

Adopted January 2023

Chapter 210 ZONING

GENERAL REFERENCES

Land Use Boards — See Ch. 51.

Adult uses — See Ch. 84.

Building construction and fire prevention — See Ch. 105. Environmental quality review — See Ch. 120.

Right to farm — See Ch. 124. Land use fees — See Ch. 128.

Flood damage prevention — See Ch. 135.

Grading, filling and erosion control — See Ch. 143. Junkyards — See Ch. 154.

Scenic and rural roads — See Ch. 183. Subdivision of land — See Ch. 192.

Schedule of land use fees — See Ch. 89.

Adopted January 2023

Table of Contents

Chapter 210 ZONING.....	1
ARTICLE I General Provisions	6
§ 210-1. Title	6
§ 210-2. Scope.....	6
§ 210-3. Enacting legislation; purpose.....	6
§ 210-4. Word usage.....	7
ARTICLE II Zoning Districts.....	8
§ 210-5. Establishment and intent of zoning districts.	8
§ 210-6. Zoning District Map.....	11
§ 210-7. Interpretation of zoning district boundaries.	11
§ 210-8. Delineation of flood hazard zones.	11
§ 210-9. Applicability of zoning district regulations.....	12
ARTICLE III	13
Use Regulations	13
§ 210-10. District Schedule of Use Regulations.	13
ARTICLE IV	13
Area and Bulk Regulations	13
§ 210-11. District Schedule of Area and Bulk Regulations.....	13
§ 210-12. Existing lots of record.	13
§ 210-13. Minimum lot area per dwelling unit and Density Bonuses.	79
§ 210-14. Height exceptions.	82
§ 210-15. Corner lots; obstructions at intersections.	83
§ 210-16. Architectural features permitted in required yards.	83
§ 210-17. Accessory structures.....	84
§ 210-18. Distance between principal buildings on same lot.....	85
§ 210-19. Required modification of front yard setback on locations with substandard rights-of-way...85	
§ 210-20. Minimum lot area, lot width and frontage exceptions and modifications for residential lots.	85
§ 210-21. Transition requirement between zoning districts.	87
§ 210-22. Lands designated as freshwater wetlands, under water or subject to periodic flooding. [Amended 3-11-2010 by L.L. No. 12-2010]	88
ARTICLE V	89

Adopted January 2023

Supplementary Regulations	89
§ 210-23. Applicability.	89
§ 210-24. General performance standards.....	89
§ 210-25. Off-street parking and loading standards. [Amended 10-9-2003 by L.L. No. 5-2003; 3-11-2010 by L.L. No. 12-2010]	91
§ 210-25.1. Residential driveways. [Added 3-11-2010 by L.L. No. 12-2010].....	95
§ 210-26. Sign standards.....	95
§ 210-27. Fences and walls within required yards.....	98
§ 210-28. Excavation as part of site preparation.....	99
§ 210-29. Development near streams, wetlands and water bodies.....	100
§ 210-30. Development within the Flood-Fringe Overlay (FF-O) District.....	100
§ 210-31. Home occupations.....	100
§ 210-32. Conservation Subdivision.....	103
§ 210-33. Water supply and sewage disposal requirements.....	113
§ 210-34. Sanitary disposal areas and facilities.....	114
§ 210-35. Swimming pools.....	114
§ 210-36. Solar and wind energy systems. [Amended 3-11-2010 by L.L. No. 12-2010; 10-6-2016 by L.L. No. 3-2016]	114
§ 210-37. Landscape standards for parking lots and screening and buffer areas.....	119
§ 210-38. Required screening for nonresidential uses.....	121
§ 210-39. Agriculture.....	122
§ 210-40. Keeping of farm animals on nonfarm parcels.....	122
§ 210-41. Roadside stands.....	123
§ 210-42. Farms, farm operations and related uses. ⁶ [Amended 3-11-2010 by L.L. No. 12-2010]	123
§ 210-43. Outdoor storage and parking of commercial vehicles on residential lots.....	127
§ 210-44. Antennas.....	127
§ 210-45. Temporary buildings and uses.....	128
§ 210-46. Development within the Hamlet (H) District.....	129
§ 210-47. Development within Airport (A) District and Airport Overlay (A-O) District.....	130
§ 210-48. Development within Environmental Resource Overlay (ER-O) District.....	135
§ 210-49. Development within Scenic Corridor Overlay (SC-O) District.....	141
§ 210-50. Commercial extraction.....	142
§ 210-51. Communication (personal wireless service) facilities and towers.....	142

Adopted January 2023

§ 210-52. Adult uses and related activities. ⁷	144
ARTICLE VI	145
Special Permit Uses.....	145
§ 210-53. Requirement for special use permit.	145
§ 210-54. Standards for certain residential subdivision and other land development techniques.	145
§ 210-55. General standards applicable to all other special permit uses.....	147
§ 210-56. Additional standards and requirements for certain special permit uses.	148
§ 210-57. Additional standards and requirements for communication (personal wireless service) facilities and towers.	179
§ 210-58. Additional standards and requirements for development within Flood- Fringe Overlay (FF-O) District.....	187
§ 210-59. Application for special use permit and associated review procedures; fee.....	189
§ 210-60. Other administrative provisions.	191
ARTICLE VII	193
Site Plan Review and Approval Procedure.....	193
§ 210-61. Requirement for site plan approval.....	193
§ 210-62. Sketch plan conference.....	194
§ 210-63. Application for site plan approval; fee. [Amended 3-11-2010 by L.L. No. 12-2010; 10-9-2014 by L.L. No. 5-2014]	195
§ 210-64. Site plan design criteria.....	198
§ 210-65. Planning Board review procedure.	202
§ 210-66. Other administrative provisions.	205
ARTICLE VIII	208
Nonconforming Uses and Noncomplying Buildings, Structures and Bulk	208
§ 210-67. Applicability.	208
§ 210-68. Nonconforming uses.....	208
§ 210-69. Noncomplying buildings and structures.	209
§ 210-70. Termination of certain uses and/or structures.....	209
§ 210-71. Completion of ongoing construction.	210
ARTICLE IX	211
Administration and Enforcement	211
§ 210-72. General provisions; designation of enforcement official; processing of applications and fees.	211
§ 210-73. Powers and duties of Code Enforcement Officer.	211

Adopted January 2023

§ 210-74. Powers and duties of Building Official. [Amended 3-11-2010 by L.L. No. 12-2010].....	212
§ 210-75. Actions and procedures. [Amended 3-11-2010 by L.L. No. 12-2010].....	212
§ 210-76. Penalties for offenses; other remedies.....	218
ARTICLE X	220
Zoning Board of Appeals.....	220
§ 210-77. Creation, appointment and organization.	220
§ 210-78. Powers and duties.....	220
§ 210-79. Procedures.....	221
§ 210-80. Other administrative provisions.	224
ARTICLE XI	226
Amendments.....	226
§ 210-81. Statutory procedure.....	226
§ 210-82. Initiation of amendments; fees.....	226
§ 210-83. Report of Town Planning Board.....	226
§ 210-84. Town Board procedure.	227
§ 210-85. Reimbursable costs.....	229
ARTICLE XII	230
Terminology	230
§ 210-86. Definitions.....	230
ARTICLE XIII	268
Interpretation and Applicability.....	268
§ 210-87. Interpretation; conflict with other laws.	268
§ 210-88. Effect of existing violations.	268
§ 210-89. Pending applications, current permits and ongoing enforcement proceedings.....	268
§ 210-90. Periodic review required.....	269
§ 210-91. Severability clause.	269
§ 210-92. Effect on prior legislation.....	269

ZONING
ARTICLE I
General Provisions

§ 210-1. Title.

This chapter shall be known and may be cited as "The Zoning Law of the Town of Union Vale, Dutchess County, New York."

§ 210-2. Scope.

This chapter establishes comprehensive controls regulating the location, construction, alteration and use of buildings and structures and the development and use of land within the Town of Union Vale and for said purposes divides the Town into zoning districts.

§ 210-3. Enacting legislation; purpose.

This chapter is adopted pursuant to the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, and Articles 2 and 3 of the Municipal Home Rule Law, to protect and promote public health, safety and welfare and for the following additional purposes:

- A. To guide the future development of the Town of Union Vale in accordance with its comprehensive plan so that the Town may realize its potential as a place to live and work, with the most beneficial and convenient relationships among the agricultural, residential, institutional, commercial and light industrial areas within the Town and with due consideration to the following factors:
 - (1) The overall character of the Town and the peculiar suitability of its various areas for particular uses.
 - (2) The existing conditions and trends in population and the economic value of buildings and lands.
 - (3) The limitations imposed upon development by natural factors.
- B. To encourage the conservation and sound management of the natural, open space, scenic and historic resources throughout the Town in order to preserve the integrity, stability and beauty of the community and the value of the land.
- C. To enhance the appearance of the Town as a whole, by ensuring that all development shall be orderly and beneficial to the Town, by eliminating inappropriate and poor quality design in the provision of site improvements and in the exterior appearance of structures, and by controlling the erection and maintenance of signs throughout the Town.
- D. To protect residential areas and to provide privacy for families and ensure quality of life by the protection of such areas, among other factors, from the visual and noisome intrusion of nonresidential uses and, wherever reasonable, by the gradual elimination of nonconforming uses which exert a deleterious influence on the surroundings.
- E. To facilitate the provision of efficient transportation, water supply, sewage disposal, schools, parks, trails and other public facilities and services, including emergency protective services, appropriate to a rural residential setting. **[Amended 10-9-2003 by L.L. No. 5-2003; 3-11-2010 by L.L. No. 12-2010]**

ZONING

- F. To protect the character of specifically identified scenic and historic resources and sensitive environmental areas, including groundwater, streams, wetlands, floodplains, significant wildlife habitats and visually prominent ridgelines.
- G. To facilitate the provision of a variety of housing choice in the Town consistent with the capability of the community's land resource and the level of public facilities and services within its rural residential setting.
- H. To sustain to the extent remaining the Town's farm activities and foster the preservation of its irreplaceable agricultural land resources.
- I. To foster the creation of economic development activities within the Town consistent with its rural residential character yet capable of providing goods, services and jobs to Town residents.
- J. To complement the New York State Uniform Fire Prevention and Building Code as adopted by New York State effective July 2002 and to ensure compliance with all other applicable laws, rule and regulations - local, county, state and federal - governing the use and development of land and the use of structures within the Town of Union Vale.
- K. To promote and support implementation of the Town of Union Vale Master Plan (2001) and to concomitantly manage growth in a manner consistent with Dutchess County land use policies as set forth in Directions (1987) and Greenway Connections (2000).

§ 210-4. Word usage.

- A. Except as otherwise expressly stated in Article XII, § 210-86, Definitions, all words and terminology within this chapter shall carry their customary meanings.
- B. Words used in the present tense include the future; the singular number includes the plural and the plural number includes the singular; the word "lot" includes the words "plot" and "parcel"; the word "structure" includes the word "building"; the term "occupied" or "used" as applied to any given building or land shall be construed to include "arranged," "designed," "constructed," "altered," "converted," "rented," "leased" or "intended to be used or occupied"; the words "shall" and "must" are intended to be mandatory and not optional.

ZONING

ARTICLE II Zoning Districts

§ 210-5. Establishment and intent of zoning districts.

A. Establishment of zoning districts.

- (1) For the purposes of this chapter, the Town of Union Vale hereby establishes and divides the Town into the following nine zoning districts:

RD10 Rural Development 10 District

RA5 Residential Agricultural 5 District

RA3 Residential Agricultural 3 District

R1.5 Residential 1.5 District

R1 Residential 1 District

H Hamlet District

NC Neighborhood Commercial District

TC Town Center District

A Airport District

- (2) The following four additional overlay districts are also hereby created to provide special controls to supplement the regulations applicable to the underlying zoning district classification:

FF-O Flood-Fringe Overlay District

ER-O Environmental Resource Overlay District

SC-O Scenic Corridor Overlay District

A-O Airport Overlay District

B. Intent of zoning districts.

- (1) The intent of the aforementioned nine zoning districts is to guide both the development and conservation of the Town's land resources in harmony with the Town of Union Vale and Dutchess County comprehensive plans and land use policies. The zoning districts are more explicitly described as follows:

- (a) The Rural Development 10 (RD10) District is intended to provide for the continuing natural resource, conservation, open space, agricultural and farm, recreational, larger-scale institutional and low-density rural residential use consistent with the existing development pattern of the Town's most environmentally sensitive lands, including its principal scenic vistas, rural countryside, agricultural lands and groundwater aquifer. Where any residential development may be proposed, estate-type parcels and/or use of either a cluster development or conservation subdivision technique, including potential for private large-lot open area development, is strongly encouraged in contrast to conventional subdivision. Substantial acreage within the

ZONING

RD10 District is subject to the complementary regulation, design guidelines and review procedures set forth within this chapter for above-established Environmental Resource Overlay (ER-O) and Scenic Corridor Overlay (SC-O) Districts.

- (b) The Residential Agricultural 5 (RA5) District is intended to provide for similar continuing natural resource, conservation, open space, agricultural and farm, and recreational use, as well as low-to-moderate density rural residential use and limited institutional uses and guest accommodations consistent with the Town's rural setting in areas somewhat less environmentally sensitive, particularly in the matter of visual prominence, than those in the RD10 District. Where any multi-lot residential development may be proposed, use of either a cluster development or conservation subdivision technique, including potential for private large-lot open area development, is strongly preferred to conventional subdivision. Design guidelines and review procedures associated with the above-noted ER-O and SC-O Districts also apply to substantial portions of the acreage within the RA5 District.
- (c) The Residential Agricultural 3 (RA3) District is intended to recognize the Town's predominant rural moderate-density single-family residential development pattern with individual on-site water supply and sanitary sewage arrangements and to accommodate similar density residential development where appropriately planned and designed to blend with continuing natural resource, agricultural and farm, and other open space uses and permitted institutional uses and guest accommodations likewise consistent with the Town's rural setting. Use of either residential cluster development or conservation subdivision techniques is encouraged throughout the RA3 District, most particularly so on those RA3 District lands overlain by the ER-O and/or SC-O Districts.
- (d) The Residential 1.5 (R1.5) District is intended to recognize areas within the Town with a substantially established moderate-to-low density suburban development pattern likewise served by individual on-site water supply and sanitary sewage arrangements where either a conventional or cluster subdivision technique might be applied to any remaining vacant land proposed for continuing residential development and limited smaller-scale institutional uses are permitted.
- (e) The Residential 1 (R1) District is intended to similarly recognize areas within the Town with a substantially established moderate density suburban development pattern, likewise without central water supply and/ or common sanitary sewage facilities, where either small-scale conventional subdivision or individual lot development of heretofore created lots are the anticipated forms of continuing residential development and limited smaller-scale institutional uses are similarly permitted.
- (f) The Hamlet (H) District is intended to recognize an established settlement pattern typical of a small rural village and to foster opportunity for a mix of continuing residential use, including two-family dwellings, and limited, small-scale institutional, office, retail and personal service uses contributing through diversity and investment to the vitality of the H District but being regulated in terms of design, scale and other factors so as to not detract from the quality of residential environment.
- (g) The Neighborhood Commercial (NC) District is intended to accommodate within a limited portion of the Town in the NYS Route 82 corridor a continuing mix of single-family residential use and small-to- moderate scale institutional, community service,

ZONING

retail, office, service and other establishments primarily to serve the neighboring residents.

- (h) The Town Center (TC) District is intended to encourage mixed-use development of lands within the NYS Route 55 corridor and adjacent to County Road 21 in a manner consistent with the rural character of the Town. This is to occur through the siting of residential, , commercial, or office uses and facilities with a scale, intensity and design consistent with the Town's adopted Comprehensive Plan to serve the residents of the Town of Union Vale and adjacent communities with design and siting emulating that of the hamlet or a village. Standards are established within this chapter for preferred uses, served by adequate infrastructure including highways, well and waste water treatment that do not adversely affect the environment or neighbors, and of site design and architectural expression appropriate to the Town's location and rural character. The uses and facilities in the TC District are not intended to be regional in their scale. An open area development (OAD) may be applied in the TC district pursuant to the same procedures and requirements as for the Airport District (210-47 (E)). **[Amended 3-11-2010 by L.L. No. 12-2010]**
 - (i) The Airport (A) District is intended to recognize Sky Acres Airport as both a unique land use and an important transportation amenity within the Town and its environs and to foster continuing development of the airport property both consistent with the facility's master plan and related designation of the airport property as an open development area by the Town and with due consideration to the effect of airport-related activities on adjacent or other nearby residential property owners.
- (2) The intent of the four overlay districts is also more explicitly described below:
- (a) The Flood-Fringe Overlay (FF-O) District encompasses that land designated by the Federal Emergency Management Agency as a "floodplain area with special flood hazards that is likely to be flooded at least once every 100 years."
 - (b) The Environmental Resource Overlay (ER-O) District is intended to protect significant environmental resources, including the Town's wetlands, stream corridors, aquifers, historic and cultural sites, scenic areas and important farmlands from development that is considered incompatible on the basis of its scale, intensity or location.
 - (c) The Scenic Corridor Overlay (SC-O) District is intended to recognize both roadways, if any, designated as "scenic" by the NYSDEC under authority of the New York State Scenic Byways Law, Article XII-C of the Highway Law, and other roadways that have been deemed locally significant in the Town's Master Plan and/or pursuant to Chapter 183, Scenic and Rural Roads, of the Code of the Town of Union Vale. Within these designated roadway corridors, view protection regulations are imposed to preserve their overall rural character, the setting of historic properties along these routes and the irreplaceable scenic vistas they offer.
 - (d) The Airport Overlay (A-O) District is intended to depict lands outside the Airport (A) District but near Sky Acres Airport and/or below the arrival and departure flight tracks for its Runways 17 and 35, the users of which lands should expect to routinely experience noise associated with authorized air traffic and/or noise and light associated with airport operations.

ZONING

§ 210-6. Zoning District Map.

- A. The location and boundaries of said districts are shown on the annexed Zoning District Map, Town of Union Vale, which for convenience is found at the end of this chapter.
- B. Said map, together with both the explanatory matter thereon including the maps of the Environmental Resource Overlay (ER-O), Scenic Corridor Overlay (SC-O), Flood-Fringe Overlay (FF-O) and Airport Overlay (A-O) Districts noted thereon and annexed thereto, is hereby adopted and is declared to be an appurtenant part of this chapter.
- C. Said map shall be kept up-to-date and a certified copy thereof in its entirety shall be on display in the Town Clerk's office for the use and benefit of the public. Certified copies shall also be on file in the offices of the Planning Board and the Town Code Enforcement Officer.

§ 210-7. Interpretation of zoning district boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid zoning districts as shown on the Zoning District Map, the following rules shall apply:

- A. Where the district boundaries are indicated as approximately following the center lines or rights-of-way lines of streets, highways, public utilities or watercourses, said boundaries shall be construed to be coincident with such lines. Such boundaries shall be deemed to be automatically adjusted if a center line or right-of-way line of such street, highway, public utility or watercourse is moved a maximum distance of 50 feet by action of a person other than the owner of the affected land area.
- B. Where district boundaries are indicated as approximately parallel to the Town boundary line, property lines, lot lines, right-of-way lines, or projections thereof, the boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning District Map or as shall be determined by uses of the scale shown on said map.
- C. Where a district boundary divides a single lot in either single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot may, at the owners' discretion and with the exception of the Flood-Fringe Overlay (FF-O) District, extend not more than 50 feet into the more restricted portion, provided that the lot has street or highway frontage in the less restricted district and providing that all other requirements of this chapter, including extraordinary setbacks or buffers which may be required between certain uses, are wholly met.
- D. In all other cases, where dimensions are not shown on the Zoning District Map, the location of the boundaries shown on said map shall be determined by use of the scale appearing thereon.

§ 210-8. Delineation of flood hazard zones.

- A. The boundary of the Flood-Fringe Overlay (FF-O) District is established herein as delineated on the most current edition of the appropriate Federal Insurance Administration Flood Hazard Boundary Map (FHBM) as issued for the Town of Union Vale by the Federal Emergency Management Agency. Any revisions, amendments or successors thereto are hereby adopted and made part of this chapter.
- B. The latest edition of said Flood Hazard Boundary Map shall be kept on file in the offices of the Town Clerk, the Planning Board and the Town Code Enforcement Officer for the use and

ZONING

benefit of the public.

§ 210-9. Applicability of zoning district regulations.

Except as otherwise specifically provided in this chapter:

- A. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, moved, altered, reconstructed or enlarged for any purpose except in conformance with the regulations herein specified for the zoning district in which it is located.
- B. No part of a yard or other open space required in connection with any building or use shall be included as part of a yard or other open space similarly required for another building.
- C. No yard or lot existing at the time of the adoption of this chapter shall be reduced in size or area below the minimum requirements set forth herein. Yards of lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter, with any such lots further established in full accordance with the requirements of the Chapter 192, Subdivision of Land.
- D. No off-street parking or loading space required for one building or use shall be included as meeting, in whole or in part, the off-street parking or loading space required for another building or use except as otherwise provided for in this chapter.
- E. No off-street parking or loading space shall be so reduced in area that it does not meet the minimum requirements of this chapter.
- F. Except as otherwise specifically provided by Article V, § 210-32, of this chapter in the case of a residential cluster development or in the limited instance of a bed-and- breakfast establishment or a boarding stable on certain single-family residential premises, there shall be no more than one principal building or use and its permitted accessory structures or uses on any one lot within any residential district.
- G. In any nonresidential district, more than one principal permitted use or special permit use may be allowed in the same building and more than one principal building may be allowed per lot provided that the building or buildings and the uses comply in all respects with the minimum standards set forth in the District Schedule of Area and Bulk Regulations found at Article IV, § 210-11, of this chapter, and site plan approval has been granted by the Planning Board for the building or buildings and uses in accordance with the requirements and procedures found in Article VII, §§ 210-61 through 210-66, of this chapter.
- H. No yard, as required herein, shall be used for the open or unenclosed storage of merchandise, equipment, building materials, junk, vehicles, vehicle parts or any other material or for the placement of signs or accessory structures except as special provision is made therefor within this chapter.
- I. No new driveway shall be constructed except in conformance with the requirements specified herein, including the criteria for the design and construction of residential driveways, and no existing driveway shall be modified except so as to become either fully, or more nearly, in conformance with said requirements. [Amended 10-9-2003 by L.L. No. 5-2003¹]
- J. Within each district, the requirements set forth by this chapter shall be considered minimum regulations and shall apply uniformly to each kind of building, structure or land and the use

thereof.

ARTICLE III

Use Regulations

§ 210-10. District Schedule of Use Regulations.

- A. The general use regulations in each zoning district are set forth in the further annexed District Schedule of Use Regulations, which for convenience is presented in two sections, District Schedule of Use Regulations/Residential Districts and District Schedule of Use Regulations/Commercial Districts, and are found at the end of this chapter.
- B. The District Schedule of Use Regulations is complemented, as appropriate, by other provisions of this chapter, including but not limited to the supplementary regulations set forth in Article V, the special use permit standards and requirements set forth in Article VI, and the site plan review and approval requirements set forth in Article VII herein.
- C. Only those uses specifically listed as permitted, special permit, or accessory uses within the District Schedule of Use Regulations shall be permissible uses as prescribed in this chapter; any other use is prohibited.
- D. Symbols.
 - (1) Symbols used on the District Schedule of Use Regulations shall be interpreted as follows:
 - P Permitted use in the specified zoning district
 - SP Special use permit required for use in the specified zoning district
 - X Prohibited use in the specified zoning district
 - (2) All permitted or special permit uses, either principal or accessory, noted with an asterisk (*) on the schedule require site plan review and approval by the Town Planning Board in accordance with aforementioned Article VII of this chapter prior to the issuance of either a building permit or a certificate of occupancy.
 - (3) Further, those special permit uses noted with a double asterisk (**) require subdivision plat review and approval by the Town Planning Board in accordance with Chapter 192, Subdivision of Land, of the Code of the Town of Union Vale.

ZONING

ARTICLE IV Area and Bulk Regulations

§ 210-11. District Schedule of Area and Bulk Regulations.

- A. The general area and bulk regulations in each zoning district are set forth in the single and last annexed District Schedule of Area and Bulk Regulations/Residential and Commercial Districts, which for convenience is found at the end of this chapter.
- B. The District Schedule of Area and Bulk Regulations is supplemented, as appropriate, by other provisions of this chapter, including the supplementary regulations set forth in Article V and the additional specific standards and requirements for certain special permit uses stated in Article VI, §§ 210-56 through 210-58, of this chapter.

§ 210-12. Existing lots of record.

Nothing contained herein shall prohibit the use of an existing lot of record, as defined in Article XII, § 210-86A, of this chapter, of less than the prescribed lot area, lot width or lot frontage for the district in which it is located, provided that each of the following criteria is satisfied:

- A. Except as otherwise may be provided within § 265-a of the Town Law, such lot does not adjoin any other lot, lots or tract of land held by the same owner which aggregate area either complies fully or more nearly complies with the minimum lot area required by the District Schedule of Area and Bulk Regulations for the zoning district.
- B. Development of the lot shall satisfy all applicable requirements of the Town of Union Vale, the Dutchess County Health Department and the New York State Departments of Health and Environmental Conservation for potable water supply and sanitary sewage facilities.
- C. If created after September 24, 1962, the lot is part of a subdivision plat approved by the Town of Union Vale Planning Board in accordance with Chapter 192, Subdivision of Land, and filed in the Dutchess County Clerk's office in a timely manner pursuant to the Town Law.
- D. If developed for residential use, use of the lot shall be limited to one principal single-family dwelling and its associated permissible accessory structures.
- E. Development of such existing lot of record may, upon a demonstration by the applicant satisfactory to the Code Enforcement Officer that greater side and rear yards which either comply or more nearly comply with this chapter cannot be reasonably provided, occur in accordance with the following reduced minimum side and rear yard requirements:
 - (1) No principal building shall be located less than 80% of the minimum side yard otherwise specified for the zoning district.
 - (2) The rear yard for a principal building shall similarly be not less than 80% of the minimum rear yard otherwise required for the zoning district.

ZONING

- F. Development of such existing lot of record complies with all other area and bulk regulations for the zoning district.

§ 210-13. Minimum lot area per dwelling unit and Density Bonuses.

- A. In all zoning districts where residences are permitted, a lot may only be improved for residential use in accordance with the minimum lot area and bulk regulations for the district as set forth in the District Schedule of Area and Bulk Regulations, except for the following:

- (1) As otherwise provided for existing lots of record within above § 210-12.
- (2) As otherwise provided within § 210-20 of this article with regard to certain minimum lot area, lot width and frontage exceptions for average density subdivision lots, flag lots and lots with frontage on cul-de-sac, each as created in accordance with Chapter 192, Subdivision of Land, of the Code of the Town of Union Vale.
- (3) As otherwise provided within Article V, § 210-32, of this chapter for a conservation subdivision or residential cluster development, as created in accordance with Chapter 192, Subdivision of Land, and the underlying provisions of § 278 of the Town Law.

- B. Moreover, except as may be authorized within a conservation subdivision or residential cluster development under Article V, §210-32, only one single-family or two-family dwelling and related accessory uses, as may be authorized within the District Schedule of Use Regulations², may be constructed on any lot or other parcel within the Town of Union Vale. Further, a residential lot of required or greater than required lot area as set forth in this chapter shall not be reduced in area for transfer of ownership if such lot so divided will form two or more lots, any of which shall be less than the minimum lot area for the district in which the lot or lots are situated. **[Amended 12-8-2010 by L.L. No. 15-2010]**

C. Density Bonuses

- (1) Purpose, Applicability, and Incentives.

- (a) Purpose. Pursuant to §268-b of the New York State Town Law, the Town of Union Vale hereby establishes a program to promote further protection of the environment and maintenance of the Town's rural character by providing incentive(s) to applicants seeking approval of a subdivision or residential development. It does this by giving landowners and applicants, under certain circumstances, the opportunity to receive additional residential density as an incentive to provide certain desired amenities in Town by participating in the Town's Union Vale Density Bonus program.

- (2) Applicability.

- (a) The incentives set forth in this section shall be applicable to residential, commercial, or mixed use (commercial and residential) uses in the TC District.
- (b) Where an application seeks more than one type of approval, the project shall be considered in its entirety and incentives shall not be granted separately for more than one approval.

