

### **STATE FIRE AND BUILDING CODE**

In addition to the regulations contained in this Zoning Ordinance, all construction must conform to the New York State Fire and Building Code. Building Permits must be obtained from the local Building Inspector.

### **FRESH WATER WETLANDS**

All construction in the designated Fresh Water Wetlands requires a permit from the New York State Department of Environmental Conservation (DEC). The map of Town-Wetlands is posted in the office of the Town Clerk.

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ARTICLE ONE – TITLE

An ordinance regulating and restricting the locations, construction and use of buildings, structures, and the uses of land; establishing boundaries of districts for said purposes; establishing a Board of Appeals with power to determine and vary the application of the regulations hereby established in harmony with their general purpose and intent; providing for the enforcement of the provisions herein; all for the purpose of promoting the health, safety, economy, esthetics, morals and general welfare of the inhabitants of the Town of New Lebanon.

This ordinance shall be known and may be cited by the short form title of the “Zoning Ordinance of the Town of New Lebanon, New York”.

ARTICLE TWO – ENACTING CLAUSE

The Town Board of the Town of New Lebanon, in the County of Columbia, under the authority of the Town Law of the State of New York, hereby ordains, enacts and publishes as follows:

ARTICLE THREE – PURPOSES

This ordinance is enacted for the following purposes:

1. To lessen congestion in the streets;
2. To secure safety from fire, flood, panic and other dangers;
3. To promote health and the general welfare;
4. To provide adequate light and air;
5. To prevent the overcrowding of land;
6. To avoid undue concentration of population;
7. To facilitate the adequate provision of transportation, water sewerage, schools, parks and other public requirements;
8. To conserve the value of land and buildings;
9. To encourage the most appropriate use of land throughout the town.
10. To protect and enhance existing wooded areas and waterways and to preserve, where appropriate, the essentially rural character of the town;
11. To enhance the esthetic aspects throughout the entire community and maintain its present natural beauty;
12. To promote the use of solar energy systems and to guarantee reasonable solar access.

ARTICLE FOUR – DISTRICTS AND BOUNDARIES

1. The Town of New Lebanon is hereby divided into the following districts:

RA - 5	Residential-Agricultural
RA – 2	Residential-Agricultural
RA - 1	Residential-Agricultural
C	General Commercial
C – Rec	Commercial-Recreational
M	Industrial
FAO	Flood Area Overzone
PCID	Planned Commercial Industrial District
PUD	Planned Unit Development
  
2. The locations and boundaries of the zoning districts hereby established are shown on a map entitled “Zoning Districts of the Town of New Lebanon.” This map and all notations, references and other information shown thereon are hereby declared to be a part of this ordinance. Said map, indicating the latest amendments, shall be kept up to date in the offices of the Town Clerk for the use and benefit of the public.
  
3. Where uncertainty exists as to the locations of any boundaries shown on the zoning map, the following rules shall apply;
  - A. Where district boundaries are indicated as following the center lines of streets, highways, railroad rights-of-way or waterways, these shall be construed to be such boundaries.
  
  - B. Where such boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.

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- C. Where such boundaries are indicated to be approximately parallel or perpendicular to center lines of streets, highways, railroad right-of-ways or waterways, such boundaries shall be construed as being parallel or perpendicular thereto and at such distances therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale on said zoning map.
- D. Where a district boundary divides a lot at the time of adoption of said boundary lines, the regulations for the less restricted portion of such lot shall apply to the remainder of said lot up to a distance of not more than fifty (50) feet from said boundary line.

ARTICLE FIVE – APPLICATION OF REGULATIONS

Following the effective date of this ordinance:

1. No building or part thereof shall be erected, moved or structurally altered, nor shall any building or lands be used or occupied, except in conformity with the regulations of this ordinance, herein specified for the district in which such building or land is located. ~~The regulations herein are deemed to be specific. Those uses and procedures for which there are no specific provisions in this ordinance shall be deemed to be prohibited. Any use not specified as permitted or allowed by a Special Permit for this district is prohibited.~~
2. No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.
3. No lot shall be formed from part of a lot already occupied by a building unless such building and all yards and open spaces connected therewith on the remaining lot comply with all requirements prescribed by this ordinance for the district in which said lot is located. No permit shall be issued for the erections of a building on any new lot thus created unless such building and lot comply with all the provisions of this ordinance.

ARTICLE SIX - USE REGULATIONS

See Use Tables (separate document)

USE REGULATIONS – (CONTINUED)

See Use Tables (separate document)

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Flood Area Overzone (FAO)

This overzone is superimposed on all districts without change in permitted use. All Zoning Permits for new construction or substantial improvement within the FAO must be submitted to the Enforcement Officer for review.

1. Planned Unit Development

Planned Unit Development may be accomplished through an amendment to the existing Zoning Ordinance for each specific project. The procedure for amendment to the Zoning Ordinance must be followed in order adopt each specific Planned Unit Development project. All procedural requirements for adoption of an amendment would apply.

Proposals for Planned Unit Development shall be submitted to the Town Board. The Town Board shall refer the proposal to the Planning Board who will review and submit comments on such a plan. The material accompanying the proposal shall contain the following:

Required site plan shall show all buildings, parking areas, signs and landscaping at a scale sufficient to permit the study of all elements of the plan. All utilities shall also be shown and described. Typical elevations and floor plans of all buildings may also be required. However, elevations for all signs shall be provided. In addition, the site plans shall show the adjacent building outlines and other outstanding features within 200 feet or as required by the Planning Board.

The Planning Board and Town Board shall review the plan and study whether or not the development will result in the following:

- a. A choice in the types of environment and living units available to the public and quality in residential land uses so that development will be a permanent and longterm asset to the Town.
- b. Open space and recreation areas.
- c. A pattern of development which preserves trees, outstanding natural topographic and geologic features and prevents soil erosion.
- d. An efficient use of land resulting in smaller networks of utilities and streets.
- e. An environment in harmony with surrounding development.

- f. A more desirable environment than would be possible through the strict application of other sections of this ordinance.
- g. Creation of new hamlets when needed to prevent the sprawl of residential needs.

Also, the area of the land to be developed shall not be less than ten acres. The predominant use of the land shall not differ substantially from the uses permitted in the district] in which the plan is located. Difference may be that in a Planned Unit Development, dwelling units may be multi-family. Commercial uses designed primarily to serve the project may be permitted.

The average density of the entire Planned Unit Development shall not exceed the density allowed in the district existing at the time of application for the proposal; and at least 50 percent of the development must remain as open space for common usage.

Lot size, width, front yard depth and side yard requirements may be waived; however, these will be evaluated individually on their own merit.

After the Planning Board and the Town Board have reviewed the plan, regular amendment procedure will begin. The amendment would have to follow all procedural requirements applicable to any zoning amendment, including holding a public hearing.

The amendment would change the district classification to accommodate the Planned Unit Development proposals. Just as in any other zoning district, the uses would be described as well as densities, heights and setback requirements.

After re-zoning has been approved and the ordinance and map are properly amended, the Town Board will review and have final approval of the developers detailed site plan. The Planning Board will advise the Town Board as to the advisability of adopting such a plan. The Town Board must also hold a public hearing before final approval of the plan is given.

After final approval, if no development occurs within a time period specified by the Town Board, the Planned Unit Development will be reconsidered by the Town Board for amendment of the Zoning Ordinance back to the original status.

The Town Board upon recommendation of the Planning Board, is authorized to secure the services of any consultant it may require for the purpose of evaluating the safety, feasibility, advisability and/or environmental soundness of plans submitted to it. The Planning Board may further recommend to the Town Board that the costs it incurs in securing such services be paid by the applicant, prior to final approval. The Planning Board may also require the applicant to put funds in escrow, pending the review of such application.

2. Planned Commercial Industrial Districts (PCID)

The Planned Commercial Industrial Districts are planned and landscaped mercantile and/or manufacturing areas. They are intended to encourage orderly concentration of commercial-industrial facilities in selected areas of the town and they would assure that such uses will be compatible with, and will not adversely affect abutting properties and the surrounding community.

The Town Board may approve a PCID in an area so designated on the Zoning Map, provided the PCID is designated and planned as a harmonious unit. That is a unit which meets the required design and/or performance standards, insures a compability between the immediate and surrounding land uses, and which is an asset to the neighborhood and the town. A PCID may be useful in locations where development of the overall area is heavily influenced by historical preservation or conservation interests.

Establishment Procedures;

In Planned Commercial Industrial Districts, land and buildings may be used for the purposes as authorized by the Town Board in accordance with the following procedure;

Application for establishment of PCID shall be made to the Town Board. The Town Board shall refer the application to the Planning Board for consideration. Any application shall be accompanied by a certified check in the amount of fifty dollars (\$50.00) to help defray the cost of advertising the hearing on said application and incidental disbursements. If and application is approved, zoning and building permits must be obtained before construction can commence.

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

The proposal for PCID shall generally be submitted and reviewed with the Planning Board and the Town Board in three stages, as follows:

A. Preliminary Proposal

This submission is intended to permit initial review and evaluation of the design and development concept and to secure agreement and/or approval of the general concept.

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Submission of the following type of information is required.

A written statement of the proposal, sketch plan, sketches, diagrams and other materials as may be requested to clarify or explain the design or other aspect of the proposal to include:

- a. Location of various proposed uses and the approximate square footage of each;
- b. General outline of vehicle circulation system, parking area and all existing rights-of-way and easements;
- c. The overall drainage system;
- d. If grades exceed three percent, a topographic map showing contour intervals of not more than five (5) feet.

Market Statement – Submission of an economic statement describing the potential demand for the services offered or products produced by the proposed project. The statement shall include facts and information describing the type of activity to be conducted on the premises, the type of products or services produced or offered, and the potential customers of the products or services.

B. Interim Proposal

This proposal is intended to permit further review, including any revision based upon prior review, or otherwise proposed by the developer.

Submission of the following type of information is required:

Preliminary site development plan, general building plans, and other information as may be requested.

Proposed construction sequence for buildings, parking and landscaping.

C. Final Proposal

The following information is required:

Proof of land ownership or lease – Applicant(s) must show evidence of a full ownership interest in the land such as legal title to the land or the execution of a binding sales agreement or lease.

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Site Plan developed in detail to describe the character and scope of the proposal. This information shall include:

A plan of the site and surrounding areas drawn to a scale of not more than one hundred (100) feet to the inch, accurately dimensioned, showing the following:

Location of existing and proposed land uses areas, lots, yard lines, buildings, structures, parking, loading and docking areas, and access roads and streets, community facilities, topography, drainage, public utility systems, and expected flow of traffic in and out of the area.

A more detailed plan of the site drawn to a scale of twenty (20) feet or less to the inch showing the following:

The use and height of each proposed building or structure, the number of parking spaces in each proposed parking area, proposed landscaping throughout the project and pedestrian walkways.

