

December 8, 2021

# Village of Schuylerville

## Saratoga County, New York

# Zoning Code



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# **Village of Schuylerville Zoning Code**

## **Article I Title, Scope, and Purposes**

### **Section 1.1 Title**

This law shall be known and may be cited as the “VILLAGE OF SCHUYLERVILLE ZONING CODES”.

### **Section 1.2 Scope and Applicability**

No land use activity as listed below shall be commenced, carried out or continued except in full compliance with this law and a building permit has been issued by the Code Enforcement Officer, or other applicable permit or approval has been issued by the appropriate Board stating that the proposed building, structure, use of land or structure, or development activity complies with the provisions of this law:

- A. Erection, re-erection, demolition, or movement of a building or structure;
- B. Change in the exterior structural dimensions of a building or structure;
- C. Change in use of land, buildings or structures through the establishment of a new use, or through the expansion, enlargement or relocation of an existing use;
- D. The resumption of any use which has been discontinued for a period of one year or longer;
- E. Establishment of or change in the dimensions of a parking area for nonresidential or multi-family residential uses;
- F. Placement of a sign;
- G. Conversion of a seasonal use to a year-round use, including residential use.

### **Section 1.3 Purposes**

The purpose of this law is to promote the health, safety, morals or the general welfare of the community and thus to lessen congestion in the streets; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to adequately allow for the provision of transportation, water, sewerage, schools, parks and other public requirements; to promote aesthetic values as outlined in the Comprehensive Plan of the Village of Schuylerville; and to encourage the most appropriate use of land throughout the Village and for the following additional specific purposes:

- A. To ensure that new development is consistent with the Village’s historic architecture and setting;
- B. To encourage the adaptive reuse of existing buildings;
- C. To ensure for pedestrian and vehicular safety, and
- D. To protect the natural environment of the Village.

### **Section 1.4 Enactment**

This Code is enacted pursuant to the Village Law of the State of New York, Chapter 64 of the Consolidated Laws, Article 7, in conformance with the Comprehensive Plan for the Village of Schuylerville, to protect and promote public health, safety, comfort, convenience, economy, natural and cultural resources, aesthetics, and the general welfare, and for the purposes outlined in Section 1.3.

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## **Section 1.5 Effective Date**

This Code shall be effective immediately upon filing in the office of the New York Secretary of State.

## **Section 1.6 Effect on Prior Existing Codes, Ordinances, and Regulations**

This Code supercedes the following Codes, ordinances and regulations:

- A. The Village of Schuylerville Site Plan Review Regulations, and its amendments.
- B. The Village of Schuylerville Wireless Communication Regulations, and its amendments.
- C. The Village of Schuylerville Flood Damage Prevention (Chapter 86), and its amendments.

# **Village of Schuylerville Zoning Code**

## **Article II Administration and Enforcement**

### **Section 2.1 Zoning Officer**

This Code shall be administered and enforced by the Code Enforcement Officer and by the various boards as indicated below:

- A. The Code Enforcement Officer is responsible for the day to day administration of this Code, including the processing of all applications for building permits or other approvals required by this Code and for the enforcement of this Code under the supervision of the Village Board.
- B. The Code Enforcement Officer is also responsible for granting building permits and certificates of occupancy and administration and enforcement of the New York State Uniform Fire Prevention and Building Code. The Code Enforcement Officer and a Building Inspector may, at the discretion of the Village Board of Trustees, be roles conducted by one staff person.
- C. The Village Board is responsible of bringing legal action to enforce this Code.
- D. The Zoning Board of Appeals is responsible for reviewing decisions of the Zoning Officer by hearing appeals for Interpretation and for Variances from the requirements of this code pursuant to Article IX of this Code.
- E. The Planning Board is responsible for granting site plan approval pursuant to Article VIII, granting special permits as provided in Article VII; advising the Village Board on proposed zoning amendments; and granting subdivision approvals pursuant to the Village of Schuylerville Subdivision Regulations.

### **Section 2.2 Building Permit Application Procedure**

- A. Meeting with Code Enforcement Officer – Any person intending to initiate an activity that may be subject to this Code should meet with the Code Enforcement Officer as early as possible to determine which, if any, additional permits may be required.
- B. Application – All applications for a building permit shall be made on a form provided by the Village Clerk, and submitted initially to the Code Enforcement Officer. The application shall be accompanied by the required fee, as established by the Village Board, and two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of any existing and proposed principal and accessory buildings and such other information as may be necessary to determine and provide for the enforcement of this law.
- C. No building permit application shall be processed unless the Code Enforcement Officer finds that:
  - 1. The proposal set forth in the application complies with the use, area, and dimensional regulations, the requirements of applicable design guidelines, and all supplementary regulations of this law and the Subdivision Law, as well as the terms and conditions of any approvals required under this law.
  - 2. All required reviews and actions have been performed, and all necessary approvals have been secured.

## **Village of Schuylerville Zoning Code**

3. All applications for building permits for new commercial construction and rehabilitation of existing commercial structures for future use as a commercial enterprise shall include a signed statement from the applicant that a Knox Box Rapid Entry System shall be installed as part of the project for purpose of emergency access to the property.
- D. Notification of Determination – The Code Enforcement Officer shall issue, or refuse to issue the applied for Building Permit, or advise the applicant of any required additional information or referral required within ten (10) working days of receipt of the application. Not later than ten (10) working days after receiving a completed application, the Code Enforcement Officer shall mail or deliver to the applicant the determination that either:
  1. The proposed project complies with the requirements of this Code and all other applicable local laws and regulations, and requires no special approvals, and accordingly a project building permit is issued; or

The proposed project is inconsistent with one or more specified requirements of this Code or other applicable Codes or regulations, and a project building permit is denied. Notice of refusal to issue a Permit shall be given to the applicant in writing and shall state the reasons for said refusal. If the Permit is denied because the proposed project requires one or more specified approvals such as a special permit, site plan or subdivision approval, the Code Enforcement Officer shall provide information and guidance to the applicant of the requirements for the special approvals needed, and shall provide information and guidance in preparation of the required application. When the required special approvals have been obtained, all other legal and regulatory requirements have been met, and all pre-construction conditions imposed have been satisfied, the Code Enforcement Officer shall issue a project Building permit.

- E. Duration of Validity – A Building Permit issued under this law shall be valid for a period of one (1) year from the date of issuance and shall thereafter be deemed null and void. The building permit may be extended by the Code Enforcement Officer for good cause at the request of the applicant.
- F. Revocation – If the Code Enforcement Officer determines that an application or accompanying plans are in any material respect false or misleading, or that work is being done in violation of the provisions of the applicable building codes, ordinances, rules, or regulations, or in violation of this law, or in an unsafe or dangerous manner, or if the permit was issued in error and should not have been issued, or that work is being done upon the premises in a way differing materially from that called for in the filed application, then the Code Enforcement Officer shall forthwith notify the permittee and require that the violation be rectified within 60 days and/or he may revoke the building permit and issue a stop work order which shall be conspicuously displayed on the affected premises, and the permittee shall immediately cease the use, activity, or construction, and surrender the Building permit to the Officer. Where a project permit has been revoked, before issuing a new Building permit, the Code Enforcement Officer may require the applicant to file a bond in favor of the Village to secure compliance with this Code and all other applicable laws and regulations, in a sum sufficient to cover the cost of removing the use if it does not so comply. Any one aggrieved by this decision can first seek a review from the Planning Board. If that request is denied, then the applicant may seek an appeal with the Zoning Board of Appeals.

### **Section 2.3 Certificate of Occupancy**



## **Village of Schuylerville Zoning Code**

- A. Once a project has been completed, the Code Enforcement Officer must issue a certificate of occupancy before the project can be occupied or used. The Code Enforcement Officer, within ten (10) working days after receipt of properly completed request for inspection of a project, shall inspect and issue a certificate of occupancy if the project has been completed in compliance with all terms of the project building permit and plot plan, and with all applicable provisions of this Code and other laws and regulations. Such certificate shall constitute a permit to occupy and conduct the use. Issuance of the Certificate or written notification of refusal to issue the same and the reasons therefore are to be accomplished within fifteen (15) days from the date of notification of project completion.

### **Section 2.4 Violation and Appeal**

- A. Enforcement – This law shall be enforced by the Code Enforcement Officer pursuant to Section 2.1
- B. Citizen Complaint – Any resident, property owner or other person of legitimate interest may file with the Code Enforcement Officer a complaint against any alleged violation of this law. It shall be the duty of the Code Enforcement Officer to record such complaint and investigate such alleged violation and to report thereon to the Village Board in a timely manner, which report shall be filed and be part of the public record of the Village.
- C. Notification and Correction – Any building or use found to be in violation of this law shall be so recorded by the Code Enforcement Officer and official notice to this effect shall be given to the owner and/or tenant, user or occupant thereof. The owner, tenant, user or occupant shall correct such noted violation within sixty (60) days from the date of notification. If any such violation is not corrected within this sixty (60) day period, the Village may institute proceedings to compel compliance. The Code Enforcement Officer can extend this period of time under consideration of special circumstances.
- D. Violations and Penalties:
1. A violation has occurred when any person or entity, whether as owner, or lessee, agent or employee, has violated provisions of this law, or who fails to comply with any order or regulation made there under; or who erects, alters, moves, or uses any building or uses any land in violation of any detailed statement or plans submitted by him and approved under the provisions of this law. The Code Enforcement Officer shall serve an order to cease or move such violation. If there is a failure to comply with such order, the violator shall be guilty of an offense and subject to a fine not exceeding two hundred fifty (\$250) dollars or imprisonment not exceeding thirty (30) days, or both.
  2. Each week's (seven days) continued violation shall constitute a separate additional offense.
  3. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of this law, the proper local authorities of the Village, in addition to other remedies, may institute appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business or use in or about such building, structure or land.

## **Village of Schuylerville Zoning Code**

4. Fees – A schedule of fees for permits and procedures under this law shall be as established by the Village Board.
- E. Appeal – All appeals for relief from the application of these Codes in matters of interpretation or request for variance shall be directed to the Board of Appeals as per Section 9.11 of this Code. Where the Board finds that practical difficulty or unnecessary hardship may result from strict compliance with these Codes, it may vary the code so that substantial justice may be done and the public interest secured; provided that such variations will not have the effect of nullifying the intent and purpose of these Codes or the Village Plan. In granting such variances, the Board of Appeals shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied.
- F. Court Review – Any person or persons, jointly or severally aggrieved by and decision of the Planning Board, Board of Appeals or Village Board or any officer or department of the Village concerning these Codes may bring a proceeding, according to Village Law Section 7-740, to review in the manner provided by article seventy-eight of the civil practice law and rules in a court of record on the ground that such decision is illegal, in whole or in part. Such proceeding must be commenced within thirty (30) days after the filing of the decision in the office of the board. Commencement of the proceeding shall stay proceedings upon the decision appealed from. Costs shall not be allowed against the Planning Board 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. All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.

# **Village of Schuylerville Zoning Code**

## **Article III Zoning Districts, Uses, Bulk Requirements and Zoning Map**

### **Section 3.1 Establishment of Districts, Uses and Bulk Dimensions**

Purpose: The Village of Schuylerville is hereby divided into different districts of residential, commercial and open space which are shown on the Zoning Map. These districts are delineated in such manner as to recognize the existing character and quality of land uses and natural features throughout the Village and to be in accord with the Village Comprehensive Plan.

#### **B. Districts**

1. The Village of Schuylerville is divided into the following districts:

R-A Residential A District

R-B Residential B District

R-C Residential C District

HM-S Historic Main Street District (Commercial A)

C-B Commercial-Business District (Commercial B)

C-H Commercial-Highway District (Commercial C)

R-R Riverfront Recreational District (Flood Hazard District)

E-D Educational District

2. Provision is also made for creation of one or a combination of the following Planned Development Districts:

P-R Planned Residential District

P-Rec Planned Recreational District

P-C Planned Commercial District

P-I Planned Industrial District

- C. Any use not listed as permitted or allowable by a special use permit in Sections 3.2 through 3.10 is prohibited.

- D. Setbacks shall be measured from the legal lot lines of a parcel as stated within the deed of the parcel and on the official tax map of the parcel. Where lot boundary location disputes exist, it shall be the responsibility of the parcel owners to resolve the issue through an accurate survey of the parcels, to be paid for by the parcel owners.

# Village of Schuylerville Zoning Code

## Section 3.2 R-A Residential District

A. Purpose: The purpose of this district is to promote residential development at equal densities consistent with the traditional and historical residential core of the Village.

B. Permitted Uses by Right or Site Plan Approval (refer to Article 8 of this Code for uses requiring Site Plan Approval)

Single Family dwelling  
Two Family dwelling  
Customary accessory uses

C. Uses Allowable by Special Use Permit

Public Structure  
Semi-public Structure  
Public Utility Structure  
Home Occupation  
Bed and Breakfast  
Accessory Apartment

D. Dimensional Requirements for the R-A District

Use	Area of Lot (Min) Square Footage or Acreage	Width of Lot (Min.)	Maximum Percent of Lot Coverage (Building Area)	Maximum Building Height in Stories	Maximum Building Height in Feet	Front Yard Setback*	Side Yard Dimension (Min.)	Rear Yard Dimension (Min.)
Single Family dwelling	3,000 sf	30 ft	35	2 ½	30 ft	15 ft	5 ft	15 ft
Two Family dwelling	3,000 sf	30 ft	35	2 ½	30 ft	15 ft	5 ft	15 ft
Public Structure	3,000 sf	30 ft	35	2 ½	30 ft	15 ft	5 ft	15 ft
Semi-public Structure	3,000 sf	30 ft	35	2 ½	30 ft	15 ft	5 ft	15 ft
Home Occupation	3,000 sf	30 ft	35	2 ½	30 ft	15 ft	5 ft	15 ft
Bed and Breakfast	3,000 sf	30 ft	35	2 ½	30 ft	15 ft	5 ft	15 ft
Accessory Apartment Use	Standards to be set during the Special Use Permitting Process							

\* To be measured from the edge of the Right-of-way.

NA: Not Applicable

# Village of Schuylerville Zoning Code

## Section 3.3 R-B Residential District

A. Purpose: The purpose of this district is to provide for a mix of residential uses and multi-family and tourist oriented residences e.g., bed & breakfast, consistent with existing development patterns.

B. Permitted Uses by Right or Site Plan Approval (refer to Article 8 of this Code for uses requiring Site Plan Approval)

Single Family Dwelling  
Customary Accessory Uses

C. Uses Allowable by Special Use Permit

Two-Family Dwelling  
Multiple-family dwelling by conversion  
Public Structure and use  
Semi-public structure and use  
Accessory Apartments  
Multi-family dwelling  
Townhouse  
Bed and Breakfast  
Home Occupation

D. Dimensional Requirements for the R-B District

Use	Area of Lot (Min) Square Footage or Acreage	Width of Lot (Min.)	Maximum Percent of Lot Coverage (Building Area)	Maximum Building Height in Stories	Maximum Building Height in Feet	Front Yard Setback*	Side Yard Dimension (Min.)	Rear Yard Dimension (Min.)
Single Family dwelling	3,000 sf	50 ft	50	2 ½	30 ft	15 ft	5 ft	15 ft
Two Family dwelling	6,000 sf	50 ft	50	2 ½	30 ft	15 ft	10 ft	30 ft
Home Occupation	6,000 sf	50 ft	50	2 ½	30 ft	15 ft	10 ft	30 ft
Multiple-Family	6,000 sf	125 ft	50	2 ½	30 ft	15 ft	10 ft	30 ft
Townhouse	6,000 sf	125 ft	50	2 ½	30 ft	15 ft	10 ft	30 ft
Bed and Breakfast	6,000 sf	100 ft	25	2 ½	30 ft	15 ft	10 ft	35 ft

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Use	Area of Lot (Min) Square Footage or Acreage	Width of Lot (Min.)	Maximum Percent of Lot Coverage (Building Area)	Maximum Building Height in Stories	Maximum Building Height in Feet	Front Yard Setback*	Side Yard Dimension (Min.)	Rear Yard Dimension (Min.)
Public or Semi-public structure or use	6,000 sf	150 ft	25	2 ½	30 ft	15 ft	25 ft	50 ft
Accessory Apartment Use	Standards to be set during the Special Use Permitting Process							

\* To be measured from the edge of the Tax Parcel Boundary.

### Section 3.4 R-C Residential District

#### A. Purpose:

The purpose of this district is to provide for a mix of higher density residences consistent with existing development patterns.

#### B. Permitted Uses by Right or Site Plan Approval (refer to Article 8 of this Code for uses requiring Site Plan Approval)

Single Family Dwelling  
Customary Accessory Uses

#### C. Uses Allowable by Special Use Permit

Home Occupations

#### D. Dimensional Requirements for the R-C District

Use	Area of Lot (Min) Square Footage or Acreage	Width of Lot (Min.)	Maximum Percent of Lot Coverage (Building Area)	Maximum Building Height in Stories	Maximum Building Height in Feet	Front Yard Setback*	Side Yard Dimension (Min.)	Rear Yard Dimension (Min.)
Single Family dwelling	10,000 sf	30 ft	75	2 ½	30 ft	15 ft	5 feet	25 feet
Home Occupation	10,000 sf	30 ft	25	2 ½	30 ft	15 ft	5 feet	25 feet

\* To be measured from the edge of the Right-of-way.

# Village of Schuylerville Zoning Code

## Section 3.5 HM-S Historic Main Street District

A. Purpose: The purpose of this district is to provide a focal point for retail and commercial activities in the Village and to develop and promote a traditional Main Street commercial corridor that is protective of the historic character and architectural heritage of the area (See Section 4.3).

B. Permitted Uses by Right or Site Plan Approval (refer to Article 8 of this Code for uses requiring Site Plan Approval)

Single Family Dwelling

Office

Retail business (<2,500 sf.)

Mixed Use Buildings (<5,000 sf. with commercial use on the ground floor mixed with residential use on the second floor or other portion of the structure).

Customary Accessory Use

C. Uses Allowable by Special Use Permit

Two-family dwelling

Multi-family dwelling

Bed and Breakfast

Retail business (>2,500 sf.)

Hotel

Bank

Tourist Attraction

Restaurant

Personal Service

Home Occupation

Accessory Apartment

Mixed Use Building (>5,000sf)

Convenience Store in Existing Building

D. Dimensional Requirements for the HM-S District

Use	Area of Lot (Min) Square Footage or Acreage	Width of Lot (Min.)	Maximum Percent of Lot Coverage (Building Area)	Building Height in Stories	Maximum Building Height in Feet	Front Yard Setback *	Side Yard Dimension (Min.)	Rear Yard Dimension (Min.)
All permitted uses and uses allowable by special use permit	2,000 sf	20 ft	100% along Broad Street, 75% everywhere else	2 Minimum and 3 Maximum	40 ft	0 ft where building fronts along Broad Street, 10 feet elsewhere	0 ft where building fronts along Broad Street, 10 feet elsewhere	0 ft where building fronts along Broad Street, 15 feet elsewhere

## Village of Schuylerville Zoning Code

\* To be measured from the edge of the Right-of-way.

Where adjacent buildings exist or where similar structures exist across a street, the minimum setback shall be the average setback distance of those structures.

### Section 3.6 C-B Commercial-Business District

- A. Purpose – The purpose of this district is to allow for more concentrated, diverse, commercial uses than in other locations in the Village.
- B. Permitted Uses by Right or Site Plan Approval (refer to Article 8 of this Code for uses requiring Site Plan Approval)
- Retail Business
  - Personal Service
  - Office
  - Bank
  - Restaurant
  - Drinking Establishment
- C. Uses Allowable by Special Use Permit
- Single Family Dwelling
  - Two Family Dwelling
  - Multiple family Dwelling
  - Rooming House
  - Tourist Home
  - Bed and Breakfast
  - Hotel, Motel, Tourist Accommodations
  - Gasoline Station
  - Automobile Service Garage
  - Convenience Store
  - Home Occupation
  - Public and Semi-public structure and use
  - Public Utility structure and use
  - Accessory Apartments
  - Mixed Use Buildings (with commercial and residential mixed in same structure)
  - Car Wash
  - Pharmacy - Drive Thru
  - Convenience Store with Gasoline Station
- D. Dimensional Requirements for C-B District

Use	Area of Lot (Min) Square Footage or Acreage	Width of Lot (Min.)	Maximum Percent of Lot Coverage (Building Area)	Maximum Building Height in Stories	Maximum Building Height in Feet	Front Yard Setback*	Side Yard Dimension (Min.)	Rear Yard Dimension (Min.)
Single Family dwelling	15,000sf	30 ft	50	2 by right or 3 by special use	24 ft by right or 36 ft by	15 ft.	0-15 ft or prevailing setback	15 ft



## Village of Schuylerville Zoning Code

Use	Area of Lot (Min) Square Footage or Acreage	Width of Lot (Min.)	Maximum Percent of Lot Coverage (Building Area)	Maximum Building Height in Stories	Maximum Building Height in Feet	Front Yard Setback*	Side Yard Dimension (Min.)	Rear Yard Dimension (Min.)
				permit**	special permit			
Two Family dwelling	15,000sf	30 ft	50	2 by right or 3 by special use permit**	24 ft by right or 36 ft by special permit	15 ft..	0-15 ft or prevailing setback	35 ft
Retail Business, Convenience Store w/o Gasoline Station	15,000sf	30 ft	50	2 by right or 3 by special use permit**	24 ft by right or 36 ft by special permit	15 ft.	0-15 ft or prevailing setback	15 ft
Personal Service	15,000sf	30 ft	50	2 by right or 3 by special use permit**	24 ft by right or 36 ft by special permit	15 ft.	0-15 ft or prevailing setback	15 ft
Office	15,000sf	30 ft	50	2 by right or 3 by special use permit**	24 ft by right or 36 ft by special permit	15 ft.	0-15 ft or prevailing setback	15 ft
Bank	15,000sf	30 ft	50	2 by right or 3 by special use permit**	24 ft by right or 36 ft by special permit	15 ft.	0-15 ft or prevailing setback	15 ft
Restaurant	15,000sf	30 ft	50	2 by right or 3 by special use permit**	24 ft by right or 36 ft by special permit	15 ft.	0-15 ft or prevailing setback	15 ft
Drinking Establishments	15,000sf	30 ft	50	2 by right or 3 by special use permit**	24 ft by right or 36 ft by special permit	15 ft.	0-15 ft or prevailing setback	15 ft
Bed and Breakfast	20,000sf	30 ft	50	2 by right or 3 by special use permit**	24 ft by right or 36 ft by special permit	15 ft	0-15 ft or prevailing setback	15 ft
Home Occupation	N/A	30 ft	N/A	2 by right or 3 by	24 ft by right or 36	15 ft.	0-15 ft or prevailing	15 ft

## Village of Schuylerville Zoning Code

Use	Area of Lot (Min) Square Footage or Acreage	Width of Lot (Min.)	Maximum Percent of Lot Coverage (Building Area)	Maximum Building Height in Stories	Maximum Building Height in Feet	Front Yard Setback*	Side Yard Dimension (Min.)	Rear Yard Dimension (Min.)
				special use permit**	ft by special permit		setback	
Multiple-Family Dwelling	1/2 acre plus 2,000 sf per dwelling unit	30 ft	50	2 by right or 3 by special use permit**	24 ft by right or 36 ft by special permit	15 ft.	0-15 ft or prevailing setback	15 ft
Rooming house	1/2 acre plus 2,000 sf per dwelling unit	30 ft	50	2 by right or 3 by special use permit**	24 ft by right or 36 ft by special permit	15 ft.	0-15 ft or prevailing setback	15 ft
Tourist house	1/2 acre plus 2,000 sf per dwelling unit	30 ft	50	2 by right or 3 by special use permit**	24 ft by right or 36 ft by special permit	15 ft	0-15 ft or prevailing setback	15 ft
Hotel, Motel, Tourist Accommodation	1 acre	30 ft	75	2 by right or 3 by special use permit**	24 ft by right or 36 ft by special permit	15 ft.	0-15 ft or prevailing setback	15 ft
Public or Semi-public structure or use	2 acres	30 ft	35	2 by right or 3 by special use permit**	24 ft by right or 36 ft by special permit	15 ft.	0-15 ft or prevailing setback	15 ft
Gasoline Station, Convenience Store with Gasoline Station	20,000	30 ft	50	2 by right or 3 by special use permit**	24 ft by right or 36 ft by special permit	15 ft.	0-15 ft or prevailing setback	15 ft
Automobile Service Garage	20,000	30 ft	50	2 by right or 3 by special use permit**	24 ft by right or 36 ft by special permit	15 ft.	0-15 ft or prevailing setback	15 ft
Accessory Apartment	Standards to be set during the Special Use Permitting Process			**				

\* To be measured from the edge of the Right-of-way.

# Village of Schuylerville Zoning Code

\*\* Buildings located on Broad Street/Route 4 within this district shall be at a minimum two (2) stories in height.

## Section 3.7 C-H Commercial-Highway District

- A. Purpose: The purpose of this district is to allow additional commercial uses that are more automobile dependent or that need larger lot sizes than may be available in the other commercial districts within the Village.
- B. Permitted Uses by Right or Site Plan Approval (refer to Article 8 of this Code for uses requiring Site Plan Approval)

Warehousing and Storage Facility  
 Farm and Lawn Equipment  
 Garden Supply  
 Feed Supply  
 Lumber and Building Supply  
 Gasoline Filling Station  
 Office  
 Automobile Service Garage  
 Customary Accessory Uses  
 Car Wash  
 Personal Service

- C. Uses Allowable by Special Use Permit

Drive Thru Establishment  
 Hotel, motel and other tourist accommodations  
 Other commercial structures  
 Public Utility  
 Adult Use and Entertainment Establishments  
 Body Modification Facility

- D. Dimensional Requirements for C-H District

Use	Area of Lot (Min) Square Footage or Acreage	Width of Lot (Min.)	Maximum Percent of Lot Coverage (Building Area)	Maximum Building Height in Stories	Maximum Building Height in Feet	Front Yard Setback*	Side Yard Dimension (Min.)	Rear Yard Dimension (Min.)
Warehousing and Storage Facility	1 acre	50 ft	35	2 ½	30 ft	20 ft	15 ft or prevailing setback	15 ft
Lumber and Building Supply	1 acre	50 ft	50	2 ½	30 ft	20 ft	15 ft or prevailing setback	15 ft
Feed Supply	20,000sf	50 ft	50	2 ½	30 ft	20 ft	15 ft or prevailing setback	15 ft
Garden	20,000sf	50 ft	50	2 ½	30 ft	20 ft	15 ft or	15 ft

## Village of Schuylerville Zoning Code

Use	Area of Lot (Min) Square Footage or Acreage	Width of Lot (Min.)	Maximum Percent of Lot Coverage (Building Area)	Maximum Building Height in Stories	Maximum Building Height in Feet	Front Yard Setback*	Side Yard Dimension (Min.)	Rear Yard Dimension (Min.)
Supply							prevailing setback	
Farm and Lawn Equipment	20,000sf	50 ft	50	2 ½	30 ft	20 ft.	15 ft or prevailing setback	15 ft
Other commercial industrial structures	1 acre	50 ft	50	2 ½	30 ft	20 ft.	15 ft or prevailing setback	15 ft
Uses of a similar nature	1 acre	50 ft	50	2 ½	30 ft	20 ft.	15 ft or prevailing setback	15 ft
Gasoline Station	20,000sf	50 ft	50	2 ½	30 ft	20 ft.	15 ft or prevailing setback	15 ft
Automobile Service Garage	20,000sf	50 ft	50	2 ½	30 ft	20 ft.	15 ft or prevailing setback	15 ft
Drive-Thru Establishment	20,000sf	50 ft	50 ft	2 ½	36 ft	20 ft.	15 ft or prevailing setback	15 ft
Hotel, Motel, Tourist Accommodation	20,000sf	30 ft	75	2 ½	24 ft by right or 36 ft by special permit	15 ft.	15 ft or prevailing setback	15 ft
Adult Uses & Body Modification Facilities	1 acre	50 ft	35 ft	2 ½	30 ft	20/ft, in addition to any setbacks required by Section 14.3 of this code	15 ft in addition to any setbacks required by Section 14.3 of this code	15 ft in addition to any setbacks required by Section 14.3 of this code

\* To be measured from the edge of the Right-of-way.