ZONING

- (c) Incentives shall not be granted where the community benefits or amenities offered are already required under other provisions of this Zoning Law, other Town of Union Vale laws, or State law, including any mitigation measures required pursuant to the State Environmental Quality Review Act.
 - (d) All housing types allowed pursuant to Attachment 2 of this Local Law are eligible to be used as density bonus units.
- (3) Types of Incentives. Notwithstanding any contrary provision of Town or State law or other provisions of this law that limits or restricts the maximum unit density of a proposed project or subdivision, an applicant may apply to the Planning Board for an incentive adjustment to the total units allowed pursuant to this sub-section in exchange for enhancing the environment or maintaining rural character as detailed below. The Planning Board may approve up to a 50% (maximum) aggregate increase to the total housing density as calculated for the total parcel from the area and bulk standards established in Attachment 1 of this Local Law for the proposed project. No bonus shall be allowed unless the project provides amenities totaling a minimum of 4 points. The maximum bonus of 50% can be earned by providing at least 12 points, as follows:
- (a) At least 10% of the total dwelling units having a footprint of 1,500 sf or less, so as to be able to be sold, or rented, at or below average market price for such units as established annually by Dutchess County. (4 points)
 - (b) Low Impact Development Standards (LID) pursuant to Chapter 5 of the New York State Stormwater Design Manual. (4 points)
 - (c) Solar integrated building materials, including but not limited to shingles and siding. (4 points)
 - (d) Buildings designed and built according to the LEED Standards for energy conservation. Such buildings shall be at least at a certified rating level. (8 points)
 - (e) At least two electric car charging stations, or 5% of the total number of parking spaces. When more than 2 EV stations are proposed, they shall not be placed together to create a concentrated bank of charging stations. (2 points)
 - (f) Trails and pathways, in addition to those required by 210-32 (5) (b), that connect the proposed development to other trails, sidewalks or pathways leading to a neighboring community, commercial destination, or development or that create internal connections for continuous walkability within the development. (4 points)
 - (g) Planting and maintaining vacant fields or open areas with pollinator-friendly native perennial species. (2 points)
 - (h) A forest management or wildlife management plan that is developed by a qualified forester or wildlife biologist, and implemented, and maintained. (2 points)

ZONING

- (i) Other amenities, as may be determined by the Town Board as eligible for a density bonus.
 - (j) If fewer than 12 points for amenities are proposed or awarded, the percent increase in the number of units shall be a percentage of the total. For example if 8 of 12 points are proposed or awarded (66.6%), then the number of density bonus units is the same ratio (66.6% of the maximum increase of 50% or a maximum 33% bonus.)
- (4) All siting, environmental protections, building design, parking, and other requirements of this Zoning Law and the Subdivision of Land Regulations shall be met.
- (5) Density bonus units shall be compatible with the design of the remaining units in terms of appearance, materials, and finish quality. They shall be mixed with, and not clustered together or segregated in any way from market-rate units.
- (6) Procedures and Criteria for Approval of Union Vale Incentives.
- a. The Town Board authorizes the Planning Board to approve density bonuses only as follows:
 - i. A completed application for a density bonus shall be filed with the Planning Board on a form required by the Town of Union Vale concurrently with its subdivision application. The application shall require general information on the nature and scope of the development, all information as required by the Subdivision of Land Regulations or this Zoning Law and a general description of the development and all proposed incentives to be included.
 - ii. Compliance with SEQRA. All applicable requirements of Town Law 261-b related to SEQR shall be complied with as part of the review process whenever any Union Vale density bonus is requested. The applicant for density bonuses shall bear all costs for the preparation and review materials to analyze potential adverse environmental impacts related to allowance of such proposed additional density. Such review shall evaluate whether the site contains adequate resources and public facilities, including adequate transportation, water supply, waste disposal and fire protection, and that it does not adversely impact the environment.
 - iii. The Planning Board shall hold a public hearing, noticed in the officially designated newspaper of the Town of Union Vale, within 62 days of a density bonus request. Within 62 days of the close of the public hearing and upon completion of the SEQRA process, the Planning Board shall approve, approve with modifications or conditions, or deny the proposed density bonus incentive application. A written statement of the findings shall be prepared by the Planning Board that documents the basis of its decision. The findings shall include, but not be limited, to the following:

ZONING

1. That the proposed density adjustments would not have a significant adverse impact on the property, or to adjoining property, or to the neighborhood or environment in which the property is situated.
 2. That proper easements, surety or performance guarantees, if necessary, between the applicant and the Town are or will be in existence as of the date the final plat map is signed by the Chairperson of the Planning Board.
 3. That the necessary water and wastewater treatment requirements can be met with the proposed density adjustments.
 4. That the proposed amenity provides sufficient public benefit to justify the requested incentive.
 5. That all requirements of SEQRA have been met, including the required findings under that law.
 6. That the proposed project, including the incentive, can be adequately supported by the public facilities available or provided as a result of the project, including but not limited to wastewater treatment, potable water, transportation, waste disposal, and fire and emergency protection, without reducing the availability of such facilities for projects permitted as of right under the Town of Union Vale Zoning Law.
 7. That the public benefit realized by the amenity provided by the applicant is commensurate with the incentive granted by the Planning Board and in harmony with the purpose and intent of this law and that the project is sufficiently advantageous to render it appropriate for grant of an incentive and that the project will add to the long-term assets of the Town of Union Vale.
 8. That the use of an incentive for the particular project is consistent with the Comprehensive Plan.
- (7) Upon approval of a density bonus, the Planning Board is authorized to subsequently act on the application for preliminary and final approval of a subdivision pursuant to the Subdivision of land Law pursuant to this law and the Town's Subdivision of Land Regulations.
- (8) Upon approval, Plat Notes or Site Plan Notes shall be placed on any final subdivision or site plan reciting the obligations agreed to in the application in conjunction with the plan.

§ 210-14. Height exceptions.

- A. The height limitations set forth in the District Schedule of Area and Bulk Regulations shall not be applicable to the following structures or described part or parts thereof:
- (1) Agricultural barns, silos and other farm buildings located on a farm parcel as defined in Article XII, § 210-86, of this chapter, provided they are being used in a manner that is

ZONING

part of the farm operation. [Amended 3-11-2010 by L.L. No. 12-2010]

- (2) Flagpoles.
 - (3) Radio or television antennas, transmission towers or cables and communication towers incidental and accessory to a principal use, any of which shall be limited to a maximum height of 35 feet above average finished grade at its base, or as may be more restricted within Article V of this chapter. [Amended 3-11-2010 by L.L. No. 12-2010]
 - (4) Spires, belfries, chimneys, parapets or railings, elevators, stair bulkheads, solar collectors, air conditioning and other mechanical appurtenances, including wind generators, and similar features which in their aggregate occupy no more than 10% of the roof area of the building to which they are an integral architectural or mechanical element. Such features shall be erected only to such minimum height as is necessary to accomplish the purpose for which they are intended and shall in no instance, other than spires or belfries, exceed 40 feet above the average finished grade of the building to which they are affixed. [Amended 3-11-2010 by L.L. No. 12-2010]
 - (5) Windmills, wind turbines or similar components of a wind energy system incidental and accessory to a principal use within the RA5, RD10, TC and A Districts, subject to the issuance of a special use permit in accordance with the additional specific standards and requirements set forth in Article VI, § 210-56B(9), of this chapter. [Added 3-11-2010 by L.L. No. 12-2010³]
 - (6) Communications towers as a principal use within the RD10 District, subject to the issuance of a special use permit in accordance with the additional specific standards and requirements set forth in Article VI, § 210-57, of this chapter.
- B. No structure or other exception to the height limitations set forth in the District Schedule of Area and Bulk Regulations shall be used as a place for habitation or for advertising purposes not otherwise authorized by this chapter.

§ 210-15. Corner lots; obstructions at intersections.

- A. Required front yards. On a corner lot, each street frontage shall be deemed to be a front street line and the required yard along each such lot line shall be a required front yard. The above notwithstanding, for the purposes of this chapter no lot shall, however, be interpreted to have more than two front yards, regardless of how such lot is located or configured. The Code Enforcement Officer, in consultation with the owner, shall establish which of the remaining yards shall be the required side yard and the required rear yard for purposes of this chapter.
- B. Obstructions at street intersections. At all street intersections, no obstructions to vision, such as a fence, wall, hedge, structure or planting over three feet in height, as measured above curb level, if any, or above the existing roadway grade, shall be erected or installed and maintained within the triangle formed by the intersecting street lines or their projections where corners are rounded and a straight line joining said street lines at points which are 30 feet distant from their point of intersection measured along said street lines and/or projections. This subsection shall not, however, be construed to apply to existing street trees, provided that no branches are maintained closer than six feet to the ground.

§ 210-16. Architectural features permitted in required yards.

The following architectural features of a building may extend into a required yard subject to the

ZONING

limitations provided herein:

- A. Ordinary projections of windowsills, belt courses, cornices, eaves and other architectural features; provided, however, that such features shall not project more than three feet into any required yard.
- B. Chimneys or pilasters.
- C. Open arbor or trellis.
- D. Unroofed steps, patio or terrace not less than 50% of the minimum setback distance required for the zoning district under this chapter for a principal building from any side or rear lot line.
- E. Awning or movable canopy not to exceed 10 feet in height, nor projecting more than six feet into any required yard.
- F. A retaining wall, fence or masonry wall, except as limited by either § 210-15, Corner lots; obstructions at intersections, of this article or Article V, § 210-27, Fences and walls within required yards, of this chapter.
- G. Open fire escapes on the side or rear of a building and extending not more than eight feet from the principal building or closer than five feet to any lot line.

§ 210-17. Accessory structures.

- A. Permanent accessory structures. Accessory structures, as defined in Article XII, § 210-86A, of this chapter, may be constructed in any side or rear yard of a residential premises, notwithstanding the minimum setback requirements for principal buildings set forth in the District Schedule of Area and Bulk Regulations, provided that the limitations stated herein are met: **[Amended 3-11-2010 by L.L. No. 12-2010]**
 - (1) Except for agricultural buildings located on a farm parcel as defined in Article XII, § 210-86, of this chapter, no such structure shall exceed 20 feet in height.
 - (2) Except in the H and NC Districts where a minimum setback of 15 feet is authorized, no such structure shall be set back less than 25 feet from any side or rear lot line in the R1, R1.5 and RA3 Districts, or less than 35 feet from any side or rear lot line in the RA5 or RD10 Districts.
 - (3) No such structure shall be located less than 12 feet from the principal building or less than a distance equal to the height of the accessory building, whichever dimension shall be greater.
 - (4) No such structure shall project closer to the fronting street than the principal building on the lot or the required front yard setback for the zoning district within the RA5 and RD10 Districts, whichever shall be less restrictive. Within all other residential districts, no such structure shall project closer to the fronting street than the principal building on the lot. **[Amended 3-11-2010 by L.L. No. 12-2010]**
 - (5) Except in the RD10 and RA5 Districts, all roofed permanent accessory structures, exclusive of agricultural buildings, shall in the aggregate comprise not more floor area that either the principal building on the lot or 1,500 square feet, whichever is the more restrictive.
 - (6) Except in the RD10 and RA5 Districts, not more than three permanent accessory

ZONING

structures, other than permitted signs or agricultural buildings and no more than one of which may be a garage, shall be permitted on an individual lot in a residential district. In the event the lot exceeds 10 acres in land area, additional accessory structures may be sited if a special use permit is granted therefor in accordance with Article VI of this chapter.

- B. Portable accessory structures. Portable accessory structures with a maximum floor area of 100 square feet may be installed or constructed and utilized on any premises without the issuance of a building permit or certificate of occupancy, provided any such structure complies with the following additional criteria:
- (1) The structure does not have a permanent foundation.
 - (2) The structure is not served by electricity, gas or plumbing.
 - (3) The structure does not exceed 10 feet in height.
 - (4) The structure is never used for human habitation, not to be construed as precluding its use as a children's play structure.
 - (5) All other requirements of this chapter related to the location of accessory structures are fully met, including but not limited to the minimum setback requirements for a permanent accessory structure.
- C. Fences and walls. Fences and walls may be located in required yard areas or elsewhere on a lot, parcel or premises where in full compliance with the standards provided within both § 210-15, Corner lots; obstructions at intersections, of this article and Article V, § 210-27, Fences and walls within required yards, of this chapter.

§ 210-18. Distance between principal buildings on same lot.

Where more than one principal building may be permitted on a lot, no detached principal building shall be located closer to any other principal building on the same lot in a manner that prevents emergency service access. In determining such distance, the Planning Board shall consult with local fire and ambulance emergency service providers to ensure adequate access exists between buildings.

§ 210-19. Required modification of front yard setback on locations with substandard rights-of-way.

On streets, roads or highways with either no dedicated right-of-way or a dedicated right-of-way of less than 50 feet in width, the front setback shall be measured perpendicularly from the center line of the existing right-of-way with 25 feet added to the required front yard setback to establish the building line.

§ 210-20. Minimum lot area, lot width and frontage exceptions and modifications for residential lots.

In its review and approval of a subdivision plat in accordance with § 276 of the Town Law and Chapter 192, Subdivision of Land, of the Code of the Town of Union Vale, and in which instance lots are being platted exclusively for residential use, the Planning Board may and shall be authorized to permit the following exceptions and modifications to the minimum lot area,

ZONING

minimum lot width and minimum lot frontage requirements set forth in the District Schedule of Area and Bulk Regulations:

- A. Average density subdivision. That in a limited number of occurrences where the Planning Board finds it desirable to respect natural or existing man-made boundaries in the platting of lots or modify the configuration of lots to protect and enhance vital environmental resources such as those recognized in the Environmental Resource Overlay (ER-O) and Scenic Corridor Overlay (SC-O) Districts, and where it is possible to do so without adverse environmental impact or in contravention of the public health, safety and welfare, certain lots of less than the minimum lot area prescribed in the District Schedule of Area and Bulk Regulations may be authorized within an average density subdivision, as defined within Article XII, § 210-86A, of this chapter, and deemed to be conforming lots, provided that the threshold criteria and the minimum requirements set forth below are strictly applied:
- (1) The parcel proposed for average density subdivision shall be located either within the RD10 or RA5 Districts and/or classified within the ER-O or SC-O Districts.
 - (2) Any reduced-area lot created within an average density subdivision shall have a minimum land area of five acres in the RD10 District, three acres within the RA5 District, or two acres if located elsewhere, with the calculation of minimum lot area subject to the limitations set forth in § 210-22 of this article and chapter.
 - (3) Any such reduced-area lot shall be platted as part of an average density subdivision in which the mean, or average, lot area throughout the subdivision meets or exceeds the minimum lot area requirement for the zoning district. In other terms, after subtracting the acreage if any devoted to subdivision roadway, the maximum number of lots created from a single parcel in the RD10 District through use of the average density concept shall be established by dividing the total acreage of the parcel by 10 and rounding to the next lowest number. In the case of the RA5 District, this calculation would occur by dividing the total acreage of the parcel by five and similarly rounding to the next lowest number.
 - (4) The above notwithstanding, the maximum number of reduced-area lots that may be created from a single parcel legally existing on May 30, 2002, through use of the average density subdivision technique shall be six lots.
 - (5) Use of the average density subdivision technique shall not be applicable to any parcel created after May 30, 2002.
 - (6) All other minimum standards for the platting of the lot and its development, as set forth in the District Schedule of Area and Bulk Regulations, shall apply to any such reduced-area lot.
 - (7) The Planning Board shall require sufficient legal assurances (i.e., conservation easements or similarly binding legal mechanisms) to prevent future subdivision of the remaining lands of the parent parcel in a way that would cause the maximum average density standard of one lot per 10 acres in the RD10 District, one lot per five acres in the RA5 District, or such density standard as may be applicable within the underlying zoning district and thereby otherwise pertain to lots created from lands within the ER-O or SC-O Districts, to be exceeded.
- B. Flag lots. That in a limited number of occurrences where the Planning Board finds it to be essential to permit reasonable use of the subdivision tract without adverse environmental impact or in contravention of the public health, safety and welfare, flag lots, as defined in Article XII, § 210-86A, of this chapter, may be authorized as conforming lots provided that

ZONING

the limitation as to number of lots and the minimum requirements set forth below are strictly applied:

- (1) That the number of flag lots authorized on any subdivision plat shall be related to the total number of lots shown on the final subdivision plat and shall not exceed the number specified below:
 - (a) Subdivision into two or three lots, a maximum of one flag lot.
 - (b) Subdivision into four to seven lots, a maximum of two flag lots.
 - (c) Subdivision of eight to 11 lots, a maximum of three flag lots.
 - (d) Subdivision of 12 or more lots, four flag lots.
 - (2) That any authorized flag lot shall have a minimum lot frontage of 50 feet not less than 25 feet of which shall be dry land area with topographic conditions suitable for driveway access. The above notwithstanding, any flag lot contiguous to another lot or lots with less than the minimum frontage prescribed in the District Schedule of Area and Bulk Regulations shall share a common access point and driveway with the adjacent lot or lots.
 - (3) That any authorized flag lot shall have not less than the minimum lot width specified for the zoning district at the building line established on the final subdivision plat, rather than at the minimum required front setback line as otherwise specified in this chapter. The building line so established shall be located a distance not less than the minimum front setback otherwise required in the zoning district further from the lot frontage than the line at which the minimum lot width specified for the zoning district is first met.
 - (4) That any authorized flag lot satisfy the minimum lot area requirement specified for the zoning district by consideration of only that land which lies further from the lot frontage than the line at which the minimum lot width specified in the District Schedule of Area and Bulk Regulations is first met. The above notwithstanding, that the minimum total lot area of any flag lot shall be not less than 150% of the minimum lot area otherwise authorized within the zoning district.
 - (5) That a conspicuous note be located on the subdivision plat both advising that any authorized flag lot may not be further subdivided, i.e., resubdivided, and providing specific reference to the affected lot or lots.
- C. Cul-de-sac frontage lots. That in the case of any proposed lot with not less than 75% of its frontage on the right-of-way circumference of the turnaround to be installed within a subdivision, the following reduced minimum lot frontage requirements may be applied in the respective zoning districts for creation of a conforming lot:
- (1) In the RD10 and RA5 Districts, minimum lot frontage of 200 feet.
 - (2) In the RA3 District, minimum lot frontage of 150 feet.
 - (3) In the R1.5 and R1 Districts, minimum lot frontage of 125 feet.

§ 210-21. Transition requirement between zoning districts.

Where the side or rear yard of a lot abuts a side or rear yard of a lot in a more restricted zoning district, there shall be provided along both sides of such abutting lot line or lines, side or rear yards equal to those required in the more restricted zoning district.

ZONING

§ 210-22. Lands designated as freshwater wetlands, under water or subject to periodic flooding. [Amended 3-11-2010 by L.L. No. 12-2010]

- A. No more than 25% of the required minimum lot area for any lot in any zoning district may be fulfilled by land which is included within either a designated wetland as delineated by the New York State Department of Environmental Conservation in accordance with Article 24 of the Environmental Conservation Law or any other wetland area subject to jurisdiction by the U.S. Army Corps of Engineers pursuant to Section 404 of the Federal Clean Water Act, which lies under water or which is subject to periodic flooding under conditions of a one-hundred-year flood, as delineated by the Federal Emergency Management Agency and set forth within Article II of the chapter as the Flood-Fringe Overlay District (FF-O) District. In other terms, any lot must include dry upland area of not less than 75% of the minimum lot area for the zoning district.
- B. In the RD-10 District, not less than 50% of the required minimum lot area for the zoning district shall be provided through contiguous dry upland area. In all other zoning districts, not less than 60% of the required minimum lot area shall be provided through contiguous dry upland area.
- C. All minimum front, side and rear yard requirements set forth within the District Schedule of Area and Bulk Regulations must be satisfied by measurement wholly on dry land, except that for purposes of this subsection, land which is covered by a stream less than 10 feet in average width at mean water level or land covered by a pond not more than 2,000 square feet in surface area at normal high-water level shall not be considered as being under water.

ZONING
ARTICLE V

Supplementary Regulations

§ 210-23. Applicability.

The Supplementary Regulations set forth in this article are applicable to all uses and zoning districts within the Town of Union Vale unless otherwise specifically provided herein.

§ 210-24. General performance standards.

No use shall be established or maintained that does not conform to the following standards of use, occupancy and operation, in addition to all relevant provisions of other local, county, state and federal laws, rules and regulations providing performance standards for use, occupancy and operations of lands and the structures and enterprises thereon. Continued conformance with such standards shall be a requirement for the maintenance of any certificate of occupancy issued under this chapter.

A. Noise.

(1) No person, firm or corporation shall operate or cause to be operated any source of sound, except as set forth below, which exceeds the limit set forth below when measured by a sound meter having an A-weighted filter and constructed in accordance with the specifications of the American National Standards Institute (ANSI) at any property line of the lot from which the noise is emitted:

(a) Sixty decibels on the A-weighted scale (60 dbA) between the hours of 7:00 a.m. and 8:00 p.m.

(b) Fifty decibels on the A-weighted scale (50 dbA) between the hours of 8:00 p.m. and 7:00 a.m.

(2) The above limitations shall, however, not be applicable to the following uses and activities:

(a) Temporary construction noises between the hours of 7:00 a.m. and 8:00 p.m.

(b) Transient noises of moving sources such as automobiles, trucks and aircraft.

(c) Noise from safety signals, warning devices and emergency pressure relief valves.

(d) The sound of bells or chimes from a church.

(e) Noises generated by either agricultural and farm activities or the normal maintenance of residential, business and other properties.

B. Smoke. No person, firm or corporation shall permit the emission of smoke or any other atmospheric pollutant from any source whatever for a period or periods aggregating more than four minutes in any one hour which exceeds the density of equivalent capacity of No. 1 on the Ringelmann Chart as measured at the point of emission. The emission of smoke or any other atmospheric pollutant shall not be permitted, regardless of quantity, if it is in any way

ZONING

detrimental to public health or safety or is a source of damage to property. The above notwithstanding, this provision shall not be construed to apply to either the burning of firewood as a heating fuel or to the open burning of brush, yard debris and other material as may be authorized by NYSDEC or other authority.

- C. Particulate matter. No person, firm or corporation shall permit the emission of any particulate matter, from any source whatsoever, in excess of applicable state and federal regulations.
- D. Glare and heat.
 - (1) No unreasonable glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated. Special efforts shall be required, such as the planting of intervening vegetation and the installation of light shields, to alleviate the impact of objectionable or offensive light and glare produced by exterior sources on neighboring residential properties or public thoroughfares.
 - (2) In particular, no use shall produce glare so as to cause illumination beyond the property on which it is located to be in excess of 0.4 footcandle at any property boundary, including the street of highway right-of-way. Further, any outdoor lighting fixture, with the exception of incandescent fixtures up to 200-watt intensity per light source (i.e., refractor, reflector or globe), shall be shielded from above and from the sides when necessary in such a manner that each of the following criteria is met:
 - (a) The edge of the shield is below the light source.
 - (b) Direct rays from the light source are confined to within the property boundaries.
 - (c) Direct rays from the light source are prevented from escaping to the sky.
- E. Solid wastes and nontoxic liquid wastes. No solid wastes or nontoxic liquid wastes shall be discharged into any public sewer, common or private sewage disposal system or stream or either on or into the ground, except in strict conformance with the standards promulgated by the New York State Health Department, the New York State Department of Environmental Conservation (NYSDEC) or other duly empowered agency. Facilities for the storage of solid wastes shall be so located and designed as to be screened from the street and/or from adjoining property and so as to discourage the harboring of insects or rodents.
- F. Radioactivity or electromagnetic disturbance. No activities shall be permitted which either emit dangerous radioactivity beyond the premises on which such activity is located or create electrical disturbance adversely affecting the operation of radios, televisions or any equipment other than that of the creator of such disturbance.
- G. 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 with adequate firefighting and fire suppression equipment and devices standard in the industry. All applicable requirements of the New York State Uniform Fire Prevention and Building Code, as well as the pertinent provisions of the National Fire Protective Association (NFPA) Code, shall be fully observed.
- H. Odor. No person, firm or corporation, excluding farms and agricultural operations, shall permit the emission of odor that would be characterized as either noxious or offensive at the property line of the lot from which the odor is emitted.
- I. Toxic or noxious wastes. No land use or operation shall be permitted which permits or causes the escape of any toxic or noxious fumes, gases or other wastes outside the building in which

ZONING

the use is conducted. In particular, toxic wastes from light industry, commercial establishments, institutions, home occupations, farms, residences or any other source shall not be disposed of on the ground or into the surface water or down the drain into septic systems or placed curbside with ordinary household garbage. Wastes such as but not limited to creosote, oils, liquid and solid chemicals, solvents and cleaners, glues, acids, metals, infectious materials, pesticides and herbicides, paints and varnishes, pharmaceuticals and radioactive wastes, including low level and BRC grade, shall be properly stored and disposed of at facilities or through pickup services specifically designated for the handling and disposition of such toxic substances.

- J. Vibration. No activity shall cause or create a steady state or impact vibration discernible at any lot line.
- K. Maintenance of developed lots. All portions of any developed lot shall have adequate grading and drainage and shall be continuously maintained in a dust-free and erosion-resistant condition by suitable landscaping with trees, shrubs, grasses or other planted ground cover or by paving with asphalt, concrete, washed stone or other suitable materials. Required yard areas shall be planted and maintained in accordance with the approved site plan for the premises and in a manner which is compatible with its use and enjoyment.
- L. Junk storage. No deposit, accumulation, or storage of junk, regardless of quantity and as defined within Town Code Chapter 151, Junk Storage, shall occur on any portion of any parcel within the Town in conflict with the provisions set forth therein. **[Added 3-11-2010 by L.L. No. 12-2010]**
- M. Design Standards for TC District. All development within the TC District shall meet all design standards of Chapter 210 including those in Attachment 3.

§ 210-25. Off-street parking and loading standards. [Amended 10-9-2003 by L.L. No. 5-2003; 3-11-2010 by L.L. No. 12-2010]

In all zoning districts, at the time any new building or structure is erected, any existing building or structure enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, or new or changed use of either land or structure established, permanent off-street parking and loading spaces shall be provided and maintained in accordance with the minimum standards as to number, location and configuration set forth below.

- A. Required number of off-street parking spaces.
 - (1) The minimum cumulative number of off-street parking spaces stated below shall be required in addition to one off-street parking space for each commercial vehicle associated with a commercial, business or light industrial use and those off-street parking spaces required to accommodate handicapped persons in accordance with the requirements of the New York State Uniform Fire Prevention and Building Code and the New York State Vehicle and Traffic Law:
 - (a) Residential uses:
 - [1] For a single-family dwelling: two spaces.
 - [2] For a two-family dwelling: four spaces.
 - [3] For a multifamily dwelling: two spaces per dwelling unit.

ZONING

- [4] For a boarding or rooming house: one space per guest room plus required space for other dwelling unit(s) on premises.
 - [5] For an accessory dwelling: two spaces per dwelling unit.
 - [6] For a home occupation: one space per 250 square feet of such use, if customers or clients routinely visit use, plus one space per outside employee.
 - [7] For a bed-and-breakfast establishment: one space per guest room plus required spaces for other dwelling unit(s) on premises.
 - [8] For a family or group family day care home: one space per three children enrolled in excess of three plus required spaces for other dwelling unit(s) on premises.
- (b) Institutional and community service uses:
- [1] For churches, meeting halls, membership clubs, auditoriums, theatres, performing arts centers or other places of public assembly not otherwise specified herein: one space per four seats of 60 square feet of seating area where fixed seating is not provided.
 - [2] For schools and other educational institutions: one space per 12 classroom seats or the auditorium requirement as specified above, whichever is greater.
 - [3] For a nursery school or child day-care center: one space per three children enrolled at peak hour.
 - [4] For a museum, library or other cultural facility: one space per 250 square feet of gross floor area.
 - [5] For a membership club or similar use: either one space for each 200 square feet of gross floor area or one space for each three seats in dining and/or bar area, whichever is greater.
 - [6] For a nursing home or similar use: one space for each four beds computed on the basis of maximum capacity of the structure.
- (c) Recreational uses:
- [1] For a bowling alley, golf course, tennis club, billiard hall, or similar use: four spaces per alley, tee, court, table or similar measure.
- (d) Business and commercial uses:
- [1] For a retail business or similar use: either one space for each 150 square feet of retail/service area accessible to customers or one space per 200 square feet of gross floor area, whichever is greater.
 - [2] For a personal service use or establishment, one space for each 150 square feet of gross floor area.
 - [3] For a medical clinic and related professional health service offices: four spaces per professional.
 - [4] For an office, including nonmedical professional, business or public uses, one space for each 200 square feet for the first 1,000 square feet of gross floor area, and one space per 300 square feet thereafter.