Construction sequence and time schedule for completion of each phase for building, parking and landscaped area.

In addition the developer may be required to furnish any other such drawings and specifications for a further understanding of the project that the Board may request. In reaching its final decision on the proposed development, the Planning Board shall consider, among other things –

1. The need for the proposed use in the proposed location.
2. The existing character of the neighborhood in which the use would be located.
3. The safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property.
4. The land use plan and the comprehensive plan for the Town.

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5. The adequacy and location of roads within the district to be used, access roads to the proposed district from arterial highways and whether or not adequate roads or highways are available to protect nearby residential property.
6. The locations, layout and adequacy of parking, loading and unloading facilities.
7. The general traffic conditions in or near the property to be used.
8. Whether or not sewage and water facilities (whether public or privately maintained) have been approved by the Columbia County Health Department.
9. The highway plans of the state.
10. Whether the PCID complies with the intent of these regulations.
11. Any other factors which may prevent the orderly growth of the town or would adversely affect the completion of the development of the town.

The Planning Board shall approve, approve with modifications, or disapprove such application and shall report its decision to the Town Board. If the Planning Board fails to report within a period of 45 days from the date of receipt of the final plan or such longer time as may have been agreed upon by it and the Town Board, the Town Board may act without such report.

Before the Town Board grants approval of the final site plan, the applicant(s) shall file with the Town Clerk a performance bond of an amount adequate to cover the completion of site improvements required by these regulations or by the Town Board. Any such bond shall comply with the requirements of Section 277 or the Town Law and shall be satisfactory to the Town Board and Town Engineer as to the form, sufficiency, manner of execution and surety.

The Town Board shall hold a public hearing on the application with the same notice as required by law for amendment to this Ordinance and shall give notice of hearing to any required Municipal, County or State Agency in the manner prescribed by law. After the public hearing the Town Board may approve the application, approve its subject to modifications or disapprove the application.

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If the application is approved, or approved subject to modifications, the PCID shall be considered established and this Zoning Law and the Zoning Map shall be considered modified to permit establishment of the development in accordance with plans approved as part of the application and in accordance with any additional standards and conditions specified by the Town Board.

Time Limit:

Within six (6) months of the approval or approval with modifications of the application for a PCID by the Town Board, Building Permits shall have been issued and construction shall be underway on the PCID. Otherwise, the zoning for PCID shall revert, after public hearing, to the zoning classification which existed prior to the granting of the PCID.

Should the construction of any phase of the project exceed the date scheduled for completion of that phase by more than nine (9) months, the Town Board may, after public hearing, declare the PCID to be null and void and the land area covered by such a district to revert to the previous zoning district. Upon written request of the applicant and after a public hearing, the Town Board may grant a three (3) month extension beyond the nine (9) month deadline provided the applicant shows good cause for such extension.

Zoning Map:

An approved PCID shall be shown on the Zoning Map with a reference to the records of the Town Board where the approved standards and plans may be seen.

USES PERMITTED IN PLANNED COMMERCIAL-INDUSTRIAL DISTRICTS

As described in Article VI of the Town of New Lebanon Zoning Ordinance, all uses permitted by right or by special permit under the (C) General Commercial and (M) Industrial column may be permitted by right in a PCID.

APPROVAL OF THE PCID FINAL SITE PLAN

Approval of the PCID final site plan is contingent upon compliance with all performance and design requirements set forth in this Ordinance, with any additional standards and conditions the Town Board may require, and with the following additional requirements:

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- A. Area and Width Requirements for Town Project: Any proposed PCID must contain a minimum of six (6) contiguous acres of land within the allowed area and must contain a minimum of 400 feet of contiguous frontage along a state road.
- B. Setback Requirements Within PCID: Minimum setback of any building or use other than parking from any abutting district – 150 feet, minimum set back of any building or use other than parking from the right-of –way of any adjacent highway – 100 feet.

PERFORMANCE STANDARDS FOR PCID ZONES

The following performance standards shall be applicable in the PCID zone and issuance of any permits and/or certificates of occupancy shall be contingent upon compliance with these standards and conditions.

- A. Performance Standards Procedure – any application for a building permit for a use which shall be subject to performance standards shall be accompanied by a sworn statement by the owner of subject property that said use will be operated in accordance with the performance standards set forth herein.
- B. Definition of Elements – No land or building in any PCID district which shall be used or occupied for manufacturing purposes shall be operated in such a manner, as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration, smoke, dust, dirt or other form of air pollution; electrical or other disturbance; glare; or other substance, condition or element in such amount as to adversely affect the surrounding area or premises (referred to herein as “dangerous or objectionable elements”).
- C. Determination of Enforcement Location – The determination of the existence of any dangerous and objectionable elements shall be made at:
  - a. The point or points where such elements shall be most apparent for fire and explosion hazards, for radio-activity and electrical disturbances, for smoke and other forms of air pollution.
  - b. At or beyond the property lines of the use creating such elements for noise, for vibration, for glare and for odors wherever the effect is greatest.

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D. STANDARDS TO BE ENFORCED

- a. Fire and Explosion Hazards – All activities involving and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard to this industry. Burning of waste materials in open fires is prohibited. The relevant provisions of state and local laws and regulations shall also apply.
- b. Radioactivity or Electrical Disturbance – No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment. All applicable federal regulations shall be complied with.
- c. Noise – No noise which is objectionable due to volume, intermittance, beat frequency or shrillness shall be perceptible outside the property where it originates.
- d. Vibration – No vibration shall be permitted which is detectable without instruments.
- e. Glare – No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, or otherwise, so as to be visible at the points of measurements specified in Subsection 3. This restriction shall not apply to signs otherwise permitted by the provision of the Ordinance.
- f. Smoke – No emission shall be permitted from any chimney or otherwise, of visible grey smoke of a shade equal to or darker than No 2 on the Power's Micro-Ringlemann Chart, published by McGraw-Hill Publishing, Company, Inc., and copyright 1954 (being a direct facsimile reduction of a standard Ringlemann Chart as issued by the United States Bureau of Mines).
- g. Odors – No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable at the property line of the zone lot from which they are emitted without instruments.

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- h. Other Forms of air Pollution – No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted which can cause any damage to health, to animal, vegetation, or other forms of property or which can cause any excessive soiling.

DESIGN STANDARDS FOR PCID ZONES

The following design standards shall be applicable in the PCID zone and issuance of any permits and/or certificates of occupancy shall be contingent upon compliance with these standards and conditions.

A. Access

- a. A PCID shall have direct ingress and egress to a state road. Ordinary streets may be planned within the context of the project to provide for ingress and egress to parking areas or commercial-industrial facilities and constituting a part of the project area maintained by the owners of the area.
- b. Specific location for ingress and egress of traffic between the highway and the parking areas shall be provided. The minimizing of traffic hazards shall be considered in the design of such access points. No entrance or exit point shall be within fifty (50) feet of an intersection or of an abutting district or of another access point.
- c. No undue traffic shall be allowed on any residential street.

B. Sewer and Water Requirements

The Columbia County Health Department and, when necessary, the New York State Department of Environmental Conservation shall approve all sewage and water systems which will service the use in these districts.

C. Distance from Residential Districts

No building or use other than parking shall be permitted within one-hundred fifty (150) feet from the boundary line of any residential district.

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D. Open Space Requirements

Each parcel shall provide at least 20% open space uses, as a basic element in the planned and landscaped development of the area. Open space uses are defined as being those uses which do not involve any coverage of land with structure, parking lots and vehicular rights-of-way. Open space uses may consist of buffer strips or landscaped areas and parking islands. A detailed landscape plan shall be submitted with the final site plan showing the location, size and species of all proposed plant materials and required planting shall be properly maintained by the owners of the industrial complex.

E. Buffering

- a. A buffer strip at least thirty (30) feet in width shall be provided along any parcel abutting a residential district. The Planning Board shall determine the appropriate landscaping (trees, bushes, shrubs, grass, etc.) for these buffer areas.
- b. A strip of land at least fifteen (15) feet in width and which is immediately adjacent to the right-of-way of any street abutting the district shall be planted or sodded in grass. Any shrubs and bushes in such area shall be maintained at no more than three (3) feet in height.
- c. No buildings, including accessory buildings, interior streets and driveways, parking areas, or plan areas may be located in buffer areas, except for necessary ingress and egress driveways.

F. Screening

- a. Minimum screening shall be evergreen planting of such type, height, spacing and arrangement as will screen the activity from the adjoining area.
- b. A wall or fence of location, height and design, approved by the Planning Board providing equivalent screening, may be substituted for the required planting.
- c. No solid or tight fence shall be constructed of second hand or used lumber.
- d. No fences shall be used for advertising, billboard or poster purposes.

All fences shall be properly constructed, erected and maintained in a manner so as not to fall into disrepair.

G. Landscaping

- a. All areas of the development not occupied by structures, parking, driveways, or walkways or storage shall be landscaped attractively with lawn, trees, shrubs or other plant material. Such landscaping shall take into consideration the natural growth presently on the premises and the nature and condition of the terrain as well as the situation of the land and premises themselves and with regard to the adjoining lands and premises.
- b. The landscaping in such areas shall be designed so as not to obstruct necessary sight distance and traffic flow, shall offer adjacent residential properties a degree of visual and audio screening, shall maintain the character and integrity of the neighborhood and shall promote excellence of development.
- c. All landscaped areas are to be kept free of signs or advertising matter at all times.
- d. For any planting or landscaping that is required by the Planning Board, the applicant shall submit a planting schedule and shall agree to a two (2) growing season replacement agreement (commencing from the date of project occupancy) to insure "live" landscape materials.
- e. The Town Board, upon recommendation of the Planning Board, is authorized to secure the services of any consultant it may require for the purpose of evaluating the safety, feasibility, advisability and/or environmental soundness of plans submitted to it. The Planning Board may further recommend to the Town Board that the costs it incurs in securing such services be paid by the applicant, prior to final approval. The Planning Board may also require the applicant to put funds in escrow, pending the review of such applicant.

H. Loading Facilities

- a. Provisions for handling of all freight shall be on those sides of any building which do not face any street or any proposed street. Furthermore, loading lock or areas trash pick up points and truck delivery routes shall be restricted to locations that are separate from customer travelled areas. Off-street loading requirements shall comply with the following chart.
- b. Schedule off-street loading requirements use or use category –Commercial and Industrial establishments including retail stores, eating and drinking establishments personal service establishments, commercial service enterprises, cottage or express facilities, warehouses, storage facilities, manufacturing plants and other industrial uses.

