

# Town of Ulster

## ZONING LAW

TITLE, ENACTING CLAUSE AND PURPOSE



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ZONING  
**Chapter 190**

ZONING

ARTICLE I  
**General Provisions**

- § 190-1. Title.
- § 190-2. Authority; purpose.

ARTICLE II  
**Terminology**

- § 190-3. Word usage.
- § 190-4. Definitions.

ARTICLE III  
**Establishment of Districts**

- § 190-5. Division of town into districts; compliance with chapter required.
- § 190-6. Districts established.
- § 190-7. Zoning Map; interpretation of boundaries.

ARTICLE IV  
**Minimum Requirements; Existing Uses;  
Effect of Regulations**

- § 190-8. Minimum requirements.
- § 190-9. Existing uses; effect of regulations.

ARTICLE V  
**Use and Bulk Requirements**

- § 190-10. General requirements.
- § 190-11. Lot and Bulk Table; Summary of Permitted

## ZONING

- § 190-12. **Schedule of District Regulations.**
- § 190-12.1 **Traditional neighborhood development overlay district.**
- § 190-13. **Customary accessory uses; table reference.**
- § 190-14. **Customary accessory uses.**
- § 190-15. **Prohibited uses; restricted activities.**
- § 190-16. **Modification of bulk requirements.**
- § 190-16.1 **Adult Business Regulations**

### ARTICLE VI Supplementary Setback, Height and Use Requirements

- § 190-17. **General requirements.**
- § 190-18. **Setback requirements; exceptions.**
- § 190-19. **Measurement of setbacks.**
- § 190-20. **Corner lot and through lot setbacks.**
- § 190-21. **Permitted height exceptions.**
- § 190-22. **Front setbacks in existing residential developments.**
- § 190-23. **Spacing of buildings.**
- § 190-24. **Waiver of setbacks.**
- § 190-25. **Special permit uses; conditions and approval standards.**
- § 190-25.1 **Home Occupations in residential districts.**

### ARTICLE VII Supplementary Off-Street Parking and Loading Requirements

- § 190-26. **General requirements.**
- § 190-27. **Design Standards.**

## ZONING

§ 190-28. Schedule of off-street parking requirements.

§ 190-29. Off-street loading areas.

§ 190-29.1. Reduction of parking requirements.

§ 190-29.2. Parking Lot Design Standards.

### ARTICLE VIII Supplementary Sign Requirements

§ 190-30. Purpose; permit required; exceptions.

§ 190-31. Prohibited signs.

§ 190-32. Permit application procedure.

§ 190-33. Sign Standards.

§ 190-34. Pre-existing and nonconforming signs.

### ARTICLE IX Site Development Plan Review

§ 190-35. Site plan review requirement.

### ARTICLE X Landscaping and Environmental Requirements

§ 190-36. Adoption by Board.

§ 190-37. Landscaping, erosion and sedimentation controls.

§ 190-38. Applicability and effect of State Environmental Quality Review Act.

§ 190-39. Maintenance of landscape and screening material.

§ 190-40. Flood damage prevention requirements.

### ARTICLE XI Special Permit Uses

§ 190-41. Approval required.

§ 190-42. Application for approval; fees.

§ 190-43. Approval or denial; timetable; public hearing.

## ZONING

§ 190-44. **Filing of decision; copy.**

§ 190-45. **Appeal.**

§ 190-46. **General conditions and standards.**

### ARTICLE XII

#### **Nonresidential Nonconforming Uses and Noncomplying Bulk**

§ 190-47. **Applicability.**

§ 190-48. **General requirements and exceptions.**

### ARTICLE XIII

#### **Administration and Enforcement**

§ 190-49. **Enforcement officers; notice of violation; discontinuance of noncompliance.**

§ 190-50. **Building permits required; compliance with bulk and setback requirements.**

§ 190-51. **Application for building permit.**

§ 190-52. **Expiration of building permit.**

§ 190-53. **Certificates of compliance.**

§ 190-54. **Street excavation permit required.**

§ 190-55. **Sewer permits.**

§ 190-56. **Water permits.**

§ 190-57. **Mobile home permits or mobile home park permits.**

§ 190-58. **Junkyard operating license.**

### ARTICLE XIV

#### **Zoning Board of Appeals**

§ 190-59. **Creation; organization; Chairman; appointment; terms.**

§ 190-60. **Powers and duties.**

§ 190-61. **Rules Of Procedure.**

## ZONING

### ARTICLE XV Amendments

§ 190-62. **Power of Board to amend; procedure.**

§ 190-63. **Amendment petitions.**

§ 190-64. **Public hearing.**

§ 190-65. **Notification.**

### ARTICLE XVI Interpretation and Application

§ 190-66. **Interpretation.**

§ 190-67. **Penalties for offenses.**

§ 190-68. **Repealer.**

§ 190-69. **Table of Use Regulations & Table of Lot and Bulk Requirements.**

**[HISTORY: Adopted by the Town Board of the Town of Ulster 9-23-1991 as L.L. No. 9-1991. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Appearance tickets - See Ch. 7.

Building construction and fire prevention - See Ch. 61.

Condominium and cooperative conversions - See Ch. 67.

Fees - See Chs. 84 and A194.

Flood damage prevention - See Ch. 87.

Junkyards - See Ch. 101.

Mobile homes and travel trailers - See Ch. 114.

Noise - See Ch. 117.

Sewers - See Ch. 141.

Streets and sidewalks - See Ch. 157.

Subdivision of land - See Ch. 161.

Swimming pools - See Ch. 165.

Water - See Ch. 177.

## ZONING

§ 190-1

§ 190-2

### ARTICLE I

#### **General Provisions**

**§ 190-1. Title.**

This chapter shall be cited as the "Zoning Local Law of the Town of Ulster, New York."

**§ 190-2. Authority; purpose.**

This chapter is enacted by authority of Article 16 of the Town Law of the State of New York and §10 of the Municipal Home Rule law, to protect and promote the public health, safety and general welfare, including the following purposes:

- A. To guide growth and future development of the town.
- B. To protect the natural and manmade environment of the town, and to encourage the orderly and beneficial development of land.
- C. To protect and preserve the town's resources.
- D. To promote compatibility between the uses of both land and buildings.
- E. To afford residents and property owners reasonable expectation of future use on adjacent properties.
- F. To limit costs to the town and taxpayers resulting from unplanned and difficult-to-service development.
- G. To protect the character and integrity of established residential areas for area residents.
- H. To supplement the existing town laws and regulations which control the use of land.
- I. To promote equal opportunity for residential and commercial development
- J. To promote affordable housing.
- K. To promote and encourage the full and appropriate utilization of all properties in the town.

## ZONING

§ 190-3

§ 190-4

### ARTICLE II

**[Repealed and replaced with Local Law #2 of 2010, enacted 7-15-2010]**

#### **Terminology**

##### **§ 190-3. Word usage.**

- A. Unless the context clearly indicates otherwise, words used in present tense include future tense; words used as singular include plural; and words used in plural include singular.
- B. The words "herein" and "requirement" mean "in and of this law." "Person" includes a corporation, partnership, association, club or any other group "Shall" is always mandatory; "building" includes a structure or any part thereof, "used" or "occupied" as applied to land or building is construed to include the words "intended, arranged for or designed to be used or occupied." The "town" is the Town of Ulster in Ulster County in New York State.

##### **§ 190-4. Definitions.**

**ACCESSORY** - The term applied to a structure or use which is clearly incidental and subordinate to, and customary in connection with, the principal structure or use. It must be located on the same lot. Any accessory structure attached to a principal structure is part of the main structure for bulk requirements.

**ACCESSORY APARTMENT** - A completely independent dwelling unit with separate cooking, eating, sanitation and sleeping facilities that is either in or added to an existing single-family dwelling or in a separate accessory structure on the same lot as an existing dwelling.

**ADULT ARCADE** - An establishment where, for any form of consideration, one (1) or more motion-picture projectors, slide projectors or similar machines are available and are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. For the purposes of this chapter, "adult arcade" is included within the definition of "adult motion-picture theater."

**ADULT BOOKSTORE** - An establishment or business, whether retail or wholesale, having more than 20% of its stock in trade (recordings, books, magazines, periodicals, films, video tapes/cassettes or other audio or viewing materials) for sale or rent for viewing or use only off the premises, which stock is distinguished or characterized by its emphasis on matter depicting, describing, or relating to sexual activities or sexual anatomical areas.

**ADULT BUSINESS** - Any establishment or business involved in the dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, including but not limited to Adult Arcades, Adult Bookstores, Adult Theaters and Adult Entertainment Cabarets.

## ZONING

§ 190-4

§ 190-4

**ADULT ENTERTAINMENT CABARET** - An enclosed building or structure or portion of a building or structure used for presenting film or similar materials or performances by live persons having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

**AGRICULTURAL OPERATION** – Any management of any land for agriculture; raising of cows, horses, pigs, poultry and other livestock; horticulture or orchards; including the sale of products grown or raised directly on such land, and including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds.

**AIRPORT** - A place where aircraft can land and take off, usually equipped with hangers, facilities for refueling and repair, and various accommodations for pilots and passengers.

**ALTERATION** - Any change or rearrangement of the supporting members of an existing structure, such as bearing walls, columns, beams, girders and fire walls or any enlargement or diminution of a structure, whether horizontally or vertically, or the moving of a structure.

**ASSITED LIVING FACILITY** - Residences for the frail or frail elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services, such as recreational activities, financial services, and transportation.

**AUTOMOTIVE GARAGE AND SERVICE CENTER** - Any building or portion thereof servicing and repairing automobiles; and including as an accessory use the sale and/or installation of lubricants, tires, batteries, mufflers, and similar vehicle accessories.

**AUTOMOTIVE SALES AND SERVICE** - The use of any building, land area, or other premise principally for the display, sale, rental, or lease of new or used automobiles (but may include light trucks or vans, trailers, or recreational vehicles), and including any vehicle preparation, warranty, or repair work conducted as an accessory use.

**BED & BREAKFAST ESTABLISHMENT** - Owner occupied one-family dwelling used for providing overnight accommodations that may include a morning meal to transient lodgers, containing not more than five bedrooms for such lodgers.

**BUFFER** - An area of specified dimension extending between the property line and a permitted structure or use which shall remain in a natural state or be improved with landscape materials and fences as may be required under approval. It shall not be used or encroached upon by any activities, and it shall provide adequate separation and protection from inharmonious or incompatible uses.

**BUILDING** - Any structure having a roof supported by columns or walls and intended as a shelter, housing or enclosure for any person, animal, process, equipment, goods or materials.

## ZONING

§ 190-4

§ 190-4

**BUILDING HEIGHT** - The maximum vertical distance from the elevation of the proposed finished grade to the highest part of a flat roof and to the mean height between the eaves and ridge for a gable, hip or gambrel roof. (Refer to § 190-21.)

**BUILDING PERMIT** - Means the written authorization issued by the Town Building Inspector to an applicant to perform certain work after complying with this and other laws as required.

**BULK, NONCOMPLYING** - See “non-complying bulk”.

**CAMPGROUND** - A plot of ground on which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation and vacation purposes.

**CEMETARY** – Land used for the internment of human remains, including a burial park for earth internments, which may include a mausoleum for vault or crypt interments, operated for a not-for-profit organization.

**CERTIFICATE OF COMPLIANCE** - A written instrument issued by the Building Inspector showing compliance with this chapter as of the date of the last inspection, permitting the receiver of this certificate to occupy or use the premises.

**COLLEGE or UNIVERSITY** - An educational institution authorized by the State of New York to award associate, baccalaureate, or higher degrees.

**COMMUNITY FACILITY** - A structure or use owned and operated by a public or semipublic agency to provide a community service.

**COMPREHENSIVE PLAN** - The Town of Ulster Comprehensive Plan, prepared pursuant to § 272-a of the Town Law and adopted by the Town Board on July 2, 2007 including any amendment thereto hereafter adopted.

**CONVENIENCE STORE** - Establishments that deal in retail sales of convenience goods, primarily food products, household items, newspapers and magazines, candy and beverages, and a limited amount of freshly prepared foods such as sandwiches and salads for on or off-premises consumption and that may include the ancillary sale of gasoline and diesel for automobiles.

**CONTRACTORS STORAGE YARD** - A lot or portion of a lot or parcel used to store and maintain construction equipment and other materials and facilities customarily required in the building trade by the construction contractor.

**COVERAGE** - The percentage of the area of a lot covered by buildings and accessory structures.

**DAY CARE, ADULT** – A facility providing care for elderly and/or functionally impaired adults in a protective setting for part of a 24-hour day.

## ZONING

§ 190-4

§ 190-4

**DAY CARE, CENTER FOR CHILDREN** – A facility licensed or authorized and regulated by the State of New York Department of Social Services or other state agency having a jurisdiction where care is provided, for more than five hours per week, for three or more children away from their own homes for less than 24 hours per day in a facility which is operated for such purposes.

**DESIGN HOUR** - The measure of volume or capacity during a sixty-minute period, in order of rank for a calendar year. For the purpose of this chapter, the 30th rank-hour volume or capacity shall be deemed to be the “design hour” unless otherwise stated.

**DEVELOPMENT** - Any man-made change to improved or unimproved real estate, including but not limited to structures, excavations, commercial tree harvesting/clearing, mining, dredging, filling, grading, paving, drilling operations or placement of material or movable structures in a special flood hazard area.

**DWELLING, ATTACHED** - A one-family dwelling with ground floor outside access, attached to two or more one-family dwelling by common vertical walls.

**DWELLING, DETACHED** - A dwelling that is not attached to any other dwelling by any means.

**DWELLING, DUPLEX (TWO-FAMILY)** - A residential building on a single lot containing two single-family dwelling units totally separated from one another by an unpierced wall extending from the basement to roof.

**DWELLING, MULTIFAMILY** - A building containing four (4) or more dwelling units, including units that are located over one another.

**DWELLING, RESIDENCE-ABOVE-THE-STORE** - A dwelling unit situated above a non-residential use that is situated on the first floor of a multi-story building.

**DWELLING, SINGLE-FAMILY DETACHED** - A building containing one dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space or yards.

**DWELLING, TOWNHOUSE (SINGLE-FAMILY ATTACHED)**- A one-family dwelling in a row of at least three (3) such units in which each unit is located on a separate lot, 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.

**DWELLING, TRIPLEX (THREE-FAMILY)** - A building containing three dwelling units, each of which has direct access to the outside or to a common hall.

## ZONING

§ 190-4

§ 190-4

**DWELLING UNIT** - One or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

**EXCAVATION (COMMERCIAL) OF NATURAL RESOURCES** - The removal of stone, sand, gravel, minerals or other natural material, except topsoil incidental to an approved site plan or subdivision, for the purpose of sale or any other commercial purpose, other than that which is incidental to excavation necessary under an approved site plan.

**ELEEMOSYNARY USE** – A charitable organization.

**FAMILY** - A group of persons living together as a single not-for-profit housekeeping unit, whether or not related.

**FARMING** - A parcel of land used mainly for the production of agricultural products. The commercial keeping of livestock, including horses, cattle or poultry, is a separate use.

**FARMERS MARKET** – The seasonal selling or offering for sale at retail of vegetables or produce, flowers, orchard products, cheese, maple syrup, honey, and similar agricultural products, where the vendors are individuals who have raised the vegetables or produce and have taken the same on consignment for retail sale. Such markets shall be sponsored by a not-for-profit organization.

**FARMING OPERATION** - The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a horse boarding operation. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

**FARM STAND** – A temporary structure designed or used for the display or sale of agricultural products primarily produced on the premises upon which such stand is located.

**FENCE** - An unroofed barrier or enclosing structure, including retaining wall over three (3) feet in height.

**FLAG LOT** - A lot shaped like a flag where the road frontage is less than the required width of the property to be developed. Minimum road frontage for residential use is twenty (20) feet. The front setback shall be measured from the terminus of the flag pole where it enters the flag lot.

**FLEA MARKET** – An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public other than as allowed in a farmer's market. Flea markets are not permitted within the Town of Ulster.

## ZONING

§ 190-4

§ 190-4

**FLOODWAY** - The channel of a natural waterway and portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge the flood flow of a natural waterway.

**FLOOR AREA, NET** - The sum of the horizontal area of a structure proposed to be used as a floor, and not including basements or attics, measured from the inner faces of exterior walls.

**FLOOR AREA, GROSS** – The sum of the gross horizontal areas of all enclosed floors of a building, including cellars, basements, mezzanines, penthouses, corridors, lobbies from the exterior face of exterior walls, or from the centerline of a common wall separating two buildings, but excluding any space with a floor-to-ceiling height of less than 6 feet 6 inches.

**FOOT-CANDLE** – A foot-candle is a quantitative unit measuring the amount of light falling on a surface, all points of which are one foot from a uniform point source of one candle.

**FORESTRY OPERATIONS** – The operation of timber tracts, sawmills, tree farms, forest nurseries, the gathering of forest products, or the performing of forest services.

**FORESTRY** - The operation of timber tracts, tree farms or commercial logging.

**FRATERNAL ORGANIZATION** – A group of people formally organized for a common interest, usually cultural, religious, or entertainment, with regular meetings, rituals, and formal membership requirements.

**FRONTAGE** - The linear horizontal distance measured along the full length of a street line abutting the lot.

**FULL CUT-OFF FIXTURE** – A lighting fixture constructed so that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below an imaginary horizontal plane passing through the lowest point on the fixtures from which light is emitted. Any structural part of the light fixture providing this shielding must be permanently affixed.

**GASOLINE SERVICE STATION aka AUTOMOTIVE GASOLINE SALES** - A business providing for the sale of gasoline which may include automotive repairs or a convenience store.

**GREEN SPACE** - That area of a lot, expressed as a percentage, which is to be kept in a vegetative or landscaped state, including gardens, ponds, floodway, wetlands, streams, shrub beds, lawns, woods or fields, in order to enhance the project both visually and environmentally.

**GROUP HOME** – A non-profit or for-profit boarding home for sheltered care of persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation.

## ZONING

§ 190-4

§ 190-4

**HEALTH CLUB** - An establishment that provides facilities for aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas, showers, massage rooms and lockers.

**HOME OCCUPATION** - An activity carried out for gain by a resident conducted entirely within the residence in which the resident resides that is clearly incidental and secondary to the primary use of the premises for residential purposes.

**HOTEL or MOTEL** – A facility offering transient lodging accommodations to the general public and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services and recreational facilities. In a hotel rooms are accessed from an interior hallway wherein rooms in a motels have access to an exterior sidewalk or balcony.

**INDUSTRY, HEAVY** – Industry not classified under “light industry”, including primary production of lumber and wood products and mining with processing, but excluding animal slaughtering and rendering plants; incineration activities; smelters; ore refining; industrial kilns with input of over ten (10) MBTU's per hour; paper mills; and chemicals, petrochemicals and allied products which are prohibited.

**INDUSTRY, LIGHT** – A use engaged in the fabrication, predominantly from previously prepared materials, of finished products or parts, including processing, assembly, treatment, packaging, and incidental storage, sales, and distribution of such products, but excluding manufacturing, recycling, refuse and scrap metal facilities, waste-to-energy facilities and asphalt plants.

**INSTITUTIONAL USE** – A nonprofit or public use, such as a library, hospital, or government-owned or –operated building, structure, or land used for public purpose.

**JUNKYARD** - An area of land, with or without buildings, used for the depositing, collecting or storing, outside of a completely enclosed building, of used or discarded materials, such as wastepaper, rags or scrap material or used building materials, house furnishings, machinery, vehicles or their parts, and processing salvage, for sale or other use or disposition of the same. Outside storage of more than one (1) wrecked or broken down vehicle, or parts there from, for two (2) or more weeks in a 6-month period constitutes a “junkyard”. “Junkyards” require a special permit and annual license under § 190-25G.

**KENNEL** - A commercial place or establishment for the care, boarding and/or breeding of four or more dogs.

**LIGHT TRESPASS** - Light produced by a fixture that illuminates a surface beyond the boundaries of the property on which it is located.

## ZONING

§ 190-4

§ 190-4

**LIVESTOCK KEEPING** - The keeping, fattening or breeding of various forms of farm, ranch and preserve animals including but not limited to alpacas, bison, buffalo, dairy and beef cattle, deer, equines, goats, hogs, llamas, poultry, rabbits, ratites, sheep and other farm animals raised as a source of income or as a novelty.

