. The Board shall file a report of their final action taken with the County Planning Board within thirty days after its decision has been made.
- H. **Expenses.** The applicant shall be responsible for the total cost of environmental reviews determined to be necessary to meet requirements of SEQRA as per 6NYCRR Part 617.13. The Planning Board may also incur other extraordinary expenses to properly review documents or conduct special studies in connection with the proposed application including but not limited to the reasonable costs incurred by the Planning Board for private consultation fees, fees for technical and engineering services, legal fees, or other expenses in connection with the review of a Special Permit application. All reasonable fees shall be charged to the applicant. The Planning Board shall make a reasonable estimate of the amount of expenses that it expects to incur during the course of each application for a Special Permit. The amount so determined by the Planning Board shall be deposited by the applicant in escrow with the Village Clerk prior to the

Planning Board's commencing any review of the application. If the amount so deposited is exhausted or diminished to the point that the Planning Board determines that the remaining amount will not be sufficient to complete the review of the application, then the Planning Board shall notify the applicant of the additional amount that must be deposited with the Village Clerk. If the applicant fails to replenish the escrow account or there are unpaid amounts for which the applicant is responsible the Planning Board, in its discretion, may cease review of the application until such amounts are paid or deny the application. In no event, however, shall any Special Permit be approved until such sums have been paid in full.

- I. Other Permits. The Planning Board shall require proof that all permits required by other agencies have been applied-for prior to final approval. The Planning Board may approve a site plan application contingent upon final approval of such application by other agencies. The Code Enforcement Officer shall ensure that all other agency approvals have been received and all conditions required by the Planning Board are met prior to issuing a zoning and Building Permit. Such Zoning Permit shall be approved prior to the Building Inspector's issuing a Building Permit.
- J. Planning Board Decision.
 - (1) Within 62 days of receipt of the application for Site Plan approval or if a public hearing is held within 62 days of public hearing, the Planning Board shall render a decision. In its decision the Planning Board may approve, approve with modifications or disapprove the Site Plan. The time period in which the planning board must render its decision can be extended by mutual consent of the applicant and the Planning Board.
 - (2) Approval. Upon approval of the Site Plan, and payment by the applicant of all fees and reimbursable costs due the Village, the Planning Board shall endorse its approval on a copy of the Site Plan and shall immediately file it and a written statement of approval with the Village Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.
 - (3) Approval with modifications. The Planning Board may conditionally approve the final Site Plan. A copy of written statement containing the modifications required by the conditional approval will be mailed to the applicant by certified mail, return receipt requested. After adequate demonstration to the Planning Board that all conditions have been met, and payment by the applicant of all fees and reimbursable costs due the Village, the Planning Board shall endorse its approval on a copy of the Site Plan and shall immediately file it and a written statement of approval with the Village Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.
 - (4) Disapproval. Upon disapproval of the Site Plan the decision of the Planning Board shall immediately be filed with the Village Clerk and a copy thereof mailed to the applicant by certified mail, return receipt

requested, along with the Planning Board's reasons for disapproval.

- K. Enforcement Officer. The Building Inspector as Code Enforcement Officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate.
- L. Lapses and Expirations. Site Plan approvals will expire one year after approval if the applicant fails to substantively initiate work or fails to comply with the conditions of approval of the Site Plan unless other provisions are set forth by the Planning Board in connection with its approval,

§ 120-51.1 Material to be submitted by applicant.

Seven copies of the following information shall be submitted to the Planning Board:

- A. Vicinity map. The vicinity map shall be drawn at the scale of one-inch equals 500 feet to the inch or larger and shall show the relationship of the proposal to existing community facilities that may affect or serve it, such as roads, shopping areas, schools, etc. It shall also show all properties, subdivisions, streets and easements within 500 feet of the property on which the use for which application is made is proposed to be situated. Such a sketch may be superimposed on a United States Geological Survey map of the area.
- B. Topographic map. The topographic map of the property on which the use for which application is made is proposed to be situated shall be drawn at the scale of 40 feet to the inch or larger and shall show existing topography at a contour interval of not more than five feet. This map shall also show the location of pertinent natural features that may influence the design of the proposed use, such as watercourses, swamps, rock outcrops and single trees eight or more inches in diameter.
- C. Site plan. The site plan of the property on which the use for which application is made is proposed to be situated shall be drawn at the same scale as the topographic map required by Subsection B and unless waived by the Planning Board as per 120-50 (F), shall show:
 - (1) The location of all automobile parking and all parking for commercial vehicles while loading and unloading.
 - (2) The location and width of all driveways exits and entrances.
 - (3) The location of any outdoor storage areas.
 - (4) The location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
 - (5) The location of sewage disposal facilities with a description provided.

- (6) The location, design, and size of all signs.
- (7) The location of proposed buffer areas.
- (8) The location and design of lighting facilities.
- (9) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
- (10) North arrow, scale and date.
- (11) Boundaries of the property plotted to scale.
- (12) Existing buildings.
- (13) Natural features on the site including streams, wetlands, steep slopes, and floodplains.
- (14) Location, design, type of construction, proposed use and exterior dimensions of all buildings.
- (15) Identification if the parcel is within or within 200 feet of a Historic District.
- (16) Identification of any structures to be demolished.
- (17) Provision for pedestrian access including sidewalks and crosswalks, if any.
- (18) Grading and drainage plan, and if required, a stormwater pollution prevention plan including the location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.
- (19) Description of the method of sewage disposal and location, design and construction materials of such facilities.
- (20) Description of the method of securing public water and location, design and construction materials of such facilities.
- (21) Location of fire and other emergency zones, including the location of fire hydrants.
- (22) Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.
- (23) General landscaping plan and planting schedule.
- (24) Identification of and record of application for any permits from other governmental bodies required for the project's execution.
- (25) Other elements integral to the proposed development as may be considered necessary in the particular case by the Planning Board.

D. Elevations and/or sections. The site plan required by Subsection C shall be accompanied by elevations and/or sections at the same or larger scale as required for the site plan, drawn in sufficient detail to delineate clearly the bulk and height of all buildings and other structures included in the proposal for which application for a permit is made.

§ 120-51.2 Review Standards

The Planning Board's review of the Site Plan shall include, as appropriate, but is not limited to, the following general considerations:

- A. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- B. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls.
- C. Location, arrangement, appearance and sufficiency of off-street parking, and loading.
- D. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience.
- E. Adequacy of storm water and drainage facilities.
- F. Adequacy of water supply and sewage disposal facilities.
- G. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- H. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- I. Special attention to the adequacy and impact of structures, roadways and landscaping on the natural resources that may be present, especially in areas with susceptibility to ponding, flooding, and/or erosion.
- J. Overall impact on the neighborhood including compatibility of design consideration, maintenance of neighborhood character, and consistency with historic structures in the Historic District.

ARTICLE XIII Supplementary Regulations

§ 120-52. Applicability.

The supplementary regulations in this Article XIII are in addition to those of Articles V through IX and, unless otherwise indicated, shall apply in all classes of districts.

§ 120-53. Access to commercial or industrial use.

No driveway or other means of access for vehicles, other than a public street, shall be maintained or used in any residence district for the servicing of any use located in a business or industrial district.

§ 120-54. Sanitary waste disposal facility.

- A. No cesspool or drilled sink shall be installed.
- B. All sanitary waste disposal facility installations shall conform to the requirements of the Rensselaer County Health Department.
- C. The pumping of sanitary waste disposal facilities shall be permitted; however, the disposal of the contents thereof shall not be permitted within the Village of Nassau.

§ 120-55. Drive-in businesses.

Plans for the erection or structural alteration of drive-in business establishments as herein defined shall be submitted to the Planning Board for approval. The Planning Board may require such changes therein in relation to yards, driveways, driveway entrances and exits and the location and height of buildings and enclosures as it may deem best suited to ensure safety, to minimize traffic hazards or difficulties and to safeguard adjacent properties.

§ 120-56. Dumps; burning of refuse.

- A. No dump as defined herein shall be permitted within the Village of Nassau except as approved by the Board of Trustees.
- B. No burning of garbage, trash, refuse, junk or waste material of any kind shall be permitted in the Village of Nassau except as approved by the Board of Trustees.

§ 120-57. Dwellings.

- A. One- or two-family dwellings. No permit for the erection of a one- or two-family dwelling will hereafter be granted in the Village of Nassau unless the minimum ground-floor space per dwelling unit shall be as follows:

Minimum Ground-FloorSpace

Type of Dwelling	(square feet)
1-story	864
1- to 1 1/2-story	720
2-story	576

- B. The area mentioned herein does not include open or enclosed porches, basements, garages or carports. All foundations shall be continuous and of masonry construction.