ZONING

[5] For a funeral home or similar establishment, one space per four seats or 80 square feet of public viewing area.

[6] For a restaurant, bar, nightclub or catering facility: either one space for each three seats within the dining room and/or bar area or one space per 60 square feet of floor area available to patrons, including outdoor service or dining area, whichever is greater.

[7] For a hotel, motel or similar establishment: one space per guest room.

[8] For an automobile service facility or similar use: at least 10 spaces.

[9] For an automobile sales facility, equipment rental or sales yard, or similar use: one space for each 3,000 square feet of land area devoted to the use.

(e) Light industrial uses:

[1] For light industrial, wholesale and similar uses: one space per employee on the largest shift, plus necessary space for visitor and company vehicles, but not less than one space per 600 square feet of gross floor area.

(2) For uses not specifically listed, the requirement shall be the same as for the most similar use listed as determined by the Planning Board at the time of special permit and/or site plan review, as provided for in Articles VI and VII, respectively, of this chapter, or as may be more explicitly provided for a specific use within the additional standards and requirements set forth at § 210-56 of the latter article.

(3) In the case of a combination of uses on a single parcel, the requirement for off-street parking spaces shall be the sum of the requirements for the various individual uses, unless it can be established by the applicant through empirical data and to the satisfaction of the Planning Board that staggered hours of use would permit reduction of the requirement. In particular, up to 50% of the parking spaces required for churches, theatres, and similar places of public assembly with peak attendance on Sundays and/or evenings may be assigned to an adjacent use or uses, which will be closed on Sundays and/or evenings.

(4) In the instance of any authorization for a reduction in parking due to either the effect of staggered hours of operation or other circumstances which may cause the Planning Board to conclude that fewer parking spaces may be required than would be required under the above schedule, the Planning Board may accept additional green area in lieu of parking for not more than 30% of the parking spaces otherwise required but not installed.

B. Design standards for off-street parking spaces and related accessways.

(1) Areas that may be considered as meeting off-street parking space requirements may include a garage, carport or other properly developed area available for parking, not to include a public or private street and any portion of the right-of-way thereof. For development within the TC District, all requirements of this section and of Attachment 3 (Design Standards) shall be met.

(2) Required off-street parking spaces shall be provided on the same lot with the building or use to which such spaces are incidental, or not more than 300 feet therefrom.

(3) In all districts, parking areas shall be located no closer to any property line than the minimum parking setbacks established in the District Schedule of Area and Bulk Regulations set forth in Article III of this chapter. If parking associated with a nonresidential use is abutting an existing residential use or land situated within a

ZONING

residential district, a minimum separation of 25 feet, or such greater distance as may be required within said Schedule, between any parking area or access thereto and the residential property line shall be maintained.

- (4) In all districts, each parking space provided shall be a minimum of nine feet wide and 19 feet in length, with due consideration provided to a greater width for end spaces and those which may be encumbered by an adjacent obstruction such as a wall of lighting standards. Each space shall have direct and usable driveway access to a street or other roadway and adequate maneuvering area between spaces in accordance with proper engineering standards, including the following:
 - (a) Parallel curb parking: End to end measurement of 24 feet with twelve-foot aisle width for one-directional flow and twenty-four-foot aisle width for two-directional flow.
 - (b) Thirty-degree parking: thirteen-foot aisle width for one-directional flow and twenty-six-foot aisle width for two-directional flow.
 - (c) Forty-five-degree parking: sixteen-foot aisle width for one-directional flow and twenty-six-foot aisle width for two-directional flow.
 - (d) Sixty-degree parking: twenty-one-foot aisle width for one-directional flow and twenty-six-foot aisle width for two-directional flow.
 - (e) Perpendicular parking: twenty-six-foot aisle width for either one-directional or two-directional flow.
- (5) To the extent practicable for all uses and all locations, and without exception for any driveway accessing a use other than a one- or two-family residences on a residential subdivision street both presently serving and designed to serve 12 or fewer residences, all off-street parking areas shall be designed to eliminate the need to back out onto a public street, road or highway.
- (6) All parking areas shall be suitably drained, graded, surfaced and maintained. Except for one- or two-family dwellings, parking lot surfacing requirements shall be established by the Planning Board under site plan review, as provided for in Article VII of this chapter. The Planning Board shall give particular consideration to the number of vehicles accommodated and the proposed intensity and season(s) of use. All paved parking areas shall be suitable marked to indicate individual parking spaces, maneuvering areas, entrances and exists.
- (7) All parking areas serving mixed use, multifamily or nonresidential uses and developments shall be designed and maintained in accordance with the landscape standards for parking lots, screening and buffer areas set forth within § 210-37 of this article.
- (8) All parking areas serving nonresidential and multifamily uses and developments shall be sited to the side or rear of the principal structure. If front parking is the only feasible location for parking due to lot configuration, such parking shall be landscaped or fully screened pursuant to this sub-section and § 210-37 of this article.
- (9) Any parking lot for any use in any district shall be setback 100 feet from any wetland and water body.
- (10) In cases where two or more commercial developments are adjacent, the Planning Board may require cross-access easements between adjacent parking lots to provide for interconnected parking lots, to facilitate traffic flow, and to control access to and adverse

ZONING

impacts on the main road. Shared parking facilities are encouraged.

- (11) Landscaping shall be integrated into parking areas to visually break up large expanses of paving and to provide shade. All off-street parking areas greater than 20 stalls shall have a minimum landscape area equal to 15% of the paved parking area. Landscaping shall be placed at parking entryways, and at parking end islands, and shall help define vehicular access and pedestrian movement. One deciduous tree per 10 parking spaces is required. For parking lots greater than thirty cars, planting islands nine feet wide by 18 feet deep, constructed with sub-surface drainage and compaction resistant soil will be required to be placed in the interior of the parking area. No parking space shall be more than 75 feet from a large deciduous tree.
 - (12) Lighting in parking lots shall be arranged so that the source of light is concealed from public view and from adjacent residential properties and does not interfere with traffic by way of glare. All lights shall be shaded, dark sky compliant, and so directed so as not to cause glare on adjoining residential properties and shall be so directed so as not to cause a traffic hazard due to glare or color.
- C. Required off-street loading berths. Off-street loading which is designed logically, conveniently located for bulk pickups and deliveries, scaled to delivery vehicles anticipated, and accessible to said vehicles when required when off-street parking spaces are filled, shall be considered for all commercial, light industrial and similar uses and provided as deemed necessary by the Planning Board during site plan review in accordance with Article VII of this chapter. Any such loading berth shall be not less than 11 feet wide and 45 feet in length, with a minimum of 14 feet of vertical clearance.

§ 210-25.1. Residential driveways. [Added 3-11-2010 by L.L. No. 12-2010]

All driveways shall be designed, constructed and maintained to afford suitable access throughout all seasons under both routine and emergency conditions to any residential dwelling or other habitable structure in accordance with § 280 of the Town Law. All driveways shall further be subject to the driveway construction permit requirements and the driveway design, construction and maintenance standards and requirements set forth at Chapter 111, Driveways, of the Town Code.

§ 210-26. Sign standards.

No sign shall be erected, replaced, altered, relocated or maintained in any zoning district within the Town of Union Vale except in accordance with the provisions stated herein.

- A. Sign permit required. Except as otherwise stated herein, no sign or other device for advertising or notification purposes of any kind shall be erected, established, added to or altered until a Sign Permit has been issued by the Code Enforcement Officer. All applications shall include such information as may be required by the Code Enforcement Officer to determine compliance with these sign regulations and shall be accompanied by payment of the required sign permit fee in accordance with a schedule established and reviewed annually by the Town Board.
- B. General standards. Any sign or signs, whether permitted, temporary or directional, shall conform to the following general standards:
 - (1) Shall present a visual message in a clear and precise manner.

ZONING

- (2) Shall to the extent practicable be wood in material and, where freestanding, enhanced through the incorporation of stone and plantings in the design and setting of the sign.
 - (3) Shall at all times be maintained in a proper state of repair in full compliance with building code, electrical code, and other applicable property maintenance standards.
 - (4) Shall not attempt or appear to regulate, warn or direct highway traffic or to either imitate or resemble official traffic signs, signals or devices.
 - (5) Shall not project over property lines or be located within the public right-of- way.
 - (6) Shall not be roof-mounted or otherwise mounted on a building so as to extend in whole or in part above the wall of the building to which it is attached.
 - (7) Shall not rotate or otherwise move.
 - (8) Shall not be illuminated by or contain flashing, intermittent, rotating or moving light or lights.
 - (9) Shall not be internally illuminated, nor contain luminous material, sequin- studded lettering or lettering with fluorescent paint.
 - (10) If freestanding, shall not exceed six feet in height in any residential district or 10 feet in height in any commercial district nor be located closer than 20 feet to any property line.
 - (11) If suspended or projecting, shall not exceed 11 feet in height and shall provide a minimum clearance of eight feet above any sidewalk or other pedestrian way.
 - (12) With the exception of temporary signs and directional signs discussed below in § 210-26C and E, respectively, shall convey only subject matter related exclusively to the premises on which the sign is located, or to products, accommodations or activities on those premises. Accordingly, no sign shall be permitted as a principal use.
 - (13) With the exception of temporary signs discussed below in § 210-26C shall be permanently and directly affixed to the ground, a building, a wall or a sign structure, and may not be a portable sign.
- C. Permitted temporary signs. The following temporary signs are permitted in any zoning district without application for and issuance of a permit.
- (1) Construction signs, limited to one unlighted sign not exceeding 12 square feet in surface area and identifying the parties involved in the design, financing and/or provision of labor and materials associated with the construction on the premises on which the sign is located, but not including the advertisement of any product. Such signs shall be removed prior to the issuance of a certificate of occupancy and the initiation of intended use of the premises.
 - (2) Event signs, not exceeding 16 square feet in surface area, displayed on private property and limited to one such event sign per premises, announcing a campaign, drive or event of a not-for-profit civic, philanthropic, educational or religious organization, to be erected not more than 10 calendar days prior to the event and removed within a period of 24 hours after close of the event.
 - (3) Real estate "for sale" signs and signs of a similar nature on the premises for sale or lease and not exceeding six square feet in surface area in a residential district or 12 square feet

ZONING

in surface area in a nonresidential district. All such signs, not to exceed two per premises, shall be removed immediately upon completion of the sale or lease of the premises.

- (4) Nonilluminated window advertising signs which occupy no more than 10% of the total window area of the principal facade or facades of the business, service or commercial establishment.
 - (5) Event signs, not exceeding 12 square feet in surface area, displayed on private property and limited to one such event sign per premises, announcing a special sale, promotion or other activity conducted by a business, service or commercial establishment, are permitted in any zoning district on an individual event or annual basis upon the filing of an application, payment of a nominal sign permit fee and issuance of a sign permit by the Code Enforcement Officer. Such event signs shall be used no more than six times within a period of 12 calendar months on a premises and shall be placed for a total period of not more than two weeks, commencing not more than one week prior to the sale or event and shall be removed within a period of 24 hours after the sale of event.
- D. Permitted permanent accessory and identity signs. Upon filing of an application and payment of the required sign permit fee in accordance with a fee schedule established and annually reviewed by the Town Board and the issuance of a sign permit by the Code Enforcement Officer, the following signs shall be permitted in accordance with the standards specified as to number, size and location. The application for sign permit shall be accompanied by a graphic representation of the sign drawn to scale, and including specific information with respect to the message to be conveyed, the proposed height and dimensions of the sign including calculation of sign surface area, and indication of materials, color and the method of construction, location and type and extent of illumination, if any.
- (1) For permitted home occupations, a single identity sign not exceeding four square feet in total surface area and identifying the occupation conducted on the premises. Unless attached to the principal structure, no such sign shall be located either closer than 15 feet to the front property line or closer than 20 feet to any other property line.
 - (2) For nonresidential uses within the RD10, RA5, RA3, R1.5 and R1 Districts, a single identity sign not exceeding 12 square feet in surface area per side, except as otherwise stated by this chapter, and identifying only the name of the establishment and its principal service or purpose.
 - (3) A residential identity sign at each principal access point stating the name of a residential subdivision, not exceeding 12 square feet in surface area or six feet in height, and located no closer than 15 feet to the public right-of-way.
 - (4) For nonresidential uses in the Hamlet (H) District, one identity sign not to exceed eight square feet in surface area and one permanent wall sign, advertising a product and/or service provided on the premises, not to exceed three square feet in surface area.
 - (5) Nonresidential uses in the Neighborhood Commercial (NC), Town Center (TC) and Airport (A) Districts.
 - (a) For a single-business premises, a freestanding identity sign not to exceed 16 square feet in surface area, and/or one identity sign mounted to the face of the principal building not to exceed one square foot per three linear feet of the building's front elevation, and/or two permanent accessory wall signs, advertising products and/or services provided on the premises, each not to exceed four square feet in surface area.

ZONING

The maximum total signage per single-business premises shall be determined by the formula above and shall not exceed 48 square feet.

(b) Multiuse premises.

[1] For a multiuse premises, i.e., when two or more wholly independent businesses or activities are located on a single premises, the parcel is permitted one combination freestanding identity complex sign viewable from the public highway for the overall establishment. If the number of independent businesses or activities is four or fewer, this sign shall not exceed 16 square feet; if the parcel houses more than four independent businesses or activities, the sign shall not exceed 24 square feet.

[2] Within a multiuse premises, one of the following types and dimension of identity signs may be associated with each business:

[a] A six-square-foot hanging sign.

[b] A sign not exceeding six square feet incorporated on an awning.

[c] A sign not exceeding six square feet mounted on the wall or permanently mounted/painted on a window provided such window sign does not exceed 20% of the square foot surface area of the window.

[3] At the discretion and approval of the Planning Board during site plan review, on-site circulation and directional signs, traffic control, handicapped parking and similar signs may be permitted. No such sign shall exceed three square feet in area.

E. Directional signs. Businesses and other public destinations relating to, but isolated from, primary routes of travel (NYS Routes 55 and 82 and County Roads 9, 21 and 24) shall be permitted a maximum of two directional signs as a special permit use subject to the provisions of Article VI of this chapter, the issuance of a sign permit and the following additional requirements:

(1) In locations with more than one directional sign, all such signs shall be affixed to a common standard and be graphically coordinated and arranged so as to present a neat and orderly appearance. Any such sign standard shall be designed to accommodate the later addition of further directional signs.

(2) No directional sign shall be more than three square feet in area. In locations where more than one directional sign is authorized, the aggregate area of all such signs shall not exceed 12 square feet.

(3) No directional sign shall be affixed to a utility pole, traffic sign, bridge abutment or other structure either within the public right-of-way or as otherwise located and maintained by a franchise utility or governmental entity.

(4) No directional sign may be installed within the public right-of-way, except upon the issuance of a specific license or permit therefor from the pertinent agency of jurisdiction, i.e., the Town Highway Superintendent and Town Board, the Dutchess County Department of Public Works or the New York State Department of Transportation.

(5) No directional sign may be installed on private property except by or with the specific written consent of the owner thereof.

§ 210-27. Fences and walls within required yards.

No fence shall be erected or replaced and subsequently maintained within a required yard in any

ZONING

zoning district within the Town of Union Vale except in accordance with the provisions stated herein:

- A. Fence permit required. Except in the case of fencing for agricultural purposes, no fence or wall shall be erected or replaced within any required yard until the Code Enforcement Officer has issued a fence permit. All applications for a fence permit shall include information as required by the Code Enforcement Officer to determine compliance with the regulations stated herein and be accompanied by payment of a permit fee in accordance with a schedule established and reviewed annually by the Town Board.
- B. Fences and walls for nonagricultural purposes shall not exceed six feet in height when erected in a required side or rear yard nor exceed four feet in height when erected within the required front yard except as otherwise specifically required by this chapter. Wire, wire mesh, or rail fencing for agricultural purposes shall be authorized to a maximum height of eight feet within any required yard. Wire mesh fencing for landscape protection shall also be authorized to a maximum height of eight feet within any required yard. **[Amended 3-11-2010 by L.L. No. 12-2010]**
- C. In any zoning district, all such fences and walls within required yards shall additionally conform to the requirements of Article IV, § 210-15, of this chapter as pertain to corner lots where special sight distance considerations are necessary to protect traffic safety.
- D. In any zoning district, all such fences and walls within required yards shall have the finished side of the fence or wall directed toward the abutting lot, parcel or premises. The property owner on whose land the fence or wall is located shall be responsible for the maintenance of both sides of the same, provided that if the abutting owner does not provide access for such maintenance, the owner of the fence shall be relieved of the obligation for maintaining the finished side of the fence or wall.
- E. To the extent practicable, and in accordance with the Town of Union Vale Master Plan, the use of stockade-type fencing within required yard areas shall be discouraged as inimical to the rural character of the community.
- F. All fences, gates and walls shall be set back a minimum of 15 feet from the edge of pavement of any public or private roadway, or as otherwise may be more strictly regulated within this chapter, to allow sufficient room for wintertime snow removal. **[Added 3-11-2010 by L.L. No. 12-2010]**

§ 210-28. Excavation as part of site preparation.

- A. Nothing contained herein shall prohibit the conduct at any time of engineering investigations, including test holes, soil borings and other measures or the excavation of sand, gravel, shale, topsoil or similar material from a lot preparatory to construction of a building for which a building permit has been issued, or moving such material from one part of a premises to another part of the same premises, when such excavation or removal is clearly incidental to the approved building construction and/or site development and necessary for improving the property for a use permitted in the zoning district in which the property is located. The above notwithstanding, provision shall be made to restore an effective cover crop to any area of land from which topsoil has been removed or covered within the first growing season following the start of such operation.
- B. No such material may, however, be sold for export from the site except in compliance with

ZONING

the District Schedule of Use Regulations set forth at Article III, § 210-10, of this chapter and the New York State Mined Land Reclamation Law, Article 23, Title 27, of the Environmental Conservation Law and related 6 NYCRR Parts 430 through 436.

§ 210-29. Development near streams, wetlands and water bodies.

A. Special permit review.

- (1) In order to preserve the open character and nurture the retention and enhancement of naturally vegetated buffers along major streams for environmental and ecological reasons, all development as such is defined in Article XII, § 210-86A, of this chapter, including but not limited to all building construction and all land alteration for other than agricultural or conservation purposes, proposed within 100 feet of the normal stream bank of any NYSDEC-classified stream within the Town of Union Vale or within 100 feet of the boundary of a freshwater wetland as mapped by the New York State Department of Environmental Conservation or as may be established by the Town of Union Vale in accordance with Article 24 of the Environmental Conservation Law and Title 6 Part 664 NYCRR shall be subject to special permit review as provided within Article VI of this chapter and as may be further regulated by inclusion within the Environmental Resource Overlay (ER-O) District established pursuant to Article II, § 210-5, and subject to the standards for said ER-O District set forth at Article V, § 210-48, of this chapter.
- (2) Special permit review shall also apply to any development for other than agricultural or conservation purposes within 100 feet of the high water mark of any pond, reservoir or other body of water in excess of 1/4 acre in water surface area, provided that the pond or other water body has not been created as a site element which was earlier subject to site plan or subdivision plat review and approval by the Planning Board.

B. The Planning Board's review of such proposed development shall include but not be limited to consideration of impact on the following factors: water recharge areas, water table levels, water pollution, aquatic and plant life, storm water runoff, flooding, erosion control and essential vegetative growth.

§ 210-30. Development within the Flood-Fringe Overlay (FF-O) District.

All development within the Flood-Fringe Overlay District, as mapped by the Federal Emergency Management Agency (FEMA), shall be subject to special permit review in accordance with the procedures set forth in Article VI of this chapter and the additional standards and requirements set forth in § 210-58 therein, including compliance with the requirements set forth in the Town of Union Vale Town Code in Chapter 135, Flood Damage Prevention.

§ 210-31. Home occupations.

In any zoning district, home occupations, as defined in Article XII, § 210-86A, of this chapter, shall additionally conform to the following use limitations:

A. Restrictions; classifications.

- (1) A home occupation may only be conducted within a dwelling unit that is a bona fide residence of the principal practitioner of the occupation or in an accessory building thereto which is normally associated with the residential use.
- (2) For purposes of this chapter and as provided for in the District Schedule of Use

ZONING

Regulations at Article III, § 210-10, herein, a home occupation occurring fully within the dwelling shall be considered a "Class 1 home occupation" and classified as a permitted accessory use; any home occupation occurring wholly or partially in an accessory building or involving either the temporary or longer-term outdoor storage of materials or equipment used in connection with the home occupation shall be considered a "Class 2 home occupation" which may only be authorized by special use permit in accordance with the standards and procedures set forth within Article VI of this chapter.

- B. Not more than two such home occupations, whether classified as Class 1 or Class 2, may occur on a single residential premises, with § 210-31C, E, I and L below applying to either the single home occupation or the aggregate of the two home occupations occurring on the premises.
- C. The home occupation activity, whether located within the dwelling or in a customary accessory structure, shall occupy no more than 500 square feet of gross floor area or 25% of the gross floor area of the dwelling on the premises, whichever shall be the more restrictive.
- D. Except for articles produced on the premises and other articles customarily associated with and incidental to the product made or the service provided on the premises, no stock in trade shall be displayed, sold or rented on the premises, as would be the case of a retail store, specialty shop or rental establishment.
- E. A single nonanimated, nonilluminated sign, not exceeding four square feet in area, shall be permitted to identify the home occupation, said sign located not less than eight feet from any property line nor more than 10 feet from the residential access driveway.
- F. Any alteration or new construction undertaken to accommodate the home occupation activity shall neither modify the residential character of the principal residential dwelling or the accessory building customarily incidental thereto nor be otherwise inconsistent with the character of a residential premises.
- G. Except for the aforementioned identity sign, there shall be no evidence within the front yard or on any other portion of the premises clearly visible from either a public street or highway or an adjoining residential premises of the home occupation activity.
- H. To the extent the outdoor display of goods or the outdoor storage of equipment or materials used in the home occupation is essential, such display and/or storage may in the case of a Class 2 home occupation, and upon demonstration of compliance with the above requirement, be authorized within a side or rear yard be specifically authorized by the Planning Board within the special use permit procedure.
- I. Not more than one person other than members of the household occupying the principal residential dwelling on the premises shall be employed on the residential premises at any given time in the conduct of the home occupation.
- J. There shall be permitted no sharing, letting or subletting of space for use by others in the conduct of their profession, trade or business.
- K. In no case shall a home occupation be open to the public earlier than 8:00 a.m. or later than 9:00 p.m.
- L. Sufficient off-street parking for any employees, customers and clients, but not to exceed a total demand for three parking spaces, shall be provided as required within § 210-25 of this article and chapter. Such spaces may be provided either within a driveway or side yard but not be

ZONING

located within either the front yard or any required side or rear setback area.

- M. Not more than one commercial vehicle, i.e., a vehicle in excess of 20 feet in length, associated with the home occupation may be parked overnight on the premises. Such vehicle may not be parked in the front yard or in any required side or rear setback area.
- N. Electrical or mechanical equipment that creates visible or audible interference in radio or television receivers, causes fluctuations in line voltage outside the dwelling unit or accessory building, or creates noise of intensity, frequency and/or duration not normally associated with residential uses is prohibited.
- O. Any toxic substances employed in the conduct of the home occupation such as may occur in the case of artists, photographers, medical professionals, furniture refinishers, beauty shops and others must be properly stored, properly collected and/or properly disposed of specifically designated toxic waste sites.
- P. The home occupation shall additionally comply with all further regulations and restrictions as may be stated within the New York State Uniform Fire Prevention and Building Code and/or other laws, rules and regulations promulgated by the New York State Department of Social Services, the Dutchess County Health Department, the New York State Education Department, and other agencies.
- Q. Authorization of the home occupation as an accessory use must be specifically stated within the certificate of occupancy for the premises with it not to be construed that the presence of a certificate of occupancy for the principal residential use of the premises is in itself authorization for the home occupation occurring thereon.
- R. The above notwithstanding, because of parking requirements and other issues of land use compatibility, each of the following uses is specifically prohibited from consideration as either a permitted Class 1 home occupation or a Class 2 home occupation eligible for special use permit consideration under this chapter:
 - (1) Ambulance, limousine or other transportation service.
 - (2) Automobile-related businesses, including repair, painting, parts, sales, detailing or washing services.
 - (3) Beauty shops and barber shops with more than one chair.
 - (4) Churches and other places of public assembly.
 - (5) Restaurants and taverns.
 - (6) Catering services.
 - (7) Any facility, regardless of how named, providing day-care services for more than six children who are not residents of the dwelling.
 - (8) Convalescent homes.
 - (9) Group band instrument instruction.
 - (10) Commercial servicing of construction equipment, including but not limited to backhoes, bulldozers and trucks.
 - (11) Septage pumping and other scavenger services.

ZONING

§ 210-32. Conservation Subdivision.

- A. The Planning Board is empowered to modify this Zoning Law's lot area and bulk requirements in accordance with the provisions of § 278 of the Town Law to enable and encourage flexibility of design and development of land to promote the most appropriate use of land, to facilitate the economic use of roads and utilities and to preserve the natural and scenic qualities of open lands.
- B. The section details the procedure and standards to be utilized by the Planning Board in reviewing and approving all major subdivisions in the Town of Union Vale. Use of this procedure under § 278 of the Town Law does not allow any increase in density, in terms of the number of lots or dwelling units, over that which could be achieved in a conventional subdivision plat conforming to all other standards in the Zoning Law and Subdivision of Land Regulations of the Town of Union Vale unless part of a density bonus as allowed pursuant to the Zoning Law, § 210-13 of this article.
- C. Further purposes of this section are to promote the orderly, economic, aesthetic, environmentally sound and efficient development of the Town consistent with its rural, small-town character and the continuing needs for conservation of natural and cultural resources and quality residential building sites and enjoyable open space. This section has been carefully designed in recognition of the need to protect Union Vale's environmental resources as part of the land development process to:
 - (1) Conserve open land, including those areas containing unique and sensitive natural features such as but not limited to critical and rare habitats, forest core areas, steep slopes, streams and riparian areas, floodplains, wetlands and other resources identified in the Town of Union Vale's Comprehensive Plan, and Natural Resources Inventory by protecting them from development.
 - (2) Provide greater design flexibility and efficiency in the siting of structures, services and infrastructure, including the opportunity to reduce length of roads and the amount of paving required.
 - (3) Provide for a diversity of lot sizes and housing choices to accommodate a variety of age and income groups to improve housing opportunities for all.
 - (4) Create residential opportunities with direct visual or physical access to preserved lands that is consistent with the rural character of Union Vale.
- D. Applicability of Conservation Subdivision.
 - (1) A minor subdivision application may request use of conservation subdivision design simultaneously with, or subsequent to, presentation of an approvable, conventional subdivision plat with site information required by the Planning Board depending on the terrain and the magnitude of development.
 - (2) All major subdivisions shall be designed pursuant to this section and the Town of Union Vale Subdivision of Land Regulations. Such design may result in a clustered pattern of buildings (a residential cluster development) or in a more widespread pattern where house sites are strategically located to meet the purposes of this Zoning Law. The Planning Board may also mandate that any other subdivision be designed in a conservation or residential cluster configuration per this section for reasons of improved drainage, efficient road layout and traffic safety, and protection of aquifers, waterways and aesthetic, historic, rural and

ZONING

environmentally sensitive lands.

- (3) Developments that are not subdivisions but include multiple nonresidential or multiple residential buildings on one parcel shall also be required by the Planning Board to be designed using the design and siting criteria of 210-32 in order to create open space, protect the environment, maintain community and rural character, and meet other site-specific goals.
- (4) Any housing type allowed as per Attachment 2 of this Local Law shall be allowed to be incorporated into a conservation subdivision either singly, or as a mix of housing types provided all siting and design requirements of 210-32 are met.