Gross Floor Area In square feet (Over – Up to)	Number of Loading Berths Required	Location of Accessory Loading Facilities
5,000 to 10,000	1	On site, or on adjoining sites and within 150 feet of each use served
10,000 to 20,000	2	
20,000 to 40,000	3	
40,000 to 60,000	4	
each 50,000 feet over 60,000	1 additional	

- c. Where loading facilities are required for a use, but the use is located in a building with less floor area than the minimum stated in the schedule, adequate facilities shall be provided.

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I. Parking Requirements

- a. Parking facilities specifications – the parking layout shall reflect a well conceived parking/customer access plan which utilizes appropriate channelization and movement control devices.

Required off-street facilities may be enclosed in a structure or may be open. The minimum paved width of an ingress and egress to parking spaces shall be: for parallel side parking, sixteen (16) feet; for 45 degree singular side parking, twenty (20) feet; for 90 degree perpendicular side parking, twenty-four (24) feet. A car space shall be a usable area of not less than nine (9) feet in width, except that for parallel side parking parallel to an ingress and egress way the width shall be eight (8) feet, all paved with appropriate impervious material. Such space (s) shall be accessible from an approved street or ingress-egress way, as approved by the Planning Board. Parking areas shall be constructed and suitably maintained to the satisfaction of the Town Board.

- b. Use Specification – See Article Nine.

J. Storage Facilities

Any outdoor storage or refuse area shall be fenced or screened from view and must be approved by the Planning Board as to location and design. All such structures must be located on the rear one-half of the property.

K. Sign and Lighting Regulations

These shall be in accordance with the General Commercial and M-Industrial districts as outlined in Article Eight, Section 2.

CHANGES IN TENANTS/BUSINESS

Any change in original tenant or use of building must be approved by the Town Board prior to the change.

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Nothing in this ordinance shall be deemed to restrict the construction, use or maintenance of public utility facilities and structures necessary for service to the Town except that the erection or installation of sub-stations, regulator stations, tower antennas, dial houses, water stand pipes, relay towers or transmission lines shall require a special permit from the Board of Appeals.

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ARTICLE SEVEN – LOT AREA AND WIDTH, YARDS AND BUILDING COVERAGE

SCHEDULE 1 - AREA BULK REQUIREMENTS

DISTRICTS	MINIMUM LOT SIZE Per Principal Use		MAXIMUM PERCENTAGE of Lot to be occupied by Principal Building	MINIMUM YARD DIMENSIONS (Dimensions in feet)			MAXIMUM Building-Height		MINIMUM Road Frontage In Feet
	AREA Sq. Ft.	WIDTH in Feet		FRONT (Set- back)*	SIDE   Each Side	REAR   Rear	Stories	Feet	
RA-5 Residential Agricultural	5 Acres	350	20 %	75	75	75	2 ½	35	60
RA-5 Residential Agricultural	2 Acres	200	20%	75	50	50	2 ½	35	60
RA-1 Residential Agricultural	30,000	150	20%	75	35	50	2 ½	35	60
C General COMMERCIAL	30,000**	100	50%	75	20	25 50 when adjacent to res. zone  40 when adjacent to Existing Bldng.	3	40	60
C-Rec	40,000**	200	50%	75	20	25 50 when adjacent to res. zone 40 when adjacent to Existing Bldng.	3	40	60
M	40,000	200	25%	75	50	50	3	40	60

Note \* Measured from CENTER of the traveled portion of the ROAD.

Note \*\* Except for wholesale store, hotel and/or motel, which requires 2 acres minimum

Regulations governing lot area and lot width; front, side and rear yards and building coverage are as specified in Schedule 1, above. The regulations appearing in Schedule 1 are subject to the Supplementary Regulations of Article Eight and additional regulations as follows:

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1. Additional Area Regulations

A. Lots of Less than Required Dimensions.

Any lot with a width, depth and/or area less than that required in the district in which said lot is located, may be used for any purpose permitted in the district, provided that all other regulations prescribed for the district shall be complied with, and further provided that said lot was held under separate ownership at the time of the adoption of this ordinance and the owner thereof owned no adjoining land that could be combined with said lot to meet the dimension requirements.

B. Corner Lot.

On a corner lot in any district where a front yard is required, a yard shall be provided on each street equal in depth to the required front yard on such streets. One rear yard shall be provided on each corner lot and the owner shall designate the rear yard on his application for a zoning permit. Nothing in this regulation shall be so interpreted as to reduce the building width of a corner lot facing an intersecting street, and of record at the time of the passage of this ordinance to less than twenty four (24) feet.

C. Visibility at Street Corners.

On a corner lot in any district where a front yard is required, no fence, wall, hedge or other structure or planting more than three feet in height shall be erected, placed or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points 20 feet distant from the point of intersection, measured along said lines.

D. Walls, Fences and Hedges.

The yard requirements of this ordinance shall not prohibit any necessary retaining wall nor any fence, wall or hedge permitted by Town Ordinance, providing that in any RA district, such fence, wall or hedge shall be no closer to any front lot line than one foot and shall comply with visibility at street corners as provided in this article.

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E. Accessory Structures

For accessory structures such as storage buildings, sheds, antennas, “dishes”, etc. (not over 140 sq. ft.) excluding swimming pools, in the RA districts, which are considered to be temporary and not suitable for residence and are primarily regarded as storage buildings, the required setbacks are ten (10) feet for the sides and ten (10) feet for the rear, and they must meet front setback requirements. (Note: the provisions of Article Eight, Section 4 also apply to storage buildings.)

F. Where there is proposed to be more than one principal building on a single lot, the building shall be located on the lot in a manner so that all of the minimum area regulations governing building location are met by all principal buildings. Specifically, the structures shall be located so the minimum lot size and width requirements can be met, minimum front, side and rear yard requirements are maintained for all structures (in the event that a future subdivision were to occur); and lot coverage maximums are maintained.

G. 100 Foot Set-Back from Lake or Stream:

No building, septic tank, or tile field shall be located closer than 100 feet to a stream, creek or other body of water, except that:

On existing undersize lots where this requirement cannot be met, the septic tank and tile field shall be located on the side of the house away from the water and as far away as possible. The house will then be located as far from the water as possible but in no case less than 50 feet away.

Open porches and decks attached to a residence shall be exempt, providing all other requirements can be met, and provided such porch or deck shall never be enclosed.

H. Height Exceptions

District building height regulations shall not apply to flagpoles, radio or television antennae, transmission towers or cables, spires or cupolas, windmills, chimneys, elevator or stair bulkheads, parapets or railings, water tanks or cooling towers, or any similar structures, provided that such structures in their aggregate coverage occupy no more than 10% of the roof area of the building. Barns, rain elevators and silos may exceed height limitations of this Ordinance provided that for each one foot each barn exceeds height limitations of 35 feet the minimum yard requirements shall be increased by one foot but in no case need exceed 100 feet.

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ARTICLE EIGHT – SUPPLEMENTARY REGULATIONS

1. Sanitary Protection
  - A. All dwellings and/or facilities with sanitary disposal systems and/or water systems shall have water and sewage systems approved by the Columbia County Health Department or the New York State Department of Environmental Conservation or local Enforcement Officer before a Zoning Permit may be issued by the Enforcement Officer. The local Enforcement Officer has the authority to do the percolation test.
  - B. Wells must be a minimum of 100' from the septic tank and/or distribution box.
  - C. All new septic systems MUST be approved by the Enforcement Officer BEFORE covering and backfill is done.
2. Sign and Poster Control
  - A. All exterior signs and posters must be constructed of durable materials, shall be lettered in a professional and workmanlike manner and shall be maintained in good condition and repair at all times. Exterior signs and posters made of cardboard, paper or similar non-permanent material are prohibited except for conservation and no-trespassing signs.
  - B. In any residential district, a sign not exceeding two (2) square feet in surface which announces the name, address or professional or home occupation of the occupant of the premises on which said sign is located is permitted.
  - C. A bulletin board not exceeding twenty-four (24) square feet is permitted in connection with any church, school or similar public structure.
  - D. A temporary real estate sign not exceeding six (6) square feet or a construction sign not exceeding twenty-four (24) square feet is permitted on the property being sold, leased or developed. Such sign shall be removed promptly when it has fulfilled its function.
  - E. An exterior business sign located in a commercial, recreational commercial or industrial district shall be permitted in connection with any authorized business or industry located on the same premises and meeting the following requirements:
    - a. Two signs are permitted with any legally established business: one free standing, the other attached to the building, and neither to exceed 24 square feet.
    - b. The primary purpose of the sign shall be for identification and may state only the owner, trade names, trade marks, products sold and/or the business or activity conducted on the premises on which the sign is located.
    - c. Signs shall not extend above the roof or parapet of the building. The height of a free standing sign shall not exceed thirty (30) feet.

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- d. Illustrated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic. Illumination shall be properly focused upon or from within the sign itself.
  - e. Signs which are animated, flashing or with intermittent illumination are prohibited.
  - f. Signs shall not project over public rights-of-way or adjoining property lines.
  - g. Lettering or symbols on the exterior structure of a business shall be considered a sign, and shall be measured by connecting the extremities of the borders, lettering or symbols to be inscribed within a regular geometric form and, in addition, shall meet all the requirements of this ordinance.
- F. Signs for Multi-Business Complexes: Shopping Centers, Malls, PCID etc.
- a. The owner of a business complex shall be permitted one free standing sign which shall not exceed twenty-four (24) square feet.
  - b. One free standing sign shall be permitted for the common use by all the business operating from the complex. Each business identification included on this sign shall not exceed ten (10) square feet, shall be measured as prescribed in the sign definition of the ordinance and shall be uniform in design. (The total area of the signs permitted by “a” and “b” shall not exceed 75 square feet.)
  - c. Such free standing signs shall not exceed a height of thirty (30) feet.
  - d. In addition, within a shopping center, one sign for each individual business shall be allowed, such sign to be attached to the building, with a maximum projection of 18 inches off the face of the building wall. Such sign shall not exceed twenty-four (24) square feet.
- G. Any sign in disrepair or which becomes obsolete shall be removed, at the expense of the owner, upon order of the Town Board, if not repaired after thirty (30) days notice. Any replaced or repaired sign must conform to all regulations in this ordinance.
- H. Two (2) signs off site may be permitted by the Planning Board for business located in New Lebanon only, if necessary to direct customers to the place of business. The primary intent shall be directional and not for advertising. In every zoning district, the total square footage of each sign shall not exceed nine (9) sq. ft.