- C. Accessory Apartments, Row, townhouse or multifamily dwellings or hotels ,

- (1) No permit for the erection of a row or townhouse dwelling or multifamily dwelling or residential hotel shall be granted unless each dwelling unit has a minimum floor area as follows:

Minimum Floor Area

Type of Apartment	(square feet)
Efficiency and accessory apartment	600
1-bedroom	650
2-bedroom	750
3-bedroom	850

- (2) Over three bedrooms shall be as for one- and two-family dwellings.

- (a) Cellar occupancy prohibited. It shall be unlawful to occupy all or any part of a cellar for sleeping purposes.
- (b) Basement occupancy. Any basement area used for sleeping purposes shall have not less than two means of egress, at least one of which shall be a door giving access to an open area whose service is at least eight inches below the level of the basement floor. Each basement room used for living purposes shall have a window area opening to the outside equal to not less than 1/10 of the floor area of such room.
- (c) Slope of yards. No building containing dwelling units shall henceforth be constructed, nor shall any existing building be altered so as to contain dwelling units, unless the surface grade of the front yard at the front wall of such building is more than one foot above the established grade of the sidewalk. Where a sidewalk grade has not

been established, the surface grade of the front yard at the front wall of the dwelling shall not be less than one foot above the center line of the street, measured at the midpoint between the side lot lines of the lot. Where there is unusual difficulty in meeting this provision, the Code Enforcement Officer may accept a substitute gradient, provided that no minus gradient is established within 15 feet of the front wall or within six feet of either side wall of the building.

§ 120-58. Educational institutions; places of assembly.

- A. Educational institutions. No special permit shall be granted for the construction or expansion of an educational institution unless such institution has a minimum of 400 feet of frontage on a county or state highway.
- B. Places of assembly. No sports arena or other place of assembly having a capacity of more than 1,000 persons shall have entrances or exits on other than streets that have been designated as primary or secondary streets in the Master Plan. Where feasible, entrances and exits should be on primary streets and not on streets intended for predominantly residential use.

§ 120-59. Fences and hedges.

- A. Definitions. As used in this section the following terms shall have the meanings indicated:

DECORATIVE FENCES — Fencing enclosing gardens and/or shrubbery totally contained within the property limits, no higher than 36 inches in height.

FENCE — Any structure, regardless of composition, except a living fence or temporary enclosure for playpen use, that is erected or maintained for the purpose of enclosing a piece of land or dividing a piece of land into distinct portions.

FRONT YARD — Applies to that portion of the yard in front of the rear building line of any building. All corner properties adjacent to a public street, alley or highway shall also be considered as "front yard" for the purposes of this section.

HEIGHT — The distance measured from the average grade to the top of the fence.

LIVING FENCE — Any fence or hedge composed of live materials.

- B. Approval required. No fence, wall or other type of construction, except decorative fencing or any fence used to enclose vegetable or flower gardens with the purpose of controlling pests, shall be erected without the

approval of the Code Enforcement Officer.

C. Application for permit; issuance; display.

- (1) Any person or persons, corporation, firm or association intending to erect a fence shall, before any work is commenced, make application to the Code Enforcement Officer on a form provided by the Village Clerk's Office. Said application shall be accompanied by a plan or sketch showing the proposed location of any fence and the materials proposed to be used therein, which must be in accordance with this chapter and any other pertinent local law regulating construction within the Village. Fee to be assessed by Code Enforcement Officer prior to release of approved building permit.
- (2) Upon approval by the Code Enforcement Officer, a permit shall be issued, which will be in effect for a period of one year from the date thereon.
- (3) Said permit shall be visible from the street on the job during the progress of the work so that it may be inspected by proper Village officials.

D. Height limitations. No fence shall be more than six feet in height at the rear of homes or buildings in any zoning district, which fence shall not extend forward of the front building line of any existing or proposed building. No other fence or portions of a fence shall be higher than 48 inches.

E. Location restrictions.

- (1) Any fence erected under this section shall be placed within the property line. Any fence erected in the front yard shall be placed at least one foot back from the front line and/or property line. If no sidewalks are in place, then the fence shall be set back a minimum of one foot from the Village right-of-way.
- (2) No fence shall be erected that will impede the plowing of snow on a public right-of-way.

F. Materials and composition. Any fence, wall or similar structure, as well as shrubbery, which unduly cuts off light or air, which may cause a nuisance, a fire hazard, a dangerous condition or obstruction to person and equipment for combating fires or which may affect public safety is hereby expressly prohibited. Further, no fence shall be erected in a front yard or along a public right-of-way unless the fence is uniformly less than 50% solid.

G. Prohibited fences. The following fences and fencing materials are specifically prohibited:

- (1) Barbed wire.
- (2) Short, pointed fences less than 48 inches in height.
- (3) Canvas fences.

- (4) Electrically charged fences.
 - (5) Fences to control poultry.
 - (6) Expandable fences, cloth fences and collapsible fences, except during construction.
- H. Chain-link fences. All chain-link fences erected shall be erected with the closed loop at the top of the fence.
 - I. Entrances and gates. All entrances or gates shall open onto the property.
 - J. Facing of fence; fence posts. Any fence, wood stockade, chain link or other type of fence, shall have the smooth side or finished side facing to the outside of the property owner installing the fence. Fence posts will be placed on the inside of the fence.
 - K. Security fences. Notwithstanding the provisions of this chapter, the Code Enforcement Officer may issue a permit for the construction of security fences for commercial properties upon due application to and approval by the Code Enforcement Officer of the Village of Nassau. The Code Enforcement Officer may deny such application if it is found that the application for such fence is not appropriate and is unnecessary. Upon such denial, the applicant may appeal the Code Enforcement Officer's decision to the Zoning Board of Appeals of the Village of Nassau by notice to the same within 30 days of such denial. In the event that said Zoning Board of Appeals substantiates the denial of the Code Enforcement Officer, the applicant may resort to proper legal proceedings according to the statutes of the State of New York.
 - L. Erection within property line. All fences or walls must be erected within the property line, and none shall be erected so as to encroach upon a public right-of-way or interfere with vehicular or pedestrian traffic or interfere with visibility on corner lots and/or other structures or vehicles, whether stationary or transitory, on private or public property.
 - M. Visibility at intersections. The Code Enforcement Officer shall have the authority to direct, in writing, the removal, trimming or modification of any shrubs, bushes, plants, trees or flowers or other vegetation, fence, wall or hedge or other structure on private or public property wherever the same shall interfere with adequate visibility of operators of motor vehicles at street intersections, driveways or curbs. Any person who shall refuse or neglect to comply within 15 days with the written direction of the Code Enforcement Officer shall be guilty of a violation of this section and shall be subject to the penalties.
 - N. Fees. The Village Board of Trustees shall set applicable fees for the permit.
 - O. Penalties for offenses. Any person, firm or corporation, or his or her or its agent, servant, workman or employee, violating any of the provisions of this section shall be punishable by a fine not exceeding \$250 and/or

imprisonment for a term not exceeding 15 days. Each day's continuance of a violation after notice to cease shall be deemed a separate and distinct offense and shall be punishable accordingly.

§ 120-60. Frontage on public streets.

- A. No dwelling shall be erected on a lot which does not abut on at least one street for a distance of not less than 40 feet.
- B. No dwelling may be built or erected directly behind another dwelling having access on the same street and within 200 feet thereof. "Directly behind another dwelling" means with more than 1/2 of the width of the structure so placed.

§ 120-61. Motels.

Motor courts or motels, where allowable under this chapter, shall conform to the following requirements:

- A. Each rental structure shall have units a minimum of 550 square feet. .
- B. Automobile parking space to accommodate not less than one car for each rental unit plus one additional space for every two persons regularly employed on the premises shall be provided. In addition, if the motel includes restaurants, taverns or meeting rooms as accessory uses, parking for these uses shall be provided as required by §§ 120-63 and 120-64.
- C. Each rental unit shall be supplied with hot and cold running water and equipped with a flush toilet. All such fixtures and those of any accessory uses shall be properly connected to the Village water and a sanitary disposal facility or other arrangements for water supply and sewage disposal made which are approved by the Rensselaer County Health Department.

§ 120-62. Obstruction of vision.

- A. In all districts, on a corner lot, within the triangular area formed by the center lines of streets from their intersection, as shown on the schedule below, there shall be no obstruction to vision between the height of 3 1/ 2 and the height of 10 feet above the average grade of each street at the center line thereof.
- B. Sight distance for various street widths shall be as follows:

Sight Distance for Various Street Widths

Street Right-of-Way	(feet)
Distance from Intersection	(feet)
80 or more	120
70 to 79	110
60 to 69	100
50 to 59	90
40 to 49	80
Under 40	70

§ 120-63. Off-street parking and automobile storage.