E. Conservation Subdivision Sketch Plan.

- (1) In addition to procedures for a sketch plan of the Town of Union Vale Subdivision of Land Regulations, the following additional information shall be submitted by the applicant as a basis for informal discussions with the Planning Board regarding the design of a proposed conservation subdivision. The Planning Board shall evaluate the proposed subdivision during the sketch meeting and shall determine whether the sketch plan meets the purposes of this section. Complete and complex engineered plans and architectural drawings are premature and not required at this phase. The sketch plan for a conservation subdivision shall contain:
 - (a) The subdivision name or title, if any; the scale, which shall be no less than one (1) inch equals one hundred (100) feet; North direction, which shall be oriented toward the top of the plan; the plan date; and the label "Concept Plan."
 - (b) The subdivision boundaries and the owners of all contiguous properties.
 - (c) The zoning classification, including designation of any overlay district, critical environmental area as may exist, and tax map number(s) of the property to be subdivided.
 - (d) The total acreage of the subdivision and the proposed number and locations of lots.
 - (e) All existing streets, either mapped or built, adjacent to the tract.
 - (f) All existing restrictions on the use of land, including easements and covenants, if any.
 - (g) All existing structures, general location of agricultural fields and wooded areas, wetlands and watercourses and their required buffers, and other significant physical and natural features of the parcel and within two hundred (200) feet of the parcel boundaries. The Town of Union Vale Comprehensive Plan, Natural Resource Inventory, and Dutchess County Plans or County GIS data may be used to identify these features.
 - (h) If applicable, the location and required setbacks, if any, as may be required by the Zoning Law, the Town of Union Vale Flood Damage Prevention Law, or Town, County, State or Federal laws from watercourses, wetlands, and floodplains.

F. Conservation Subdivision Site Analysis.

- (1) The following site analysis shall be submitted by the applicant pursuant to this law in addition to other pertinent requirements of the Town of Union Vale Subdivision of Land Regulations. A site analysis shall include an identification of primary and secondary conservation lands within a parcel(s) as defined in §210-86. The site analysis shall include a

ZONING

Site Analysis Map that includes the information listed below. Conditions beyond the parcel boundaries may be generally described on the basis of existing published data available from local, County, State or Federal governmental agencies, or from aerial photographs.

- (2) The applicant may obtain advice and assistance from an accredited land trust, environmental organization, or professional ecologist when preparing the site analysis. The site analysis is not intended to be a highly engineered or exact document, but a general sketch and description illustrating the location and type of environmental features that are present on the site including:
- (a) Areas where the slope exceeds twenty-five percent (25%).
 - (b) Wetlands and watercourses and their buffers, areas of hydrological sensitivity including but not limited to aquifer and aquifer recharge areas, municipal water supply recharge areas, flood-prone areas as shown on Federal Emergency Management Agency maps, lakes, and streams, if any. The Site Analysis Map shall identify whether any Town of Union Vale regulated wetland, critical environmental area, or overlay district extends into the parcel.
 - (c) Agricultural lands including farmland within, and adjacent to, a New York State certified Agricultural District, and soils classified as being prime farmland or soils of statewide significance, if any.
 - (d) Sites where community sewer, community water, or community water and sewer are available or planned, if any.
 - (e) Lands within, or contiguous to, a Critical Environmental Area designated pursuant to Article 8 of the New York State Environmental Conservation Law, if any.
 - (f) Lands contiguous to publicly owned or designated open space areas, or privately preserved open spaces, if any.
 - (g) Historic structures or areas of national, state or local importance, if any, and specifically identifying those structures which are listed on either the federal or New York State Register of Historic Places.
 - (h) Sites in, or bordering on, known scenic locations identified in the Town's Comprehensive Plan, or Natural Resources Inventory and whether the site is within any Town-designated overlay district.
 - (i) Areas with rare vegetation, significant habitats, or habitats of endangered, threatened or special concern species, or unique natural or geological formations, if any. The Planning Board may require site specific assessments that when required, shall include a description of the biodiversity assessment methods used, site-specific habitat descriptions, discussion of biodiversity implications, and alternatives if needed, to minimize disturbance to sensitive habitats and species inventoried.
 - (j) General description and locations of the vegetative cover on the property according to general cover type including cultivated land, grass land, old field, hedgerow, woodland and wetland, and showing the actual line of existing trees and woodlands.

ZONING

- (k) Lakes, ponds or other significant recreational areas, or sites designated as such in the Town's Comprehensive Plan and Natural Resource Inventory, if any.
- (l) Existing trails, inactive railroad beds, bikeways, and pedestrian routes of Town, State or County significance or those indicated in any Town, County or State plan for future trail development, if any.
- (m) Location of all existing streets, roads, buildings, utilities and other man-made improvements.
- (n) All easements and other encumbrances of property which are or have been filed of record with the Dutchess County Clerk's Office.
- (o) Identification of any other established overlay district covering the parcel.

G. Conservation Subdivision Design Standards.

(1) Lot Layout and Design.

- (a) The minimum lot size in a conservation subdivision where individual wells and septic systems are required shall be equal to that required by the Town of Union Vale and Dutchess County Department of Health to meet standards for water and septic system approvals.
- (b) All housing types as permitted in the Attachment 2 for the district shall be permissible residential uses within a conservation subdivision. However, no individual multifamily structure, where allowed, shall contain more than twelve dwelling units.
- (c) There shall be a 100' side and rear setback between any new dwelling unit within a conservation subdivision and the original parcel's property line when adjacent to any residential district.
- (d) All preliminary plans for a conservation subdivision shall implement and include documentation of the following four-step design process in determining the layout of proposed conserved lands, house sites, roads, and lot lines as follows:
 - (1) Step 1. Delineate Open Space Areas. Proposed open space areas shall be designated as follows:
 - (a) Primary Conservation Areas shall be delineated and designated on a map.
 - (b) Secondary Conservation Areas shall be delineated and designated on a map. In delineating Secondary Conservation Areas, the applicant shall prioritize natural and cultural resources on the parcel in terms of their highest to least suitability for inclusion in the proposed open space in consultation with the Planning Board. Secondary Conservation Areas shall be delineated on the basis of those priorities and practical considerations given to the parcel's configuration, its context in relation to resource areas on adjoining and

ZONING

neighboring properties, and the applicant's subdivision objectives. These features shall be clearly noted, as well as the types of resources included within them, on the map. Calculations shall be provided indicating the applicant's compliance with the acreage requirements for open space areas on the parcel.

- (c) Building envelopes shall not encroach upon Primary Conservation or Secondary Conservation areas. The primary and secondary conservation areas, together, constitute the total open space areas to be preserved, and the remaining land is the potential development area.
- (2) Step 2. Specify Location of House Sites. Building envelopes shall be tentatively located within the potential development areas. House sites should generally be located not closer than one hundred (100) feet from Primary Conservation Areas and fifty (50) feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of residential development on such areas.
 - (3) Step 3. Align Streets and Trails. After designating the building envelopes, a street plan shall be designed to provide vehicular access to each house, complying with the standards identified in this Zoning Law and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed open space lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands, traversing steep slopes, and fragmenting agricultural lands. Existing and future street connections are encouraged to be designed to avoid new cul-de-sacs being developed and maintained, and to facilitate access to and from homes in different parts of the tract and adjoining parcels. Cul-de-sacs are appropriate only when they support greater open space conservation or provide extensive pedestrian linkages. All applicable requirements of the Town of Union Vale Highway Law, as may exist, shall be met.
 - (4) Step 4. Draw Lot Lines. Upon completion of the preceding steps, lot lines are then drawn as required to delineate the boundaries of individual residential lots.
- (2) Alternate Design Process. A conservation subdivision may also be designed as a clustered, traditional neighborhood design as defined in this Local Law as a residential cluster development. A residential clustered conservation subdivision results in all or most of the new residences clustered in a traditional neighborhood design. Just as with non-clustered developments, the first step is to identify open space lands, including both Primary and Secondary Conservation Areas. However, in clustered developments, where traditional streetscape is of greater importance, steps 2 and 3 above are reversed, so that streets and squares are located before house sites specified. Clustered developments can be designed to emulate other hamlets in Union Vale with reduced lot sizes, narrower front setbacks, narrower streets, sidewalks and other pedestrian amenities, buildings

ZONING

oriented to the street, walkable street patterns, village-style roadway design and have a clear demarcation between built and unbuilt lands at the edge of the neighborhood.

(3) Site Design Criteria.

- (a) Except for the alternate design for a clustered, traditional neighborhood, residential structures in a major subdivision should be located according to the following guidelines, which are listed in order of significance. If any of the guidelines below conflict with each other on a particular site, the Planning Board may use its discretion to resolve such conflicts. The lots, house sites, roads and other infrastructure in a proposed conservation subdivision shall avoid or minimize adverse impacts. Sites should be designed:
- (1) On the least fertile agricultural soils and in a manner which maximizes the usable area remaining for potential agricultural use and away from the boundaries of any agricultural operation to reduce conflicting uses.
 - (2) So that the boundaries between new house lots and adjacent lots are well buffered by vegetation, topography, roads or other barriers.
 - (3) To cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table by avoiding placement of impervious surfaces where water is most likely to infiltrate and recharge the groundwater.
 - (4) To avoid disturbance to streams and drainage swales, floodplains, vernal pools, wetlands, and their buffers. Existing native vegetation shall be maintained to create a buffer within 100' of wetlands and surface waters, including creeks, streams, vernal pools, springs and ponds.
 - (5) All grading and earthmoving on slopes greater than fifteen percent (15%) shall be minimized. Such grading shall not result in cut and fills whose highest vertical dimension exceeds eight (8) feet. Roads and driveways shall follow the line of existing topography to minimize the required cut and fill.
 - (6) Views of house lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping. However, the layout shall leave scenic views and vistas unblocked and uninterrupted, particularly as seen from public thoroughfares. Where these scenic views or vistas exist, the Planning Board may require that a deep non-vegetated setback shall be established between the road and the structures along the portion of road where those views or vistas are prominent or locally significant.
 - (7) To be as visually inconspicuous as practicable when seen from state, county and local roads, the conservation subdivision shall preserve woodlands along roadways, property lines, and lines occurring within a site such as along streams, swales, stone fences, and hedgerows to create buffers with adjacent properties.

ZONING

Preservation shall include ground, shrub, understory and canopy vegetation.

- (8) To minimize the perimeter of the built area by encouraging compact development and discouraging strip development along roads, house lots shall be accessed from interior streets, rather than from existing roads bordering the parcel. New intersections with existing public roads shall be minimized. Two (2) access ways into and out of a major subdivision shall be required for safety. However, more than two (2) entrances onto public roads may be allowed by the Planning Board provided they are approved by the New York State DOT, or Dutchess County and such entrances would not adversely impact traffic flow the environment.
 - (9) On suitable soils for subsurface sewage disposal (where applicable).
 - (10) At the edge of open fields adjacent to any woodland, to enable new residential development to be visually absorbed by the natural landscape and to limit fragmentation of habitats.
 - (11) Around and so as to preserve sites of historic, archeological or cultural value insofar as needed to safeguard the character of the feature.
 - (12) To protect important habitat links and connections, biodiversity and wildlife habitat areas of species listed as endangered, threatened, or of special concern by the United States Department of the Interior, the New York State Department of Environmental Conservation, or identified by the Town of Union Vale in their Natural Resource Inventory.
- (4) Open space standards:
- (a) A minimum of 50% of the parcel shall be preserved as open space land.
 - (b) The required open space land consists of a combination of Primary Conservation Areas and Secondary Conservation Areas. The proposed conservation subdivision design shall strictly minimize disturbance of these environmentally sensitive areas. The lot layout shall show how those sensitive areas will be protected by the proposed subdivision plan.
 - (c) Open space lands shall be laid out in general accordance with the Town's Comprehensive Plan to better enable an interconnected network of open space and wildlife corridors. Open space lands shall also be laid out in such a manner that preserves ecological systems that may be present on the site including, but not limited to, preserving wetlands, vernal pools, and their associated upland habitats.
 - (d) Active agricultural land may be used to meet the minimum required open space land.
 - (e) Open space land shall, to the maximum extent practicable, be contiguous to other open space lands to avoid fragmentation of core forested areas or other habitats and further, building envelopes, infrastructure and roads should not fragment core areas of the preserved open space.

ZONING

- (f) Open space lands may be designated as a separate, conservation lot owned by one entity, a separate conservation lot owned in common, or it may be designated over several lots provided that such house lots are greater than five (5) acres each.
 - (g) Walkways, trails, play areas, drainage ways leading directly to streams, historic sites or unique natural features requiring common ownership protection may be included in the preserved open space lands.
 - (h) A portion of the required open space may be used for community septic systems provided no sensitive environmental features are disturbed.
 - (i) Stormwater management ponds or basins and lands within the rights-of-way for underground utilities may not be included as part of the minimum required open space.
 - (j) Active recreation lands such as ball fields, golf courses, and parks shall not be considered part of the required open space unless such land is open to the public. Such recreational lands with access only to residents shall not be counted towards the open space requirements but shall be counted towards any recreation land requirement that may be required by the Town of Union Vale.
 - (k) Open space shall be directly accessible or viewable from as many home sites as possible.
- (5) Streets, driveways, sidewalks and trails
- (a) Common driveway access may be provided for.
 - (b) A pedestrian circulation and/or trail system shall be sufficient for the needs of residents and shall provide connections within the development as well as with adjacent developments or existing trails, pathways or sidewalks, unless waived by the Planning Board. Sidewalks shall be required for all residential development for interior walkability and to connect to other parcels in the TC. Sidewalks shall be required along all Route 55 and CR 21 frontages. All sidewalks shall meet ADA standards. Bike paths and other pedestrian trails shall be provided for within the subdivision and linked to existing trail or path systems as they may exist.
 - (c) New streets shall meet the Town Highway Specifications, as may exist. Where appropriate, the Planning Board shall work with the Highway Department to ensure that new roads do not impact or detract from the rural character and environment of a conservation subdivision.
 - (d) Whenever appropriate, street systems should produce terminal vistas of open space in accordance with the conservation emphasis of the subdivision design and to positively contribute to the Town's open space goals.
 - (e) Use of reverse curves should be considered for local access streets in a conservation subdivision in conjunction with long horizontal curve radii [at least two hundred fifty

ZONING

(250) feet] and where traffic speeds will not exceed thirty (30) mph. Further, use of single-loaded streets, with buildings on one side and designated open space on the other, is encouraged alongside conservation areas to provide views of the conservation lands for residents.

- (6) Waste treatment systems. Sanitary sewage disposal systems, whether individual or community systems, may be located within, or extend into, required open space areas, provided that subsurface sewage disposal methods are employed, all required separation distances are observed and the ownership and maintenance responsibilities for those systems are clearly defined in agreements submitted for approval as part of the subdivision application. Applications shall be approved that provide lot buyers with both the legal authority and the responsibility, individually or collectively, to maintain all wastewater treatment facilities on a continuing basis. This may include the creation of a special district under Articles 12 and 12-a of New York State Town Law.
- H. Open Space Protections and Maintenance. All required open space shall be depicted and noted on the site plan as protected open space and restricted from further subdivision through one of the following qualified management structures to be proposed by the applicant and approved by the Planning Board. The Planning Board shall approve the form and content of any restrictive covenant, easement or deed restriction prior to final subdivision approval.
- (1) Long term maintenance of the preserved open space depends on the configuration of such open space and method used for permanent preservation. When an easement is used, the conservation easement holder shall be responsible for maintenance of that open space. When a deed restriction is used, the landowner, whether it be a single landowner, multiple landowners or a homeowner's association, are responsible for that maintenance.
 - (2) Regardless of which method of protecting the required or designated open space is selected; the restriction shall be included on the final plat, made a condition of the final plat approval, attached to the deeds of all lots within the subdivision.
 - (3) One of the following is required to permanently protect the designated open space:
 - (a) A permanent conservation easement, in a form acceptable to the Town and recorded at the County Clerk's Office. Due to the enforcement responsibilities carried out by easement grantees, this is the preferred method of ensuring permanent protection. A conservation easement will be acceptable if:
 - (1) The conservation organization proposed to be the easement holder is acceptable to the Town and is a bona fide conservation organization as defined in Article 49 of the New York State Environmental Conservation Law.
 - (2) The conveyance contains appropriate provisions for proper reverting or re-transfer in the event that the conservation organization becomes unwilling or unable to continue carrying out its functions.
 - (3) A maintenance agreement acceptable to the Town is established between the owner and the conservation organization to insure perpetual maintenance of the open space. The Town's expectation is that landscape features and habitats existing at the time of approval shall be maintained, including but not limited to periodic mowing of open meadows to maintain such habitat, or prevention of

ZONING

clear-cutting to remove forest cover.

- (4) The conservation easement or other legally binding instrument shall permanently restrict the open space from future subdivision, shall define the range of permitted activities, detail the maintenance needs and expectations, and, if held by a conservation organization, shall give the Town the ability to enforce these restrictions.
- (b) A declaration of covenants or deed restriction, in a form acceptable to the Town, and recorded in the County Clerk's Office. The restriction shall describe the size of the parent parcel being subdivided; the total number of lots and the total number of dwelling units approved; specification of which lot or lots carry with them the right to erect or place any unused allocation of dwelling units the parent parcel may have; and which lands shall be preserved as open spaces and upon which no further allocation of dwelling units shall be made.
 - (1) Such deed restriction(s) shall be noted on all approved, filed plats.
 - (2) The Planning Board shall reference the deed and its open space protections in any approval or conditional approval of the subdivision. Approval or conditional approval shall include Town expectations for long term maintenance of the required open space.

I. Ownership of Conserved Lands:

- (1) Open space land may be held in any form of ownership that protects its conservation values, such as by an individual, a land trust or other qualified environmental organization, or where the open space is owned in common by a homeowner's association (HOA).
- (2) Open space may also be dedicated to the Town, County or State governments, transferred to a qualified nonprofit organization including a land trust, or held by single or multiple private owners. The applicant shall provide proof that the receiving body agrees to accept the dedication.
- (3) The Town seeks to ensure long-term maintenance of privately-owned lots dedicated to open space. When open space lands are proposed to be privately owned on a lot dedicated for open space use, and such lands are not subject to a conservation easement or are not to be transferred to a qualified non-profit organization or municipality, such lands shall be owned by an HOA (Homeowners Association). All residents of the HOA shall have access to such open space lands.
 - (a) Alternatively, such open space may be designated as a house lot allowing only one residence. This house lot shall be considered part of, and not in addition to, the allowed density the parent parcel is eligible for. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation or agricultural value of such open space land. All other house sites shall be sited in a manner that allows views of the open space from each to the maximum extent allowable.
 - (b) If the open space is to be owned by a homeowner's association (HOA), the HOA must be incorporated before the final subdivision plat is signed. The applicant shall provide the Town with a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use

ZONING

restrictions for common facilities.

- (c) Homeownership Associations (HOA) shall be arranged in a manner that real property tax claims may be satisfied against the open space lands by proceeding against individual owners and the residences they own. The HOA must be responsible for liability insurance, local taxes and the maintenance of the conserved land areas. The HOA shall have the power to adjust assessments to meet changing needs. The Planning Board shall find that the HOA documents satisfy the conditions above.
- (d) The homeowner's association (HOA) shall be operating before the sale of any dwelling units in the development. The proposed homeowner's association shall be established by the applicant and shall comply with the requirements of Section 352-e of the New York State General Business Law and have an offering plan for the sale of lots in the subdivision approved by the New York State Attorney General's Office, if required. In the event that the NYS Attorney General's Office grants an exemption from the requirement of an offering plan, the applicant shall have in place a maintenance agreement acceptable to the Town that ensures perpetual maintenance of the open space.
- (e) Membership in the HOA must be mandatory for each property owner within the subdivision and for any successive property owners in title.
- (f) The association shall have adequate resources to administer, maintain, and operate such common facilities.

J. Maintenance standards

- (1) The owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space such as, but not limited to trails and pathways.
- (2) Failure to adequately maintain any improvements located on the undivided open space and keep them in reasonable operating condition is a violation of the Zoning Law. Upon appropriate authority or process, the Town may enter the premises for necessary maintenance/restoration, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or in the case of an HOA, the owners of properties within the development, and if unpaid, shall become a tax lien on such property.

K. Future subdivisions. When an applicant includes only a portion of landowner's entire parcel in the subdivision application, a sketch layout according to this section shall be included showing future potential subdivision of all the contiguous lands belonging to the landowner and allocation of remaining density to ensure that future subdivision may be accomplished in accordance with this section and to allow the Planning Board to adequately assess segmentation under the State Environmental Quality Review Act. Subdivision and review of the sketch plan of those locations at this stage shall not constitute approval of the future subdivision shown thereon.

§ 210-33. Water supply and sewage disposal requirements.

A. No person shall undertake to construct any new building or either convert or adaptively reuse any existing building if intended for human occupancy, whether a principal building or an accessory structure, within the Town of Union Vale without first meeting the requirements for a system or facilities for both a potable water system and the separate disposal of sewage and domestic trade wastes in accordance with the applicable regulations of the Town of Union

ZONING

Vale, the Dutchess County Health Department and the New York State Departments of Health and Environmental Conservation.

- B. Any such potable water system or sanitary sewage facilities intended to serve as either a central water supply or common sanitary sewage system, as defined within Article XII, § 210-86A, of this chapter, shall be the subject of appropriate legal arrangements whereby at nominal cost the system or systems would become either prior to their operation or at any time subsequent thereto whether by choice of the benefited parties or either default or abandonment by the owner the property of a special taxing district or similar entity which would bear the full cost of administering the special district or similar entity and operating and maintaining the system or systems.

§ 210-34. Sanitary disposal areas and facilities.

No dump, landfill, septage disposal site or other sanitary disposal area or facility for the burial of domestic or other wastes, including construction and demolition debris, shall be established within the Town of Union Vale except where owned or leased and operated by the Town of Union Vale, whether such operation is through its own forces or on a contract basis.

§ 210-35. Swimming pools.

Any outdoor swimming pool, whirlpool or hot tub, as defined within Article XII, § 210-86A, of this chapter, shall be subject to the following safety measures and any others that may be more strictly prescribed by the New York State Uniform Fire Prevention and Building Code:

- A. The outdoor swimming pool, whirlpool or hot tub shall be enclosed on all sides by a security fence not less than four feet in height or, in the case of a whirlpool or hot tub only, a securely locked cover shall be provided.
- B. Such security fence, as may be applicable, shall be provided with a self-closing, self-latching gate to prevent accidental entry or unauthorized use of the outdoor swimming pool, whirlpool or hot tub. When the pool is not in use or supervised, the gate shall be securely locked with a key, combination or other child-proof lock. **[Amended 1-8-2004 by L.L. No. 1-2004]**

§ 210-36. Solar and wind energy systems. [Amended 3-11-2010 by L.L. No. 12-2010; 10-6-2016 by L.L. No. 3-2016]

To the extent practicable, and in accordance with § 263 of the New York State Town Law, the accommodation of solar and wind energy systems and equipment to meet the energy requirements of the residents and uses in the Town of Union Vale, and the protection of access to sunlight and wind for such equipment, shall be encouraged as the various review and approval provisions of this chapter are applied.

- A. Purpose. Because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, the purpose of this section is to facilitate the development and operation of renewable energy systems based on sunlight. Solar energy systems are appropriate in all zoning districts when measures are taken, as provided in this section, to minimize adverse impacts on neighboring properties and protect the public health, safety and welfare.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

ZONING

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) — The incorporation of photovoltaic (PV) material into a building's envelope. Technologies include PV shingles or tiles, PV laminates, and PV glass. Examples of placement include vertical facades, semitransparent skylights, awnings, fixed awnings, and roofs.

GROUND-MOUNTED SYSTEM — An accessory solar energy system exceeding 100 square feet that is anchored to the ground and attached to a pole or similar mounting system, detached from any other structure.

LARGE-SCALE SYSTEM — Solar energy systems located on land to convert solar energy into electricity for off-site energy consumption.

ROOF-MOUNTED SYSTEM — An accessory solar energy system located on a roof of a principal or accessory structure.

SOLAR ENERGY EQUIPMENT — Energy storage devices, material, hardware, or electrical equipment and conduit associated with the production of electrical energy.

SOLAR ENERGY SYSTEM — An electrical generating system composed of a combination of both solar panels and solar energy equipment.

SOLAR PANEL — A device capable of collecting and converting solar energy into electrical energy.

C. Roof-mounted solar systems.

- (1) Roof-mounted systems are permitted as an as-of-right accessory use in all zoning districts when attached to lawfully permitted principal structures and accessory structures, subject to the requirements set forth in this section.
 - (a) Height. Solar energy systems shall not exceed maximum height restrictions within any zoning district and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.
 - (b) Setback. Solar energy systems are subject to the setback requirements of the underlying zoning district.
 - (c) Aesthetics. Solar installations shall incorporate the following design requirements:
 - [1] Solar energy equipment shall be installed inside walls and attic spaces to reduce its visual impact. If solar energy equipment is visible from a public right-of-way, it shall match the color scheme of the underlying structure.
 - [2] Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
 - [3] Solar panels affixed to a flat roof shall be placed below the line of sight from a public right-of-way.

D. Ground-mounted solar systems (residential).

- (1) Ground-mounted solar energy systems are permitted as an accessory use in residential zoning districts, subject to the requirements set forth in § 210-56B(10).

E. Ground-mounted solar systems (commercial).

- (1) Ground-mounted solar energy systems are permitted as an accessory use in commercial

ZONING

zoning districts, except the TC District, subject to the requirements set forth in § 210-56G(6).

F. General requirements for roof-mounted solar systems and ground-mounted solar systems:

- (1) Prior to issuance of a building permit, blueprints signed by a professional engineer or registered architect of the solar installation showing the layout of the system shall be required.
- (2) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
- (3) All solar energy system installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation, and industry standards, and prior to operation the electrical connections must be inspected by the Town Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.
- (4) When solar storage batteries are included as part of the solar energy system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Dutchess County and other applicable laws and regulations.
- (5) A sign shall be installed on the utility meter and any alternating current (AC) disconnect switch indicating that there is an operating solar electric cogenerating system on site.

G. Large-scale solar systems: solar as a principal use. Large-scale solar systems are permitted through the issuance of a special use permit within all zoning districts except TC, NC, A, H, MGH, and GH, subject to the requirements set forth in this section.

- (1) Height and setback. Large-scale solar energy systems shall adhere to the height and setback requirements of the underlying zoning district. Additional restrictions may be imposed during the special use permit process.
- (2) All large-scale solar energy systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The height and type of fencing shall be determined by the special use permit process.
- (3) Verification of utility notification. Foreseeable infrastructure upgrades shall be documented and submitted. Off-grid systems are exempt from this requirement.
- (4) The name, address, and contact information of the applicant, property owner(s), and agent submitting the proposed project shall be required.
- (5) If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
- (6) Site plan approval is required.
- (7) Blueprints signed by a professional engineer or registered architect of the solar installation showing the layout of the system shall be required.

ZONING

- (8) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
- (9) Property operation and maintenance plan. A property operation and maintenance plan is required, describing continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, etc.
- (10) Safety. All ground-mounted and rooftop-mounted solar energy system owners or operators shall provide a copy of the site plan review application to the local Fire Chief. All means of shutting down the solar installation shall be clearly marked.
- (11) Height restrictions. The maximum height for ground-mounted solar systems shall not exceed 15 feet in height above the ground.
- (12) Lighting. Lighting of large-scale ground-mounted solar systems shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be dark sky compliant to shield abutting properties. Where feasible, lighting of the solar energy system shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.
- (13) Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction.
- (14) All on-site utility and transmission lines shall, to the extent feasible, be placed underground.
- (15) All large-scale solar system facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties as well as adjacent street rights-of-way.
- (16) All mechanical equipment of a large-scale solar system, including any structure for batteries or storage cells, shall be completely enclosed by a minimum six-foot-high fence with a self-locking gate.
- (17) The perimeter of the large-scale solar systems shall be provided with landscape screening to offset visual impacts and to promote aesthetic harmony with surrounding uses. Plantings should have a minimum height of four feet at the time of installation and shall not be set back more than five feet from said perimeter.
- (18) A large-scale solar system connected to the utility grid shall provide a proof of concept letter from the local utility company acknowledging the solar farm will be interconnected to the utility grid in order to sell electricity to the public utility entity.
- (19) Signs for large-scale solar systems. A sign not to exceed eight square feet shall be attached to a fence adjacent to the main access gate and shall list the facility name, owner and phone number. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- (20) Abandonment.
 - (a) All applications for large-scale solar system shall be accompanied by a

ZONING

decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the structure. Prior to issuance of a building permit, the owner or operator of the facility or structure shall post a performance bond or other suitable guarantee in a face amount of not less than 150% of the estimated cost, as determined by the Town Engineer, to ensure removal of the solar energy system or facility or structure in accordance with the decommissioning plan described below. The form of the guarantee must be reviewed and approved by the Town Engineer and Town Attorney, and the guarantee must remain in effect until the system is removed. Review of the guarantee by the Town Engineer and Town Attorney shall be paid from an escrow established by the applicant. Prior to removal of a solar energy production facility or structure, a demolition permit for removal activities shall be obtained from the Town of Union Vale.