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SCHEDULE 2 – SIGN AND POSTER CONTROL

USE	ZONING DISTRICT	MAX. SIZE	NO. PERMITTED	COMMENTS
Name, address or profession or home occupation	Residential	2 sq. ft.	1	-----
Temporary real estate	All zones	6 sq. ft.	1	must be removed promptly after serving its purpose
Temporary construction sign	All zones	24 sq. ft.	1	must be removed promptly after serving its purpose
Business signs	C, C-Rec, & M	24 sq. ft.	2 **	1 attached to building & 1 free standing
Business Complexes, Shopping Centers, Malls etc.	-----	24 sq. ft.	1 *	for identification of the Complex, Center, Mall etc.
“	-----	-----	1 *	10 sq. ft. per business
“		24 sq. ft.	1	attached to each business in Shopping Center
Bed & Breakfast and Boarding House	All zones, or where ZBA allows	2 sq. ft.	1	identification purposes
Directional/ Identification signs	All zones	9 sq. ft.	2	off-site, permit from Planning Board
Mobile Unit Signs	-----	24 sq. ft.	1	temporary use, not to exceed 3 months duration

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\* Maximum permitted area of composite (free-standing) sign shall be 75 square feet.

\*\* Height of individual free-standing signs shall not exceed 30 feet.

Signs attached to a structure shall not extend above the roof or parapet of the structure, nor shall the sign project more than 18” from the structure wall.

--See Article Eight, pages 23, 24, & 26 for additional regulations.--

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- I. A floral or stone sign may be permitted with a special permit as long as it conforms with other regulations of the sign ordinance.
- J. Mobile unit signs may be permitted by the Planning Board for businesses located in New Lebanon on a temporary basis only, not to exceed three months, and shall not exceed twenty-four (24) square feet and shall meet all other provisions of this ordinance.
- K. None of the above provisions shall be construed to permit signs relating to businesses located out of the Town of New Lebanon.

3. Motor Vehicle Storage

All unregistered vehicles in the Town of New Lebanon, excepting Farm Equipment and/or Machinery on an active Farm, shall be stored in an enclosed building. A maximum of two (2) unregistered motor vehicles may be parked or stored outside on any premises.

Notwithstanding any other provision of this ordinance, violations of this section of the ordinance in existence at the time of adoption of this provision, shall be removed within six (6) months from the effective date of this provision.

Setbacks for each zone must be considered when storing unregistered vehicles.

4. Secure Attachment of Buildings and Structures

All buildings and structures shall be securely affixed to the ground, or have a permanent attachment to a foundation.

5. Water Recreation and Water Storage

The accessory use of land for water recreation or water storage such as swimming pools (whether above ground or inground), ponds or open outdoor water storage tanks shall comply with the following requirements:

- A. The facility shall conform with setback requirements.
- B. If determined to be necessary by the Zoning Board of Appeals for safety reasons, it shall be enclosed by a fence of at least four (4) feet in height, to prevent unauthorized access by children.
- C. Plans for the drainage of a facility, where applicable, shall be adequate to assure that there will not be interference with the public or private water supply system or existing sanitary facilities.
- D. An above-ground swimming pool or other above ground storage structure will be located so that there is no danger to surrounding properties or water supply or sewerage systems in the event of a break in the container.

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6. Individual Mobile Homes

- A. The mobile home shall be placed upon a permanent foundation.
- B. The mobile home shall be securely located on its foundation and shall be either permanently affixed to a concrete pad or foundation.
- C. Skirting must be completed within 90 days of installation.

7. Prescribed Standards for Certain Special Permit Uses

A. Automobile Racing Facility

- a. There shall be a minimum lot size of 5 acres.
- b. The use shall be located along a state or county highway only; primary access shall be on the state or county highway and ingress and egress shall be approved by the New York State Department of Transportation or the County Department of Public Works.
- c. Such use shall have a landscaped buffer area at least 50 feet wide along exterior lot lines and street frontages, suitably planted and maintained to provide a visual screening from adjacent properties. At least 10 feet of such landscaped area shall be a coniferous evergreen planting a minimum of 6 feet in height, except within 10 feet of ingress and egress points, at which the coniferous planting shall be a maximum of 3 feet in height.
- d. No structure shall be located within 100 feet of any property lines.
- e. All activities of such use shall be contained on the site at sufficient distance from the boundaries, and shall be laid out as to not adversely affect surrounding property and to assure that there is no danger to surrounding properties.
- f. Adequate off-street parking shall be available.
- g. Any lighting shall be arranged so as not to cause a glare on surrounding properties.

B. Bed and Breakfast

- a. Meals will be served only for those who stay overnight
- b. One off-street parking space shall be allowed for every room available for guests.
- c. Septic systems shall be deemed adequate by the Enforcement Officer.

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- d. Water supply shall be approved by the County Health Department.
- e. The owner must occupy the house.
- f. No more than five rooms may be let, no more than 4 people per room.
- g. A sign not exceeding 2 square feet that announces the name of the Bed and Breakfast shall be allowed on premises.

C. Boarding House

- a. In addition to meeting the minimum lot size requirements for the establishment of the principal use, there shall be a minimum of 5,000 sq. ft. on the lot, per room, designated as sleeping accommodation for boarders, as well as 5,000 sq. ft. for the family residing on the lot.
- b. The number of rooms to be used as sleeping accommodations for boarders shall not exceed 5.
- c. Adequate off-street parking shall be available, pursuant to Article IX.
- d. Any outdoor lighting shall be so arranged so as not to cause glare on adjacent properties.
- e. A sign not exceeding 2 sq. ft. of surface which announces the name of the boarding house shall be permitted on the premises.

D. Campgrounds; Seasonal Camps

- a. Such use shall also conform to the requirements of the New Lebanon Ordinance entitled "Camping Ground Ordinance."
- b. Such use shall be located on a state or county highway, and the appropriate state or county authority shall approve the ingress and egress.

E. Cemetery

- a. No burial or memorial monument shall be located within 25 feet of any property lines provided that all such monuments shall be less than 4 feet in height. Any monument that is higher than 4 feet must be located at least 50 feet from any property lines. In addition there shall be evergreen plantings to screen the view from adjacent properties.
- b. Any lighting shall be arranged so as to not cause glare on any adjacent properties.
- c. Adequate off-street parking shall be available.

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F. Church (House of Worship)

- a. Primary access to such use shall not be a minor street designed to serve as access to abutting residential properties, but shall be by means of a collector street, county road or state highway.
- b. Adequate off-street parking shall be provided.
- c. Any lighting shall be arranged so as not to cause glare on surrounding properties.
- c. Total building area shall not exceed a lot coverage of 20%.

G. Commercial Excavation

- a. In addition to meeting the requirements below, the granting of a special permit for any mining operation for which more than 1,000 tons of materials will be removed from the earth within 12 successive calendar months will be contingent upon the applicant obtaining a mining permit from the New York State Department of Environmental Conservation.
- b. The Zoning Board of Appeals in granting any such permit may impose reasonable conditions protective of health, safety and welfare in the community. Without limiting the generality of the foregoing limitation, such conditions may include limitation or removal in respect to all or any of the following:
  - (1) Extent of time
  - (2) Area and depth of excavation
  - (3) Steepness of slopes excavated
  - (4) Distance between edge of excavation and neighboring properties or ways.
  - (5) Temporary or permanent drainage in a manner to be approved by the Town Road Supervisor.
  - (6) Posting of security or bond in a dollar amount to be determined by the Zoning Board of Appeals to be sufficient to guarantee fulfillment of conditions imposed.
  - (7) The replacement of not less than six (6) inches of topsoil over the whole of any area from which earth materials are removed where the location of such removal is afterward to become a residential subdivision, or

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- (8) In the case of continuing clay-pit or sand or gravel pit operations in one general locus ( but not in the case of continuing cut-stone or of continuing crushed rock removal operations at one general locus), recovering finished out banks with not less than six (6) inches of topsoil.
- c. No such permit shall be issued except upon written application. Such application shall include a diagram to scale of the land concerned, indicating existing and proposed elevations in the area to be excavated and stating the ownership and boundaries of the land for which such permit is sought, the names of all adjoining locations of existing and private ways nearest such land.
- d. Earth Removal Exceptions
  - (1) The foregoing regulations shall be deemed not to prohibit such removal of soil, loam, sod, clay, sand, barrow, gravel, or stone as may be incidental to and necessitated by any building construction for which a building permit has lawfully been issued under the Zoning Ordinance for the Town of New Lebanon, New York, prior to such earth material's removal.
  - (2) The foregoing regulations shall also be deemed not to prohibit such removal from any lot or way of earth materials so far as may be necessitated by the construction or installation of utilities or other engineering works on such lot or in such the layout lines and grades of such works have been duly approved by the Planning Board prior to such removal.
  - (3) The foregoing regulations shall also be deemed not to prohibit the removal of any or all of the above specified earth materials by any person, firm or corporation who on the effective date of this chapter shall be lawfully engaged in the business of dealing in or with any of such materials.
  - (4) The foregoing regulations shall also not apply to non-major filling activities using earth materials (topsoil, gravel, rock) related to the regular maintenance of residential driveways and other residential property. Non-major activities shall be defined as filling activities using not more than 100 yards or earth materials, and where such activities shall not have a effect on a neighbor's property.

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H. Day Care Center

- a. There shall be not more than (1) child for every 1,000 square feet of lot area.
- b. All buildings, structures, and areas of organized activity such as play areas, swimming pools, etc., shall be not less than 75 feet from any property line.
- c. Offstreet parking areas shall be not less than 50 feet from any property line.
- d. Only one (1) permanent family dwelling unit shall be located on the premises, and said dwelling unit shall comply with the provisions of this Ordinance for the District in which the lot is located.
- e. Outdoor floodlighting or public address systems are prohibited.
- f. One (1) sign shall conform to sign regulations.

I. Flea Markets

- a. Flea markets may be permitted only in Commercial and Commercial Rec. areas on Routes 20 and/or 22.
- b. 70% of Flea Market area must be reserved for parking.
- c. Sanitary facilities shall be provided by the owner on site.
- d. There shall be no on-street parking.
- e. All access to Routes 20 and/or 22 shall have New York State Department of Transportation approval.

J. Gas Station, Garages and Businesses Selling Automotive Fuel.

- a. The lot shall have a minimum frontage along the principal street or highway of at least 150 feet.
- b. No church, school, library, playground, or similar place of public assembly shall be within 500 feet of the site.
- c. All pumps or buildings and lubricating and other devices shall be located at least 25 feet from any adjacent building, structure and street line.
- d. Entrance or exit driveways shall be approved by the appropriate highway authority.

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- e. The area devoted to the outdoor storage of motor vehicles and/or parts thereof, or to purposes of dismantling, shall be screened from view of persons on adjacent properties by enclosing such within a solid fence eight (8) feet high, or such area shall be located inside a building. The outdoor storage of no more than two (2) unregistered motor vehicles shall be allowed, except auto vehicles for sale by authorized dealers and autos due for repairs or waiting for an insurance adjustment.
- f. Outdoor storage of other than motor vehicles shall be prohibited at all times. Premises shall not be used for the sale, rent or display of trailers, mobile homes, boats or other vehicles.
- g. The business of selling gasoline may be accessory to a retail store pursuant to these standards.