**LOT** - A designated parcel, tract or area of land established by a filed plat or subdivision or as otherwise permitted by law.

**LOT AREA** - The total horizontal area included within the property lines of a lot or multiple lots under common ownership restricted from separate conveyance, excluding any rights-of-way or other reservation. Underwater land may account for up to twenty percent (20%) of the required minimum "lot area" pursuant to this chapter. Land in a floodway [see (FHBM) Floodway Map latest revision] or regulated wetland [see Department of Environmental Conservation (DEC) Regulatory Wetland Map, latest edition] shall not constitute "lot area" except for farming, the keeping of livestock and green space.

**LOT, CORNER** - A lot at the junction of or abutting on two (2) or more intersecting streets where the interior angle of intersection does not exceed one hundred thirty-five degrees (135'). A lot abutting a curved street shall be deemed a "corner lot" if the tangents to the curve at the Points of the intersection of the side lots with the street line at an interior angle of less than one hundred thirty-five degrees (135').

**LOT WIDTH** – The minimum horizontal distance between the side lot lines measured at right angles to its depth, parallel to the front line, at the building line.

**MANUFACTURING** - The use engaged in the preparation and assembly, predominantly from previously prepared materials, of finished products, including packaging, storage and sales.

**MANUFACTURED HOME** - A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling unit when affixed to a permanent foundation or placed on a concrete slab and connected to the required utilities. Manufactured homes are built to the U.S. Department of Housing & Urban Development standards.

**MANUFACTURED HOME PARK** - A site with required improvements and utilities for long-term parking of mobile homes as dwelling units.

**MARINA** - A facility for the storing, servicing, fueling, berthing, and securing of boats and which may include eating, sleeping, and retail facilities for owners, crews and guests.

**MINING** – the extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for

## ZONING

§ 190-4

§ 190-4

commercial, industrial, or construction use; exclusive of manufacturing processes, at the mine location; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. Mining shall not include the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.

**MODULAR HOME** – A home that is constructed to New York State Building Code standards, partially assembled in a factory and transported to a home site in a minimum of two sections, each of which are transported to building site separately, with installation of heating system and application of siding coming after erection of the home, and which is indistinguishable in appearance from conventionally built homes.

**MUSEUM** – A permanent facility in the service of society and of its development, open to the public, which acquires, conserves, researches, communicates and exhibits the heritage of humanity and its environment, for the purposes of education, study, and enjoyment.

**NONCOMPLYING BULK** - That part of a structure or land use that does not comply with one (1) or more of the bulk requirements herein.

**NONCONFORMING USE** - Any use of structures or land, which does not conform to the full intent and extent of this chapter.

**NURSERY SCHOOLS** - A private school or facility designed to provide daytime care or instruction for more than one (1) nonresident, preschool child, unrelated to the provider.

**NURSERY, RETAIL** - The growing, cultivation, storage, and sale of garden plants, flowers, trees, and shrubs and fertilizers as well as the sale of garden tools and similar ancillary and accessory products to the general public.

**NURSERY, WHOLESALE** - The growing, cultivation, storage, and sale of garden plants, flowers, trees, and shrubs to landscapers, developers, builders, and retail nurseries.

**OFFICE** – A building used primarily for conduction the affairs of a business, profession, service, industry, or government, or like activity.

**OFFICE COMPLEX** - A development on a tract of land that contains a number of separate office buildings, with accessory and supporting services, and open space designed, planned, constructed, and managed on an integrated and coordinated basis.

**OFFICIAL MAP** - The map established by the Town Board pursuant to § 270 of Town Law, showing streets, highways, parks and drainage systems, both existing and proposed.

## ZONING

§ 190-4

§ 190-4

**PHOTOMETRIC PLOT** - A photometric plot is a diagram depicting the location of all light poles and building mounted lighting fixtures that contribute to area lighting, and numeric foot-candle values for maintained lighting levels which may be represented in a point-by-point grid or an iso-lumen plot depicting contour lines of equal light level.

**PRINCIPAL USE OR STRUCTURE** - The primary use of land, as distinguished from a secondary or accessory use, and the building or structures in which such use is conducted.

**RECREATION FACILITY** - A recreational facility operated as a business and open to the public that may be conducted entirely indoors such as a roller skating rink, video arcade or bowling alley or partially out-of-doors such as miniature golf course, golf driving ranges, or batting cages.

**RECREATIONAL VEHICLE** - A vehicular-type portable structure without permanent foundation which can be towed, hauled or driven and is primarily designed as temporary living accommodation for recreational camping and travel use, and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes. A "recreational vehicle" is not a mobile home as defined herein.

**RECYCLING YARD** - A facility upon which used materials are separated and sorted for shipment to a manufacturing facility where these materials are transformed into new products. A recycling yard may involve the mechanical transformation of materials through crushing, shredding or compacting but the chemical transformation of materials shall be prohibited.

**RESIDENTIAL TREATMENT CENTER** - A facility designed to house, treat, and educate children or young adults within an environment that is supervised 24 hours a day, 7 days a week.

**RESTAURANT** - Any establishment primarily offering sit-down dining for sale and consumption of food and drink on-premises.

**RESTAURANT, TAKE OUT** - Any establishment primarily offering, for sale, take-out food and drink for consumption off-premises including commercial food stands.

**RETAIL BUSINESS** - A use devoted principally to the sale of goods or commodities in small quantities directly to consumers.

**RIDING ACADEMY** - An establishment where horses are boarded and cared for and where instruction in riding, jumping, and showing is offered and where horses may be hired for riding.

**SCHOOL OF LEARNING** - Any building or part thereof that is designed, constructed, or used for education or instruction within a classroom environment in any branch of knowledge including, but limited to, business and trade schools, schools of art, dance theater and the martial arts as well as academic institutions.

## ZONING

§ 190-4

§ 190-4

### SCREEN or SCREENING:

- A. A strip at least ten (10) feet wide, densely planted or having natural growth, with shrubs or trees at least four (4) feet tall at the time of planting, of a type that will form a year-round dense screen at least six (6) feet high within three (3) years.
- B. An opaque wall or barrier or uniformly painted fence at least six (6) feet high.
- C. Any other island, barrier, emplacement, wall, fence, trees, planting or other artificial or natural dividing strip which is part of a conditional approval for a site plan or special permit use.

**SELF-STORAGE FACILITY** – A public facility for storage of personal, household or business property which is serviced by the owner of the stored property or an agent of the owner for periods of at least 30 days or greater. The term "self-storage facility" includes all similar uses and terms but shall not be construed to mean warehouse.

**SENIOR CITIZEN HOUSING** - A building or group of buildings, whether detached or connected, containing dwellings that are designed and operated for occupancy by persons who are elderly or disabled as defined under applicable state or federal programs designed for such persons of at least 62 years of age if no such program is applicable. Such housing may include common areas in multifamily dwellings owned and managed by a single management entity, together with normal and customary ancillary facilities or services for use by older persons.

**SERVICE BUSINESS** – A use devoted principally to the sale of services directly to consumers.

**SETBACK** - The minimum distance between a principal structure or use and the property line or street line of the lot.

**SETBACK, FRONT** - The minimum distance set back from the front property line or street line, whichever is greater.

**SETBACK, REAR** - The setback to the rear lot line.

**SETBACK, SIDE** - The setback to any property line other than a front or rear lot line.

**SEWER SERVICE, APPROVED** - The provision of a central sewage disposal system designed and constructed to standards approved by the Town Board for municipally operated systems. It may be privately owned and operated, provided that an irrevocable offer of dedication is made to the town in the event that public operation is required by corporate default.

**SHIELDED, SHIELDING** – Components that serve to obscure direct view of the light source, or to prevent skyglow and light trespass, and may be either opaque or translucent. Shielding

## ZONING

§ 190-4

§ 190-4

includes components internal and/or external to the fixture. Internal shielding includes reflective hoods, louvers, refractors, diffusers (either surrounding the lamp or as part of the enclosure, such as patterned or opal glass). External shielding includes attached opaque shields, architectural elements, and landscaping elements.

**SHOPPING CENTER** – A group of commercial establishments planned, constructed, and managed as a total entity, with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

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

- (1) **ACCESSORY SIGN**- Any sign related to a business or profession conducted or to a commodity or service sold or offered upon the premises where such sign is located.
- (2) **ANIMATED OR INTERMITTENT SIGN** – Any sign that uses movement or change of lighting to depict action or create special effect or scene.
- (3) **A-FRAME** - A specific type of portable sign which is typically constructed with two opposing faces, connected at the top and separated at the bottom, sometimes referred to as a "sandwich board".
- (4) **AWNING** - a roof-like covering of canvass, fiberglass or other material attached to a metal or other frame and supported entirely by a building or structure.
- (5) **BANNER**- A temporary sign composed of lightweight material either enclosed or not enclosed in a rigid frame, secured or mounted so as to allow movement of the sign caused by movement of the atmosphere.
- (6) **BILLBOARD (OFF PREMISES ADVERTISING)** -Any outdoor advertising board medium, structure or device which advertises, directs or calls attention to any business, article, substance, service or anything which is painted, printed, pasted or affixed to any building, structure, wall, fence, pole, railing, natural object or structure of any kind on real property or upon the ground itself and which advertises services, products or commodities not available on the premises on which the "billboard" is located.

## ZONING

§ 190-4

§ 190-4

- (7) CANOPY SIGN – Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.
- (8) FREESTANDING SIGN - Those signs that are affixed to the ground and not attached to the building.
- (9) ICONIC SIGN - A sign which is a traditionally accepted pictorial symbol conveying the nature of the business, normally constructed in heavy relief or is three-dimensional.
- (10) INTERIOR SIGN - Any sign, except address numbers that are affixed to or painted on the interior of a window or door or located within three feet of the inside face of the window or a door, which sign is designed to be visible from the exterior of the window or door.
- (11) MOBILE SIGN - A sign not permanently affixed to a structure or to the ground or designed or intended to be moved from one location to another including signs on wheels or trailers, sandwich boards and similar non-permanent signs. (See also "temporary sign").
- (12) MARQUEE SIGN – A sign of permanent construction that projects from a wall of a building above the entrance projecting from and supported by the building.
- (13) MONUMENT SIGN – A freestanding sign either affixed to a base on the ground or mounted on short poles no greater than two (2) feet high.
- (14) PENNANT – Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
- (15) PERMANENT SIGN – Any sign intended and installed to be permanently in place at a given location by means of suitable fastening to a building or to a structure specifically erected to hold such sign (s) or to the ground.
- (16) POLE SIGN – A freestanding sign that is mounted on a pole or other support so that the bottom edge of the sign is five (5) feet or more above grade.
- (17) PROJECTING SIGN - A sign which is affixed to an exterior wall of a structure extending perpendicular or at an angle of more than 30' to the wall plane.
- (18) ROOF SIGN - A sign which is erected, constructed or maintained on, partly above or as part of the roof or parapet of any building.
- (19) SANDWICH BOARD - (see A-FRAME)

## ZONING

§ 190-4

§ 190-4

- (20) TEMPORARY SIGN - TEMPORARY SIGN -A sign which is designed to advertise or announce a particular event or series of events, to solicit political support or to announce the availability for sale of a particular item or items which will be available for a limited period.
- (21) WALL SIGN - A sign which is affixed to or painted on an exterior wall of a structure and in the same general plane as the wall.
- (22) WINDOW SIGN – A sign permanently installed on a window for purposes of viewing from the outside of the premises. This term does not include merchandise located in the window.

SKYGLOW - The adverse effect of brightening the night sky due to man-made lighting, caused either by direct upward light emission, light reflected off illuminated surfaces, or scattering due to haze.

STREET, DEAD-END - A street or a portion of a street with only one (1) vehicular traffic access.

STREET LINE - The property or reservation line between the street and a lot. The reservation line is established at twenty-five (25) feet from the centerline of the travel way of a local street and at thirty (30) feet from the centerline of state and county roads, or other major road, unless the property line is at a greater distance.

STREET or ROAD - A street, improved to the satisfaction of the town or Planning Board, which is one (1) of the following: an existing town, county or state highway; a street shown on an approved subdivision final plat; or a street shown on an Official Map of the town, or is approved by the Town Board under § 280-a of the Town Law.

STREET or ROAD, ARTERIAL - A street that connects and distributes traffic to and from major roads, with access control, channelized intersections and restricted parking.

STREET or ROAD, LOCAL - A street that is intended to serve primarily as an access to abutting properties.

STREET or ROAD, MAJOR - A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to an arterial road. A fully improved "major road" is one that is complete both by virtue of required right-of-way and by physical construction to the standard of a "major road." All state or county roads are "major roads" for establishing a street line.

STRUCTURE - Anything constructed with a fixed location on the ground or attached to something already in a fixed location.

## ZONING

§ 190-4

§ 190-4

**SUBDIVISION** - The division of any parcel of land into two (2) or more sections with or without streets and includes resubdivision.

**SWIMMING POOL** - Any constructed body of water or structure to contain water volume exceeding thirty-five (35) cubic feet, and related equipment pertaining thereto, whether or not operated for gain.

**THEATER** - A building or part of a building used to show motion pictures or for drama, dance, musical or other live performances.

**THROUGH LOT** - A lot which is not a corner lot and which has two street lines.

**UNDERWATER** - Land is "underwater" where it is so depicted in the United States Geological Map of the town or where it is within channel lines of a classified stream (DEC); or where the land is classified as "muck soils" by the United States Soil Conservation Service based on field investigations. Lands submerged or to be submerged by artificial impoundments are deemed "underwater" under this chapter.

**VETERINARIAN CLINIC** - A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to hospital use.

**VINEYARD** - A plantation or farmland devoted to cultivating grape-bearing vines, grown mainly for winemaking, but also for raisins, table grapes and non-alcoholic grape juice.

**WAREHOUSE** - A building used primarily for the storage of goods and materials other than self-storage as defined herein.

**WATER SERVICE, APPROVED** - The provision of a central water supply system designed and constructed to standards approved by the Town Board for municipally operated systems. Such systems may be privately owned and operated, provided that an irrevocable offer of dedication is made to the town should public operation be required due to corporate default.

**WAYFINDING SYSTEM** - A comprehensive and coordinated signage system that provides coherent regulatory and directional signs.

- A. Unless the context clearly indicates otherwise, words used in present tense include future tense; words used as singular include plural; and words used in plural include singular.
- B. The words "herein" and "requirement" mean "in and of this law." "Person" includes a corporation, partnership, association, club or any other group. "Shall" is always mandatory; "building" includes a structure or any part thereof, "used" or "occupied" as applied to land or building is construed to include the words

ZONING

§ 190-4

§ 190-6

"intended, arranged for or designed to be used or occupied." The "town" is the Town of Ulster in Ulster County in New York State.

ARTICLE III  
Establishment of Districts

§ 190-5. Division of town into districts; compliance with chapter required.

For the purposes listed in Article 16 of New York State Town Law, except as may be superseded pursuant to § 10 of Municipal Home Rule Law, the Town of Ulster, New York, is divided into zone districts, separating residential and nonresidential uses. Within each district, and use, buildings and density of development shall comply with this chapter. This includes the requirement for building permits and certificates of compliance; approval of site development plans on nonresidential uses; approval of special permits for nonresidential uses as listed; approval of sign permits for commercial signs; and renewals of permits.

§ 190-6. Districts established.

There is hereby established and the town is divided into zone districts as listed below:

<b>SYMBOL</b>	<b>TITLE</b>
R-60	Residence District - 60,000 square foot minimum lot areas for single-family dwellings by right (other uses as specified)
R-30	Residence District - 30,000 square foot minimum lot areas for single-family dwellings by right (other uses as specified)
R-10	Residence District - 10,000 square foot minimum lot areas for single-family dwellings by right (other uses as specified)
LC	Local Commercial District - Uses as specified
HC	Highway Commercial District - Uses as specified
RC	Regional Commercial District - Uses as specified
OM	Office and Manufacturing District - Uses as specified
I	Industrial District - Uses as specified
TNDOD	Traditional Neighborhood Development Overlay District

## ZONING

§ 190-7

§ 190-7

### **§ 190-7. Zoning Map; interpretation of boundaries.**

- A. Establishment. The areas and boundaries of the zone districts are established as shown on a map entitled the "Zoning Map of the Town of Ulster, New York," dated August 20, 1991, certified by the Town Clerk and maintained and filed in the Clerk's office, and referred to as the "Zoning Map." This map is incorporated by reference and declared to be a part of this chapter.
- B. Interpretation of district boundaries. Where uncertainty exists about the physical location of any boundary of the districts shown on the Zoning Map, the Zoning Board of Appeals shall determine the location in accordance with the following rules:
- (1) Boundaries shown as approximately following the center line of streets, highways or rights-of-way, follow such lines.
  - (2) Boundaries shown as approximately following platted lot lines (Ulster County Real Property Service Tax Map), follow such lines.
  - (3) Boundaries shown following town limits follow such.
  - (4) Boundaries shown following rail lines are to be midway between the main tracks.
  - (5) Boundaries shown following shorelines shall follow such shorelines even when naturally moved. When shown following center of a waterway then boundaries shall follow such center line.
  - (6) Boundaries shown parallel to or as extension of the features listed above shall be so construed. Distances not stated on a map are determined by the map scale.
  - (7) Where physical or cultural features existing on the ground differ from those shown on the map, the Zoning Board of Appeals shall interpret the boundaries.

ZONING

§ 190-8

§ 190-9

ARTICLE IV

**Minimum Requirements; Existing Uses;  
Effect of Regulations**

**§ 190-8. Minimum requirements.**

This chapter states the minimum requirements, adopted for the promotion of the public health, safety and general welfare. Site plan approvals and building permits granted under prior authority shall have full force and effect, except that any subsequent amendments shall comply with this chapter.

**§ 190-9. Existing uses; effect of regulations.**

A. Bill of Rights for existing uses and structures. The Town Board hereby establishes a Bill of Rights for all existing uses and structures in any zone. Zoning prevents incompatible uses which destroy town residents' peaceful enjoyment of property. Zoning preserves all property values and recognizes the special status under law of the single-family dwelling. To that end:

- (1) Existing single-family residences are always conforming uses in all districts.
- (2) Any structure which is damaged or destroyed may be rebuilt and restored to its original dimensions as a matter of right. A building permit would be required.
- (3) Existing single-family residences may be enlarged or extended subject only to the setback requirements of this chapter.
- (4) An existing single-family residence and its accessory structures on an existing lot with an area or width less than that required in the district in which it is located may be added to or changed, subject only to the setbacks for that district. See also § 190-48C. [**Amended 5-17-1993 by L.L. No. 3-1993**]
- (5) All existing uses and structures will be allowed to continue in all districts.

B. Following the effective date of this chapter, the following shall apply:

- (1) No building or structure shall be erected or enlarged, nor shall any land or building be used, designed or arranged to be used, for any purpose, in any manner, except in complete compliance with this chapter.

## ZONING

§ 190-9

§ 190-11

- (2) A setback for any building or use cannot be considered as setback for any other building or use on the same or any other lot,
- (3) No lot shall be formed from part of a lot already occupied by a building or use unless such building or use, all setbacks and open spaces and the remaining lot comply with all requirements prescribed by this chapter and with the subdivision regulations. (1)
- (4) Nothing contained in this chapter shall require any change in the plans, construction or designed use of a building complying with local laws in force prior to this chapter if a signed site plan has been filed with the Town Clerk or if a building permit or certificate of occupancy was duly issued prior to the effective date of this chapter and has not expired or been revoked.
- (5) All structures having a valid certificate of occupancy or all lawfully existing uses are conforming with this chapter. All structures constructed prior to the effective date of the State Building Construction Code (September 1, 1967) do not require certificates of occupancy.
- (6) No building permit or certificate of compliance shall be granted for any new or altered use unless the Building inspector shall find that the use shall conform to all requirements of the chapter, except as noted above.

### ARTICLE V

#### Use and Bulk Requirements

#### § 190-10. General requirements.

The general requirements affecting the use of buildings, structures and land are established and set forth in this Article, The requirements for bulk and arrangement of buildings and structures (i.e., lot area, setbacks and height, etc.) and the density of residential development and of materials and equipment occupying land in connection with nonbuilding or open uses are established and set forth by this chapter.

#### § 190-11. Lot and Bulk Table; Summary of Permitted Uses.

- A. The Lot and Bulk Table and the Summary of Permitted Uses are established and are part of this chapter.(2)

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(1) Editor's Note: See Ch.161, Subdivision of Land.