- (b) If the applicant ceases operation of the solar energy system or structure for a period of 18 months, or begins but does not complete construction of the project within 18 months after receiving final site plan approval, the applicant will submit a decommissioning plan that ensures that the site will be restored to a useful, nonhazardous condition without delay, including but not limited to the following:
 - [1] Removal of above- and below-ground equipment, structures and foundations.
 - [2] Restoration of the surface grade and soil after removal of equipment.
 - [3] Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
 - [4] The plan shall include a time frame for the completion of site restoration work.
 - (c) In the event that construction of the solar energy system or structure has been started but is not completed and functioning within 18 months of the issuance of the final site plan, the Town may notify the operator and for the owner to complete construction and installation of the facility within 180 days. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of notification by the Town.
 - (d) Upon cessation of activity of a fully constructed solar energy system or structure for a period of one year, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan. Within 180 days of notice being served, the owner and/or operator can either restore operation equal to 80% of approved capacity or implement the decommissioning plan.
 - (e) If the owner and/or operator fails to fully implement the decommissioning plan within the one-hundred-eighty-day time period and restore the site as required, the Town may, at its own expense, provide for the restoration of the site in accordance with the decommissioning plan and may, in accordance with the law, recover all expenses incurred for such activities from the defaulted owner and/or operator. The cost incurred by the Town shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes.
- H. Solar systems in historic districts. Properties located in an historic district are subject to the requirements set forth in this section and, depending on the zoning classification of the underlying property, the special permit requirements set forth in § 210-56B(10) and § 210-

ZONING

56G(6):

- (1) Roof-mounted solar panels and BIPV systems are permitted by right on accessory structures that do not contribute to the historic significance of the site.
 - (2) Solar panels shall not alter an historic site's character-defining features or be placed within view of a public right-of-way.
 - (3) All modifications to an historic site must be entirely reversible, allowing alterations to be removed or undone to reveal the original appearance of the site.
 - (4) Exposed solar energy equipment must be consistent with the color scheme of the underlying structure.
 - (a) Solar panels shall be placed flush to the roof's surface to reduce their visual impact.
 - (b) BIPV systems shall take into account existing design elements which complement the styles and materials of the building.
 - (5) Setback, height, and lot coverage.
 - (a) Setback. Ground-mounted solar panels are subject to setback requirements of the underlying zoning district.
 - (b) Height. Solar panels are restricted to a height of 12 feet.
 - (c) Lot coverage. The surface area of ground-mounted solar panels shall be included in lot coverage and impervious surface calculations.
 - (6) The issuance of a certificate of appropriateness is required by an historic review committee (i.e., Historic Preservation Commission) for ground-mounted systems, BIPV systems, and all historic structures.
 - (a) Solar panels shall be placed on new construction or additions if present.
 - (b) Ground-mounted systems shall be screened from the public right-of-way by fencing or vegetation of suitable scale for the district and setting.
- I. Agricultural exemption: In addition, the exemption pertaining to solar energy systems also exempts agricultural uses from zoning regulations that would otherwise apply. Thus, when the majority of the power from a solar energy system (or a wind turbine) is integral to farm production, construction and operation of the system would be covered by the exemption.

§ 210-37. Landscape standards for parking lots and screening and buffer areas.

- A. It is the objective of the Town of Union Vale in adopting these landscape standards for parking lots, screening and buffer areas to preserve the natural character of the community through appropriately designed and maintained setback and yard areas while accommodating multifamily and other nonresidential developments, including parking lots and accessory structures appurtenant thereto.
- B. The Town's specific goals in implementing the below landscape standards for all parking spaces except those appurtenant to either a single- or two-family dwelling and its accessory uses are as follows:

ZONING

- (1) Provide natural visual screening of parking areas and along property boundaries to preserve the existing visual quality of adjacent lands.
- (2) Reduce surface storm water runoff and minimize soil erosion through the natural filtering capability of landscaped areas.
- (3) Provide natural buffers that provide suitable habitat for wildlife and reduce noise and glare.
- (4) Moderate the microclimate of parking areas by providing shade, absorbing reflected heat from paved surfaces and creating natural windbreaks.
- (5) Enhance the overall visual quality of new development by providing a variety of indigenous plant materials that are consistent and compatible with the existing natural vegetation of the area.

C. Design standards.

- (1) Parking lots.
 - (a) All requirements of §210-25 shall be met for all off-street parking and loading areas.
 - (b) Off-street parking and loading areas shall be curbed and landscaped with appropriate trees, shrubs and other plant materials and ground cover, as approved by the Planning Board, based on consideration of the adequacy of the proposed landscaping to assure the establishment of a safe and convenient and attractive parking facility needing a minimum amount of maintenance, including plant care, snowplowing and the removal of leaves and other debris.
 - (c) At least one tree not less than three-inch caliper measured at breast height at the time of planting shall be provided within any such parking area for each eight parking spaces. In all off-street parking areas containing 20 or more parking spaces, at least 20% of the interior of the parking area shall be curbed and landscaped with trees, shrubs and other plant material.
 - (d) In the case of larger parking areas for more than 40 cars, raised planting islands at least 12 feet in width shall be provided to guide vehicular movement and to separate opposing rows of parking spaces so as to provide adequate space for plant growth, pedestrian circulation, and vehicle overhang. Such raised planting islands and the landscaping within them shall be designed and arranged in such a way as to provide vertical definition to major traffic circulation aisles, entrances and exits, to channel internal traffic flow and prevent indiscriminate diagonal movement of vehicles and to provide relief from the visual monotony and shadeless expanse of a large parking area. Curbs of such islands shall be designed so as to facilitate surface drainage and prevent vehicles from overlapping sidewalks or other pedestrian ways and damaging plant materials.
 - (e) No obstruction to driver vision shall be erected or maintained on any lot within the triangle formed by the street line of such lot, the outer edge of the access driveway to the parking area and a line drawn along such street and access drive 30 feet distant from their point of intersection.
 - (f) All self-propelled equipment employed in parking area and other site maintenance, including all accessories thereto, shall be stored in enclosed structures, which structures shall conform to the architectural theme of the development.

ZONING

- (2) Screening and buffer areas.
- (a) All portions of multifamily and nonresidential properties which are not used for buildings, structures, off-street parking and loading areas, pedestrian areas or similar appurtenant features shall be suitably landscaped and permanently maintained with planting of trees, shrubbery and ground cover, as approved by the Planning Board as part of the site plan, so as to minimize erosion and storm water runoff and harmoniously blend such uses with the rural residential character of the Town as a whole.
 - (b) On all properties developed for multifamily or nonresidential use, a landscaped buffer area shall be required to provide for visual or physical year-round separation between abutting and potentially incompatible land uses. The buffer shall be adequate to screen and protect neighboring residential properties from the view of uses and parking areas on the site. The buffer area shall be a portion of the required yard along any lot line abutting or directly across the street from a lot in a residential district. The buffer area shall be at least 25 feet in depth and consist of a combination of mature canopy and understory plantings to provide immediate screening.
- D. Plan submission requirements. Adequate plans for the installation of required fences, screens and landscaping shall be submitted and reviewed by the Planning Board in accordance with the site plan and special permit review and approval procedures set forth in Articles VI and VII, respectively, of this chapter. The retention and enhancement of existing vegetation, the introduction of substantial new vegetation and the introduction of earthen berming shall be considered the preferred means to satisfy screening requirements, with the use of wall-type fencing deemed less appropriate to the rural character of the Town of Union Vale.
- E. Maintenance requirements. Any required fences, screens and landscaping, installed in accordance with this chapter shall, as a condition of the certificate of occupancy, be maintained in good order to achieve the objectives stated herein. Failure to maintain in a skillful manner or to replace as may be necessary either dead or diseased landscaping or damaged or otherwise deteriorating fencing shall be considered a chargeable violation of this chapter. All plant materials that perish within five years of planting shall be replaced and replanted in kind by the applicant. The Town Planning Board may require a performance bond to ensure long term maintenance of all required landscaping. When required, a performance guaranty (performance bond or escrow deposit) shall ensure replanting or replacement of any plant material that has perished within five years of planting, with this performance guaranty to be in an amount and form satisfactory to the Town Attorney and the Town Board, with recommendation thereon provided by the Planning Board and the Town Engineer. The amount of said performance guaranty, although established on a case-by-case basis, shall be within a range specified in the fee schedule established and annually reviewed by the Town Board.

§ 210-38. Required screening for nonresidential uses.

Any enclosed or unenclosed storage, business, commercial or light industrial use permitted by this chapter shall be provided with a fence, screening by existing plant materials and/or introduced landscaping sufficient to obscure the view of such use from adjoining properties in residential zoning districts and public rights-of-way.

- A. Any use which is not conducted within a completely enclosed building, including but not limited to either a storage or contractor's yard, and parking, loading and service areas of all descriptions, and which use abuts or is located within a residential zoning district or fronts a

ZONING

public right-of-way shall not be located within the required front yard and shall be obscured from view from such residential zoning districts and public rights-of-way in an effective manner.

- B. Adequate plans for the installation of required fences, retention of natural plant materials and introduction of landscaping shall be reviewed by the Planning Board in accordance with the provision of Articles VI and VII of this chapter regarding the special use permit and site plan review procedures. The retention and enhancement of existing vegetation, the introduction of substantial new vegetation, and the introduction of earthen berming shall be considered the preferred means to satisfy these screenings.
- C. Any required fences, retained natural plant materials or landscaping installed in accordance with this chapter shall, as a condition of the certificate of occupancy for the use or premises, be maintained in good order to achieve the objectives stated herein. Failure to maintain in a skillful manner fencing or to replace as may be necessary dead or diseased plant material, including but not limited to introduced landscaping, or damaged or otherwise deteriorating fencing shall be considered a chargeable violation of this chapter.

§ 210-39. Agriculture.

Agriculture, as defined in Article XII, § 210-86A, of this chapter and encouraged under Chapter 124, Farming, of the Town of Union Vale Town Code, shall be permitted in all zoning districts, provided that the following criteria are met:

- A. No fur-bearing animals shall be kept or cage-type poultry operations maintained on a nonfarm parcel in any zoning district.
- B. No horse, cow, hog, beef cattle, sheep, goat or other large farm animal shall be kept on a nonfarm parcel of less than five acres in any zoning district.
- C. Not more than 12 adult or fully grown chickens, ducks, geese or other fowl or birds of any type, rabbits or other small farm animals, or a combination thereof, shall be kept on a nonfarm parcel of less than five acres in any zoning district.
- D. Any structure associated with conduct of agricultural activity on a nonfarm parcel shall comply with the limitations for accessory structures set forth within Article IV, § 210-17, Accessory structures, of this chapter. **[Added 3-11-2010 by L.L. No. 12-2010]**

§ 210-40. Keeping of farm animals on nonfarm parcels.

In any zoning district where agricultural uses are permitted, the keeping of fowl and farm animals on nonfarm parcels of at least five acres but less than 15 acres shall be limited as follows:

- A. The keeping of one horse, cow, hog, beef cattle, sheep, goat or other large farm animal shall be permitted on the first five acres of land with one additional large farm animal authorized on each additional full acre.
- B. The keeping of not more than 12 adult or fully grown chickens, ducks, geese or other fowl or birds of any type, rabbits or other small farm animals, or a combination thereof, shall be permitted on the first five acres of land and on each additional full acre.
- C. No building or other fully or partially enclosed structure or portion thereof housing horses or other large farm animals shall be permitted within 100 feet of any lot line. No fenced area for

ZONING

large farm animals shall be located closer than 100 feet to an existing neighboring residence.

- D. No building or other fully or partially enclosed structure or portion thereof housing more than 12 adult or fully grown chickens, ducks, geese or other fowl or birds of any type, rabbits or other small farm animals, or a combination thereof, shall be located less than 50 feet from any lot line or within 100 feet of the nearest residence.
- E. Manure shall be stored in such a manner that it will not create a health hazard or constitute a public nuisance. Manure shall not be stored less than 100 feet from any lot line, stream or other water body, less than 150 feet from any well or spring providing a source of potable water nor within 200 feet of the nearest neighboring residence.

§ 210-41. Roadside stands.

A roadside stand, as defined in Article XII, § 210-86A, of this chapter, shall as set forth within the District Schedule of Use Regulations be authorized by special use permit in the RD10, RA5 and RA3 Districts as a seasonal accessory use related to the agricultural activity occurring on either a farm or a nonfarm parcel, provided that:

- A. The total floor area of the roadside stand shall not exceed 40 square feet.
- B. The roadside stand is located a minimum of 20 feet from any street or highway right-of-way line.
- C. The roadside stand shall be solely for seasonal display and sale of agricultural products grown principally on the premises or, in limited quantity, elsewhere by the operator of the roadside stand or other occupant of the premises.
- D. Signage shall be limited to a single sign, nonpermanent but securely mounted, not greater than six square feet in area and located not less than five feet from any street or highway right-of-way line.
- E. Upon cessation of the use for more than one calendar year, the roadside stand shall be removed from the premises or moved to a location thereon where it may be adaptively used as a legal accessory structure.

§ 210-42. Farms, farm operations and related uses.⁶ [Amended 3-11-2010 by L.L. No. 12-2010]

- A. The operation of a farm and the conduct of generally accepted agricultural and farm management practices, each as defined in Article XII, § 210-86A, of this chapter, shall be permitted in all zoning districts in accordance with Chapter 124, Farming, of the Code of the Town of Union Vale. This authorization shall be specifically construed to include the following uses:
 - (1) The conduct of agriculture, as defined in the aforementioned § 210-86A of this chapter.
 - (2) The production of farm products, as defined in the aforementioned § 210-86A of this chapter.
 - (3) The retail sale of farm products at a roadside stand as set forth in above § 210-41 of this article and limited to the extent provided therein.
 - (4) The maintenance of a farm operation, as defined in the aforementioned § 210-86A of this chapter.

ZONING

- B. Housing for farm principals and employees shall, as set forth in the District Schedule of Use Regulations, be authorized by special use permit as an accessory use on a farm parcel in all zoning districts, except the Airport (A), Neighborhood Commercial (NC) and Town Center (TC) Districts, in accordance with Chapter 124, Farming, of the Code of the Town of Union Vale, and the below standards:
- (1) The housing shall be provided exclusively for either seasonal workers or for farm principals and employees, and the families of such farm principals and employees, who gain their primary income from employment on the farm parcel by the host farm on a full-time year-round basis.
 - (2) The housing may consist of the following housing types: single-family dwellings, including mobile homes; two-family dwellings and multiple dwellings.
 - (3) The housing shall comply with the following requirements:
 - (a) The housing shall be supported by adequate water supply and sewage disposal facilities in accordance with the standards of the Dutchess County Health Department.
 - (b) The housing shall be in compliance with the applicable provisions of the New York State Uniform Fire Prevention and Building Code and all other applicable laws, ordinances and regulations applicable to either building construction or maintenance of farm labor housing.
 - (c) If either intended for seasonal use or in the form of a mobile home, the housing shall be located on the farm parcel no closer to the front property line or any other street line than the principal farm dwelling and shall meet all other minimum setback requirements for a principal dwelling in the zoning district as set forth in the District Schedule of Area and Bulk Regulations found at Article IV, § 210-11, of this chapter. Such housing shall, to the extent practicable, additionally be screened by vegetation and/or landform from adjacent properties and public rights-of-way.
 - (d) If intended for seasonal use or in the form of a mobile home, such housing shall be immediately moved from the site upon cessation of farm operations and may not be occupied for nonfarm purposes. The property owner shall specifically acknowledge, in writing, this requirement prior to the issuance of a building permit or certificate of occupancy for the intended building or use.
 - (e) In all other cases, each house site and related water supply and sanitary sewage facilities shall be located so that the house lot could be legally subdivided from the farm parcel and occupied as a residential dwelling in strict accordance with Chapter 192, Subdivision of Land, of the Town of Union Vale Town Code, this chapter and the applicable regulations for water supply and sanitary sewage facilities administered by the Dutchess County Health Department.
- C. The conduct of a farm industry, as defined in Article XII, § 210-86A, of this chapter, shall, as set forth in the District Schedule of Use Regulations, be authorized by special use permit as an accessory use on a farm parcel in the RD10, RA5, RA3, and TC Districts, provided that:
- (1) The scale of the farm industry shall be clearly subordinate to the farm operation and must be discontinued immediately upon cessation of the farm operation unless otherwise authorized as a permitted principal or accessory use, i.e., a home occupation, within the zoning district, in which event all requirements applicable to the permitted principal or accessory use would have to then be met.

ZONING

- (2) The farm industry shall be conducted through the primary use of buildings, equipment and other facilities integral to the farm operation.
- (3) The farm industry shall be operated by the farm owner and involve as outside employees only those otherwise engaged in the agricultural operation to which the farm industry is subordinate.
- (4) Permitted farm industry uses.
 - (a) The farm industry may include one or more of the following on-site uses, provided that the general performance standards otherwise set forth in Article V, § 210-24, of this chapter for nonresidential and nonagricultural uses are met and the use is conducted, to the extent practicable, in an enclosed structure appurtenant to the farm operation:
 - [1] Welding.
 - [2] Agricultural machinery repair.
 - [3] Woodworking.
 - [4] Tack and harness repair, horseshoeing and blacksmith work.
 - [5] Dressing of game.
 - [6] Firewood preparation and sales.
 - [7] Processing of locally produced agricultural products.
 - [8] Veterinarian's office and/or animal hospital.
 - [9] Marine, recreational vehicle, classic automobile and related seasonal storage.
 - (b) Subject to compliance with the aforesaid general performance standards, the farm industry may further include the business and equipment/ material storage functions associated with the following uses, provided that such storage functions are wholly enclosed or effectively screened by intervening landform and vegetation throughout all seasons of the year from neighboring residential properties and public rights-of-way:
 - [1] Timber harvesting; commercial logging.
 - [2] Excavation.
 - [3] Landscaping.
 - [4] Grounds maintenance.
 - [5] Animal breeding.
 - (c) A separate certificate of occupancy shall be required for the farm industry activity with the farm industry use not deemed authorized by the mere presence of the farm, i.e., the agricultural and related principal residential use occurring on the premises. As a condition precedent to the issuance of such certificate, the property owner shall specifically acknowledge, in writing, the requirement that the accessory farm industry cease operation immediately if discontinuance of the farm use to which such farm

ZONING

industry is accessory should occur.

D. To the extent any clearing and grading of land, any construction of agricultural buildings and other structures, or the installation of any farm-related improvements may require an approval by the Planning Board or other agencies of the Town, it shall be the policy of the Town to integrate, to the extent practicable, required review and approval processes under this chapter and other Code chapters, including but not limited to Chapter 105, Building Construction and Fire Prevention, Chapter 122, Erosion and Sediment Control, and Chapter 135, Flood Damage Prevention. In the case of any requirement for site plan review and approval pursuant to Article VII of this chapter, the below expedited agricultural site plan review and approval process shall be employed by the Planning Board:

- (1) The applicant shall submit the required application form and fee, including the name and address of the applicant, any professional advisors, the owner of the property, and accompanied by written authorization for any parties who may be serving as agents before the Planning Board.
- (2) The applicant shall submit an existing conditions sketch of the parcel on a location map (such as a copy of a survey or tax map) showing the boundaries and dimensions of the parcel of land involved and identifying contiguous properties and any known easements or rights-of-way and roadways. On this map, the applicant shall also show the existing features of the site, including land and water areas, water supply and/or sanitary sewage systems and the approximate location of all existing structures on or immediately adjacent to the site.
- (3) The existing conditions sketch shall either be accompanied by a second sketch depicting the proposed location and arrangement of buildings and uses on the site, including access and egress, parking and circulation, or this information shall be overlain on the existing conditions sketch.
- (4) The proposed conditions sketch shall be accompanied by a sketch depicting any proposed buildings or structures, including their exterior dimensions and elevations of their front, side and rear views.
- (5) The above sketches shall be accompanied by a narrative description of the intended use and the proposed building(s) and/or structure(s), including any proposed changes in existing topography and natural features of the parcel intended to accommodate the proposed changes in topography.
- (6) If any buildings or structures are to be placed within 100 feet of a stream, wetland or other water resource, additional information as required pursuant to Article V, § 210-29, and, as applicable, § 210-48, of this chapter shall be provided.
- (7) If the intended work exceeds the thresholds set forth within Town Code Chapter 122, Erosion and Sediment Control, for requirements of a stormwater pollution prevention plan (SWPP), additional information shall be submitted in accordance with the requirements set forth within said Chapter 122.
- (8) If the intended work involves alteration of land within a FEMA-designated floodplain, additional information shall be submitted in accordance with the requirements of Town Code Chapter 135, Flood Damage Prevention, and Article V, § 210-30, of this chapter.
- (9) Plans or drawings of any buildings or structures stamped and sealed by a licensed design professional shall be required only when the proposed improvements are not subject to the

ZONING

exceptions stated in New York State Education Law § 7209(7)(b) or such plans or drawings are required by the Code Enforcement Officer in the administration of Town Code Chapter 105, Building Construction and Fire Prevention.

- (10) Upon receipt by the Planning Board of the above information, the agricultural site plan application will be referred to the Dutchess County Department of Planning and Development in accordance with Article VII, § 210-65B(3), of this chapter, if applicable, prior to site plan approval. The Planning board may cause the submission to be reviewed by its consultants and conduct a public hearing on the proposed site plan, depending upon the nature of the application and the degree of public interest. Action by the Planning Board shall follow the procedures enumerated in Article VII, § 210-65F, of this chapter.

§ 210-43. Outdoor storage and parking of commercial vehicles on residential lots.

Neither more than one commercial vehicle in excess of 20 feet in length nor more than a total of two camping or other trailers, boats or motorized recreational vehicles of any type may be stored outside on a lot in a residential district. All such outdoor storage shall occur as inconspicuously as possible on the lot and may not occur within the minimum required front yard. No such commercial vehicle shall be stored within 100 feet of an adjoining residential lot line nor shall a camping trailer or boat be stored within 25 feet of an adjoining lot line unless a dense natural vegetative screen is planted and maintained, in which case the above-stated minimum distances may be reduced to 50 feet and 15 feet, respectively.

§ 210-44. Antennas.

Communication towers and pole-mounted or ground-mounted antennas shall be permitted for nonprofit, noncommercial purposes in all zoning districts, provided that:

- A. There shall be no more than one communication tower installed on any lot or parcel on a residential premises which tower may not be installed either closer to the front property line than the principal dwelling on the lot or within any other required yard area.
- B. Any such communication tower shall be not more than 35 feet in height measured to its highest point, including any appurtenances thereto, from the ground elevation at its base and shall be set back a distance not less than the height of the tower plus an additional 10 feet from any lot line, or as may be more strictly regulated by § 210-44A above.
- C. The view of any such communication tower shall be screened to the extent practicable by intervening landform or vegetation from adjacent residential properties and those traveling on public rights-of-way.
- D. Any dish antenna, whether attached to a building or installed as a ground- or pole- mounted structure, shall be set back a minimum of 35 feet from any property line. The dish antenna shall, in addition, be at least partially screened by intervening vegetation or landform from adjacent property lines or public rights-of-way to the extent practicable and without adversely affecting the operation of the dish antenna.
- E. Furthermore, no such ground- or pole-mounted dish antenna shall encroach upon the minimum required front yard specified by the District Schedule of Area and Bulk Regulations for the zoning district.
- F. As an exception and in consideration of applicable Federal Communications Commission (FCC) regulations, a ground- or pole-mounted dish antenna may be located within the

ZONING

minimum required front yard or closer to any other property line than specified in § 210-44D and E above upon submission of reliable documentation to the Zoning Board of Appeals demonstrating that compliance with the standards set forth therein would adversely affect the operation and utility of the dish antenna so as to render it ineffective.

- G. No ground-mounted dish antenna shall exceed 12 feet in diameter or 15 feet height measured from its highest point to the ground elevation at its base.
- H. No building or roof-mounted antenna shall exceed four feet in diameter or extend, as measured from its highest point, beyond either a height of 35 feet or more than six feet above the highest point in the roof of the building to which it is attached, whichever is the more restrictive.
- I. Any ground- or pole-mounted antenna shall be:
 - (1) Properly anchored, adequately grounded and connected to its receiver by underground wiring.
 - (2) Designed and located, to the extent practicable, to minimize visual impact on adjacent property and public rights-of-way, with black mesh preferred for dish antennas due to its significantly reduced visual effect.

§ 210-45. Temporary buildings and uses.

- A. Temporary buildings. Temporary buildings shall be used for construction or development purposes only. Such buildings shall not be used as sales offices or as places for human habitation. No such building may be sited prior to the issuance of a building permit or subdivision plat approval, as may be applicable to a realty subdivision project, and shall be removed within 30 calendar days of the completion of construction of the development project. The above notwithstanding, no such temporary building shall be in place for a period of more than two calendar years and its removal shall be considered a condition precedent to issuance of any final certificate of occupancy for the development project.
- B. Temporary open storage facility. No temporary storage facility shall be maintained within any district, except as accessory to an approved construction site where authorized work is being diligently pursued.
- C. Carnivals, fairs, circuses and other events. Nothing in this chapter shall be construed as prohibiting a church, school, civic association, or similar nonprofit organization from holding a fair, carnival, circus, flea market, horse show or similar event for a temporary period not exceeding three calendar days upon its premises and shall not have more than two such events within one calendar year, the profit from which event is for the sole benefit of said applicant or other designated noncommercial beneficiary, or as requiring a permit therefor. Upon specific request, the Code Enforcement Officer may, in accordance with the District Schedule of Use Regulations, further issue a permit to any such organization located in the Town of Union Vale to hold such an event upon certain premises other than those of the applicant.
- D. Garage, yard and barn sales. Nothing in this chapter shall be construed as prohibiting private garage, yard and barn sales or requiring the issuance of a permit therefor, provided that the following standards are met:
 - (1) No such sale shall last longer than three consecutive calendar days.
 - (2) No premises shall be the location of more than two such sales within one calendar year.

ZONING

- (3) All sales shall be conducted on the owner's property. The above notwithstanding, multiple-family or neighborhood sales are permitted, provided that the sale is held on the property of one or more of the participants.
- (4) No goods purchased for resale may be offered for sale.
- (5) No consignment goods may be offered for sale.
- (6) No directional or advertising sign associated with the sale shall exceed four square feet in area.
- (7) No directional or advertising sign shall be displayed more than 24 hours prior to the sale, and each such sign shall be removed immediately upon completion of the sale.

§ 210-46. Development within the Hamlet (H) District.

The Zoning District Map set forth in Article II, § 210-6, of this chapter delineates the boundaries of the Hamlet (H) District and the District Schedule of Use Regulations found at Article III, § 210-10, establishes opportunity for an appropriate mix of residential and small-scale retail, commercial, community facility and personal service uses therein. In order to ensure the inclusion of these nonresidential uses will vitalize the Hamlet District and enhance its overall character without diminishing either its viability as a residential area or the integrity of its historic resources, the Town has set forth the additional regulations which follow to supplement the underlying development parameters for the District, including the use and area and bulk standards set forth with the District Schedule of Use Regulations and the District Schedule of Area and Bulk Regulations, respectively.

- A. Except for church or other place of religious worship and boarding stable, no use authorized by special use permit shall occupy more than 1,500 square feet of gross floor area, including customer, client or guest space and related storage and other supporting facilities.
- B. Any development, including the conversion of an existing principal or accessory structure to accommodate authorized nonresidential use, shall be found by the Planning Board through its consideration of a certificate of appropriateness to be consistent with the following standards and all other pertinent requirements of this chapter:
 - (1) Any alteration of, or addition to, an existing structure shall respect the inherent integrity of the structure and the prevailing architectural character of the Hamlet District.
 - (2) All new structures or additions to existing structures shall be architecturally compatible with the existing structures.
 - (3) Any intended demolition of an existing structure shall be determined either to be of no adverse effect on the overall character of the Hamlet District or without reasonable alternative, including consideration of the relocation of the structure within the parcel, elsewhere within the Hamlet District or outside the District.
 - (4) Any development shall respect the sensitive nature of the Sprout Creek and, to the greatest extent practicable, maintain a natural buffer area of 100 feet between the closer stream bank and any structures, parking areas and supporting infrastructure.
 - (5) Any signage which may be installed shall be consistent with the sign standards set forth at Article V, § 210-26, of this chapter and, notwithstanding any other provision thereof, shall be either of wood or etched in stone.