K. Golf Course; Private Recreation Area

- a. There shall be a minimum lot size of two (2) acres.
- b. All buildings and facilities shall be located at least 100 feet from any property line.
- c. Primary access to such use shall not be a minor street or any other street designed to serve primarily as access to abutting residential properties.
- d. All activities of such use shall be contained on the site at sufficient distance from the boundaries, and shall be laid out as not to adversely affect surrounding property and to assure that there is no danger to surrounding properties.
- e. Adequate off-street parking shall be available.
- f. Off-street parking and outdoor storage areas shall be screened from adjacent residential properties.
- g. Any lighting shall be so arranged as to not cause glare on adjacent properties.

## Home Occupation/Home Professional Office

There are three levels of HOME OCCUPATION, HO1, HO2, and HO3. The three levels are defined and controlled as follows:

### HOME OCCUPATION “HO”1 REQUIRES NO SPECIAL PERMIT!

1. HO1 (Category 1) is a “zero impact” use and is allowed anywhere with a Zoning Enforcement Officer (ZEO) review ensuring that the proposed use meets the requirements as stated below. This category is designated for those occupations that make no impact on the neighborhood, so that there is no external evidence of the occupation. All of the following minimum requirements must be met.
  - a. No signs are allowed and
  - b. No increase in normal traffic and
  - c. No special purpose vehicles will be on the property and
  - d. No large number of customers/clients will be on the property and
  - e. No non-residents of the property shall be employed.
  
2. HO2 (Category 2) is a “minimal impact” and is allowed with a non-transferable HOME OCCUPATION PERMIT. The Zoning Board of Appeals (ZBA) may place some restrictions on the operation of a HO2. This category is limited to a use which meets all of the following conditions:
  - a. Is carried on totally within the confines of the buildings on the property
  - b. Is carried on by a resident(s) of the property and not more than 2 non-resident persons.
  - c. May have one (1) sign, not exceeding 2 square feet, in accordance with Article VIII, Section 2.
  - d. Has no exterior storage of material or exterior variations from the residential character of the neighborhood.
  - e. Produces no unusual appearance, noise, vibration, smoke, dust, odors, heat, glare or electrical disturbances that would exceed those normally produced by a residence. Storage, use and disposal of hazardous material must meet applicable State and Federal regulations.
  - f. Does not substantially increase traffic in the neighborhood.
  - g. Has sufficient off-street parking for a limited number of customers/clients.
  - h. May have one (1) specialized vehicle on the premises, if screened or stored under cover.

3. HO3 (Category 3) is an “acceptable impact” use. This category requires a one (1) year renewable Home Occupation Permit with conditions for use of the property. This non-transferable permit is designed for Home Occupations that have the possibility of generating some noise, traffic or be somewhat intrusive to the present character of the neighborhood. This category shall have special restrictions placed on it by the ZBA. If the ZBA in its judgement finds that unrestricted operation of the HO3 could appreciably alter the character of the neighborhood. The permit will be subject to revocation should those limits be exceeded. This category is restricted to a use that meets the following conditions.
  - a. Is carried on primarily within the confines of the dwelling, but may make some minor use of outside space.
  - b. Is carried on by a resident(s) of the property and not more than three (3) non-resident employees.
  - c. May have one sign, not exceeding two (2) square feet, in accordance with Article VIII, Section 2.
  - d. May store more than one specialized vehicle, providing they are screeded or under cover.
  - e. Produces no substantial offensive appearance, noise vibration, smoke, dust, odors, heat, glare or electrical disturbances beyond that produced by a normal residence. Storage, use and disposal off hazardous material must meet applicable State and Federal regulations. The ZBA may place restrictions on specific materials and quantities.
  - f. Does not cause a major increase in neighborhood traffic.
  - g. Has sufficient off-street parking for customers/clients.
  - h. The Special Permit will be for a period of one (1) year, extendable annually. For extension the resident will make an application to the ZEO. The ZEO will ascertain (by inspection) that all conditions (general and specific) of the permit are being met. If conformance is determined, or is being established during a one (1) week extension period, following notification of the resident by the ZEO, then the ZEO will renew the Special Permit for another year.

• NOTES \*

The resident has a right to appeal to the ZBE, if the ZEO determines nonconformance, with which he does not agree. The resident may also make a new application for a Special Permit at any time, should conditions change and he finds that he is unable to conform with the conditions of his current Special Permit.

The Zoning Enforcement Officer (ZEO) may be the same person(s) as the Code Enforcement Office (CEO), if qualified for both and assigned by the town.

The HOME OCCUPATION shall not occupy more than 10% of the gross lot size.

- M. Hospital, Nursing Home, Retirement Home, Private School
  - a. There shall be a minimum lot size of five (5) acres
  - b. Such use shall be established only on a county road or state highway; the appropriate highway authority shall approve egress and ingress.
  - c. All buildings and facilities shall be located at least 100 feet from any property line.
  - d. Total building area coverage shall not exceed 20% of the lot.
  - e. Adequate off-street parking shall be available.
  - f. Off-street parking areas, outdoor storage areas and outdoor facilities shall be screened from adjacent property.
  - g. Any lighting shall be so arranged as not to cause glare on adjacent properties.
  
- N. Kennel, Veterinary Hospital, Stable
  - a. There shall be a minimum lot size of five acres.
  - b. All animal housing and related structures shall be located at least 205 feet from any property line.
  
- O. Mobile Home Park (see Trailer Court and Tourist Camp Ordinance)
  - a. Such use shall conform to requirements of the Town of New Lebanon Zoning Ordinance: "Trailer Court and Tourist Camp Ordinance". Where there is a conflict between that ordinance and this Zoning Ordinance, the more restrictive shall apply.
  - b. Each mobile home shall be securely located on its foundation and shall be permanently affixed to a concrete pad or foundation.
  - c. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

P. Multi-family Dwelling; Two Family Dwelling

- a. The use shall comply with all of the requirements set forth in this ordinance including water and sewer system approval requirements, off-street parking requirements and dimensional regulation requirements.
- b. In addition to meeting the minimum lot size requirements for the establishing or the principal use, there shall be a minimum of 10,000 square feet on the lot per dwelling unit.

Q. Temporary Mobile Homes

- a. Mobile homes may be used as a temporary residence or business while a permanent building is being constructed. Special Permit for one (1) year, renewable for two (2) six (6) month periods will be issued only.
- b. The first six month extension shall be granted only upon satisfactory completion of the foundation, framing and sheathing of the permanent structure.

R. Used Car Sales

- a. Only minor repairs of motor vehicles may be performed and shall be conducted only on those vehicles which are for sale at this establishment.
- b. Entrance and exit driveways shall total no more than two (2) in number and shall have an unrestricted width of no less than eighteen (18) feet, nor more than thirty (30) feet and be located no closer than twenty (20) feet to any side-lot line. The driveways must be approved by the proper authorities.
- c. All buildings, vehicles, equipment, etc. shall be placed in conformance with the setback requirements as shown in this ordinance, Article 7, Schedule 1, Commercial District. Vehicles shall be so placed that emergency vehicles can safely enter and exit.
- d. Curbing shall be required at the frontage of the road and cars shall be set back far enough behind the curbing so as not to interfere with visibility.
- e. Screening or buffering may be required and shall be required on rear and sides when abutting a residence or in a residential/agricultural district.
- f. Outdoor lighting shall be that generally necessary for security purposes. Said lighting shall be reduced to security lighting at the close of business. All outdoor lighting shall be located at a height of no more than twenty-five (25) feet. Any lighting shall be so arranged as not to cause glare on adjacent properties.
- g. No banners, pennants, string flags, balloons or other such display shall be permitted.

S. Wholesale Store, Hotel, Motel

- a. There shall be a minimum lot size of two (2) acres.
- b. Such use shall be located only on a state highway or county road; the appropriate highway authority shall approve ingress and egress.
- c. Adequate off-street parking shall be available.
- d. Total lot coverage, including accessory buildings and off-street facilities shall not exceed 50%.
- e. Off-street parking areas, outdoor storage areas and outdoor facilities shall be screened from adjacent residential properties.
- f. Any lighting shall be so arranged as not to cause glare on adjacent properties.

T. Driveway Permit

A driveway permit from the Town is required for access to all town roads. Driveway cuts not installed by the Town Highway Department must be installed to reasonable standards under supervision of the Town highway Superintendent.

ARTICLE NINE-OFF STREET PARKING AND LOADING

1. Off-street Parking

Off-street parking space shall be required for all buildings constructed after the effective date hereof. Each off-street parking space shall consist of at least one hundred and eighty (180) square feet with a minimum width of eight (8) feet. In addition, space necessary for aisles, maneuvering and drives shall be provided. parking requirements are specified below.

For uses not specified, the Board of Appeals shall, on approval and after recommendation of the Planning Board, establish parking requirements in specific cases, consistent with those specified in OFF-STREET PARKING, below.

- a. For any building having more than one use, parking space shall be required as provided for each use.
- b. Parking spaces required in RA districts shall be located behind the setback line in the side or rear yard on the same lot or tract as the principal use.
- c. Floor areas for the purposes of computing parking requirements shall be the sum of the horizontal area within exterior walls of the several floors of the building, excluding basement, cellar and attic areas used primarily for storage or service.

2. Off-Street Loading

At least one off-street loading facility shall be provided for each commercial or industrial establishment hereafter erected or substantially altered. Space for off-street loading shall be in addition to space for off-street parking. Such space shall not be less than 12 feet wide, 33 feet long and 14 feet in height when covered.

OFF STREET PARKING

USE	SPACES REQUIRED
Dwellings	1 space for each dwelling unit
Boarding house, tourist home, motel, hotel, bed and breakfast	1 space for each guest room
Administrative, professional, elecmosyuary, governmental	1 space for each 200 square feet of floor space

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OFF-STREET PARKING (Continued)

USE	SPACES REQUIRED
Funeral Home	10 spaces, plus space for all employee and resident personal cars
Church or Temple	1 space for each 4 seating spaces in main assembly room
School: Elementary, Jr.High	1 space for each teacher or employee
School: Senior High	1 space for each classroom or office and 1 space for each 10 students
Theater or other place of assembly	1 space for each 4 seating spaces
Nursing or convalescent home	1 space for each 4 beds
Retail Store or Bank	1 space for each 50 square feet of floor space devoted to customer use
Clubs and Restaurants	1 space for each 4 seating spaces
Bowling Alley	5 spaces for each alley
Industrial or manufacturing	1 space for each 2 employees on the maximum working shift
Skating Rink or Dance Hall	1 space for each 100 square feet of floor space
Automobile Racing Facility	1 space for each 3 seating spaces
Barber shop or Beauty Parlor	2 spaces per chair
Cleaner or Tailor	2 spaces for establishment plus space for all employees
Professional Offices	Adequate spaces for customers and personnel
All other uses	Same as for professional office

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ARTICLE TEN – NON-CONFORMING USES AND BUILDINGS

1. Continuation

Any non-conforming use, building or structure which existed lawfully at the time of enactment of this ordinance or amendment thereto may be continued, subject to the regulations which follow in this Article.