(2) Editor's Note: Said Table and Summary are included at the end of this chapter.

## ZONING

§ 190-11

§ 190-11

### B. Instructions for use of said table and summary.

- (1) The Lot and Bulk Table has headings for each district. Every use must comply with minimum lot dimensions, minimum green space percentage, minimum setbacks, maximum building heights and maximum building lot coverage percentage.
- (2) The Summary of Permitted Uses restricts uses to the certain districts, which are identified on the official Zoning Map. (3)
- (3) The uses identified in the Summary of Permitted Uses are exclusive. No other uses are permitted without a zoning change. In addition, a use permitted in the Summary of Permitted Uses which violates any provision of § 190-15, Prohibited uses; restricted activities, is also prohibited. Section 190-15 has precedence over said summary.

### § 190-12. Schedule of District Regulations.

The following schedules are incorporated by reference: R-10, R-30, R-60, LC, HC, RC, OM and I Districts . (4)

#### §190-12.1. TNDOD – Traditional Neighborhood Development Overlay District. [Local Law #5, enacted 7-6-2009]

In the TNDOD, Traditional Neighborhood Development Overlay District, the following regulations will apply.

#### A. District Intent and General Purpose.

- (1) The Traditional Neighborhood Development Overlay District (TNDOD) is hereby established to encourage and facilitate redevelopment and adaptive reuse of the former “Tilcon Mining” property which extends from the City of Kingston into the Town of Ulster along the Hudson River waterfront to the hamlet of East Kingston. Approximately 163 acres of the 508 acre site are located in the Town of Ulster.
- (2) These properties have been analyzed and considered as part of various waterfront planning efforts conducted by the City including, the City’s Local Waterfront Revitalization Program (LWRP)(1992) and the City’s Waterfront Development Implementation Plan (2000). In response to contemporaneous development proposals, the City has also conducted

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(3) Editor's Note: Said Zoning Map is on file in the office of the Town Clerk.

(4) Editor's Note: Said schedules are on file in the office of the Town Clerk

## ZONING

§190-12.1

§ 190-12.1

more focused planning analyses of these properties. This effort has included application of the policies and principles contained in the waterfront planning studies recited above to various specific development scenarios and the conduct of detailed environmental impact assessment of those development scenarios pursuant to the requirements of the New York State Environmental Quality Review (SEQR) Act.

- (3) The result of these planning efforts is the Town and City's joint desire to create the opportunity for Traditional Neighborhood development at these locations that is consistent with the character and history of the City and the hamlet of East Kingston. Development of traditional neighborhoods along the riverfront will respect its natural resources and provide attractive, diverse, walkable and culturally vibrant communities with strong linkages to the rest of the urban area. The Town finds that proceeding in this manner constitutes good planning and is consistent with the Town's Comprehensive Plan adopted on July 2, 2007, and with the Town's goals and objectives as a Hudson River Greenway community and furthers the public health, safety and welfare of existing and future residents of the Town.
- (4) The TNDOD is intended to provide an option to development under the existing underlying zoning districts. The standards and procedures set forth for the TNDOD in this Section are intended to override and replace standards and procedures set forth elsewhere in this chapter unless such standards and procedures are specifically referenced or incorporated herein.
- (5) This law is not intended to affect such uses as are allowed under the Town of Ulster Zoning law or any other law of the municipality, the State of New York or the United States of America as of the date of its adoption with respect to the area of a certain easement granted by Kingston Landing Development LLC to Tilcon, Inc. and recorded in the office of the Clerk of Ulster County at Liber 4109 at page 30; nor is this local law to be deemed to be an approval by the Town of any such use as is contemplated by the terms of said easement, it being the intention of the Town in adopting this law, that the rights of the parties to said easement and the rights of the Town with respect to the activities contemplated by said easement be unaffected hereby.

- B. Specific Purposes. The TNDOD is intended to serve the following specific purposes:

## ZONING

§190-12.1

§ 190-12.1

- (1) Encourage innovative, traditional neighborhood development which consists of compact, mixed-use neighborhoods where residential, commercial and civic buildings are within close proximity to each other and incorporates the principals set forth in Section 190-12.1.G.(6) below.
  - (2) Create pedestrian oriented neighborhoods for a diverse population to live, work, learn and play.
  - (3) Provide for the reclamation, redevelopment and/or adaptive reuse of former industrial sites.
  - (4) Strengthen the Town of Ulster's economic base.
  - (5) Facilitate and enhance meaningful public access to the Hudson River waterfront lands.
  - (6) Promote the preservation of large natural features such as woodlands and wetlands and creation of public open spaces within individual neighborhoods.
  - (7) Preserve and protect significant views to and from development sites.
  - (8) Encourage the incorporation of historic and civic elements into neighborhood design and build upon the Town's historical and architectural heritage.
  - (9) Encourage the provision and/or upgrade of necessary infrastructure resources relating to sewer, water, drainage and parking to facilitate development and improve the natural environment.
  - (10) Provision of housing opportunities for moderate income families and individuals including municipal employees, first time home owners and senior citizens.
- C. Applicability. This District applies to that portion of the Town of Ulster's waterfront and adjoining upland areas comprising the former Tilcon Mining property. The precise District boundaries are designated on the official Town of Ulster Zoning Map.

## ZONING

§190-12.1

§ 190-12.1

### D. Permitted Uses

Uses Permitted by Right: A building may be erected, reconstructed, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right, subject to the conditions established.

- (1) Residential housing, which may be owner occupied, operated as a rental property, or a combination of owner-occupied and rental, and, if offered for sale, to be owned in fee simple, condominium, cooperative or other forms of ownership, which housing may include any of the following, or any combination thereof.
  - (a) Dwellings: single family, two family and multiple family including Townhouses, studio and residential apartment units.
  - (b) Combination building: A building containing a combination of two or more dwelling unit types, which may include, without limitation, single family attached, townhouses, two story apartments, any of which may be arranged beside, above, or under, other types of unit types.
  - (c) Mixed use building: a building that combines one or more dwelling unit types permitted herein, including, without limitation, single family attached, townhouses and apartments, in combination with non-residential uses, which may include any or all non-residential use types permitted herein.
- (2) Art galleries, workshops or retail shops associated with arts, crafts or fine arts.
- (3) Live-Work facilities unit.
- (4) Restaurants and drinking establishments.
- (5) Health club; indoor recreation facility; outdoor recreation opportunities both public and private.
- (6) Hotels, conference centers, banquet facilities, bed & breakfast establishments.
- (7) Office, Business Office, Professional Office.
- (8) Personal Service business.

## ZONING

§190-12.1

§ 190-12.1

- (9) Theatres, concert halls, cinemas, museums.
  - (10) Cultural and educational institutions and facilities and places of religious worship.
  - (11) Retail and service uses typically providing goods and services to the immediate neighborhood, including, without limitation, groceries, specialty foods, bakeries, banks, delicatessens, laundromat/drycleaner and personal services.
- E. Special Permit Uses: The following uses are subject to issuance of a special permit by the Planning Board in accordance with the provisions of §190-25 of this chapter:
- (1) Annual membership clubs such as tennis, marinas or swimming clubs, incorporated pursuant to the provisions of the Not-For-Profit Corporation Law of the State of New York, catering exclusively to members and their guests and private playgrounds, swimming pools, tennis courts and recreation buildings not conducted as business enterprises. Such clubs shall not contain transient or permanent dwelling units.
  - (2) Mass transit. Historic and/or alternative modes of transport; structures that facilitate public access; and are set back from the waterfront.
  - (3) Flooding and erosion protective structures.
  - (4) Structures needed for public educational, recreational activities and boat launches.
- D. Accessory Uses: Accessory Uses shall be limited to the following:
- (1) Home occupations subject to the provisions of §190-14.A.
- E. Subdivisions: Portions of the TNDOD site may be subdivided upon approval by the Planning Board, in accordance with Chapter 161, for the purposes set forth below. Any parcels created by such subdivision shall be subject to compliance with all provisions of this section and the approved Regulating Design Manual:
- (1) Subdivision to create individual lots for single family homes, townhouses, multi-family housing, non-residential uses, parks and/or open space.
  - (2) Subdivision to create blocks or sections for future development which may be further subdivided for the purposes set forth in item (1) above.

## ZONING

§190-12.1

§ 190-12.1

### F. Provisions for Moderate Income Housing

In any TNDOD, at least 10% of all housing units shall be designated as moderate income housing in accord with the definitions and standards contained herein.

#### (1) Standards

- (a) All moderate income housing units shall be physically integrated into the design of the development. Each housing unit shall be constructed to the same quality standards as market-rate units. The exterior finishes shall be indistinguishable from all other units. The developer may, however, substitute different fixtures, appliances and interior finishes where such substitutions would not adversely impact the livability or energy efficiency of the unit.
- (b) Moderate income housing units shall generally be distributed throughout the development in the same proportion as other housing units. The Planning Board may use discretion in reviewing and approving distribution of units in consideration of the market objectives of the Applicant.
- (c) To be eligible to purchase or rent a moderate income housing unit, the household's aggregate annual income must be between 80% and 120% of the Ulster County median family income for a family of a particular size as determined annually by the United States Department of Housing and Urban Development (HUD).

#### (2) Housing Plan

Prior to the initial application for approval of a subdivision, site plan or special permit within an approved TNDOD, the applicant shall submit a proposed Housing Plan to the Planning Board that demonstrates how the following objectives will be achieved:

- (a) Among income-eligible households, preference to purchase or rent moderate income housing units shall be given to the following types of households in an order deemed appropriate by the Planning Board.

[1] Employees of the Town of Ulster, City of Kingston, or Kingston Consolidated School District.

## ZONING

§190-12.1

§ 190-12.1

- [2] Volunteer members of the Ulster or Kingston Fire Department or First Aid and Rescue Squads.
  - [3] Elderly (62 or older) or disabled residents of the Town of Ulster and City of Kingston.
  - [4] Honorably discharged US veterans who are residents of the Town of Ulster or City of Kingston.
  - [5] All other residents of the Town of Ulster or City of Kingston.
- (b) The Housing Plan shall include procedures and regulations regarding the following:
- [1] Methods to determine sale and rental prices for moderate income units.
  - [2] Procedures to regulate resale prices of moderate income units.
  - [3] Proposed phasing of moderate income units in relation to phasing of the total development.
  - [4] Use of any other procedures deemed appropriate to comply with the intent of this section.
- (3) Approval
- (a) The Housing Plan shall be approved by the Planning Board, which may request recommendation from the City of Kingston Community Development Agency or similar housing agency, prior to approval of any site plan, subdivision or special permit within the TNDOD.
  - (b) The Planning Board shall include mention of such Housing Plan in the notice of any required public hearing on the application.
  - (c) As part of any approval of the Housing Plan, the Planning Board may require modifications to such Housing Plan to further the intent of this section.

## ZONING

§190-12.1

§ 190-12.1

### (2) Administration

The Town Board shall designate a qualified agency or individual to administer the moderate income housing program and perform the following duties:

- (a) Accept and review applications.
- (b) Maintain eligibility priority list, annually certify and re-certify applicants;
- (c) Establish lottery procedures for selecting applicants that have equal priority;
- (d) Recommend annual maximum income limits; rental prices; resale values;
- (e) Review certification from owner and lessors of rental units certifying that units are occupied by eligible families;
- (f) Review all deed restrictions for moderate income units;
- (g) Review all lease terms for moderate income units, and
- (h) Promulgate rules and regulations as necessary.

### G. Application for Use of the Traditional Neighborhood Development Provisions.

- (1) Any property owner within the TNDOD may apply to the Town Board for use of the Traditional Neighborhood Development overlay provisions as an alternative to the uses and development standards permitted in the underlying districts, in accordance with the standards and procedures set forth herein. Such application shall be referred to the Town Planning Board for review and recommendations prior to action by the Town Board.
- (2) Each application for use of the Traditional Neighborhood Development provisions be accompanied by a preliminary Regulating Design Manual, subject to approval by the Planning Board, which sets forth the requirements for density, bulk, height, parking, architectural, landscaping, and other design standards to be applied in the proposed traditional neighborhood development.

## ZONING

§190-12.1

§ 190-12.1

### H. Criteria For Approval of a Traditional Neighborhood Development Design Plan.

In determining whether or not to approve use of the Traditional Neighborhood Development provisions, in accord with the procedures set forth in Paragraph G. below, the Town Board shall consider the extent to which, the plan meets the following criteria.

- (1) Conforms to the applicable purposes and objectives of the Towns Zoning Law.
- (2) Conforms to the applicable policies and purposes of the Town's adopted Comprehensive Plan.
- (3) Conforms to the intent and specific purposes of this section.
- (4) Contains a sufficient amount of acreage to allow for the creation of a Traditional Neighborhood Development that incorporates the Traditional Neighborhood Design principles listed below, but in no event less than 25 acres.
- (5) Contains residential and non residential densities that are sufficient to create Traditional Neighborhood Development and neighborhoods while at the same time respecting the natural features and environmental sensitivity of the site, but in no event more than 10 dwelling units per gross acre allocated for residential use or a floor area ratio (FAR) of more than 2.0 for lands allocated for non-residential use.
- (6) Incorporates accepted Traditional Neighborhood Design principles with respect to the roadway system, proposed land uses, the open space system and the scale and style of the building elements. For purposes of this provision, Traditional Neighborhood Design principles shall include:
  - (a) Provision of mixed use neighborhoods that are designed and sized to be walkable.
  - (b) A discernible center within each mixed-use neighborhood to serve as a community gathering place.
  - (c) Shops and stores within close proximity to neighborhoods sufficiently varied to satisfy ordinary household needs.
  - (d) A variety of places to work, including live/work units.

## ZONING

§190-12.1

§ 190-12.1

- (e) A mix of dwelling types such that younger and older persons, single person households and families may be housed according to their needs.
  - (f) Small playgrounds or neighborhood parks within walking distance of all dwellings.
  - (g) Thoroughfares and roadways designed as a network, with emphasis on connecting adjacent thoroughfares wherever possible to provide drivers with options to disperse traffic.
  - (h) Traffic calming design to slow traffic, creating an environment appropriate for pedestrians, bicyclists and automobiles.
  - (i) Building frontages that create interesting, attractive pedestrian friendly streetscapes and confine parking to locations behind buildings to the maximum extent practicable.
  - (j) Preservation of sensitive natural resources and cultural areas as permanent open space.
  - (k) Provision for community uses or civic buildings.
- (7) Incorporates meaningful public access to the Town's waterfront.
  - (8) Demonstrates the provision of adequate services and utilities, including access to public transportation.
  - (9) Architectural style of proposed buildings, including exterior finishes, color and scale that is consistent with the intent and purposes of this Section.
- I. Traditional Neighborhood Development Plan – Review Procedures.
- (1) Traditional Neighborhood Development Design Plan Application. An application for approval of a Traditional Neighborhood Development Plan shall be made as follows:
    - (a) Applicant. An application for approval of a Traditional Neighborhood Development Plan shall be made in writing to the Planning Board. Application shall be made by the owner(s) of the land(s) to be included in the project or by a person or persons having an option or contract or other commitment to purchase or acquire the lands. In the event an application is made by a person

## ZONING

§190-12.1

§ 190-12.1

or persons holding an option or contract to purchase the lands or other commitment to purchase or acquire the lands, such application shall be accompanied by written evidence that the applicant has authorization to submit and pursue such application.

(b) Applications. All applications for approval of a Traditional Neighborhood Development Plan shall be on forms and in such quantity as may be prescribed by the Planning Board. The application must include a Part 1 Full Environmental Assessment Form.

(c) Contents. An application for Traditional Neighborhood Development Plan approval shall include the following:

[1] A master site development plan for consideration by the Planning Board. The development plan may be prepared at a conceptual level but, at a minimum, must specify the number and type of uses proposed for development and depict their location as well as depict the parking areas to service the proposed uses and the means of traffic circulation, both automotive and pedestrian, between and among the uses.

[2] The development plan shall be accompanied by a proposed Regulating Design Manual as required under section F above.

[3] The development plan need not encompass all the details required for a site plan approval but shall set forth in reasonable detail the anticipated locations within the development and sizes of all major improvements such that the Planning Board can evaluate the plan for environmental, traffic and other impacts on the Town with a view toward attaching any conditions of approval which must be met at the time a detailed site plan is submitted for approval for the development or any portion thereof.

[4] The TND Plan shall include a phasing plan with estimated time periods for each phase and for completion of the entire development.

## ZONING

§190-12.1

§ 190-12.1

- (2) Processing of Application. An application for approval of a Traditional Neighborhood Development Plan shall be processed by the Planning Board in accordance with the following procedure:
- (a) Submission. An application for approval of a Traditional Neighborhood Development Plan shall be submitted to the Planning Board in accord with the timing and procedures set forth below.
  - (b) Escrow. Upon submission of an application, the Planning Board shall require the applicant to establish an escrow amount to be paid by the applicant to reimburse it for reasonable fees incurred by planning, engineering, legal and other consultants in connection with their review of the application. The escrow shall be periodically replenished as necessary. The applicant shall be provided with an ongoing, detailed account of all disbursements from the escrow. Upon termination of the review of the application by the Planning Board, any remaining funds in the escrow account shall be reimbursed to the applicant.
  - (c) Concurrent Site Plan Review. Concurrent with its Traditional Neighborhood Development Plan submission, an applicant may also submit a detailed site plan application for one or more phases of the Traditional Neighborhood Development Plan. Any site plan concurrently submitted must comply with the requirements of this section and of §190-145 of this Chapter.
  - (d) Public Hearing. The Planning Board shall conduct a public hearing on an application for approval of a Traditional Neighborhood Development Plan, which shall be held at the time and place prescribed by the Board. Notice of any public hearing shall be provided in the same manner as provided for Special Permit Uses set forth in §274-b of the New York State Town Law.
  - (e) General Municipal Law 239 Referral. If required, the Planning Board shall refer a full statement of the application to the Ulster County Planning Board as provided for by §239-m of the General Municipal Law.
  - (f) Decision. The Planning Board shall approve, approve with conditions or deny an application within 62 days after either:

[1] a SEQRA determination of non-significance, or

## ZONING

§190-12.1

§ 190-12.1

- [2] the issuance of a SEQRA Statement of Findings, or
- [3] a determination that the proposed action is consistent with a previous Statement of Findings.

The Planning Board's decision shall contain specific findings demonstrating the application's compliance with the criteria for approval set forth in Section E above. The Planning Board's decision may attach any reasonable conditions to assure conformance with the intent and objectives of these regulations.

- (g) Filing. The decision of the Planning Board shall be filed in the office of the Town Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant. In the event of denial, the Planning Board's decision shall contain a written reasoned elaboration in support of the decision.
- (h) Modification. Changes or modification to the approved Traditional Neighborhood Development Plan including but not limited to, modifications to the Regulating Design Manual, shall require review and approval by the Planning Board.
- (i) Time Limits.:
  - [1] An application for site plan approval of the Traditional Neighborhood Development Plan or, a section thereof, shall be submitted within one year of the Planning Board's grant of Traditional Neighborhood Development Plan approval. Failure to submit an application for site plan approval within that period shall render the Traditional Neighborhood Plan approval null and void and of no force and effect.
  - [2] Construction work on the Traditional Neighborhood Development must commence within three (3) years from the date of any final site plan approval and all other required permits or approvals by involved agencies. If construction does not commence within said period, then the Traditional Neighborhood Development Plan approval shall become null and void and all rights shall cease.
  - [3] Individual approved sections of the Traditional Neighborhood Development shall be undertaken in the

## ZONING

§190-12.1

§ 190-12.1

timeframe prescribed by the Planning Board in its approval resolution. Each section shall be substantially completed in no more than five (5) years.

- [4] Construction of a Traditional Neighborhood Development Plan must be completed within the timeframe proposed by the applicant in its TND Plan and approved or modified by the Planning Board at the time of approval. If the Traditional Neighborhood Development is not completed within said time period, then the approval shall become null and void and all rights therein shall cease.
- [5] For purposes of the above provisions the term “construction work” or “construction” shall mean disturbance of the project site and continued activity to install utilities, roads or other infrastructure or the process of erecting any structure in accordance with the final approved site plan. The term “final site plan approval” shall mean the signing of the site plan by the Planning Board Chairman with an endorsement by stamp or other writing indicating that the plan has received “final site plan approval” and indicating the date of such final approval.
- [6] Upon written request by the applicant, any of the time limits prescribed above may be extended by the Planning Board for good cause. Among the examples of good cause are delays occasioned by lawsuits, poor market conditions, unforeseen site conditions and force majeure. The Planning Board shall not withhold such extension unless it finds that the applicant is not proceeding with due diligence or is otherwise violating the conditions upon which the approval was granted. Extensions shall not exceed three years unless the applicant submits a written request for further extension.
- [7] Within the time limits prescribed above, and for any extension period granted by the Planning Board, the Traditional Neighborhood Development plan shall be deemed to have obtained vested rights for purposes of completing the approved development improvements notwithstanding any changes to the Zoning Law.