ZONING

- (6) Required parking and other supporting improvements of a utilitarian nature shall comply with the standards otherwise set forth at Article V, § 210-25, and elsewhere within this chapter and shall further be sited as inconspicuously and screened by landscaping to the extent practicable.

§ 210-47. Development within Airport (A) District and Airport Overlay (A-O) District.

The Town of Union Vale has recognized through its establishment at Article II, § 210-5, of this chapter of both the Airport (A) District and the Airport Overlay (A-O) District and the delineation of such districts on the Zoning District Map set forth in Article II, § 210-6 herein, both the unique land use concerns and development opportunities associated with the presence of an active airport facility within the Town. In order to balance the purposes stated below in § 210-47A, the Town has set forth the additional regulations within the following § 210-47B through D of this section to supplement the other pertinent provisions of this chapter.

A. Purposes. Regulations and other special requirements pertaining to the Airport (A) and Airport-Overlay Districts have been established so as to balance the following purposes:

- (1) To encourage continuing private and public investment at Sky Acres Airport to ensure that the airport can be operated and maintained as a safe and functional airport in accordance with Federal Aviation Administration (FAA) standards for such a general aviation facility.
- (2) To authorize as part of the airport development those accessory uses that are set forth on the approved facility master plan and contribute to its convenience for pilots and other persons using the airport.
- (3) To authorize as either coprincipal uses of the airport parcel or as a principal use of other parcels within the Airport District development of those facilities and business enterprises uniquely dependent upon location at or adjacent to an airport.
- (4) To control development within the Airport District to avoid, to the extent practicable, interference by either the airport, its authorized accessory uses or other authorized airport-related principal uses with use and enjoyment of their properties by owners of adjacent residential properties and/or residentially zoned lands.
- (5) To ensure to the extent practicable as an integral part of the Town's land use and development review and approval processes that those acquiring property within the vicinity of Sky Acres Airport, and most particularly those considering the acquisition of lands, below the FAA-recognized arrival and departure flight tracks for Runways 17 and 35 are aware of the presence of the Airport and provided disclosure to the effect that noise associated with authorized aircraft activity and/or noise and light associated with Airport operations may be routinely experienced on their property.

B. Authorized uses. In accordance with the aforesaid purposes, the following uses are authorized within the Airport District:

- (1) As accessory uses, each of which uses shall be subject to site plan approval in accordance with the procedure and standards set forth within Article VII of this chapter:
 - (a) As accessory uses directly related to and on the same parcel as the principal permitted airport use:

[1] Parking and loading area.

ZONING

- [2] Emergency services facilities.
 - [3] Aircraft tie-downs.
 - [4] Aircraft hangars for the storage of a single aircraft, typically a T- hangar.
 - [5] Fuel storage and sales exclusively in support of airport activity.
 - [6] Administrative office in support of airport operations.
 - [7] Airport maintenance shop facilities.
 - [8] Coffee shop or similar food service establishment, not to exceed seating for 20 persons.
 - [9] Retail shop for aviation-related supplies, accessories and gifts, not to exceed 1,000 square feet of gross building floor area.
 - [10] Pilot's lounge, locker room and related facilities, not to include overnight lodging.
 - [11] Signage.
 - [12] On-site utility services.
 - [13] Communications facilities essential to airport operations.
 - [14] Satellite dish antennas.
- (b) As accessory uses directly related to and on the same parcel as any other principal permitted use within the Airport District:
- [1] Parking and loading facilities.
 - [2] Aircraft tie-downs.
 - [3] Signage.
 - [4] On-site utility services.
 - [5] Satellite dish antennas.
- (2) As either coprincipal uses of the airport parcel or as a principal use of other parcels within the Airport District, each of which airport-related uses shall be subject to the issuance of a special use permit and site plan approval in accordance with the procedures and standards set forth within Articles VI and VII, respectively, of this chapter:
- (a) Office, trade shop and light manufacturing uses, provided that any such use shall be conducted wholly indoors and shall occupy, whether individually or in combination with another authorized office, trade shop or light manufacturing use, not more 10,000 square feet of gross floor area on a lot, parcel or premises.
 - (b) Aircraft hangars designed to accommodate more than a single aircraft.
 - (c) Aviation schools and flight and ground instruction.
 - (d) Airplane rental and sales.
 - (e) Airplane maintenance and repair shop facilities.

ZONING

- (f) Airplane salvage and/or fabrication, repair and testing of aircraft equipment and parts, including associated storage, not to exceed either 20,000 square feet of gross building floor area or 20,000 square feet of gross land area used as an outdoor storage yard.
 - (g) Office and research buildings occupied principally in support of other Airport District uses, not to exceed 10,000 square feet in gross building floor area.
 - (h) Restaurant, not to exceed seating for 50 persons and with direct access to airport facilities.
- C. Required setback for airport district uses from residentially zoned lands.
- (1) Except for accessory signage, no development or use of buildings and/or lands for airport or airport-related uses permitted within the Airport District pursuant to the District Schedule of Use Regulations, whether such development or use is classified as a principal use or an accessory use, shall be located within 150 feet of the boundary of any residential zoning district.
 - (2) The above notwithstanding, a taxiway may be developed across the 150 foot wide buffer area to accommodate the aircraft of owners of residential lots within an airport residential subdivision that may be developed by special use permit on RA3 District lands contiguous to Sky Acres Airport.
- D. Outdoor storage areas. Any outdoor storage area within the Airport District shall comply with each of the following criteria:
- (1) The outdoor storage area shall at all times be confined to the specific lot or parcel area delineated for such purpose on a site plan approved by the Town Planning Board.
 - (2) The outdoor storage area, including related screening, shall be continuously maintained in a neat and orderly manner.
 - (3) The outdoor storage area shall house only those types of parts, equipment or other material set forth in the certificate of occupancy.
 - (4) The outdoor storage area shall be suitably screened throughout all seasons of the year from view from public rights-of-way and neighboring properties either independently or through an appropriate combination of intervening landform, natural vegetation and fencing.
- E. Effect of designation as open development area.
- (1) The following criteria apply to the development and use of buildings and/or lands for either principal and/or accessory uses authorized within the district pursuant to the District Schedule of Use Regulations within any portion of the Airport District which either has heretofore been or may in the future be established by the Town Board as an open development area pursuant to the provisions of § 280-a, Subdivision 4, of the Town Law.
 - (2) Lots within such open development area shall not be required to have either direct access to or frontage on a public roadway. Such lots may gain access to the public roadway via a private roadway and have frontage on a private roadway, provided that such roadway and all private roads are designed and built pursuant to the Town of Union Vale Driveway and Highway Standards (Chapter 111 – Driveways, and Chapter A215 Street Specifications) as may be adopted or amended, is depicted on a subdivision plat approved by the Town Planning Board and installed, owned and maintained in accordance with the

ZONING

below-stated criteria:

- (a) Design criteria shall be as follows:
 - [1] Minimum right-of-way (ROW) or easement width of 45 feet.
 - [2] Minimum cartway width of 22 feet.
 - [3] Minimum stabilized shoulder width of three feet.
 - [4] Minimum foundation course of 12 inches of mechanically compacted gravel.
 - [5] Minimum surface of three inches of asphalt concrete base and two inches of asphalt concrete wearing surface.
- (b) Use, ownership and maintenance agreement. All private roadways shall be designed and built pursuant to the Town of Union Vale Driveway and Highway Standards (Chapter 111 – Driveways, and Chapter A215 Street Specifications) as may be adopted or amended. The private roadway shall be the subject of an agreement establishing terms for its long-term use, ownership and maintenance, such agreement to be first reviewed and deemed satisfactory by the Planning Board and then recorded in the Dutchess County Clerk's office simultaneously with the filing of the approved subdivision plat.
- (c) Dual use of aircraft and roadway vehicles. To the extent such private roadway or part thereof is intended to accommodate the dual movement of aircraft and typical roadway vehicles, a gate or similar control structure satisfactory to the Planning Board shall be provided to ensure that vehicular access to the private roadway or part thereof is strictly limited.
- (d) Application of minimum lot area requirements.
 - [1] Except where deemed necessary by the Planning Board, the minimum lot area and dimensional requirements established for the Airport District within the District Schedule of Area and Bulk Regulations shall not be applied to any lot created and limited by a legally binding instrument enforceable by the Town of Union Vale to a use that would otherwise be deemed an accessory use pursuant to the District Schedule of Use Regulations if located on the parcel developed for airport use.
 - [2] Proposed lot area, frontage, width and depth parameters for such lots shall be reviewed by the Planning Board and minimum acceptable standards established as part of the subdivision plat review and approval process in consideration of factors the Board deems pertinent, including but not limited to the following:
 - [a] The intended purpose of each of the lots.
 - [b] The level of supporting infrastructure either proposed or required pursuant to Occupational Safety and Health Administration (OSHA), Health Department or other regulations.
 - [c] Conformance to minimum requirements of the New York State Uniform Fire Prevention and Building Code.
 - [d] The relationship of the affected land area to other lots or improvements as

ZONING

either simultaneously proposed by the landowner or otherwise described on the master plan for Sky Acres Airport.

- [3] The above procedure notwithstanding and except as may be authorized for intended T-hangar development, no lot created upon authorization of the Planning Board shall contain less than 60,000 square feet or have less than 100 feet of roadway frontage.
- [4] Furthermore, the minimum lot dimension requirements set forth within the District Schedule of Area and Bulk Regulations shall continue to apply to all other lots within the Airport District, whether located within or outside an open development area.
- [5] Minimum yard requirements established for the Airport District within the District Schedule of Area and Bulk Regulations may be modified by the Planning Board during the site plan review and approval process to the extent authorized herein for development of any lot within an open development area:
 - [a] Minimum front, side and/or rear yard requirements may be reduced at the discretion of the Planning Board or wholly eliminated to accommodate the siting or nesting of that type of individual aircraft hangar commonly known as a T-hangar.
 - [b] Minimum front, side and/or rear yard requirements for other authorized permitted uses may be reduced at the discretion of the Planning Board to 50 feet, 35 feet and 35 feet, respectively, except where a greater setback is required to conform to the provisions of § 210-47B above.
- [6] The maximum building coverage standard of 25% established for the Airport District within the District Schedule of Area and Bulk Regulations may be increased at the discretion of the Planning Board and to the extent such may apply, the minimum open space requirement of 35% may also be decreased by the Planning Board in order to accommodate the siting or nesting of T-hangars.

F. Design considerations and disclosure requirements within the Airport Overlay (A-O) District. The following criteria shall be applied by the Planning Board during its review of any application for subdivision plat or site plan approval or issuance of a special use permit for the proposed development of a residential subdivision, or for the establishment of residential or institutional uses and community facilities, services and uses, within the Airport Overlay (A-O) District:

- (1) To the extent practicable, through the employ of the conservation subdivision or residential cluster subdivision technique and other efforts at modified site configuration, the Planning Board shall encourage, but not mandate, the applicant to carry out development at the location within the property least impacted by either the FAA-recognized arrival and departure flight tracks for Sky Acres Airport Runways 17 and 35 and/or the property's otherwise proximate location to the Airport.
- (2) In all cases, require there be a conspicuous note, supplemented by graphic depiction where pertinent, placed on the subdivision plat or site plan advising generally of the presence of the property within the Airport Overlay (A-O) District and explicitly of the relationship of the property to the FAA- recognized arrival and departure flight tracks for Sky Acres Airport Runways 17 and 35 and/or the property's otherwise proximate location

ZONING

to the Airport. Said note shall further state that due to such location users of the property should routinely expect to experience noise associated with authorized air traffic and/or noise and light associated with Airport operations.

§ 210-48. Development within Environmental Resource Overlay (ER-O) District.

- A. The Town of Union Vale declares that the protection of its surface and ground water resources, including its wetlands, streams and aquifers, historic and cultural resources and lands within certified agricultural districts, including important farmlands, is a vital public purpose and that, to the extent practicable, future development of the Town should minimize alteration of, and construction within and immediately adjacent to, these significant environmental resource areas.
- B. In furtherance of this objective, Article II, § 210-5, of this chapter established the Environmental Resource Overlay (ER-O) District as an overlay district in which the additional regulations set forth in this section supplement, but do not replace, the use regulations and the area and bulk regulations otherwise applicable to the underlying zoning district or as may further be in effect due to the presence of certain lands within the Flood-Fringe Overlay (FF-O) District. If there is any conflict between the requirements of the ER-O District and either the underlying zoning district or the FF-O District, the more restrictive requirement or requirements shall apply.
- C. In considering any application for the issuance of a special use permit or the approval of a site plan in accordance with Articles VI and VII, respectively, of this chapter or any application for approval of a subdivision plat pursuant to Chapter 192, Subdivision of Land, of the Code of the Town of Union Vale, the Planning Board shall, to the maximum extent practicable, ensure that heretofore undeveloped lands delineated within the Environmental Resource Overlay (ER-O) District set forth in § 210-5 of this chapter be maintained as perpetual open space and as an appropriate setting or context for the historic buildings located thereon or in the vicinity thereof, directing allowable new development onto other lands, if any, held by the applicant outside the ER-O District.
- D. The Environmental Resource Overlay (ER-O) District Map set forth pursuant to this section complements the above-cited Zoning District Map and, as set forth within Article II, § 210-6, of this chapter is annexed thereto and considered to be an appurtenant part thereof. The former delineates directly or through reference to available mapping from county, state or federal planning agencies and jurisdictional authorities more precisely the areas subject to the more specific regulations set forth below based upon the presence of the captioned environmental resource.
 - (1) Wetlands and streams. The protection of wetlands and stream corridors is essential to the maintenance of water quality and the sustenance of wildlife habitat. It is, therefore, deemed necessary for the Town of Union Vale to create adequate buffers to protect those wetlands and streams from development encroachment, erosion and water quality degradation caused by either surface or subsurface runoff.
 - (a) Regulated wetlands under this chapter consist of the following:
 - [1] All New York State Freshwater Wetlands, Classes I, II and III, as delineated by the NYS Department of Environmental Conservation pursuant to Article 24 of the Environmental Conservation Law, including but not limited to those depicted on a 1987 map entitled NYSDEC Freshwater Wetlands, Verbank Quadrangle.

ZONING

- [2] All Federal Wetlands subject to jurisdiction by the U.S. Army Corps of Engineers pursuant to § 404 of the Clean Water Act, including but not limited to those depicted on a 1989 map entitled National Wetland Inventory, Verbank Quadrangle.
- (b) Regulated streams under this chapter consist of the following:
- [1] All classified streams subject to regulation by the New York State Department of Environmental Conservation pursuant to Article 15 of the Environmental Conservation Law as set forth on the NYSDEC Waters Index and as depicted on a map entitled NYSDEC Biological Survey, Verbank Quadrangle.
 - [2] Any other streams that may upon recommendation of the Conservation Advisory Council be designated as regulated streams for purposes of this chapter by the Town Board.
- (c) Boundaries; buffers.
- [1] There shall be no construction, filling, excavation, clearing of mature trees, grading or other alteration of the natural landscape or application of fertilizers, pesticides or herbicides beyond the level of generally accepted agricultural practices, as endorsed by the New York State Department of Agriculture and Markets, New York State Department of Environmental Conservation and the Federal Environmental Protection Agency, or dumping or disposal of any materials by human beings within 100 feet of either the boundary of any wetland or either of the normal stream banks of any stream regulated hereunder without the prior issuance of a special use permit by the Planning Board.
 - [2] The above notwithstanding, a natural vegetated buffer of trees, shrubs and grasses not less than 50 feet wide shall in all circumstances be maintained from either the normal stream bank or wetland boundary for all uses and activities except for those dependent upon the recreational use of the stream course or the employ of either the stream course or the wetland as a source of water for emergency or agricultural purposes.
- (d) Application for such special use permit shall be made in accordance with the requirements of Article VI of this chapter. The Planning Board may consult with the Conservation Advisory Council and other persons and agencies in review of the application and may issue the special use permit only upon a specific finding that both of the following criteria are met:
- [1] Prohibition of the proposed use or activity, while desirable in terms of environmental objectives, would be unreasonable as applied to the particular parcel and impose an unreasonable economic burden upon the owner.
 - [2] The Planning Board has been able to define appropriate conditions for attachment to the special use permit to reasonably ensure that the proposed use or activity will not result in erosion or stream pollution from surface or subsurface runoff, diminish the capability of the stream or wetland to function as a drainage catchment, or adversely affect the characteristics of the stream or wetland as a wildlife or aquatic habitat.
- (2) Aquifers and wellheads. It is in the overall public interest to preserve the quality and quantity of the Town's groundwater resources to ensure a safe and adequate water supply

ZONING

for present and future generations. Accordingly, the Town of Union Vale seeks to protect groundwater resources currently in use and those aquifers having potential for future use as substantial water supplies through delineation of both aquifers and their secondary protection zones and wellhead protection areas to the extent practicable, through reference to other maps and data sources as pertinent, on the aforementioned Environmental Resource Overlay (ER-O) District Map and the imposition of the regulations set forth herein:

- (a) Within both the aquifer and wellhead protection areas, including any delineated secondary protection zone, the following uses and activities shall be specifically deemed to be prohibited uses and activities except as may be clearly incidental and accessory to a permitted agricultural or residential land use:
 - [1] The disposal, storage or treatment of hazardous and solid waste material, not to be construed as the maintenance of a composting pile accessory to a residence or other use.
 - [2] Outdoor storage of any materials that, in the opinion of the Code Enforcement Officer, could contaminate groundwater resources.
 - [3] Gasoline stations.
 - [4] Cemeteries.
 - [5] The cooking, distillation, processing and incineration of animal or vegetable products.
 - [6] The production of corrosive and noxious chemicals.
 - [7] The production, processing and storage of coal, coal tar, petroleum and asphalt products.
- (b) All other uses and activities that are permitted in the applicable underlying zoning district shall be permitted in the aquifer and wellhead protection areas, provided that the requirements set forth below are met:
 - [1] Any proposal to install an underground storage tank for any commodity shall be granted only upon demonstration that aboveground installation is shown to be unreasonable and upon securing of a permit therefor from the Town Code Enforcement Officer upon consent of the Union Vale Fire District.
 - [2] All underground tanks shall be double-hulled steel or fiberglass encased in a concrete vault that includes access for periodic visual inspection.
- (c) Special use permits.
 - [1] Any application for the issuance of a special use permit or approval of a site plan for any multifamily residential, institutional, commercial, light industrial or similar use within the aquifer and wellhead protection areas shall be accompanied by a detailed statement fully describing the proposed use and operation and including certification by the project sponsor that none of the prohibited uses or activities set forth above will occur on the premises.
 - [2] The design and installation of any on-site sanitary sewage disposal systems for a multifamily residential, institutional, commercial, light industrial or similar use

ZONING

within the aquifer and wellhead protection areas must be further accompanied by certification by a licensed professional engineer that such disposal system will not discharge sewage effluent or other pollutants entering the disposal system into the aquifer.

- (d) Each application submitted to the Town for the establishment of a use or the development of land and/or buildings or other structures within the aquifer and wellhead protection areas shall include identification of any necessary federal, state or county permits, copies of all such permit applications and copies of all related correspondence between the applicant and the permitting agency or agencies.
- (3) Historic and cultural resources. The Town of Union Vale seeks to preserve its historic buildings, cultural resources, cemeteries, stone walls and other historic features, including views from its roadways and other public areas, by channeling intensive new development away from those areas and onto lands that do not have as much scenic and historic significance. Where development occurs in sensitive historic and cultural resource areas, the Town desires to assure that such development is consistent with the objective of maintaining the existing setting and historic character of such areas to the extent practical.
- (a) In furtherance of this objective, the Town has conducted an initial community resource survey to identify historic and cultural resources worthy of preservation. Based on the survey, the Town Board may provide by resolution for amendment of the Town Master Plan as first adopted in October 2001 to provide for the listing and/or other designation of certain locally significant historic and cultural resources. Any such designated historic and cultural resources, as noted on the aforementioned Environmental Resource Overlay (ER-O) District Map, shall be afforded special protection under this section.
 - (b) The specific areas subject to the regulation under this section include the designated resources and all lands both located within 500 feet of the identified historic or cultural resource and visible from that resource, whether located on the same parcel as the designated resource or on adjacent or other nearby lands.
 - (c) Site plan approval.
 - [1] No new structure, including a single-family dwelling, may be constructed or substantial exterior alteration of existing structures within the regulated area may be undertaken without first obtaining site plan approval and the concomitant issuance of a certificate of appropriateness from the Town Planning Board. Upon receipt of an application for site plan review and approval made in accordance with the requirements of Article VII of this chapter, the Planning Board may consult with the Town Historian and/or the Design Review Committee and other persons and agencies in review of the application.
 - [2] The Planning Board shall be guided by the following principle in its disposition of the application:
 - [a] In order to grant site plan approval and concomitantly issue a certificate of appropriateness for a proposed structure or substantial exterior alteration of a structure visible from and within 500 feet of a mapped historic resource, the Town Planning Board must find that the structure or alteration is architecturally compatible with the surrounding historic or cultural resource(s)

ZONING

and that, to the extent pertinent, the important features of the environmental setting of the resource(s) have been preserved in the site plan. The Planning Board may recommend, in its findings, the execution of a conservation easement or other legal mechanism to assure the maintenance of the intrinsic qualities of an historic or cultural resource and its environmental setting or context.

- (d) Except where emergency action to protect public safety has been deemed necessary by the Code Enforcement Officer, no demolition permit shall be issued for the removal of any structure designated hereunder until the Planning Board has issued a certificate of appropriateness. The Planning Board may only issue such certificate of appropriateness upon determination that no reasonable alternatives, including relocation, exist to the demolition and removal of the structure.
- (4) Scenic areas. The Town of Union Vale recognizes the contribution made by the community's scenic resources to its rural and open space character and finds it important to accommodate growth and development within the Town without unduly impairing its scenic qualities. **[Amended 3-11-2010 by L.L. No. 12-2010]**
 - (a) In furtherance of this objective, the Town Board has identified all lands above 750 feet ASL within the RD-10 District as locally significant scenic areas and may provide by resolution for amendment of the Town Master Plan as first adopted in October 2001 to provide for the geographic depiction and listing or other designation of additional locally significant scenic areas. The aforementioned elevated lands within the RD-10 District and any other additional designated scenic areas, as may be noted on the Environmental Resource Overlay (ER-O) District Map, shall be afforded special protection under this section.
 - (b) Certificate of visual compatibility.
 - [1] No substantial land alteration, including either grading or removal of vegetation affecting more than 1/2 acre of land or timber harvesting affecting five or more acres, or new construction, including a single-family dwelling, associated driveway and infrastructure improvements, and any above-grade accessory structures greater than 400 square feet in building footprint or 20 feet in height, may occur within a designated scenic area without first obtaining a certificate of visual compatibility from the Town Planning Board in addition to all other permits and approvals that may be required from the Planning Board and other Town, county, state or federal agencies.
 - [a] Upon receipt of a complete application for a certificate of visual compatibility, the Planning Board shall issue its determination as to visual compatibility within a period of not more than 62 calendar days and may in the interim consult with the Conservation Advisory Council and other persons and agencies in review of the application and at its discretion conduct a public hearing.
 - [b] A complete application shall include the following:
 - [i] Application form executed by the owners of the property and with any required ministerial attachments as prescribed by the Planning Board;
 - [ii] Existing condition photographs of the site and views of the site from public roadways and/or other public lands;

ZONING

- [iii] A site plan depicting the location of all grading and/or vegetative clearing, and, as pertinent to the proposed undertaking, proposed improvements including buildings, driveways and sanitary sewage disposal areas;
 - [iv] Exterior architectural elevations, including information on colors, textures and materials for siding, roofing and other principal features; and
 - [v] Exterior lighting plan, including location, type and intensity of fixtures.
 - [2] The Planning Board shall be guided by the following principles in its disposition of the application:
 - [a] The Planning Board shall find that, to the extent practicable, all structures to be built and related improvements to be installed on a tract of land that includes land within a mapped scenic area have been sited and clustered so as to diminish to the extent practicable the geographic area modified and to cause the structures and improvements to blend through their proposed location and employ of colors and textures with the natural setting of the scenic area. In particular, structures and other improvements, as may be pertinent, should be determined to not detract through their visible mass, their color and lighting, their location within open meadow areas or their protrusion above ridgelines and other landform backdrops from the scenic character of the area. The Planning Board may recommend, in its findings, the execution of a conservation easement or similar legal mechanism to assure protection of the scenic area upon completion of the structures and related improvements.
 - [b] In the circumstance of applications for subdivision plat approval under Chapter 192, Subdivision of Land, the Planning Board shall encourage, insofar as practical, employ of conservation subdivision, cluster subdivision and related techniques such as requirement for, or voluntary grant of, conservation easement to ensure continuing protection of the scenic area.
- (5) Important farmlands. It is in the overall public interest of the Town of Union Vale to protect the best agricultural lands from development in order to both maintain their availability for productive use and their contribution to the rural, open space and aesthetic qualities of the community. The Town, therefore, seeks to channel development away from such farmland and to permit sufficient flexibility in its zoning to maintain agriculture as a viable industry in the Town.
 - (a) The regulated farmland overlay area as referenced on the aforementioned Environmental Resource Overlay (ER-O) District Map consists of both of the following:
 - [1] Those farmlands designated as "prime farmland" (Classes I and II) by the Soil Conservation Service of the United States Department of Agriculture (USDA) and which have been determined by the Town Board through their inclusion within the aforementioned Environmental Resource Overlay (ER-O) District to be of special significance to the Town, with it noted that a copy of the latest edition of said USDA Soils Map and a listing of those soil types considered either Class I or II is currently on file and shall be so maintained in the office of the Town Clerk.
 - [2] All other lands included within Dutchess County Certified Agricultural District No. 23, with it noted that a copy of the latest edition of said Agricultural District Map as approved by both the Dutchess County Legislature and the New York State

ZONING

Department of Agriculture and Markets is currently on file and shall be so maintained in the office of the Town Clerk.

- (b) In accordance with its authority to mandate conservation subdivision or residential cluster development in its consideration of any application for subdivision under Chapter 192, Subdivision of Land, the Planning Board shall require an applicant for subdivision to cluster lots and install related subdivision improvements, insofar as practical, on those portions of a tract lying outside the regulated farmland overlay area.
- (c) In consideration of any other application for special use permit or site plan approval, the Planning Board shall similarly require that structures and related site improvements, including all impermeable surfaces, be located, insofar as practical, on those portions of a tract lying outside the regulated farmland overlay area.

§ 210-49. Development within Scenic Corridor Overlay (SC-O) District.

- A. In addition to the role of the Environmental Resource Overlay (ER-O) District set forth in prior § 210-48 in protecting certain scenic and historic areas and other significant environmental resources, the Town recognizes the need to extend particular concern to those lands that lie immediately adjacent to the Town's scenic roadways. The view experienced from these roadways contributes significantly to the overall rural character of the Town, an attribute the community seeks to preserve and enhance while accommodating growth and change.
- B. In furtherance of this objective, Article II, § 210-5, of this chapter established the Scenic Corridor Overlay (SC-O) District comprised of the lands adjacent to those scenic roadways that may be designated by either the Town Board pursuant to Chapter 183, Scenic and Rural Roads, or other authority, including but not limited to the New York State Department of Environmental Conservation (NYSDEC), in which SC-O District the additional regulations set forth in this section supplement, but do not replace, either the use and/or area and bulk regulations otherwise applicable to the underlying zoning district or as may be in effect due to the presence of certain lands within either the Flood-Fringe Overlay (FF-O) or Environmental Resource Overlay (ER-O) Districts.
 - (1) The minimum front yard, i.e., front setback requirement, set forth for the applicable zoning district in Article IV, District Schedule of Area and Bulk Regulations, shall be doubled, i.e., increased by 100% for all structures and parking areas located within the Scenic Corridor Overlay (SC-O) District.
 - (2) The open space defined by the required front yard should be managed in a way that preserves significant existing vegetation, specimen plants, landforms and water features; nurtures tree planting and other natural landscaping efforts; preserves stone walls and similar features; preserve agricultural fields and meadows; and ensures both the protection of visual buffers and the prominence of key scenic vistas, including views of historic properties and landscapes.
 - (3) Any necessary intrusions within the open space area shall be reduced to the extent practicable by such measures as the employ of common driveways and shared utility services for building sites that may gain access from the scenic roadway.
 - (4) As stated in the aforementioned Article II, § 210-5, of this chapter, clustering or

ZONING

conservation subdivision development shall be the preferred residential land development technique for lands adjacent to or affecting the overall character of a designated scenic roadway.