# Village of Schuylerville Zoning Code

## Section 3.8 R-R Riverfront Recreational District

- A. Purpose: The purpose of this district is to protect sensitive environmental lands and open space, promote low density residential and compatible open space uses by discouraging large-scale residential or commercial development. Furthermore, the goals of this district are to preserve the natural function of a flood plain, to protect general health and welfare, prevent flood damage, and minimize public and private losses due to flood conditions in specific areas.
- B. Permitted Uses by Right or Site Plan Approval (refer to Article 8 of this Code for uses requiring Site Plan Approval)

Existing Single Family Dwelling  
Open Space Recreational Use  
Park  
River-Related Recreation Use  
Customary Accessory Use

- C. Uses Allowable by Special Use Permit

Public Structure  
Marina  
Boat Launches (Public & Private)  
Campground  
Semi-public Structure  
Accessory Use  
Single Family Dwelling

- D. Dimensional Requirements for the R-R District

Use	Area of Lot (Min) Square Footage or Acreage	Width of Lot (Min.)	Maximum Percent of Lot Coverage (Building Area)	Building Height in Stories	Maximum Building Height in Feet	Front Yard Setback Minimum *	Side Yard Dimension (Min.)	Rear Yard Dimension (Min.)
Single Family Dwelling	7,000sf	100 ft	10	2 ½	30 ft	25 ft	10 ft	20 ft
Marinas	1 acres	200 ft	25	2 ½	30 ft	50/ ft	20 ft	50 ft
Open Space Recreation	2 acres	200 ft	10	2 ½	30 ft	50 ft	20 ft	50 ft
River-Related Recreation	2 acres	200 ft	25	2 ½	30 ft	50 ft	20 ft	50 ft
Public and Semi Public	10 acres	200 ft	10	2 ½	30 ft	50 ft	20 ft	50 ft
Campground	2	200 ft	10	2	25 ft	50 ft	50 ft	50 ft
Public Utility	Standards to be set during the Special							

## Village of Schuylerville Zoning Code

Use	Area of Lot (Min) Square Footage or Acreage	Width of Lot (Min.)	Maximum Percent of Lot Coverage (Building Area)	Building Height in Stories	Maximum Building Height in Feet	Front Yard Setback Minimum *	Side Yard Dimension (Min.)	Rear Yard Dimension (Min.)
	Use Permitting Process							

\* To be measured from the edge of the Right-of-way.

### Section 3.9 E-D Educational District

A. Purpose: The purpose of this district is to provide lands and open space suitable for public and private educational uses.

B. Permitted Uses by Right or Site Plan Approval (refer to Article 8 of this Code for uses requiring Site Plan Approval)

Public Educational Facilities  
Customary Accessory Uses

C. Uses Allowable by Special Use Permit

Private Educational Facilities

D. Dimensional Requirements for the E-D District

Use	Area of Lot (Min) Square Footage or Acreage	Width of Lot (Min.)	Maximum Percent of Lot Coverage (Building Area)	Building Height in Stories	Maximum Building Height in Feet	Front Yard Setback Minimum /Maximum *	Side Yard Dimension (Min.)	Rear Yard Dimension (Min.)
Public Educational Facilities	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Private Educational Facilities	5 Acres		50	3	45 ft	TBD by special use permit	TBD by special use permit	TBD by special use permit

\* To be measured from the edge of the Right-of-way.

N/A: Not Applicable

TBD: To Be Determined

### Section 3.10 Planned Development Districts

A. Purpose: A planned development district (PDD) permits large lots to be developed as a unit and in a more flexible manner than allowed with other zoning. This can accommodate such large scale uses as will be of benefit to the community but which could not have been anticipated at the time of the drafting of this chapter. The planned development district is to provide a method of developing those land areas within the Village considered appropriate

## Village of Schuylerville Zoning Code

for new residential, recreational, commercial or industrial use – or a satisfactory combination of these uses – in an economic and compatible manner, while encouraging the use of innovative planning and design concepts or techniques in these areas without departing from the spirit and intent of this law. It is not the purpose of this Section to use this technique for the conventional development of a single parcel in an isolated manner unrelated to the Village Comprehensive Plan or in contravention to this law. In particular, this provision is designed to accommodate proposed planned unit development or clustering techniques and for the consideration of such special uses as mobile home courts, business or industrial parks, or large mixed use developments.

- B. Minimum Requirements for Establishment of a PDD. The minimum requirements for establishment of a PDD shall be as follows: The area proposed for the PDD shall be under single ownership both at the time of the application for the PDD and when the PDD is adopted. The area constituting the PDD shall be five (5) or more acres in size.
- C. Creation of a PDD is subject to the State Environmental Quality Review Act (Article 8 of the New York State Environmental Conservation Law). Approval of a PDD does not constitute site plan review or Special Use Permit approval, which are obtained from the Planning Board for specific uses authorized in the PDD.
- D. Permitted Uses. Uses with a demonstrated need and which are deemed appropriate by the Planning Board and the Village Board, and approved as outlined below. One or more of the following types of planned development districts can be considered:

P-R	Planned Residential District
P-Rec	Planned Recreational District
P-C	Planned Commercial District
P-I	Planned Industrial District
P-E	Planned Educational District

E. Procedures

- 1. Application Requirements: The application for a PDD and six (6) copies shall be submitted to the Village Clerk at least twenty (20) business days before the next meeting of the Village Board of Trustees. The application shall consist of the following:
  - The standard form application obtainable from the office of the Village Clerk;
  - The required application fee, which shall be determined annually by resolution of the Village Board of Trustees;
  - A completed full environmental assessment form, Part 1;
  - A sketch map (drawn to scale and prepared by a professional) following all of the requirements for a Site Plan Review submission as outlined in Article VIII showing the entire parcel of land proposed for the PDD, the location of proposed uses and major buildings, the proposed development density, proposed uses and housing types (if applicable), lay-out of roads, location of all entrances to the PDD parcel of land, and all proposed open spaces;

## Village of Schuylerville Zoning Code

- A perspective drawing or computer simulation showing the development from State, County, Town or Village roads (to simulate the look of the development to pedestrians and motorists from State, County, Town or Village roads); and
  - A narrative describing the design and architectural policies for the PDD, the developers proposed treatment of environmentally sensitive lands (if any), and a time frame for phased development (if applicable).
  - In issuance of site plan review and approval, the Planning Board shall comply with the provisions of the State Environmental Quality Review Act and its implementing regulations.
2. **Application Procedures:** The Village Board of Trustees shall determine whether the application is complete at its first meeting following timely submission of an application for a PDD. If the Village Board of Trustees determines that the application is not complete, the Board shall so notify the applicant with a statement as to why the application is incomplete. If the application is determined to be complete, the Board shall send a copy of the complete application to the Village Board for its advisory opinion within ten (10) days of receipt of the complete application. The Village Board of Trustees shall not act on any application for a PDD until it has received the Planning Board's recommendations on the application.
  3. **Review of Application:** The Village Board of Trustees may engage experts, including but not limited to professional planners, architects and engineers in reviewing the PDD proposal. The customary expense of engaging such experts may be charged to the applicant.
  4. **Public Hearing:** The Village Board of Trustees shall not vote to approve a PDD until it has held at least one public hearing on the application following the submission of a complete application and receipt of the Planning Board's recommendations on the application. At least five (5) days prior to the Public Hearing, the Village Board shall provide special notice to adjacent landowners.
  5. **Adoption of PDD:** The Village Board of Trustees shall act on an application to establish a PDD within ninety (90) days following receipt of the Planning Board's recommendations. The date of receipt of the Planning Board's recommendations shall be deemed to be the first regular meeting of the Village Board of Trustees following the Village Clerk's receipt of the Planning Board's recommendations. The Village Board of Trustees' failure to act on a PDD application within this period shall not be deemed to constitute a default approval of the application. The Village Board of Trustees may adopt a PDD only after following the procedures described above and making written findings regarding each of the standards set forth above for adoption of a PDD. The Village Board of Trustees shall cause the official land use map for the Village of Schuylerville to be amended to show the PDD. The amendment shall also include a list of permitted, Special Use Permitted uses and Uses Requiring Site Plan Review and any other minimum land use standards that the Village Board of Trustees deems appropriate. The allowable density in a PDD shall not be higher than the allowable density in the existing land use area. The minimum standards for all other aspects of the PDD shall be those applicable to the existing land use area unless otherwise prescribed by the Village Board of Trustees. Amendment of the Zoning Map shall not constitute authorization to develop in the district.



## Village of Schuylerville Zoning Code

6. **Planning Board Procedures:** The Planning Board shall provide to the Village Board of Trustees an advisory opinion on the proposed PDD within forty-five (45) days after receiving a complete application for a PDD. Alternatively, the Planning Board may request additional information reasonably related to the PDD application. If the Planning Board requests additional information, its time to render an advisory opinion is extended to the next meeting of the Village Board of Trustees following receipt of such additional information. The time of receipt of such information shall be deemed to be the date of the regular meeting following submission of the information to the Clerk of the Planning Board. It may recommend approval, disapproval, or conditional approval subject to modifications regarding the proposed development.
  7. **Submittal to Planning Board:** After a Planned Development District has been established, the applicant shall submit to the Planning Board further plans, specifications, supporting documents and data as are required by this Code.
  8. **Imposed Conditions:** All conditions imposed by the Village Board in its amendment and all subsequent conditions imposed by the Planning Board or Village Board in their review of the final plans, including the posting of any performance bond or any other conditions stipulated precedent to the issuance of any Permit, shall continue in force and effect as it applies to the approved project and shall not lapse or be waived as a result of any change in tenancy or ownership of any or all of the designated district.
  9. **Expiration of Approval:** If substantial construction of the development in accordance with the approved plans and specifications has not begun within one (1) year after the date of the resolution authorizing issuance of the Permit, all permits shall become null and void, and the approval shall be deemed revoked and vacated.
  10. **Role of the Planning Board after Adoption of a PDD:** The Planning Board's role after adoption of a PDD is to review site plans and Special Use Permits for uses in the PDD pursuant to the Planning Board's site plan approval powers, Special Use Permit authority and the State Environmental Quality Review Act.
- F. **Standards for Adoption of a PDD:** The Village Board shall consider and make findings regarding each of the following factors when legislating a PDD:
- Compatibility with the surrounding area;
  - Harmony with the character of the neighborhood;
  - Need for the proposed development;
  - The effect of the proposed PDD upon the immediate area;
  - The effect of the proposed PDD on the future development of the area;
  - Whether the PDD is warranted by virtue of the design and amenities incorporated into a proposed development plan;
  - Whether the land surrounding the PDD can be planned in coordination with the PDD;
  - Whether the proposed PDD is in conformance with the Comprehensive Plan;
  - That the existing and proposed streets are adequate to carry anticipated traffic in and around the proposed district including the amount of, location of, and access to automobile parking and service areas;
  - That the existing and proposed utility services are adequate for the proposed development;

## Village of Schuylerville Zoning Code

- That the PDD makes it possible for the creation of a creative, innovative, and efficient use of the property than would occur over the existing land use regulations;
- The existing character of the neighborhood and the relationship, beneficial or adverse, of the proposed development to this neighborhood;
- The provision for pedestrian circulation and open space in the planned development, the reliability of the proposal for maintenance and conservation of common open space and pedestrian circulation as related to the proposed density and type of development;
- The recognition and satisfactory accommodation of important natural and physical limitations and opportunities of the site;
- The provision for storm, sanitary and solid waste disposal and other utilities on and adjacent to the site;
- The proposed location, type and size of signs and landscape features; and
- The physical design of the plan and the manner in which said design does or does not make adequate provision for service demands including water, sewerage and fire protection.

### G. Additional Standards for PDD:

1. Building footprints shall not cover more than thirty percent of the total area of development or the maximum impervious surface allowed, whichever is less.
2. PDD developments shall be protected by such reasonable and appropriate safety measures, devices, screening or yards in order to avoid or minimize any adverse effects on the development itself or in the surrounding area.
3. Yard requirements for buildings may be modified except along the boundaries of the development area.
4. All planned development district proposals shall be consistent with the need to minimize flood damage, all public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to eliminate or minimize flood damage, and adequate drainage shall be provided so as to reduce exposure to flood hazards.
5. All utilities must be buried underground in PDD areas.

### H. Special Procedures and Standards for Establishment of Mobile Homes and Mobile Home Courts:

[HISTORY: Originally adopted by the Board of Trustees of the Village of Schuylerville: Article I, 9-10-1979 as Local Law No. 3 of 1979, amended thereafter as noted in the original Chapter 107 at the time of the adoption of the Code. This section repeals and replaces Chapter 107 of the Code of the Village of Schuylerville]

1. All proposed mobile home courts shall be subject, and considered according to, the Planned District process and standards as set forth above. Individual Mobile Homes are prohibited in all areas of the Village except as a replacement of an existing mobile or manufactured home, and for temporary construction trailers.

## Village of Schuylerville Zoning Code

2. In addition to the provisions and appropriate considerations detailed under the Planned District process, the following standards shall apply to any proposed mobile home court:
  - a. A mobile home court shall have a minimum parcel size of five (5) acres and provide for a minimum of three (3) mobile home sites.
  - b. Individual mobile home sites or units within the mobile home court shall be a minimum of eight hundred (800) square feet.
  - c. All internal roadways within a mobile home court shall have a paved or stone course the minimum width of which shall be eighteen (18) feet for two-way traffic and twelve (12) feet for one-way traffic. In addition to the surface width, a five (5) foot shoulder shall be maintained on each side of every internal roadway.
  - d. No mobile home shall be located within twenty (20) feet of any internal roadway or within fifty (50) feet from the right-of-way of any public roadway.
  - e. Two off street parking spaces per unit must be provided with additional off-street parking areas set up for guest or accessory parking at the rate of 1 space per unit. Additional parking spaces may be put in lots elsewhere in the community and may be constructed with pervious surfaces. No on street parking will be allowed due to safety considerations.
  - f. All water supply and sewage disposal systems will comply with those standards set forth, and be approved, by the County or State Health Department before any Permit is authorized.
  - g. Adequate provision will be insured for accommodation of surface drainage and refuse disposal.
  - h. All wiring, fixtures and appurtenances shall be installed and maintained in accordance with the specifications and regulations of the local utility company. Electrical transmission and other utility lines shall be placed below ground.
  - i. Fuel tanks, where used, shall be placed at the rear of the mobile home and at a distance at least five (5) feet from any exit and must be equipped with a safety shut-off valve at the tank. Underground tanks or a centralized fuel supply system are to be encouraged wherever possible.
  - j. All mobile homes shall be mounted on a permanent concrete reinforced slab base or footing at least six inches thick on a twelve (12) inch gravel sub-base compacted to 90% standard proctor density. Each home site must be suitably graded to provide adequate drainage. The perimeter of the home shall be enclosed with solid skirting with adequate ventilation.
  - k. Mobile homes must be finished with a natural wood exterior or other natural or artificial materials, that because of their color and texture, have the appearance of clapboards, wood shingles or other traditional house siding and blend in with the landscape to enhance or maintain the attractive visual character of the neighborhood.
  - l. Mobile homes shall have shingled, peaked roofs with a minimum pitch of 4:12.

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- m. Mobile homes shall comply with federal requirements and the New York Uniform Fire and Safety and Building Law (NYSUFSBL). Mobile homes shall be constructed in accordance with regulations set forth in the Code of Federal Regulations (CFR), Title 24, Housing and Urban Development, Chapter XX, Office of Assistant Secretary for Housing - Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280, Manufactured Mobile Home Construction and Safety Standards. Every mobile home shall have a manufacturer's label which certifies that the home is in compliance with all Federal construction and safety standards. Every factory-manufactured home or component shall bear an Insignia of Approval issued by the New York State Division of Housing and Community Renewal. Every mobile home shall also bear a data plate, affixed in the manufacturing facility, bearing not less than the following information:
  - (i). "This mobile home is designed to comply with the Federal mobile home construction and safety standards in force at the time of manufacture."
  - (ii). Reference to the structural zone and wind zone for which the home is designed.
- n. No evidence of a mobile home's trailer hitch or wheels shall be visible once it has been installed.
- o. Recreation areas of at least 30% of the buildable land in the mobile home community should be set aside for green space. This green space can also be suitable for leach field lines or storm retention areas, if required.

# **Village of Schuylerville Zoning Code**

## **Section 3.11 Zoning Map**

- A. The above-established districts are delineated on a Zoning Map entitled “Zoning Map Village of Schuylerville, NY” included in Sections 3.2 – 3.10 herein. This map, with all subsequent amendments thereto, is hereby made a part of this code.

## **Section 3.12 Interpretation of Zoning Map**

- A. Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:
1. Whenever district boundaries follow streets or highways, the centerlines of such streets and highways shall be considered the district boundaries. Whenever district boundaries on the Zoning Map follow natural features such as streams or waterways, the center of such natural features shall be considered to be the district boundaries.
  2. Whenever district boundaries are so indicated that they apparently follow individual lot lines or fence, tree and field lines, as interpreted from aerial photography, such lines of demarcation shall be considered the district boundaries.
  3. Where a district boundary line does not follow such a line, its position shall be shown on the Zoning Map by a dimension expressing its distance in feet from a street center line or other boundary line as indicated; or by use of the scale appearing on the Zoning Map.
  4. Where a district boundary line divides a lot in single ownership on the effective date of this law; the standards for the less restricted portion of such lot shall extend not more than fifty (50) feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.
  5. In case of uncertainty as to the true location of a district boundary line in a particular instance, the Zoning Board of Appeals, upon application, shall render a determination with respect thereto.

## **Section 3.13 Application of District Regulations**

- A. Regulations governing minimum lot area and lot width; required front, side and rear yards; and maximum building coverage and building height as specified in Section 3.2 – 3.10 are subject to such additional standards as may be set forth in this law.
- B. Except as otherwise provided in this law:
1. No building shall be erected, constructed, reconstructed or altered, and no land or building or part thereof shall be used for any purpose or in any manner except as permitted for the district in which such building or land is located as set forth under this law.
  2. No existing lot of record on the effective date of this code shall be reduced, subdivided or otherwise reduced in size or changed in configuration so as to make it nonconforming under this code.

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3. No building shall be erected, reconstructed or altered, nor shall any open space surrounding any building be encroached upon or reduced in any way, except in accordance with the yard, lot area and building location requirements of this law for the district in which such building is, or is proposed to be, located; or where such open space or land is located.
4. No yard or other open space surrounding any building located in conformance with this code shall be considered as providing the requisite yard or open space area for another building. Likewise no yard or open space on one lot shall be considered as providing a yard or required open space for a separate principal or accessory building on any other lot.
5. The regulations listed for each district are hereby adopted and prescribed for such district, subject to the provisions of other applicable sections of this code, and unless otherwise indicated, shall be deemed to be the minimum requirements in every instance of their application.

### **Section 3.14 Additional Lot and Building Location Regulations**

- A. No more than one principal structure on any lot, other than as may be approved under the Planned Development District provisions, shall be permitted unless lot area and yard requirements are met for each, including required lot width on a public street. Side yards for semidetached and attached dwellings shall be required at the ends of the total structure only. No detached principal building shall be closer to any other principal building on the same lot than the average height of said buildings. This provision shall not be deemed to prevent accessory apartments that are otherwise in accordance with the provisions of this code.
- B. On a corner lot in any district where a front yard is required, a yard shall be provided on each street equal in depth to the required front yard on each such street. One rear yard shall be provided on each corner lot and the owner shall designate the rear yard on the application for a permit.
- C. Where a single lot under individual ownership extends from one street to parallel or nearly parallel street, the principal structure shall be erected to face the street on which those adjoining structures face.
- D. On a corner lot in any district where a front yard is required, no fence, wall, hedge or other structure or planting more than three (3) feet in height shall be erected, placed or maintained which obstructs visibility from the roadway or otherwise interferes with the movement of vehicular traffic.
- E. When a vacant lot in any district is situated between two improved lots, the front yard of the vacant lot shall have a minimum depth equal to the average depth of the front yards of the two adjoining improved lots, but not less than twenty-five (25) feet from the street right of way or fifty (50) feet from road center line, whichever is greater.
- F. Where a residential district abuts a nonresidential district, there shall be provided in the nonresidential district for a distance of fifty (50) feet from the district boundary line, a front yard at least equal in depth to that required in the residential district. Where the side or rear yard in a residential district abuts a side or rear yard in a nonresidential district, there shall be provided along such abutting line or lines in the nonresidential district, a side or rear yard at least equal in depth to that required in the residential district.

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- G. Projections into required yards shall be permitted only as follows:
1. The space in any required yard shall be open and free from any building except for accessory buildings in a side or rear yard and except for the ordinary projections of window sills, eaves, porches, decks, steps, and other architectural features, provided, however, that such features shall not project more than ten (10) feet into any required yard.
  2. An open fire escape may extend into any required yard not more than five (5) feet provided that such fire escape shall not be closer than five (5) feet at any point to any lot line.
  3. Unenclosed entrance steps or stairways providing access to the first story, cellar or basement of a building may extend into any required yard a distance not to exceed five (5) feet.
- H. The yard requirements of this code shall not prohibit any retaining wall nor any fence, wall or hedge otherwise permitted, providing that such fence, wall or hedge shall be no closer to any front lot line than two (2) feet. In addition, such retaining wall and fence shall comply with visibility at street corners as provided in this Section. No property line fence, wall or other divider shall be constructed of a material or to a height that would interfere with the view or useful enjoyment of an adjoining property.
- I. No building or structure shall have a greater number of stories, nor have an aggregate height of a greater number of feet than is permitted in the district in which such building or structure is located, except that the height limitations of this law shall not apply to church spires, chimneys, water tanks and necessary mechanical appurtenances usually carried above the roof level; nor to flag poles, transmission towers and cables, radio and television antennae or towers and similar structures. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended.
- J. All subdivisions proposed within the Village of Schuylerville shall adhere to any and all subdivision regulations adopted by the Village Board of Trustees after the adoption of this Zoning Code.

### **Section 3.15 Change of Use or Structure**

- A. A change of use is the initiation of a use that is in a different use category, as listed on the Use Tables, in Section 3.2 – 3.10 above, from the existing use of the site or structure. A change of ownership, tenancy or occupancy, or a change from one use to another within the same category, shall not be considered a change of use, unless the change would result in enlargement or addition of a sign or an increase of more than 10% in vehicle trip generation as indicated in current trip generation rates published by the Institute of Transportation Engineers.
- B. Change of Use and Site Plan Review. Any change of use of an existing structure to a use permitted “by right” that is subject to Site Plan review shall require Site Plan review only if it involves the construction or enlargement of a structure, the clearing, excavation, or grading of more than 1,000 square feet of land, the addition of four (4) or more parking spaces, or the enlargement or addition of a structure by more than fifty percent.

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- C. A Special Permit shall be required for any change of use from a use that does not require a special permit to a use that does require a special permit

### Article IV Supplementary Regulations

#### Section 4.1 Parking

- A. Off-street parking space shall be required for all residential, non-residential and commercial buildings. The table below shall be used to calculate required parking spaces:

Use	Required Parking Spaces*
Single, two-family, townhouse, or multi-family residential	2 spaces per unit
Senior citizen residential facility (non-nursing home/assisted living)	1 space per unit
Nursing home or other senior assisted living residential facility	1 space per staff person working largest shift, plus 1 space per 4 residents
Home occupation	1 additional space for each 250 square feet devoted to such home occupation
Office, business and commercial uses	1 space per 200 square feet of floor area devoted to that use.
Hotel, motel, boarding house, Resort/Spa, bed and breakfast inns	1 space for each bedroom or guest room, plus one space for each two employees
Day Spa	1 space per 250 square feet of floor area (if, in addition, there are other uses or accessory uses located within or operated in conjunction with the day spa, such as dining areas, retail, etc, additional parking spaces shall be provided calculated based upon the parking requirements for that specific use).
Public and semipublic uses	1 space for each four seats of seating capacity
Schools	Two spaces for each classroom
Museum or other similar institutions	1 space for each 800 square feet of gross floor area
Nursing home, hospital or similar use	1 space for each two beds
Accessory dwelling unit	1 per accessory dwelling unit
Retail use, unless otherwise specified	1 space per 200 square feet of floor area used for sales on ground floor; plus 1 space per 300 square feet of floor area used for sales on all other floors, plus 1 space per each 2 employees
Personal service establishment, unless otherwise specified	1 space per 200 square feet of gross floor area on ground floor; plus 1 space per 300 square feet of floor area on all other floors, plus 1 space per each 2 employees
Restaurant	1 space per 4 seats
Tourist Attraction	1 parking space for each 250 square feet of gross floor area.
Marina	1 per dock space, plus 1 space per 2 employees.



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Use	Required Parking Spaces*
Gasoline Filling Station/Convenience Store	1 per 2 gas pumps, plus 1 space per employee of largest shift.
For uses not specified or not of the nature or type generally described here, the Planning Board shall recommend to the Village Board parking requirements in specific cases consistent with the guidelines provided herein.	

\*The decision-making body may require less than the maximum requirement based on factors including, but not limited to, the size of the project, the range of services offered, location and hours of operation.

- B. Supplemental Parking Requirements for Historic Main Street District and Commercial-Business District. Spaces in municipal parking lots and on-street parking may be credited toward the parking requirements for nonresidential uses in these districts provided that:
- 1) These spaces are within four hundred (400) feet of the uses to be served.
  - 2) The parking needs of existing facilities within four hundred (400) feet are satisfied first, and only excess capacity is used for this purpose.
  - 3) This is approved by the Planning Board during site plan review.
- C. Each off-street space shall consist of at least one hundred and eighty (180) square feet with a minimum width of nine (9) feet. In addition, space necessary for aisles, maneuvering and drives shall be provided and shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway. It may also be necessary to provide space to prevent entering traffic from backing up onto the public roadway. Aisles within parking lots should allow adequate room for vehicles to move smoothly into and out of parking spaces. The necessary aisle width shall be determined based on the degree to which parking spaces are angled, and shall range from twelve (12) feet at 45 degree angles to twenty-five (25) feet at ninety degree angles.
- D. The required provisions for parking may be provided by the Village or in combination with adjacent uses in a manner deemed appropriate by the Planning Board.
- E. The required parking space in residential districts shall be for resident parking only and shall not be located in any required front yard (i.e. in a driveway only and not on a lawn). This shall not prohibit arranging for, by lease or other arrangement, required parking space for one automobile of a non-resident of the premises.
- F. Design Standards for Parking Lots in Commercial Districts
- 1) Parking lots are prohibited from any portion of the front yard or front setback area. Parking lots shall be setback fifteen (15) feet from side and rear lot boundaries and ten (10) feet from streets. Unless in the Historic Main Street District where parking lots can be setback five (5) feet from side and rear lot boundaries and ten (10) feet from streets.
  - 2) The surface of the parking lot shall be finished with a minimum layer of finished asphalt or concrete over an approved sub-surface. Accessibility for handicapped people must be provided to meet with the Americans with Disabilities Act (ADA) standards. The use of porous pavement, if feasible, is highly encouraged in constructing parking lots.

## Village of Schuylerville Zoning Code

- 3) Parking lots should be designed to minimize visibility from existing streets or adjacent properties. Parking lots shall be screened as follows:
  - a) Screening along streets shall be vegetated. In order to provide for safety and visual access for vehicles, there shall be no screening between three (3) and six (6) feet in height. However, trees are encouraged to be included in the screening but shall have no branches obscuring the line-of-site between three (3) and six (6) feet from the ground. Screening along adjacent residential property boundaries shall be completely screened with a fence, hedge or vegetated earthen berm not less than six (6) feet in height.
- 4) Interior landscaped areas for lots sized to accommodate over twenty (20) cars are required. One deciduous shade tree shall be planted for every five parking spaces with adequate room for root growth. Interior landscaping may not be required if the Planning Board determines that there is adequate perimeter landscaping. Existing mature trees on the lot shall count toward this requirement. If existing trees sized over twelve (12) inches diameter breast height (dbh) are removed, a minimum sized tree of four (4) inch caliper shall replace it. No existing mature tree shall be removed without a permit from the Code Enforcement Officer.
- G. No unlicensed, unregistered or inoperative motor vehicle shall be parked or stored out-of-doors or other than in a fully-enclosed structure in any residential district for a period to exceed three (3) months.
- H. No recreational vehicle, or other utility or service vehicle or equipment shall be stored in any required front yard or within ten (10) feet of any roadway.
- I. Off-street parking for gasoline stations and service garages shall be limited to employee and customer cars which are licensed and in running condition and shall not be used for repair or sale of new or used cars or parts there from.
- J. For any building having more than one use, parking space shall be required for each use. For the purpose of computing parking requirements, floor areas shall be the sum of the horizontal area within exterior walls of the several floors of a building, excluding basement, cellar and attic areas.
- K. Off-street loading facilities shall be provided for each commercial or industrial establishment hereafter erected or substantially altered to have a gross floor area in excess of 1,500 square feet and shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway. Any required off-street loading berth shall have a clear area not less than twelve (12) feet in width by twenty-five (25) feet in length.
- L. An off-street loading space may occupy any part of any required side or rear yard, except no such berth shall be located closer than one hundred (100) feet to any lot in any residential district unless wholly within a completely enclosed area or within a building.
- M. Set-aside for future parking. The Planning Board may require that an applicant set aside or “bank” additional land to meet potential future parking needs. Such land may remain in its natural state or be attractively landscaped, but may not be used in a manner that would prevent it from being used for parking in the future. In cases where two or more developments are adjacent to each other, the Planning Board shall require cross-access

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easements between adjacent parking lots to provide for interconnected parking lots and to facilitate traffic and control access on the main road. Shared parking facilities are encouraged.

- N. Parking areas in which lights are necessary all night shall be lighted in a manner that does not result in glare to surrounding residential properties or cause a traffic hazard due to glare or color. The Planning Board may require that parking lot lights (excluding security lighting) be extinguished within one hour of closing.