A. General.

(1) In all districts, the off-street automobile parking spaces required by this article shall be required at the time that:

- (a) Such buildings or structures shall be constructed; or
- (b) Existing buildings or structures shall be converted to such use, or added to by alteration.

B. Required off-street automobile parking spaces. The Planning Board shall determine the optimal number of parking spaces required. So as not to provide for over-built parking lots, the Planning Board shall use the parking count information in (C) below as a guideline. The Planning Board may count any on-street parking located within 200 feet of the lot, if any, towards the minimum parking requirement. The applicant shall provide adequate information by which the parking needs can be reviewed which includes, but not limited to:

- (1) Type of use(s).
- (2) Number of employees
- (3) Building design capacity.
- (4) Square feet of sales or service area.
- (5) Parking spaces proposed on-site
- (6) Parking spaces provided elsewhere (on-street or in a shared parking lot).
- (7) Hours of operation

C. The minimum cumulative number of off-street automobile parking spaces required to be provided pursuant to the provisions of this article shall be determined by the amount of dwelling units, bedrooms, gross floor area, equipment, employees or seats contained in all new buildings or structures, or existing buildings or structures converted to a new use or added to by alteration, using the following parking ratios as follows as a guideline. Spaces at gasoline pumps and bays for auto repair/serve are not counted toward any minimum parking requirement. No part of a parking or loading

space required for any building to comply with this section shall be included as part of a parking or loading space required for another building unless there is a shared parking lot agreement pursuant to this section. The following are guidelines that outline the minimum number of vehicle spaces with the ultimate parking spot count to be determined by the Planning Board at the time of review.

- (1) Residential and overnight accommodation uses in all districts.
 - (a) One- and two-family dwellings, and all other residential dwelling types including those in cluster housing: two spaces for each dwelling unit. Such spaces may be provided in garages, carports and driveways.
 - (b) Bed-and-breakfast, tourist home, rooming house and other similar uses: one space for each bedroom available for rent, plus two spaces for owner's portion.
 - (c) Hotel: .8 per room plus 1 per 800 square feet of public meeting area and restaurant space.
- (2) General uses in all districts.
 - (a) Places of public assembly, including but not limited to churches, theaters, concert halls, auditoriums and similar uses: one space for each six seats.
 - (b) Elementary school or day nursery: two spaces for each classroom.
 - (c) High school or college: five spaces for each classroom.
 - (d) Care home: one space for each two beds.
 - (e) Hospital, sanitarium or other such building or community facilities and institution: one space for 400 sf Gross floor area.
 - (f) Nonprofit club or recreation use: 1 per 3 persons.
 - (g) Commercial recreation use: 1 per 6 seats or 1.5 per 600 sf Gross floor area.
- (3) Accessory uses in all districts.
 - (a) One accessory apartment: one space for such apartment plus the required space for the primary dwelling unit. Such space may be provided in garages, carports and driveways.
 - (b) Home occupation: for a customary home occupation, one space for each 200 square feet devoted to such customary home occupation, plus the required spaces for the primary dwelling.
- (4) Commercial uses, in general 1 space for each 300 square feet of gross floor area.
 - (a) Retail business, bank or post office use: one space for each 300 square feet of gross floor area.
 - (b) Office, professional office, personal service, and public utility use:

one space for each 300 square feet of gross office floor area.

- (c) Restaurant, bar or nightclub: one space for each 100 square feet of gross floor area or for every four seats, whichever is greater.
 - (d) Funeral home: one space for each five seats in the chapel or for each five persons of the chapel's capacity.
 - (e) Wholesale, warehouse or storage uses, or commercial assembly and other similar uses: one space for each 600 sf of gross floor area.
 - (f) Additional required spaces. In addition to the foregoing, all commercial uses shall provide one additional parking space for each company vehicle if such vehicle is parked on site when not in use.
- (5) Requirements for other uses not listed in this subsection. For uses not listed in this subsection, the required number of off-street automobile parking spaces shall be that number determined upon interpretation of the proposed use's similarity to a specified use under residential, general, accessory and commercial.
- (6) Calculation of required off-street parking spaces.
- (a) Combination of uses. In case of a combination of uses on a single lot, the total requirements for off-street automobile parking spaces shall be the sum of the requirements for the various uses.
 - (b) Fractions. Whenever a fraction of a space greater than 0.75 is required, a full space shall be provided, with a minimum of one space.
 - (c) Spaces in other parking lots.

[1] Spaces in private parking lots owned by or leased to the applicant for required parking may be credited toward the parking requirements for uses in the GB District provided that:

[a] The spaces are within 500 feet of the uses to be served.

[b] If the spaces are leased, the applicant demonstrates the existence of a valid, renewable lease for at least three years.

[c] Any such lease arrangement shall be reflected in a written lease agreement, with an attached map reflecting the exact location of the leased parking spaces and a narrative legal description of the lessor's property. Said lease agreement shall be presented to the Planning Board for review.

[2] Upon the expiration or other termination of said lease, such expiration shall be promptly reported to the Code Enforcement Officer by the lessee/zoning applicant. The Code Enforcement Officer shall require the applicant to present satisfactory proof of replacement parking spaces to replace his/her parking space shortfall. A failure of a lease holder to report the expiration of a parking lease or to otherwise comply with this section shall constitute a violation and, at the discretion of

the Code Enforcement Officer, may result in the termination of the use.

(7) Dimensions of required off-street parking spaces.

(a) General. Unless specified elsewhere in this article, off-street parking areas shall be calculated on the basis of a minimum of 300 square feet per space, including circulation and access drives.

(b) Dimensions for off-street automobile parking spaces intended for use by the general public. Every space required by this article shall be at least nine feet wide and 20 feet long, and every such space shall have direct and usable driveway access to a street or alley with minimum maneuver area between spaces as follows:

[1] Parallel curb parking: five feet end to end with a twelve-foot aisle width for one-directional flow and twenty-four-foot aisle width for two-directional flow.

[2] Thirty-degree parking: thirteen-foot aisle width for one-directional flow and twenty-six-foot aisle width for two-directional flow.

[3] Forty-five-degree parking: sixteen-foot aisle width for one-directional flow and twenty-six-foot aisle width for two-directional flow.

[4] Sixty-degree parking: twenty-one-foot aisle width for one-directional flow and twenty-six-foot aisle width for two-directional flow.

[5] Perpendicular parking: twenty-six-foot aisle width for both one-directional and two-directional flow.

(8) Location of required spaces.

(a) Front yards in residential districts. No open or enclosed parking area shall encroach on any required front yard. However, parking is allowed on driveways in front of garages. Driveways and open parking areas may encroach on a required side or rear yard within three feet of a property line.

(b) General requirements. Except as provided in Subsection B(6)(c), all such off-street automobile parking spaces shall be provided on the same lot as the use which requires said spaces and shall not thereafter be encroached upon in any manner. Such parking spaces shall be provided, to the extent feasible, to the side or behind the principal structure(s). Parking to the side shall be permitted, provided that it is screened by trees or a hedge to the maximum amount feasible. No parking shall be permitted in front of the principal structure, except for on-street parallel parking.

(c) Location of access drives. No entrance and exit drives, measured from the edge of pavement, connecting a parking area and the street shall be permitted within 50 feet of the intersection of two public

rights-of-way.

- D. Design requirements for required off-street automobile parking. Areas containing required off-street parking spaces for more than five automobiles shall conform to the following regulations:
- (1) Marking. The individual spaces shall be visibly marked with paint or other durable material.
 - (2) Lighting. All such areas to be used at night shall be lighted. All lights shall be shaded or so directed as not to cause glare on adjoining residential properties and shall be so directed as not to cause a traffic hazard due to glare or color.
 - (3) Pedestrians. An adequate, safe and convenient vehicular and pedestrian circulation system shall be provided. Walkways shall be located so as to minimize contacts with normal automotive traffic.
 - (4) Size of access drives. No more than two driveway access points shall be provided from the street or highway from which the development derives its principal access, and such driveway access points shall not be more than 26 feet wide and shall be designed in a manner which will minimize their interference with any traffic movements on the street or highway.
 - (5) Maintenance. All parking areas, open space strips and landscaping shall be properly maintained at all times in a sightly and well-kept condition and shall be kept clean and free from rubbish and litter.
 - (6) Adjacent premises. Where a nonresidential use is being developed on premises adjacent to another nonresidential use, consideration shall be given to the following:
 - (a) The location and planning of driveway access points to permit their joint use by the adjoining premises so as to minimize the number of intersections with the street or highway from which they derive their access.
 - (b) The development of parking and loading areas which permit convenient traffic circulation between adjoining premises.
 - (c) The development of pedestrian walkways between adjoining parking areas and buildings.
 - (d) The provision of landscaping and other features which will enhance the usability, character and attractiveness of the area.
 - (7) Where an activity is subject to the requirements of this section and also subject to the review or approval of the Board of Trustees, Planning Board, Zoning Board of Appeals or other board or official of the Village of Nassau (the "reviewing board or official"), the reviewing board or official shall consider the requirements of this section in making its decision. Where an activity regulated by this section is granted an approval by a reviewing board or official, the

approval shall include such conditions as may be necessary to insure compliance with the requirements of this section.