- (5) As an alternative to the doubling of the required front setback on a site-specific basis, including in situations of existing noncomplying or irregularly shaped lots where doubling of the front setback might create practical difficulty in the reasonable development of the site, the front setback otherwise applicable in the zoning district may govern, provided that:
 - (a) All structures and/or parking are effectively screened on a year-round basis by existing landform and/or vegetation or by substantial new planting and berming from the public right-of-way, provided that such treatment does not diminish the prominence of key scenic areas including views of historic properties and landscapes.
 - (b) A conservation easement satisfactory to the Planning Board is granted by the landowner to the Town of Union Vale or similarly qualified entity to ensure that the screening will be properly maintained and managed or a similarly binding mechanism provided.

§ 210-50. Commercial extraction.

The Town of Union Vale recognizes that the wise use of sand, gravel, topsoil, rock and other natural mineral resources is necessary and beneficial to the economy of the Town and its neighboring communities. To ensure the compatibility of commercial extraction uses and activities with neighboring land uses and to promote and ensure the proper operation of these areas, including the timely and progressive restoration of extraction sites upon extraction use and activity, the Town has classified "extractive operation, including soil mining" as a special permit use within certain zoning districts, as set forth on the District Schedule of Use Regulations, found at Article III, § 210-10, of this chapter.

§ 210-51. Communication (personal wireless service) facilities and towers.

- A. Objectives. The Town of Union Vale declares it a vital public purpose to control the location, design, installation and operation of communication (personal wireless service) facilities and towers to the extent necessary to carry out the following objectives:
 - (1) To preserve the character and appearance of the Town while simultaneously allowing adequate personal wireless service to be developed.
 - (2) To protect the scenic, historic, environmental, and natural and man-made resources of the community.
 - (3) To provide standards and requirements for regulation, placement, construction, monitoring, design, modification and removal of communication (personal wireless service) facilities and towers.
 - (4) To provide a procedural basis for action within a reasonable period of time on requests for authorization to place, construct, operate or modify communication (personal wireless service) facilities.
 - (5) To preserve property values.

ZONING

- (6) To minimize the total number and height of communication (personal wireless service) towers throughout the community.
 - (7) To locate communication (personal wireless service) towers so that they do not have negative impacts on the general safety, welfare and quality of life within the community, such as but not limited to attractive nuisance, noise and threat of falling objects.
 - (8) To require owners of communication (personal wireless service) towers and other facilities to configure them so as to minimize and mitigate the adverse visual impact of the towers and facilities.
 - (9) To require communication tower sharing and clustering of personal wireless service facilities where possible.
- B. Consistency with federal law. The Town of Union Vale further deems it essential to affect such control, including the regulations prescribed, in a manner consistent with pertinent Federal law, i.e., the Telecommunications Act of 1996 ("The Act"), specifically providing that:
- (1) The regulations do not prohibit or have the effect of prohibiting the provision of personal wireless services.
 - (2) The provisions are not to be used to unreasonably discriminate among providers of functionally equivalent services.
 - (3) The provision does not regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the FCC's regulations concerning such emissions.
- C. Exclusions. In consideration of the above-stated objectives, the Town of Union Vale deems based upon their limited scale and use that the following communication devices shall not be construed to be communication (personal wireless service) facilities or towers for purposes of these regulations:
- (1) Receive-only antennas and satellite dishes maintained for residential use.
 - (2) Any other building-mounted antennas less than 15 feet in height, no part of which exceeds 12 feet in diameter.
- D. In consideration of the above-stated objectives and principles for consistency with federal law and subject to the aforementioned exclusions, no person shall erect, construct or otherwise install a communication (personal wireless service) facility or tower within the Town of Union Vale or cause the major modification of an existing communication facility or tower within the Town of Union Vale, including the addition of a greater number or larger replacement dishes or other equipment except as specifically authorized under an existing special use permit, without first obtaining a special permit from the Planning Board in accordance with the following requirements of this chapter:
- (1) The definitions established in Article XII, § 210-86B.
 - (2) The District Schedule of Use Regulations established pursuant to Article III, § 210-10.
 - (3) The special permit application procedure and administrative provisions set forth for all special permit uses in Article VI, §§ 210-59 and 210-60, respectively.
 - (4) The general standards for all special permit uses set forth in Article VI, § 210-55.

ZONING

- (5) The additional specific standards and requirements for communication (personal wireless service) facilities and towers set forth in Article VI, § 210-57.
 - (6) A communication facility or tower shall be co-located with other existing communication facilities or towers, or on existing structures to serve a specific service area unless such area is a) not yet served by an existing communication tower, or b) the applicant provides proof, during the application process why co-location is not technically feasible.
- E. When a communication (personal wireless service) facility or tower is proposed within any district on lands owned by the Town of Union Vale, the Town Board shall be the reviewing and permitting agency for the special use permit and site plan in accordance with the requirements of this chapter pursuant to 210-21 (D), above.

§ 210-52. Adult uses and related activities.⁷

The Town of Union Vale licenses and regulates adult uses, as defined in Article XII, § 210-86A, of this chapter, and related activities pursuant to Chapter 84, Adult Uses, of the Code of the Town of Union Vale, as adopted on May 11, 2000, and as may be from time-to-time amended. Any use otherwise authorized under this chapter in accordance with the District Schedule of Use Regulations set forth at Article III, § 210-10, herein shall in addition to the provisions of this chapter be subject without exception to the provisions of the aforementioned Chapter 84, Adult Uses.

ZONING
ARTICLE VI

Special Permit Uses

§ 210-53. Requirement for special use permit.

- A. All special permit uses cited in the District Schedule of Use Regulations set forth in Article III of this chapter shall be subject to review and approval by the Planning Board in accordance with § 274-b of the Town Law and the standards, requirements and procedures set forth in this article.
- B. In all cases where this chapter requires special use permit authorization by the Planning Board, an Application for Special Use Permit shall be initially submitted to the Code Enforcement Officer and referred by the Code Enforcement Officer to the Planning Board for its consideration. No building permit or certificate of occupancy may be issued by the Code Enforcement Officer except upon authorization of and in full conformity with plans approved and conditions imposed by the Planning Board.
- C. In accordance with the District Schedule of Use Regulations, certain uses requiring the issuance of a special use permit are additionally subject to site plan review and approval, as described in Article VII of this chapter, or in the instance of those special use permits required to authorize the use of certain residential subdivision and other land development techniques additionally subject to subdivision plat review and approval pursuant to Chapter 192, Subdivision of Land, of the Code of the Town of Union Vale.

§ 210-54. Standards for certain residential subdivision and other land development techniques.

The Planning Board shall apply the below standards in considering special permit authorization of the use of certain residential subdivision and other land development techniques during subsequent subdivision plat review and approval and/or site plan review and approval processes in accordance with Chapter 192, Subdivision of Land, and/or Article VII of this chapter, respectively.

- A. Airport residential subdivision. The Planning Board may by special permit allow the application of airport residential subdivision criteria to a specific parcel in the RA3 District, provided that:
 - (1) The proposed subdivision is consistent with all dimensional parameters for the RA3 District as set forth within the District Schedule of Area and Bulk Regulations found at Article IV, § 210-11, of this chapter.
 - (2) The proposed subdivision, including the intended use of the subdivided lots, is consistent with the definition of "airport residential subdivision" set forth within Article XII, § 210-86A, of this chapter.
 - (3) Application of airport residential subdivision criteria will in the opinion of the Planning Board contribute to achievement of the purposes of the Airport (A) District as set forth at Article V, § 210-47A, of this chapter.
- B. Average density subdivision. The Planning Board may by special permit allow the

ZONING

application of average density subdivision criteria to a specific parcel in the RD10, RA5 or RA3 Districts, provided that:

- (1) The proposed subdivision is consistent with all dimensional parameters for the pertinent zoning district as set forth within the District Schedule of Area and Bulk Regulations found at Article IV, § 210-11, of this chapter, except as modified as to minimum lot area pursuant to § 210-20A(2) therein.
- (2) The proposed subdivision is consistent with all other criteria for an average density subdivision as elsewhere set forth either within Article IV, § 210-20A, or by definition at Article XII, § 210-86A, of this chapter.
- (3) Application of average density subdivision criteria will in the opinion of the Planning Board be beneficial in achieving the intent of the pertinent RD10, RA5 or RA3 District as stated within Article II, § 210-5B, of this chapter.
- (4) To the extent such may be applicable to the subdivision parcel, application of the average density subdivision criteria will in the opinion of the Planning Board be beneficial in achieving the objectives and/or extraordinary standards of the Environmental Resource Overlay (ER-O) and/or Scenic Corridor Overlay (SC-O) Districts as stated within Article V, §§ 210-48 and 210-49, respectively, of this chapter.
- (5) Application of average density subdivision criteria will in the opinion of the Planning Board does not cause any significant adverse effects on the environment that would be either avoided or more fully mitigated were an alternative residential development technique authorized within the pertinent RD10, RA5 or RA3 District employed.

C. Conventional subdivision. The Planning Board may by special permit authorize the application of conventional subdivision criteria to a specific parcel in the RD10, RA5, or RA3 Districts, provided that:

- (1) The proposed subdivision is consistent with the dimensional parameters for the pertinent zoning district as set forth within the District Schedule of Area and Bulk Regulations found at Article IV, § 210-11, of this chapter.
- (2) Application of conventional subdivision criteria will in the opinion of the Planning Board not be inconsistent with the intent of the pertinent RD10, RA5, or RA3 District as stated within Article II, § 210-5B, of this chapter.
- (3) To the extent such may be applicable to the subdivision parcel, application of conventional subdivision criteria will in the opinion of the Planning Board neither inconsistent with the objectives nor inimical to satisfaction of the extraordinary standards of the Environmental Resource Overlay (ER-O) and/ or Scenic Corridor (SC-O) Districts as stated within Article V, §§ 210-48 and 210-49, respectively, of this chapter.
- (4) Application of conventional subdivision criteria will in the opinion of the Planning Board not cause any significant adverse effects on the environment that would be either be avoided or more fully mitigated were an alternative residential development technique authorized within the pertinent RD10, RA5, or RA3 District employed.

D. Open area development. The Planning Board may by special permit authorize the application of open area development criteria to a specific parcel or joint parcels in the RD10, RA5, TC or A Districts, provided that:

ZONING

- (1) The minimum affected acreage shall be 250 acres within the RD10 District, 100 acres within the RA5 District, and 10 acres within either the Town Center (TC) or Airport (A) Districts.
- (2) If the intended use of the property is residential, the employ of open area development concept will in the opinion of the Planning Board facilitate the implementation of either a conservation subdivision or a residential cluster development, either as defined within Article XII, § 210-86A, of this chapter and otherwise regulated herein.
- (3) Application of the open area development concept will in the opinion of the Planning Board be beneficial in achieving the intent of the pertinent RD10, RA5, TC or A District as stated within Article II, § 210-5B, of this chapter.
- (4) Application of the open development area concept will in the opinion of the Planning Board does not cause any significant adverse effects on the environment that would be avoided were the flexibility provided by the concept in terms of private roadway access and permitted lot frontage on a private roadway instead of public roadway not employed. All private roads shall be designed and built pursuant to the Town of Union Vale Driveway and Highway Standards (Chapter 111 – Driveways, and Chapter A215 Street Specifications) as may be adopted or amended.
- (5) Upon recommendation of the Planning Board, the open development area is created by the Town Board in accordance with the requirements and procedure set forth within § 280-a, Subdivision 4, of the Town Law.

§ 210-55. General standards applicable to all other special permit uses.

- A. In authorizing any special permit use, the Planning Board shall take into account the public health, safety and general welfare and the comfort and convenience of the public in general and that of the immediate neighborhood in particular. The Planning Board shall also take into strict account the additional specific standards and requirements set forth in §§ 210-56 through 210-58 of this Article for certain uses, applicable supplementary regulations stated in Article V of this chapter, and the following general objectives for any use requiring special use permit authorization by the Planning Board:
- (1) The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the use and the location of the site with respect to existing and future streets and roadways providing access shall be in harmony with the orderly development of the district in which the use is located.
 - (2) The location, nature and height of the buildings, walls and fences and the nature and intensity of intended operations will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
 - (3) All proposed traffic access ways should be adequate but not excessive in number, adequate in width, grade, alignment and visibility and sufficiently separated from street intersections and places of public assembly, and meet similar safety considerations.
 - (4) Adequate provision for safe and accessible off-street parking and loading spaces shall be provided to prevent the parking in public streets of the vehicles of persons associated with or visiting the use.
 - (5) All parking and service areas shall be screened at all seasons of the year from the view of adjacent residential lots and streets or roadways, and the general landscaping of the site

ZONING

shall be in character with that generally prevailing in the neighborhood. Such landscaping shall include the preservation of existing trees to the extent practicable.

- (6) All proposed buildings, structures, equipment and/or material should be readily accessible for fire and police protection.
 - (7) The character and appearance of the proposed use, buildings, structures and/or signs shall be in harmony with the character and appearance of the surrounding neighborhood, shall not be more objectionable to nearby properties by reason on noise, fumes, vibration or lighting than would the operations of any permitted principal use and shall not adversely affect the general welfare of the inhabitants of the Town of Union Vale.
 - (8) The use shall meet the prescribed area and bulk requirements for the district in which located or as further specified in the Supplementary Regulations set forth within Article V of this chapter, including such matters as minimum setback, maximum height, required off-street parking and sign regulations.
 - (9) The level of services required to support the proposed activity or use is or will be available to meet the needs of the proposed activity or use. This consideration shall include highway access, the suitability of water supply, both for domestic use and emergency purposes, and sanitary sewage facilities to accommodate the intended use.
 - (10) The use shall be carried out in a manner compatible with its environmental setting and with due consideration to the protection of natural resources, water resources both onsite and off-site, and avoidance or mitigation of traffic impacts.
- B. The Planning Board shall impose additional conditions and safeguards upon the special use permit as may be reasonably necessary in its opinion to assure continual conformance to all applicable standards and requirements, including reasonable assurance that these conditions and safeguards can be reasonably monitored and enforced.

§ 210-56. Additional standards and requirements for certain special permit uses.

In addition to the general standards stated above and the site plan design criteria and review considerations stated in §§ 210-64 and 210-65, respectively, of this chapter, the following specific requirements shall be complied with for the particular special permit uses cited below:

A. Residential principal uses:

- (1) Single-family dwelling. A single-family dwelling shall be allowed by special permit in the TC District, on an individual lot, within a conservation subdivision, or in a minor subdivision provided that: **[Amended 3-11-2010 by L.L. No. 12-2010]**
- (2) Two-family dwelling. A two-family dwelling shall be allowed by special permit in the RA5, and RD10 Districts, provided that: **[Amended 3-11-2010 by L.L. No. 12-2010]**
 - (a) A minimum lot area, or density equivalent, and other area and bulk standards as otherwise applicable to the RA3 District or R1.5 District, respectively, are met.
 - (b) The two-family dwelling is developed on a lot of not less than eight acres within the RA5 District or 12 acres within the RD10 District.
- (3) Multifamily and Townhouse dwelling. A multifamily or townhouse dwelling shall be allowed by special permit in the TC District, provided that:

ZONING

- (a) The multifamily or townhouse use meets all design and dimensional requirements of this sub-section and the Planning Board has issued a special use permit and granted site plan approval.
- (b) The multifamily and townhouse dwellings severally occupy not more than 20% of the land area of the parcel nor more than 50% of such land area in combination with any other residential occupancy that may be authorized.
- (c) The multifamily and townhouse dwellings shall not exceed a density of 1 dwelling per .5 acres pursuant to Attachment 2.
- (d) No individual multifamily dwelling structures shall exceed twelve dwelling units.
- (e) The multifamily and townhouse dwelling(s) shall be served by central water supply and common sewage disposal facilities provided in accordance with the requirements of the Town of Union Vale, the Dutchess County Health Department and the New York State Department of Health.
- (f) All multifamily and townhouse developments shall consist of structures of an architectural style that emulates single-family residences in building design, entrance, and other architectural details. Buildings should vary in appearance but share a common design style. Building details, including roof forms, siding materials, windows, doors, and trim shall reflect a similar level of quality and architectural detailing on all sides facing or seen from the street. The street-facing front façades of buildings shall provide variation in elevation, façade and design features such as one or more of the following:
 - i. A covered porch;
 - ii. A recessed entrance;
 - iii. One or more dormer windows or cupolas;
 - iv. Pillars, posts, or pilasters;
 - v. One or more bay windows;
 - vi. Eaves projecting at least four inches from the façade plane;
 - vii. Raised corniced parapets over the entrance door;
- (g) A complete landscape plan shall be provided as part of the application for a multifamily structure. Streetscape amenities and landscaping shall be provided for and shown on such plan. The plan shall maximize maintenance of existing natural features or otherwise enhances open space. The Planning Board may require a landscape plan to use a diversity of native species and other amenities including but not limited to sidewalks, street furniture, illumination, crosswalks, and preservation of existing specimen trees. All landscaping approved of by the Planning Board shall be maintained long-term. The Planning Board shall require, as a condition of approval, a landscape maintenance plan.
- (h) The Planning Board may require pedestrian facilities, including walking or bicycle trails, bike parking areas, recreation areas or other types of common use areas. All such areas shall be connected on the parcel to provide easy access from all units. When a walking or bike trail is provided on a parcel where a trail already exists, any

ZONING

new trail shall be connected to such existing facilities.

- (i) No short-term rental use shall be allowed in a multifamily dwelling.
 - (j) When more than one multifamily structure is proposed for a site, the site layout for such development shall be in accordance with site design and open space criteria of 210-32.
 - (k) All multifamily and townhouse development sites shall include landscaping or other features that serve to visually buffer, screen and reduce noise impacts year-round. This may be accomplished through maintenance of existing topography and trees, and/or the addition of landscaping using native and pollinator-friendly species, vegetated berms, fencing, or a combination.
- (4) Boarding, rooming or lodging house. A boarding, rooming or lodging house shall be allowed by special permit in the H District, provided that:
- (a) The boarding, rooming or lodging house uses occurs within what is otherwise an owner-occupied single-family dwelling and shall not be located in a structure in whole or in part a commercial premises.
 - (b) The boarding, rooming or lodging house is located on a single lot with lot area of no less than the minimum specified for the zoning district in the District Schedule of Area and Bulk Regulations found at Article IV, § 210-11, of this chapter.
 - (c) In addition to parking required for the residence, at least one additional off-street parking space is provided for each room offered for rent.
- (5) Elderly or senior citizen housing. An elderly or senior citizen housing development shall be allowed by special permit in the RD10, RA5, RA3, provided that:
- (a) The development site shall be a single parcel with a minimum area of 25 acres within the RD10 or RA5 Districts or 15 acres within the RA3 Districts, with the required minimum acreage including not more than 25% of any portion of the proposed elderly housing site that is designated as freshwater wetlands, under water or subject to periodic flooding, as discussed in Article IV, § 210-22, of this chapter.
 - (b) The development is an integral part of a development for which the Planning Board has issued a special use permit and granted site plan approval.
 - (c) The development includes outdoor recreation and open space area for the exclusive use of the residents of the elderly or housing development, such lands totaling not less than 4,000 square feet per dwelling unit.
 - (d) The site shall be provided with adequate central water supply and common sewage disposal facilities in accordance with the requirements of the Town of Union Vale, the Dutchess County Department of Health and the New York State Department of Environmental Conservation.
 - (e) The maximum density shall not exceed one dwelling unit per gross acre in the RD10 District, two dwelling units per gross acre in the RA5 District, and three dwelling units per gross acre in the RA3 District.
 - (f) The development shall be sited and designed pursuant to 210-32 or clustered even though individual lots are not to be established to provide a conveniently serviced development pattern and to provide usable open space for the development's

ZONING

residents.

- (g) Except where an integral part of a Life Care Community, the maximum number of dwelling units within an individual senior citizen or elderly housing development shall be 60 dwelling units.
 - (h) One and two-tenths parking spaces shall be provided for each senior citizen or elderly dwelling unit to accommodate residents, guests and staff.
 - (i) Except in the case of when senior housing is within a conservation subdivision or designed pursuant to 210-32 when there is no subdivision taking place, the minimum front, side and rear yards otherwise applicable to either building or parking area improvements within the zoning district in which the senior citizen or elderly housing development is situated shall be doubled, i.e., increased by 100%.
 - (j) Maximum structure coverage shall meet requirements for the applicable zoning district pursuant to Attachment 1.
 - (k) Available on-site support services and facilities provided independently by the sponsor of the elderly or senior citizen housing development or through affiliation with a hospital, nursing home or other qualified health service provider shall include, but not necessarily be limited to the following:
 - [1] Community room.
 - [2] Recreational opportunities.
 - [3] Property maintenance and security.
 - [4] Twenty-four-hour call button.
 - [5] Emergency medical care.
 - [6] Optional meals and laundry service.
 - [7] Shuttle-type transportation service for shopping, recreation, health care visits and other purposes.
 - (l) Not less than 25% of the dwelling units within the senior citizen or elderly housing development shall be designed to be adaptable as suitable, convenient living environments for handicapped persons. Furthermore, the project site and all primary entrances, hallways and entrances to individual units shall be wheelchair and handicapped accessible.
 - (m) Pursuant to a demonstration of need by the Town, and to the extent any federal, state or private subsidies either may be or may become available to subsidize the rents of lower-income elderly persons and households, the project sponsor shall cooperate as an expressed condition of the special use permit approval and the certificate of occupancy with the Town of Union Vale and other interested agencies in securing such subsidies for up to 40% of the dwelling units within the senior citizen or elderly housing development.
- (6) Enriched housing for the elderly. Enriched housing for the elderly shall be a type of residence allowed by special permit in the RD10, RA5 and RA3 Districts, provided that:
- (a) If established as an independent principal use, the residence shall be established

ZONING

through either adaptive reuse of a nonresidential structure or conversion of a dwelling existing at the time of enactment of this chapter on a single lot with a lot area of no less than the minimum specified for the zoning district in Article IV, § 210-11, District Schedule of Area and Bulk Regulations.

- (b) Alternately, the residence may be established through either conversion of an existing structure or new construction on the premises of a Life Care Community for which the Planning Board has issued a special use permit. In such instance, a minimum land area of three acres shall for density purposes be considered to be set aside for each such residence.
- (c) The residence shall be noninstitutional in appearance, integrated to the extent practicable with the community, and designed to serve no more than eight residents.
- (d) The sponsor of the residence shall make available each of the following services for its residents:
 - [1] Meals.
 - [2] Housekeeping.
 - [3] Personal care.
 - [4] Social and emotional support services.
 - [5] Assistance in shopping for personal needs.
 - [6] Assistance in doing laundry.
 - [7] Arrangements for essential transportation.
 - [8] Leisure activities.
 - [9] Established protocols for dealing with emergencies and obtaining medical care
- (e) Approval has been granted by the Dutchess County Health Department for sanitary sewage disposal and water supply facilities serving the residence.
- (f) The residence is in full compliance with the New York State Uniform Fire Prevention and Building Code and other applicable codes, laws, rules and regulations that may be imposed by a county or state regulatory or permitting agency.

B. Residential accessory uses:

- (1) Accessory apartment within single-family dwelling. An accessory apartment within a single-family dwelling shall be allowed through either conversion in the TC District by special permit and site plan review, or new construction by special permit in both any residential district and the NC District, provided that the following criteria are met: **[Amended 3-11-2010 by L.L. No. 12-2010]**
 - (a) If the accessory apartment is created through conversion of space within an existing single-family dwelling, the following criteria are met:
 - [1] The single-family dwelling is owner-occupied at the time of the conversion and either the principal dwelling unit or the accessory apartment will forever be owner-occupied.

ZONING

- [2] Each principal single-family dwelling and accessory apartment is, at the time of conversion, on a single lot with lot area of not less than either the minimum acreage for the zoning district as set forth within the District Schedule of Area and Bulk Regulations found at Article IV, § 210-11, of this chapter, or three acres, whichever is less restrictive.
 - [3] The accessory apartment is subordinate to the principal dwelling unit and contains no more than 35% of the total habitable floor area of the existing structure prior to construction of the accessory apartment or 1,000 square feet of habitable floor area, whichever is the more restrictive.
 - [4] No exterior changes are made which will either alter or extend the foundation area of the dwelling or substantially modify the appearance of the structure as a single-family dwelling.
 - [5] The accessory apartment is self-contained, with separate cooking, sleeping and sanitary facilities for use by the occupant(s).
 - [6] Any additional exterior entrances created shall be located at the side or rear of the dwelling.
 - [7] The accessory apartment contains a minimum habitable floor area of 450 square feet.
 - [8] The accessory apartment shall be limited to two bedrooms.
 - [9] The conversion of any existing single-family dwelling to accommodate an accessory apartment, as defined herein and in Article XII, § 210-86A, of this chapter, is limited to one accessory apartment per principal dwelling unit.
 - [10] A total of four parking spaces, as required at Article V, § 210-25, of this chapter for a principal single-family dwelling and accessory apartment, shall be provided, such parking spaces to be designed and located so as to be convenient without encroaching on any required yard or parking setback area.
 - [11] Approval has been granted by the Dutchess County Health Department for any required on-site sanitary sewage or water supply facilities, and, as may be deemed applicable by the Planning Board, certification through either the Health Department or a licensed professional engineer retained by the applicant that the existing on-site water supply and sanitary sewage disposal facilities are sufficient to accommodate the additional demands of the accessory apartment on the premises where such conversion is proposed. The above notwithstanding, should there subsequently develop a problem with either the water supply or the sanitary sewage facilities, failure to promptly correct the problem will be grounds for immediate revocation of the special use permit.
 - [12] In the TC District, conversion of existing space into an accessory dwelling unit counts towards total density and cannot exceed maximums in the subdivision or development.
- (b) If the accessory apartment is created through new construction at the time of construction of the principal single-family dwelling, the following criteria are met:
- [1] The principal dwelling unit shall be intended to be owner-occupied and either the principal dwelling unit or the accessory apartment will forever be required to be

ZONING

owner-occupied.

- [2] The principal dwelling unit and accessory apartment are located on a single lot with lot area of not less than the minimum acreage for the zoning district as set forth within the District Schedule of Area and Bulk Regulations found at Article IV, § 210-11, of this chapter. The lot may not be an existing noncomplying lot of less than prescribed lot area.
 - [3] The accessory apartment is subordinate to the principal dwelling unit, with habitable floor area no more than 35% of the total habitable floor area of the principal dwelling or 1,000 square feet of habitable floor area, whichever is the more restrictive. **[Amended 3-11-2010 by L.L. No. 12-2010]**
 - [4] The appearance of the structure will be of a single-family dwelling and the structure will not include within the front elevation an access door to the accessory apartment.
 - [5] The accessory apartment shall be self-contained, with separate cooking, sleeping and sanitary facilities.
 - [6] The accessory apartment contains a minimum habitable floor area of 450 square feet.
 - [7] The accessory apartment shall be limited to two bedrooms.
 - [8] The construction is limited to one principal dwelling unit and one accessory apartment, each as defined herein and in Article XII, § 210-86A, of this chapter.
 - [9] A total of four parking spaces, as required at Article V, § 210-25, of this chapter for a principal single-family dwelling and accessory apartment, shall be provided, such parking spaces to be designed and located so as to be convenient without encroaching on any required yard or parking setback area.
 - [10] Approval has been granted by the Dutchess County Health Department for required on-site water supply and sanitary sewage facilities in consideration of the combined requirements of both the principal single-family dwelling and the accessory apartment.
 - [11] In the TC District, use of existing space as an accessory dwelling unit counts towards total density and cannot exceed maximums in the subdivision or development.
- (2) Accessory apartment within non-dwelling structure on residential premises. An accessory apartment within a separate non-dwelling structure on a single-family premises shall be allowed by special permit, provided that: **[Amended 8-15-2013 by L.L. No. 2-2013]**
- (a) The principal single-family dwelling and the non-dwelling structure proposed for conversion shall be located on a single lot of not less than 80% of the minimum lot area requirement set forth within the District Schedule of Area and Bulk Regulations for the zoning district if located within the RD10 or RA5 Districts and 100% of the minimum lot area requirement set forth within the District Schedule of Area and Bulk Regulations for the zoning district if located within the RA3, R1.5, R1 or H Districts.
 - (b) No exterior changes shall be made which will extend the existing foundation of the accessory structure more than 100 square feet to accommodate the accessory

ZONING

apartment or otherwise modify the exterior appearance of the structure if it is a building form indigenous to a rural area.