### Section 4.2 Signs

[HISTORY: Originally adopted by the Board of Trustees of the village of Schuylerville: Article I, 3-11-1929 as Sec. 22 of the 1929 Ordinance; Article II, 3-11-1929 as Section 25 of the 1929 Ordinance, both amended thereafter as noted in the original Chapter 132 at the time of the adoption of the Code. This section repeals and replaces Chapter 132 of the Code of the Village of Schuylerville]

#### A. General Regulations – The following regulations shall apply to all signs:

1. No new or additional sign shall be created by erecting, installing, painting, upon; or be otherwise established, without a Sign Permit. For all signs that will be erected in the Village, sign approvals shall be conducted by the Planning Board. An application for sign approval must include a) a scale drawing of the sign showing type of sign, b) dimensions, advertising content, materials, method and style of illumination, c) method of structural support, d) location on the land or building in relation to existing buildings, roadways, driveways, or sidewalks, e) the name of the sign owner and person responsible for maintenance of the sign.
2. Signs must be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated.
3. Signs, other than an official traffic sign, shall not be erected within the right-of-way lines of any street or highway, not project beyond the authorized property lines, except where no other provision is possible in which case the Board of Appeals, in accordance with the variance procedures elsewhere provided for in this law, shall make a determination relative thereto.
4. All temporary signs erected for a special event or property sale, rental or repair shall be removed by the property owner or his agent within 10 days of when the event, sale, repair or other circumstances leading to their erection no longer apply.
5. No sign shall physically or visually impair vehicular or pedestrian traffic by design, illumination, color or placement. All signs shall have sufficient clearance so as to provide clear and unobstructed visibility for vehicles entering and leaving the highway and, if illuminated, the light shall not be directed toward any public highway or adjacent residential use. In addition, no flashing or intermittently lighted sign shall be permitted.
6. All business or advertising signs hereafter erected shall not project into a public street right-of-way and shall not be closer than ten (10) feet from any lot line.
7. Signs shall be architecturally compatible with the style, composition, materials, colors and details of the principal building on the lot, as well as with other signs used on the principal building and its vicinity.

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8. Non-illuminated signs including nameplates and identification signs, sale or rental signs, commercial and institutional signs, and temporary construction signs are permitted according to the standards in this section.
  9. Illuminated signs shall be permitted on non-residential properties only provided that they are spotlighted rather than internally illuminated. Any illuminated sign shall not be placed or directed so that its light is directed on a public street, highway, sidewalk, or adjacent premises in a manner that causes glare or reflection sufficient to constitute a nuisance or a traffic hazard.
  10. Any sign using a non-English language for advertisement shall also be in English where the letters in English shall be in a font size equal to that of the non-English language letters.
- B. Number of signs. No more than two (2) signs shall be permitted on any individual business. For lots having structures housing two or more businesses, each business shall be permitted to have one sign (projecting, wall mounted or moveable types). In addition, structures housing two or more businesses are also permitted to have one sign advertising multiple businesses within. Businesses located on corners are permitted one sign for each street frontage. Two wall-mounted or freestanding directional signs are permitted facing or located in parking lots but shall be a maximum size of three square feet.
- C. Size of Signs.
1. Projecting signs where allowed in any district (mounted perpendicular to the building surface) shall have a 12 square feet maximum sign size per face. There shall be a minimum clearance of 9 feet above grade when located over a sidewalk, or at least 14 feet if projecting over a driveway or sidewalk.
  2. Wall-mounted sign (mounted parallel to the building surface) shall not exceed five percent of the ground floor building façade area. The sign shall not project more than 15 inches from the building surface and shall not be mounted to obscure architectural features such as sills, moldings, cornices, or transoms.
  3. Free-standing signs, mounted on one or more poles shall have a maximum sign size of 12 square feet in the HMS and CB District and 24 square feet in the CH District. Pole mounted signs shall not exceed 10 feet in height. The sign shall not interfere with pedestrian or vehicular circulation and shall be set back from the roadway by a minimum of 10 feet.
  4. Moveable signs shall have a maximum size of 6 square feet, each face. They shall be made of wood or composite materials and stand on legs not to exceed 5 feet in total height. No other types of moveable signs are permitted. They shall not be placed so as to impair pedestrian movement on a sidewalk or obstruct the line of site of vehicular traffic.
  5. One institutional or religious identification sign not to exceed twelve (12) square feet in area.
  6. No person shall erect any billboard within the Village without a special use permit from the Planning Board. Every applicant for permission to erect a billboard within the Village shall submit an application for special use permit in conformance with the

## **Village of Schuylerville Zoning Code**

requirements listed in Section VII of this Code. A fence, building or other structure shall not be used as a billboard without a special use permit from the Planning Board. A violation of the requirements of billboard approval heretofore listed shall be punishable by a fine of not more than two hundred fifty dollars (\$250), or by imprisonment for a period not to exceed fifteen (15) days, or both and the applicant will be directed by the code enforcement officer of the Village to cease and desist display of the offending billboard or apply for a special use permit as directed under these provisions.

7. No person shall erect or create a mural, whether for art, advertising or any other use within the Village without a special use permit from the Planning Board. Every applicant for permission to erect/create a mural within the Village shall submit an application for special use permit in conformance with the requirements listed in Section VII of this Code. A fence, building or other structure shall not be used as a mural without a special use permit from the Planning Board. A violation of the requirements of mural approval heretofore listed shall be punishable by a fine of not more than two hundred fifty dollars (\$250), or by imprisonment for a period not to exceed fifteen (15) days, or both and the applicant will be directed by the code enforcement officer of the Village to cease and desist display of the offending mural or apply for a special use permit as directed under these provisions.

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D. The following signs are permitted as of right in all districts:

1. One nameplate, identification or professional sign not to exceed two (2) square feet of sign area, showing the name and address of the resident or the permitted activity associated with the premises.
2. One non-illuminated real estate sale or rental sign not to exceed six (6) square feet of sign area during and pertaining to the sale, lease or rental of the land or building. Such sign shall be of a temporary nature. The sign shall be removed within 30 days of full completion of sale, rent or lease.
3. One temporary construction or artisan's sign not to exceed six (6) square feet of sign area during and pertaining to construction, repairs or alterations on the property. Such signs shall be removed within 30 days of completion of construction.
4. A sign advertising the sale or development of a tract or parcel of land within a Planned Unit Development or Subdivision may be erected upon such parcel by the developer, builder, contractor or owner. The size of sign shall not exceed twelve (12) square feet and not more than two (2) signs shall be placed upon the tract along any highway frontage. Such sign must be at least fifty (50) feet from the right-of-way line of the street.
5. Home based businesses are permitted to have one non-illuminated sign not to exceed 6 sf in size.

E. In C-H districts the applicable signs pursuant to sub-section C, above are permitted, and in addition, the following:

1. One (1) principal and one (1) accessory business sign for any existing or permitted commercial use provided that the gross surface area of the principal business sign shall not exceed two (2) square feet per lineal foot of building frontage, but shall not exceed forty-eight (48) square feet, and the accessory business sign shall not exceed fifty (50) percent of the area of the principal sign.
2. No sign attached or unattached shall be higher than the principal building to which it is accessory.
3. All signs shall have sufficient clearance so as to provide clear and unobstructed visibility for vehicles entering and leaving the highway.

F. In any Planned District, the Planning Board shall review and approve any proposed business sign as a part of its review of a project in such Planned District.

G. Directional, off-premise signs no larger than 4 square feet are allowed.

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## Section 4.3 Design Guidelines for the HM-S Historic Main Street District

The protection, enhancement and perpetuation of architecturally significant structures is necessary to promote the economic, cultural, educational and general welfare of the public. Inasmuch, the Village Main Street has many significant historic properties which constitute its heritage and fosters civic pride in the accomplishments of the past: The development guidelines of this Code define a framework for new development in the Village of Schuylerville. These design guidelines are required in the HM-S District and encouraged in all other districts. When applying such guidelines, the Planning Board shall carefully weigh the specific circumstances surrounding each application, and strive for development solutions that promote commercial and residential development that protects and enhances the historic character and architectural heritage of the Village and that is consistent with the adopted Village of Schuylerville Comprehensive Plan. These guidelines will protect and enhance the Village's attractiveness to visitors, providing support and stimulus to the economy, and will ensure the harmonious, orderly and efficient growth and development of the Village. In keeping with these objectives, the Village has established this procedure for maintaining architectural standards in the construction of new buildings and projects, in the modification or removal of existing buildings and landscapes, and in implementing a coordinated and comprehensive plan for the preservation of the Historic Main Street district.

A. In addition to their rights under this Zoning Code to review projects under Site Plan and Special Use Permit application reviews, the Village Planning Board shall review any project involving the following actions that lie within the Village Historic Main Street district:

- 1) Any action involving exterior change which requires the issuance of a building or demolition permit;
- 2) Any application for a sign or sign structure;
- 3) Any of the following actions:
  - a. removal or addition of exterior architectural features from or to a structure;
  - b. removal or replacement of a slate, tile or standing seam metal roof or replacement or covering of such a roof with a different material;
  - c. enclosure of porches with screens or storm windows or other permanent materials;
  - d. installation of storm / screen windows on a structure;
  - e. placement of solar panels, radio transmission antennas, satellite dishes, cell phone transmission antennas;
  - f. removal or replacement of a brick or slate walkway or covering of such feature;
  - g. construction of new walkways / driveways;
  - h. construction or removal of fences, walls and architectural or sculptural screens within the required front yard setback area which exceed three feet in height.

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Applications are not necessary for any actions which involve the ordinary maintenance or repair of any exterior feature located within the H-MS district which does not involve a change in design, material or outer appearance thereof.

B. Site Improvements and Screening. Fencing and screen-planting may be required according to the following:

1. Any use required by this law to be screened should provide a fence, screen, or landscaping sufficient to obscure such uses from view from abutting properties and the public right of way as is considered appropriate.
2. Plans and site design for the installation of such fencing or screening as are required by this law shall be reviewed and approved by the Planning Board.
3. Any fencing or screening installed in accordance with this Section shall be maintained in good order to achieve the objectives of the same. Failure to maintain required fencing and screening shall be considered a violation of this law.

C. Building Design.

1. Buildings should be generally related in scale and design features to the vernacular style of buildings and shall be consistent with the local context of the district.
2. Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building, structure, or site and its environment or to use a property for its ordinary intended purpose. The distinguishing original qualities or character of a building, structure or site, and its environment, shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible.
3. Buildings should reflect a continuity of treatment obtained by maintaining the building scale; by maintaining front yard setbacks at the build-to-line; by continuous use of front porches on residential buildings; by maintaining cornice lines in buildings of the same height; and by echoing architectural styles and details, design themes, and building materials used in the district. Buildings constructed prior to 1940 shall define the local vernacular style.
4. There should be no blank, windowless walls allowed on any front façade.
5. New construction should maintain the common setback distance of its surrounding and nearby buildings.
6. Front entrances of all buildings should face the public street.
7. Trademark buildings, which identify the owner or occupant by a trademarked architectural style, are prohibited. Franchise operations should be designed to harmonize with the nature of the district.
8. A building on a corner lot shall be considered to have two facades. The façade treatment must continue around both façade sections. There should be no large areas of blank wall sections.



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9. The shape, size and details should be appropriate to the building design and consistent with the local style of the district. Smoked or reflective glass is not permitted.
10. Mansard, flat and gambrel roofs are prohibited on principal structures. Accessory structures may have gambrel roofs. Roofs should be a minimum 6:12 pitch.
11. Preferred building materials for facades are brick, wood, or wood-like materials, and stucco. Limited use of concrete and concrete block is acceptable if finished to be compatible with the surrounding buildings. Use of corrugated concrete, cinder block, textured 111-like materials and metal is prohibited.
12. Electrical wires and utilities should be buried underground where practicable.
13. Applications for demolition shall be submitted to the Village Code Enforcement Officer for review and report. Upon receipt, the Village Code Enforcement Officer's report shall be referred to the Village Planning Board for a recommendation. The Village Planning Board shall review the Village Code Enforcement Officer's report and make a determination that the structure can or can not reasonably be repaired:
  - a. In the case of a structure having architectural or historic significance, the applicant shall be required to show good cause as to why such structures can not be preserved. All applications for demolition shall be required to show why the structure can not be preserved, except in the case of structures identified as having no architectural or historical significance (non-contributing).

### **D. Sidewalks**

1. For lots having no existing sidewalk, but that are adjacent to lots with sidewalk sections, four-foot wide minimum concrete sidewalks shall be constructed along the road frontage of the lot. New sidewalks on the lot shall connect with existing sidewalks on adjacent lots, and shall match the existing dimensions and setback from the street.
2. For lots where no existing sidewalks exist on the lot or on adjacent lots, new concrete sidewalks shall be constructed with a minimum of four-foot planting strip between the road and sidewalk.
3. For lots with existing sidewalks, the sidewalk must be maintained in good condition with no heaves, cracks or missing sections.
4. All sidewalks will be constructed in accordance with the provisions outlined in Chapter 138 of the Code of the Village of Schuylerville.

### **E. Street Trees**

1. Existing large trees in Village right-of-ways should be preserved. Dead trees within twenty (20) feet of the street pavement should be replaced with new trees. Where none exist, or where replacements are needed, a variety of shade trees should be planted at regular intervals of no more than thirty-five (35) feet. Shade trees should be a 4-inch caliper, broad-leaved indigenous species. No trees over twelve (12) inches dbh should be removed without a permit from the Code Enforcement Officer.

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### **F. Landscaping**

1. All areas of a site not occupied by buildings, parking lots, or other improvements should be planted with trees, shrubs, hedges, groundcovers and grass.

### **G. Lighting**

1. All light fixtures should be designed, installed and maintained to prevent light trespass onto adjacent properties to the maximum extent reasonably practicable. Fully shielded fixtures are required. The maximum height of a luminaire should not exceed eighteen (18) feet. Externally illuminated signs should use fully shielded light fixtures mounted on the top of the sign structure. Poles and fixtures should complement the architectural character of the development and surrounding district. Other lighting standards of the International Dark Sky Association should be used for guidance.

### **H. Consultation**

1. During the review of a site plan approval or special use permit approval application before the Village Planning Board, the Village Planning Board may refer the application, New York State Environmental Quality Review (SEQR) materials, architectural renderings and building/site plans and any other project materials deemed useful to the New York State Office of Parks, Recreation & Historic Preservation (OPRHP), the National Park Service (NPS) and/or any other entities the Village Planning Board deems necessary for review and comment.

## **Section 4.4 Accessory Uses and Structures**

### **A. On any lot, accessory building(s) or use(s) in connection with the principal structure and use may be constructed and located subject to the following:**

1. All accessory buildings or uses shall require a Permit from the Code Enforcement Officer to be issued prior to their initiation as elsewhere required in this law.
2. No more than two (2) accessory buildings or uses in addition to a private garage in conjunction with a residence, including such things as a home workshop, tool shed, wood shed and like buildings and uses shall be permitted on any residential lot. The total area encompassed by such accessory building(s) and use(s) shall not exceed that maximum percent of total lot coverage as identified according to the respective zoning district in Section 3.2 to 3.10.
3. No more than two (2) accessory buildings or uses shall be permitted in conjunction with any public/quasi-public or commercial use except that permitted accessory buildings and uses shall be determined by the Board of Appeals in accord with their review of any proposed Conditional Use and by the Planning Board in their review of any proposed Planned Development District.
4. Accessory buildings to a residential use other than a private garage which are not attached to a principal building may be erected in accordance with the following requirements:
  - a. Rear or side yard – at least ten (10) feet from side or rear property line.

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- b. Side yard, street side of corner lot – same as for principal building.
  - c. No closer to a principal or other accessory building than ten (10) feet.
5. Private garages that are unattached to the principal structure on a parcel shall comply in all respects with the requirements of this law applicable to the principal building.
6. An accessory building attached to a principal residential building or an accessory building for other than a residential use, whether attached to the principal structure or not, shall comply in all respects with the requirements of this law applicable to the principal building.
7. No accessory building or part thereof shall be use for or converted to use as a dwelling.
8. Maximum height of any accessory building shall be one and one-half (1½) stories or eighteen (18) feet, whichever is less; except that it shall not exceed the height of the principal building.
9. A private, outdoor swimming pool shall be permitted as an accessory use to a dwelling unit only in accordance with the following regulations:
- a. Such pool shall be accessory to a principal residential use and shall be erected only on the same lot as the principal structure.
  - b. Such pool may be erected or constructed only in the side or rear yard of the lot, shall conform with the minimum side and rear yard requirements for the district in which it is located and shall be not less than fifteen (15) feet distant from any principal or accessory structure.
  - c. Such pool shall be adequately fenced in order to assure that it will be used only by those persons having approved entrance to the pool.
  - d. Such pool shall be adequately screened or otherwise situated so as not to be visible from the public right of way or to present a nuisance to any adjoining use.
  - e. Such pool shall not adversely affect the character of any residential neighborhood and all lighting or other appurtenances shall be so arranged as not to interfere with neighboring uses.
  - f. All pools and pool barriers will conform to the standards set forth under Part 1228 of Title 19 of the New York Code, Rules and Regulations (NYCRR).
- In addition, a swimming pool to be constructed or installed as an accessory use to a motel, tourist or like accommodation or as part of any commercial or club facility shall be permitted after application to, and issuance of a Permit by the Code Enforcement Officer. Such swimming pool shall be so located as not to cause a hazard or nuisance and shall be designed and located in accord with acceptable engineering standards and any applicable County or State requirements.
10. A building, mobile home, construction trailer, travel trailer or other structure, accessory to a construction project for office, storage or related construction use may be permitted

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upon issuance of a Permit by the Enforcement Officer, such installation to be temporary and continued only for the duration of the construction project to which it is accessory.

Such Permit shall be issued only in conjunction with the construction of an approved use for which a Permit has also been issued and a Certificate of Compliance applied for. Such temporary facility shall not be designed or used for living accommodations except for the nonpermanent accommodation of a clerk-of-the-works or night watchman, and shall be promptly removed upon completion of the construction project or part thereof to which it is accessory, such date to be determined by the Enforcement Officer. Upon notice from the Enforcement Officer, the Permit shall expire and the rights and privileges shall be vacated. Failure to remove such installation in a prompt manner after notice by the Enforcement Officer shall be considered a violation of this law.

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## **Section 4.5 Demolition**

- A. If an applicant is proposing a new use that requires demolition of an existing building or portions of existing buildings, demolition of that building or building portion shall be reviewed as part of a complete application for site plan review. There shall be coordinated and concurrent review of this action with demolition and rebuilding, if any. The Code Enforcement Officer shall issue a demolition permit only upon site plan approval by the Planning Board.
- B. When demolition is proposed without a proposal for redevelopment, the Planning Board shall conduct a review of the demolition and landscape plans. The Planning Board shall, without limitation, require the following elements as a condition of its approval:
  - 1. The parcel shall be seeded with grass and landscaped with trees. Deciduous trees are preferred and shall have at least a two-inch caliper at the time of planting.
  - 2. Trees shall be provided within the lot at a minimum density of one tree per 1,000 square feet of lot and along the side of the street with a maximum spacing of 30 feet on center.
  - 3. If a sidewalk is present prior to demolition, such sidewalk shall be maintained or restored after demolition so that the sidewalk is safe for pedestrians and free of rubble and cracks.
- C. The Planning Board may require additional landscaping or street furniture to maintain a pedestrian atmosphere at the site.
- D. When demolition occurs, water, sewer and all other utility lines shall be located, marked, capped and inspected and approved by the appropriate department prior to final site treatment.
- E. If a demolition permit is granted, the demolition and site restoration shall be completed within 90 days. If demolition occurs during the months of November through March, seeding and landscaping shall be completed by May 31.
- F. All debris resulting from the demolition shall be removed from the site and disposed of properly within three (3) days of demolition.

# **Village of Schuylerville Zoning Code**

## **Section 4.6 Wireless Telecommunication Facilities**

### **A. Statement of overall purpose and findings**

The purpose of this code is to:

- a. Establish standards for the siting of telecommunication towers and antennas within its village;
- b. Encourage the use of existing structures as an alternative to new tower construction;
- c. Encourage the joint use of towers;
- d. Encourage the design and construction of towers and antennae that minimize adverse visual impacts;
- e. Ensure compliance of all telecommunication facilities with current federal, state, county and local regulations;
- f. Facilitate the provisions of wireless telecommunication services; and
- g. Prevent harm to the health, welfare and visual environment of the village and its citizens

### **B. Enabling Authority**

This code regarding wireless telecommunications facilities was originally adopted pursuant to the powers granted to the Village of Schuylerville and contained within Municipal Home Rule section 10(1)(ii)(e)(3) and section 10 of Statute of Local Government. This code shall be deemed to specifically supersede Village Law 7 —725a. This code shall be deemed to specifically supersede Code No 5 of 2006 except where specific references to Code No. 5 of 2006 are addressed and incorporated herein. This code is hereby incorporated into the Zoning code of the Village of Schuylerville.

The Planning Board is hereby authorized to review and approve, approve with modifications and conditions, or disapprove site plans for the proposed telecommunications projects as herein defined.

### **C. Compliance with SEQRA**

In issuance of site plan review and approval, the Planning Board shall comply with the provisions of the State Environmental Quality Review Act and its implementing regulations.

### **D. Integration of Other Procedures**

Whenever the circumstances of proposed development require compliance with this Site Plan Review Code and with any other Code, ordinance or requirement of the Village, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this section of the Code with the procedural and submission requirements for such other compliance.

### **E. Telecommunications Uses Requiring Site Plan Approval**

## **Village of Schuylerville Zoning Code**

No commercial communications/radio tower shall hereafter be constructed, used, erected, moved, reconstructed, changed or altered unless approved by the planning board in conformance with this code.

No existing structure shall be modified to serve as commercial communications/radio tower unless approved by the planning board in conformance with this code.

### **F. Definitions**

(a) Telecommunication Tower - A structure on which transmitting and/or receiving antenna(e) are located.

(b) Antenna - A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, wireless and microwave communications. The frequency of these waves generally ranges from 10 hertz to 300,000 megahertz.

(c) Accessory Facility - An accessory facility serves the principle use, is subordinate in area, extent and purpose to the principle use, and is located on the same lot as the principle use. Examples of such facilities include transmission equipment and storage sheds.

### **G. Purpose of Site Plan Review**

The purpose of this site plan review is to promote the health, safety and general welfare of the residents of the Village, to provide standards for the safe provision of telecommunications consistent with applicable Federal and State regulations, and to protect the natural features and historic, aesthetic character of the Village of Schuylerville with special attention to visual, historic and scenic values of the Saratoga Monument, national parkland, village park, Fort Hardy Park, Champlain Canal, Old Canal, and surrounding Mountains.

The views of, and vistas from, such historic structures, historic corridors, historic districts, parklands, monuments shall not be impaired or diminished by the placement of telecommunications towers and antennae.

This code is not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations but to minimize adverse visual effects from telecommunication towers by requiring careful siting, visual impact assessment and appropriate landscaping.

### **H. Application of Site Plan Review**

(a) No transmission tower shall hereafter be constructed, used, erected, moved, reconstructed, changed or altered except after approval by the Planning Board under this Code.

(b) No existing structure shall be modified to serve as a transmission tower unless approved by the Planning Board under this Code.

## Village of Schuylerville Zoning Code

- (c) This Code shall apply to all property within the Village
- (d) Exceptions to this Code are limited to:
  - (i) new uses, which are accessory to residential uses (limit of 25 feet)
  - (ii) lawful or approved uses existing prior to the effective date of this Code.
- (e) Where this Code is in conflict with other laws and regulations of the Village, the more restrictive shall apply, except for tower height restrictions, which are governed by this Code.
- (f) Wireless telecommunication facility shall be fully automated and unattended on daily basis and shall be visited only for periodic and necessary maintenance.

### I. Site Plan Standards:

#### 1. Site Plan Submittal

An applicant shall be required to submit a site plan accompanied by site plan application form and a fee of \$2,500.

The site plan shall show all existing and proposed structures and improvements including roads and shall include grading plans for new facilities and roads.

- Elevations of existing and proposed structures showing width, depth and height of the telecommunication facility as well as the specifications of the antenna(e) and support structure shall be presented.
- The site plan shall also include documentation on the proposed intent and capacity of use as well as a justification for the height of any tower or antennae and justification for any land or vegetation clearing required.
- The plot plan should be at a scale of not less than 1 inch is equal to 100 feet.
- The plan shall indicate all buildings within 400 feet of the proposed facility.
- Aerial photos and or renderings may be submitted along with the plot plan.
- Applicant shall present documentation that the tower is designed in accordance with the standards established in the Use Regulations section of the Wireless Telecommunications Facilities section of the Zoning Code.
- Applicant shall demonstrate that the proposed tower complies with all Federal Aviation Administration regulations concerning safety.
- Applicant shall demonstrate that the proposed tower complies with all Federal Communications Commission regulations addressing radio frequency emissions standards.



## Village of Schuylerville Zoning Code

- Wireless telecommunications towers and antennae shall be designed to withstand sustained winds of at least 80 miles per hour.
- Soil report complying with the standards of ANSI/EIA 222-f (Annex I Geotechnical Investigations for Towers), as amended shall be submitted to the Planning Board and Building Inspector to document and verify the design specifications of the foundation for the tower, and anchors for the guy wires, if used.
- Report prepared by a licensed professional engineer shall be included with the submitted application and shall contain the height, design and proof of compliance with nationally-accepted structural standards published by the American National Standards Institute/Electronic Industry Association section 222-F, as amended.
- The ANSI/EIA section 222 -F(Annex H: Commentary on Ice Design Criteria for Communications Structures) shall be consulted for ice load specifications.
- Where the telecommunications facility is located on a property with another principal use, the applicant shall present documentation that the owner of the property has granted an easement or entered into a lease for the proposed facility and that vehicular access is provided the facility.

### 2. Visual Assessment

Additionally, the Planning Board shall require that the site plan include a completed Visual Environmental Assessment Form (Visual EAF) and a landscaping plan addressing other standards listed within this section with particular attention to visibility from key viewpoints within and outside of the municipality as identified in the Visual EAF.

The Planning Board shall require submittal of a more detailed visual analysis based on the results of the Visual EAF and for projects with proposed new towers.

The Planning Board shall require the applicant to undertake a visual impact assessment of any proposed new towers or any proposed modifications of an existing tower that will increase the height of the existing tower.

Construction of a new tower or modification of an existing tower shall be subject to the guidelines and criteria below that are determined by the Planning Board.

(1) Assessment of “before and after” views from key viewpoints both within and outside of the village minimum of one mile distance, including state highways and other major roads, from state and local parks, national parks other public lands, from any privately owned preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of residents.

Assessment shall include at least one representative of before and after views. This should be accompanied by a visibility map, scale 1:2000 indicating where tower will be visible within a one-mile radius.

(2) Assessment of tower designs and color schemes.

## Village of Schuylerville Zoning Code

(3) Assessment of visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.

### 3. Evaluation of All Alternatives to the Construction of Towers to Facilitate Commercial Communications.

The Planning Board shall require the applicant to provide and evaluate all feasible alternatives and technologies available, which will facilitate wireless and commercial radio/communication without the need to construct new communication towers.

(i) Shared Use - At all times, shared use of existing towers shall be preferred to the construction of new towers.

An applicant proposing to share use of an existing tower shall be required to document agreement by an existing tower owner to allow shared use.

An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use.

Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening, and other changes including real property acquisition or lease required to accommodate shared use.

(ii) pre existing structures

Additionally, where such shared use is unavailable, location of antenna on pre-existing structures shall be considered.

An applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to a new construction.

(iii) shared usage at existing site with new tower

Where shared usage of an existing tower is found to be impractical, the applicant shall investigate shared usage of an existing tower site for its ability to accommodate a new tower and accessory uses.

(iv) new tower at new location

The Planning Board may consider a new commercial communications/radio tower where the applicant demonstrates that shared usage of an existing tower is impractical. In order to be considered for review, the applicant must prove that a newly constructed tower is necessary in that Opportunities for collocation on an existing tower is not feasible.

The applicant shall demonstrate that the telecommunication tower must be located where it is proposed in order to service the applicant's service area. There shall be an explanation of why the tower and this proposed site is technically necessary.

## **Village of Schuylerville Zoning Code**

The applicant shall be required to submit a report demonstrating good faith efforts to secure share use from existing towers as well as documentation of the physical and/or financial reasons why shared usage is not practical.

Written requests and responses for shared use shall be provided.

Any applicant requesting permission to install a new tower shall provide evidence of written contact with all wireless service providers who supply service within a quarter to half mile of the propose facility.

The applicant shall inquire about potential collocation opportunities at all technically feasible locations.

The contacted providers shall be requested to respond in writing to the inquiry within 30 days.

The applicant's letter(s) as well as the response(s) shall be presented to the Planning Board as a means of demonstrating the need for a new tower.