## ZONING

§190-12.1

§ 190-13

J. Conflicts. To the extent any provision of this Article, including any provision of the approved Regulating Design Manual conflicts with any provision of any other Article in this Chapter, the provisions of this Article shall control.

- (1) The Town Board hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation or provision of the law inconsistent with this local law. The provisions of law intended to be superseded include all the Town Law and any other provision of law that the Town may supersede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York. The courts are directed to take notice of this legislative intent and apply it in the event the Town has failed to specify any provision of law that may require supercession. The Town Board hereby declares that it would have enacted this local law and superseded such inconsistent provision had it been apparent.

K. Definitions. As used in this section, the following definitions shall apply:

- (1) The term “construction work” or “construction” shall mean disturbance of the project site and continued activity to install utilities, roads or other infrastructure or the process of erecting any structure in accordance with the final approved site plan.
- (2) The term “final site plan approval” shall mean the signing of the site plan by the Planning Board Chairman with an endorsement by stamp or other writing indicating that the plan has received “final site plan approval” and indicating the date of such final approval.
- (3) The term “live/work unit” shall mean a two or three story individually deeded unit consisting of commercial or office space on the ground level with a living unit on the above floor or floors which can be owner occupied and/or leased for a permitted use as regulated as a mixed use building.

### **§ 190-13. Customary accessory uses; table reference.**

A. In addition to those uses identified in the Summary of Permitted Uses, there are Tables of Customary Accessory Uses for Residential Districts and for Nonresidential Districts.(5) Accessory uses, listed "as by right," are permitted in the district only when located on the same plot or site as the principal use to which they are accessory. Accessory uses are not permitted within any required setback unless specifically provided for in § 190-18, Setback requirements-exceptions. [Amended 5-17-1993 by L.L. No. 3-1993]

\*\* (5) Editor's Note: See § 190-14.

## ZONING

§190-13

§ 190-14

- B. Customary accessory uses listed as requiring a special permit are permitted only after review and approval by the Town Board, following the procedures in Article XII.

### § 190-14. Customary accessory uses.

Customary accessory uses shall be as follows:

- A. Residential districts:

#### **TABLE 1 Customary Accessory Uses in Residential Districts**

Permitted accessory uses by right. (A building permit and site plan are required for certain structures and uses per § 190-50.)

1. Customary accessory uses, including private structures, such as a greenhouse, barn, tool shed, garage, tennis court and pool.
2. One (1) noncommercial vehicle for sale, owned by the resident of a dwelling situated on the same lot, may be located within the required front setback for a period not to exceed sixty (60) days in any calendar year. **[Amended 5-17-1993 by L.L. No.3-1993]**
3. Parking of recreational vehicles, travel trailers, school buses, trucks of over two (2) tons' capacity, boats or boat trailers on the property other than in the required front setback. No vehicle may be used for residential occupancy, except for occasional guest parking and only if sanitary facilities are available within the principal residence.
4. Accessory to a place of worship, a parish house, rectory or study.
5. Storage of goods, materials or products accessory to any use which is permitted in the district and located on the same lot, except in the required setback, and properly screened from adjacent residential properties. **[Amended 5-17-1993 by L.L. No. 3-1993]**
6. Accessory to in a single-family residence, excluding multifamily or attached dwellings, one (1) accessory apartment. Minimum floor area shall be at least four hundred (400) square feet but may not exceed one thousand two hundred (1,200) square feet, which may include separate bath and cooking facilities. One (1) additional off-street parking space must be provided. The legal owner of the lot must occupy either the

## ZONING

§190-14

§ 190-14

principal dwelling or the apartment. An accessory apartment shall not increase the minimum area requirement of the single-family residence to which it is attached.

7. Temporary structures for storing equipment and supplies used in conjunction with construction pursuant to an approved site plan or subdivision for up to two (2) years or until a certificate of compliance has been issued, whichever is sooner.
8. The keeping of domestic animals in a fashion that will not result in a hazard to the public health or safety nor create a public nuisance.
9. Home occupations conducted entirely within the residence. **[Amended 5-17-1993 by L.L. No. 3-1993]**

Accessory uses by special permit of the Town Board:

1. Customary home occupations (other than listed in No. 9 above). **[Amended 5-17-1993 by L.L. No. 3-1993]**

B. Nonresidential districts:

### **TABLE 2 Customary Accessory Uses in Nonresidential Districts**

Permitted accessory uses by right. (A building permit and site plan review and approval are required for certain structures and uses per § 190-50.)

1. Customary accessory uses, including structures such as a greenhouse, barn, tool shed, garage, water supply facility, sewage disposal facilities upon DEC approval, electrical substations and heating fuel storage tank. Also included are central heating, air-conditioning and process steam plants when incidental to the principal permitted use.
2. To a permitted residence, the parking of not more than one (1) unregistered, dismantled or vehicle in accordance with required setback. One (1) vehicle for sale by resident may be located between the street and front building line.
3. To a permitted residence, parking a recreational vehicle, boat or boat trailer in other than the required front setback. No vehicle may be used for residential occupancy, except for occasional guest parking and only if sanitary facilities are available in the principal residence.

## ZONING

§ 190-14

§ 190-15

4. Accessory to a place of worship, a parish house, rectory or study.
5. Exterior storage of goods, materials or products, accessory to a permitted use in other than setback and properly screened.
6. Temporary structures for storing equipment and supplies used in conjunction with construction pursuant to an approved site plan or subdivision for up to two (2) years or until a certificate of compliance has been issued, whichever is sooner.
7. The keeping of domestic animals in a fashion that will not result in a hazard to the public health or safety nor create a public nuisance.
8. Clinics, cafeterias and recreational facilities for the exclusive use of company employees, officers and their guests.
9. Home occupations- [**Amended 5-17-1993 by L.L. No. 3-1993**]
10. Accessory parking and loading.

### **§ 190-15. Prohibited uses; restricted activities.**

- A. Prohibited uses. The uses set forth on the Summary of Permitted Uses are the only permitted uses (6) in the case of a question as the proper classification of a particular use, the definitions and categories used in the Manual of Standard Industrial Classifications, United States Department of Commerce, latest edition, will control. In the event of a dispute, the Zoning Board of Appeals shall interpret this provision. International Dictionary (unabridged) will be used. Certain uses are Common meanings as are ascribed in the latest edition of Webster's considered so incompatible to the town that they are prohibited under all circumstances. Those uses are sanitary landfills, incinerators, liquid waste dumps, nuclear facilities, chemical plants, slaughterhouses and any use which poses a clear and present danger to the environment.
- B. Restrictions on creation of dangerous and objectionable activities. The following are violations of § 190-49 of this chapter:
  - (1) The following nonresidential activities are measured on the property at the point of use and shall not exceed the following limits:
    - (a) Explosives. Activities involving the commercial storage or manufacture of materials or products which decompose by

\*\*\*\* (6) Editor's Note: Said Summary is included at the end of this chapter.

## ZONING

§ 190-15

§ 190-15

detonation, are prohibited except those under the jurisdiction of the appropriate licensing agency. Materials subject to explosive detonation may be stored and processed as special permit uses in the Office and Manufacturing and Industrial Districts. They shall observe setback requirements which shall be in addition to the Requirements established in the appropriate table of distances under the Industrial Code of the State of New York.

- (b) Fire hazards. All commercial activities involving flammable and explosive materials shall have adequate fire-fighting and fire suppression equipment and devices standard in the industry, including Insurance Services Organization or National Fire Protection Association Codes. The routine maintenance and testing of such equipment shall be a condition of any permit for bulk storage of flammable or explosive materials. All storage shall comply with the provisions of state and local laws as a condition of any special permit issued under this chapter.
- (c) Radioactivity or electrical disturbance. No activity shall be permitted which emits to the natural environment dangerous radioactivity at any point. No activity is permitted which produces electrical or electromagnetic disturbance, other than from domestic household appliances and communication equipment subject to control of Federal Communications Commission or other appropriate agency, adversely affecting other property or uses.
- (d) Smoke. Nonresidential uses or heating plants of more than one (1) MBTU per hour: No emission is permitted at any point from any chimney or flue, or otherwise, of visible smoke of a shade darker than No. 1 on the Ringelmann Smoke Chart, as published by the United States Bureau of Mines (Powers Micro-Ringelmann Chart, McGraw Hill Publishing Company may be used). This provision applicable to visible gray smoke shall also apply to visible smoke of other colors with equivalent opacity. Other forms of air pollution (commercial and industrial sources). No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution is permitted which can cause damage to health, to animals or vegetation or to other forms of property or which cause any excessive soiling of paint. No emission of any solid or liquid particles in concentration exceeding three-tenths (0.3) grain per cubic foot of the conveying gas or air at any point is permitted. For measuring particles in gas resulting from combustion, standard

## ZONING

§ 190-15

§ 190-15

corrections will be applied to a stack temperature of five hundred degrees Fahrenheit (500' F.) and fifty percent (50%) excess air.

- (f) Liquid or solid waste. No discharge is permitted at any point into any public or private sewage disposal system stream or into or upon the ground of any materials in any way or nature or temperature which may contaminate any water supply or otherwise cause the emission of dangerous or objectionable elements, except in full accord with applicable standards published by the New York Department of Health, Department of Environmental Conservation or Ulster County Health Department. No accumulation of solid or liquid waste conducive to vermin, rodents or insects shall be permitted.
- (2) The following dangerous and objectionable elements are measured at or beyond the property line of the creator. These are limited as follows:
- (a) Noise. The creator must abide by all current local laws or ordinance controlling noises. (7)
  - (b) Vibration. Except during authorized construction activities, no vibration which is discernible to the human sense of feeling for more than a three-minute duration in any one (1) hour from 8:00 a.m. to 8:00 p.m. or for more than thirty (30) seconds duration in any one (1) hour from 8:00 p.m. to 8:00 a.m. is permitted. Railroad trains are exempt from this regulation. Vibrations shall not exceed one tenth (0.1) g nor be beyond the safe range of Table 7 of the Bureau of Mines Bulletin No. 442, Seismic Effects of Quarry Blasting on Nearby Structures.
  - (c) Odors. No emission shall be permitted of odorous gases or other odorous materials in such quantities to be offensive at points of measurement. Any process which may involve the creation of any odors shall be provided with secondary safeguards in the event that the primary safeguards fail. The standard in determining quantities for offensive odors is Table 3 of the Air Pollution Abatement Manual, latest revision by Manufacturing Chemists Association of Washington, DC.
  - (d) Glare. No direct glare is permitted, either from lights or from high temperature processes, such as combustion or welding, that are

\*\*\*\* (7) Editor's Note: See Ch. 117, Noise.

## ZONING

§ 190-15

§190-16.1

visible at the points of measurement. For the purposes of measurement, "glare" includes directly visible sources of light and ignition or diffuse light of an intensity greater than two thousand (2,000) lux per square centimeter [e.g. a two-hundred-watt incandescent lamp equals sixty (60) lux per square centimeter].

### § 190-16. Modification of bulk requirements.

- A. The Town Board hereby authorizes the Planning Board, as part of the approval of a subdivision plan, to modify the applicable bulk requirements of this chapter under § 281 of the Town Law. (8) This may be done upon written application by the applicant or on its own motion. Height requirements may not be modified. Flag lots are permitted.
- B. If the application of this procedure results in a subdivision plat showing lands available for park, recreation, open space or other municipal purposes, then the Planning Board may establish conditions for ownership, use and maintenance of such lands as necessary to assure the preservation of lands for their intended purposes as a condition of final plan approval. All such conditions shall be subject to an approval by the Town Board before final plat approval by the Planning Board. Where the applicant does not dedicate land to recreation use, then a fee as set forth in the standard schedule of fees shall be paid to the town in lieu of the land.

### § 190-16.1 Adult Business Regulations [Local Law #1, enacted 3-2-1998]

#### A. FINDINGS AND PURPOSE

##### (1) Findings:

The Town Board hereby finds that certain business activities categorized as adult uses by their nature have serious, objectionable characteristics related to their operation which can lead to a significant impact on the surrounding community. The Board further finds that the unrestrained proliferation and/or concentration of such businesses is inconsistent with existing development and future plans for the Town of Ulster in that they often result in influences on the community which increase the crime rate and undermine the economic, moral and social welfare of the community. The deleterious effects of these businesses change the economic, social and moral character of the existing community and adversely affect existing businesses and community and family life. These findings are based on studies and findings regarding such uses which have been

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(8) Editor's Note: Section 281 was renumbered to § 278 by L.1992, c.727, effective 7-1-1993.

## ZONING

§ 190-16.1

§190-16.1

undertaken by and incorporated in legislation enacted by other communities, including the City of Kingston and Town of Islip, New York; Austin, Texas; Indianapolis, Indiana; and Los Angeles, California, as well as the opinions expressed by local residents and business owners.

(2) Purpose:

The purpose of this section is to prevent the unrestricted proliferation of adult businesses and to ensure that the effects of such businesses will not adversely affect the health, safety and economic well-being of the community by enacting criteria for the establishment of adult business uses in the Town.

### B. DEFINITIONS:

**ADULT ARCADE** - An establishment where, for any form of consideration, one (1) or more motion-picture projectors, slide projectors or similar machines are available and are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. For the purposes of this chapter, "adult arcade" is included within the definition of "adult motion-picture theater."

**ADULT BOOKSTORE** - An establishment or business, whether retail or wholesale, having more than 20% of its stock in trade (recordings, books, magazines, periodicals, films, video tapes/cassettes or other audio or viewing materials) for sale or rent for viewing or use only off the premises, which stock is distinguished or characterized by its emphasis on matter depicting, describing, or relating to sexual activities or sexual anatomical areas.

**ADULT ENTERTAINMENT CABARET** - An enclosed building or structure or portion of a building or structure used for presenting film or similar materials or performances by live persons having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

**ADULT BUSINESS** - Any establishment or business involved in the dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, including but not limited to Adult Arcades, Adult bookstores, Adult theaters, and Adult Entertainment Cabarets.

### SPECIFIED ANATOMICAL AREAS

A. The following areas of the body that are less than completely and opaquely covered:

## ZONING

§ 190-16.1

§ 190-16.1

- (1) Human genitals or pubic region.
- (2) The cleavage of the human buttocks.
- (3) That portion of the human female breast encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola (the colored ring around the nipple). This definition shall include the entire lower portion of the breast but shall not be interpreted to include any portion of the cleavage of the breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided that the areola is not so exposed.

B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

### SPECIFIED SEXUAL ACTIVITIES:

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse or sodomy.
- C. Fondling or other erotic touch of human genitals, pubic region, buttocks or female breasts.

### C. SPECIAL PERMIT REQUIRED FOR AN ADULT BUSINESS

- (1) Uses defined in Paragraph B above shall only be permitted in the OM Office Manufacturing District, upon issuance of a special permit in accord with §190-41, and subject to the standards set forth in Paragraph D below.
- (2) Any special permit issued under this section shall be subject to renewal annually by the Town Board in the month in which the original permit was issued. Such renewal shall only be granted upon a determination by the Town Board that all requirements of this section and specific conditions of approval are being complied with and that no factors which would have affected the original approval have changed.

### D. LOCATION AND STANDARDS FOR ADULT BUSINESSES

- (1) Adult Businesses are Permitted only in the OM District, subject to the following standards and all other relevant requirements of this Zoning Law:
  - (a) Such use shall not be located within 1,000 feet of a residential zoning district or municipal boundary.

## ZONING

§ 190-16.1

§ 190-17

- (b) Such use shall not be located within 1,000 feet of a school, religious institution, day care facility, hospital, community center or public park.
  - (c) Such use shall not be located within 1,000 feet of another adult business.
  - (d) Such use shall not be located in any building or on any lot of which any portion is used for residential purposes.
- (2) No adult business shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from the exterior of the building in which the use is located. This provision shall apply to any display, decoration, sign, show window, screen or other opening.
- (3) Loudspeakers or similar audio equipment used to describe or discuss specified anatomical areas or sexual activities shall not be audible from the exterior of the building in which it is located.

### E. DISTANCE MEASUREMENT

For the purposes of this chapter, distance measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest part of the portion of the building or structure used as an adult entertainment establishment to the nearest property line of the premises of a church, school, public park or public recreation area or to the nearest boundary or a residential zoning district.

### F. EXCLUSIONS

The provisions of this section shall not apply to licensed or accredited schools or museums, private artists studios or galleries not open to the general public or activities in a private residence by the occupants thereof.

## ARTICLE VI

### **Supplementary Setback, Height and Use Requirements**

#### **§ 190-17. General requirements.**

- A. No building or structure may be closer to a property line than the minimum setback.
- B. Every building requiring a permit shall be on a lot abutting a suitably improved street as provided in § 280-a of the Town Law. Open development areas may be established by the Town Board under § 280-a of the Town Law. All structures

## ZONING

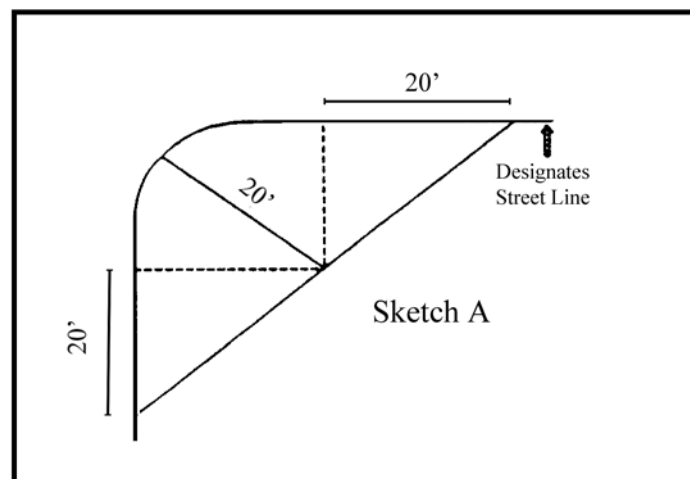
§190-18

§ 190-18

shall be located on lots for safe and convenient access for services, fire protection and off-street parking. Any variance of these requirements shall be obtained from the Zoning Board of Appeals pursuant to § 280-a of the Town Law.

### § 190-18. Setback requirements; exceptions.

- A. The following structures accessory to a commercial or industrial use are permitted within a front setback:
- (1) Gate house.
  - (2) Landscaping.
  - (3) Watchman's post.
  - (4) Approved signs.
  - (5) Lighting.
  - (6) Flag pole.
- B. Residential garage exemptions. The Zoning Board of Appeals may permit a private garage accessory to a residence to be located within the front setback where there would be difficulties in constructing a safe and convenient drive from the street, provided that the garage shall not adversely affect the future use of adjacent properties.



- C. The parking of recreational vehicles in residential districts is not permitted in the required front setback. However, such vehicles may be parked within any

## ZONING

§190-18

§ 190-18

side or rear setback, but no closer than ten (10) feet to any property line, unless screened by a hedge, fence or wall, provided that such vehicles are not occupied as living units other than for temporary periods and provided that sanitary facilities are available for use. **[Amended 5-17-1993 by L.L. No. 3-1993]**

- D. Only where a hazard to traffic may exist according to Town Superintendent of Highways, no shrubs, hedge or other natural growth, fence or wall three (3) feet higher than the street shall be located along the property line of a corner lot within forty (40) feet of the intersection per Sketch A. Nor shall the same area be blocked by the overhanging of leaves or branches from a tree lower than eight (8) feet above the street level.
- E. A fence or freestanding wall no more than four (4) feet high is permitted on the property line within the required front setback. A fence or wall no more than eight (8) feet high is permitted on any property line behind the front setback. Any fence or wall over that height is permitted parallel to the side and rear lot lines, provided that it is set back from the property line a distance of at least two-thirds (2/3) its height. Finished faces must face outward.
- F. An accessory building to a residence may be constructed or located along the common side lot line or rear lot line, provided that a written agreement for such structure is filed by the adjoining property owners with the Building Inspector prior to the issuance of a building permit.
- G. The Zoning Board of Appeals may reduce all side and rear setback requirements for nonresidential uses or where existing lot shapes are irregular or where multiple lots exist and are developed as a single site. A buffer may be required. In the case of multiple-use office and/or industrial building development which is served by an industrial service street, the Zoning Board of Appeals may also modify the lot area, the lot width and the front setback requirements, but to an extent no greater than fifty percent (50%) of the minimum requirements. In those cases, the following requirements apply:
  - (1) The front setback is established from a street line designated on an approved plan or subdivision plat.
  - (2) Buildings shall be located so as to have adequate access for emergency vehicles [not less than twenty-two (22) feet wide and a fifty-five-foot outside turning radius]. No reduction is permitted in a required buffer or setback associated with existing residential district lots or boundaries.