§ 120-64. Off-street parking for commercial vehicles while loading and unloading.

A. General provisions.

- (1) On the same premises, with every building or structure or part thereof hereafter erected and occupied for a commercial use there shall be provided and maintained adequate space for the parking of commercial vehicles while loading and unloading off the street or public alley. Such space shall have access to a public alley or, if there is no alley, to a street.
- (2) Off-street loading and unloading space shall be in addition to and not considered as meeting a part of the requirements for off-street parking space.
- (3) Off-street loading and unloading space shall not be used or designed, intended or constructed to be used in a manner to obstruct or interfere with the free use of any street, alley or adjoining property.
- (4) Off-street loading and unloading space shall be provided at the time any building or structure is enlarged or increased in capacity.

§ 120-65. Public/private garages and motor vehicle service stations.

- A. No public garage or motor vehicle service station or private garage for three or more cars shall have a vehicular entrance closer than 50 feet to an entrance to a church, school, theater, hospital, public park, playground or fire station. Such measurement shall be taken as the shortest distance between such entrances across the street if the entrances are on opposite sides of the street and along the street frontage if both entrances are on the same side of the street or within the same square block.
- B. All motor vehicle service stations shall be so arranged as to require all servicing on the premises and outside the public way, and no gasoline pump shall be placed closer to any side property line than 50 feet or closer to any public right-of-way than 10 feet.
- C. No inoperative motor vehicle shall be kept on the premises of a motor vehicle service station for longer than 90 days.
- D. All waste material shall be stored within a structure or enclosed within fencing at least eight feet high and shall not be visible at any property line of the establishment.

§ 120-66. Signs and billboards.

- A. General provisions. Signs are an accessory use only. Signs are not permitted as a principal use. Wherever located and whatever their nature, signs and billboards shall conform to the following:
- (1) No attached sign shall extend within a street or road property line unless said line is the building line, in which case a sign may extend over the street or road property line for a distance not exceeding four feet, provided it does not interfere with vehicle visibility.
 - (2) Any sign along a state highway shall conform to the regulations of New York State Department of Transportation.
 - (3) No sign shall exceed 10 feet in height or extend above the facade of the building to which it is attached.
 - (4) In matters of setback from the street or road, required yards and other such respects, freestanding signs larger than eight square feet shall be regarded as buildings within the meaning of this chapter.
 - (5) Advertising display upon a building or other surface shall be regarded as coming within the regulations of § 120-66.
 - (6) All signs that are included in a project undergoing site plan, special use, or subdivision review with the Planning Board shall also be reviewed and decided upon by the Planning Board at the same time. New signs not part of a Planning Board application shall be reviewed by the Code Enforcement Officer to ensure that the proposed sign meets all requirements of this section 120-66.
- B. Rules for measuring signs.
- (1) Back-to-back signs or identical signs arranged back to back or diverging by less than 30° from a common line or point may be counted as one sign.
 - (2) The area of a sign consisting of an insignia or other device but without background shall be calculated as the smallest polygon or circle possible to enclose the insignia.
- C. Design and lighting of signs.
- (1) The use of exterior moving signs or self-illuminated signs (other than those with bulbs concealed behind translucent glass, plates or similar material) or the use of flashing or intermittent lighting, including LED signs in connection with signs shall not be permitted.
 - (2) Top-mounted floodlights used to illuminate signs shall be fully shielded to direct light downwards onto the sign. Ground-mounted floodlights used to illuminate signs shall be located so that light shines only on the sign face. No sign lighting shall cause glare onto any street

or onto any neighboring property.

D. Permitted signs.

- (1) In a Land Conservation District, the following signs shall be permitted:
 - (a) A sign of an appropriate nature but not larger than 20 square feet identifying any building or use permitted under this chapter.
 - (b) A real estate sign not larger than 12 square feet, only when placed on property for sale or rent.
 - (c) A sign necessary for the identification, operation or protection of a public utility installation.
 - (d) A sign incident to a legal process or necessary to the public welfare.
- (2) In a Single-Family and Single- and Multifamily Residential District, the following signs shall be permitted:
 - (a) Any sign permitted in Land Conservation Districts.
 - (b) One bulletin board not exceeding eight square feet in area for a church or other institutional use.
 - (c) One home occupation sign not exceeding two square feet in area per dwelling.
 - (d) Temporary special event signs, on the premises of a special event sponsored by a church, municipality or nonprofit institution, not exceeding 32 square feet in combined area.
- (3) In a Very-Low-Density Residential District, the following signs shall be permitted:
 - (a) Any sign permitted in Single-Family and Single- and Multifamily Residential Districts.
 - (b) One farm product sign in any direction of approach from a stand or farmhouse selling farm products and one at the stand, each sign not exceeding six square feet in area.
- (4) In a General Business District, the following signs shall be permitted:
 - (a) Signs as permitted in a Very-Low-Density Residential District.
 - (b) Signs not exceeding one square foot in area for every two linear feet of street frontage occupied by an establishment, but not exceeding 40 square feet for any sign parallel to and flat against the facade of a building or 24 square feet for any other sign.
 - (c) Two signs per premises shall be allowed. One sign may be building

mounted. Signs in windows shall be no more than 20% of length of façade area or with a maximum of 12 sf, whichever is less.

- (d) In the GB district, commercial uses that are in buildings with less than a 15-foot front setback shall not have a freestanding sign located in front.
- (5) In a Planned Development District, permitted signs shall be limited to those which relate, as determined by this Subsection E, to specific uses authorized in established Planned Development Districts.
- (6) Exemptions:
 - (a) Signs one square foot or less in area and bearing only property numbers, post box numbers, names of occupants of premises or other identification of premises not having commercial connotations.
 - (b) Flags and insignia of any government, except when displayed in connection with commercial promotion.
 - (c) Legal notices, identification, informational or directional signs erected or required by governmental bodies.
 - (d) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
 - (e) Signs directing and guiding traffic and parking on private property but bearing no advertising matter.
 - (f) All signs must be constructed of durable materials and shall be maintained in good condition and repair at all times.
- (7) In any district, a sign not exceeding four square feet is permitted which announces the name, address or professional or home occupation of the occupant of the premises on which said sign is located.
- (8) A bulletin board not exceeding 24 square feet is permitted in connection with any church, school or non-commercial public structure
- (9) A temporary real estate or construction sign, not exceeding 24 square feet is permitted on the property being sold, leased or developed. Such sign shall be removed when the property has been sold, leased or developed.
- (10) Signs shall be architecturally compatible with the style, composition, colors, materials, and details of the building and should reflect the visual character of their surroundings.

§ 120-67. Storage of flammable liquids.

- A. The storage of alcohol, gasoline, crude oil, liquefied petroleum gas or any other highly flammable liquid in aboveground tanks in an amount greater than 550 gallons shall be permitted only when such tanks up to and including 10,000 gallons' capacity are placed not less than

50 feet from all property lines and unless all such tanks of more than 10,000 gallons' capacity are placed not less than 100 feet from all property lines. Any such storage tanks having a capacity greater than 300 gallons shall be completely contained within a watertight containment having a capacity not less than 1 1/2 times the capacity of the tank or tanks surrounded.
- B. Containments shall be of steel, fiberglass or concrete design suitable for the type liquid to be contained.
- C. All fill ports shall be located within the containment walls, and all piping to remote distribution points shall have a firesafe valve with the tank connection.

§ 120-68. Swimming pools/decks and other attachments.

A private swimming pool installed or maintained as an accessory use where permitted in Articles V through IX shall meet the following requirements:

- A. It shall be used only as an accessory use to a dwelling or to a special permit use where permitted in Articles V through IX for the private use of the owner or occupant of such dwelling or building and his or her family, guests or employees.
- B. Any such pool shall be completely enclosed by a security fence not less than four feet in height, with all gates or doors opening through such enclosure equipped with self-closing and self-latching devices designed to keep and be capable of keeping such gates or doors securely closed at all times when not in actual use, of a type approved by the Code Enforcement Officer.
- C. Such pool shall be maintained in a manner sufficient to meet the bacterial standards established by the provisions of the New York State Sanitary Code relating to public swimming pools.
- D. Such pool shall be equipped with an integral filtration system and filter pumps or other mechanical devices, which shall be so located and constructed as not to interfere with the peace, comfort and repose of the occupants of any adjoining property.
- E. No permission shall be granted for the installation of any swimming pool until the owner has filed with the Code Enforcement Officer a statement by a professional engineer licensed by the State of New York or other person duly

appointed by the Board of Trustees that provisions for the drainage of such pool are adequate and will not interfere with the public water supply system or existing sanitary facilities.