2. Restoration

A non-conforming building or a building or structure devoted to a non-conforming use, destroyed or damaged by fire, wind, explosion, structural failure or other natural causes may be repaired or rebuilt to its original exterior dimensions. The restoration of said building must be initiated within one year of the date of destruction or damage.

3. Non-conforming Use

A. Extension, Expansion, Alteration. The non-conforming use of the land shall not be enlarged or extended beyond the size of the use, or the area of land occupied by such use at the time of the adoption of this ordinance or amendment thereto. A non-conforming use of land may not be moved in whole or in part to any other portion of the lot or parcel of land occupied by such non-conforming use at the time of adoption of this ordinance.

B. Changes. A non-conforming use of a building or land may not be changed except to a conforming use. When so changed, the non-conforming use may not be resumed thereafter.

C. Discontinuance. A non-conforming use of land, buildings or structures or a portion thereof, which is discontinued for a period of twelve consecutive months shall not be re-established, and any subsequent use shall conform to the use regulations of the district in which the premises are located. A use shall be deemed to have been discontinued under any of the following conditions:

a. Abandonment of a non-conforming use building or discontinuance of a non-conforming use, for a period of twelve consecutive months.

4. Non-conforming Buildings

A. Additions. A non-conforming building may be added to or enlarged so long as the addition does not make the building any more non-conforming.

B. Alterations and Repairs. Such maintenance and repairs as are required to keep a non-conforming building or structure in sound condition shall be permitted. However no structural alterations shall be made to a non-conforming building or structure, unless such alterations are required by law.

## ARTICLE ELEVEN – ZONING ADMINISTRATION

### 1. Enforcement Officer

The Zoning Enforcement Officer (ZEO) may be the same person(s) as the Code Enforcement Officer (CEO) if qualified for both and assigned by the town.

- A. The provisions of this ordinance shall be administered and enforced by a person designated by the Town Board of the “Enforcement Officer” who shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance. No zoning permit or certificate of occupancy required hereunder shall be issued by the Enforcement Officer except in compliance with the provisions of this ordinance, or as directed by the Board of Appeals under the provisions of Article Twelve.
- B. The Enforcement Officer shall submit a monthly report which includes a list of all permits issued or denied, as well as a complete list of all cases which are, as of the report date, pending further action, to the Town Board, Planning Board and Zoning Board of Appeals. Said report shall be submitted on a form promulgated by the Town Board in cooperation with the Planning Board and Zoning Board of Appeals.
- C. The Enforcement Officer and the Deputy Enforcement Officer shall be appointed by the New Lebanon Town Board and shall receive such compensation as such board shall determine.
- D. Should the Enforcement Officer or his deputy be in doubt as to the meaning or intent of any provision of this Ordinance, or as to the location of any district boundary line on the Zoning Map, or as to the propriety of issuing a zoning permit or a permit of occupancy in a particular case related to the provisions of this ordinance, he shall appeal the matter to the Board of Appeals for interpretation and decision.

### 2. Zoning Permit

- A. No building shall be erected, moved, structurally altered, added to or enlarged, no use of land or buildings shall be established or changed and no excavation for any building shall begin unless and until a zoning permit valid for one (1) year has been issued by the ZEO.
- B. Applications for zoning permits shall be submitted on a form or forms provided by the ZEO. The town Planning Board, Assessors and Town Clerk should have copies of all permits issued. Each application shall set forth the purpose for which the building or land is intended to be used and shall be accompanied by a plot plan showing the dimensions of the lot and building and dimensions of required and proposed yards. The ZEO may require additional information other than that called for on the application form, as may reasonably be needed for him to determine if the proposed building, its use and the use of the land are in conformity with the provisions of this ordinance.
- C. If the ZEO or his deputy should mistakenly issue a zoning permit which violates the provisions of this ordinance, that zoning permit shall be deemed invalid by the ZEO.

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C. If the Enforcement Officer or his Deputy should mistakenly issue a zoning permit with violates the provisions of this ordinance, that zoning permit shall be deemed invalid by the Enforcement Officer.

D. Fees

Each application for a zoning permit shall be accompanied by a fee in accordance with the following schedule:

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Zoning permit.....	\$15.00
Zoning permit issued following action by Enforcement Officer as outlined in Section 4-B (violations) .....	\$50.00
Appeals to the Zoning Board of Appeals following denial of zoning permit by the Enforcement Officer .....	\$35.00
Certificate of Zoning Compliance .....	\$35.00

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3. Certificate of Zoning Compliance

A. No land shall be used or occupied and no building hereafter erected, altered or extended shall be used or charged in use until a certificate of Zoning Compliance has been issued by the Enforcement Officer.

B. A certificate of Zoning Compliance may be obtained from the Enforcement Officer. Such certificate shall be issued only if the proposed use of the building or land conforms to the provisions of this ordinance. The Enforcement Officer shall make an inspection of each building or lot for which a Zoning Compliance has been applied before issuing such certificate. Such inspection shall be made within ten (10) days from the date of application, Saturdays, Sundays and legal holidays excepted. Failure to make such inspection and determination within the specified period of time shall be deemed to be approval of the application of Zoning Compliance.

4. Violations and Penalties

A. Complaints

- a. Any person may file a complaint with the Enforcement Officer regarding a violation of this ordinance.
- b. All complaints shall be in writing and filed in person with the Enforcement Officer and/or Clerk.
- c. All such filed complaints shall be investigated by the Enforcement Officer and a report prepared thereon and action instituted where appropriate within five (5) days excluding Saturdays, Sundays, and legal holidays.

-- ZONING ORDINANCE – Town of New Lebanon --

B. Procedure with Respect to Violations

- a. Where a violation of this Ordinance is determined to exist, the Enforcement Officer shall serve notice by certified mail, return receipt requested, on the owner, agent or contractor of the building, structure, or lot where such violation has been committed or shall exist, and on the lessee or tenant of the part of or of the entire building, structure or lot where such violation has been committed or shall exist; and on the agent, architect, contractor or any other such person who takes part or assists in such violation, or who maintains any building, structure or lot in which any such violation shall exist.
- b. Such notice shall require the removal of the violation within ten (10) days after service of the notice.
- c. In such cases where removal of the violation within the ten (10) days would be manifestly impossible, the Enforcement Officer shall apply to the Town Board for a determination as to a reasonable period of time within which such violation shall be removed.
- d. If those persons notified shall fail to remove such violation within the allotted time period, the Enforcement Officer shall charge them with such violation of this Ordinance before the Justice Court of the Town of New Lebanon.
- e. The Enforcement Officer is hereby given the authority to issue appearance tickets directing any such person to appear in the Justice Court of the Town of New Lebanon, at a designated future time in connection with that person's alleged commission of a designated violation of this Ordinance.

C. Penalties

- a. A person or corporation, whether as owner, lessee, agent or employee, who shall violate any of the provisions of this ordinance or who fails to comply with any order or regulation made thereunder, or who erects, alters, moves or uses any building or uses any land in violation of any detailed statements or plans submitted by him and approved under the provisions of this Ordinance, shall be guilty of an offense and upon conviction shall be punished by a fine not exceeding two hundred & fifty dollars (\$250) or imprisonment not exceeding fifteen (15) days, or both, in accordance with the provisions of Article 16 of the Town Law and amendments thereto and any other Article relating thereto. Each week's continued violation shall constitute a separate additional violation.

-- ZONING ORDINANCE – Town of New Lebanon --

- b. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of this ordinance, the proper local authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such building, structure or land.

5. Flood Area Overzone

A. General

- a. The areas of the municipality which are subject to periodic inundation as described by the Flood Hazard Boundary map issued by the Federal Flood Insurance Administration and are delineated on the Zoning Map are designated as a Flood Area Overzone (FAO) for the purposes of protecting human life, preventing material losses, and reducing the cost to the public of rescue and relief efforts occasioned by the unwise occupancy of area subject to floods.
- b. In order to accomplish its purposes, this ordinance uses the following methods with regard to the flood hazard area:
  - (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or in flood height or velocities.
  - (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
  - (3) Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.
  - (4) Control filling, grading dredging and other development which may increase flood damage.
  - (5) Prevent or regulate the construction of flood barriers which will divert flood waters or which may increase hazards to other lands.
- c. Within the Flood District, no person shall erect, construct, enlarge, alter, repair, improve, or move any permitted building or structure nor shall any permitted activity such as mining, dredging, filling, grading, paving, excavation, or drilling commence without first obtaining a zoning permit from the Enforcement Officer.

-- ZONING ORDINANCE – Town of New Lebanon --

B. Enforcement Officer Flood Hazard Duties

The Enforcement Officer shall review all zoning permit applications for activities within the flood hazard area and shall not issue a permit unless the following requirements are met:

a. RESIDENTIAL CONSTRUCTION

New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

b. NONRESIDENTIAL CONSTRUCTION

New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability or resisting hydrostatic and hydrodynamic loads and effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

c. ANCHORING

All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

- (1) over-the-top ties be provided at each of the four corners of the mobile home with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side or, frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side;
- (2) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and,
- (3) any additions to the mobile home be similarly anchored.

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d. CONSTRUCTION MATERIALS AND METHODS

- (1) all new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) all new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

e. UTILITIES

- (1) all new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (2) new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and,
- (3) on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

f. SUBDIVISION PROPOSALS

- (1) all subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) all subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or (5) acres.
- (5) see separate subdivision regulations as well (available from Town Clerk).

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g. USES PERMITTED AND DENSITY CONTROL

In addition to the above requirements, the uses permitted and the density and bulk regulations of the underlying district shall apply in determining if the requirements of the zoning are met.

For the purpose of the determination of the administration of this section, the Enforcement officer shall require the applicant to furnish the following information:

- (a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
- (b) Elevation in relation to mean sea level to which any non-residential structure has been flood-proofed if any.
- (c) Certification by a registered professional engineer or architect that any non-residential flood-proofed structure meets the floodproofing criteria in paragraph B,b.
- (d) Description of the extent to which any water course will be altered or relocated as a result of proposed development.

C. Variances

Notwithstanding, the Zoning Board of Appeals, after Planning Board review and upon a finding that an area described by an application submitted by an owner or his agent within a Flood plain Zoning District is safe from flooding, may permit such area within the Flood Plain District to be used in accordance with the regulations (including use, area, bulk and height) specified for the underlying district of the overzone. An applicant applying for such permission shall produce sufficient evidence that an area covered by the application (as well as access to that area) is now actually safe from flooding and may include engineering surveys and reports. Evidence shall also be submitted that sewage disposal, water supply and surface drainage are adequate to serve the intended use.