## ZONING

§190-18

§ 190-20

- H. Fences, walls, posts, ornaments, furniture, pavement, curbing, planters, trellises, approved signs, landscaping and other customary yard accessories are permitted within all setbacks, subject to height and visibility limitations.
- I. Accessory parking in nonresidential districts shall be permitted within the required front setback of the district. Such parking shall not be located within ten (10) feet of the street line unless, during site plan approval, the Town Board determines that parking closer than ten (10) feet to the street line is necessary for proper site development and will not impede safe access to and from the site. Parking shall not be permitted within twenty-five (25) feet of any property located within a residential district, except that this distance may be reduced to a minimum of ten (10) feet upon approval of a site plan which includes landscaping, fences, walls and/or berms to create a satisfactory buffer. **[Added 5-17-1993 by L.L. No. 3-1993]**

### **§ 190-19. Measurement of setbacks.**

- A. All required front setbacks shall be measured from the lot line or the designated street line, whichever is the greatest distance from the center line of the travelway abutting the lot. Where lots are situated on other than a public street or where the line is not a designated street line, the lot line is measured parallel to the center line at a distance from the center line of twenty-five (25) feet along town roads or easements or rights-of-way and a distance of thirty (30) feet for state and county roads (see definition of "flag lot" for flag lot setback.)
- B. More than one (1) single- or two-family home may be placed on a lot in a residential district so long as each residence is located so that it would conform to all area and setback requirements of the district if a separate lot were created for each residence. Site plan approval shall be required prior to issuance of a building permit. **[Added 5-17-1993 by L.L. No. 3-1993]**

### **§190-20. Corner lot and through lot setbacks. [Amended 4-17-2006 by L.L. No. 1-2006]**

- A. A front setback is required on a corner lot for each street line. The plat and/or plans shall show which of the remaining setbacks are to be side and rear respectively.
- B. On a through lot, front setbacks are required on both streets. Each front setback shall be measured from the street line as defined in this chapter.

A front setback is required on a corner lot for each street line. The plat and/or plans shall show which of the remaining setbacks are to be side and rear respectively.

## ZONING

§190-21

§ 190-24

### **§ 190-21. Permitted height exceptions. [Amended 5-17-1993 by L.L. No. 3-1993]**

- A. The height limitations of this chapter shall not apply to the following structures, subject to the conditions set forth:
  - (1) Flagpoles, antennas (except satellite and microwave dishes), transmission towers and cables, spires and cupolas, chimneys, elevators, stairs or bulkheads.
  - (2) Water tanks, cooling towers, ventilators, air-pollution abatement devices, airconditioning equipment and electrical substations where such structures are located on the roof of a building and the area of which does not exceed, in total, more than fifty percent (50%) of the roof area and the height of which does not exceed ten percent (10%) of the building height.
- B. The highest elevation of any structure included in § 190-21A(2) above shall be set back a distance from the nearest property line at least equal to one (1) foot for each foot of height.
- C. A building permit for any proposed structure listed in § 190-21A(1) above whose height exceeds one hundred (100) feet shall not be issued unless a special permit for such structure has been approved by the Town Board as provided in Article XI.

### **§ 190-22. Front setbacks in existing residential developments.**

No proposed one- or two-family dwelling need have a setback greater than the average setback of the lawfully existing dwellings within two hundred (200) feet of the proposed dwelling site.

### **§ 190-23. Spacing of buildings.**

Spacing between buildings shall be governed by the New York State Uniform Fire Prevention and Building Code.

### **§ 190-24. Waiver of setbacks.**

Side or rear setbacks, for other than residential uses, are not required where such setbacks abut the right-of-way of a railroad, limited access highway (provided that the nearest travel way is more than fifty (50) feet from such property line) or overhead utility transmission line at least fifty (50) feet in width. The Planning Board may require minimum setback distances necessary to protect the public safety and general welfare.

ZONING

§190-25

§ 190-25

**§ 190-25. Special permit uses; conditions and approval standards.**

- A. Mobile homes on individual lots. All applicants for mobile homes must file under and abide by the town's current Mobile Home Law (9) in effect at the time of application.
- B. All swimming pools must be in compliance of the town's current local law on swimming pools. (10)
- C. Hotels and motels. No more than one (1) motel or hotel unit is permitted per one thousand four hundred (1,400) square feet of lot area, exclusive of building area or reserve area for on-site sanitary system where applicable. Rooms shall not be connected in groups of more than two (2); each unit shall be restricted to occupancy by not more than four (4) adults at any time; units shall not be equipped with independent cooking facilities of any type unless specifically identified and listed on a separate certificate of compliance.
- D. Commercial excavation and processing of natural resources (mineral).
  - (1) Restrictions. Excavation or extraction of natural resources applies to volumes greater than fifty (50) cubic yards per month. The proposed operation shall not contribute to soil erosion by water or wind, nor shall it adversely effect soil fertility, air or water quality, drainage or lateral support of abutting properties. Excavations and processing shall not be conducted within two hundred (200) feet of any dwelling, inhabited as of the date of the issuance of the special permit or residential district boundary. Such distance may be made greater by the Town Board for the protection of the public health, safety or general welfare.
  - (2) Rehabilitation plan. Prior to issuance of a special permit, a plan for rehabilitation and reclamation, showing existing and proposed contours, shall be submitted. Such plans shall provide for reclamation within a prescribed time period to a degree necessary to meet site work conditions for permitted use for the district in which located. The applicant shall post a performance bond with the town in sufficient amount to reclaim the maximum area covered by the permit issued by the DEC. Such bond shall include the cost of regrading, rock removal, relocation, spreading of topsoil, seeding and mulching, in accordance with United States Department of Agriculture technical release 55, and replanting of trees on the basis of one (1) six-foot tree per one thousand (1,000) square feet of reclamation area.

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**(9) Editor's Note: See Ch. 114, Mobile Homes and Travel Trailers.**

**(10) Editor's Note: See Ch. 165, Swimming Pools.**

## ZONING

§ 190-25

§ 190-25

- (3) Excavation and processing of natural minerals does not include the manufacture of asphalt or heating of materials in kilns or other apparatus having a heat input of greater than fifty (50) MBTUs per hour. Excavation shall include operations for reclamation of mined land by fill and cover with nonputrescible material under continuous supervision of the Town of Ulster.
- E. Commercial extraction and processing of natural resources (forestry). Use of property for commercial forestry or clearing of more than one (1) acre in any twelve-month period of existing trees with a trunk diameter of six (6) inches measured one (1) foot above ground shall be subject to special permit of the Town Board unless incorporated as part of an approved site or subdivision plan. Forestry shall be conducted following an approved plan prepared by a licensed forester of New York State or other qualified person. A bond or other surety shall be provided to the town prior to issuance of the special permit for the total cost of any required reclamation and restabilization of access trails in any tree harvesting operation. These regulations do not restrict normal tree maintenance or noncommercial firewood cutting.
- F. Multiple dwellings (including attached and condominiums).
  - (1) Restriction on number of dwelling units. The number of dwelling units of a multiple dwelling shall not exceed the number of one- or two-family dwellings otherwise permitted under the residential zone classification using the following equivalency: each zero bedroom (efficiency unit) shall equal three-tenths (0.3) single-family dwelling; each one-bedroom unit shall equal four-tenths (0.4) single-family dwelling, each two-bedroom unit shall equal six-tenths (0.6) single-family dwelling; and each three-bedroom unit shall equal one (1) single-family dwelling. The number of units permitted is determined by dividing the gross area of the site by the minimum lot area as listed in § 190-11 for that district. The term "bedroom" in the formula refers to each additional room or each two hundred (200) square feet of excess space outside of space allocated for kitchen, dining, living, bath and storage areas of less than thirty (30) square feet. The maximum density of development shall not exceed eight (8) units per acre. The Town Board may approve a greater density where the additional units are for low- to moderate income housing purposes.
  - (2) Each multiple-dwelling site shall have an area to include active or passive recreation facilities on the basis of two thousand four hundred (2,400) square feet of recreation area or open space per multiple-dwelling unit. Parking areas, interior roads and driveways are not countable towards such space. Open space must be legally accessible to residents, free of hazards

## ZONING

§ 190-25

§ 190-25

and with a minimum width of twenty-five (25) feet. The Town Board may require a recreation fee be paid in lieu of on-site recreation facilities per § 190-16.

- (3) Each multiple-dwelling site shall have access to a suitability improved road. Any access shall have a minimum of twenty-four (24) feet width curbed driveway and generally located no closer than one hundred (100) feet to any existing one- or two,-family residence. The multiple-residence structures shall comply with the setbacks as in § 190-11, but no unit shall be closer than one hundred (100) feet to any existing single-family residence. Multiple-residence special permits. Special permits for multiple residences are processed in accordance with Article XI. Preliminary site plans shall be sufficiently complete in order for the Town Board to process properly the special permit. (NOTE: Attached dwellings may be permitted under § 281 of the Town Law.)

### G. Junkyards.

- (1) A junkyard shall be completely surrounded by a fence eight (8) feet high for screening and with suitable gates (normally closed and locked except during time of operation). The fence shall be erected no closer than fifty (50) feet to a public road and fifteen (15) feet to other property lines. All materials stored or deposited on the property shall be kept, at all times, within the enclosed area. All work on such material shall be done within the enclosure. Where the topography, natural growth or other considerations accomplish the enclosure requirement, the Town Board may approve less fencing.
- (2) The height of material stored in the enclosure may not exceed an elevation of one (1) foot lower than the fence top. No storage or fence is permitted in a required setback which setback shall be landscaped per Article X.
- (3) Use of the junkyard for depositing of garbage or organic refuse is not permitted. Open burning of any material in the enclosure is not permitted.
- (4) The special permit for junkyards shall be renewable annually in the same manner as the initial application. Renewal shall not be unreasonably withheld. Failure to comply with the original permit conditions may be considered grounds for disapproval.
- (5) A license may be required under Ulster Code Chapter 101, Junkyards, in addition to these regulations.

## ZONING

§ 190-25

§ 190-25

- H. Mobile home parks. Mobile Home Parks are controlled under the Ulster Code Chapter 114, Mobile Homes and Travel Trailers.
- I. Senior Citizen Housing . **[Added 1-22-2003 by L.L. No. 1-2003]**
  - (1) Permitted Uses. The following uses are permitted within a site designated for senior citizen housing, upon approval of a special permit.
    - (a) Multiple, attached or detached dwelling units for occupancy by senior citizens and their immediate families. Such occupancy does not include nursing homes, group residences rooming or boarding houses.
    - (b) Accessory structures/uses. The following accessory structures and uses are permitted.
      - (i) Any facilities necessary to meet the proper maintenance, security, storage and utility needs of the development or its residents.
      - (ii) Ancillary uses providing services or amenities only for site residents, such as but not limited to recreation rooms, lounges, self service laundries; exercise rooms and similar facilities.
  - (2) Occupancy. Occupancy of dwelling units in senior citizen housing shall be limited to the following:
    - (a) A person who has attained the age of 62 years.
    - (b) A husband or wife who is residing with his or her spouse who qualifies as a senior citizen.
    - (c) A live-in care giver residing with a qualified senior citizen, provided that said caregiver is 18 years of age or older.
    - (d) The surviving spouse who was residing with a qualified senior citizen at the time of his/her death.
    - (e) Exception. Notwithstanding, the provisions above one unit in a senior citizen housing site may be occupied by a project superintendent or manager and his/her family.

## ZONING

§ 190-25

§ 190-25

- (3) Development Standards. Senior citizen housing shall be subject to the following standards as well as other applicable standards of this law:
- (a) Minimum lot area: 10 acres
  - (b) Dwelling size: No dwelling shall contain more than two bedrooms.
  - (c) Minimum yards: same as the District in which the site is located except that no building shall be located within 50 feet of an existing residential structure on another lot,
  - (d) Maximum height: two stories or 35 feet.
  - (e) Maximum density; The number of dwelling units on a site shall be established in accord with the formula set forth in §190-25.F.(1) for the district in which the site is located.
  - (f) Minimum parking: two spaces for every three dwelling units. In addition to parking actually provided, an additional area capable of creating a total of one parking space per dwelling unit shall be indicated on the approved site plan and graded and planted with grass. The Planning Board may require, in the future, that such area be paved to meet demonstrated parking demand.
  - (g) Buffer Zones: An area at least 25 feet wide shall be established along the boundary of all properties in residential use which shall be landscaped or maintained as natural vegetation and shall not contain driveways or off street parking or other paved surfaces.

The only exception shall be entrance drives from the street and sidewalks not exceeding 5 feet in width.

- (4) Preference for Town of Ulster Domiciliary

Preference or priority for occupancy shall be given to applications by senior citizens who have maintained their domicile in the Town of Ulster for a continuous period of three (3) years immediately preceding the application and which continues until occupancy is approved.

- J. Bed and Breakfast Establishments: Bed and breakfast establishments shall only be permitted on conforming lots of at least one acre in the district in which they are located. Such establishments shall provide one parking space for each guest room, plus two for the principal residential use, which shall be screened from adjacent residential uses. One sign shall be permitted with an area not to exceed

## ZONING

§ 190-25

§ 190-25

three square feet per face, except in non-residential areas where the standards of Article VIII shall apply. In residential districts, the owner of the establishment shall reside on the same property.

K. Boardinghouses and Rooming Houses are subject to the following requirements:

- (1) No rooming house or boardinghouse which furnishes rooming or boarding accommodations for hire within the same shall exist or be maintained within the Town without a special permit, which shall be issued by the Town Board of the Town of Ulster, as hereinafter provided.
- (2) No special permit shall be issued hereunder and any special permit heretofore or hereafter issued shall be subject to revocation, unless the applicant or holder of such permit fully complies with the following requirements:
  - (a) The applicant shall be the individual owner of such premises.
  - (b) At the time of the issuance of such special permit and at all times when said premises are used as a rooming house or boardinghouse, the owner thereof shall maintain his residence in and shall actually reside in said premises or there shall be a permanent resident of the Town of Ulster who shall be the resident agent responsible for the management of the rooming house or boardinghouse.
  - (c) The maximum number of roomers or boarders shall be 12 and the maximum number of rooms shall be 10.
  - (d) There shall be no more than two people occupying a room as a roomer or boarder, and such room shall have a minimum of 80 square feet of floor space per occupant.
  - (e) All rooming houses and boardinghouses shall be heated by a central heating plant or permanently installed electric baseboard panel heating. No portable heating units are allowed.
  - (f) No cooking or storage of foodstuffs shall be permitted in any room other than a kitchen.
  - (g) In all parts of such building, artificial lighting shall be provided by means of electric current and each electric circuit shall be provided with a circuit breaker or fuse which shall meet the requirements of the New York Board of Fire Underwriters. Each new application

## ZONING

§ 190-25

§ 190-25

shall be accompanied by a New York Board of Fire Underwriters' certificate. This certificate shall not be more than one year old. Thereafter, on renewal applications, a current New York Board of Fire Underwriters' certificate shall be required at least once each five years. Any fees involved in obtaining this current New York Board of Fire Underwriters' certificate shall be borne by the applicant.

- (h) No sinks or toilet facilities shall be installed or used in any sleeping room.
- (i) Bathroom facilities shall be maintained for the owner-occupant separate and apart from bathroom facilities for the roomers and boarders.
- (j) The owner or resident agent of every rooming house and boardinghouse shall change supplied bed linens and towels therein at least once each week or prior to the letting of any room to any occupant. The owner or resident agent shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.
- (k) All garbage and kitchen wastes in every rooming house and boardinghouse shall be immediately deposited in suitable covered receptacles which shall be disposed of as needed in such a way as not to be or become offensive or unsanitary.
- (l) All sleeping rooms shall be numbered with raised figures not less than three inches in height placed on the outside of the door to each room, and no two rooms shall bear the same number.
- (m) Each and every floor on which rooms are occupied by roomers and boarders shall be equipped with a fire extinguisher in good working condition readily accessible for use at all times and approved by the Building Department of the Town of Ulster.
- (n) No room shall be occupied by roomers or boarders in the third floor or attic of any dwelling unless the building complies fully with the New York State Multiple Residence Law. In a wood-frame dwelling, no room shall be occupied by roomers or boarders in the third floor or attic.

## ZONING

§ 190-25

§ 190-25

- (o) Off-street parking must be provided on the premises at the rate of one space per occupant based on maximum possible occupancy, plus one space for each employee.
  - (p) All rooming houses and boardinghouses with special permits shall be subject to inspections at all reasonable hours by properly authorized representatives of the Town of Ulster. Failure to comply with this provision shall constitute grounds for immediate revocation of the permit.
  - (q) Every rooming house and boardinghouse and every part of the premises shall be at all times kept clean and free from dirt, filth and rubbish and in a sanitary condition. Cleaning and renovation shall be secured as may be ordered by the Building Department of the Town of Ulster.
  - (r) No sign shall be erected that identifies or advertises the use of the rooming house or boardinghouse for such purpose.
  - (s) Said use shall conform and be maintained in harmony with the overall character and appearance of the surrounding neighborhood.
  - (t) No rooming house or boardinghouse permitted pursuant to this subsection shall be located less than 1,200 feet from an existing rooming house or boardinghouse.
  - (u) No rooming house or boardinghouse permitted pursuant to this subsection shall be located less than 1,200 feet from an existing bed and breakfast.
- (3) Any person maintaining such a rooming house or boardinghouse shall keep upon such premises a register showing the names of all persons residing or living in or upon said premises, as well as the room occupied by each, and shall exhibit the same to any member of the Police Department or the Building Department of the Town of Ulster or their deputy at any reasonable time upon demand, and the failure to so exhibit the same shall constitute a violation and be punished in accordance with § 190-67.
- (4) For rooming houses and boardinghouses only, there shall be an annual special permit fee of \$200 per building plus a charge per room of \$20 for each room over four rooms per building which is used as an accommodation for hire. The fee for any special permit required by the

## ZONING

§ 190-25

§ 190-25.1

provisions of this chapter shall be at the levels fixed from time to time by resolution of the Town Board of the Town of Ulster or by local law.

- (5) No special permit shall be issued or renewed for a longer period than one year, and all permits shall expire one year following the date of issuance. All applications, properly filled out, must be filed with the Planning Board of the Town of Ulster at least 30 days prior to the expiration of the previous special permit or 30 days before the applicant intends to commence operations. The fee for the issuance of a special permit hereunder or for subsequent renewals thereof is hereby established for the whole or part of the calendar year.
- (6) Every applicant of a rooming house or boardinghouse shall submit with his application to the Planning Board the following information which is to be filed both with the Town Clerk and the Building Department of the Town of Ulster:
  - (a) The name, address and phone number of the owner of the rooming house or boardinghouse.
  - (b) The name, address and phone number of the permanent resident of the Town of Ulster who shall be the resident agent responsible for the management of said rooming house or boardinghouse.
  - (c) A description of the property by street number, the number of apartments in each rooming house or boardinghouse, the number of rooms in each apartment, the number of rooms for sole occupancy and the maximum possible occupancy.
  - (d) The number of persons occupying each room and/or apartment.
  - (e) A plan or diagram of the lot containing the rooming house or boardinghouse and of each floor in the building, showing all dimensions, doors, windows, closets, water closets, bathrooms, staircases and means of exit.
  - (f) Proof of annual inspection by the Ulster County Department of Health.