- F. Front yards: same as permitted in Articles V through IX.
- G. Side yards: all pools shall be erected within 10 feet of the rear and side yard property line (no minimum yard size requirement).
- H. Corner lot: same as permitted in Articles V through IX.

§ 120-69. Temporary uses and structures.

A temporary permit may be issued by the Code Enforcement Officer, for a period not exceeding one year, for a nonconforming use incident to housing and construction projects, including such structures and uses as storage of building materials and machinery, the processing of building materials and a real estate office located on the tract being offered for sale, provided that such permits are conditioned upon agreement by the owner or operator to remove the structure or structures or use upon expiration of the permit. Such permits may be renewed yearly, upon application to the Code Enforcement Officer, for an additional period of one year.

§ 120-70. Yard exceptions for private garages on steep slopes.

Where the topography is such that the slope of the land exceeds 15% and, therefore, access to a private garage built back of the front building line as required by this chapter is impracticable, it shall be permissible to place such building not exceeding 12 feet in height within the front yard space, but not closer to the street line than 18 feet.

§ 120-70.1. Telecommunications towers. [Added 11-8-2000 by L.L. No. 2-2000]

- A. Purpose and intent. The purpose of this section is to establish predictable and balanced regulations for the siting and screening of personal wireless services antennas, towers, telecommunication equipment mounted on existing or new utility poles in public rights-of-way, and accessory structures in order to accommodate the growth of such systems within the Village while protecting the public against any adverse impact on aesthetic resources, avoiding potential damage to adjacent properties from tower failure through structural standards and setback requirements and reducing the number of towers needed to serve the community by maximizing the use of existing towers and buildings.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

ACCESSORY STRUCTURES — Accessory buildings and structures, including base stations designed and used to shelter equipment and/ or to support PWS. The term "accessory structures" does not include offices, long-term storage of vehicles or other equipment storage, of broadcast studios.

ANTENNA — A device used to transmit and/or receive radio or electromagnetic waves, including but not limited to directional antennas, such as panels and microwave dishes, and omni-directional antennas, such as whip antennas.

PERSONAL WIRELESS SERVICES (PWS) — Commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services as defined by Section 704 of the Federal Telecommunications Act.

TOWER — Any ground- or roof-mounted pole, spire, structure or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces and masts, built for the purpose of mounting an antenna, meteorological device or similar apparatus above grade.

C. Review authority.

- (1) No antenna or tower shall hereafter be used, erected, changed or altered except after obtaining a Special Permit in conformity with this section.
- (2) The Planning Board is hereby authorized to review and approve, approve with modifications or disapprove Special Permits pursuant to this section. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed antenna, tower or accessory structures.

D. Colocation requirements.

- (1) A proposal for a tower shall not be approved unless the Zoning Board of Appeals finds that the antenna planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one-mile search radius (one-half-mile search radius for towers under 120 feet in height, one-quarter-mile search radius for towers under 80 feet in height) of the proposed tower for one or more of the following reasons:
 - (a) The antenna would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate the planned or equivalent antenna at a reasonable cost.
 - (b) The antenna would cause interference materially impacting the usability of other existing or planned antennas at the tower or building, as documented by a qualified professional engineer, and the interference cannot be prevented at a reasonable cost.
 - (c) Existing or approved towers and buildings within the search radius

cannot accommodate the antenna at a height necessary to function reasonably, as documented by a qualified professional engineer.

- (d) Other foreseen reasons that make it infeasible to locate the antenna upon an existing or approved tower or building.
- (2) Any proposed tower shall be designed, structurally, electrically and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying height. The applicant shall submit to the Board a letter of intent committing the applicant, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other PWS providers in the future. The issuance of a permit (assuming the tower is approved according to this section) shall commit the new tower owner and his/her successors in interest to:
- (a) Respond in a timely, comprehensive manner to a request for information from a potential shared-use applicant.
 - (b) Negotiate in good faith concerning future requests for shared use of the new tower by other PWS providers.
 - (c) Allow shared use of the new tower if another PWS provider agrees in writing to pay charges.
 - (d) Make no more than a reasonable charge for shared use, based on generally accepted accounting principles. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity and depreciation, and all other costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
- (3) In order to keep neighborhood municipalities informed, and to facilitate the possibility of directing that an existing tall structure or existing tower in a neighboring municipality be considered for shared use, the Board shall require that:
- (a) An applicant who proposes a new tower shall notify in writing the legislative body of each municipality that borders the Village and the County Planning Board. Notification shall include the exact location of the proposed tower and a general description of the project, including, but not limited to, the height of the tower and its capacity for future shared use.
 - (b) Documentation of this notification shall be submitted to the Planning Board at the time of application.

- (4) Each applicant shall agree to provide the Village, without any charge, fee or cost, all PWS available through any approved antenna, tower or accessory structures.

E. Performance standards.

- (1) Proof of noninterference from antenna. Each application for installation of an antenna shall include either a preliminary or a certified statement that the installation of the antenna, including reception and transmission functions, will not interfere with the radio or television service enjoyed by adjacent residential and nonresidential properties or with public safety telecommunications. In the event that only a preliminary statement is submitted with the application, a final certified statement of noninterference will be provided and approved by the Village prior to the issuance of a permit. The statement shall be prepared by a professional engineer.
- (2) Antenna safety. Antennas shall be subject to state and federal regulation pertaining to nonionizing radiation and other health hazards related to such facilities. The owner shall submit evidence of compliance with the FCC standards on a yearly basis. If new, more restrictive standards are adopted, the antennas shall be made to comply, or continued operations may be restricted by the legislative body. The cost of verification of compliance shall be borne by the owner and operator of the tower.
- (3) Tower lighting. Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the tower.
- (4) Signs and advertising on towers. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
- (5) Tower height limitations. Maximum height of a tower is limited to 150 feet above the ground upon which the antennas are placed. The Planning Board may allow towers up to 200 feet high if the applicant can demonstrate, based upon the topography of the site and surrounding area, siting of the antenna, antenna design, surrounding tree cover and structures and/or through the use of screening, that off-site views of the tower will be minimized. The height limitation may be waived by the Zoning Board of Appeals when the antenna is mounted on an existing building or structure or to accommodate collocation.
- (6) Tower building requirements.
 - (a) The use of guyed towers is prohibited. Towers must be self-supporting without the use of wires, cables, beams or other means. The design should utilize an open framework or monopole

configuration, Permanent platforms or structures, exclusive of antennas, that serve to increase off-site visibility are prohibited.

- (b) The base of the tower shall occupy no more than 500 square feet, and the top of the tower shall be no longer than the base.
 - (c) Minimum spacing between tower locations: 1/4 mile.
- (7) Access to towers. A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made.
- (8) Setbacks for towers and accessory structures. Towers and all accessory structures shall conform with each of the following minimum setback requirements:
- (a) The minimum setbacks for the underlying zoning district shall be met, with the exception of industrial zoning districts, where towers and accessory structures may encroach in the rear setback area, provided that the rear property line abuts another industrial zoned property and the tower does not encroach upon any easements.
 - (b) Towers and accessory structures shall be set back from the planned public rights-of-way as shown on the most recently adopted plan or map of the Village showing such rights-of-way, by minimum distance equal to 1/2 of the height of the tower, including all antennas and attachments.
 - (c) A tower's setback may be reduced in the sole discretion of the Planning Board to allow the integration of a tower into an existing or proposed structure such as a church steeple, light pole, power line or similar structure.
- (9) Screening and security of towers and accessory structures.
- (a) Existing on-site vegetation shall be preserved to the maximum extent practicable.
 - (b) The base of the tower and any accessory structures shall be landscaped.
 - (c) Towers and accessory structures shall be provided with security fencing to prevent unauthorized entry.
- (10) Design of antennas, towers and accessory structures. Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. Every antenna and tower shall be of neutral colors that are harmonious with, and that blend with, the natural features, buildings and structures surrounding

such antenna and structure; provided, however, that an antenna tower shall be of colors that match, and cause the antenna to blend with, the exterior of the building. Accessory structures will be designed to be architecturally compatible with principal structures on the site.