### **v) Future Shared Usage of New Towers.**

The applicant must examine the feasibility of designing a proposed commercial and wireless and communications radio tower to accommodate future demand for wireless and commercial broadcasting and reception facilities. The scope of The Planning Board shall determine this analysis. This requirement may be waived provided the applicant demonstrates that provisions of future shared usage of the facility are not feasible and an unnecessary burden, based upon;

(1) The number of Federal Communication Commission (FCC) licenses foreseeable available for the area;

(2) The kind of tower site and structure proposed;

(3) The number of existing and potential licenses without tower spaces;

(4) Available spaces on existing and approved towers; and

(5) Potential adverse visual impact by a tower designed for shared usages.

D Setbacks - Towers and antennae shall comply with any existing setbacks within Village. Additionally, the Planning Board may require setbacks to contain on-site substantially all ice-fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities.

### **4. Visibility -**

(i) All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment.

(ii) Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green, black or similar colors designed to blend into the natural surroundings below the surrounding tree line unless other standards are required

## Village of Schuylerville Zoning Code

by the FAA. In all cases, structures offering slender silhouettes (i.e. monopoles or guyed tower) shall be preferable to free-standing structures except where such free-standing structures offer capacity for future shared use.

Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

Towers shall not contain any advertising signage or commercial banners.

(iii) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

5. Existing Vegetation - Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground) shall take place prior to approval.

Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.

6. Screening - Deciduous or evergreen tree plantings may be required to screen portions of the tower from nearby residential property as well as from public sites, known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten feet in height within two years of planting shall be provided to effectively screen the tower base and accessory facilities.

In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.

Security fencing at least eight feet in height surrounding the tower, equipment facility, guy wires, either completely or individually may be required by the Planning Board.

No trespassing sign shall be posted around the facility with a telephone number of who to contact in the event of an emergency.

### J. Access and Parking

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. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten feet beyond the edge of an pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived in meeting the objectives of this subsection. Adequate parking shall exist for maintenance purposes.

### K. New Tower Design Standards.

Alternate designs shall be considered for new towers, including lattice, single poles, and concealment structures. The design of a proposed new tower shall comply with the following:

## **Village of Schuylerville Zoning Code**

- (1) Unless specifically required by other regulations. All towers shall have a neutral, earth tone or similar painted finish that will minimize the degree of visual impact that the new tower may have.
- (2) The maximum height of any new tower, or any tower in existence intended to be used as a commercial communications/radio tower, shall not exceed that which will permit operations without artificial lighting of any kind or nature, in accordance with Municipal, State and/or Federal law and/or regulation.
- (3) A new tower shall have the minimum height needed to provide future shared usage, but artificial lighting of any kind shall be prohibited.
- (4) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

## Village of Schuylerville Zoning Code

### L. Technical Review

The Planning Board upon receipt of the Application shall seek a review of the application and project from a qualified communication consultant, engineering firm and other technical consultants.

The applicant shall reimburse the village the cost of this review by the Consultants described in the above sentence and any other consultant which is required by the Planning Board for purposes of review under this Code.

### M. Additional Requirements and Conditions

The Planning Board may require in conjunction with its approval of any site plan review project under this Code such requirements and conditions as are allowable within the proper exercise of police power including the imposition of conditions such as maintenance bond, performance bond and or letter of credit, restriction of land against further development of principal buildings whether by deed restriction, restrictive covenant or other similar appropriate means:

- to insure that guidelines as to the development as provided in this Code shall be respected and complied with, and
- to insure improvements completed in accordance with the terms of approval.

### N. Maintenance and/or Performance Bond.

The Planning Board, upon a recommendation from the Village Board may require the applicant and/or owner to post and file with the Village Clerk of the Village of Schuylerville at time of approval of any application and/or license, a maintenance and/or performance bond in an amount sufficient to cover the cost of installation.

The amount required shall be determined at the sole discretion of the Planning Board based upon the unique characteristics of the tower and site. In furtherance of the foregoing, the applicant and/or owner shall cooperate with the Planning Board in supplying all necessary construction and maintenance data to the Board prior to approval of any application to accomplish the foregoing.

#### 1. Removal of facilities— Cash or Irrevocable Letter of Credit

The Planning Board may require the owner of the facility to establish a cash security find in amount equal to the cost of removing the following items or provide the Village with an irrevocable letter of credit in the same amount to secure the cost of removing an antenna, antenna array or tower that has been abandoned.

The amount required shall be determined at the sole discretion of the Planning Board based upon the unique characteristic of the tower and site.

#### 2. Discontinuance, Transfer, Sale of facility

The applicant and or successor in interest shall agree to notify the Village Clerk and village building department sixty (60) days in advance of the discontinuance of the use of the tower.

## **Village of Schuylerville Zoning Code**

Obsolete or unused towers and accessory structures shall be removed from any site within one hundred twenty (120) days of discontinuance. Failure to notify shall result in a civil fine of \$500. Failure to remove the obsolete or unused towers in accordance herein shall be a violation of this local and shall be subject to fine not to exceed \$250 per day for each day of violating this provision.

In the event of a transfer of ownership, the seller shall be responsible for notifying the buyer of these requirements and conditions and for notifying the village clerk 60 days in advance of the transfer.

### **O. Review Procedure, Hearing, and Approval Process of Cell Tower Application**

The required planning board process for cell tower application and review procedure, timetable, public hearing and decision is contained within Code No 5 of 2006 and is herein incorporated and made part of this Code.

### **P. Public Hearing and Additional Notification Procedure**

A public hearing for all projects under this Code is required. The required procedure for conducting such a public hearing is contained within Code No 5 of 2006.

In addition to the above public hearing requirement as outlined in Code No. 5 of 2006, the applicant shall also be required to mail at their expense by certified mail return receipt requested notice of the public hearing notice directly to all landowners whose property is within five hundred (500) feet of the property line of the parcel on which a new tower is proposed. Notice shall also be mailed by applicant at their expense to the following organizations:

- Fire Chief of the Village of Schuylerville Fire Company
- President of the Village Schuylerville Emergency Squad
- Sheriff of Saratoga County
- Saratoga County Emergency Services
- Saratoga County Fire Coordinator
- Saratoga County Emergency Medical Services Council
- Director of New York State Emergency Management Office
- Village of Schuylerville and Town of Saratoga Emergency Coordinator
- Administrators at Albany County International Airport and Warren County Airport
- Administrator of any municipal, state and federal parklands from which the proposed tower may be visible if constructed.
- New York State Police
- New York State Department of Transportation

Notice must contain the purpose of the hearing, date, time and location of the public hearing and must be mailed at least 10 business days prior to the public hearing.

Documentation of this notification shall be submitted to the Planning Board prior to the public hearing.

## **Village of Schuylerville Zoning Code**

### **Q. Extension of time**

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.

### **R. Filing of Decision**

The decision of the Planning Board shall be filed in the Village Clerk's Office within five business days after such decision is rendered and a copy mailed to the applicant within five days of filing.

### **S. Appeal Procedure.**

Any person aggrieved by any decision of the Planning Board or any officer, department, board or bureau of the village may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision in the office of the Village Clerk.

### **T. Enforcement; penalties for offenses.**

Any person, corporation, partnership, association or other legal entity who shall violate any of the provisions of this chapter or any conditions imposed by this planning board, village board or by permit pursuant hereto shall be guilty of an offense and subject to a fine of up to one thousand dollars (\$1,000.00) or by a civil penalty of seven hundred fifty dollars (\$750.00) to be recovered by the village in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

Village of Schuylerville may also seek such other and further relief including but not limited to provisions within the Village of Schuylerville Code, NYS Village Law, General Municipal Law.

### **U. Adoption of further rules and regulations.**

The Village Board may, after a public hearing, adopt such further rules and regulations, as it deems reasonably necessary to carry out the provisions of this chapter.

### **V. Amendments.**

All proposed amendments to this Code should be referred to the Planning Board for a report and recommendation thereon. The Planning Board shall submit its report to the Village Board within thirty (30) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to constitute a recommendation for approval of the proposed amendment.



## **Village of Schuylerville Zoning Code**

### **W. Performance guaranty.**

No certificate of occupancy shall be issued until all improvements shown on the site plan are completed, installed or a sufficient performance guaranty has been posted for improvements not yet completed as provided for under section 13 of this Code.

### **X. Inspection.**

The Building Inspector shall be responsible for the overall inspection of site improvements, including coordination with the Planning Board and other officials and agencies, as appropriate.

Upon completion of the work depicted in the site plan, the Building Inspector shall make a field inspection, noting on one (1) copy of the approved site plan compliance between the site plan and actual development and shall submit the same to the Village Planning Board.

No performance bond or other surety shall be released and no certificate of compliance issued unless or until the Village Planning Board is satisfied that actual development is in substantial compliance with the approved site plan. Village shall notify Village Board and other officials of compliance.

### **Y. Expiration of site plan approval.**

Site plan approval shall expire after one (1) year of the date of the site plan if actual construction has not commenced by the applicant. The Planning Board may extend this site plan application approval for good cause for another six months upon written request of the applicant.

### **Z. Severability**

The provisions of this section of the Code are severable. Should any word, phrase, article, section, paragraph or provision of this Code be found to be invalid, such decision, judgment, order shall only apply to the word, phrase article, section, paragraph, or provision(s) adjudged invalid, and the rest of this Code shall remain valid and effective.

### **Supercession and Effect**

This section of the code is intended to invoke the supercession provisions of section 10 (l)(ii)(e)(3,) of the Municipal Home Rule Law and New York Statute of Local Government (section 10) and shall supersede all inconsistent provisions of Schuylerville Village Code, NYS Village Law (including article 7), Codes of the Village of Schuylerville and NYS General Municipal Law.

### **Effect on other provisions.**

Except as noted above; this Code in no way affects the provisions or requirements of any other federal, state or Code or regulations. Where this section of the Code is in conflict with any other such law or regulation, this Code shall apply.

# Village of Schuylerville Zoning Code

## APPLICATION SITE PLAN REVIEW FOR TELECOMMUNICATION FACILITY BY THE SCHUYLERVILLE PLANNING BOARD

For Village Use:  
File #  
Date Received\_\_\_\_\_

Village of Schuylerville  
Village Contacts: 518 695 3881 fax 518 695 3883

Village Code Enforcement Officer

Planning Board Chairperson

Applicant Name: \_\_\_\_\_

Applicant Address:

\_\_\_\_\_

Date Application Received\_\_\_\_\_

Date of Board's Final Decision\_\_\_\_\_

Final Decision\_\_\_\_\_

Fees and Costs\_\_\_\_\_

Amount Paid and Date\_\_\_\_\_

## **Village of Schuylerville Zoning Code**

### **INSTRUCTIONS TO APPLICANT:**

The following application shall be completed and filed with the Code Enforcement Officer at the Village Municipal Building 35 Spring Street, Schuylerville.

In order to be considered at the next Planning Board meeting, the application must be submitted and deemed complete at least 10 days in advance of the meeting. The Planning Board meets regularly on the Third Monday of the month at 630pm at the Village Municipal Center 35 Spring Street.

Please include the following in your application package:

Submit one (1) original and nine (9) copies of the following application package to the Village Clerk's Office

(A) This Application form.

(B) Site Plan in accordance with the Site Plan Checklist and Code No 1 of 2007 (see Part II below)

(C) Short or Long Environmental Assessment Form pursuant to the N.Y. State Environmental Quality Review Act (SEQRA). Whether a short or long form is required is dependent upon whether the application is classified by the Planning Board as "Type 1" or "Unlisted". These forms are available from the Code Enforcement Officer or the Village Clerk.

(D) Agricultural Data Statement and Control Form if the property is located on a farm or within 500 feet of a farm in an agricultural district. This form is available from the Code Enforcement Officer or Village Clerk.

(E) Copy of current deed to the property.

Copy of Site Plan Review for Telecommunication Facility Code I of 2007 is attached.

## Village of Schuylerville Zoning Code

### PART I: General Information

1. Applicant's Name:

Street Address: \_\_\_\_\_

City, State, ZIP: \_\_\_\_\_

Telephone No. (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

2. Agent's Name:

Street Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone No. (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

3. Property Owner's Name:

Street Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone No. (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

4. Tax Map Number of Proposed Project Section \_\_\_\_\_, Block \_\_\_\_\_, Lot \_\_\_\_\_

5. Dimensions Frontage \_\_\_\_\_ ft      Depth \_\_\_\_\_ ft

Sq footage \_\_\_\_\_ sf

6. Location of the Property \_\_\_\_\_

7. Listing of any permits, approvals (from Federal, State and County) required for this project e.g., FAA, NYS DOT, NYS DEC.

8. Provide a brief description of the proposed project activity.

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### PART II: Site Plan Checklist

Instructions:

Please complete the site development data and related information with respect to the subject parcel as contained within application and within the requirements of Code No 1 of 2007.

## **Village of Schuylerville Zoning Code**

Site Development Data  
Area/Type Existing (sq. ft.)

Total (sq. ft.) of development

Height of Tower(s)  
Footprint

Height of any building  
Footprint

Paved, gravel or  
other surface  
areas

Lot Coverage  
Location with proposed setbacks

Front SETBACK

Side Yard SETBACK

Rear Yard SETBACK

Visual Assessment as outlined under section 10 B of Code No I of 2007

Evaluation of all alternatives under section 10 C of Code No. I of 2007

# **Village of Schuylerville Zoning Code**

## **PART III: Site Plan Checklist**

### **Instructions:**

Please prepare a site plan depicting existing and proposed conditions for the following items including requirements within Code No 1 of 2007. The Board may, at its discretion, waive any of these requirements OR require the submission of additional information.

If the applicant desires to have certain application requirements waived, this shall be so noted with the application.

1. Title, name, address of applicant and person responsible for preparation of the drawing.
2. North arrow, tax map ID, date prepared and scale (not less than 1 inch = 100 ft.).
3. Surrounding land uses within 500 feet and buildings within 400 feet.
4. Existing and proposed contours at sufficient detail to understand the potential impacts of the project.
5. Location of principal and accessory structures with exterior dimensions and nature of exterior along with elevations of proposed structures.
6. Location of site improvements including outdoor storage areas, driveways (existing and proposed), parking areas (number of parking spaces including handicapped spaces, ingress and egress etc.).
7. Existing and proposed location and type of landscaping, screening and buffering.
8. Location of any on-site and adjacent watercourses: streams, rivers, floodplains, floodways, canal, wetlands and park lands, historic sites.
9. Location of existing and proposed method of sewage disposal together with existing and proposed usage and addressing adequacy of current service line.
10. Location of existing and proposed method of water supply together with existing and proposed usage and addressing adequacy of current service line.
11. Location of existing and proposed provisions for stormwater drainage and addressing adequacy of current service line.
12. Location of proposed and existing: utility/energy distribution systems (gas, electric, telecommunications).
13. Location, type and size of any signs, and exterior lighting.
14. Any other information as required under Code No 1 of 2007 and necessary to determine compliance with site plan review.

## Village of Schuylerville Zoning Code

### Part IV: Signatures

Signature of Owner:

To the best of my knowledge the information provided in this application and on the attached preliminary plan is true and accurate.

Signature of Owner and Date.

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Authorization to Act as Agent For:

In the event that the owner of the property desires to have another individual act as his/her authorized representative in support of this application the following statement must be completed and signed:

I \_\_\_\_\_, owner of the premises located at.

(Name of owner)

\_\_\_\_\_ with the Tax Map No. \_\_\_\_\_

(Location)

hereby designate \_\_\_\_\_ as my agent

(Name of Agent)

regarding an application for site plan review.

Signature of Owner and Date

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### DECISION OF THE VILLAGE OF SCHUYLERVILLE PLANNING BOARD

Approval \_\_\_\_\_ Date \_\_\_\_\_

Approval with Modifications Date \_\_\_\_\_

Conditions:

Disapproval \_\_\_\_\_ Date \_\_\_\_\_

Reasons:

Signatures of Planning Board

Chairperson

\_\_\_\_\_ Date \_\_\_\_\_

Vice Chairperson

\_\_\_\_\_ Date \_\_\_\_\_

# **Village of Schuylerville Zoning Code**

## **Section 4.7      Unlicensed Vehicles**

### **A.      Findings.**

[HISTORY: Originally adopted by the Board of Trustees of the village of Schuylerville 7-6-1987 as Local Law No. 2-1987 and amended thereafter as noted in the original code as Chapter 154 of the Code of the Village of Schuylerville. This section repeals and replaces Chapter 154 of the Code of the Village of Schuylerville]

The outdoor storage of abandoned, junked, discarded or unlicensed vehicles upon private property within the Village of Schuylerville is hereby declared to be detrimental to the health, safety and general welfare of the community, aesthetically unattractive and detracting from the enjoyment of the environment by said residents, tending to depreciate neighborhood property values, and is an infringement on their properties and homes. The same also constitutes a potential nuisance to the children of the community and may imperil their safety. The fuel tanks of abandoned, junked or discarded vehicles containing gasoline or gasoline fumes constitute an ever-present danger of explosion. The abandoned, junked or discarded vehicles also contain broken glass and sharp metal edges, and such vehicles usually are stored or abandoned with batteries containing harmful acids. The control of the outdoor storage of abandoned, junked or discarded vehicles is therefore regulated for the preservation of the health, safety and general welfare of the community.

### **B.      Definitions.**

As used in this section, the following terms shall have the meanings indicated:

**ABANDONED VEHICLE** – The intent of the owner shall be determined by the physical condition of the vehicle; statements of the owner as to its abandonment; the length of time since the vehicle has been used on the highway; whether the vehicle is currently licensed, registered or inspected; and other relevant facts. With respect to a vehicle not required to be licensed or a vehicle not usually used on public highways, the intent of the owner shall be determined by the physical condition of the motor vehicle, the length of time since it was last used for the purpose intended; any statement as to its abandonment by the owner and other relevant facts.

**CODE ENFORCEMENT OFFICERS** – The Code Enforcement Office(s) whose powers and duties are within or include the Village of Schuylerville.

**COMMERCIAL GARAGE** – Any person registered by the State of New York Department of Motor Vehicles to repair motor vehicles or any part thereof.

**DEALER** – Any person registered by the State of New York Department of Motor Vehicles as a dealer as defined by Section 415 of the Vehicle and Traffic Law of the State of New York, as amended.

**DISCARDED VEHICLES** – Any vehicle(s) which the owner thereof, as established by the surrounding circumstances, relinquishes ownership and possession of and any vehicle(s) the owner of which cannot be found after due and reasonable inquiry.

**ENCLOSURE** – A completely enclosed privacy-type structure or fence constructed of wood, metal or masonry, which shall be six feet in height and of such construction and type that an ordinary person of ordinary height and eyesight cannot see into the



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enclosure. Such enclosure shall be adequately maintained so as not to create an eyesore to the community.

**JUNK VEHICLE** – Any vehicle which, for any reason, is incapable, without repair, of being moved or propelled by application of internal power, if it is a vehicle originally designed to be propelled by internal power, or is incapable, without repair, of being drawn or towed, if it is a vehicle originally designed to be towed or drawn behind an internally powered vehicle, and, as adjudged by the standards of an ordinary reasonable man, is unsightly in appearance because of the existence of one or more conditions, such as but not limited to the following: deterioration by rust of the body; deterioration of the exterior finish of the vehicle; broken windows, absence of component parts of the vehicle (such as fenders, panels, doors, bumpers, headlights, hood, trunk door, tires, wheels, grill, roof or tailgate); physical damage (such as dents, cracks, scraps or holes) to component parts of the vehicle; and absence of interior components (such as seats, dashboard or interior door moldings), or is incapable of being moved or propelled, drawn or towed without repair as provided for hereinabove and has remained situate on any real property for a period in excess of 30 days.

**OPEN STORAGE** – Storage other than in a completely enclosed structure constructed of wood, masonry or metal.

**OWNER OF PRIVATE PROPERTY** – The legal owner, contract purchaser, tenant, lessee, occupant, subtenant, trustee, bailee, receiver or assignee of premises of real property located within the Village of Schuylerville.

**OWNER OF VEHICLE** – The person having the property and/or title to a vehicle, including a person entitled to the use and possession of a vehicle subject to a security interest of another person, and also including any lessee or bailee of a vehicle having the use thereof under lease or otherwise.

**PERSON** – An individual, firm, partnership, association, corporation, company or organization.

**REPAIR SETTLEMENT** – Determination by whatever means, including settlement of a claim arbitration or legal action, that any person other than the owner of a vehicle is liable to pay or will pay for the repair of damage to a vehicle resulting from any vehicular accident.

**UNLICENSED VEHICLE** – Any vehicle (automobile or boat) which may be licensed or registered for operation on public highways and which has not been licensed and/or registered during the preceding six months, with the exception of those vehicles in the possession of a dealer, or is not currently licensed and/or registered and not in a condition for legal use on the public highways. A vehicle which is in a condition to receive a current New York State motor vehicle inspection sticker shall be deemed to be in a condition for legal use on the public highways.

**VEHICLE** – Any means of transport or conveyance operated, driven, drawn or capable and intended to be operated, drawn or driven upon a public highway by a power other than muscular power. A vehicle shall include but not be limited to automobiles, motorcycles, motorbikes, buses, all types of trailers, including trailers used for storage, trucks, tractors, mobile homes, other than those legally in use in an authorized mobile

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home park, recreational vehicles, snowmobiles, all-terrain vehicles and jitneys or any other contraption originally designed and intended for travel on the public highways.

VILLAGE – All areas within the Village of Schuylerville, both publicly and privately owned.

WRECKER – Any person licensed to operate a tow truck as defined in Section 148 (b) of the Vehicle and Traffic Law of the State of New York, as amended.

### **C. Open storage restricted.**

It shall be unlawful for any person, firm or corporation, either as a private property owner, vehicle owner, occupant, lessee, agent, tenant or otherwise, to openly store or deposit or cause or permit to be openly stored or deposited an abandoned, junked, discarded or unlicensed vehicle or vehicles or parts or pieces thereof on any private property within the Village of Schuylerville except as permitted by this chapter, unless such vehicle or part or piece thereof is stored or deposited in a completely enclosed building or such vehicle or part of piece thereof is under repair, reconstruction or refurbishing pursuant to this Section by the owner thereof, who must actually be residing upon the premises where such repair, reconstruction or refurbishing is being done. Such vehicle or part or piece thereof must be maintained and protected so as not to create a safety hazard or nuisance to surrounding property owners. No more than one junk vehicle shall be permitted in conjunction with any use other than automobile service station. Written application to permit said repair, reconstruction or refurbishing shall be made to the Code Enforcement Officer on forms provided. The Code Enforcement Officer, upon approving the application, shall issue a permit. Said permit shall be valid for 30 days from its date of issue and shall not be renewed. Only one permit shall be issued to an owner of any motor vehicle and/or the owner of any private property in any twelve-month period of time. Upon the filing of an application for a permit under the provisions of this subsection, a filing fee as set from time to time by resolution of the Board of Trustees shall be payable. The Code Enforcement Officer shall maintain a permanent record of all matters considered and all action taken by him or her under this chapter.

### **D. Notice to correct.**

After the Code Enforcement Officer has determined that an abandoned, junked or unlicensed vehicle(s) or discarded parts thereof is openly stored or deposited on a parcel of property in violation of this chapter, he shall give written notice, by personal service or by registered or certified mail, on the owner of the abandoned, junked, discarded or unregistered vehicle(s) or discarded parts thereof or on the owner of any private property on which the vehicle(s) is openly stored. Such notice shall direct the person so served, regardless of the ownership of the vehicle(s) if the property owner or tenant is served, to terminate the open storage of such vehicle(s) within the Village within 10 days of receipt of such notice.

### **E. Appearance tickets.**

In the event of noncompliance with the provisions of this chapter and after 10 days have elapsed from receipt of the written notice provided for in this code, the Code Enforcement Officer may issue an appearance ticket, returnable to the Village of Schuylerville Justice court, or any other court of competent jurisdiction, at a date and time as specified on the appearance ticket. The appearance ticket shall specify the alleged chapter violation, the date and time and a description of the vehicle(s) involved, a copy of which shall be forwarded to the Court and shall be

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accompanied by an information form detailing the violation and attempts made by the Code Enforcement Officer to achieve compliance.

### **F. Enforcement.**

The Code Enforcement Officer may enforce this chapter by either issuing an appearance ticket returnable in the Town of Saratoga Town Court pursuant to this chapter or by invoking both enforcement provisions.

### **G. Presumption of violation.**

There shall be a presumption that a person who has received the notice prescribed by this chapter has openly stored or deposited or caused or permitted to be openly stored or deposited an abandoned, junked, discarded or unlicensed vehicle described in said notice.

### **H. Storage by wreckers and commercial garages.**

1. A wrecker or commercial garage may store abandoned, junked or unlicensed vehicle(s) or part thereof on any one site within the Village of Schuylerville, provided that such storage is confined by an enclosure and such vehicle(s) may not be stored for more than 30 days and, provided further that the business operation of the wrecker or commercial garage is permitted by all applicable zoning laws or regulations, including rights under any nonconforming uses and including any limitations, restrictions or conditions established according to law by the Board of Trustees, the Zoning Board of Appeals, the Village Planning Board or any court of competent jurisdiction, and provided that the vehicle(s) is not stored at any time on a public highway right-of-way.
2. Where a repair settlement is pending in good faith, the foregoing time periods shall not start to run until a repair settlement has been made, but in no event to exceed 60 days from the date said vehicle(s) is (are) first stored upon the premises.
3. In the event that any abandoned, junked or unlicensed vehicle or part thereof is stored at any wrecker or commercial garage and such wrecker or commercial garage is restrained from allowing the owner to move said vehicle from the location of such wrecker or commercial garage by reason of a legal detainer or order of any federal, state, county or local government agency or body, the thirty-day period of time as provided for in Subsection A hereinabove shall not commence to run until said legal detainer or order is released or vacated.

### **I. Penalties for offense.**

A violation of this chapter shall be punishable by a fine of at least \$50 and not more than \$250 per violation or by imprisonment for up to 15 days, or both. A violation of this chapter shall also subject the violator to a civil penalty of the greater of \$100 per separate violation or the Village's costs of inspection, service of notice, removal, towing and permanently disposing of such vehicle, less any criminal monetary fine which may have been imposed. Each abandoned, junked,

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discarded or unregistered vehicle stored in violation of this chapter shall constitute a separate violation. Each day that such separate violation shall continue or be carried on shall constitute an additional fine and continuing fine until the vehicle(s) is (are) removed or enclosed.

### **J. Construal of Provisions.**

This section has been enacted to supplement and to be read in conjunction with Section 1224 of the Vehicle and Traffic Law of the State of New York, as amended.

## **Section 4.8 Travel Trailers, Motor Homes & Other RV's**

### **1 Residential Storage**

Any unused recreational vehicle (whether bus, trailer, truck, motor home, motorcycle, New York State registered boat or snowmobile, or any other type of device originally intended for travel or transportation on public and private highways, trails or waterways), construction materials, unused business equipment, supplies, fixtures and household furnishings shall not be stored in the Zoning Districts of the Village, unless the property owner has made considerable effort (in the judgment of the Village Code Enforcement Officer) to screen the recreational vehicle from any other lot or public way. No recreational vehicles shall be stored/parked on any public road or right-of-way or within the front yard of a lot longer than forty-eight (48) hours.

### **2. Commercial Storage**

Commercial storage of recreational vehicles shall be governed by the allowable zoning within each zoning district.

## **Section 4.9 Dumpsters**

All commercial, industrial and multi-family uses that utilize dumpsters shall be adequately screened to the satisfaction of the Planning Board. All existing dumpsters shall be adequately screened within one (1) year of the official date of adoption of this zoning ordinance. All future applications for site plan approval from the Planning Board for commercial, industrial and multi-family residential projects shall include provisions for screening of any and all dumpsters proposed as part of the project.

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## **Article V Flood Damage Prevention**

### **Section 5.1 Findings**

The Board of Trustees of the Village of Schuylerville finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Schuylerville and that such damages may include destruction or loss of private and public housing; damage to public facilities, both publicly and privately owned; and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

### **Section 5.2 Statement of Purpose**

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in accommodation of floodwaters.
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages.
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- F. Qualify and maintain for participation in the National Flood Insurance Program.

### **Section 5.3 Objectives**

The objectives of this section are to:

- A. Protect human life and health.
- B. Minimize expenditure of public money for costly flood control projects.
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. Minimize prolonged business interruptions.
- E. Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard.
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood-blight areas.
- G. Provide that developers are notified that property is in an area of special flood hazard.
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

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## Section 5.4 Word usage; definitions

A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application.

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

**APPEAL** — A request for a review of the local administrator’s interpretation of any provision of this chapter or a request for a variance.

**AREA OF SHALLOW FLOODING** — A designated AO, AH or VO Zone on a community’s Flood Insurance Rate Map (FIRM), with a one-percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD** — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE or V1-V30. It is also commonly referred to as the “base floodplain” or the “one-hundred year floodplain.”