### **§ 190-25.1 Home occupations in residential districts. [Added 5-17-1993 by L.L. No. 3-1993]**

Home occupations, as defined in § 190-4, shall be subject to the following regulations and standards as permitted accessory uses in residential districts:

## ZONING

§ 190-25.1

§ 190-25.1

- A. Application procedure.
- (1) A home occupation, other than an occupation prohibited in § 190-25.IB below, in which all activities are performed exclusively by family members living in the residence to which the occupation is accessory may be conducted without submission of any application, subject to the standards set forth in § 190-25. IC below.
  - (2) An application for a home occupation in which one (1) or two (2) nonresidents are employed shall be submitted to the Building Inspector for his approval upon determination that the use complies with the standards set forth in § 190-25.1C below. Site plan approval is not required in such case, although a building permit may be required by the Town Building Code. If the Building Inspector determines that the proposed use will not comply with the standards of § 190-25.1C, the applicant may apply to the Town Board for a special permit as provided in § 190-41.
- B. Prohibited occupations. Some uses that are commercial in nature are generally not compatible with a residential area and shall be prohibited as home occupations in residential districts. Such uses are as follows:
- (1) Animal hospital, kennel or other animal care facilities.
  - (2) Automotive or heavy equipment repair or body shop.
  - (3) Restaurant, tavern or retail store.
  - (4) Rug or furniture cleaning on premises.
  - (5) Clinic or hospital.
  - (6) Boarding home or group care facility.
  - (7) Other uses which are similar in kind, nature, extent and scope as the preceding uses.
- C. Standards applying to home occupations. Subject to the following provisions, it is the intent and policy of the town that home occupations are permitted as a matter of right to promote the full and appropriate utilization of all properties in the town. Accordingly, home occupations are permitted as accessory uses upon complying with the following standards:

## ZONING

§ 190-25.1

§ 190-25.1

- (1) There shall be no indication of the home occupation from the exterior of the building, except for a small sign of less than three (3) square feet on the premises. Modification of the structure shall not alter its primary residential character.
- (2) A home occupation shall be conducted only within the residence except upon approval of a special permit by the Town Board.
- (3) The floor area designed for and allotted to the home occupation shall not exceed fifty percent (50%) of the ground floor area of the dwelling unit.
- (4) No more than two (2) persons who are not residents of the dwelling unit shall be employed in the home occupation.
- (5) No products, materials or equipment used in the home occupation shall be stored or displayed outside the residence.
- (6) At least two (2) but not more than four (4) off-street parking spaces shall be provided for a home occupation, in addition to those required for the principal residential use. Such space may be provided in the driveway but not elsewhere in any required front yard.
- (7) The home occupation shall not result in significantly more traffic, noise, vibration, odor, smoke, glare or electrical interference beyond that normally generated by permitted uses in the same zoning district.
- (8) The home occupation shall not utilize substantially more water or generate substantially more sewage or waste than would a permitted residential use in the same district.
- (9) The above standards may be modified in the R-30 and R-60 Districts upon a determination by the Town Board that, due to the size of the property, the distance from the use to the property line, the presence of existing vegetation and topographic features and the capacity of the access roads, the proposed home occupation will not have any greater effect on the surrounding residential area than if the standards were strictly adhered to. Upon such determination, the Town Board may issue a special use permit setting forth specific waivers granted to the standards and any other conditions deemed appropriate. Such approval shall be reconsidered at the same time any future site plan or subdivision application for the property is submitted and may be revoked if such action would change the basis upon which the original determination of approval was made.

## ZONING

§ 190-25.1

§ 190-27

### ARTICLE VII

**[Repealed and replaced with Local Law #3 of 2010, enacted 7-15-2010]**

#### **Supplementary Off-Street Parking and Loading Requirements**

##### **§ 190-26. General requirements.**

- A. Applicability. All structures and land uses hereafter erected, enlarged, moved, created, changed in intensity or substantially altered shall be provided with the amount of off-street parking and loading space required by the terms of this article to meet the needs of persons occupying or using such structures or land. If a use is approved for which no parking requirement is specified, the Planning Board or Town Board, shall prescribe such standards.
- B. Areas computed as parking spaces. Areas that may be computed as the required off-street parking spaces include a garage, carport or other area available for parking other than streets, exit and entrance lanes, fire lanes or driveways. However, a driveway for one- and two-family residence may count as parking space.
- C. Location and ownership. Required parking spaces may be provided on the site or elsewhere, provided that all spaces are located within five hundred (500) feet walking distance or two hundred (200) feet for residential uses. No off-site parking spaces for nonresidential uses shall be located adjacent to an existing permitted residence. Parking spaces shall be in the same ownership as the user to which assigned or are subject to a legal right in a form approved by the Town Attorney guaranteeing that they remain available to the user. The owner and heirs and assigns shall maintain the number of spaces during the existence of the user or until such spaces are provided elsewhere.

##### **§ 190-27. Design Standards.**

- A. General. All off-street parking areas shall be in imperviously paved parking lots or courts with curbs, island separators, appropriate lighting, proper drainage and convenient pedestrian and vehicular access. The Planning Board may allow a portion of parking areas to consist of pervious paving systems [e.g. Ecogrid or Geogrid, etc.] where it deems such systems to be practical. All parking spaces shall be marked so as to provide for safe and orderly parking. A *double striped line* closed at the aisle end; shall delineate parking stalls and parking stall widths shall be measured to the center of the *double striped lines*. Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.

ZONING

§ 190-27

§ 190-27

- B. Dimensions of Stalls and Aisles. The minimum dimensions of stalls and aisles shall be as follows:

Angle of Parking	Parking Stall Width (feet)	Stall Depth (feet)	Aisle One-Way (feet)	Two-Way (feet)
90°	9.0	18	Not allowed	24
60°	9.5	20.2	18	21
45°	9.5	19.6	15	18
30°	9.5	16.5	12	18
Parallel	9.5	22	12	18

**Note:** Stall widths for employee parking may be reduced by one-half (1/2) foot when located in a separate area from the public parking.

- C. Handicap Parking. Accessible parking spaces shall be provided for any place of public accommodation or any commercial facility, pursuant to the Americans with Disabilities Act of 1990; and shall be designed in accordance with the rules and regulations of the aforesaid Act, as amended, in accordance with the following table:

Total Parking Spaces in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 and over	20, plus 1 for each 100 over 1,000

**Note:** All such spaces shall be posted with regulatory signs conforming to the New York State Department of Transportation Manual of Uniform Traffic Control Devices restricting their use to handicapped persons and shall be laid out so as to not compel handicapped individuals to wheel or walk behind parked vehicles.

- D. Drainage and grade. All open parking areas shall be properly drained. Drainage shall meet the requirements of the Town of Ulster MS4 Regulations and/or a Stormwater Management Pollution Prevention Plan (SWPPP) approved by the Town's consulting

## ZONING

§ 190-27

§ 190-27

engineer. Parking area grades should not exceed five percent (5%); parking drive grades should not exceed eight percent (8%).

- E. Access. In no case shall parking areas be designed to require or encourage cars to back into a public street in order to leave the lot. Entrances and exits to and from off-street parking areas shall be located so as to minimize interference with street traffic. Unobstructed access to and from a suitably improved street shall be provided for all uses. Such access shall consist of at least one (1) twelve-foot lane for parking for twenty (20) or less spaces and at least two (2) twelve-foot lanes for parking for over twenty (20) spaces. Entrance and exit signs may be required. Access drives shall be paved for a distance of at least fifty (50) feet from the public roadway.
- F. Driveway separation from intersection. No entrance or exit for off-street parking area for more than four (4) spaces, nor any loading area, shall be located closer than seventy-five (75) feet from the intersection of two (2) designated streets. The minimum distance shall be increased to one hundred (100) feet from a signalized intersection or an intersection with a left-turn.
- G. Planting strips. The Planning Board may require landscaping in parking areas. The following are minimum provisions for landscaping in parking areas:
  - (1) No more than 20 parking spaces shall be permitted in a continuous row and no dimension of any parking area may exceed 200 feet without being interrupted by a landscape island having a width of not less than five (5) feet.
  - (2) Parking spaces that are parallel to a building shall be separated from the building by a planter with at least five (5) feet interior width.
- H. Screening. In general, no parking area shall be located within ten (10) feet of any side or rear property line. Parking areas shall be screened from any residence where visible. Where a lot in a business district abuts a lot in a residence district, there shall be provided along such side or rear lot line in the business district abutting a residence district a wall, fence, compact evergreen hedge or a landscape strip of trees or shrubs so designed as to form a visual screen not less than six (6) feet in height at the time of planting. Parking areas with five (5) or more spaces in a residential zone shall be screened from all property lines including any bordering roads, but screening shall not obstruct sight distance.
- I. Lighting requirements. The artificial average maintained light level within the site shall not exceed two (2) footcandles for an outdoor off-street parking areas and eight (8) footcandles elsewhere. Energy-efficient lighting, such as LED and solar lighting fixtures are encouraged.
  - (1) Lighting fixtures. All outdoor lighting shall be constructed with full shielding

## ZONING

§ 190-27

§ 190-27

designed to direct the lighting downward below an imaginary horizontal plane passing through the lowest point on the fixtures from which light is emitted. When a non-residential off-street parking area is abutting residential properties, additional shielding shall be required to reduce glare so that the *light source* is not visible from nearby residences.

- (2) Maximum permitted pole height: Total pole and fixture height should be a maximum of twenty (20) feet, measured from grade at the base. Poles, concrete bases, and fixtures should be appropriate in scale for the buildings and lot. Less height, closer spacing, and lower wattage may be required and taller poles may be considered in some situations.
- (3) Parking lot lighting curfew: On all non-residentially developed lots which contain a minimum of 4 parking lot light poles, parking lot lighting levels for off-street parking areas must be reduced by at least 50% of full operational levels within 30 minutes after all employees have left the premises. Lighting levels may be reduced by turning off 50% of the parking lot lights or by dimming parking lot lighting levels to no more than 50% of the levels used during business or activity hours, or by some combination thereof. Given that a certain minimum lighting level is recommended for safety and security purposes, this provision does not require parking lot lighting levels to be reduced to less than 0.2 footcandles as measured horizontally at the surface on which the light pole is mounted.

J. Joint facilities. Required parking spaces, open or enclosed, may be provided in an area designated to serve two (2) or more establishments whether or not on the same lot, provided that the total number of spaces is not less than the required number for all such establishments.

### § 190-28. Schedule of off-street parking requirements.

Off street parking spaces shall be provided in accordance with the following schedule:

<b>§ 190-28. Schedule of Off-Street Parking Regulations</b>	
<b>Land Use</b>	<b>Number of Parking Spaces Required</b>
Adult use	1 space per 75 sf <sup>2</sup> of GFA
Athletic field	20 per athletic field, or 1 per 2 seats, whichever is greater
Assisted living facility	1 space per dwelling unit, plus 1 space for each employee
Automotive gasoline/convenience store	1 space per 200 sf <sup>2</sup> of GFA*, plus one per fueling station
Automotive garage and service center	1 space per 600 sf <sup>2</sup> of GFA*, plus one per service bay
Automotive sales and service center	1 space per 5,000 sf <sup>2</sup> of outdoor display area, plus 1 space per 600 sf <sup>2</sup> of GFA of sales and service buildings
Banks and lending institutions	1 space per 200 sf <sup>2</sup> of GFA
Bank, with drive thru (including ATM)	1 space per 200 sf <sup>2</sup> GFA, plus 5 stacking spaces per service window
Bed & breakfast establishment	1 space for every guest room, plus 2 spaces for resident dwelling
Bowling alley	4 spaces per bowling lane
Bus stop/taxi stand/transport terminal	1 space per 100 sf <sup>2</sup> of waiting room space
Carwash, full service	Stacking for 25 vehicles or 10 per approach lane, whichever is >
Carwash, self service	2 stacking spaces per washing bay, plus 2 drying spaces per bay

## ZONING

Catering facility	1 space for every three seats
Convenience store	1 space per 200 sf <sup>2</sup> GFA
Day care, center for children or adult	1 space per 4 persons of maximum licensed capacity
Dormitory	1 per every 2 dormitory rooms, plus one for resident manager
Dwelling, 1-family, 2-family, 3-family	2 spaces per dwelling unit
Dwelling, manufactured home	2 spaces per dwelling unit
Dwelling, multi-family or senior unit	2 spaces per dwelling unit, plus ½ space per unit for guests
Dwelling, townhouse	2 spaces per dwelling unit, plus ½ space per unit for guests
Farm stands	1 per 250 sf <sup>2</sup> of retail sales area
Funeral homes	1 space per 5 seats in largest chapel, plus 1 space per employee
Golf course and clubs	4 spaces for each tee
Golf driving range	2 spaces for each tee, plus 1 space per employee on largest shift
Golf, miniature	1 space for each tee, plus 1 space per employee on largest shift
Grocery store	1 space per 200 sf <sup>2</sup> of GFA
Health club	1 space per 200 sf <sup>2</sup> of GFA
House of worship	1 space for every 4 seats
Home occupation	1 space for home occupation, plus 2 spaces for dwelling
Hospitals	1 space for every 3 beds
Hotels & motels	1 space per rental unit, plus 1 space for each 2 employees
Industry, Light or Heavy	1 space for each 500 sf <sup>2</sup> of GFA or 2 per employee whichever is >
Laboratories	1 space for each 500 sf <sup>2</sup> of GFA or 2 per employee whichever is >
Laundromat (service business)	1 space per 2 washing machines
Libraries	1 space per employee, plus 1 space per 1,000 sf <sup>2</sup> GFA
Manufacture, small, medium, large	1 space for each 500 sf <sup>2</sup> of GFA or 2 per employee whichever is >
Marina	1 space per 2 boat slips, plus 1 space per employee
Museums and galleries	1 space per employee, plus 1 space per 1,000 sf <sup>2</sup> GFA
Nursing home	1.5 spaces per 1000 sf <sup>2</sup> of GFA
Nursery, retail or wholesale	1 space for each 300 sf <sup>2</sup> of retail sales area
Office, medical or dentist	3 spaces per doctor or dentist, plus 1 for each 2 employees
Office, professional	1 space for each 500 sf <sup>2</sup> GFA or 2 per employee whichever is >
Places of assembly	1 space for every 3 seats
Recreation facility	1 space for each 3 persons of capacity
Restaurants/drinking establishments	1 space for every 3 seats
Restaurant - drive thru	1 space per 250 sf <sup>2</sup> of GFA, plus 5 stacking spaces in drive-thru lane
Restaurant – take out	1 space per employee, plus 1 space per 250 sf <sup>2</sup> GFA
Retail business	1 space per 250 sf <sup>2</sup> of GFA
School of learning	1 per teacher, employee and classroom, plus loading areas
Self-storage facility	1 space per 20 rental units, plus 2 for office
Service business (personal service)	1 space per 200 sf <sup>2</sup> of GFA
<i>Unspecified uses</i>	<i>As defined by Institute of Traffic Engineers - Parking Generation</i>
Tire repair and service establishment	1 space per 600 square feet
Theaters (indoor and indoor complex)	1 space for every 3 seats
Vacation campground	1 space per campsite plus 1 space per employee
Veterinary clinic	1 space for each exam room, plus 1 space per employee
Warehouse	1 space for 700 sf <sup>2</sup> of GFA, plus 1 space per employee
Wholesale	1 space for 700 sf <sup>2</sup> of GFA, plus 1 space per employee
<p>* <b>GFA - Gross Floor Area</b> - See Section 190-4. Definitions.</p> <p><b>Note:</b> Where calculation in accordance with the foregoing list results in requiring a fractional space, any fraction less than 1/2 shall be dropped and any fraction 1/2 or more shall require one space. Where circumstances require, the Planning Board may modify the parking requirements provided in this section. For other uses that are not specifically cited above, the Planning Board shall determine the number of off-street parking spaces required using the <i>Institute of Traffic Engineers - Parking Generation 3rd Edition</i> or most current edition available at the time the Site Plan or Special Permit Application.</p>	

## ZONING

§ 190-29

§ 190-29.1

### § 190-29. Off-street loading areas.

For any nonresidential use of a structure with four thousand (4,000) square feet or more of gross floor area, there shall be one (1) loading area reserved exclusively for that purpose. Up to twenty-four (24) feet of minimum loading area length may be constituted by common drive areas. The minimum requirements may be reduced where necessary, provided that there is proper circulation and traffic safety and where such change would not create future difficulties by way of use of structures for any other use permitted by right on that site.

- A. Location and access. Unobstructed access, at least fourteen (14) feet wide to and from a street shall be provided. Such access may be combined with access to parking areas. Loading areas shall be screened from residential districts.
- B. Joint facilities. Permitted or required loading areas, open or enclosed, may be provided in spaces designated to serve two (2) or more adjacent establishments, provided that the total number of required areas is not less than the aggregate of all such requirements.
- C. Access near street intersections. No entrance or exit from a loading area shall be closer than seventy-five (75) feet to where two (2) streets intersect or one hundred (100) feet if signalized or contains a left turn lane on the same street as the proposed loading area site entrance.

### § 190-29.1. Reduction of parking requirements.

- A. Reduction of parking requirements. The Planning Board or Town Board, upon the receipt of an *off-street parking study* prepared by a qualified traffic engineer or transportation planner and the review and recommendations of the Town Planner or Consulting Traffic Engineer, may grant a conditional reduction of the total number of required off-street parking spaces subject to the following conditions:
  - (1) The *off-street parking study* demonstrates that:
    - (a) The required number of parking spaces exceed the actual peak parking hour demand by more than ten percent (10%) and that such reduction would not induce parking on a public street or result in traffic congestion. In this case, the Planning Board or Town Board may reduce the total number of required parking spaces by 10%; or
    - (b) The operating schedules of two or more proposed uses are such that a parking lot may be shared by such uses that will be generating a demand for parking spaces primarily during periods when the other use or uses is not or are not in operation. In this case, the Planning Board or Town Board may reduce the total parking

## ZONING

§ 190-29.1

§ 190-30

spaces required for that use with the least requirement by up to fifty percent (50%).

(2) Conditions of parking reduction approval.

- (a) The site plan shall designate an area or areas sufficient to accommodate the total number of required off-street parking spaces should it be determined that additional off-street parking spaces based upon actual use. The plan shall illustrate the layout for the total number of off-street parking spaces and the layout with the proposed reserved off-street parking spaces.
- (b) Where it is determined the reserved off-street parking spaces are necessary, due to traffic congestion or overflow parking, the owner within three (3) months notice from the Town Building Department shall provide such spaces.

### **§ 190-29.2. Parking Lot Design Standards.**

The Planning Board is authorized to adopt regulations providing for standards used in the design of parking areas including striping of stalls; provision of vehicle stops and control movements and specifications for the surfacing of parking spaces. These regulations are subject to Town Board approval.

## ARTICLE VIII

### **Supplementary Sign Requirements**

#### **§190-30. Purpose; permit required; exceptions**

- A. Purpose. The town finds that the reasonable regulation of signs will promote aesthetics and contribute to traffic safety. This article intends to promote those objectives and to encourage the placement of a well designed permanent signs and to limit the use and location of temporary signs.
- B. Permit required. No sign (except those exempted by this section) shall be erected, rebuilt, enlarged or altered except as shown on an approved site plan or sign plan.
- C. Exempt signs. The following are exempt from this Article.
  - (1) Signs or bulletin boards customarily incident to places of worship.
  - (2) Signs conforming to the Manual of Uniform Traffic Control Devices, New York State Department of Transportation, shown on an approved site plan, or posted pursuant to order of traffic control agencies.

## ZONING

§ 190-30

§ 190-31

- (3) Signs posting private property.
- (4) Nonpermanent signs for temporary events, including but not limited to political, charitable and special events. Such signs shall not be placed on any utility pole, street sign pole, hydrant or tree within the right-of-way of a public street or on private property without the specific authorization of the property owner. Placements of these signs shall not exceed ninety (90) days. The names and address of the sponsor who is responsible for removal must be placed thereon.
- (5) Unlighted signs advertising property for sale or rent, one for each street frontage per property, not to exceed 6 square feet per face in a residential district and 32 square feet per face in a non-residential district, set back at least 10 feet from the property line.
- (6) Any other signs required by law or governing agency.
- (7) Resident identification signs and alarm notification signs not exceeding four (4) square feet and signs permitted for home occupation as per §190-25.1.C.