- F. Compliance with other laws. The operator of every PWS antenna shall submit to the Clerk copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of such antenna and shall maintain such licenses and permits and provide evidence of renewal or extensions thereof when granted.
- G. Assignment of permit. Every permit granting approval of an antenna or tower shall state that any assignment or transfer of the permit or any rights thereunder may be made only with the approval of the Village.
- H. Review. The permit shall be subject to review by the Planning Board at ten-year intervals to determine whether the technology in the provision of PWS has changed such that the necessity for the permit at the time of its approval has been eliminated or modified and whether the permit should be modified or terminated as a result of any such change.
- I. Fees. The applicant shall pay to the Village all legal, engineering, architectural and/or other professional fees for the review of any application made pursuant hereto or any litigation resulting therefrom.
- J. Abandoned or unused towers. Abandoned or unused towers or portions of towers shall be removed as follows:
 - (1) All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the Planning Board. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the Village and the costs of removal assessed against the property.
 - (2) Unused portions of towers above a manufactured connection shall be removed within six months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new Special Permit.
- K. Effect of law on existing towers and antennas. Antennas and towers in existence which do not conform to or comply with this section are subject to the following provisions:
 - (1) Antennas and towers may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without

complying in all respects with this section.

- (2) If such antennas or towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the antenna or tower may be repaired and restored to its former use, location and physical dimensions without complying with this section; provided, however, that if the cost of repairing the tower to the former use, physical dimensions and location would be 10% or more of the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this section.
- L. Procedural requirements. The Zoning Board of Appeals shall conduct a public hearing within 62 days from the day an application is received. The Board shall issue a decision within 30 days after the hearing. Any denial of a permit under this section shall be in writing and supported by substantial evidence.

§ 120-70.2 Demolition

No demolition shall occur without a demolition permit approved by the Code Enforcement Officer and issued by the Village Clerk. All requirements of Chapter 42-5.1 (Demolition) shall be met.

§ 120.70.3 Portable and Temporary Storage Units

- A. The storage trailer must be structurally sound and pose no detriment to public health, safety, convenience or property values.
- B. The storage trailer must meet the same side, front and rear setback and coverage requirements as would a conventional structure. No storage trailer shall be sited in front of a principal structure.
- C. The storage trailer shall be located so that it does not take up parking spaces required for other uses on the site and does not obstruct emergency access or other essential circulation patterns.
- D. The aggregate area covered by storage trailers shall not exceed 10 percent of the total floor area of all buildings on the site.
- E. A self-storage pod placed for less than 180 days shall be allowed in all zoning districts. Extensions can be granted by the CEO but not more than 1-year.

ARTICLE XIV

Nonconforming Uses, Area and Bulk

§ 120-71. Continuation of lawful use.

The lawful use of any land or a building or structure or a part thereof existing at the time that this chapter or any amendment thereto becomes effective may be continued although such use does not conform with the provisions of this chapter, except as otherwise provided in this Article XIV.

§ 120-72. Discontinuance.

- A. Discontinuance. When a nonconforming use of land, a building or a structure has been discontinued for a period of a year or more, it shall not thereafter be reestablished, and the future use of the land, building or structure shall be in conformity with the terms of this chapter.
- B. There shall be no nonconforming automobile wrecking yard or other junkyard.

§ 120-73. Change of Use.

No nonconforming use shall be changed to other than a conforming use for the district in which it is situated.

§ 120-74. Maintenance, alterations and extensions.

- A. Nothing in this Law shall prevent the renovation, repair or maintenance of a nonconforming structure or lot made necessary by ordinary wear and tear. A building or structure of a non-conforming use may be repaired or restored to a safe condition.
- B. A non-conforming use or structure may be extended, enlarged or structurally altered in order to comply with this local law. However, it shall not be extended, enlarged or structurally altered if such change will make the use or structure more non-conforming.
- C. A non-conforming use may be rebuilt in the event of partial destruction thereof to occupy the same space on the lot or may be rebuilt to provide greater yard space and less lot coverage and to not exceed the height of the totally or partially destroyed building.
- D. No such alteration or extension may violate any provisions of this chapter regarding yards, lot area or lot coverage for the district in which it is situated or increase any existing violation of such provisions.

§ 120-75. Damage.

A. Damage to building or structure containing nonconforming use.

- (1) Damage of 40% or more. Any building or structure containing a nonconforming use which is damaged by fire, flood, wind or other act of God or man to the extent of 40% or more of its fair sales value immediately prior to damage shall not be reoccupied, reused and/ or reconstructed except in conformity with the provisions of this chapter.
- (2) Damage to more than 20% but less than 40%. Any building or structure containing a nonconforming use which is damaged by fire, flood, wind or other act of God or man to the extent of more than 20% but less than 40% of its fair sales value immediately prior to damage shall not be repaired or reconstructed except in conformity with this chapter, unless such reconstruction is substantially completed within 12 months of the damage. Construction is limited to the existing use.

B. Damage to nonconforming building or structure.

- (1) Damage of 40% or more. Any nonconforming building or structure which is damaged by fire, flood, wind or other act of God or man to the extent of 40% or more of its fair sales value immediately prior to damage shall not be repaired or reconstructed except in conformity with the provisions of this chapter.
- (2) Damage of more than 20% but less than 40%. Any nonconforming building or structure which is damaged by fire, flood, wind or other act of God or man to the extent of 20% or more but less than 40% of its fair sales value immediately prior to damage shall not be repaired or reconstructed except in conformity with this chapter, unless such reconstruction is substantially completed within 12 months following the damage.

§ 120-76. Exemption for dwelling buildings.

The limitations of § 120-75 shall not apply to a building or other structure utilized as a dwelling which is nonconforming only in respect to yard space or area per dwelling and nonconforming to the district in which it is located, except that no dwelling building shall be altered, added to or reconstructed to extend further into an already deficient yard space or to reduce an already deficient amount of land area per dwelling.

ARTICLE XV Enforcement

§ 120-77. Minimum requirements.

In enforcing the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, convenience, prosperity and general welfare for the Village.

§ 120-78 Authority for Code Enforcement Officer.

The Code Enforcement Officer (CEO) shall administer and enforce all provisions of this Zoning Law.

§ 129-78.1 Powers and Duties of the CEO Related to Zoning.

- A. To receive and review all applications for a Special Permit, Site Plan approval and Subdivision Review for Zoning Law compliance and for clerical completeness pursuant to the provisions of this Zoning Law. If the Code Enforcement Officer determines that the application meets all requirements of the zoning law, the CEO shall forward the application to the Planning Board for further review in accordance with the provisions of the Zoning Law and/or Subdivision Regulations. If the CEO finds that the application does not comply in one or more respects with the provisions of the Zoning Law, the CEO shall deny the application and notify the applicant that he/she may appeal the CEO's determination to the Zoning Board of Appeals in accordance with the provisions of this Zoning Law.
- B. Upon approval of any application by the Planning Board for a Special Permit, Site Plan approval, subdivision, or for any other change in use requiring the issuance of a Building Permit, the CEO is authorized to issue a building permit without additional application by the project sponsor.
- C. To conduct inspections necessary to the investigation of complaints and all other inspections required or permitted under any provision of this Zoning Law.
- D. To issue stop work orders, notices of violations and compliance orders.
- E. To accept complaints of violations from citizens and public officials, to document and follow up on violations encountered during the course of inspections or through general observation in the community, to investigate potential violations, and where necessary in the discretion of the Village, to commence enforcement of the Zoning Law.
- F. To issue orders pursuant to this Zoning Law ("Violations").
- G. To maintain records.

- H. To pursue administrative and civil enforcement actions and proceedings and/or criminal proceedings to enforce the provisions of this Zoning Law.
- I. To consult with the Village Attorney about pursuing such legal actions and proceedings as may be necessary to enforce the provisions of the Zoning Law.
- J. To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this Zoning Law.

§ 120-78.2 Stop Work Orders.

A. The Code Enforcement Officer is authorized to issue stop work orders pursuant to this Article for any work that is determined by the Code Enforcement Officer to be conducted in violation of the Zoning Law, including, but not limited to, work being conducted on land and/or work being conducted on a building or structure for which a Special Permit or Site Plan approval is required but has not been obtained. The content of the Stop Work Order shall be:

- (1) Be in writing.
- (2) Be dated and signed by issuing Officer.
- (3) State the reason or reasons for issuance.
- (4) If applicable, state the conditions that must be satisfied before work will be permitted to resume.

The CEO shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by registered or certified mail. The CEO shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the Stop Work Order, personally or by registered or certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop work order.

§ 120-78.3 Effect of stop work order.

When a Stop Work Order is issued, the owner of the affected property, the permit holder and any other person performing, taking part in or assisting in the work shall immediately cease all work that is the subject of the Stop Work Order.

§ 120-78.4 Complaints.

A. The CEO shall review and investigate complaints that allege or assert the existence of conditions or activities that fail to comply with this Zoning Law. The process for responding to a complaint shall include any of the following steps the CEO may deem to be appropriate.