**BASE FLOOD** — The flood having a one-percent chance of being equaled or exceeded in any given year.

**BASEMENT** — That portion of a building having its floor subgrade (below ground level) on all sides.

**BUILDING** — See “structure.”

**CELLAR** — The same meaning as “basement.”

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

**ELEVATED BUILDING** -- A nonbasement building built, in the case of a building in zones A1-A30, AE, A, A99, AO, AH, B, C, X or D, to have the top of the elevated floor or, in the case of a building in Zone V1-V30, VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zone A1-A30, AE, A, A99, AO, AH, B, C, X or D, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zone V1-V30, VE or V, elevated building also includes a building otherwise meeting the definition of “elevated building,” even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** — The preparation of additional sites by the construction of facilities for servicing the lots on which

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the manufactured home are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEDERAL EMERGENCY MANAGEMENT AGENCY** — The federal agency that administers the National Flood Insurance Program.

**FLOOD or FLOODING:**

(1) A general or temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; or

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(2) “Flood” or “flooding” also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1)(a) above.

**FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)** — An official map of the community published by the Federal Emergency Management Agency as part of a riverine community’s Flood Insurance Study. The FBFM delineates a regulatory floodway along water courses studied in detail in the Flood Insurance Study.

**FLOOD ELEVATION STUDY**— An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of flood- related erosion hazards.

**FLOOD HAZARD BOUNDARY MAP (FHBM)** — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no flood elevations are provided.

**FLOOD INSURANCE RATE MAP (FIRM)** — An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** — See “flood elevation study.”

**FLOODPLAIN or FLOOD-PRONE AREA** — Any land area susceptible to being inundated by water from any source. (See definition of “flooding.”)

**FLOODPROOFING** — Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY**— The same meaning as “regulatory floodway.”

**FUNCTIONALLY DEPENDENT USE** — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repairing. The term does not include long-term storage, manufacturing, sales or service facilities.

**HIGHEST ADJACENT GRADE** — The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**HISTORIC STRUCTURE** — Any structure that is:

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- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior; or
  - (b) Directly by the Secretary of the Interior in states without approved programs.

**LOCAL ADMINISTRATOR** — The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

**LOWEST FLOOR** — The lowest floor of the lowest enclosed area including the basement or cellar. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

**MANUFACTURED HOME** — A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle.

**MANUFACTURED HOME PARK OR SUBDIVISION** — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL** — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**MOBILE HOME** — The same meaning as “manufactured home.”

**NATIONAL GEODETIC VERTICAL DATUM (NGVD)** — As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**ONE-HUNDRED-YEAR FLOOD OR 100-YEAR FLOOD** — The same meaning as “base flood.”

**PRINCIPALLY ABOVE GROUND** — At least 51% of the actual cash value, excluding land value, is above ground.



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**RECREATIONAL VEHICLE** — A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**REGULATORY FLOODWAY**—The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 86-13B of this chapter.

**START OF CONSTRUCTION** — Includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project or physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages and sheds), storage trailers and building materials. For manufactured homes, the “actual start” means affixing of the manufactured home to its permanent site.

**STRUCTURE** — A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE** — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** — Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure.

**VARIANCE** — A grant of relief from the requirements of this chapter, which permits construction or use in a manner that would otherwise be prohibited by this chapter.

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## **Section 5.5      Applicability**

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Village of Schuylerville, Saratoga County, New York.

## **Section 5.6      Basis for establishing areas of special flood hazard**

A. The areas of special flood hazard for the Village of Schuylerville, Community No. 360729, are identified and defined on the flooding documents prepared by the Federal Emergency Management Agency:

(1) A scientific and engineering report entitled "Flood Insurance Study, Saratoga County, New York (all jurisdictions)," dated August 16, 1995.

(2) Flood Insurance Rate Map for Saratoga County, New York (all jurisdictions), as shown on Index No. 36091C0000, and Panel(s) 0477, whose effective date is August 16, 1995.

B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at the Village of Schuylerville office, 35 Spring Street, Schuylerville, New York 12871.

## **Section 5.7      Interpretation and conflicts with other laws**

A. This chapter includes all revisions to the National Flood Insurance Program through November 1, 1989, and shall supersede all previous laws adopted for the purpose of flood damage prevention.

B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the highest standards shall govern.

## **Section 5.8      Penalties for offenses**

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Schuylerville from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter. for which the developer and/or owner has not applied for and received an approved variance under § 86-19 and 86-20 will be declared noncompliant, and notification shall be sent to the Federal Emergency Management Agency.

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## **Section 5.9      Warning and Disclaimer of Liability**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Village of Schuylerville, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

## **Section 5.10    Designation of Local Administrator**

The Code Enforcement Officer is hereby appointed local administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

## **Section 5.11    Floodplain Development Permit**

A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 86-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee of \$50. In addition, the applicant shall be responsible for reimbursing the Village of Schuylerville for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than \$500 to cover these additional costs.

## **Section 5.12    Application Information**

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zone A1-A30, AE or AH or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be flood proofed. Upon completion of the flood proofed portion of the structure, the permittee shall submit to the local administrator the as-built flood proofed elevation, certified by a professional engineer or surveyor.

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C. A certificate from a licensed professional engineer or architect that any utility flood proofing will meet the criteria in § 86-15C, Utilities.

D. A certificate from a licensed professional engineer or architect that any non-residential flood proofed structure will meet the flood proofing criteria in § 86-17, Nonresidential structures.

E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 86-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

F. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

G. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

### **Section 5.13 Duties and responsibilities of local administrator**

Duties of the local administrator shall include, but not be limited to the following:

A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:

(1) Review all applications for completeness, particularly with the requirements of § 86-12, Application information, and for compliance with the provisions and standards of this chapter.

(2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of § 86-14 through 86-18, Construction standards and, in particular, § 86-14A, Subdivision proposals.

(3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of § 86-14 through 86-18, Construction standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.

(4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.

B. Use of other flood data.

(1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood

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elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 86-12G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.

(2) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.

C. Alteration of watercourses. The local administrator shall:

(1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.

(2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

D. Construction stage.

(1) In Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of flood proofing of a new or substantially improved structure, the local administrator shall obtain from the permit holder a certification of the as-built elevation of the lowest floor or flood proofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

(2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

E. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

F. Stop-work orders.

(1) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 86-8 of this chapter.

(2) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found noncompliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 86-8 of this chapter.

G. Certificate of compliance.

(1) In areas of special flood hazard, as determined by documents enumerated in § 86-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its

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use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.

(2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.

(3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in § 86-13E, Inspections, and/or any certified elevations, hydraulic data, flood proofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. Information to be retained. The local administrator shall retain and make available for inspection, copies of the following:

(1) Floodplain development permits and certificates of compliance;

(2) Certificates of as-built lowest floor elevations of structures required pursuant to § 86-13D(1) and (2) and whether or not the structures contain a basement;

(3) Flood proofing certificates required pursuant to § 86-13D(1) and whether or not the structures contain a basement;

(4) Variances issued pursuant to § 86-19 and 86-20, Variance procedures; and

(5) Notices required under § 86-13C, Alteration of watercourses.

### Section 5.14 General standards

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 86-6:

A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

(1) Proposals shall be consistent with the need to minimize flood damage;

(2) Public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed so as to minimize flood damage; and

(3) Adequate drainage shall be provided to reduce exposure to flood damage.

B. Encroachments.

(1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or

(b) The Village of Schuylerville agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analysis and mapping and reimburses the Village of Schuylerville for all fees

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and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Schuylerville for all costs related to the final map revision.

(2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 86-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or

(b) The Village of Schuylerville agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Schuylerville for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Schuylerville for all costs related to the final map revisions.

### **Section 5.15 Standards for all structures**

A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

(1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

(2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

(3) Enclosed areas.

(a) For enclosed areas below the lowest floor of a structure within Zone A1-A30, AE or AH and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

[1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

[2] The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

(b) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

C. Utilities.

(1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components

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during a flood. This includes heating, ventilating and air conditioning - equipment, hot-water heaters, appliances, elevator-lift machinery and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required;

(2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and

(4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

### **Section 5.16 Residential structures**

A. Elevation. The following standards in addition to the standards in § 86-14A, Subdivision proposals, and § 86-14B, Encroachments, and § 86-15, Standards for all structures, apply to structures located in areas of special flood hazard as indicated:

(1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to one foot above the base flood level.

(2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

(3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 86-6 (at least two feet if no depth number is specified).

(4) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

### **Section 5.17 Nonresidential structures**

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in § 86-14A, Subdivision proposals, and § 86-14B, Encroachments, and § 86-15, Standards for all structures.

A. Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:

(1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or

(2) Be flood proofed so that the structure is watertight to below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.



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B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:

- (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
- (2) Together with attendant utility and sanitary facilities, be completely flood proofed to that level to meet the flood proofing standard specified in § 86-17A(2).

C. If the structure is to be flood proofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for construction. A flood proofing certificate or other certification shall be provided to the local administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of § 86-17A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be flood proofed.

D. Within Zones AR and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

### Section 5.18 Manufactured homes and recreational vehicles

The following standards in addition to the standards in § 86-14, General standards, and § 86-15, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard:

A. Recreational vehicles.

- (1) Recreational vehicles placed on sites within Zones A1-A30, A-E and AR shall either:
  - (a) Be on site fewer than 180 consecutive days;
  - (b) Be fully licensed and ready for highway use; or
  - (c) Meet the requirements for manufactured homes in § 86-18B, D and E.
- (2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.

B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and All that is on a site either outside of an existing manufactured home park or subdivision as herein defined, in a new manufactured home park or subdivision as herein defined, in an expansion to an existing manufactured home park or subdivision as herein defined or in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry-stacked blocks is prohibited. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors.

C. A manufactured home to be placed or substantially improved in Zone A1-A30, AE and All in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:

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- (1) Elevated in a manner such as required in § 86-18B; or
- (2) Elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry-stacked blocks is prohibited.

D. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry-stacked blocks is prohibited.

E. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 86-6 (at least two feet if no depth number is specified). Elevation on piers consisting of dry-stacked blocks is prohibited.

### **Section 5.19 Appeals Board**

A. The Board of Trustees shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. The Village Board of Trustees shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.

C. Those aggrieved by the decision of the Village Board of Trustees may appeal such decision to the Supreme Court, pursuant to Article 78 of the Civil Practice Law and Rules.

D. In passing upon such applications, the Village Board of Trustees shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:

- (1) The danger that materials may be swept onto other lands to the injury of others.
- (2) The danger to life and property due to flooding or erosion damage.
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (4) The importance of the services provided by the proposed facility to the community.
- (5) The necessity to the facility of a waterfront location, where applicable.
- (6) The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage.
- (7) The compatibility of the proposed use with existing and anticipated development.
- (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.

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(11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

(12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems and streets and bridges.

E. Upon consideration of the factors of § 86-19D and the purposes of this chapter, the Village Board of Trustees may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

F. The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

### **Section 5.20 Conditions for variances**

A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items § 86-19D(1) through (12) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

(1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure.

(2) The variance is the minimum necessary to preserve the historic character and design of the structure.

C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(1) The criteria of Subsections A, D, E and F of this section are met.

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

F. Variances shall only be issued upon receiving written justification of:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

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G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

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## **Article VI Nonconformity and Noncompliance**

- A. Any lawful building, structure or use of premises existing at the time of enactment of this chapter or any subsequent amendment thereof applying to such building, use or structure may be continued although such building, structure or use of premises does not conform to the provisions thereof.
- B. Any building or land used for or occupied by a nonconforming use which is changed to or replaced by a conforming use shall not thereafter be used for or occupied by a nonconforming use.

### **Section 6.1 Nonconformity with Dimensional or Density Requirements**

- A. Alteration, Enlargement, Conversion. A nonconforming structure may be altered or enlarged, provided that no such activity shall create new noncompliance or increase the degree of existing noncompliance. A nonconforming use or structure may be converted to another use provided that the new use is an allowable use within said district.
- B. Damage or Destruction. If any noncomplying structure is damaged or destroyed by any cause to an extent exceeding 75% of either its floor area or its market value, it may be reestablished only in accordance with all applicable provisions of this Code. However, a single-family home may be rebuilt as a noncomplying structure, provided that construction is begun within twelve months of the casualty. Value shall be determined by dividing the state equalization ratio into the assessed value. A nonconforming structure or use which has been damaged by fire or other causes may be restored, reconstructed or used as before, provided the bulk, height and area requirements shall not exceed that which existed before said damage. Said restoration must be completed within one (1) year of such occurrence or the use of the building or land as legal nonconforming use thereafter shall be terminated.

### **Section 6.2 Nonconformity with Use Requirements**

- A. Continuation. A nonconforming use may be continued and maintained in reasonable repair, but may be enlarged up to 25% of its original floor or land area as of the effective date of this Code, pursuant to a Special Permit granted in accordance with Article VI. This section shall not be construed to permit any unsafe use, or to affect any lawful regulation or prohibition of an unsafe use. Any size increase must conform to current zoning requirements including, but not limited to side, rear and front setbacks.
- B. Alteration, Enlargement. A nonconforming building or use shall not be added to or enlarged in any way that will extend the nonconforming features unless such nonconforming building or use is made to conform to the regulations of the district in which it is located.
- C. Damage or Destruction. If a nonconforming use is damaged or destroyed to an extent exceeding 75% of either its floor area or of its market value, the future use on the site shall conform to this Code. Value shall be determined by dividing the state equalization ratio into the assessed value. A nonconforming structure or use which has been damaged by fire or other natural causes may be restored, reconstructed or used as before, provided the bulk, height and area requirements shall not exceed that which existed before said damage. Said restoration must be completed within one (1) year of such occurrence or the use of the building or land as legal nonconforming use thereafter shall be terminated.

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## **Section 6.3 Change in Use.**

A nonconforming use may be changed to another nonconforming use only upon a determination, by the Board of Appeals as elsewhere provided for and according to the variance procedures under this law, that such change represents an improvement to the existing use and its relationship to adjoining uses.

## **Section 6.4 Abandonment.**

A nonconforming structure or use, once removed or abandoned for a period of one year, shall not be reintroduced or replaced other than by a conforming structure or use.

## **Section 6.5 Discontinuance.**

Whenever a nonconforming use has been discontinued for a period of one (1) year, any future use shall be in conformity to the provisions of this law.

## **Section 6.6 Construction in Progress.**

Any building or use which has been conclusively initiated or for which a Permit has been lawfully granted, and on which construction has been started and diligently prosecuted before the effective date of this law or their amendment may be completed. (See also SECTION 9.7)

## **Section 6.7 Replacement of Mobile Home.**

Nothing in the foregoing shall be interpreted to preclude the substitution of a replacement mobile home for an existing mobile home of record nonconforming as to use on the effective date of this law, provided that all other applicable provisions of this law are complied with and further provided that such replacement is accomplished within one (1) year from the date of removal of the existing mobile home of record and that the replacement mobile home is both compliant with New York State Building Code and not more than ten (10) years old without a Department of Housing and Urban Development (HUD) seal.

## **Section 6.8 Necessary Maintenance and Repairs.**

A building or structure housing a nonconforming use may be repaired or restored to a safe condition.

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## **Article VII Special Permits**

### **Section 7.1 Purpose and Applicability.**

It is the policy of the Village of Schuylerville to allow a variety of uses of land, provided that such uses do not adversely affect neighboring properties, the natural environment or the character of the village. The Planning Board therefore permits many uses listed in the Use Tables only upon issuance of a Special Use Permit, in order to ensure that these uses are appropriate to their surroundings and satisfy performance criteria in each particular case.

### **Section 7.2 General**

- A. Application for area variance. Notwithstanding any provision of law to the contrary, where a proposed special use 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 pursuant to Article VIII, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations.
- B. Conditions attached to the issuance of special use permits. 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 use permit. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the village.
- C. Waiver of requirements. The Village Board of Trustees further empowers the Planning Board to, when reasonable, waive requirements for the approval, approval with modifications or disapproval of special use permits submitted for approval. Any such waiver may be exercised in the event any 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 use permit.

### **Section 7.3 Procedures**

- A. Application for a Special Permit shall be made to the Code Enforcement officer on forms prescribed by the Village and with the appropriate fee as determined by the Village Board. All proposed uses on a single parcel or on contiguous parcels shall be considered together. Before filing an application, an informal meeting with the Planning Board is highly recommended to discuss the nature of the proposed use and to determine the information that will need to be submitted.

Required Submissions – The nature and content of an application for a Special Use shall be as follows:

- 1. For all applications for a Special Use Permit, the Planning Board shall require as a minimum, the following items of information:
  - a. Application with name and address of property owner and applicant, existing zoning district and description of type and extent of proposed use. This shall include a brief narrative describing the proposed use.
  - b. Sketch Plan drawn to scale in ink on minimum sheet size of 8 ½”x11” showing lot size, placement of principal and accessory buildings and relationship to adjoining

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parcels and buildings thereon, location of required parking and any alterations to the site.

- c. The application fee as established by the Village Board.
- d. An Environmental Assessment Form (EAF). Whether a project will require a Short EAF or a Long EAF shall be determined by the Planning Board.
2. Where the proposed use involves a new or additional principal structure or exterior structural renovation of such principal building, or any significant change in the use or configuration of the site, the Board may require as a minimum, those pertinent items of information, and in the form, set forth under Preliminary Plat/Plan in this Code.
3. In any instance where the size, location, nature or complexity of the proposed use is such that more detailed plans or specifications are necessary for a complete understanding of the application, the applicant shall be notified that all or portions of the information set forth under Final Plat/Plan Article VII of this code will be required as well as any further information that the Board may specify.
- E. Public hearing and decision on special use permits. Once an application is deemed complete, the Planning Board shall conduct a public hearing within sixty-two (62) days from the day an application is received on any matter referred to it under this section. Public notice of said hearing shall be printed in a newspaper of general circulation in the village at least five days prior to the date thereof. The Planning Board shall decide upon the application within sixty-two (62) days after the hearing. The time within which the authorized board must render its decision may be extended by mutual consent of the applicant and the board. The decision of the Planning Board on the application after the holding of the public hearing shall be filed in the office of the village clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant.
- F. Notice to applicant and county planning board or agency or regional planning council. At least ten (10) days before such hearing, the Planning Board shall mail notices thereof to the applicant and to the county planning board as required by section two hundred thirty-nine-m of the general municipal law, which notice shall be accompanied by a full statement of the matter under consideration, as defined in subdivision one of section two hundred thirty-nine-m of the general municipal law. No action shall be taken on applications referred to the county planning board until its recommendation has been received, or thirty days have elapsed after its receipt of the complete application, unless the County and Village agree to an extension beyond the 30 day requirement for the County Planning Board's review. A unanimous vote (as would be the case in a four-member board) of the Planning Board shall be required to grant any Special Permit which receives a recommendation of disapproval from the County Planning Board because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.
- G. Compliance with State Environmental Quality Review Act (SEQRA). The Planning Board shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and it's implementing regulations.

A Special Permit shall be deemed to authorize only the particular special use or uses permitted, and shall expire if the special use or uses shall cease for more than 24 consecutive months or if the applicant fails to obtain the necessary building permit or fails to comply with



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the conditions of the Special Permit within 18 months of its issuance. The Planning Board may revoke a Special Permit if the permittee violates the conditions of the Special Permit.

### **Section 7.4 Site Plan Approval and Special Use Permits.**

When both a Site Plan Review Approval and a Special Use Permit are required for a proposed use, the Planning Board shall conduct its site plan and special use permit reviews concurrently.

### **Section 7.5 Applicable Considerations and Standards**

In their consideration of an application for a Special Use Permit, the Board shall determine that:

- A. The use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts and uses.
- B. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection therewith, its site layout, and its relation to streets giving access to it shall be such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood. In applying this standard, the Board shall consider, among other things, convenient routes of pedestrian traffic, particularly of children, relation to main traffic thoroughfares and to street and road intersections, the general character and intensity of development of the neighborhood and its relationship to the overall intensity guidelines for the particular zoning district as set forth in the Village Plan.
- C. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof.
- D. The site can adequately be served by emergency services personnel, including but not limited to Fire Protection Personnel and Emergency Medical Technicians. The Planning Board shall request comments on applications for Special Use Permits from local emergency service organizations.

### **Section 7.6 Standards for Individual Special Uses**

Standards appropriate to individual Special Uses to be considered under the provisions of this code include, but are not limited to the following:

- A) Accessory Apartments – Accessory Apartments may be used for residential purposes provided the following conditions are met:
  - 1. A dwelling unit must occupy the lesser of 1,000 square feet or 30% of the floor space of an owner-occupied structure containing a principal use that is single-family or non-residential, or a dwelling unit no larger than 1,000 square feet located in an accessory structure on an owner-occupied property.

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2. A lot may contain accessory residential structures or accessory apartments provided that such additional dwelling unit otherwise comply with New York State Department of Health regulations and with applicable sections of this Code. The Board may require that such accessory dwelling units may not be later subdivided onto separate lots. Such a restriction on future subdivision shall be implemented by means of a recorded conservation easement or deed restriction enforceable by the village. The Planning Board shall have jurisdiction over Special Use Permits for any project that includes new structures or for additions to or conversions of existing structures.
  3. The overall density allowed in the district must comply with applicable district requirements of this Code.
  4. A lot may contain more than one principal residential structure, provided that it has sufficient acreage to comply with the density requirements of the district.
- B) Bank - The traffic to and from the use and assembly of people in connection with using the bank and its services shall not be hazardous or inconvenient to the neighborhood or in conflict with the normal flow of traffic in the neighborhood.
- 1) Adequate lighting must be provided for safety at any automated teller machines (ATM).
  - 2) Drive through windows, if used, must be located in either the rear or side of the building and must be adequately screened from adjacent properties.
- C) Bed and Breakfast – The bed and breakfast shall be in an owner-occupied dwelling.
- 1) It may contain not more than 6 bedrooms for lodgers.
  - 2) All bed-and-breakfasts shall comply with the applicable provisions of the New York State Uniform Fire Prevention and Building Code and the rules and regulations promulgated thereunder. All bed-and-breakfasts are, for the purpose of such code and this chapter, classified as B-2 (transient occupancy) for the purpose of construction, conversion and alteration under said code, rules and regulations
  - 3) The exterior façade of the residential structure shall be maintained.
  - 4) Off-street parking shall be provided and shall not be located in a front yard and shall be screened from roads and adjacent properties.
- D) Car Wash – All car wash establishments must
- 1) Demonstrate that adequate water is available to meet expected demand.
  - 2) Demonstrate that stormwater and drainage is designed to meet Village requirements and standards.
  - 3) Include water recycling facilities.
  - 4) Ensure that queuing areas shall be sited in a manner that does not create safety hazards to pedestrians or motorists and that does not increase traffic congestion on existing streets.
  - 5) Design exit and entrance curb cuts to minimize traffic impacts.

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- 6) Adequately screen the facility from adjacent residential uses, if applicable.
- E) Commercial Recreation, Tourist Attraction – Such uses shall be permitted only according to the following:
1. The proposed use shall be compatible with and not detract from surrounding uses, or open-space characteristics.
  2. The Planning Board shall determine that any traffic, noise or light likely to be generated by any such activity will not interfere with surrounding uses or the safe and convenient movement of traffic.
  3. Sufficient and suitably located and arranged off-street parking, service area, outdoor lighting, and landscaping shall be provided in accord with the need of the instant situation as determined by the Board of Appeals.
- F) Convenience Store
1. The structure shall not exceed 3,500 square feet in size.
  2. The Planning Board shall review hours of operation in order to determine consistency with other existing neighborhood uses.
  3. If an associated gas pumping facility is proposed, all requirements for gas station shall be met.
  4. If an associated gas pumping facility is proposed, lighting included in the pump islands shall be recessed and pointed directly downward.
  5. All lights shall be fully shielded and not produce glare onto adjacent properties or streets.
  6. All exterior waste receptacles shall be fully enclosed and screened.
  7. Traffic impacts and noise levels will be reviewed by the Planning Board and a traffic impact assessment and noise assessment may be required.
- G) Gasoline Station, Service Garage – In addition to meeting the minimum yard and lot coverage requirements, any such establishment shall be subject to the following regulations:
- 1) Such establishment shall not be closer than two hundred (200) feet to any existing residential use.
  - 2) The minimum distance between pump islands and between the building and any pump islands shall be twenty (20) feet.
  - 3) No waste water, oil or other materials shall drain onto, pollute or create hazardous or unsightly conditions because of surface drainage. Gasoline or flammable oils shall be stored at least 20 feet from any street line and 35 feet from any lot line. Applicable standards and criteria detailed in the New York State Uniform Fire Prevention and building Code, as amended, or other state or federal law or regulation which requires a greater restriction shall take precedence.

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- 4) The number of driveways shall be subject to the approval of the Planning Board.
  - 5) Any auto wash, in addition to meeting the off-street parking requirements, shall provide four (4) stacking spaces per bay on the lot to prevent the waiting of automobiles in the public street.
  - 6) No exterior storage of dismantled or disabled motor vehicles, parts or salvage materials shall be permitted.
- H) Golf Course - All storage and handling of chemicals used on the property must meet appropriate State and Federal regulations. There shall be established no-spray zones and buffer areas around water features. Water sources, demand and availability of water must be documented and shown to be adequate to meet the proposed need. Irrigation systems shall be designed to eliminate all non-target watering (such as sidewalks). There shall be no discharge of drainage or runoff from greens directly to water bodies. There shall be mixing and loading areas designed to contain spills of fuels or chemicals used on site. There shall be grass swales, filter strips or drainage filters to collect and filter water contaminated from parking lots, spill containment areas and other paved locations. Turf grass shall be appropriate to the local climate and growing conditions.
- I) Home Occupation – A home occupation may be approved only if it complies with the following:
- 1) It shall not display or create outside the building any evidence of the home occupation, except one sign as is permitted under this law.
  - 2) Such use is clearly secondary to the use of the premises for residential purposes and further provides that such use shall not occupy or utilize in excess of twenty-five (25) percent of the gross floor area of the dwelling unit if located therein or, alternatively, in excess of four hundred (400) square feet of any accessory building if located therein.
  - 3) Off-street parking shall be provided for all clients, customers, or patients in the side or rear yard. Such off-street parking shall be located at least ten (10) feet from any side or rear property line, shall be paved, screened or fenced as directed by the Board, and shall be so lighted that there will be no direct light into adjacent properties or streets. No traffic shall be generated in greater volumes than would normally be expected in a residential neighborhood.
  - 4) No residential premises shall include more than one (1) home occupation, such home occupation to be located in either the dwelling unit or building accessory thereto, but not both.
  - 5) The following home occupations are permitted, provided that they are carried on in a manner which complies with the criteria and standards in subsection 7.6, above: professional office, art restoration, art studio, babysitting, data processing, drafting and graphic services, dressmaking, sewing, tailoring, flower arranging, gardening, landscape maintenance, home crafts, house cleaning service, locksmith, office of sales or corporate representative, tutoring, typing and word processing, small appliance repair, writing, computer programming, and any other use that is permitted by right within the district pursuant to the use tables of Article III.