### **§190-31. Prohibited signs**

The following signs are prohibited:

- A. Flashing signs, except for time and/ or temperature, including any device on which artificial light is not stationary and constant in intensity and color during all times of use.
- B. Signs representing or depicting to any degree official traffic signs or signals per the New York State Vehicle and Traffic Law or any sign which projects over a street.
- C. Signs which emit noise, sounds or smoke.
- D. Animated signs, whether by mechanical or electrical processes.
- E. Signs of a prurient nature or advertising businesses, commodities or services of a prurient nature or unlawful business.
- F. Signs, banners, or pennants made of cardboard, paper, cloth or similar impermanent material, except for temporary events per §190-30C(4).

## ZONING

§ 190-31

§ 190-32

- G. Billboards in residential districts. Existing billboards may be continued, repaired and replaced, provided that such signs are maintained in a safe condition. Sign surfaces shall be maintained in a sightly fashion and uniform color when not on display.

### **§190-32. Permit application procedure**

#### A. Sign Permits

No sign shall hereafter be erected, structurally altered, enlarged or relocated within the Town, unless a permit has been obtained from the Building Inspector. Such permit shall only be issued following submission, review and approval of an application in accordance with the requirements set forth below, and payment of the required fee in accord with the schedule established by the Town Board. A permit shall not be required for the repainting or refurbishing of an existing sign which conforms to the standards set forth herein.

#### B. Permit for Sign on Premises with a Nonconforming Sign

No permit shall be issued for any type of new sign if any other sign exists on the premises which has been determined to be nonconforming as set forth in §190-34 below. This regulation shall not apply if the nonconforming sign was approved as per an application for sign approval under this Zoning Law or during site plan approval as per Chapter 145 of the Town Code.

#### C. Application

- (1) A scale drawing of the sign which shows design, content, and its proposed location on the site or building.
- (2) A drawing, with appropriate notes, describing the construction of the sign and, where appropriate, the method of attachment to the building.
- (3) A description or sample of the predominant material of which the proposed sign will be made.
- (4) A description of the proposed method, if any, of sign illumination.

#### D. Review

- (1) Wall or Projecting Signs.

ZONING

§ 190-32

§ 190-33

The Building Inspector shall review all applications for wall or projecting signs and approve, disapprove, or approve with modifications the permit therefore within 15 days of receipt of the application.

(2) Freestanding Signs.

Applications for freestanding signs shall be reviewed by the Building Inspector for compliance with the dimensional standards and then referred to the Planning Board. The Planning Board shall review such sign to determine its impact on adjacent properties, visual quality or the area and on site distance in relation to traffic circulation. It shall then approve, approve with modifications or disapprove said sign and state its reasons therefore in writing to the applicant. Where applicable, review of freestanding signs shall be coordinated with review of site plans as provided in Chapter 145 of the Town Code.

E. Certificate of Compliance

Upon erection of a sign for which a permit has been issued, the applicant shall notify the Building Inspector. Within 30 days the Building Inspector shall inspect the sign and issue a certificate of compliance if the sign has been erected in accord with the approved sign permit. If the sign does not comply, the Building Inspector shall advise the applicant and require necessary modifications to be completed within 30 days. If such modifications are not made, the permit shall be revoked and the sign removed. All illuminated signs shall be UL approved and shall include a visible nameplate listing the manufacturer, installer and date of installation.

§ 190-33. Sign Standards.

A. Dimensional Standards for Permitted Permanent Signs

ZONING DISTRICT		
	LC, HC,OM and I	RC
<b>WALL SIGNS [Amended 11-18-2002 by L.L. No. 3-2002]</b>		
Whichever is less:		
Building Frontage Formula (per facade) or Maximum sign area (per facade)	1 sq. ft./2 lineal ft. 50 sq. ft.	1 sq. ft./1 lineal ft. 100 sq. ft.
<b>FREE STANDING SIGNS</b>		
Permitted only if establishment is set back from property line at least:	15 ft.	45 ft.

## ZONING

§ 190-33

§ 190-33

### Monument

Maximum sign area per face	50 sq. ft.	75. sq. ft.
Maximum height (including base)	8 ft.	8 ft.
Minimum setback from property line	5 ft.	10 ft.

### Pole or Post and Arm

Maximum sign area per face	50 sq. ft.	150 sq. ft.
Maximum height above finished grade	20 ft.	20 ft.
Minimum setback from property line	5 ft.	10 ft.

### PROTECTING SIGN

Maximum sign area per face	12 sq. ft.	16 sq. ft.
Maximum projection from building face	4 ft.	5 ft.
Minimum clearance from ground	8 ft.	8 ft.
Maximum height above ground	15 ft.	15 ft.

### WINDOW SIGNS – PERMANENT

% of total window area of principal façade	15%	20%
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### AWNING SIGNS

Maximum projection over sidewalk	7 ft	7 ft.
Letter size	6 in.	10 in.
Lettering location	valance only	On or above valance
Width of lettering area across awning	8 ft. or 50% of Valance (whichever is more)	8 ft. or 50% of valance (whichever is more)

### SIGNS IN RESIDENCE DISTRICTS

If accessory to a permitted non-residential use, signs in residence districts shall comply with the standards of the LC District. If associated with a home occupation permitted by right, signs shall conform to the standards in §190-25.1.

#### B. Sign Standards

##### (1) Wall Signs

- (a) Wall signs shall not project more than 15 inches from the wall to which they are affixed.
- (b) Wall signs shall not extend above or beyond the face of the wall to which they are attached in any direction.

##### (2) Projecting Signs

## ZONING

§ 190-33

§ 190-33

- (a) The distance between the faces of projecting signs shall not exceed fifteen inches.
- (b) No part of a projecting sign shall extend within two feet of a curb line or the edge of vehicular pavement.

(3) Freestanding

- (a) No part of any freestanding sign or its support shall be located within ten feet of any building or edge of vehicular pavement except that a sign may extend over a portion of an internal driveway or parking lot if no part of such sign is lower than 14 feet.
- (b) Every freestanding sign shall display the street address of the property on which it is located.

(4) Roof Signs

Roof signs shall only be permitted on roofs with a pitch in excess of 4 vertical to 12 horizontal and only upon a approval by Planning Board based on a finding that no other suitable location for signage exists on the building or property. If permitted, such sign shall not exceed 20 square feet in area and shall be located only on the lower half of the pitch or suspended from the eaves.

(5) Iconic Signs

Iconic signs, such as barber poles, eyeglasses, mortar and pestle, etc., which are traditional representations in nature, shall be permitted as long as they comply with the pertinent regulations pertaining to size and location herein.

(6) Window Signs

Temporary interior signs affixed to or within three (3) feet of the inside of a display window announcing special sales or events shall be permitted in any business district provided that such signs shall not cover more than fifty percent (50%) of the window area to which they are affixed and shall be removed within thirty (30) days.

(7) Changeable Letters

## ZONING

§ 190-33

§ 190-33

Signs may include provisions for changeable letters as long as the standards set forth herein are maintained.

(8) Sign Illumination

- (a) Only white light may be used to externally illuminate a sign, except in the case of neon tubing.
- (b) The illumination from any sign shall not cause any reflection or glare upon a public street, highway, sidewalk or adjacent property.
- (c) All external sources of illumination (e.g., spot, flood, quartz halogen, fluorescent) must be hidden from view by shrubbery or some other appropriate material.
- (d) Except for clocks and customary time and temperature devices, no sign shall contain intermittent, moving or flashing illumination.

(9) Signs for More Than One Business on a Site

Where two (2) or more business establishments occupy a common site or building, the following criteria shall apply:

- (a) One common freestanding sign (monument, post & arm, or pole style), identifying the site is permitted. Size and setback shall conform to the requirements for freestanding signs in the district in which the site is located.
- (b) Freestanding signs may not be displayed by individual establishments. The types of signs displayed by each individual establishment shall adhere to a master sign plan. Each establishment may display two (2) signs other than freestanding signs.
- (c) A Master Sign Plan is required of establishments that share a zoning lot, parcel or are part of a shopping center. The Plan is intended to create visual unity among the signs within the site area. It shall include specifications to which all signs within the site shall conform, including but not limited to the following: sign type, style, height, colors, lettering or graphic style, materials, shape, lighting and location. Before any individual sign permits for the site are approved, the Master Sign Plan must be reviewed and approved by the Planning Board. Signs on the site that exist prior

## ZONING

§ 190-33

§ 190-33

to the effective date of this regulation, shall be deemed non-conforming signs and are exempted from the requirements of the Plan for a period of five (5) years, after which these signs shall conform to the Plan or be removed.

### (10) Off-site Directional Signs

It is in the interest of the Town and the general public to provide convenient, safe and direct access for motorists to services and businesses which are not located on state highways. Therefore, off-site directional signs may be erected on private property subject to approval by the Planning Board and the following standards:

- (a) A directional sign shall be permitted only for a legally established business, industrial or institutional use located in the Town of Ulster which is in compliance with all zoning and other applicable local laws, derives the major portion of its patronage from motorists who do not reside in the immediate area and is not located on a state highway.
- (b) Directional signals shall be located between 200' to 800' from the intersection of the street on which the use is located. Only one such sign per road shall be permitted for an individual use from each direction.
- (c) Signs shall be no larger than 18" x 23" and shall be of standard size, color, material, height and design as approved by the Town Highway Superintendent. Signs shall not be illuminated.
- (d) An application shall be submitted to the Planning Board requesting permission to erect one or more directional signs at specified locations. The Planning Board shall review such application to determine if the proposed sign complies with the general standards herein and will not cause adverse impacts at the proposed location due to sight distance limitations or traffic circulation.
- (e) Signs shall only be mounted on sign posts installed in accord with Town standards. Sign posts shall be designed to accommodate up to four signs.
- (f) A copy of the approved application shall be transmitted to the Building Department.

## ZONING

§ 190-33

§ 190-33

### C. Temporary signs

The following signs of a temporary nature must receive a permit from the Building Inspector before being displayed in any zoning district, except those specified under the Exempt Signs section (§190-30.C.). The permit shall note the date of the first day the sign may be displayed and the date it must be removed.

1. A mobile sign, whether or not on wheels, for a period not to exceed 30 consecutive days or any 60 days within the same calendar year. Such sign shall be subject to all provisions of these regulations, including those as to size, location, illumination and construction as if it were permanent.
2. A temporary sign, not exceeding 32 square feet in area, which is erected by a municipal, charitable, political or non-profit organization for a period not to exceed 30 days.
3. A single temporary sign not exceeding 32 square feet in area, which announces anticipated occupancy of a site or building or identifies the contractor, architects, engineers, etc. on a building under construction, for a period not to exceed six (6) months.
4. An A-frame (sandwich board) sign with a face area of no more than six square feet. Such sign may not be placed within the right-of-way of a public street or within any driveway or parking space and shall be removed daily between the hours of 10:00 PM and 6:00 AM. In addition to other fees established by the Town Board, a security deposit shall be deposited with the Building Inspector to insure removal of temporary signs upon expiration of the permit period. If any temporary sign is not removed by the expiration of the time limit on the application, the Building Inspector, after seven (7) days written notice to the permit holder to remove such sign (s), and after failure of the permit holder to do so, will cause said signs to be removed, and the security deposit will be forfeited to help defray the cost of removal. The seven (7) day written notice provided herein shall be computed from the date of mailing said notice. Said notice shall be directed to the permit holder at the address provided on the permit application.

### D. Billboards

New off-site signs including those known as billboards are not permitted in any district except as provided in §190-33.B.(10) and §190-34.C.

## ZONING

§ 190-34

§ 190-34

### **§190-34. Pre-existing and non-conforming signs.**

Any existing sign which was legally in place prior to date of adoption of this chapter is subject to the following:

- A. Where a sign was constructed prior to adoption and was conforming to the then existing regulations or was granted a variance and where the existing sign is in good condition, posing no safety hazards, it shall be construed to be a conforming sign.
- B. Signs determined to be nonconforming may be continued, re-lettered, maintained or decorated, but shall not be physically enlarged or rebuilt.
- C. A billboard existing as of January 1, 2002, may be replaced on the same site, if located in an HC, OM, RC or I District, by a billboard of the same or less height and area. An existing billboard may be relocated to a site in the HC, OM, RC or I District upon approval of the site plan by the Planning Board and only in accord with the standards set forth below. In such event, the existing billboard shall be permanently removed.
  1. Billboards shall have a maximum size of one thousand (1,000) square feet and shall be set back from the street line a minimum distance of twenty five (25) feet. They shall not be located closer than six hundred (600) feet to an existing billboard or a residential district.
  2. Billboards shall be limited to property with physical frontage on the following public roadways in nonresidential zones in the Town of Ulster: Route 209, Route 9W, Route 28, Route 32 and Ulster Avenue, only.
- D. Any sign which, for a period of ninety (90) consecutive days, has not correctly advertised a bona fide business, service, lessor, owner, product or activity conducted or product available on the premises where such sign is displayed shall be considered abandoned and non-conforming and shall be removed within 30 days of notice by the Building Inspector.
- E. Other Agency Review.

Replacement of a nonconforming sign or billboard; or erection of new billboard within any portion of the Town within the Catskill Park "blue line" shall be subject to any and all applicable restrictions on signs within the Catskill Park as promulgated and administered by the New York Department of Environmental Conservation. Replacement of a nonconforming sign or billboard or erection of new billboard within any portion of the Town adjacent to the New York State

## ZONING

§ 190-34

§ 190-39

Thruway shall be subject to any and all applicable restrictions on signs adjacent to the Thruway as administered by the New York State Thruway Authority.

### ARTICLE IX

#### Site Development Plan Review

##### **§ 190-35. Site plan review requirement.**

A separate site plan review may be required for certain uses and structures under Chapter 145, Site Plan Review, of the Code of the Town of Ulster.

### ARTICLE X

#### Landscaping and Environmental Requirements

##### **§ 190-36. Adoption by Board.**

The Town Board may adopt landscaping and environmental requirements for use by the Planning Board.

##### **§ 190-37. Landscaping, erosion and sedimentation controls.**

The minimum landscape requirements and erosion and sedimentation requiring site plan approval are for a general guide only and may be waived, varied or increased where, due to special circumstances, changes are necessary to ensure compatibility and conformity with other standards or criteria of this chapter.

##### **§ 190-38. Applicability and effect of State Environmental Quality Review Act.**

The provisions of the New York State Environmental Quality Review Act (SEQRA) apply to all applications under this chapter. Where an application involves an action which is not Type II or exempt under the terms of 6 NYCRR 617, SEQRA procedures shall be observed and may be conducted simultaneously with site plan review and approval. Time periods specified in this chapter shall not commence running until SEQRA is completed by issuance of a negative declaration or upon acceptance by the lead agency of the Draft Environmental Impact Statement. Fees for processing SEQRA are in addition to fees charged under this chapter.

##### **§ 190-39. Maintenance of landscape and screening material.**

Where landscape and screening materials are specified and listed on a site plan or where required by terms and conditions of approval or grant of a variance or special permit use or other requirement, it shall be maintained following the approved plans or conditions. When landscaping or screening is not provided as approved on plans or properly maintained, it is a violation of this chapter and is enforceable pursuant to Article XIII.

## ZONING

§190-40

§190-43

### **§ 190-40. Flood damage prevention requirements.**

The requirements of the Flood Damage Prevention Local Law (12) apply to all uses in this chapter.

## ARTICLE XI

### **Special Permit Uses**

#### **§ 190-41. Approval required.**

The special permit uses listed in Article V (use and bulk tables) are permitted only upon approval by the Town Board following the procedures and standards of this chapter. Special permit uses are prohibited unless there is a valid special permit use approval filed with the Town Clerk. Where those uses are approved subject to the terms and conditions, those uses are conforming uses, provided that all terms and conditions are complied with.

#### **§ 190-42. Application for approval; fees.**

Application for approval of a special permit use shall be made on forms prescribed and issued by the Town Board. The special permit application and site plan application may be combined and processed concurrently. If no site plan approval is required for a special permit use, application for approval of the special permit use shall include a copy of a previously approved site plan. Fees for special permit use application are specified in the standard schedule of fees of the Town of Ulster. (13)

#### **§ 190-43. Approval or denial; timetable; public hearing.**

Special permit uses may be established upon compliance with conditions required by this chapter. The Town Board may approve appropriate conditions to the proposed use for the project to be consistent with this chapter, or upon adverse findings, or by virtue of the SEQRA process finding significant adverse impacts which have or cannot be mitigated, the Board may deny the use. The Board must state in the record the findings of fact and reasons for denial. The Board may set concurrent public hearings for consideration of an application for special permit use which also requires site plan approval. The Town Board may set a public hearing for a special use permit upon receipt of the report and recommendation of the Planning Board. The public hearing shall be held within forty-five (45) days of receipt of properly filed materials. The Town Board must decide the matter within forty-five (45) days after close of hearing. Time periods may be extended by mutual consent of the Board and the applicant.

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(12) Editor's Note: See Ch. 87, Flood Damage Prevention.

(13) Editor's Note: See Ch. 84, Fee

## ZONING

§ 190-44

§ 190-47

### **§ 190-44. Filing of decision; copy.**

The Board shall file the decision with the Town Clerk and a copy mailed to the applicant. Where the Town Board has approved the special permit use, the application for site plan approval may be processed by the Planning Board.

### **§ 190-45. Appeal.**

Any person aggrieved by a decision of the Town Board may apply to the Supreme Court of New York State for review by Article 78 proceeding within thirty (30) days after the decision is filed with the Town Clerk.

### **§ 190-46. General conditions and standards.**

Before approving any special permit use, the Town Board shall determine the conformity of such use and the proposed development with conditions and standards as set forth in this chapter. Conditions prerequisite to approval of special permit uses may be general or specific. In various provisions of this chapter, specific standards are enumerated for certain uses which are minimum conditions for the use. General standards are outlined below:

- A. The proposed use shall be located, sized and of a character that will harmonize with the orderly development of the area in which located. It shall not be detrimental to the site or adjacent properties. Buffers, open spaces or restrictions on operations may be established as a requirement for approval.
- B. The location, size, nature and intensity of operations of the use, site layout and access to streets shall ensure the safety for pedestrians and vehicles to and from the use. The assembly of persons shall not create a hazard. Traffic impact shall not result in less than Service Level D, based on Highway Capacity Manual Report 225, or other acceptance by the New York State Department of Transportation.
- C. The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping shall not hinder or discourage the development and use of adjacent land and buildings for permitted uses of the district.

## ARTICLE XII

### **Nonresidential Nonconforming Uses and Noncomplying Bulk**

### **§ 190-47. Applicability. (14)**

**\*\* (14) Editor's Note: see § 190-9A, Bill of Rights.**

## ZONING

§ 190-47

§ 190-48

This Article applies to lots, nonresidential structures and nonbuilding uses existing on the effective date of this chapter. The lawful use of any such premises may be continued even though nonconforming or noncomplying with the requirements of this chapter, except as outlined below. They may be sold or transferred without restriction.

### § 190-48. General requirements and exceptions.

- A. Any lot held in single and separate ownership prior to the adoption of this chapter and whose area and/or width and/or depth are less than the specific minimum requirements of this chapter for the district in which it is located may be considered as complying with such minimum lot requirements; and no variance shall be required, provided that: **[Amended 7-18-2005 by L.L. No. 3-2005]**
- (1) Such lot does not adjoin any other lot or lots, held by the same owner, which lots may be used to create a conforming lot or a lot more nearly conforming to the requirements of the district in which it is located.
  - (2) Such lot has an area of at least:
    - (a) 5,000 square feet in an area served by both central water supply and sewage disposal systems.
    - (b) 15,000 square feet in an area served by either a central water supply or central sewage disposal system.
    - (c) 25,000 square feet in an area not served by either a central water supply or central sewage disposal system.
  - (3) The minimum required yard or setback dimensions for an undersized nonconforming lot shall be those required for the zoning district that is the next least restrictive, in terms of such requirements, than the zoning district in which said lot is located. The less restrictive requirements shall apply only when it is demonstrated that the undersized nonconforming lot cannot meet the requirements of the district in which it is located, for the purpose of site development.
  - (4) All other bulk requirements for that district are complied with.
  - (5) In any district where residences are permitted, such undersized nonconforming lots may be used for not more than one single- family dwelling.