ARTICLE TWELVE – BOARD OF APPEALS

A Board of Appeals is hereby established. It shall consist of seven members, each to serve for a term of five years. The term of office of the members of the Board of Appeals and the manner of their appointment shall be in accordance with the provisions of Article 16 of the Town Law. Vacancies occurring in said Board shall be filled for such unexpired period only.

The Board of Appeals shall have the duties, rights, powers and functions conferred upon it by Section 267 of Article 16 of the Town Law and any other provisions of the Town Law and any other provisions of law or ordinance applicable thereto, including the following:

1. Meetings

All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. Such Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. Such Board shall keep minutes of its proceedings showing the vote of each member upon every question, or if absent or failing to vote indicating such fact, and shall also keep records of its examinations and other official actions.

2. Records

All decisions of the Board shall be in writing, and a copy of each decision shall be sent to the applicant and to the Enforcement Officer and the County if applicable. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Board and shall be a public record. Each decision shall set forth fully the reasons for the decision of the Board and the findings of fact on which the decision was based. Such findings and reasons shall include references to the standards of Article XII-5 where the appeal is for a variance or a special permit.

3. Appeal

The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the Enforcement Officer. It shall also hear and decide all matters referred to it upon which it is required to pass under this ordinance. The concurring vote of a majority of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Enforcement Officer, or to decide in favor of the applicant any matter upon which it is required to pass under this ordinance or to effect any variation in this ordinance. Such appeal may be taken by any person aggrieved, or by any officer, department, board

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or bureau of the Town. Such appeal shall be taken within 30 days or such additional time as shall be prescribed by the Board of Appeals by general rule, by filing with the Enforcement Officer and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Enforcement Officer shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

4. Stay

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

5. Jurisdiction

The Board of Appeals shall have the following powers and duties prescribed by statute and by this ordinance:

- A. Interpretation. On appeal from a determination of the Enforcement Officer, to hear and decide on questions where it is alleged there is an error in any order, requirement, decision or determination made by the Enforcement Officer.
- B. Variance. On appeal from a determination of the Enforcement Officer, to grant a variance where the property owner can show that his property was acquired in good faith and where the strict application of this ordinance would result in practical difficulty or unnecessary hardship. The Board of Appeals shall prescribe appropriate conditions and safeguards to carry out the requirements of this subsection and shall not grant any variance unless it shall make a finding of fact based upon the evidence as presented to it in each specific case that:
  - a. An area variance: relief from such as: yard requirements, setback lines, lot coverage, frontage requirements and density regulations.

In considering granting an application for an area variance, the Board of Appeals shall determine that there exists practical difficulty, and shall consider the following guidelines in its determination:

- (1) how substantial the variation is in relation to the requirement:

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- (2) the effect, if the variance is followed, of the increased population density thus produced on available governmental facilities (fire, water, waste disposal and the like):
  - (3) whether a substantial change will be produced in the character of the neighborhood or substantial detriment to adjoining properties created:
  - (4) whether the difficulty can be obviated by some method, feasible for the applicant to pursue, other than a variance, and
  - (5) whether, in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance.
- b. A use variance: relief from the strict application of the use regulations: where the applicant desires to utilize the land for a use not allowed in the district.

In its consideration of the granting of an application for a use variance, the Board of Appeals shall determine that there exists unnecessary hardship, and shall consider the following guidelines in its determination:

- (1) The land in question cannot yield a reasonable return if used only for a purpose allowed in the zoning district.
  - (2) That the plight of the owner is due to unique circumstances not to the general condition in the neighborhood.
  - (3) That the modification (or use) to be authorized will not alter the essential character of the neighborhood.
- C. Special Permit. On application, supplementing a application to the Enforcement Officer for a zoning permit or certificate of occupancy, the Board of Appeals may grant a permit for any use for which approval of the Board is required under this ordinance. In granting such permit, the Board may specify appropriate conditions in harmony with the following standards.
- a. The use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts.
  - b. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection therewith, its site layout, and its relation to streets giving access to it shall be such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood.

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In applying this standard, the Board shall consider, among other things, convenient routes of pedestrian traffic, particularly of children, relation to main traffic thoroughfares and to street and road intersections, and the general character and intensity of development of the neighborhood.

- c. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof.
  - d. The location and characteristics of the proposed use will be in furtherance of the purposes of this ordinance as stated in Article III. The prescribed standards set forth in Article VIII Section 6 for certain special permit uses shall also apply.
6. Referral
- A. Any application for a variance or special permit shall first be referred to the Planning Board. The Planning Board shall then have thirty (30) days to make any recommendations. If the Board of Appeals should decide contrary to any recommendations of the Planning Board all reasons influencing their decision shall accompany the decision.
  - B. On any special permit or variance application before the Board of Appeals a copy of applicable forms and description of the applicant's proposal shall be mailed to the Columbia County Planning Board, in any case where the land involved in an application is within 500 ft. of
    - a. The boundary of any other municipality.
    - b. Any State or County park or other recreation area.
    - c. The right-of-way of any State or County highway.
    - d. The right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines.
    - e. The boundary of any State or County owned land on which a public building or institution is situated.
  - C. No action shall be taken on applications referred to the Columbia County Planning Board, until the Board's recommendation has been received, or 30 days have elapsed after the Board received the full statement on the applicant's proposal, unless the County and the Town agree to an extension beyond the thirty (30) day requirement for the County's review.

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7. Hearing and Determination

The Board of Appeals shall fix a reasonable time for the hearing of the appeal or application for special permit and give due notice thereof to the parties, and by publication at least once in the official newspaper ten days before the date of the hearing, and shall decide the same within a reasonable time. In addition to the public notice of a hearing, notice shall be given in writing to all property owners of the land included in such proposed change, and the land immediately adjacent extending one hundred (100) feet therefrom, and the land directly opposite thereto extending one hundred (100) feet from the street or highway frontage of such opposite land, as said property owners and addresses appear on the latest completed assessment roll of the town. Upon the hearing, any party may appear in person or by agent or by attorney. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal is taken.

8. The work authorized by the granting of a special permit or a variance must be initiated within twelve (12) months after the issuance of such permit or variance, as follows:

- A. Where the special permit or variance authorized the erection of a structure, construction of the structure must begin within twelve (12) months of authorization, and must be thereafter diligently pursued, or reapplication for a new special permit or variance shall be necessary.
- B. Where the special permit or variance authorizes the establishment or change of a use of land or building, such use shall be in place within twelve (12) months of authorization, or reapplication for a special permit or variance will be necessary.

ARTICLE THIRTEEN – AMMENDMENTS

1. Amendments, How Initiated

- A. The Town Board may from time to time on its own motion, amend, supplement, repeal or change the regulations and district boundaries established by this ordinance.
- B. Whenever the owners of fifty (50) percent or more of the frontage in any district or part thereof shall present a petition duly signed and acknowledged to the Town Board, requesting an amendment, supplement or change of the regulations prescribed for such district or part thereof, it shall be the duty of the Town Board to vote upon said petition within thirty (30) days after the filing of the same by the petitioners with the Town Clerk.

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- C. The Planning Board may by resolution propose an amendment to the Town Board suggesting a change or repeal of the regulations. Within thirty (30) days from the time such resolution is filed with the Town Clerk it shall be the duty of the Board to vote on such proposed amendment.
2. Referral of Proposed Amendments to the Town Planning Board and to the County Planning Board
- A. All proposed amendments, supplements or changes originating by petition or by motion of the Town board shall be referred to the Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within thirty (30) days after receiving such referral. If the Planning Board fails to report within the required time, the Town Board may act without such a report.
  - B. On any amendment proposal before the Town Board, a copy of a description of the proposal shall be mailed to the Columbia County Planning Board, in any case where the land involved in the proposal is within 500 feet of:
    - a. The boundary of any other municipality.
    - b. Any State of County park or recreation area.
    - c. The right-of-way of any State or County highway.
    - d. The right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines.
    - e. The boundary of any State or County owned land on which a public building or institution is situated.
  - C. No action shall be taken on proposals referred to the Columbia County Planning Board, until the County Board's recommendation has been received, or 30 days have elapsed after the Board has received the full statement on the applicant's proposal, unless the County and the Town agree to an extension beyond the 30 day requirement for the County's review.
3. Hearing on Proposed Amendment

Before any amendment, supplement or change in the regulations or district boundaries, there shall be a public notice and hearing thereon as provided by law. Such hearing shall be held by the Town Board, or the Planning Board at the request of the Town Board. In addition to the public notice of a hearing, notice shall be given in writing to all property owners of the land included in such proposed change, and the immediately adjacent extending one hundred (100) feet therefrom, and the land directly opposite thereto extending one hundred (100) feet from the street or highway frontage of such opposite land, as said property owners and addresses appear on the latest completed assessment roll of the Town.

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4. **Adoption of Amendment**  
After the public hearing, and referral to and report by the Planning Board, a majority vote of the members of the Town Board shall be required to amend the zoning ordinance except as described in Section 5 below.
5. **Publication and Posting**  
Every amendment to the Zoning Ordinance, including any map incorporated therein, adopted in accordance with the Town Law shall be entered in the minutes of the Town Board and a copy thereof, exclusive of any map incorporated therein, shall be published once in the official newspaper of the Town and a copy of such amendment together with a copy of any map incorporated there, shall be posted on a sign board maintained by the Town Clerk pursuant to Subdivision 6 of Section 30 of the Town Law. Affidavits of the publication and posting thereof shall be filed with the Town Clerk.
6. **Protest Petition**  
If a protest against a proposed amendment, supplement or change is presented to the Town Board, duly signed and acknowledged by the owners of twenty (20) percent or more of the area of the land included in such proposed change, or by the owners of twenty (20) percent or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty (20) percent or more of land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of four members of the Town Board.
7. **Periodic Review of Zoning Ordinance**  
From time to time, at intervals of not more than three (3) years, the Planning Board shall re-examine the provisions of this ordinance and the location of district boundary lines and shall submit a report to the Town Board recommending such changes or amendments, if any, which may be desirable in the interest of public safety, health, convenience, necessity or the general welfare.

ARTICLE FOURTEEN – MISCELLANEOUS

1. **Validity**

Should any section, clause or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid and only to the extent of such invalidity.

2. **Interpretation, Conflict with Other Laws**

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

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ARTICLE FIFTEEN – DEFINITIONS

Word used in the present tense include the future tense

The singular includes plural

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

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

The term “shall” is always mandatory

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

**ACCESSORY USE**

A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**ALTERATIONS**

As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**AREA, NET SITE**

The total area within the property lines of a single lot excluding external streets.

**AUCTION**

The use of land and/or buildings for the public sale of goods to the highest bidder. For the purposes of this ordinance, such use shall not include the sale of livestock and shall not be considered a store.