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- 6) Home occupation by special permit: Any home occupation meeting the criteria and standards of subsection 7.6, above, but not listed as a permitted home occupation, may be allowed by Special Use Permit issued by the Planning Board. In issuing such Special Permit, the Planning Board must find that the proposed home occupation meets the criteria and standards in subsection 7.6, as well as generally applicable Special Permit standards in Article VI of this code.
- J) Hotel, Motel, Tourist Accommodation – Any such use shall be considered by the Planning Board according to the following:
  - 1) The appropriateness of the use in its proposed location relative to the district classification and to surrounding uses or open-space characteristics.
  - 2) All hotels and motels shall comply with the applicable provisions of the New York State Uniform Fire Prevention and Building Code and the rules and regulations promulgated thereunder.
  - 3) The adequate provision for off-street parking, service area, signing, outdoor lighting and landscaping.
- K) Mixed Uses – A mix of uses are allowed in the Main Street and Commercial Business districts for new buildings or conversion of existing buildings for a mix of office, service, small retail and residential uses either within a structure or in adjacent and neighboring structures. Mixed uses will be allowed provided that impacts to surrounding residences and the residential neighborhood are minimal.
  - 1) When an existing residential structure is converted to include a commercial use, the exterior residential façade shall be maintained.
  - 2) Off street parking shall be in the rear of the building. If the only feasible alternative to rear yard parking is to place it at the side of the building, the parking lot shall be totally screened from the street. All other requirements in this law for parking shall be followed.
  - 3) Sidewalks shall be required and shall be equal in length to the frontage of the property, constructed in accordance with Chapter 138 of the Code of the Village of Schuylerville..
  - 4) Mixed-use buildings shall have setbacks similar to those adjacent and surrounding buildings.
  - 5) Exterior lighting, except for safety lighting for steps, entryways and walkways, shall be turned off after hours. Only shielded light fixtures shall be used. The luminaire shall emit no direct light above a horizontal plane and there shall be no internally luminated signs. At the property line of the subject property, illumination shall not shed glare onto adjacent properties.
  - 6) Traffic impacts shall be minimized. The Planning Board may require a traffic impact study.
  - 7) All other requirements related to signs and other design features shall be followed.
- L) Multiple-Family, Group Dwelling – Such conversion of an existing residence or construction of a new residence shall be permitted only in accord with the following:

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- M) Floor space, health, safety and sanitary conditions shall be adequate to insure livability and will comply with the New York State Multiple Residence Law. In particular, each individual dwelling unit will provide a minimum floor space of six hundred (600) square feet and constitute the equivalent of two hundred (200) square feet per individual to reside in such structure.
- N) Adequate off-street parking arrangements for each dwelling unit shall be provided.
- O) Such residential units shall be in keeping with the area in question, including lot size sufficient to accommodate the number of persons to be housed and yard space for any children.
- P) No such conversion, combination or new construction shall be contrary to the Village Plan or the density guidelines established for any area under this Plan.
- Q) Nursing Home and other Residential Care Facilities – The applicant shall demonstrate compliance with all applicable regulations, standards, and licensing requirements of public or private agencies. Applications shall include a list of all agencies that must license or otherwise approve the facility, a list of regulations established by those agencies for the facility, and copies of applications submitted to the above agencies.
  - 1) The lot shall be a minimum of one acre.
  - 2) Total building area shall not exceed 30% of lot coverage.
  - 3) Adequate landscaping and year-round buffering shall be provided for parking areas and outdoor storage areas and areas where there are large, unbroken expanses of building façade.
- R) Other Commercial Uses Provided for in C-B and C-H Districts – Those Special Uses provided for in the C-B and C-H Districts and not otherwise specifically provided for in this Section may be permitted upon authorization of the Planning Board when it determines that:
  - 1) The proposed use will not detract from or interfere with adjoining uses or vacant land.
  - 2) The proposed use is consistent with the Village Comprehensive Plan for the area in question and is otherwise consistent with the objectives and standards of the C-B or C-H District.
  - 3) The individual parking, loading, storage, signing, screening and other needs of the proposed use are provided for in a manner satisfactory to the Board.
- S) Outdoor Wood-Burning Furnaces
  - 1. Any future installation of outdoor wood-burning units shall not be allowed within the limits of the Village.
- T) Public/Semi-Public Structure, Use – Such uses shall include various municipal and quasi-public, nonresidential uses such as school, church or library. These uses shall be subject to the following regulations:

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- 1) The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.
  - 2) Any required off-street parking, service area and other requirements of the use shall be satisfactory to the Board.
- U) Public Utility or Service Structure, Use – Utility structures or installations such as substations, transformers, transmission towers, switches and auxiliary apparatus serving a distribution area as well as water and sewage pumping stations, public works garage, sanitary landfill and like facilities.
- 1) Such facility or installation shall not be located on a residential street, unless no other site is available, and shall be so located as to draw a minimum of vehicular traffic to and through such streets.
  - 2) The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area. The design of any building or structure in connection with such facility must conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property of the zone in which it is located.
  - 3) Any required off-street parking, service area and other requirements of the use shall be satisfactory to the Board.
  - 4) Adequate fences, barriers and other safety devices shall be provided, and the facility shall be screen planted in accordance with the needs of the instant situation as determined by the Board.
- V) Restaurant – A restaurant shall comply with the following standards:
- 1) Drive through facilities, if used, must be located in either the rear or side of the building and must be adequately screened from adjacent properties.
  - 2) All parking lot light fixtures, except for safety lighting, shall be extinguished when the restaurant is not open.
  - 3) The impact on traffic shall be reviewed, and the Planning Board may require a traffic impact study.
- W) Rooming, Tourist Home – Such temporary housing accommodations may be authorized by the Board where they find:
- 1) Floor space, health, safety and sanitary conditions are adequate.
  - 2) Adequate off-street parking arrangements consistent with the number of accommodations to be provided are to be available.
  - 3) The use of the property in question is consistent with the density guidelines established under the Village Plan, and with other use of property in the immediate neighborhood.
- Y) Mobile Home Parks are allowed only as a Planned Residential District as per Article III, Section 3.10 (H).
- Z) Individual Mobile Homes are prohibited in all areas of the Village except as a replacement of an existing mobile or manufactured home, and for temporary construction trailers.

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AA) Telecommunication Facility Installed On Existing Buildings. Telecommunication facilities installed on an existing building shall only be permitted subject to a special use permit and site plan review approval by the Planning Board. This section does not apply to installation of a telecommunication facility to be installed on an existing telecommunication tower unless there is a proposed change in tower height or a change in size of any other structures on the existing site. If proposed within the designated Schuylerville National Register Historic District, the applicant must also comply with all Federal requirements related to environmentally sensitive areas. Sites which are registered or eligible for listing in the National Register of Historic Places are considered environmentally sensitive and telecommunication licensees must receive approval from the FCC in order to construct a facility which impacts such an environmentally sensitive area.



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## **Article VIII Site Plan Review**

### **Section 8.1 Enactment**

The Village Board of the Village of Schuylerville, Saratoga County, State of New York enacted Code 3 of 2006 entitled “Village of Schuylerville Site Plan Review.” This Code was adopted pursuant to the powers granted to the Village of Schuylerville and contained within Municipal Home Rule Law Section 10(1)(ii)(e)(3) and section 10 of Statute of Local Government. Furthermore this Code is enacted pursuant to Municipal Home Rule Law and NYS Statute of Local Government and is deemed to specifically supersede Village Law 7-725 a.

### **Section 8.2 Short Title**

This Code shall be known as “Village of Schuylerville Site Plan Review”

### **Section 8.3 Statement of Purpose and Findings**

Through site plan review, it is the intent of this Code to promote the health, safety and general welfare of the village of Schuylerville. An attractive environment is declared to be of vital importance to the health, safety and general welfare of the inhabitants of this village, and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the village, preservation of the historic nature of the village and for the general welfare of its inhabitants.

It is further the goal of this Code to ensure overall conservation, protection, preservation, development and use of the natural and other resources of the Village by regulating land use activity within the village through review and approval of site plans. It is also the intent of site plan to promote and encourage good design standards, adequate sign amenities and visual and physical qualities in residential, commercial and industrial development

It is not the intent of site plan review to prohibit per se any land use activity but to allow land use activities, which will meet the standards as set forth in this legislation. This Code shall be deemed applicable review procedure for site plan review and approval within the Village of Schuylerville.

### **Section 8.4 Uses requiring approval.**

It is the function of site plan review to illustrate the intended design, arrangement and uses of the land to be improved and to describe the effect the proposal will have on the physical, social and economic environment of the community.

Additionally site plan is intended to promote compatible land uses within the Village. The Planning Board is authorized by the Village Board to review and approve, approve with modification or disapprove site plans as prepared and presented by applicants.

A. All land use activities within the village as specified within shall require site plan review and approval by the Planning Board before the project is undertaken except for those land uses specifically exempted under C.

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Prior to the issuance of any building permits, related construction approvals and certificate of occupancy the Planning Board shall conduct a site plan review of any land use as outlined within B 1-7.

### **B. Specified Land uses requiring Site Plan Review.**

- (1) All land use activities for commercial, business, retail, professional offices, industrial uses manufacturing, multi family, condominium, motel, hotel, nursing home, mobile home parks, public parklands parking lots, restaurants including drive in, convenient food stores, gasoline stations within the Village
- (2) All land us activities including but not limited to business, retail, maritime, marina, professional offices, industrial, commercial and residential within the special flood hazard area as outlined in the flood insurance plain maps index No 36091C0000 and Panel 0477.
- (3) All Land use activities for residential, maritime, marina, municipal, state, parklands, walking trails within 200 feet of the following: Old Canal and Champlain Canal.
- (4) All federal, state, municipal and school land use activities involving new construction and or expansion of existing building in excess of five thousand 5,000 square feet
- (5) Conversion of single-family residential unit into 3 or more multi family units.
- (6) Conversion of two family residential units into 3 or more multi family units.
- (7) Conversion of any existing structure into new land use activities described in B.

C. Exempted uses. The following land use activities are exempt from the requirements of Site Plan Review (not subject to site plan review):

- (1) Construction of one- or two-family dwellings and ordinary accessory structures and related land use activities unless within flood plain zone and or within 200 feet of the old canal and Champlain Canal.
- (2) Ordinary repair or maintenance of existing structures or uses.
- (3) Agricultural land uses, and the sale of local agricultural produce and temporary structures related to sale of local agricultural produce.
- (4) Incidental landscaping, grading, soil removal, timber cutting which is not intended to be used in connection with a land use reviewable under provisions of B1-7.
- (5) Individual mobile homes unless within flood plain zone or within two hundred (200) feet of the old canal and Champlain Canal.
- (6) Exterior alterations or exterior additions to an existing residential structure which do not substantially change its nature or use and to any commercial or industrial

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structure which will not increase the gross floor area of the existing structure by more than ten percent (10%) within any five year period and maintaining same use.

- (7) Interior alterations that do not substantially change the nature or use of a commercial, professional, retail, manufacturing, industrial structure.
- (8) Signs under five (5) square feet.

D. Existing uses and structures. This Article does not apply to uses and structures that are lawfully in existence as of the date this chapter becomes effective. Any use that would otherwise be subject to this chapter, which has been discontinued for a period of one (1) year or more, shall be subject to site plan review pursuant to the terms of this chapter before such use is resumed. Any use or structure shall be considered to be in existence, provided that such use or structure has started construction prior to the effective date of this chapter and is fully constructed and completed within one (1) year after the effective date of these regulations.

E. Uncertain applicability. Any person uncertain of the applicability of this Code (site plan review) to a proposed land use activity shall apply in writing to the Building Inspector for a written jurisdictional determination.

### **Section 8.5 Compliance with SEQRA by Planning Board**

In issuance of site plan review and approval, the Planning Board shall comply with the provisions of the State Environmental Quality Review Act and its implementing regulations.

### **Section 8.6 Statement of Development.**

Each site plan application shall contain a statement of development intent containing the names of the owners, developers and agents on the appropriate forms provided by the Village. The application of site plan approval by the Village Planning Board shall be determined by the Building Inspector upon receipt of an application for any permit, certificate or license. Building Inspector may consult with Village Attorney, Chair of Planning. The site plan application shall include information regarding:

- A. Evidence of compatibility with the village comprehensive land use as stated in the Comprehensive Land Use Plan
- B. Time period for completion of construction, renovation or restoration.

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## **Section 8.7 Site Plan Review procedure.**

The review of site plans is divided into three (3) phases: pre submission, preliminary application and final application.

### **A. Pre submission conference.**

(1) The Building Inspector shall refer the applicant to the Chairman of the Planning Board, who shall schedule a pre submission conference for the next regularly scheduled Planning Board meeting. The purpose of the pre submission conference is to give the Planning Board and the applicant an opportunity to gain a perspective of the proposal's ramifications. This conference is beneficial to both parties because the community will gain knowledge of the applicant's intent, and the applicant will learn his/her responsibilities before either is committed to significant outlays of time or capital. The intent of such a conference is to enable the applicant to inform the Planning of the proposal prior to the preparation of a detailed site plan and for the Planning Board to review the basic site design concept, to advise the applicant as to potential issues, problems, and concerns and to generally determine the information to be required on the site plan.

(2) At the pre submission conference, the applicant shall provide the Planning Board with basic data regarding the proposal. At a minimum, the applicant shall provide a map showing the important existing natural and man-made features in and around the site and a sketch plan showing the major features and components of the proposal.

(3) This phase may be waived by the Planning Board

### **B. Preliminary application for site plan approval.**

(1) An original application, with five copies, for preliminary site plan approval shall be made in writing to the Planning Board. The application shall be presented no fewer than five (5) working days prior to the next regularly scheduled Planning Board meeting or sooner if the Planning Board deems it appropriate. The preliminary application will not be accepted for review unless all requirements outlined at the pre submission conference have been met. A fee as determined by the Village Board shall accompany the preliminary application.

(2) The application shall be accompanied by copies of the information drawn from the following checklist, as determined necessary by the Planning Board at the pre submission conference. The required preliminary site plan shall be prepared by a NYS licensed professional engineer, architect, land surveyor or landscape architect.

(a) Preliminary site plan checklist.

[1] Title of the drawing, including name and address of the applicant and person responsible for preparation of such drawing. Scale of drawing to be determined by Planning Board

[2] North arrow, scale and date.

[3] Boundaries of the property plotted to scale, encroachments and boundary line trees six (6) inches caliper or greater.

[4] Existing watercourses, composition, wetlands and flood plains.

[5] Grading and drainage plan, showing existing and proposed contours.

[6] site plan showing proposed use and height of all buildings and structures including architectural features.

[7] Location, design and construction materials of all parking and truck loading areas, with access and egress drives thereto.

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- [8] Provision for pedestrian access.
- [9] Location of outdoor storage, requiring or not requiring structures, if any.
- [10] Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
- [11] Description of the method of sewage disposal and location of design and construction materials of such facilities.
- [12] Description of the method of securing public water and location, design and construction materials of such locations.
- [13] Location of fire and other emergency zones, including the location of fire hydrants.
- [14] Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.
- [15] Location, size and design and construction materials of all proposed signage.
- [16] Location and proposed development of all buffer areas, including indication of existing vegetative cover and screening areas
- [17] Location and design of outdoor lighting facilities.
- [18] Location and designation of the percentage amount of building area proposed for the site.
- [19] General landscaping plan and planting schedule.
- [20] Location of any nearby historic, water and visual features within village and region
- [21] Land set aside for park, playground or other recreational purposes or in lieu of land funding for park, parks(s) for playgrounds or other recreational purposes if suitable area cannot be properly located on site plan property
- [22] State Environmental Quality Review Act assessment (short environmental assessment form is the minimum required).
- [23] Other elements integral to the proposed development as considered necessary by the Planning Board, identification of any state or county permits required for the project's execution.

(b) Planning Board review of preliminary site plan application. The Planning Board's review of the preliminary site plan application shall include, but not be limited to, the following:

- [1] The need of the proposed use.
- [2] Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, channelization structures and traffic controls generated by the proposed use and in the vicinity of the proposed use .
- [3] Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- [4] Location, arrangement, composition, appearance and sufficiency of off-street parking and loading.
- [5] Location, arrangement, size, design and general site compatibility of buildings, lighting and signage.
- [6] Adequacy of storm water and drainage facilities.
- [7] Adequacy of water supply and sewage disposal facilities.
- [8] Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-detering buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- [9] Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
- [10] Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- [11] Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to run off, ponding, flooding and/or erosion.

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[12] In the case of residential development, multi family condominium, mobile home park, apartment complex or other multiple dwelling, the adequacy of usable open space for park, play areas, playground areas and informal recreation.

[13] Overall impact on adjacent land uses and physical features and impact on the neighborhood including the compatibility of design, natural characteristics of the site or area, present and potential surrounding use.

[14] Impact on historic, water and visual features within the village and region

[15] Location, size, and design of signage

[16] retention of existing trees for protection, buffer and control of soil erosion, drainage and natural beauty

[17] effect on air and water quality standards applicable

[18] Adequacy of provisions for solid waste disposal and snow removal storage areas

### **(c) Consultant review.**

[1] The Planning Board may consult with the Building Inspector, Village Attorney, Public Works, County Planning Department and other local and county officials, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation, Canal Corporation, NYS Department of Health, and the State Department of Environmental Conservation.

[2] The Planning Board may hire a consultant, if needed, to review plans.

Expenses incurred by Planning Board for consultation fees or other expenses in connection with the review of a proposed site plan shall be charged to the applicant.

### **(d) Referral to the County Planning Board.**

[1] Prior to taking action on the preliminary site plan application; the Planning Board shall refer a copy of the application to the Saratoga County Planning Board for its review in accordance with § 239 of the General Municipal Law.

[2] If the County Planning Board disapproves the proposal or recommends modification thereof, the Village Planning Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one (1) of all members and after the adoption of a resolution fully setting forth the reasons for such contrary actions.

(e) Public hearing. Before Planning Board action to approve, modify and approve, or disapprove the site plan development a public hearing shall be held no later than 62 days following submittal of a completed application. Legal Notice for the public hearing must be published in the village's official newspaper at least five (5) days before the public hearing. The cost of the required hearing notice to be placed in the village's official newspaper shall be paid by the applicant.

(f) Planning Board action of preliminary site plan application. Within sixty two (62) days following a public hearing for preliminary site plan review the Planning Board shall act on the proposal. The Planning Board shall approve, disapprove or approve with modifications the preliminary site plan application. The Village Planning Board shall enter its reasons for such actions in its records. The action of the Planning Board's action shall be in the form of a written statement to the applicant. The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan application, of which conformance with said modifications shall be considered a condition of approval. If the preliminary site plan application is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may

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recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

(g) Planning Board may require in conjunction with its approval of any site plan review project impose such requirements and conditions as are allowable within the proper exercise of police power including the imposition of conditions such performance bond and or letter of credit, restriction of land against further development of principal buildings whether by deed restriction, restrictive covenant or other similar appropriate means to insure that guidelines as to the development as provided in this Code shall be respected and complied with, to insure improvements completed in accordance with the terms of approval.

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

(1) Planning Board action of final site plan application. Within sixty two (62) days of the receipt of the final site plan application, the Planning Board shall approve or disapprove the final site plan application. Three (3) copies of the final site plan application are required. The final site plan shall be prepared and sealed by a licensed professional engineer, architect, landscape architect or land surveyor.

(a) Upon approval of the final site plan and payment of all fees and reimbursable costs, the Planning Board shall endorse its approval on all three (4) copies of the final site plan and shall forward one (1) copy to the Building Inspector and provide a second for filing with the County Planning Board, when applicable, and one copy for the applicant. The Village Planning Board will retain the final copy.

(b) Upon disapproval of the final site plan, the Planning Board shall so inform the Building Inspector, and the Building Inspector shall deny the applicant a building permit. The Planning Board shall also notify the applicant, in writing, of its decision and its reasons for disapproval.

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

### **Section 8.8 Park Land, Recreation or funding in lieu of park area**

Site plan for single or multi residential development project, condominium, mobile home parks, shall show on site land for park, playground or other recreational purposes. If suitable park or parks of adequate size can not be properly located on the site plan, the Planning Board may required applicant to pay a sum of money in lieu of land to be deposited in a trust fund to be used exclusively for park, playground or other recreational purposed including acquisition of property

### **Section 8.9 Filing of Decision**

The decision of the Planning Board shall be filed in the Village Clerk's Office within five (5) business days after such decision is rendered and a copy of the decision mailed to the applicant.

# **Village of Schuylerville Zoning Code**

## **Section 8.10 Extension of Time**

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.

## **Section 8.11 Flood Protection District**

All site plans for development within the Flood Protection District shall be in conformance with the provisions of the FEMA Flood Insurance Study. Such proposal shall be reviewed to assure that it is consistent with the need to minimize damage, that all utilities are located to minimize damage or eliminate flood damage and adequate drainage is provided so as to reduce exposure to flood hazards.

## **Section 8.12 Appeal Procedure**

Any person aggrieved by any decision of the Planning Board or any officer, department, board or bureau of the village may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision in the office of the Village Clerk.

## **Section 8.13 Inspection and Release of Bond**

Upon completion of the work depicted in the site plan, the Building Inspector shall make a field inspection, noting on one (1) copy of the approved site plan compliance between the site plan and actual development and shall submit the same to the Village Planning Board. No performance bond or other surety shall be released and no certificate of compliance issued unless or until the Village Planning Board is satisfied that actual development is in substantial compliance with the approved site plan. Village Planning Board shall notify Village Board and other officials of compliance.

## **Section 8.14 Supercession**

This local level is intended to invoke the supercession provisions of section 10 (1)(ii)(e)(3) of the Municipal Home Rule Law and New York Statute of Local Government (section 10) and shall supersede all inconsistent provisions of NYS Village Law (including article 7), and NYS General Municipal Law.

## **Section 8.15 Effect on Other Provisions**

Except as noted above; this Code in no way affects the provisions or requirements of any other federal, state or Code or regulations. Where this Code is in conflict with any other such law or regulation, this Code shall apply.

## **Section 8.16 Integration of Other Procedures**

Whenever the circumstances of proposed development require compliance with this Site Plan Review Law and with any other Code, ordinance or requirement of the village, the Planning



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Board shall attempt to integrate, as appropriate, site plan review as required by this Code with the procedural and submission requirements for such other compliance.

### **Section 8.17 Fees**

Fees provided for by this Code and required building fees shall be paid in the amounts established by the Village Board

### **Section 8.18 Enforcement; Penalties for Offenses.**

Any person, corporation, partnership, association or other legal entity who shall violate any of the provisions of this chapter or any conditions imposed by this planning board, village board or by permit pursuant hereto shall be guilty of an offense and subject to a fine of up to one thousand dollars (\$1000.00) or by a civil penalty of seven hundred fifty dollars (\$750.00) to be recovered by the village in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue. Village of Schuylerville may also seek such other and further relief including but not limited to provisions within the Village of Schuylerville Code, NYS Village Law, General Municipal Law.

### **Section 8.19 Adoption of Further Rules and Regulations**

The Village Board may, after a public hearing, adopt such further rules and regulations, as it deems reasonably necessary to carry out the provisions of this chapter.

### **Section 8.20 Amendments**

All proposed amendments should be referred to the Planning Board for a report and recommendation thereon. The Planning Board shall submit its report to the Village Board within thirty (30) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to constitute a recommendation for approval of the proposed amendment.

### **Section 8.21 Performance Guaranty**

No certificate of occupancy shall be issued until all improvements shown on the site plan are completed, installed or a sufficient performance guaranty has been posted for improvements not yet completed. The Village Board shall determine the sufficiency of such performance guaranty after consultations with the Planning Board, Building Inspector, Village Attorney and other appropriate parties.

### **Section 8.22 Inspection.**

The Building Inspector shall be responsible for the overall inspection of site improvements, including coordination with the Planning Board and other officials and agencies, as appropriate.

### **Section 8.23 Expiration of Site Plan Approval.**

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Site plan approval shall expire after one (1) year of the date of the site plan if actual construction has not commenced by the applicant. The Planning Board may extend this site plan application approval for good cause for another six months upon written request of the applicant.

### **Section 8.24 Severability**

The provisions of this Code are severable. Should any word, phrase, article, section, paragraph or provision of this Code be found to be invalid, such decision, judgment, order shall only apply to the word, phrase article, section, paragraph, or provision(s) adjudged invalid, and the rest of this Code shall remain valid and effective.

# **Village of Schuylerville Zoning Code**

## **Article IX Zoning Board of Appeals.**

### **Section 9.1 Appointment of Members.**

The mayor shall appoint three members to the board of appeals and shall appoint the chairperson thereof, subject to the approval of the board of trustees. In the absence of a chairperson the board of appeals may designate a member to serve as acting chairperson. The board of trustees may provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the board of trustees for such purpose. In making such appointment, the village board of trustees may require board of appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members.

### **Section 9.2 Board of Trustees Ineligible.**

No person who is a member of the village board of trustees shall be eligible for membership on such board of appeals.

### **Section 9.3 Terms of Members.**

The appointment of members to the board shall be of terms so fixed that one member's term shall expire at the end of the village official year in which such members were initially appointed. The remaining members' terms shall be so fixed that one member's term shall expire at the end of each official year thereafter. At the expiration of each original member's appointment, the replacement member shall be appointed by the board of trustees for a term which shall be equal in years to the number of members of the board.

### **Section 9.4 Terms of Members Now in Office.**

Members now holding office for terms which do not expire at the end of a year shall, upon the expiration of their term, hold office until the end of the year and their successors shall then be appointed for terms which shall be equal in years to the number of members of the board.

### **Section 9.5 Increasing Membership.**

Any board of trustees may, by Local Law, increase a three-member board of appeals to five members. Additional members shall be first appointed for single terms as provided by resolution in order that the terms of members shall expire in each of five successive years and their successors shall thereafter be appointed for full terms of five years. No such additional member shall take part in the consideration of any matter for which an application was on file with the board of appeals at the time of his or her appointment.

### **Section 9.6 Decreasing Membership.**

A board of trustees which has increased the number of members of the board of appeals to five may, by Local Law, decrease the number of members of the board of appeals to three to take effect upon the next two expirations of terms.

### **Section 9.7 Vacancy in Office.**

If a vacancy shall occur otherwise than by expiration of term, the mayor shall appoint the new member for the unexpired term.

# **Village of Schuylerville Zoning Code**

## **Section 9.8 Removal of Members.**

The mayor shall have the power to remove, after public hearing, any member of the zoning board of appeals for cause. Any zoning board of appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the village board of trustees by Local Law.

## **Section 9.9 Chairperson Duties.**

All meetings of the board of appeals shall be held at the call of the chairperson and at such other times as such board may determine. Such chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

## **Section 9.10 Alternate Members.**

- A. A village board of trustees may, by Local Law or as a part of the Code creating the zoning board of appeals, establish alternate zoning board of appeals member positions for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest. Alternate members of the zoning board of appeals shall be appointed by the mayor, subject to the approval of the board of trustees, for terms established by the village board of trustees.
- B. The chairperson of the zoning board of appeals may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of the initial zoning board of appeals meeting at which the substitution is made.
- C. All provisions of this section relating to zoning board of appeals member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards, shall also apply to alternate members.

## **Section 9.11 Board of Appeals Procedure.**

- A. Meetings, minutes, records. Meetings of such board of appeals shall be open to the public to the extent provided in article seven of the public officer's law. Such 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.
- B. 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.
- C. Assistance to board of appeals. Such board shall have the authority to call upon any department, agency or employee of the village for such assistance as shall be deemed necessary and as shall be authorized by the village board of trustees. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.

## Village of Schuylerville Zoning Code

- D. Hearing appeals. Unless otherwise provided by Code, 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 administrative official charged with the enforcement of any Code adopted pursuant to this article. Every motion or resolution of a 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.
- E. Filing of administrative decision and Time of appeal. Each decision of the Zoning Board of Appeals shall be filed with the Village Clerk within five business days from the day it is rendered and shall be a public record. An appeal shall be taken within sixty days after the filing in the village clerk's office of any order, requirement, decision, interpretation or determination of the administrative official charged with the enforcement of such Code by filing with such administrative official and with the board of appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the board of appeals all the papers constituting the record upon which the action appealed from was taken.
- F. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such Code, from whom the appeal is taken, certifies to the board of appeals, after the notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate a stay would, in his or her 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 Zoning Board of Appeals or by a court of.
- G. Hearing on appeal. The board of appeals shall fix a reasonable time for the hearing of the appeal or other matters referred to it and give public notice of such hearing by publication in a paper of general circulation in the village at least five days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.
- H. Default denial of appeal. In exercising its appellate jurisdiction only, 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, 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.
- I. Time of decision. The board of appeals shall decide upon the appeal within sixty-two days after the conduct of said hearing. The time within which the board of appeals must render its decision may be extended by mutual consent of the applicant and the board.
- J. Filing of decision and notice. The decision of the Zoning 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.

## **Village of Schuylerville Zoning Code**

- K. Notice to county planning board. At least five (5) days before such hearing, the board of appeals shall mail notices thereof to the parties, to the county planning board as required by section two hundred thirty-nine-m of the general municipal law, which notice shall be accompanied by a full statement of such proposed action, as defined in subdivision one of section two hundred thirty-nine-m of the general municipal law.
- L. Compliance with SEQRA. The Zoning Board of Appeals shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and it's implementing regulations as codified in title six, part six hundred seventeen of the New York codes, rules and regulations.
- M. Rehearing. A motion for the zoning 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.

### **Section 9.12 Permitted Action by Zoning Board of Appeals.**

- A. Orders, requirements, decisions, interpretations, 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 administrative official charged with the enforcement of such Code and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.
- B. Use variances.
  - 1. The Zoning Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of such Code, shall have the power to grant use variances, as defined herein.
  - 2. No such use variance shall be granted by a Zoning 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) that 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) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
    - (d) that the alleged hardship has not been self-created.

## Village of Schuylerville Zoning Code

3. The Zoning 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.

### C. 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 Code, 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 weighed 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:
  - (a) 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;
  - (b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - (c) whether the requested area variance is substantial;
  - (d) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - (e) 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 Zoning Board of Appeals, in the 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.

- D. Imposition of conditions. The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning Code, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

# **Village of Schuylerville Zoning Code**

## **Article X Planning Board**

### **Section 10.1 Appointment of Members.**

The Mayor shall appoint five members to the Planning Board and shall appoint the chairperson thereof subject to approval by the Board of Trustees. In the absence of a chairperson the Planning Board may designate a member to serve as acting chairperson. The board of trustees may provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the board of trustees for such purpose. In making such appointment, the village board of trustees may require board of appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members and in addition to training mandated by New York State.

### **Section 10.2 Board of Trustees Ineligible.**

No person who is a member of the village board of trustees shall be eligible for membership on the Planning Board.

### **Section 10.3 Terms of Members.**

The appointment of members to the board shall be for the duration of five (5) years. Should the number of members comprising the Planning Board be expanded in the future, the term of the members in years shall be equal to the number of members on the board.

### **Section 10.4 Increasing Membership.**

The board of trustees may, by Local Law, increase a five-member Planning Board to seven-members. Additional members shall be appointed to terms equal to the number of Planning Board members on the board at the time of the appointment. No such additional member shall take part in the consideration of any matter for which an application was on file with the Planning Board before the time of his or her appointment.