## ZONING

§ 190-48

§ 190-48

- (6) A lot of nonconforming size may be subdivided only if each and every lot created from such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's or owners' property or properties.
- B. Two (2) or more adjoining subdivision lots which do not meet the bulk requirements of the district in a subdivision having Planning Board approval prior to the effective date of this chapter shall be exempt from the area and width requirements, provided that such lots meet all other applicable agency requirements. This provision is intended to supplement, amend and supersede, to the extent applicable, any inconsistent provision of § 265-a of the Town Law. Other subdivisions shall be subject to the exemption periods in § 265-a of New York State Town Law.
- C. Changes to structures of non-complying bulk. Normal maintenance, repair, alteration, moving, reconstruction or enlargement is permitted on a structure with non-complying bulk, provided that such change does not extend beyond that part of the structure which causes the noncompliance or create any new non-complying bulk.
- D. Changes to structures of nonconforming uses. Structures for nonconforming uses (nonresidential) may be maintained or repaired if this does not extend the degree of nonconformity. These structures may be altered or enlarged only when required to do so by an order of a court or through a duly granted variance or by other laws or regulations or in order to adapt the structure to a conforming use, or pursuant to § 190-48E herein.
- E. Change of use. Any nonconforming use may be changed to another nonconforming use, on application to and approval of the Town Board, or to any use which the Town Board finds to be less nonconforming. Such change of use will not be subject to bulk requirements of this chapter.
- F. Discontinuance. A nonconforming use which ceases for a continuous period of two (2) or more years or is changed to a conforming use shall thereafter be occupied and used only for a conforming use. However, a use which has ceased or suspended operations involuntarily, due to circumstances beyond the control of the owner or operator, may be reestablished within a period of five (5) years from the date of discontinuance, **[Amended 5-17-1993 by L.L. No. 3-1993]**
- G. Damage or destruction of noncomplying structure. Any damaged noncomplying structure may be repaired or rebuilt to its original dimensions, provided that a building permit is obtained within two (2) years after such damage.

## ZONING

§ 190-48

§ 190-49

- H. Damage or destruction of nonconforming use. Any damage to a structure in which a nonconforming use is situated may be repaired or rebuilt to its original dimensions, provided that a building permit is obtained within two (2) years after such damage.
- I. Residences. Any non-complying residence damaged or destroyed may be restored to its original dimensions.
- J. Nonconforming open-storage yards and junkyards.
  - (1) Any nonconforming open-storage yard in a residential district may continue for one (1) year from the effective date of this chapter, at which time it shall be terminated. If, in that one-year period, all material is relocated within a completely enclosed structure which complies with this chapter, termination will not be required.
  - (2) A nonconforming junkyard may continue for one (1) year after the effective date of this chapter, at which time it shall be terminated unless, within the one-year period, this nonconforming use complies with all requirements under §190-25G of this chapter, as well as all other current laws or ordinances regulating junkyards.
- K. Extensions and enlargement of nonconforming uses may be permitted by the Town Board after hearing, as a special use permit, subject to the terms and conditions outlined in Article XI.

## ARTICLE XIII

### Administration and Enforcement

#### **§ 190-49. Enforcement officers; notice of violation; discontinuance of noncompliance.**

The Building Inspector shall administer and enforce this chapter and is authorized and empowered to issue appearance tickets to obtain compliance with its provisions and to cite violations. Assistants may be appointed by the Town Board. A town Police Officer shall also be empowered to issue tickets and enforce the provisions of this chapter. The person or entity, responsible for violations and/or the owner of the property must be notified, in writing, of the nature of the violation and of the ordered necessary corrective action. He/she shall order discontinuance of illegal use of land or structures; removal of illegal structures or illegal additions or alterations; or discontinuance of work or shall take any other action necessary to ensure compliance with this chapter. A copy of all violations shall be forwarded to the Town Board.

## ZONING

§ 190-50

§ 190-53

### **§ 190-50. Building permits required; compliance with bulk and setback requirements.**

No structure with a floor area greater than one hundred (100) square feet shall be erected, moved, added to or structurally altered without a building permit issued by the Building Inspector or an assistant and in conformity with all provisions of this chapter. Unless specifically exempted, all structures shall comply with bulk and setback requirements of this chapter.

### **§ 190-51. Application for building permit**

All applications for building permits shall include plans, drawn to scale, showing the dimensions, shape and location of the lot; the dimensions and location on the site of any existing buildings; and the dimensions and location on the site of the proposed buildings or alterations. It shall include other information required by law and the New York State Uniform Fire Prevention and Building Code and by the Building Inspector. It shall also include existing and proposed uses of the property; the number of families or housekeeping units to be accommodated; the physical condition existing on the property; and other matters as may be necessary to determine conformity with this chapter. One (1) copy of the plans shall be returned to the applicant after the Inspector has marked the copy as approved or denied and has attested to this by his/her signature on the copy. The original and one (1) copy similarly marked shall be retained by the Inspector and made available for public inspection.

### **§ 190-52. Expiration of building permit.**

If the proposed work has not been started or completed according to Ulster Code Chapter 61, Building Construction and Fire Prevention, § 61-6C, then the permit will expire or may be extended according to said chapter.

### **§ 190-53. Certificates of compliance.**

- A. It shall be unlawful to use or occupy or permit the use or occupancy of any structure or premises which are hereafter created, erected, converted, moved or altered, in whole or in part, until a certificate of compliance has been issued by the Building Inspector showing that the project conforms to the requirements of this zoning chapter. Where a nonconforming or noncomplying use or structure has a permit to alter or rebuild or be extended, the certificate of compliance must state how the project differs from the provisions of this chapter.
- B. A temporary certificate of compliance may be issued by the Inspector for a period up to six (6) months during alterations for partial occupancy or usage of the premises pending its completion, provided that the certificate states conditions and safeguards as will protect the occupants and the public. A record shall be maintained of all certificates of compliance, and a copy shall be furnished upon request of any person.

## ZONING

§ 190-53

§ 190-58

- C. A certificate of compliance shall also be required for any nonbuilding use of land including commercial excavations, commercial tree clearing and harvesting or other special permit uses of land to certify compliance with these regulations.

[NOTE: No certificate of occupancy is required for structures built prior to September 1, 1967 unless altered or enlarged. (New York State Uniform Fire Prevention and Building Code)]

### **§ 190-54. Street excavation permit required.**

A separate permit for a street excavation or a driveway curb cut is required in accordance with a Town of Ulster local law governing such activity. (15)

### **§ 190-55. Sewer permits.**

A separate permit is required for service connections to a municipally operated sewer system under the Town of Ulster law which governs sewerage disposal. (16)

### **§ 190-56. Water permits.**

A separate permit is required for service connections to a municipally operated water supply system under a Town of Ulster local law governing such systems. (17)

### **§ 190-57. Mobile home permits or mobile home park permits.**

Separate permits are required for placing mobile homes on private lots or for establishing mobile home parks under existing Town of Ulster local law governing mobile homes (18) and New York State laws. Permits for mobile home parks are renewable annually and must comply with the aforementioned rules and regulations.

### **§ 190-58. Junkyard operating license.**

Notwithstanding provisions of this chapter, separate licenses may be required for the operation of junkyards, in accordance with Town of Ulster local laws (19) and laws of New York State.

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(15) Editors Note: See Ch. 157, Streets and Sidewalks, Art. III.

(16) Editor's Note: See Ch. 141, Sew

(17) Editor's Note: See Ch. 177, Water.

(18) Editor's Note: See Ch. 114, Mobile Homes and Travel Trailers.

(19) Editor's Note: See Ch. 101, Junkyards.

## ZONING

§ 190-59

§ 190-60

### ARTICLE XIV

#### **Zoning Board of Appeals**

##### **§ 190-59. Creation; organization; Chairman; appointment; terms.**

- A. The Town Board shall appoint a Zoning Board of Appeals of five (5) members as provided for in the New York State Town Law, § 267. The Town Board will annually designate the Chairman from such membership. The failure to do so will permit the Zoning Board to choose a Chairman from such membership. One (1) member to be appointed for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years and one (1) for five (5) years. A member, having served a full five-year term, may not be reappointed until a year or more has elapsed.
- B. Any member of the Zoning Board of Appeals who fails to attend three (3) or more meetings of the board in any calendar year shall be subject to removal from the Zoning Board of Appeals by resolution of the Town Board as provided by Town Law § 267(9).

##### **§ 190-60. Powers and duties.**

This Board shall have the powers and duties prescribed by law and this Zoning Chapter, provided that none of the provisions shall limit any power of the Board that is specifically conferred to it by the New York State Town law. The Board shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of this chapter. It shall also hear and decide all matters referred to it or upon which it is required to pass by this chapter, as follows:

- A. Interpretation. Determination of the meaning of the text of this chapter or any condition or requirement made under the provisions of this chapter shall be made solely by the Zoning Board of Appeals.
- B. Variances.
  - (1) Where there are practical difficulties or unnecessary hardships in complying to the strict letter of this chapter, the Board of Appeals shall have the power to vary or modify the application of any provision of this chapter relating to the use or construction or alteration of buildings or structures or the use of the land. The spirit of this chapter must be observed to protect the safety and general welfare of the public and so that substantial justice is accomplished.

## ZONING

§ 190-60

§ 190-62

- (2) In all cases where the Appeals Board grants a variance from the strict application of this chapter's requirements, the Board may attach applicable conditions and safe-guards in order that the result of its action may be as nearly consistent with the spirit and intent of this Zoning Chapter.
- (3) Any person aggrieved by a decision of this Zoning Board of Appeals may apply to the Supreme Court of New York for review by an Article 78 proceeding in accordance with § 267, Subdivision 7, of the Town Law.

### **§ 190-61. Rules of procedure.**

- A. The Appeals Board may adopt rules for procedure in handling any subject matter under its jurisdiction, subject to Town Board approval. Such regulations shall include provisions for the conduct of meetings, the notification of parties, the form of applications and the filing of its decisions.
- B. Every decision of the Appeals Board shall be recorded in accordance with a standard format adopted by this Board and shall fully set forth the circumstances of the case and shall contain a record of findings on which the determination was based. Decisions shall be made by resolution and each resolution shall be filed in the Town Clerk's office by case number. A copy of each decision shall be forwarded to the Town Board and a copy mailed to the applicant with a statement of the filing date.
- C. All appeals and application made to the Appeals Board shall be in writing and shall be accompanied by a fee as determined in the standard schedule of fees for the Town of Ulster.(20)

## ARTICLE XV

### **Amendments**

### **§ 190-62. Power of Board to amend; procedure.**

This chapter or any part thereof may be amended, supplemented or repealed, from time to time, by the Town Board on its own motion or upon recommendation of the Planning or Appeals Boards or by petition. Prior to public hearing, every proposal to change this chapter shall be referred to the Planning Board for a report. The Town Board shall take no action on the change without the report from the Planning Board unless the Planning Board fails to file this report within sixty (60) days following the referral.

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(20) Editor's Note: See Ch. 84, Fees.

## ZONING

§ 190-63

§ 190-67

### **§ 190-63. Amendment petitions.**

Petitions to amend this chapter shall be in writing and shall contain a description and location of the property affected along with other information the Town Board may require. The petition for Zoning Map changes shall include names and addresses of all owners of real property with five hundred (500) feet of the affected property and any other contiguous property belonging to the petitioner. All petitions for amending this chapter or the Zoning Map changes must be accompanied by a fee in accordance with the fee schedule.(21)

### **§ 190-64. Public hearing.**

The Town Board shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given in accordance with the provisions of the Town law.

### **§ 190-65. Notification.**

The Town Clerk shall transmit to the appropriate offices or officials a copy of the official notice of a public hearing not later than ten (10) days prior to the date of the hearing, as provided by the New York State Town law and the General Municipal Law.

## ARTICLE XVI

### **Interpretation and Application**

### **§ 190-66. Interpretation.**

In interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for promotion of the public health, morals, safety and general welfare. Whenever the requirements of this chapter are at variance with other lawfully adopted regulations or laws, the most restrictive or that imposing the highest standards shall apply.

### **§ 190-67. Penalties for offenses.**

Violations of this chapter shall be subject to a fine not exceeding two hundred fifty dollars (\$250.) per violation and imprisonment of up to fifteen (15) days. Each successive week in which a violation occurs or continues shall constitute a separate additional violation. Upon determination by the Building Inspector that a violation exists, written notice shall be sent to the last known owner of record of the property, as determined by the assessment records, informing said owner of the violations of specific provisions of this chapter and stating that action is to be taken by said owner to remove such violation within seven (7) days or proceedings to compel compliance with this chapter will be instituted. Where violations present imminent hazard to

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(21) Editor's Note: See Ch. 84, Fees.

## ZONING

§ 190-67

§ 190-68

public safety, the Inspector may issue a stop work/safety order and direct the premises to be secured from public access. A violation of a safety order may subject a person to arrest and detention. Any person who attempts to interfere with the legal performance of the Inspector shall be prosecuted in accordance with the Penal Law. Any violation of this chapter may also be enjoined pursuant to law.

### **§ 190-68. Repealer.**

This chapter hereby repeals any existing ordinances, local laws and regulations of the Town of Ulster to the extent that they are inconsistent herewith, except the Site Plan Review law, Chapter 145 of the Code of the Town of Ulster. However, the portion of the Site Plan Review Law called "§ 145-5D, Dimensional standards," is superseded by this chapter. The Planning Board is, in all instances herein referred to, advisory only to the Town Board, and the Planning Board is not empowered to adopt or enforce any rules or regulations except in compliance with and as provided by the legal procedures set forth in the New York Town Law. The Planning Board and Zoning Board of Appeals herein have only such jurisdiction as is mandated by the aforesaid New York Town Law and as specifically granted to said Boards in the Zoning Law of the Town of Ulster, New York. The Town Board of the Town of Ulster retains all final jurisdiction of all other matters and shall amend and supersede, to the extent applicable, any inconsistent provisions of Article 16 of the Town Law.

## ZONING

§190-69	<b>ZONING</b>								§190-69
<b>Town of Ulster, New York</b>									
<b>Table of Use Regulations</b>									
	R-60	R-30	R-10	LC	HC	RC	OM	I	Notes
<b>A. Agricultural uses</b>									
Agricultural operations	R	R	R	R	R	R	R	R	
Farming operations	R	R		R	R	R	R	R	
Forestry operations	S				S	S	S	S	See §190-25 E
Horse stables	S					S	S		
Livestock keeping (commercial)	R						R		
Riding academies	S					S	S		
Vineyard	S					S	S	S	
<b>B. Residential uses</b>									
Assisted living facility	S			S	S	S	S		
Bed & breakfast establishment	S	S	S	S	S				See §190-25 J
Dwelling, 1-family (detached)	R(E)	R(E)	R(E)	R(E)	R(E)	R(E)	R(E)	R(E)	
Dwelling, 2-family (duplex)	R(E)	R(E)	R(E)	S	S	S	S		
Dwelling, 3 family (triplex)	R	R	R						
Dwelling, multi-family (4 or more units)	S					S	S		See §190-25 F
Dwelling, residence above the store				S	S	S	S		
Dwelling, townhouse (1-family attached)	S	S	S						
Group Home	S	S	S						
Manufactured homes (single-family)	S						S		See §190-25 A
Manufactured home parks	S	S	S				S		See §190-25 H
Nursing homes				S	S	S	S		
Senior citizen housing	S	S	S						See §190-25 I
<b>C. General Community Facilities</b>									
Cemeteries	S	S	S				S	S	
College or university	S	S	S	S	S	S	S		
Conservation preserves	R	R	R	R	R	R	R		
Country clubs	R	R	R	R	R	R	R		
Eleemosynary	R	R	R	R	R	R	R		
Golf course and clubs	R	R	R	R	R	R	R		
Government buildings	S	S	S	S	R	R	R		
Home occupation	R(E)	R(E)	R(E)						See §190-25.1
Hospitals				R	R	R	R		
House of worship	S	S	S	R	R	R	R		
Library	S	S	R	R	R	R	R		
Museums and galleries					R	R	R		
Places of assembly				S	S	S	S		
Recreation facility	S	S	S		S	S	S		
School of learning	S	S	S	S	S	S	S		
<b>D. Business Uses</b>									
Adult Business							S		See §190-16.1
Automotive garage and service center				S	R	R	R	R	
Automotive gasoline sales/convenience store				S	R	R	R		
Automotive sales and service				S	R	R	S		
Banks and lending institutions				R	R	R	R		
Bowling alleys					R	R	R		
Cafeterias & catering facilities				R	R	R	R		
Campground	S				S	S	S		
Carwash					R	R	R		
Convenience store				R	R	R			
Day care, adult					R	R	R		

## ZONING

Day care, center for children	R	R	R	R	R	R	R		
Farmers market				R	R	R	R		
Funeral homes	S			S	R	R	R		
Health club				R	R	R	R		
Hotels & motels					S	S	S		See §190-25 C
Kennel	S			S	S	R	R		
Laboratories				R	R	R	R	R	
Nursery, retail				R	R	R	R	R	
Nursery schools	S	S	S	S	S	S	S		
Nursery, wholesale	R			R	R	R	R	R	
Office complex				S	R	R	R		
Office, medical or dentist				R	R	R	R		
Office, professional				R	R	R	R		
Pet boarding facilities				R	R	R	R		
Pet grooming facilities				R	R	R	R		
Restaurant and eating & drinking establishments				R	R	R	R		
Restaurant within office complex						R	R		
Retail business				R	R	R	R		
Service business				R	R	R	R		
Shopping centers					R	R	R		
Sound Stage					R	R	S		
Theaters (indoor)				S	R	R			
Theaters (indoor with complex)						R	R		
Veterinarian clinics	S			R	R	R	R	R	
<b>E. Industrial Uses</b>									
Airports and air facilities							S		
Contractors storage yard					S	S	S	R	
Excavation and processing, commercial							S	S	See §190-25 D
Industry, light				S	S	R	R	R	
Industry, heavy								R	
Industrial park							R	R	
Junkyards							S	S	See §190-25 G
Manufacture, small (1-9 employees)				S	S	R	R	R	
Manufacture, medium (10-40 employees)					S	S	R	R	
Manufacture, large (41 employees and up)						S	R	R	
Marinas and boat repair	S	S	S	R			R		
Mining					S	S	S	S	
Recycling yards							S	S	
Research office complex (w/ limited manufacturing)					R	R	R	R	
Self-storage facility					R	R	R	R	
Trucking companies					S	S	S	S	
Utility company structure	S	S	S	S	R	R	R	R	
Warehouses					R	R	R	R	
Wholesale business				R	R	R	R	R	
<b>F. Cutomary Accessory Uses</b>									
In residential zoning districts									See §190-14 A
In non-residential zoning districts									See §190-14 B
Swimming pools									See §190-25 B & Chapter 165

R - Use permitted by right (site plan approval required)  
R (E) - Use permitted by right (exempt from site plan approval)  
S - Use requiring a special use permit and site plan approval

Revised 5/17/10

# ZONING

ZONING Town of Ulster, New York Table of Lot and Bulk Requirements									
§190-69									§190-69
Zoning District	MIN. Lot Requirements			MIN Setback Requirements			Max. Bldg. Height (feet)	Max. Bldg. Lot Coverage (percent)	Minimum Green Space (percent)
	Minimum Area (square feet)	Minimum Width (feet)	Lot Area Per Dwelling (square feet)	Front (feet)	Side (feet)	Rear (feet)			
<i>R-60 Residential</i>									
	60,000	120	60,000	40	30	30	35	N.A.	40
<i>R-30 Residential</i>									
(1) Central water or sewer	30,000	100	30,000	30	20	25	35	N.A.	25
(2) No central water or sewer	40,000	100	40,000	30	20	25	35	N.A.	25
<i>R-10 Residential</i>									
(1) Municipal water & sewer	10,000	75	10,000	30	10	15	35	N.A.	15
(2) Central water & sewer	15,000	90	15,000	30	15	15	35	N.A.	15
(3) Central water or sewer	20,000	100	20,000	30	15	15	35	N.A.	15
(4) No central water or sewer	40,000	100	40,000	30	20	25	35	N.A.	25
<i>Local Commercial</i>									
	N.A.	N.A.	Same as R-10	30	10	10	35	50	5
<i>Highway Commercial</i>									
	N.A.	N.A.	Same as R-10	30	10	10	60	50	5
<i>Regional Commercial</i>									
	N.A.	N.A.	Same as R-10	50	10	10	60	50	5
<i>Office &amp; Manufacturing</i>									
	N.A.	N.A.	Same as R-10	40	10	10	75	50	10
<i>Industrial</i>									
	N.A.	N.A.	N.A.	75	50	50	60	50	10

**Notes:** N.A. = not applicable

Revised 5/17/10