- (1) Performing an inspection of the property, conditions and/or activities alleged to be in violation and documenting the results of such inspection.
- (2) If a violation is found to exist, providing the owner of the affected property, and any other person who may be responsible for the violation, with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner authorized in this Zoning Law.
- (3) If appropriate, issuing a Stop Work Order and/or Compliance Order.
- (4) If a violation that was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing the report with the complaint.
- (5) Notify the complainant about the outcome of any investigation initiated as a result of their complaint.

§ 120-78.5 Recordkeeping

- A. The CEO shall keep permanent official records of all transactions and activities that he/she conducts and those conducted by members of his/her office, including records of:
 - (1) All applications received, reviewed and approved or denied.
 - (2) All plans, specifications and construction documents approved.
 - (3) All Zoning Permits, temporary certificates, Stop Work Orders, Operating Permits, and Certificates of Use issued.
 - (4) All inspections and tests, including all third-party inspections and tests, required and performed.
 - (5) All statements and reports issued and a master list of all reports to be received.
 - (6) All complaints received.
 - (7) All investigations conducted.
 - (8) All other features and activities specified in or contemplated by this Section of the Zoning Law.
 - (9) All fees charged and collected.
- B. All records shall be public records open for public inspection during normal business hours, except for records exempted from disclosure under the New York State Public Officers Law (Freedom of Information Law) or documents which are protected by attorney-client privilege. All records maintained by the CEO shall be kept in an organized manner calculated to allow easy and efficient review by Village officials or the public. All plans and records

pertaining to buildings or structures, or appurtenances thereto shall be retained for at least the minimum time period so required by State law and regulation. The CEO shall periodically check all reports and plans to ensure that appropriate action, if needed, is taken.

§ 120-78.6 Program Review and Reporting.

The CEO shall submit monthly updates to the Village Board in writing summarizing all business conducted by the CEO office related to enforcement of the zoning law, including a summary of all appeals or litigation pending or concluded.

§ 120-79. Permits.

- A. Requirement. It shall be unlawful to commence demolition, or the excavation for the construction, of any building or structure, including accessory buildings, or to commence the moving or alteration of any building or structure allowed pursuant to this Chapter, including accessory buildings, until the Code Enforcement Officer has issued a permit for such work.
- B. Refusal. If a permit is refused, the Code Enforcement Officer shall state such refusal, in writing, with the cause and shall immediately mail notice of such refusal to the applicant at the address indicated on the application.
- C. Effect. The issuance of a permit shall in no case be construed as waiving any provision of this chapter.
- D. Fees. Fees to be charged for the issuance of a permit shall be as determined by a schedule adopted by the Board of Trustees.
- E. Term. A permit issued pursuant to this Chapter shall become void 12 months from the date of issuance unless substantial progress has been made since that date on the project described therein; provided, however, that the permit may be renewed for an additional six months upon application therefor without the payment of an additional fee.

§ 120-80. Certificate of occupancy.

- A. Requirement. No land or building or other structure or part thereof hereafter erected or altered in its use or building or structure shall be used or occupied until the Code Enforcement Officer shall have issued a certificate of occupancy stating that such land, building, structure or part thereof and the proposed occupancy or use thereof are found to be in conformity with the provisions of this chapter.

ARTICLE XVI Zoning Board of Appeals, and Variances, Appeals and Interpretations

§ 120-81. Board of Appeals.

- A. Creation. A Board of Appeals is hereby established in accordance with § 7-712 of the Village Law.
- B. Composition. The Board of Appeals may consist of three or five members.
- C. Appointment. The Board of Trustees of the Village shall appoint the members of the Board of Appeals, each to be appointed for three years. No person who is a member of the Board of Trustees or a Town Justice or a member of the Village Planning Board shall be eligible for membership on such Board of Appeals.
- D. Removal. The Board of Trustees shall have the power to remove any member of the Board of Appeals for cause after public hearing. Any Board of Appeals member may be removed for noncompliance with minimum requirements related to meeting attendance and training.
- E. Vacancies. Vacancies shall be filled for the unexpired term of the member whose place has become vacant.
- F. Training. Board of Appeals members shall complete training and continuing education courses in accordance with any local requirements and with New York State General Municipal Law.

§ 120-82. General procedures.

- A. Meetings. All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. All meetings of such Board shall be open to the public.
- B. Oaths. The Chairman or, in his absence, the Acting Chairman may administer the oaths and compel the attendance of witnesses.
- C. Minutes. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. Every rule and regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board shall be filed in the office of the Board and with the Village Clerk within five business days and shall be a public record.

- D. Filing Requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the office of the Village Clerk within five business days and shall be a public record.
- E. Assistance to the Board. The Board of Appeals shall have the authority to call on any department, agency, or employee of the Village for assistance as deemed necessary.
- F. Compliance with State Environmental Quality Review Act. The Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the ECL and its implementing regulations as codified in Title 6, Part 617 of the New York codes, rules and regulations.
- G. Rehearing. A motion for the Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reheard may be made by any member of the Board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.
- H. Voting Requirements.
 - (1) Decision of the Board. Except as otherwise provided, every motion or resolution of the Board of Appeals shall require for its adoption the affirmative vote of a majority of all the members of the Board of Appeals as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the County Planning Agency the voting provisions of Section 239-m of the General Municipal Law shall apply.
 - (2) Default Denial of Appeal. If an affirmative vote of a majority of all members of the Board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the Code Enforcement Officer within the time allowed by this section, the appeal is denied. The Board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth in sub-section G of this section.

§ 120-83. Powers.

The Board of Appeals shall have the following powers:

- A. The jurisdiction of the Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order,

requirement, decision, interpretation, or determination made by the Code Enforcement Officer charged with enforcement of this local law. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Village. Permitted action by the Board of Appeals shall include:

- (1) Administrative review of Orders, requirements, decisions, interpretations and determinations: The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the Code Enforcement Officer and to that end shall have all the powers of the Code Enforcement Officer from whose order, requirement, decision, interpretation or determination the appeal is taken.
- (2) Variance: to hear applications for area or use variances from the terms of this chapter will not be contrary to the law or to public interest where, owing to unique conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, while adhering to the spirit of this chapter and doing substantial justice. Financial disadvantage to the property owner is no proof of hardship within the purpose of zoning. Hardship must be unique and must arise from either a natural or man-made condition of the land upon which a use not in conformance with the literal terms of this chapter is proposed.
 - (a) Use variances.
 - [1] The Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of such local law, shall have the power to grant use variances, as defined herein.
 - [2] No such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that, for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - [a] The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
 - [b] The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
 - [c] The requested use variance, if granted, will not alter the essential

character of the neighborhood.

[d] The alleged hardship has not been self-created.

[3] The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(a) Area variances.

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

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

- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
- Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.
- Whether the requested area variance is substantial.
- Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.

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

(3) Imposition of conditions. The 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. Such conditions shall be consistent with the spirit and intent of the Zoning Local Law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

§ 120-84. Reference to County Planning Board.

In accordance with the policy and procedures provided for by Article 12-B, §§ 239-l and 239-m, of the General Municipal Law, any proposed interpretation or variance affecting real property within 500 feet of the boundary of the Village of Nassau or from the boundary of any existing or proposed county or state park or other recreational area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or from the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines, or from the existing or proposed boundary of any state-owned land on which a public building or institution is situated, shall be referred to the Rensselaer County Planning Board at least five days before any scheduled hearing. The referral to the County shall include a full statement of the proposed action. The term "proposed" shall be deemed to include only those recreational areas, parkways, thruways, expressways, roads or highways which are shown on a County Plan of Rensselaer County adopted pursuant to § 239-d, Subdivision 2, of the General Municipal Law or adopted as an Official Map of Rensselaer County pursuant to § 239-g of the General Municipal Law. If the Rensselaer County Planning Board fails to report within 30 days after receipt of a full statement of such referred material, the Board of Appeals may act without such report. If the Rensselaer County Planning Board disapproves the proposal or recommends modifications thereof, the Board of Appeals shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution setting forth the reasons for the contrary action. The Board shall file a report of their final action taken with the County Planning Board within thirty days after its decision has been made.

ARTICLE XVII Administrative Review Procedures

§ 120-85. Application for variance.

Application for an interpretation or variance shall be made to the Code Enforcement Officer. Upon his determination that a permit cannot be issued without action by the Board of Appeals, he shall, within five days of receipt, transmit such application to the Board of Appeals for necessary action.

§ 120-86. Appeals for administrative review.

An appeal to the Board of Appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, board or bureau affected by any decision of the Code Enforcement Officer based in whole or in part upon the provisions of the chapter. Such appeal shall be taken by filing, on a form provided by the Village of Nassau, with the Board of Appeals a notice of appeal specifying the grounds thereof and the relief sought. The Code Enforcement Officer shall forthwith transmit all papers constituting the record upon which the action appealed from was taken to the Board of Appeals.