### **Section 10.5 Decreasing Membership.**

The board of trustees which has increased the number of members of the Planning Board to seven may, by Local Law, decrease the number of members of the Planning Board back to five to take effect upon the next two expirations of terms.

### **Section 10.6 Vacancy in Office.**

If a vacancy shall occur otherwise than by expiration of term, the mayor shall appoint the new member for the unexpired term with approval by majority of the full board of trustees.

### **Section 10.7 Removal of Members.**

The mayor shall have the power to remove, after public hearing, any member of the Planning Board for cause with approval by majority of the full board of trustees. Any Planning Board member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the Village Board of Trustees by Local Law or by the laws of New York State.



# **Village of Schuylerville Zoning Code**

## **Section 10.8 Chairperson Duties.**

All meetings of the Planning Board shall be held at the call of the chairperson and at such other times as such board may determine.

## **Section 10.9 Alternate Members.**

- A. The Village Board of trustees may appoint alternate members to the Planning Board for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest or any other absence. Alternate members of the Planning Board shall be appointed by the mayor, subject to the approval of the board of trustees, for terms established by the Village Board of Trustees.
- B. The chairperson of the Planning Board may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest or other absence on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made.
- C. All provisions of this section relating to Planning Board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards, shall also apply to alternate members.

## **Section 10.10 Board of Appeals Procedure.**

- A. Meetings, minutes, records. Meetings of the Planning Board shall be open to the public to the extent provided in article seven of the public officer's law. Such Planning Board 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.
- B. Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Planning Board shall be filed in the office of the Village Clerk within five (5) business days and shall be a public record.
- C. Assistance to Planning Board. Such Planning Board shall have the authority to call upon any department, agency or employee of the village for such assistance as shall be deemed necessary and as shall be authorized by the Village Board of Trustees. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance. The Planning Board is also empowered to hire consultants or other experts for the expressed review of applications or other matters pertaining to the Planning Board. The Village Board of Trustees shall be empowered to budget monies for the Planning Board to hire experts each fiscal year. The Planning Board shall be empowered to require that based on the complexity of a project before such Board, an escrow account be established by the applicant to cover the cost of the Planning Board hiring experts as necessary. All escrow accounts shall be pre-paid in an amount determined by the Planning Board prior to proceeding with an application. The Planning Board secretary shall notify the Planning Board and the applicant when monies in escrow are close to depletion and the applicant shall be notified as to what amount, if any, should be replaced in escrow. Monies in escrow shall be held in an interest bearing account at the official Village bank.

## **Village of Schuylerville Zoning Code**

- D. Filing of administrative decision and Time of appeal. Each decision of the Planning Board shall be filed with the Village Clerk within five business days from the day it is rendered and shall be a public record, and a copy thereof mailed to the applicant.. Any and all subdivision plats will also be filed with the Saratoga County Clerk pursuant to New York State General Municipal Law requirements.
- E. Notice to county planning board. Upon receipt of an action subject to Saratoga County Planning Board referral defined in subdivision one of section two hundred thirty-nine-m of the general municipal law, the Planning Board shall vote to refer all project materials to the Saratoga County Planning Board for a determination on County Impact. Actions subject to referral under this section shall not be decided by the Planning Board until a determination is received from the Saratoga County Planning Board. In any instance where the Village Planning Board is not in agreeance with the determination of the Saratoga County Planning Board, a vote by supermajority of the full Village Planning Board, or six (6) votes, must be completed to override the County Planning Board's comments on a given project.
- F. Compliance with SEQRA. The Planning Board shall comply with the provisions of the state environmental quality review act (SEQRA) under article eight of the environmental conservation law and it's implementing regulations as codified in title six, part six hundred seventeen of the New York codes, rules and regulations. No public hearing shall be scheduled on an application as prescribed in this zoning law shall occur until a SEQRA negative declaration of significance is issued by vote of the Planning Board or a Statement of Findings is accepted by the Planning Board as the result of the Environmental Impact Statement process.

### **Section 10.11 Permitted action by the Planning Board.**

- A. The Planning Board shall have the power to grant site plan approval, special use permit approval, lot-line adjustment approval, minor subdivision approval and major subdivision approval as defined herein.
- B. Imposition of conditions. The Planning Board shall, in the granting of site plan approval, special use permit approval, lot-line adjustment approval, minor subdivision approval and major subdivision approval, 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 this zoning law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

# **Village of Schuylerville Zoning Code**

## **Article XI Amendments**

### **Section 11.1 Procedure**

The Village Board of Trustees may on its own motion, on petition, or on recommendation of the Planning Board after public notice and hearing, amend, supplement, repeal or change the regulations and district boundaries established by this code.

- A. All proposed amendments, supplements or changes originating by petition, or by motion of the Village Board of Trustees, shall be referred to Planning Board for a report and recommendation thereon. The Planning Board shall submit its report of recommendations to the Village Board within forty-five (45) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to be approval of the proposed amendment.

### **Section 11.2 Public Hearing, Notice and Referrals**

- A. Before any amendment, supplement or change in the regulations or district boundaries, there shall be a public notice and hearing thereon as provided by law. The Village Board of Trustees, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:
  - 1. By publishing a notice of the proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the village not less than ten days prior to the date of public hearing. This notice shall provide a summary of the proposed amendment in such reasonable detail as will give adequate notice of its contents, indicating the place or places where copies of the proposed amendment may be examined and the time and place of the hearing.
  - 2. By giving written notice of hearing to any required county, state or federal agency in the manner prescribed by law.
- B. All requirements of NYS General Municipal Law Section 239-l, m and n (referral to the Saratoga County Planning Board and adjacent municipalities), relating to referrals, and SEQRA, Title 6, Part 617 of the New York State codes, rules and regulations shall be followed.

### **Section 11.3 Filing**

This Code shall be filed with the New York State Department of State.

### **Section 11.4 Adoption**

After the public hearing, and referral to and report by the local and County Planning Board, a majority vote of the members of the Village Board shall be required to amend the codes, except in the instance of a Protest Petition or disapproval by the County Planning Board as noted below.

### **Section 11.5 Protest Petitions**

If a Protest Petition against a proposed amendment, supplement or change is presented to the Village Board, duly signed and acknowledged by legitimate parties of interest as provided for

## **Village of Schuylerville Zoning Code**

under Village Law Section 7-such amendment shall not become effective except by the favorable vote of at least two-thirds (2/3) of the members of the Village Board.

### **Section 11.6 County Disapproval**

A majority-plus-one vote of all Village Board members shall be required to pass any proposal which receives a recommendation of disapproval from the County Planning Board as a result of the referral process specified in Section 11.2 above, along with a resolution setting forth the reasons for such contrary action.

### **Section 11.7 Right to Complete Project Inconsistent with Amendment**

Where a project for which a permit or approval has been lawfully issued, but no certificate of compliance has been awarded, would be rendered non-complying or non-conforming by an amendment of this Zoning Law, such project shall have the right to be completed and to be awarded a certificate of compliance pursuant to the provisions in effect when the project building permit was issued only if, in the case of a project primarily involving a building, the project has been substantially commenced and, in the case of a project not involving a building, a substantial amount of construction has been completed prior to the effective date of the amendment and shall be allowed to continue.

# **Village of Schuylerville Zoning Code**

## **Article XII Interpretation and Application**

### **Section 12.1 Interpretation**

In their interpretation and application, the provisions of this code shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety or the general welfare. Whenever the requirements of this code are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standard shall govern.

### **Section 12.2 Severability**

The invalidity of any provision of this code shall not invalidate any other provision thereof.

# **Village of Schuylerville Zoning Code**

## **Article XIII Fees and Costs**

### **Section 13.1 Site Plan Review**

All application fees to be established by the Village of Schuylerville Village Board of Trustees.

### **Section 13.2 Special Use Permit**

To be established by the Village of Schuylerville Village Board of Trustees.

### **Section 13.3 Building Permits and Certificates**

To be established by the Village of Schuylerville Village Board of Trustees.

### **Section 13.4 Planned Unit Developments**

To be established by the Village of Schuylerville Village Board of Trustees.

### **Section 13.5 Escrow Account Enabling Legislation**

The Planning Board is authorized to retain professional assistance in reviewing the sketch plan, preliminary site plan or final site plan as needed including, but not limited to engineers, attorneys, hydrogeologists, traffic engineers, landscape architects, and planners. An escrow account, funded by the applicant, shall be established by the Village of Schuylerville. All expenses related to the review of a proposal by the Planning Board, including retention of professional assistance shall be paid from this escrow account. The applicant shall supply the Planning Board information related to the total cost of the project or other information as may be required to calculate an appropriate escrow account to cover these expenses.

# **Village of Schuylerville Zoning Code**

## **Article XIV Adult Uses**

### **Section 14.1 Purpose**

It is the purpose of this law to regulate the creation, opening, commencement and/or operation of Adult Use and Entertainment Establishments, as herein defined, in order to achieve the following:

- a. To preserve the character and the quality of life in the Village of Schuylerville and the region.
- b. To control harmful and adverse secondary effects of adult uses on the surrounding areas such as: decreased property values; parking and traffic problems; increased crime; excess noise, litter and loitering.
- c. To restrict minors' access to adult uses.
- d. To maintain the general welfare and safety for the Village of Schuylerville residents.
- e. To prevent the secondary adverse effects of adult uses from locating in the more concentrated residential (R-A, R-B & R-C), commercial (C-B), mixed-use (HM-S) and recreations (R-R) areas of Schuylerville.

### **Section 14.2 Allowed Zoning District**

All Adult Use and Entertainment Establishments as defined herein may only be created, opened, commenced or operated within the Commercial-Highway (C-H) zoning district within the Village of Schuylerville by special use permit and site plan approval issued by the Planning Board.

### **Section 14.3 Location within Allowed Zoning District**

An Adult Use and Entertainment Establishment shall be allowed after issuance of a special permit and approved site plan only in the C-H district and, within this district, shall have minimum area requirements as described in Article III, Section 3.7 of this Code. The structure the adult use is located in and any accessory use/structure shall not be allowed:

- a. Within fifty (50) feet of the property line of a parcel used for residential purposes, whether or not such use is located in the Village.
- b. Within two hundred and fifty (250) feet of the property line of a parcel containing a church, synagogue, other place of worship, active cemetery, library, school, licensed day-care facility, park, playground, government facility commonly visited by the public (i.e. post office, village office, State/Federal/County office), nursing home, adult home, or hospital, whether or not such use is located in the Village.
- c. On the same parcel as another Adult Use and Entertainment Establishment.
- d. Within one thousand (1,000) feet of the property line of another Adult Use and Entertainment Establishment, whether or not such use is located in the Village.
- e. Within fifty (50) feet of the Village boundary.

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- f. Within fifty (50) feet of the centerline of a public right-of-way.

The above distances of separation shall be measured from the nearest exterior wall or corner of the structure containing the Adult Use and Entertainment Establishment.

### **Section 14.4 Standards**

The Village of Schuylerville intends to protect the scenic beauty of the region and the value of property in the region. Therefore, Adult Use and Entertainment Establishments shall meet all applicable requirements in the Village of Schuylerville Zoning Law and shall be designed to be as least intrusive as possible by using the following additional standards:

- a. Such use and parking area shall be adequately fenced and/or buffered (landscaping/berms) for screening from any adjacent property and lighting shall be directed away from adjacent property and public highways.
- b. Parking shall be located in the side or rear yard and no parking space may be located less than fifty (50) feet from any property line.
- c. Any structure containing the Adult Use and Entertainment Establishment and any accessory structure shall have a residential appearance (insofar as possible) similar to existing dwelling units (excluding mobile homes) in the Village of Schuylerville. Building design shall avoid areas of blank wall sections and windows or one-way windows, shall comply with Section 5 below (Display Prohibited).

### **Section 14.5 Display Prohibited**

All adult uses and entertainment establishments shall be conducted in an enclosed building. It shall be a violation to display or exhibit (in the open air, through a window, or by means of a sign, depiction or decoration), or to allow to be displayed or exhibited, any “specified sexual activity”.

### **Section 14.6 Existing Adult Use and Entertainment Establishments**

Any Adult Use and Entertainment Establishments as defined herein operating at the time of the effective date of this law shall cease all activity that defines it as an Adult Use and Entertainment Establishment within 120 days of the effective date of this law. Any owner of an Adult Use and Entertainment Establishment as defined herein operating at the time of the effective date of this law in which the principal business purpose involves activities which depict or describe “specified sexual activities” and discontinuance of such activity within 120 days would constitute a significant financial burden, can apply to the Planning Board for a one time extension of the use for a period not to exceed 8 months. For purposes of this provision, “principal business purpose” shall mean twenty-five percent (25%) or more of any of the following:

- a. the number of different titles or kinds of such merchandise;
- b. the number of copies or pieces of such merchandise;
- c. the amount of floor space devoted to the sale and/or display of such merchandise; or
- d. the amount of advertising that is devoted to such merchandise, either in print or broadcast media.



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## Article XV Definitions

For the purpose of this Code certain words used herein shall be interpreted or defined as follows:

Words used in the present tense include the future tense.

The singular includes the plural.

The word “person” includes a corporation as well as an individual.

The word “lot” includes the word “plot” or “parcel”.

The word “shall” is always mandatory.

The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended; arranged, or designed to be used or occupied”.

Definitions shall include the following:

**ACCESSORY APARTMENT:** A dwelling unit that has been added onto, or created within, a single-family house. And has separate kitchen, bathing, and sleeping areas.

**ACCESSORY USE:** A use customarily incidental and subordinate to the principal use or building, including but not limited to garages, swimming pools, sheds, decks and porches.

**ABANDONED VEHICLE** – The intent of the owner shall be determined by the physical condition of the vehicle; statements of the owner as to its abandonment; the length of time since the vehicle has been used on the highway; whether the vehicle is currently licensed, registered or inspected; and other relevant facts. With respect to a vehicle not required to be licensed or a vehicle not usually used on public highways, the intent of the owner shall be determined by the physical condition of the motor vehicle, the length of time since it was last used for the purpose intended; any statement as to its abandonment by the owner and other relevant facts.

**ADULT USE AND ENTERTAINMENT ESTABLISHMENTS:** A public or private establishment, or any part thereof, which presents a principal business purpose is for any of the following entertainments, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages; service or entertainment where the servers or entertainers wear pasties or G-strings or both; adult arcade; adult bookstore or adult video stores; adult cabarets; adult motels; adult motion picture theaters; adult theaters; escort agencies; nude model studios and sexual encounter centers. For purposes of provisions related to Adult Uses and Entertainment Establishments, “principal business purpose” shall mean twenty-five percent (25%) or more of any of the following:

- a. the number of different titles or kinds of such merchandise;
- b. the number of copies or pieces of such merchandise;
- c. the amount of floor space devoted to the sale and/or display of such merchandise;  
or
- d. the amount of advertising that is devoted to such merchandise, either in print or broadcast media.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or

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“specified anatomical areas” and still be categorized as an Adult Bookstore or Adult Video Store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe “specified sexual activities” or “specified anatomical areas”.

Adult Use and Entertainment Establishments customarily exclude minors by reason of age, and are those businesses defined as follows:

Adult Arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices which are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions, are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing “specified sexual activities” or “specified anatomical areas”.

Adult Bookstore or Adult Video Store means a commercial establishment that has a 25% or more of its stock-in-trade from the sale or rental for any form of consideration any one or more of the following:

- (1) books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or described “specified sexual activities” or “specified anatomical areas”; or
- (2) instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

Adult Cabaret means a nightclub, bar, non-alcoholic or ‘juice’ bar, restaurant, or similar commercial establishment which regularly features:

- (1) persons who appear in a state of nudity; or
- (2) live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
- (3) films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

Adult Motel means a hotel, motel or similar commercial establishment which:

- (1) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and which advertises the availability of sexually oriented type of material by means of a sign visible from the public right of way or by means of off-premise advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or

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(2) offers sleeping rooms for rent on a regular basis for a period of time that is less than (10) hours; or

(3) allows a tenant or occupant of a room to sub-rent the room for a period of time that is less than ten (10) hours.

**Adult Motion Picture Theater** means a commercial establishment whose principal business is where films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

**Adult Theater** means a theater, concert hall, auditorium or similar commercial establishment whose principal business features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”.

**APPURTENANT STRUCTURE/USE:** A structure, installation or equipment designed and located ancillary to and in support of the principal building or use.

**AREA VARIANCE:** Authorization by the Planning Board for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

**AUTOMOBILE SERVICE GARAGE/STATION:** Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels; servicing and repair of automobiles; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

**BASEMENT:** A story partly underground but having at least one-half of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or if used for business or dwelling purposes.

**BED AND BREAKFAST:** Overnight accommodations and a morning meal in a dwelling unit provided to transients for compensation.

**BILLBOARD:** A sign that directs attention to a business, commodity, service or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

**BODY MODIFICATION FACILITY:** A facility regulated and licensed by the State of New York that offers services related to the modification and/or ornamentation of the human body including but not limited to piercing, tattooing, branding and scarification.

**BUILDING:** Any roofed structure intended for the shelter, housing or enclosure of persons, animals, or property. When a building is divided into entirely separate parts extending from the ground up, each part so divided is deemed a separate building.

**BUILDING, ACCESSORY:** A supplemental building, the use of which is incidental to that of a main or principal building and located on the same lot therewith.

**BUILDING AREA:** The total ground floor area of a principal building and accessory buildings exclusive of uncovered porches, steps and terraces.

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**BUILDING COVERAGE:** That portion of the plot or lot area covered by building area.

**BUILDING DETACHED:** A building surrounded by open space on all sides on the same lot.

**BUILDING, HEIGHT OF:** The vertical distance measured from the average level of the proposed finished grade across the front of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height between eaves and ridge for gambrel roofs.

**BUILDING LINE of BUILD-TO-LINE:** A line parallel with the front, side and rear lot lines, respectively, beyond which a structure may not extend as determined by this Code.

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

**CAMPGROUND:** Land or premises used or intended to be used, let or rented for occupancy by campers traveling by automobiles or otherwise, or for temporary occupancy by or of trailers, recreational vehicles (RVs), or movable sleeping quarters (i.e. camping tent) of any kind.

**CAR WASH:** A structure containing facilities for washing automobiles and automatic or semiautomatic application of cleaner, brushes, rinse water, and heat for drying.

**CELLAR:** A story partly underground and having more than one-half of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

**CLUSTERED SUBDIVISION:** A form of development that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision or increase in the overall density of development, and the remaining land area is devoted to open space, active recreation, preservation of environmentally sensitive areas, or agriculture.

**CODE ENFORCEMENT OFFICERS** – The Code Enforcement Office(s) whose powers and duties are within or include the Village of Schuylerville.

**COMMERCIAL EXCAVATION:** Property or part thereof used for the purpose of extracting stone, sand, gravel or topsoil as a commercial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which a Permit has been issued.

**COMMERCIAL GARAGE** – Any person registered by the State of New York Department of Motor Vehicles to repair motor vehicles or any part thereof.

**COMMERCIAL RECREATION/TOURIST ATTRACTION:** Any man-made or natural place of interest open to the general public and for which an admittance fee is usually charged, including but not limited to amusement parks, replicas of real or fictional places, things or people, miniature golf, natural geological formations, and health spas or mineral baths.

**COMPLETE APPLICATION:** An application for a Special Permit, Site Plan or subdivision approval, zoning amendment, or variance, found by the reviewing board to satisfy all information requirements of this Code and of the New York State Environmental Quality Review Act, for which either a Negative Declaration has been issued or a Draft Environmental Impact Statement has been accepted as satisfactory pursuant to 6 NYCRR Section 617-8(b) 1.

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CONDOMINIUM: A legal arrangement involving a combination of two kinds of ownership of real property including:

- Fee simple ownership of the individual structure or dwelling unit; or
- Undivided ownership together with other purchases of the common elements of the structure, land and appurtenances, the management of which is controlled by a property owners' or like association.

CONVENIENCE STORE: Any retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods such as salads, for off-site consumption.

CORNER LOT - A lot at the junction of and abutting on two or more intersecting streets.

DAY SPA: An establishment that provides facilities included, but not limited to swimming facilities, saunas, hot tubs, showers, massage by licensed massage therapist, lockers, game courts, exercise equipment, and personal services such as facials and skin treatments.

DEALER – Any person registered by the State of New York Department of Motor Vehicles as a dealer as defined by Section 415 of the Vehicle and Traffic Law of the State of New York, as amended.

DISCARDED VEHICLES(S) – Any vehicles(s) which the owner thereof, as established by the surrounding circumstances, relinquishes ownership and possession of and any vehicle(s) the owner of which cannot be found after due and reasonable inquiry.

DRINKING ESTABLISHMENT: Premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption and where food shall be available for consumption on the premises except for private membership organizations including but not limited to UFW, American Legion and Knights of Columbus.

DRIVE-THRU ESTABLISHMENT: Premises used for the sale or dispensing of food, retail goods or personal service items that also have a “drive-up” or “drive-thru” window for the purpose of dispensing said food, beverage, retail goods or personal services items to customers while in an automobile outside of the “drive-thru establishment.” Such an establishments may include but are not limited to: coffee and breakfast food shops, fast-food restaurants, pharmacies, grocery stores, banks or any other facility deemed so by the municipal boards of the Village and/or its code enforcement officer.

DWELLING, GROUP: A building or portion thereof designed primarily for residential purposes for year-round occupancy by more than two persons not constituting a family, with or without common dining facilities, constituting one or more dwelling units.

DWELLING, MANUFACTURED: Two or more factory-fabricated dwelling units which are transported to the site by means other than on their own chassis where they are placed on a permanent foundation and are joined to make a dwelling unit for year-round living. The term ‘sectional’ shall include the term ‘modular’ and such dwelling units shall be deemed to be one-, two- or multiple-family dwellings, as is appropriate in the context of this Code.

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**DWELLING, MULTIPLE-FAMILY:** A building or portion thereof designed for year-round occupancy containing separate dwelling units for three to five families living independently of each other, other than a rooming house, hotel, fraternity, commune or other group quarters.

**DWELLING, SEASONAL:** A detached one-family dwelling unit providing complete housekeeping facilities for one family designed for seasonal or non-year-round occupancy other than a mobile home, recreational living unit or any temporary structure.

**DWELLING, SINGLE FAMILY:** A detached dwelling unit, providing complete housekeeping facilities designed for year-round occupancy by one family only, recreational living unit, or any temporary structure.

**DWELLING, TWO-FAMILY:** A detached dwelling unit designed for year-round occupancy by two families living independently of each other, other than a mobile home, recreational vehicle, or rooming house.

**DWELLING UNIT:** A building or portion thereof providing complete housekeeping facilities for one family, including living, sleeping, cooking and sanitary facilities, constructed in accord with the New York State Building Construction Code applicable to the type of dwelling and located on a permanent continuous masonry foundation.

**EASEMENT:** Authorization by a property owner for the use by another and for a specified purpose, of any designated part of his property.

**ENCLOSURE** – A completely enclosed privacy-type structure or fence constructed of wood, metal or masonry, which shall be six feet in height and of such construction and type that an ordinary person of ordinary height and eyesight cannot see into the enclosure. Such enclosure shall be adequately maintained so as not to create an eyesore to the community.

**ENFORCEMENT OFFICER:** The duly-designated official responsible for enforcing this law as prescribed herein and as directed by the Village Board. The duties of such Enforcement Officer may be assigned to the Highway Superintendent, Village Engineer or others as directed by the Village Board.

**ESCORT AGENCY:** Means a person or business association who furnishes, or offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

**ESCORT:** Means a person who, for a fee, tip or other consideration, offers or agrees to any of the following: act as a date for another person; to privately model lingerie for another person; or to privately perform a striptease for another person.

**EXEMPT BUILDING/USE:** A minor ancillary structure or use such as a children's play or tree house, play equipment, outdoor barbecue, a dog house and like facilities common to and generally not affecting the principal use of the premises in any significant manner. Such building or use shall not require a Permit under this Code and shall not be counted against the allowable number of, or area to be occupied by, accessory buildings or uses.

**FAMILY:** One or more persons occupying the premises related by blood, marriage or adoption, living as a single housekeeping unit, as distinguished from a group occupying a rooming house, fraternity, hotel, commune or other such group quarters.

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**FARM AND LAWN EQUIPMENT:** A retail establishment that sells or services tractors, lawn mowers and other related equipment.

**FARM STRUCTURE/USE:** The management and use of land for the raising for compensation of agricultural products, including field crops, produce, horticulture, livestock and dairy products. The term includes the sale of products grown or raised directly on such land, and the necessary buildings and appurtenant construction such as barns, silos and fences which are a normal part of such operation.

**FEED SUPPLY:** A retail establishment that sells feed for animals.

**FINAL PLAT/PLAN:** The final map or drawing and supplementary information as required in this Code, including that plan of subdivision which, if approved, will be submitted to the County Clerk for filing.

**FLOOD:** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers or other inland areas of water.

**FLOOD HAZARD AREA:** A land area adjoining a river, stream, watercourse, or lake, which is likely to be flooded during a 100-year flood depicted by the U.S. Department of Housing and Urban Development.

**FLOOD, 100-YEAR:** The highest level of flood that, on the average, is likely to occur once every 100 years (i.e., that has a one (1) percent chance of occurring each year.)

**FLOOD PLAIN MANAGEMENT:** The operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and land use and control measures.

**FLOODPROOFING:** Any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.

**FLOOD PROTECTION ELEVATION:** The 100-year flood elevation.

**FLOODWAY:** The channel of a river or other watercourse and the adjacent land area required to carry and discharge a flood of a given magnitude.

**FLOOD AREA:** The sum of the gross horizontal areas of the several floors of the building or buildings, measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings.

**FOOTPRINT:** Area of the ground covered by a structure, including the foundation and all areas enclosed by exterior walls and footings.

**FREE-STANDING SIGN:** A self-supporting sign not attached to any building, wall, or fence, but in a fixed location. This does not include a moveable sign.

**GARAGE, SERVICE:** A building or part thereof operated for gain and used for the storage, hiring, selling, greasing, washing, servicing, or repair of motor or recreational vehicles.



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**GARDEN SUPPLY:** A retail establishment that sells plants, nursery stock, soil, and accessories for gardening.

**GASOLINE STATION:** Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline or oil or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning or otherwise servicing motor vehicles, but not including the painting or major repair thereof. The term 'gasoline station' shall be deemed to include 'filling stations' and 'service station'.

**GOLF COURSE:** A tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards and that may include a clubhouse and shelter.

**HABITABLE SPACE:** The space within a dwelling unit occupied for living, sleeping, bathing, eating and cooking purposes and exclusive of a cellar, attic or such other portions of the dwelling unit not generally occupied by the residents of the dwelling unit.

**HIGHWAY SUPERINTENDENT:** The duly elected or appointed official responsible for overseeing construction and maintenance of the Village highway system.

**HOME OCCUPATION:** An occupation or a profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; is carried on by a member of the family residing in the dwelling unit and is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and which produces no offensive noise, vibration, smoke, dust, odors, heat, glare or traffic congestion, either directly or indirectly.

**HOTEL:** A building or portion thereof containing rooms, with (within suites) or without individual kitchen facilities, occupied by transient guests who are lodged with or without meals, which rooms have primary access from public halls, and in which building or portion thereof there are certain public rooms or halls for the service of food and drink, with or without entertainment, and other facilities intended to provide customary accessory conveniences or services normally incidental to and associated with such a use.

**JUNK VEHICLE –** Any vehicle which, for any reason, is incapable, without repair, of being moved or propelled by application of internal power, if it is a vehicle originally designed to be propelled by internal power, or is incapable, without repair, of being drawn or towed, if it is a vehicle originally designed to be towed or drawn behind an internally powered vehicle, and, as adjudged by the standards of an ordinary reasonable man, is unsightly in appearance because of the existence of one or more conditions, such as but not limited to the following: deterioration by rust of the body; deterioration of the exterior finish of the vehicle; broken windows, absence of component parts of the vehicle (such as fenders, panels, doors, bumpers, headlights, hood, trunk door, tires, wheels, grill, roof or tailgate); physical damage (such as dents, cracks, scraps or holes) to component parts of the vehicle; and absence of interior components (such as seats, dashboard or interior door moldings), or is incapable of being moved or propelled, drawn or towed without repair as provided for hereinabove and has remained situate on any real property for a period in excess of 30 days.

**JUNK YARD:** A lot, land or structure or part thereof, used for the collecting, storage, or sale of waste paper, rags, scrap metals, used or salvaged building or other discarded material, or for the collecting, dismantling, storage and salvaging of machinery or vehicles. It shall mean any place of storage or deposit, whether in connection with another business or not, where two or more unlicensed, old or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale or used parts or materials there

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from or not. Such term shall include any place of storage or deposit for any such purpose of used parts or waste materials from motor vehicles which, taken together equal in bulk two (2) or more such vehicles.

**LANDFILL, SANITARY:** The depositing of refuse in a natural or man-made depression or trench, or dumping it at ground level, compacting to the smallest practical volume, and covering with earth or other material in a systematic and sanitary manner.