**AUTO (AUTOMOBILE)**

Refer to “Motor Vehicle”

**AUTO RACING FACILITY**

A facility designed for the outdoor recreation involving automobile racing, with or without spectators. For the purposes of this ordinance, this use shall not include the racing of vehicles such as motorcycles, dirt bikes, snowmobiles, jet cars, trucks and fire trucks.

**BEDAND BREAKFAST**

An owner occupied dwelling used for renting accommodations to transient fee paying guests and providing not more than one or two meals to guests only. No more than five rooms may be let.

**BOARDING HOUSE**

A building used as a dwelling for a family and up to five (5) fee paying guests paying for sleeping accommodation and with or without the provision of meals.

-- ZONING ORDINANCE – Town of New

**BUILDING**

Any structure other than a boundry wall or fence.

**BUILDING, ACCESSORY**

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

**BUILDING, FRONT LINE OF**

The line of that face of the building nearest the front lines of the lot. This face includes sun parlors and covered purches whether enclosed or un-enclosed but does not include steps.

**BUILDING, PRINCIPAL**

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

**BUSINESS COMPLEX**

More than one commercial business or professional office located in a common building and each being physically separated from each other.

**CAMP**

Any one or more of the following, other than a hospital, place of detention or school offering general instruction, and not to include a mobile home.

Type 1            Any area of land or water on which are located two or more cabins, tents, trailers, shelters, houseboats or other accommodations of a design and character suitable for seasonable or other more or less temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise, or

Type 2            Any land, including any building thereon, used for any assembly of persons For what is commonly known as “day camp” purpose or youth projects for instruction and recreation and any of the forgoing establishments whether or not conducted for profit and whether or not occupied by adults or by children, either as individuals, families or groups.

**CEMETARY**

A place for the interring of the deceased.

**COMMERCIAL EXCAVATION**

The use of land for quarrying, soil mining, the removing of fill gravel, stone or other earth materials, and for commercial (sale) purposes.

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**COVERAGE**

That percentage of the plot or lot area covered by the building area

**DAY CARE CENTER**

A private establishment enrolling four or more children between 2 and 5 years of age and where tuition, fees, or other forms of compensation for the care of children is charged, and which is licensed or approved to be used as a child care center.

**DUMP**

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

**DWELLING**

A building designated or used as the living quarters for one or more families.

**DWELLING, ONE FAMILY**

A detached building designed for or occupied exclusively by one family.

**DWELLING, TWO FAMILY**

A building designed for or occupied exclusively by two families living independently of each other.

**DWELLING, MULTI-FAMILY**

A dwelling or group of dwellings on one plot containing separate living units for three or more families for lease or rent only.

**DWELLING UNIT**

A building or portion thereof providing complete housekeeping facilities for one family.

**ENFORCEMENT OFFICER (Building Code-CEO/ZONING – ZEO, or both)**

**FACTORY OUTLET**

The retail sale of products manufactured on the premises.

**FAMILY**

One or more persons, related by blood, marriage or adoption, including foster children, who are living together and maintaining a common household, or up to five persons who are not so related who are living together and maintaining a common household

## -- ZONING ORDINANCE – Town of New

### FARM

Any parcel of land containing at least three (3) acres which is used for gain in the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes the raising of fur-bearing animals, riding academies, livery or boarding stables and dog kennels.

### FLEA MARKET

An occasional or periodically held market in an open or structure where spaces are rented to groups or individual sellers who offer goods for sale to the public. This does not include individual garage or tag sales.

### FLOOR AREA OF BUILDING

The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not devoted to residential use, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

### GARAGE, PUBLIC

Any garage other than a private garage, available to the public, operated for gain and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

### GASOLINE STATION

Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means.

### HEIGHT OF BUILDING

The vertical distance measured from the average finished grade along the wall of the building (or adjacent to the side of the structure) to the highest point of such building or structure.

### HISTORIC PRESERVATION

The protection, rehabilitation and restorations of districts, sites, buildings, structures and artifacts significant in American History, architecture, archaeology or culture.

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### HOME OCCUPATION

A secondary or added use of a residence or an accessory building that is income producing for the occupants of the dwelling.

Refer to ARTICLE EIGHT – SUPPLEMENTARY REGULATIONS

“b – Home Occupation, Home Professional Office”

for the descriptions of HO1, HO2, and HO3 Home Occupation categories.

### HOSPITAL

Unless otherwise specified, the term “hospital” shall be deemed to include sanitarium, preventorium, clinic, rest home, nursing home, convalescent home, and any other place for the diagnosis, treatment or other care of human ailments.

### HOTEL

A building containing more than five rooms for sleeping purposes which are used or rented by fee paying guests and where only a general kitchen and dining room are provided within the building or in an accessory building.

### JUNK YARD

A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and/or for the sale of parts or whole of such machinery or vehicles.

### KENNEL, BOARDING

A structure used for the harboring of more than three dogs that are more than six months old, for remuneration.

### KENNEL, BREEDING

A structure used for the harboring of more than three dogs that are more than six months old and without remuneration.

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LINE, STREET

The dividing line between the street and the lot.

LOT

A parcel of land occupied or capable of being occupied by one building or use and the necessary buildings or uses customarily incident to it, including such open spaces as are required by this ordinance.

LOT, CORNER

A parcel of land at the junction of and fronting on two or more intersecting streets.

LOT, DEPTH OF

A mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines.

LOT, WIDTH OF

The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required setback line.

LOT LINE

Any line dividing one lot from another

LOT LINE, FRONT

The line of the lot located at the street right-of-way.

LOT LINE, REAR

The lot line most nearly opposite the front lot line and the one most parallel and closest to the front line.

LOT LINE, SIDE

Any lot line not a front lot line or a rear lot line is a side lot line

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MOBILE HOME

Any self contained dwelling unit, having a ground area of at least 500 square feet, but not including travel trailers, that is designed to be transported to its site on its own wheels or those of another vehicle, may contain the same water supply, kitchen facilities and plumbing, sewage disposal and electric system as immobile housing and is designed to be used exclusively for residential purposes. A modular home or other dwelling unit that is constructed in two or more main sections and transported to and permanently assembled on the site is not considered a mobile home. A red seal means it has been inspected by HUD.

Mobile homes fall under the local Fire and Building Code.

MOBILE HOME PARK

Facilities for the parking of two or more mobile homes on a permanent or transient basis.

MODULAR/SECTIONAL HOME

Housing of one or more rooms which are fabricated and assembled in a factory as complete three-dimensional units which are then shipped by truck or railroad to the erection site where they are joined with one or more such units and placed on a permanent foundation to form a permanent single family, town house or multi-family unit, and which meet all New York State requirements and standards concerning factory manufactured homes. For the purpose of this Ordinance, a modular home shall not be considered a mobile home. A blue seal indicates the inspection conforms to the New York State Uniform Fire and Building Codes.

MOTEL

A building or group of buildings, whether detached or in connected units, used as individual sleeping or living quarters with direct outside access and related office, and with or without restaurant facilities, designed primarily for transient automobile travelers, and provided with the accessory offstreet parking facilities. The term MOTEL includes buildings designed as tourist courts, motor lodges, auto courts, and other similar appellations, but shall not be construed to include parking areas for HOUSE TRAILERS OR MOBILE HOMES, or to include DWELLING UNITS except for that of the owner or manager.

MOTOR VEHICLE

Any device that was designed, manufactured or modified as a self-propelled conveyance of persons or objects by any power other than muscular power.

NON-CONFORMING BUILDING

A lawfully existing building or structure which does not conform to the area setback regulations of the district in which it is located.

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NON-CONFORMING LOT

A lawfully existing lot which does not conform to the area regulations (minimum lot width and/or lot size) of the district in which it is located.

NON-CONFORMING USE

A lawful use of a structure, building or land which does not conform to the use regulations of the district or zone in which it is situated.

PRIVATE RECREATION AREA

The use and ownership of land or structures by an organization, catering exclusively to members and their guests, used for recreational and athletic purposes (including archery or firearm activities), and not involving vending or merchandising or other commercial activities except as required generally for the membership and purposes of such organization.

PRIVATE SCHOOL

Private profit or nonprofit facility designed and used primarily as an educational institution, providing teaching and classes for its enrollees, with or without sleeping and eating facilities for the employees and enrollees.

QUARRY, SAND PIT, GRAVEL PIT, TOP SOIL STRIPPING

A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or top soil for sale, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.

SHOPPING CENTER

Means a lot occupied by more than one (1) commercial use unit, attached or detached, which relate to a common parking area and common points of ingress and egress and common circulation pattern.

SIGN

Any structure or part thereof attached thereto or painted or represented thereon, which shall display or include any letter, word, insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. The word “sign” includes the word “billboard” but does not include the word flag, pennant or insignia of any nation, state city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement, or event. For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device and may be double faced containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

The surface area of a sign shall be computed within a continuous perimeter as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising shall not be included in the computation of the surface area.

### Lettering and contrasting background

The following are not included in the application of the regulations herein:

- (1) Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, name of occupants of premises, or other identification of premises not having commercial connotations.
- (2) Flags and insignia of any government except when displayed in connection with commercial promotion
- (3) Legal notices, identification, information or directional signs erected or required by governmental bodies.
- (4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
- (5) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter

#### STABLE, COMMERCIAL

A building in which horses are quartered, with remuneration

#### STABLE, PRIVATE

A building in which horses are quartered, without remuneration.

#### STREET

A public or private way which afford the principal means of access to abutting structures.

#### STRUCTURE

Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences and signs. Structure also includes the septic system (tank, distribution box, piping and perforated pipes of the absorption field) and any fill placed for the septic system.

#### USE

The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term “permitted use” or its equivalent shall not be deemed to include any non-conforming use.

#### USED CAR

Any previously owned motor vehicle which is for sale, meets state inspection requirements and is ready to be driven by a customer.

#### USED CAR DEALER

Any person or firm which sells or offers for sale more than five previously owned motor vehicles in any calendar year, or who displays or permits the display of three or more previously owned vehicles for sale at any one time or within any one calendar month upon premises owned or controlled by him. If such vehicles are purchased, acquired or otherwise obtained by such person for the purpose of resale, is regarded as a used car dealer.

#### VETERINARY HOSPITAL

A facility for the care and treatment of injuries and diseases of animals, operated by a licensed veterinarian.

#### WHOLESALE STORE

A facility designed for the storage and sale of goods and merchandise, in quantity and primarily for sale to retail merchants.

#### YARD, FRONT

An open unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot.

#### YARD, REAR

An open unoccupied space on the same lot with the building between the rear line of the building and rear line of the lot and extending the full width of the lot.

#### YARD, SIDE

An open unoccupied space on the same lot with the building situated between the building and the side lot line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