§ 120-87. Time of appeal.

Said notice of appeal shall be filed within 60 days from the date upon which the notice of refusal of the permit or refusal of the certificate of occupancy is mailed by the Code Enforcement Officer, and failure to file notice of appeal within 60 days shall constitute a waiver of the right to appeal.

§ 120-88. Stay of proceedings.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Code Enforcement Officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Appeals or by a court of record on application, on notice to the Code Enforcement Officer and on due cause shown.

§ 120-89. Hearing; notice; decision; costs.

- A. Hearing. The Board of Appeals shall fix a reasonable time for the hearing of any application for variance, or the hearing of an appeal for administrative

review.

- B. **Notice.** The Board of Appeals shall give due notice to the parties. Notice of an application for a variance or interpretation shall be published in a paper of general circulation in the Village at least five days prior to the date thereof. The notice shall also be given by certified mail, return receipt requested, at least five days prior to the date of the hearing, to all persons, firms or corporations owning property or residing within 200 feet of the location of the property upon which its use is proposed to be established. In addition, all hearing notices shall be posted on the Village Website. The Village may issue an email notice as well, but this shall be in addition to the required legal notice in the paper.
- C. **Costs.** All costs of such publication and notice shall be paid by the appealing party and shall be paid to the Board of Appeals prior to the hearing of such appeal.
- D. **Time of Decision.** The Board of Appeals shall decide on the appeal within 62 days after the closing of the hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and Board. The decision of the Board of Appeals on the appeal shall be filed in the office of the Village Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

§ 120-90. Provisions of appeal.

If the variance is granted or the issuance of a permit is finally approved or other action by the appellant or applicant is authorized, the necessary permits shall be subject to the terms of § 120-79. Should the appellant or applicant fail to comply with these provisions, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn or abandoned his appeal or his application, and such permission, variances and permits to him granted shall be deemed automatically rescinded by the Board of Appeals.

§ 120-92. Recourse.

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Appeals or any office, department, board or bureau of the Village may apply to the Supreme Court for relief by a proceeding under Article 78 of the Civil Practice Law and Rules:

- A. Such proceeding must be instituted within 30 days after the filing of a decision of the Board of Appeals in the office of the Village Clerk.
- B. The Court may take evidence or appoint a referee to take such evidence as it may direct, and report the same, with its findings of fact and conclusions of

law, if it shall appear that testimony is necessary for the proper disposition of the matter.

- C. The Court at Special Term shall itself dispose of the cause on the merits, determining all questions which may be presented for determination. The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review determining all questions which may be presented for determination.
- D. Costs. Costs shall not be allowed against the Board of Appeals unless it shall appear to the Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

ARTICLE XVIII Violations and Penalties

§ 120-93.1 Violations.

The CEO is authorized to order in writing the remedying of any condition or activity found to exist in, on, or about any building, structure, property or premises in violation of this Zoning Law.

Upon finding that any violation exists, the officer shall issue a Compliance Order. The Compliance Order shall

- a. be in writing.
- b. be dated, shall identify the CEO, and be signed by the CEO.
- c. specify the condition or activity that violates this Zoning Law.
- d. specify the provision or provisions of this Zoning Law that is/are violated by the specified condition or activity.
- e. specify the period of time the CEO believes is reasonably necessary for achieving compliance.
- f. direct that compliance be achieved within the specified period of time.
- g. state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.

The CEO shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by registered or certified mail. The Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof; to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by registered or certified mail provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.

§ 120-93.2 Appearance Tickets.

The CEO is authorized to issue Appearance Tickets for any violation of the Zoning Law.

§ 120-93.3 Civil Penalties.

In addition to those penalties authorized by State law, any person who violates any provision of this Zoning Law shall be liable for a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted by the Village of Nassau.

§ 120-93.4 Criminal Penalties and Enforcement.

Any violation of the Zoning Law is hereby declared to be an offense punishable by a fine not exceeding \$250 per day where each day continued violation shall constitute a separate additional violation.

§ 120-93.5 Injunctive relief.

An action or proceeding may be instituted by the Village, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this Zoning Law. No court action or proceeding shall be commenced without the appropriate authorization from the Village Board. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of this Zoning Law, or any Stop Work Order, Compliance Order or other order obtained under this Zoning Law, an action or proceeding may be commenced in the name of the Village, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions.

§ 120-93.6 Remedies not exclusive.

No remedy or penalty specified in this Article shall be the exclusive remedy or penalty available to address any violation described in this Article and each remedy or penalty specified in this Article shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this Section or in any other applicable law. Any remedy or penalty specified in this Article, including Stop Work Orders, may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Article or any other applicable law.

In particular, but not by way of limitation, each remedy and penalty specified in this local law, including Stop Work Orders, shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of Section 381 of the New York State Executive Law (Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code and the New York State Energy Conservation and Construction Code), and any remedy or penalty specified in this local law, including Stop Work Orders, may be pursued at any time, whether prior to, or simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of Section 381 of the New York State Executive Law.

ARTICLE XIX Miscellaneous

§ 120-95. Amendments.

- A. The regulations, restrictions and boundaries established by this chapter may, from time to time, be amended, supplemented, changed or modified or repealed by law in accordance with the procedures provided by §§ 7-706 and 7-708 of the Village Law.
- B. The Village Board may from time to time amend, supplement or repeal, in whole or in part, this Zoning Law, subject to the provisions of this Article and Village Law. Such amendment shall be adopted by majority vote of the Village Board and may be initiated in the following ways.
 - 1. By the Village Board on its own motion.
 - 2. On the recommendation of the Planning Board or the Zoning Board of Appeals.
 - a. Public Hearing: No amendment to this Law shall become effective until a public hearing is held in relation thereto at which the general public shall have an opportunity to be heard.
 - b. Newspaper Notice of Hearing: At ten days prior to the date of such public hearing, a notice of the time and place shall appear in the official newspaper of the Village. Such notice shall describe the area, boundaries, regulations, or requirements that such proposed change involves.
 - d. Publication and Posting: Every amendment to this Zoning Law, including any map incorporated therein, adopted in accordance with the Village Law shall be entered in the minutes of the Village Board and a summary of such amendment, exclusive of any map incorporated into the amendment, shall be published once in a newspaper of general circulation in the Village. In addition, a copy of such Law or amendment, together with a copy of any updated map, shall be posted at Village Hall.
 - e. Effective Date: An amendment or change in this Zoning Law shall take effect immediately upon filing of the Zoning Law with the Secretary of State in accord with Article 3 of the Municipal Home Rule Law.
 - f. Adoption. The Village Board may adopt amendments to this Zoning Law by a simple majority vote of its full membership, except in the case of a disapproval by the Rensselaer County Planning Board as noted in sub-section (C) below.
- C. County Referral. All amendments to this chapter which would change the

district classification or the regulations applying to real property lying within a distance of 500 feet from the boundary of the Village of Nassau or the boundary of any existing or proposed county or state park or other recreational area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or from the right-of-way of any existing or proposed stream or drainage channel owned by the county or for which the county has established channel lines, or from the existing or proposed boundary of any county or state-owned land on which a public building or institution is situated, shall be referred to the Rensselaer County Planning Board as required by § 239-m, Subdivision 2, of the General Municipal Law. The term "proposed" shall be deemed to include only those recreational areas, parkways, thruways, expressways, roads or highways which are shown on a County Plan of Rensselaer County adopted pursuant to § 239-d of the General Municipal Law or adopted as an Official Map of Rensselaer County pursuant to § 239-g of the General Municipal Law. If the Rensselaer County Planning Board fails to report within 30 days after receipt of a full statement of such referred matter, the Board of Trustees of the Village of Nassau may act without such report. If the Rensselaer County Planning Board disapproves of the proposed amendment, supplement, change or modification or recommends modification of the proposal of the Village of Nassau, the Board of Trustees shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary act. The Board shall file a report of their final action taken with the County Planning Board within thirty days after its decision has been made.

- D. Referral to Adjacent Municipalities: At least 10 days prior to the date of the public hearing, written notice of any proposed change or amendment affecting property within 500 feet of the boundary of any adjacent Town or Village shall be transmitted by the Village Clerk to the Town or Village Clerk of that Town or Village. The Town or Village shall have the right to appear and to be heard at such public hearing with respect to any such proposed change or amendment.

§ 120-96. Interpretations.

Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or those imposing the higher standards shall govern.

§ 120-97. Title.

This chapter shall be known as and may be cited and referred to as "Chapter 120 of the Code of the Village of Nassau."

§ 2 This local law shall take effect immediately.