**LOT:** A parcel of land considered as a unit, occupied or capable of being occupied by a principal building or use and accessory buildings or uses, or by a group of buildings united by a common use or interest; and including such open space and principal frontage on a public street or roadway as are required by this Code.

**LOT AREA:** The total area included within side and rear lot lines and the street or highway right of way.

**LOT LINE:** Any line dividing one lot from another or from an established right of way.

**LOT LINE, FRONT:** The lot line adjoining and separating the lot from any street or highway right-of-way line.

**LOT, UNIMPROVED:** A lot on which no building or structure has been constructed or located and on which no excavation, improved driveway or the installation of water supply or sewage disposal systems has been initiated with the intent to serve a building or structure allowed for in the zoning district.

**LOT, WIDTH:** The distance between side lot line measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified for the zoning district.

**LUMBER AND BUILDING SUPPLY:** A retail establishment that sells wood, wood products and all supplies related to building structures.

**MANUFACTURED HOME:** Factory-built, single family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S. C. Sec. 5401), commonly known as the HUD code.

**MASSAGE PARLOR:** any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with “specified sexual activities”, or where any such person providing such treatment, manipulation, or service related thereto, exposes his or her “specified anatomical areas”. A massage parlor shall be considered an Adult Use. The definition of Adult Use shall not however include the practice of massage in any licensed hospital, nor by a licensed physician, surgeon, chiropractor, licensed massage therapists, or osteopath, nor by trainers for any amateur, semi-professional or professional athlete or athletic team or school athletic program.

**MASSAGE THERAPY:** A personal service business to include a hospital, nursing home or medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or duly licensed physical therapist or barbershops or beauty salons in which full body, scalp, face, neck or shoulder massages are administered by or overseen by a licensed practitioner. This includes health clubs which have facilities for physical exercise, such as tennis courts, racquetball courts

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or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

**MINOR PROJECT:** A proposed use that requires a Special Permit and that falls below all of the following thresholds:

- A. Construction of a single family residential structure;
- B. Construction of a two-family unit or a bed and breakfast or lodging facility with up to six bedrooms;
- C. Construction of facilities or structures for a nonresidential use covering no more than 1500 square feet of building footprint;
- D. Alteration of existing structures or expansion of such structures by no more than 1000 square feet; and
- E. Conversion of existing structures totaling 1500 square feet or less to another use.

**MAJOR LAND FORM, ALTERATION OF:** The manipulation or movement, whether by dumping, filling or extracting of an amount of earthen material to a differential of two (2) feet from the natural contour of the land form over an area in excess of 2,500 square feet or 100 linear feet.

**MAJOR PROJECT:** A proposed use that requires a Special Permit and that exceeds any of the thresholds for a minor project.

**MIXED USE BUILDING:** A single building or structure with a variety of complimentary and integrated uses, such as but not limited to residential, office, manufacturing, retail, public, or entertainment.

**MOBILE HOME:** A factory-finished movable living unit, having a minimum floor area of 750 square feet, designed and built on frame and wheels to be towed on its own chassis and designed for and providing housekeeping facilities for year-round or seasonal occupancy after being transported to the building site. It does not include a recreational living unit, but may include such expandable or joined mobile units referred to as 'telescoping' and 'double wides'. A mobile home shall have been designed and installed in compliance with the State Code for the Construction and Installation of Mobile Homes and Standards, Rules and Regulations for Mobile Homes, effective January 15, 1974, and as it may be amended; (as set forth in Volume 9 Executive (B) of the "Official Compilation of Codes, Rules and Regulations of the State of New York") and further, any such unit shall bear the required seal noting such compliance.

**MOBILE HOME COURT:** A parcel of land which has been planned and improved for the placement of ten (10) or more mobile homes for dwelling purposes. The term shall include mobile home park or other area planned and improved for ten (10) or more mobile homes.

**MOTEL:** A building or group of buildings not more than two stories in height having direct convenient access to a main traveled road, intended or designed to provide a series of sleeping units for the accommodation of transients where each sleeping unit consists of a minimum of a bedroom and a bathroom, and convenient access to a parking space for each unit's occupants is provided.

**MOTOR/RECREATIONAL VEHICLE:** Any passenger, recreation or service vehicle propelled by a fuel-using device, including but not limited to automobiles, trucks, motorcycles and motorbikes, dune buggies, snowmobiles, tractors and motor boats.

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**MOVEABLE SIGN:** A sign capable of being readily moved or relocated.

**NONCONFORMING SITUATION:** Use of a building or of land that does not comply with the regulations for the district in which it is situated and where such use existed legally on the effective date of the respective Regulations embodied in this Code or their amendment.

**NUDE MODEL STUDIO:** means any place where a person who appears in a state of nudity or displays “specified anatomical areas” is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, other than as a part of a course of instruction offered by an educational institution established pursuant to the laws of the State of New York.

**NURSING/EXTENDED CARE/ADULT HOME:** A facility for the accommodation of convalescents, the elderly or other persons who require assistance, skilled nursing care and related medical services which are prescribed by or performed under the direction of a person or persons licensed to provide such care or services in accordance with such laws of the State of New York as are applicable.

**OFFICE:** A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or governmental entity that accommodates the public and necessitates access by the general public and is generally furnished with desks, tables, files and communication equipment. In the Historic Main Street (HM-S) Commercial District, office uses that do not accommodate the general public shall be restricted to second and third floor locations only in order to preserve first floor storefronts for traditional pedestrian-oriented retail/commercial uses.

**OFFICIAL MAP:** Means the map established by the Village, if any, pursuant to Village Law showing the streets, highways and parks theretofore laid out, adopted and established by law and any amendments thereto adopted by the Village or additions thereto resulting from the approval of subdivision plats by the Board and the subsequent filing of such approved plats. Streets not accepted by the Village as public streets may be shown thereon, but shall be marked as private streets.

**OPEN STORAGE** – Storage other than in a completely enclosed structure constructed of wood, masonry or metal.

**OPEN-SPACE RECREATION USE:** A recreation use particularly oriented to and utilizing the natural landscape and outdoor character of an area, including hiking, equestrian, and recreational vehicle trail; park, picnic or beach area; and similar undeveloped, outdoor non-intensive uses.

**OUTDOOR WOOD BURNING FURNACE:** see Wood burning furnace.

**OWNER OF PRIVATE PROPERTY** – The legal owner, contract purchaser, tenant, lessee, occupant, subtenant, trustee, bailee, receiver or assignee of premises of real property located within the Village of Schuylerville.

**OWNER OF VEHICLE** – The person having the property and/or title to a vehicle, including a person entitled to the use and possession of a vehicle subject to a security interest of another person, and also including any lessee or bailee of a vehicle having the use thereof under lease or otherwise.

## **Village of Schuylerville Zoning Code**

**PERFORMANCE BOND:** A bond to cover the full cost of any required improvements, the amount of which shall be established upon recommendation of the Village Engineer and as agreed upon by the Village Board, and which shall be further certified to as to form, sufficiency, manner of execution and surety by the Village Attorney.

**PERSON** – An individual, firm, partnership, association, corporation, company or organization.

**PERSONAL SERVICE:** Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.

**PRELIMINARY PLAT/PLAN:** The preliminary drawing or drawings and supplemental information as required in Appendix ‘B’ of this Code including that plan of subdivision indicating the proposed manner and layout of the subdivision to be submitted to the Board for its conditional approval.

**PREVAILING SETBACK:** The distance between a structure or structures and the existing property boundaries of the parcel on which the structure or structures exist. On parcels where no preexisting structure is located, the prevailing setback shall consist of the setbacks existing on neighboring parcels, such that any new construction shall be complimentary to properties in the vicinity of the subject parcel.

**PROJECTING SIGN:** A sign affixed to a building, tree, or other structure and which extends beyond the surface to which it is attached.

**PUBLIC STRUCTURE:** Any building, facility or complex used by the general public, whether constructed by any state, county, or municipal government agency including, but not limited to assembly buildings such as auditoriums, libraries, public eating places, schools, and theaters.

**RECREATIONAL LIVING UNIT:** A mobile recreational housekeeping unit including travel trailer, pick-up camper, converted bus, tent-trailer, camper trailer, tent or similar device used for temporary portable housing.

**REPAIR SETTLEMENT** – Determination by whatever means, including settlement of a claim arbitration or legal action, that any person other than the owner of a vehicle is liable to pay or will pay for the repair of damage to a vehicle resulting from any vehicular accident.

**RESTAURANT:** An establishment where food and drink are prepared, served, and consumed primarily within the principal building.

**RETAIL BUSINESS:** An establishment selling goods to the general public for personal and household consumption, including but not limited to an appliance store, bakery, delicatessen, drug store, florist, grocer, hardware store, liquor store, newsstand, shoe store, stationery store, and variety store.

**ROOMING HOUSE:** A dwelling unit in which individuals or families are housed or lodged for hire, with or without accompanying meal service.

**SEASONAL RESIDENCE:** A residential structure occupied for only a part of the year including, but not limited to vacation homes or resort residences and not used as the principal domicile.

**SCREENING:** The location of structures in such a manner that they are not visible from a public road or any other public place or adjacent residential property during the summer months and no

## **Village of Schuylerville Zoning Code**

more than partially visible in the winter. Objects or structures may be screened by topography, vegetation, or other structures not required to be screened.

**SEMI-PUBLIC STRUCTURE:** Any building, facility or complex used by the general public, whether constructed by any state, county, or municipal government agency or instrumentality or any private individual, partnership, association, or corporation, including, but not limited to assembly buildings, business buildings, such as offices, and factories and industrial buildings.

**SERVICE BUSINESS:** See Personal Service.

**SEWAGE DISPOSAL SYSTEM:** An approved method and installation for the proper accommodation and disposal of sanitary wastes. Such system may include connection to an approved public, community or individual disposal system as provided for in this Code.

**SEXUAL ENCOUNTER CENTER:** Means a business or commercial enterprise that, as one of its primary business purposes, offers, for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purpose of “specified sexual activities” or exposure of “specified anatomical areas”, or activities between persons when one or more of the persons is in a state of “nudity” or “semi-nude”.

**SIGN:** Any device affixed to, painted, or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business. Each graphic display surface shall be considered to be a ‘sign’.

**SIGN, ADVERTISING:** A sign which announces and directs attention to a business or profession conducted or a commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located.

**SIGN AREA:** The area of a sign shall be that area as determined by circumscribing the exterior sign structure with a circle, triangle, quadrangle or other geometric form connecting all extreme points. The structure supporting a sign is not included in determining the sign area unless the structure is designed in a way to form an integral background for the display. Only one face of a double-face sign is included in the computation of such sign area.

**SIGN, BUSINESS:** A sign which directs attention to a business or profession conducted, or a commodity, service, or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.

**SIGN DIRECTORY:** A panel, booth or similar structure identifying and giving direction to business, civic, recreational or other attractions in the Village.

**SIGN, DOUBLE-FACED:** Any sign designed to be viewed from two (2) directions and which at no point is thicker than thirty-six (36) inches measured from the exterior surface of each face and the two (2) faces of the sign are either parallel or the angle between them is thirty (30) degrees or less. Such sign shall be considered as one (1) sign.

**SIGN ERECTION:** To build, construct, attach, hang, place, suspend, affix or paint a sign.

**SIGN, FLASHING:** Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of the Code, and revolving, illuminated sign shall be considered a ‘flashing sign’.

## Village of Schuylerville Zoning Code

**SIGN, ILLUMINATED:** Any sign containing electrical wiring or lighted by an exterior or interior light source.

**SIGN, NONCONFORMING:** A sign which was installed prior to the effective date of the respective Regulations embodied in this Code, but which is in conflict with the provisions thereof.

**SKETCH PLAN:** An informal plan or plat indicating salient existing features of a tract or parcel and its surroundings, and the general layout of a proposed project as required in Appendix 'B' of this Code.

**SPECIAL USE PERMIT:** As used in this section the term "special use permit" shall mean an authorization of a particular land use which is permitted in a zoning Code, subject to requirements imposed by such Code to assure that the proposed use is in harmony with such Code and will not adversely affect the neighborhood if such requirements are met. A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood may be permitted if specific provision for such special use is made in the Zoning Regulations, after application to and authorization by the Planning Board for a Permit.

**STACK:** Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from an outdoor wood-burning furnace.

**STANDARD USE:** A use permitted in one or more of the respective zoning districts, upon application for and issuance of a Permit by the Enforcement Officer in accord with the standards applicable thereto.

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

**STREET:** Means a public or private way for vehicular traffic, including the following:

- Major streets are those principal through traffic arteries.
- Collector streets are those that interconnect, and carry traffic between, minor residential and major streets.
- Minor streets are those which are used primarily for access to abutting residential properties. A 'cul-de-sac' is a minor street with only one outlet and having a turning loop at the closed end.
- Frontage or access roads are generally parallel with and adjacent to a major street or highway designed to provide access to abutting properties and protection from through traffic.

**STRUCTURE:** Anything constructed or erected, the use of which required location on the ground or attachment to something having location on the ground.

**SUBDIVIDER:** Any person, firm, corporation, partnership or association, who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

**SUBDIVISION:** The division of any parcel of land into two (2) or more lots, blocks, or sites with or without new or additional streets, for the purpose, whether immediate or future, of transfer of

## **Village of Schuylerville Zoning Code**

ownership or building development, of one or more lots and shall include resubdivision in whole or in part of any plat, filed or unfiled, which is entirely or partially undeveloped.

**SWIMMING POOL:** A private, outdoor pool designed and built for swimming purposes as an accessory use on the same parcel as the principal use, for use primarily by the occupants or tenants of said property. Such pool shall include any permanent under- or above-ground pool and any portable pool more than three (3) feet in height and fifteen (15) feet in length or diameter.

**TILE FIELD:** An approved leaching or drainage field which is connected to and part of a septic tank or other approved disposal process and which is located and constructed in accord with the requirements of this Code.

**TOURIST ATTRACTION:** Any structure, facility, building, or land that attracts and serves people visiting an area for recreation and vacations.

**TOWNHOUSE:** A one-family dwelling in a row between two (2) and five (5) units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

**TOURIST HOME:** A dwelling unit in which overnight accommodations are provided or offered for transient guests for compensation.

**UNLICENSED VEHICLE** – Any vehicle (automobile or boat) which may be licensed or registered for operation on public highways and which has not been licensed and/or registered during the preceding six months, with the exception of those vehicles in the possession of a dealer, or is not currently licensed and/or registered and not in a condition for legal use on the public highways. A vehicle which is in a condition to receive a current New York State motor vehicle inspection sticker shall be deemed to be in a condition for legal use on the public highways.

**USE:** The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

**U.S.G.S.:** United States Geological Survey.

**USE VARIANCE:** shall mean the authorization by the Planning Board for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

**UTILITY:** An installation used by a public utility to supply electric, gas, water, cable, television, telephone or other utility service. Included are such facilities as electric unit substations, high voltage transmission lines, pump stations, water towers, and telephone substations. Utility distribution facilities serving customers directly are considered customary accessory uses, not utility facilities.

**VEHICLE** – Any means of transport or conveyance operated, driven, drawn or capable and intended to be operated, drawn or driven upon a public highway by a power other than muscular power. A vehicle shall include but not be limited to automobiles, motorcycles, motorbikes, buses, all types of trailers, including trailers used for storage, trucks, tractors, mobile homes, other than those legally in use in an authorized mobile home park, recreational vehicles, snowmobiles, all-terrain vehicles and jitneys or any other contraption originally designed and intended for travel on the public highways.



## **Village of Schuylerville Zoning Code**

**VILLAGE** – All areas within the Village of Schuylerville, both publicly and privately owned.

**VILLAGE ENGINEER:** A licensed professional engineer or other individual duly designated by the Village Board to carry out his duties.

**VILLAGE PLAN:** Means a comprehensive plan prepared for and by the Village, setting forth the objectives and policies with regard to that general physical development of the Village, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

**WALL SIGN:** Any sign which is painted on, incorporated into, or affixed parallel to the wall of a building.

**WAREHOUSE STORAGE FACILITY:** A structure or structures in which materials, goods, or equipment are stored.

**WATER SUPPLY SYSTEM:** An approved source and connecting supply system for the provision of water for any use required to have such system. Such system may include water derived from approved spring or well sources as part of an approved public, community or individual system as provided for in this Code.

**WOOD-BURNING FURNACE:** A device designed for solid fuel combustion so that usable heat is derived for the interior of the building and includes solid fuel-fired stoves, fireplaces, or boilers which burn solid fuel including outdoor wood-burning units.

**WRECKER** – Any person licensed to operate a tow truck as defined in Section 148 (b) of the Vehicle and Traffic Law of the State of New York, as amended.

**YARD, FRONT:** An open unoccupied space on the same lot with the building between the front line of the building and the front lot line or road center line, as is appropriate, and extending the full width of the lot.

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

**YARD, SIDE:** An open unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard.

# Village of Schuylerville Zoning Code

## Article XVI Forms

### Application for Site Development Plan Approval Village of Schuylerville (To Be Filled Out by Applicant)

**Name of Application:**

\_\_\_\_\_

**Description of Action:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Owner:**

**Name:** \_\_\_\_\_ **Street:** \_\_\_\_\_

\_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_

**Zip:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

\_\_\_\_\_

**Applicant (if different from owner):**

**Name:** \_\_\_\_\_ **Street:** \_\_\_\_\_

\_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_

**Zip:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

\_\_\_\_\_

**Subject Property:**

**Name or other identification of site**

**(address):** \_\_\_\_\_

**Situated on the** \_\_\_\_\_ **side of**  
\_\_\_\_\_ **(Road)** \_\_\_\_\_ **(feet)**

**From the intersection of** \_\_\_\_\_ **(Road)**

**Tax map description \_**

**Section** \_\_\_\_\_ **Block** \_\_\_\_\_ **Lot**

\_\_\_\_\_

**What are the ownership intentions, i.e., purchase options**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## Village of Schuylerville Zoning Code

**What are the current land use of site** (agriculture, commercial, undeveloped, etc.)

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**What are the proposed use(s) of site**

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**What State and federal permits needed (list type and appropriate department)**

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**What is the total site area (square feet or acres)**

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**When do you anticipate starting construction** \_\_\_\_\_

**Will development be staged or in phases?**

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**Please describe the current condition of site** (buildings, brush, etc.)

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**Please Describe the character of surrounding lands** (hamlet, forested, residential, agriculture, wetlands, etc.)

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**What is the Estimated cost of proposed improvements on this property?** \_\_\_\_\_

**Describe the anticipated increase in number of residents, shoppers, employees, etc.** (as applicable)

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**Describe proposed use, including primary and secondary uses; ground floor area; height; and number of stories for each building:** (for residential buildings include the number of dwelling units by size (efficiency, one-bedroom, two-bedroom, three- or more bedrooms) and number of parking spaces to be provided. For non-residential buildings, include total floor area

## Village of Schuylerville Zoning Code

and total sales area; number of automobile and truck parking spaces, and other proposal structures.) (Use separate sheet if needed)

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Total gross floor area of Principal Building? \_\_\_\_\_

Size of accessory building? \_\_\_\_\_

Proposed setbacks? Front \_\_\_\_\_ Rear \_\_\_\_\_ Side \_\_\_\_\_

Number of parking spaces \_\_\_\_\_

Building Height? Feet \_\_\_\_\_ # stories \_\_\_\_\_

Is there an existing curb cut onto the site      Yes ☐      No ☐

Will the action require new curb cuts onto the street? Yes ☐      No ☐

What street(s) will have the new curb cuts? \_\_\_\_\_

Are there existing buildings on site? Yes ☐      No ☐

If so, please describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **Village of Schuylerville Zoning Code**

### **For the sketch plan conference with the Planning Board please attach a plan showing the following information**

- a. 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;
- b. 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; and
- c. A topographic or contour map of adequate scale and detail to show site topography.
- d. A sketch showing locations of natural features such as wetlands, streams, or lakes.

### **For the site plan application, please attach the following information, except as may be waived by the Planning Board:**

- a. Title of site plan, including name and address of applicant, and person responsible for preparing such drawing.
- b. North arrow, scale and date.
- c. Boundaries of property plotted to scale.
- d. Location, size, and existing use of buildings on premises.
- e. Location and ownership identification and address for all adjacent lands as shown on the latest tax records.
- f. Location, name and width of all existing public streets, easements, other reservations of land or areas dedicated to public use within 500 feet of the applicant's property.
- g. Location, width, and identification of all existing and proposed rights-of-way, easements, setbacks, reservations, and areas dedicated to public use on or adjoining the property.
- h. Grading and drainage plans showing existing and proposed contours and water course within, and extending 50 feet beyond, applicant's property, and soil erosion and sediment control plan if required by DEC or other local statutes or regulations (See requirements of Article D (6)(b)).
- i. Location, design, type of construction, and exterior dimensions of all proposed buildings and structures.
- j. Identification of the amount of gross floor area, proposed division of building into units of separate occupancy and hours of operation for retail sales and services offices and other commercial or industrial facilities.
- k. Location, design, type of construction, and area of all parking and truck loading areas (including number of parking spaces) showing access and egress.
- l. Provision for pedestrian access, including public and private sidewalks, if applicable.
- m. Location of outdoor storage and solid waste disposal, and location and description of any hazardous materials to be used or stored on site.
- n. Location and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.
- o. Description of the method of sewage disposal and the location of such facilities, including the location of the collection system.
- p. Description of the method of securing water, location of such facilities, design and construction materials, approximate quantity of water required and location of distribution system.

## **Village of Schuylerville Zoning Code**

- q. Location of fire lanes and other emergency zones, including the location of fire hydrants, if required.
- r. Location, size, design and type of construction of all proposed signs.
- s. Location and design of existing and proposed outdoor lighting facilities.
- t. General landscaping plan and planting schedule.
- u. Identification of any permits from other governmental bodies required for the project's execution and a record of applications and approval status of all necessary permits from federal, state, county and local agencies.
- v. Estimated project construction schedule.
- w. Other elements integral to the proposed development as may be specified by the Planning Board at the sketch plan conference.
- x. State Environmental Quality Review Act (SEQRA) Environmental Assessment Form.
- y. Elevation and façade treatment plans of all proposed structures, if required.
- z. Any pertinent natural features that may affect the proposed use such as water courses, swamps, wetlands, wooded areas, areas subject to flooding, steep slopes (more than 15%), areas of frequent outcrops, etc.

# Village of Schuylerville Zoning Code

## Village of Schuylerville Site Development Plan Review Checklist (To Be Filled Out by Planning Board)

Name of Application:

\_\_\_\_\_

Description of Action:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Owner:**

Name: \_\_\_\_\_ Street: \_\_\_\_\_

\_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

\_\_\_\_\_

**Applicant (if different from owner):**

Name: \_\_\_\_\_ Street: \_\_\_\_\_

\_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

\_\_\_\_\_

**Procedural Sequence/Dates**

Initial contact with Town Enforcement Officer/Town Clerk or Town Planning

Board \_\_\_\_\_

Date Presubmission Sketch Conference held

\_\_\_\_\_

Summary of Sketch

Conference: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date Preliminary application

filed \_\_\_\_\_

## Village of Schuylerville Zoning Code

Date Fee paid and Amount \$ \_\_\_\_\_

Escrow Established? Yes ☐ No ☐ Date Escrow \_\_\_\_\_

Received: \_\_\_\_\_

Date Environmental Assessment Form \_\_\_\_\_

Received: \_\_\_\_\_

Date of SEQR Procedures: \_\_\_\_\_

☐ Negative Declaration or ☐ Positive Declaration

Issued: \_\_\_\_\_

### Technical Considerations Satisfied

- |  |   |
|--|---|
| 1. North arrow, scale and date.  | <input type="checkbox"/> Item Satisfied |
| 2. Names of adjacent property owners   | <input type="checkbox"/> Item Satisfied |
| 3. Boundaries, setback lines plotted to scale  | <input type="checkbox"/> Item Satisfied |
| 4. Zoning, school or special district boundaries identified  | <input type="checkbox"/> Item Satisfied |
| 5. Location, size, and use of buildings new or existing on premises.   | <input type="checkbox"/> Item Satisfied |
| 6. Location, name and width of all existing public streets, easements  | <input type="checkbox"/> Item Satisfied |
| 7. Location, width, and ID of rights-of-way, easements, setbacks,<br>reservations, and areas dedicated to public use on or<br>adjoining the property | <input type="checkbox"/> Item Satisfied |
| 8. All existing and proposed paved areas   | <input type="checkbox"/> Item Satisfied |
| 9. Areas to be left undisturbed or buffer areas  | <input type="checkbox"/> Item Satisfied |
| 10. Existing topography  | <input type="checkbox"/> Item Satisfied |
| 11. Existing landscape features such as lawns, meadows, shrubs,<br>trees, hedgerows and stone walls  | <input type="checkbox"/> Item Satisfied |
| 12. Water courses, wetlands, other prominent physical features   | <input type="checkbox"/> Item Satisfied |
| 13. Description of architectural features of proposed structure  | <input type="checkbox"/> Item Satisfied |
| 14. All vehicular access and egress  | <input type="checkbox"/> Item Satisfied |
| 15. Elevations and sections of all proposed structures and roads   | <input type="checkbox"/> Item Satisfied |
| 16. Location, use and design of all buildings and structures, roads,<br>pedestrian walkways and fire lanes   | <input type="checkbox"/> Item Satisfied |
| 17. Design, location of all parking and truck loading areas  | <input type="checkbox"/> Item Satisfied |
| 18. Water lines, valves, hydrants, sewer lines and method of sewage<br>disposal and method of securing water, location of such facilities,           |   |



## Village of Schuylerville Zoning Code

- design and construction materials, approximate quantity of water required and location of distribution system. ☐Item Satisfied
19. Location, direction, power and timing of proposed lighting ☐Item Satisfied
20. Extent and amount of cut and fill with before and after profiles ☐Item Satisfied
21. Grading and drainage plans ☐Item Satisfied
22. Location, size, color, illumination of proposed signs ☐Item Satisfied
23. Location of existing and proposed site improvements including drains, culverts, retaining walls, fences ☐Item Satisfied
24. Location of outdoor storage and solid waste disposal ☐Item Satisfied
25. Hours of operation ☐Item Satisfied
26. Location of any hazardous materials to be used or stored on site. ☐Item Satisfied
27. Location of fire lanes and other emergency zones ☐Item Satisfied
28. Identification of any permits from other governmental bodies required ☐Item Satisfied
29. State Environmental Quality Review Act (SEQRA) Environmental Assessment Form. Part I ☐Item Satisfied
30. In I district: uses, number of employees, type of power, type of wastes, and proposed method of waste disposal ☐Item Satisfied
31. In TN/MU1 and 2: architectural plans, location, design, type of construction, and exterior dimensions ☐Item Satisfied
32. General landscaping plan and planting schedule ☐Item Satisfied
33. Traffic impact analysis, if use will increase traffic by 100 cars or more per day ☐Item Satisfied
34. Soil erosion and sediment control plan , if required ☐Item Satisfied

Other Technical Elements as Required by Planning Board (list all required)

- \_\_\_\_\_ ☐Item Satisfied
- \_\_\_\_\_ ☐Item Satisfied
- \_\_\_\_\_ ☐Item Satisfied
- \_\_\_\_\_ ☐Item Satisfied
- \_\_\_\_\_ ☐Item Satisfied

Items specifically requested by applicant to be waived (list below)

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## Village of Schuylerville Zoning Code

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Date Site Plan Application Deemed Complete: \_\_\_\_\_

Date of Public Hearing Notice Sent \_\_\_\_\_

Date Public Hearing Held \_\_\_\_\_

Date Referral to County made, if required \_\_\_\_\_

Date comments returned from county and outcome:

\_\_\_\_\_

**Planning Board Action on Preliminary (62 days from public hearing or if no hearing, 62 days from date completed application)**

☐ Preliminary Site Plan Approval

☐ Approval \_\_\_\_\_

☐ Approval with modifications: What modifications have been  
required? \_\_\_\_\_

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\_\_\_\_\_

☐ Date Conditions of Approval satisfied, building permit  
issued \_\_\_\_\_

☐ Date Inspected, Conditions not satisfied, building permit not issued

\_\_\_\_\_

☐ Application Resubmitted to Planning

Board \_\_\_\_\_

☐ Disapproval. Reasons why site plan was disapproved? \_\_\_\_\_

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\_\_\_\_\_

## Village of Schuylerville Zoning Code

☐ Performance bond required \_

Amount \$ \_\_\_\_\_

Period \_\_\_\_\_

Improvements to be covered by bond:

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Performance bond satisfied \_\_\_\_\_

**Planning Board Action on Final (62 days from public hearing or if no hearing, 62 days from date completed application)**

☐ Final Site Plan Approval

☐ Approval \_\_\_\_\_

☐ Approval with modifications: What modifications have been

required? \_\_\_\_\_

\_\_\_\_\_

☐ Disapproval. Reasons why site plan was disapproved? \_

Date Certificate of Occupancy issued \_\_\_\_\_