- (c) The principal dwelling unit on the premises is and shall continue to be owner-occupied.
 - (d) The accessory apartment shall comply in its entirety with the provisions of above § 210-56B(1)(b)[3], [5] through [7] and [9], as otherwise applicable to an accessory apartment created through new construction.
 - (e) Dutchess County Health Department approval has been secured for intended water supply and sanitary sewage arrangements to serve the accessory apartment.
 - (f) Except in the case of the conversion of a non-dwelling structure within the RD10 or RA5 District which has legally existed for a period of at least 10 calendar years prior to the date of application for authorization of conversion in whole or in part to an accessory apartment, the non-dwelling structure shall comply by its location with the minimum setback requirements for a principal dwelling as set forth within the District Schedule of Area and Bulk Regulations for the zoning district in which it is located. In the case of the cited exception, the non-dwelling structure shall comply with not less than 50% of the minimum setback requirements for a principal dwelling as set forth within the District Schedule of Area and Bulk Regulations for the zoning district in which it is located.
 - (g) In no case shall there be more than one accessory apartment, whether located within the single-family dwelling or within a non-dwelling structure, on a single-family premises.
- (3) Caretaker's cottage. A caretaker's cottage shall be allowed by special permit as an accessory use within the RD10, RA5 and RA3 Districts, provided that:
- (a) The principal dwelling to which the caretaker's cottage is accessory is located on a lot or parcel with a minimum land area of 25 acres.
 - (b) Access from the public roadway to the caretaker's cottage is provided in common with the principal dwelling.
 - (c) The caretaker's cottage shall satisfy all setback requirements specified in the District Schedule of Area and Bulk Regulations for a principal structure within the zoning district.
 - (d) The caretaker's cottage shall not exceed 2,000 square feet in habitable floor area. **[Amended 3-11-2010 by L.L. No. 12-2010]**
 - (e) Dutchess County Health Department approval has been secured for water supply and sanitary sewage arrangements to serve the caretaker's cottage, such facilities to be independent of facilities serving the principal dwelling.
- (4) Family day care home. A family day care home, as defined within Article XII, § 210-86A, of this chapter and § 390 of the NYS Social Services Law, shall be allowed by special permit in both any residential district and the NC District, provided that:
- (a) The single-family dwelling within which the family day care home use will be carried out is owner-occupied, with the operator of the family day care home being the owner or one of the owners thereof.

ZONING

- (b) The single-family dwelling is located on a complying lot of not less than the minimum lot area set forth for the zoning district within the District Schedule of Area and Bulk Regulations.
 - (c) Off-street parking is provided for both the residential and family day care home uses and signage is limited as set forth within Article V, §§ 210-25 and 210-26, respectively, of this chapter.
- (5) Guest cottage. A guest cottage, as defined in Article XII, § 210-86A, of this chapter, shall be allowed by special permit in the RD10 and RA5 Districts, provided that:
- (a) The maximum habitable floor area of the guest cottage shall be 600 square feet.
 - (b) Not more than one guest cottage shall be authorized as an accessory use to a principal dwelling, whether located on the same residential premise or on an adjacent undeveloped parcel in the same ownership.
 - (c) The guest cottage shall be supported by water supply and sanitary sewage disposal facilities deemed suitable by the Dutchess County Health Department, which facilities may at the discretion of the Health Department be shared with the principal dwelling, if located on the same premises.
 - (d) The guest cottage shall be in compliance with all applicable provisions of the New York State Uniform Fire Prevention and Building Code. All other applicable laws, ordinances, rules and regulations shall be complied with and both a building permit, where applicable, and a certificate of occupancy shall be secured before occupancy.
 - (e) The guest cottage shall satisfy all setback requirements specified in the District Schedule of Area and Bulk Regulations for a principal structure within the zoning district.
 - (f) The principal dwelling unit to which the guest cottage is accessory, and the guest cottage shall be sited on a minimum parcel of 10 acres if located on the same lot. The guest cottage, if situated on an adjacent parcel in the same ownership, shall be located on a lot of not less than the minimum land area specified for the zoning district within the District Schedule of Area and Bulk Regulations.
- (6) Group family day care home. A group family day care home, as defined in Article XII, § 210-86A, of this chapter and § 390 of the NYS Social Services Law, shall be allowed by special permit in both any residential district and the NC District, provided that:
- (a) The single-family dwelling within which the group family day care home use will be carried out is owner-occupied, with the operator of the group family day care home being the owner or one of the owners thereof.
 - (b) The single-family dwelling is located on a complying lot of not less than the minimum land area set forth for the zoning district within the District Schedule of Area and Bulk Regulations.
 - (c) Off-street parking is provided for both the residential and group family day care home uses and signage is limited as set forth within Article V, §§ 210-25 and 210-26, respectively, of this chapter.
 - (d) Approval has been granted by the Dutchess County Health Department for sanitary sewage and water supply facilities, including, as may be determined applicable by the

ZONING

Planning Board, certification through either the Health Department or a licensed professional engineer retained by the applicant that the existing on-site water supply and sanitary sewage facilities are sufficient to accommodate the additional demands of the group family day care home on the residential premises where such accessory use is proposed.

- (7) Home occupation, Class 2. A Class 2 home occupation, whether occurring within a customary accessory building, located within the principal dwelling but requiring the outdoor storage of either materials or equipment used in connection with the home occupation, or both located within an accessory building and requiring the outside storage of either materials or equipment, shall be allowed by special permit in the RD10, RA5, RA3 and NC Districts, provided that:
- (a) The home occupation conforms strictly to the limitations relating to all home occupations specified within Article V, § 210-31, and to the definition found at Article XII, § 210-86A, of this chapter.
 - (b) The lot on which the home occupation is proposed meets the minimum lot area requirements set forth in the District Schedule of Area and Bulk Regulations for the zoning district and that the accessory structure proposed to house the home occupation similarly meets all setback and related requirements set forth within this chapter.
 - (c) The home occupation shall have direct access to a state or county highway or on a through Town roadway, other than a residential subdivision street. Such access shall be via an individual driveway except where specifically authorized in writing by all other users of a common driveway or private roadway.
 - (d) Materials and equipment actively used in connection with the home occupation shall be stored indoors to the extent practicable. Where such storage cannot be reasonably provided, the materials and equipment shall be screened from public rights-of-way and neighboring properties by intervening landform and/or vegetation through all seasons of the year and stored in a manner such that they do not pose a nuisance to adjacent property owners. In no event may any such outdoor storage of materials or equipment occur within the front yard of the premises or within 50 feet of any property boundary, whichever be the more restrictive.
 - (e) Any storage of commercial vehicles associated with the home occupation shall comply with the regulations set forth at Article V, § 210-43, of this chapter, regarding outdoor storage, including the storage of commercial vehicles in excess of 20 feet in length, in a residential district.
- (8) Roadside stand. A roadside stand shall be allowed by special permit in the RD10, RA5 RA3 and TC Districts, provided that the criteria set forth at Article V, § 210-41, of this chapter are met.
- (9) Wind energy system. Windmills, wind turbines or similar components of a wind energy system shall be allowed by special permit in the RD10 and RA5 Districts, provided that: **[Added 3-11-2010 by L.L. No. 12-2010]**
- (a) The wind energy system shall be incidental to and fully located on the same parcel as the permitted principal residential or farm use that will exclusively derive all or some portion of its energy supply from the wind source.

ZONING

- (b) No component of the wind energy system shall extend more than 80 feet above naturally occurring grade as measured from either the base of the windmill or other facility or at grade level of the building to which it is attached.
 - (c) No component of the wind energy system shall be located within 100 feet of a public or private roadway or property boundary.
 - (d) As may be required pursuant to Article V, § 210-48, Subsection D, of this chapter, a certificate of visual compatibility is obtained.
- (10) Ground-mounted solar systems. Accessory ground-mounted solar systems shall be allowed by special permit in all residential districts, provided that: **[Added 10-6-2016 by L.L. No. 3-2016]**
- (a) Except for the RD10 District, ground-mounted solar systems shall not be permitted in a front yard or within the area between the front wall of a residential structure and the front property line, whichever is greater.
 - (b) Ground-mounted solar systems shall comply with the side and rear yard requirements of the Zoning District in which the property is located.
 - (c) Ground-mounted solar systems shall not exceed the area dimensions of the principal residential structure located on the parcel.
 - (d) Ground-mounted solar systems shall not exceed 12 feet in height.
 - (e) Site plan approval is required.
 - (f) The Planning Board is authorized to require landscaping and/or fencing or a combination of both around the portion of the system between the panels and the ground to offset visual impacts to adjacent properties and roads. Plantings should consist of deciduous or evergreen plantings in order to achieve year-round screening.
 - (g) General placement of ground-mounted solar systems should be done in a manner which maximizes distance from adjacent properties to ensure that the installation does not seek to minimize impact to the applicant at the expense of adjacent properties. The Planning Board has authority to increase the setback requirements to accomplish this goal.
 - (h) Lot coverage. The surface area of a ground-mounted solar system shall be included in lot coverage and impervious surface calculations.
- C. Nonresidential principal uses/agriculture, recreation and open space uses.
- (1) Camp or campground. A camp or campground shall be allowed by special permit in the RD10, RA5 and RA3 Districts, provided that:
- (a) The minimum lot or parcel area shall be 50 acres.
 - (b) Not more than two tent platforms or similar camping sites per gross acre of land area shall be permitted. The above notwithstanding, no camp or campground shall provide accommodations for more than 100 persons.
 - (c) Permitted tent platforms or similar camping sites may, however, be clustered, provided that each such accommodation shall have at least 8,000 square feet of associated land area, i.e., a maximum net density of 5.4 such accommodations per acre.

ZONING

- (d) Access to the camp or campground shall be from a state or county highway or a through Town roadway, not to include a residential subdivision street.
 - (e) Central water supply and common sewage disposal facilities shall be provided in accordance with the requirements of the Town of Union Vale, the Dutchess County Health Department and the New York State Departments of Health and Environmental Conservation.
 - (f) No tent platform or similar camping site, or the location of any building, parking area, recreation associated with the camp or campground, shall be located closer than 300 feet to any existing neighboring residence, 150 feet to any property line, or 100 feet to any water body or watercourse. Any improvements shall additionally be effectively screened by intervening landform and/or vegetation from neighboring properties and public rights-of-way.
 - (g) Suitable open areas shall be set aside and maintained for recreational facilities such as swimming pools, court games or other active or passive recreational facilities.
 - (h) No such facility shall operate prior to May 15 or later than October 15 during any calendar year.
- (2) Golf course and/or country club. A golf course and/or country club, as defined within Article XII, § 210-86A, of this chapter, shall be permitted in the RD10, RA5 and RA3 Districts, provided that:
- (a) The minimum lot or parcel area shall be 125 acres.
 - (b) No building or parking area associated with the golf course and/or country club shall be located within 150 feet of any property line or within 300 feet of any existing neighboring residence.
 - (c) There shall be no use of public address systems and/or lighting of outdoor recreation areas or other facilities except as approved by the Planning Board through issuance of the special use permit and grant of site plan approval.
 - (d) There shall be no authorization of any uses accessory to the golf course operation except as such are later specifically set forth herein in below § 210-56G(4) of this article.
- (3) Hunting and/or fishing club. A hunting and/or fishing club shall be permitted in the RD10, RA5 and RA3 Districts, provided that:
- (a) The minimum lot or parcel area shall be 200 acres.
 - (b) No building or parking area associated with the club shall be located within 150 feet of any property line or within 300 feet of any existing neighboring residence.
 - (c) Specific plans for public address systems and/or lighting for any outdoor recreational areas or other facilities associated with club operations shall be submitted to and approved by the Planning Board, including the specific proposed hours of operation for such facilities.
 - (d) No outdoor target range or similar facility for the discharge of firearms shall be located closer than 500 feet to any property boundary or such greater distance as may be specified by the New York State Environmental Conservation Law or other

ZONING

applicable laws, rules or regulations.

- (e) The activities associated with any active outdoor recreation facilities, including a target range, shall be suitably screened from neighboring residential properties so as to create a visual or noise-detering buffer.
 - (f) The hours of operation for such outdoor activities shall generally be restricted to the period from 30 minutes hour before sunrise to 30 minutes after sunset.
- (4) Private outdoor recreation facility. A private outdoor recreation facility, including uses such as skiing, skating, picnicking and outdoor camping, shall be allowed in the RD10, RA5 and RA3 Districts, provided that:
- (a) The minimum lot or parcel area shall be 100 acres.
 - (b) No building or parking area associated with the recreational use shall be located closer than 150 feet to any property line or within 300 feet of any existing neighboring residence. Any such building or parking area shall also be effectively screened by intervening landform and/or vegetation from all neighboring properties and public rights-of-way regardless of distance separation.
 - (c) No facility (e.g., trail, ball field or ski slope) for active recreational use shall be located within 150 feet of any property line and shall be similarly screened.
 - (d) Access to the facility shall be from a state or county highway or a through Town roadway other than a residential subdivision street.
 - (e) Adequate water supply and sanitary sewage disposal facilities shall be provided in accordance with the requirements of the Town of Union Vale, the Dutchess County Department of Health and the New York State Departments of Health and Environmental Conservation.
 - (f) No building constructed or portion of an existing building adaptively used in connection with the outdoor recreation use shall exceed 3,000 square feet in gross floor area.
 - (g) No restaurant or tavern shall be operated and maintained upon the premises. Food service shall be limited to vending machines and/or a snack bar; alcoholic beverages will not be sold on the premises.
 - (h) Specific plans for public address systems and/or lighting of outdoor recreation facilities and appurtenant accessory buildings and parking areas shall be submitted to and approved by the Planning Board.
 - (i) Except as may be further restricted by the Planning Board in its consideration of a specific application for special use permit, hours of public operation shall be limited to 9:00 a.m. through 10:00 p.m. daily.
 - (j) Activities typical of commercial amusement, entertainment and/or recreation facilities, as defined in Article XII, § 210-86A, of this chapter, shall not be eligible as either principal or accessory uses within an outdoor recreation facility.
- (5) Timber harvesting; commercial logging. Timber harvesting or commercial logging shall be allowed by special permit in the RD10, RA5 and RA3 Districts, provided that:
[Amended 3-11-2010 by L.L. No. 12-2010]

ZONING

- (a) The activity is conducted in accordance with timber harvesting guidelines promulgated by the New York State Department of Environmental Conservation (NYSDEC).
- (b) The application is accompanied by a timber harvesting plan and restoration plan prepared by either an independent professional forester or qualified NYSDEC personnel. The timber harvesting and restoration plan shall include information pertaining to the following:
 - [1] Survey map or tax map and deed description, if survey is not available, of the parcel to be logged;
 - [2] Location of area(s) of proposed logging;
 - [3] Approximate existing number of trees within area(s) of proposed logging, including species, dbh, and condition;
 - [4] Approximate number of trees to be harvested within area(s) of proposed logging, including species, dbh and condition;
 - [5] Assessment of impact of harvesting activity on streams, wetlands and other water bodies within or in the vicinity of the parcel to be logged;
 - [6] Site-specific measures for the prevention of erosion and the preservation of wildlife habitat;
 - [7] Measures for the preservation of the aesthetic values of the land;
 - [8] Plans for the maintenance and/or repairs of roads, loading areas and access paths;
 - [9] Plans for buffer zones to mitigate visual impact from roads, neighboring properties and elevated view points;
 - [10] Cleanup and reclamation plans;
 - [11] Location of major skid roads and landing areas; and
 - [12] A time schedule for all work related to the timber harvesting activity.
- (c) A performance guaranty in an amount determined adequate by the Planning Board upon recommendation of the Town Engineer and Town Highway Superintendent is provided to reasonably ensure repair of Town roadways, including associated drainage improvements, with respect to damage caused by the timber harvesting operation.
- (d) All NYSDEC regulations shall be strictly adhered to and any required stream bank disturbance or other permit shall be secured and in effect prior to the commencement of logging.
- (e) An appropriate buffer of trees shall be maintained contiguous to any neighboring residential property or roadway. Unless specifically reduced by the Planning Board in its issuance of a special permit the depth of this buffer shall be not less than the minimum front setback for a principal building from a roadway and shall not be less, with respect to neighboring residential property, than the minimum side or rear setback for a principal building on the neighboring residential property, all as established for the zoning district within § 210-11 of this chapter.

ZONING

- (f) No operations related to the timber harvesting involving the use of chainsaws or other mechanical equipment or vehicles shall take place between 7:00 p.m. and 7:00 a.m.
- (g) Clear-cutting as defined within Article XII, § 210-86, of this chapter shall be prohibited.

D. Nonresidential principal uses/institutional uses and community facilities, services and uses.

- (1) Alternate care facility. An alternate care facility (ACF) shall be allowed by special permit in the RD10 District, provided that:
 - (a) The alternate care facility shall be sited on a lot or parcel with a minimum area of 25 acres.
 - (b) The alternate care facility shall have direct access to either a state or county highway.
 - (c) The number of residents within the ACF shall not exceed six persons per acre.
 - (d) Minimum setback for any structure other than a fence, wall or sign shall be 100 feet from any property line.
 - (e) A minimum landscaped buffer area at least 25 feet in depth shall be provided along any lot line abutting or directly across the street from a lot in a residential district to screen and protect neighboring residential properties from the view of buildings and parking areas within the site.
 - (f) Provision for recreation for ACF clients shall be provided with at least 10% of the total land area developed for active and passive outdoor recreational uses.
 - (g) Any new and/or existing structures shall be constructed, altered, renovated and maintained in full accordance with the New York State Uniform Fire Prevention and Building Code and other codes, rules and regulations that may be imposed by any regulatory or permitting agency.
 - (h) All other applicable standards and provisions of this chapter and other applicable local, County and State land use and development regulations and requirements shall apply.
- (2) Congregate care facility. A congregate care facility shall be allowed by special permit in the RD10 District, provided that:
 - (a) The congregate care facility shall be sited on a lot or parcel with a minimum lot area of 25 acres.
 - (b) The congregate care facility shall be accessed either directly from a state or county highway or by a Town roadway other than a residential subdivision street.
 - (c) The number of residents within the facility shall not exceed six persons per acre.
 - (d) The facility sponsor shall at a minimum provide all of the support services otherwise set forth in this chapter for either elderly or senior citizen housing or enriched housing for the elderly in § 210-56(A)(5) and (6), respectively, of this article.
- (3) Cemetery. A cemetery, including mausoleum, shall be allowed by special permit in any residential district, provided that:
 - (a) No burial or memorial plats or building shall be located closer than 100 feet to any

ZONING

residential lot line.

- (b) All burials shall be undertaken in strict accordance with applicable regulations of the New York State Department of State and the Department of Health.
 - (c) No crematory for either human or other remains shall be permitted within or considered accessory to a cemetery.
 - (d) To the extent applicable, the intended layout plan has been reviewed and subdivision plat approval therefor has been granted by the Planning Board.
- (4) Child day-care center. A child day-care center shall be allowed by special permit in the NC and TC Districts, provided that:
- (a) The maximum number of children enrolled on a regular basis shall be 40.
 - (b) Minimum outdoor recreation and activity area of 500 square feet per child enrolled shall be provided, with any such outdoor recreation area located in the side or rear yard, not less than 50 feet from any neighboring residential property line and effectively screened by intervening landform and vegetation therefrom.
 - (c) Access to the child day-care center shall be provided directly from a state or county highway or a through Town roadway other than a residential subdivision street.
 - (d) The facility shall be operated and maintained in strict accordance with applicable laws, rules and regulations, including § 390 of the Social Services Law of the State of New York.
- (5) Church or other place of religious worship. A church or other place of religious worship shall be allowed by special permit in both any residential district and the NC District, provided that:
- (a) Minimum lot area of five acres shall be required for a church or other place of religious worship within the RA3, R1.5, R1 and HDistricts.
 - (b) Access shall be provided either directly by a state or county highway or by a through Town roadway other than a residential subdivision street.
 - (c) No building shall be erected nor any parking area located closer than 50feet to any highway right-of-way or property line or such greater setback distance as may be required in the particular zoning district. The required setback area shall be suitably landscaped through the maintenance of existing vegetation and landform and/or the introduction of appropriate planting and/or berming to screen views from public rights-of-way and/ or adjacent residential properties.
- (6) Day camp. A day camp shall be allowed by special permit in the RD10, RA5 and RA3 Districts, provided that:
- (a) The minimum lot or parcel area shall be 50 acres in the RD10 District and 25 acres in either the RA5 or RA3 District.
 - (b) No activity area or recreational facility associated with the day camp shall be closer than 100 feet to any property line and shall be effectively screened by intervening landform or vegetation from any abutting residential property.
 - (c) Adequate water supply and sanitary sewage facilities shall be provided in accordance

ZONING

with applicable requirements of the Town of Union Vale, the Dutchess County Health Department and the New York State Departments of Health and Environmental Conservation.

- (d) Not more than eight campers per acre shall be accommodated.
 - (e) No overnight accommodations shall be provided, except for one accessory single-family dwelling in accordance with the standards set forth in below § 210-56G(1) of this article.
- (7) Educational institution. An educational institution, i.e., a school for elementary, secondary or higher education, shall be allowed by special permit in the RA3 District, provided that:
- (a) The minimum lot or parcel area for an educational institution shall be 25 acres.
 - (b) Access to the site of the educational institution shall be directly from a state or county highway or a through Town roadway other than a residential subdivision street.
 - (c) All buildings, parking areas and outdoor activity areas and other structures, except for authorized signage, associated with the educational institution shall have a minimum setback of 100 feet from any property line and 300 feet from any neighboring residence.
- (8) Life care community. A life care community shall be allowed by special permit in the RD10 District, provided that:
- (a) The life care community shall be developed and maintained in accordance with a facility master plan prepared by the facility sponsor and reviewed and approved by the Planning Board.
 - (b) The life care community shall be sited on a lot or parcel with a minimum land area of 150 acres.
 - (c) Uses, each as defined within Article XII, § 210-86A, of this chapter, which may be incorporated within a life care community shall be any or all of the following, each as defined within Article XII, § 210-86, of this chapter:
 - [1] Community residence.
 - [2] Elderly or senior citizen housing.
 - [3] Enriched housing for the elderly.
 - [4] Alternate care facility.
 - [5] Congregate care facility.
 - [6] Nursing home.
 - (d) Except in the instance of minimum lot or parcel area, all uses incorporated within a life care community shall be subject to the standards and requirements set forth within this chapter with respect to such factors as location and intensity of buildings and other improvements, dwelling unit or population density, as applicable to the specific use, and availability of services for residents.
- (9) Membership club. A membership club shall be allowed by special permit in the NC and

ZONING

TC Districts, provided that:

- (a) Minimum lot area shall be three acres.
 - (b) No building or parking area shall be located closer than 50 feet to any side or rear lot line or within 100 feet of any residential property boundary.
 - (c) Specific plans for public address systems and/or lighting for outdoor recreation facilities shall be submitted to and approved by the Planning Board, including the specific hours of operation of such facilities.
- (10) Museum or library. A museum or library shall be allowed by special permit in the RA5, RA3 and H Districts, provided that minimum lot area shall be three acres except in the RA5 District where a minimum of five acres shall be required.
- (11) Nursery school. A nursery school shall be allowed by special permit in the RA3, NC and TC Districts, provided that:
- (a) Minimum lot area shall be three acres.
 - (b) The maximum number of children enrolled on a regular basis shall be 40.
- (12) Nursing home. A nursing home shall be allowed by special permit in the RD10 District, provided that:
- (a) The minimum lot or parcel area shall be 25 acres.
 - (b) The maximum number of beds shall not exceed six per acre.
- (13) Performing arts center. A performing arts center shall be allowed by special permit in the TC District, provided that:
- (a) A facility designed for 500 or fewer persons may be located on a site of a minimum of five acres.
 - (b) All buildings and other structures, parking and outdoor activity areas, including amphitheater seating arrangements, shall have a minimum setback of 150 feet from any residential property line and 250 feet from any neighboring residence.
 - (c) Access to the facility shall be directly from a State highway.
- E. Nonresidential principal uses/retail, office, service and entertainment uses and establishments and Mixed Use Buildings.
- (1) Animal hospital. An animal hospital shall be allowed by special permit in the RD10, RA5 and TC Districts, provided that:
- (a) The animal hospital shall be wholly enclosed and maintain both the appearance and the building and design characteristics of either a residential dwelling or a farm building.
 - (b) The animal hospital shall be located on a single lot with not less than the minimum lot area specified within the District Schedule of Area and Bulk Regulations for the zoning district.
 - (c) Access to the animal hospital shall occur directly from a state or county highway or

ZONING

by a through Town roadway other than a residential subdivision street.

- (d) The facility shall be suitably screened by intervening landform and/or natural vegetation from neighboring residential properties. All buildings and parking areas shall be set back at least 150 feet from any residential property boundary.
 - (e) The facility shall not make available on a routine basis services for the boarding or breeding of cats, dogs or other domestic pets and/or animals, with such services only available when incidental to the ongoing medical or surgical treatment of such cats, dogs or other domestic pets and/or animals.
- (2) Bed-and-breakfast establishment. A bed-and-breakfast establishment with more than two guest rooms shall be allowed by special permit in the RD10, RA5, RA3 and H Districts, provided that:
- (a) The bed-and-breakfast establishment shall be created as a coprincipal use through the conversion of a portion of an owner-occupied single-family dwelling.
 - (b) The bed-and-breakfast establishment shall be located on a lot of no less than the minimum lot area specified for the zoning district within Article IV, § 210-11, District Schedule of Area and Bulk Regulations.
 - (c) The bed-and-breakfast establishment shall have direct access to a state or county highway or on a through Town roadway, other than a residential subdivision street. Such access shall be via an individual driveway except where specifically authorized in writing by all other users of a common driveway or private roadway.
 - (d) Upon conversion of a portion of its floor area for use as a bed-and- breakfast establishment, the residential dwelling shall retain at least one bedroom for the exclusive use of the occupant(s) of the principal dwelling unit to which the bed-and-breakfast establishment is subordinate.
 - (e) The bed-and-breakfast establishment shall neither offer more than five rooms for rent for transient occupancy nor shall the establishment accommodate more than 10 guests on any occasion.
 - (f) The owner-operator of the bed-and-breakfast establishment shall be a principal owner-occupant of the single-family residential dwelling in which the guest rooms are located.
 - (g) Approval has been granted by the Dutchess County Health Department for sanitary sewage and water supply facilities, including, as may be determined applicable by the Planning Board, certification through either the Health Department or a licensed professional engineer retained by the applicant that the existing on-site water supply and sanitary sewage facilities are sufficient to accommodate the additional demands of the bed-and-breakfast establishment on the residential premises where such accessory use is proposed.
 - (h) Other licensing requirements administered by the County Health Department and applicable to bed-and-breakfast establishments are satisfied.
 - (i) Off-street parking, provided in accordance with Article V, § 210-25, of this chapter, shall be located on the parcel on which the bed-and-breakfast establishment is located and, where practicable, shall be located behind the residential structure.

ZONING

- (j) As in the case of authorized home occupations, a single identity sign not exceeding four square feet in total surface area shall be permitted. Unless attached to the principal structure, no such sign shall be located closer than 15 feet to the front property line or 20 feet to any other property line.
 - (k) In order to effectuate the conversion of a portion of a residential dwelling to a bed-and-breakfast establishment, no addition to the structure greater than 100 square feet in gross floor area shall be authorized.
- (3) Boarding stable. A boarding stable shall be allowed by special permit in any residential district, provided that:
- (a) The site shall have a minimum land area of 10 acres.
 - (b) The total number of horses either boarded or owned by the owner of the boarding stable shall not exceed one horse per acre of land area devoted to the use.
 - (c) Buildings or other fully enclosed structures associated with the facility shall be located not less than 100 feet from any property line nor less than 250 feet from any neighboring residence.
 - (d) Yard areas shall be landscaped and/or maintained in agricultural use and natural screening shall be provided, where necessary, to harmonize with the character of the neighborhood.
 - (e) No fenced area, including exercise ring, nor any manure storage area shall be located within 100 feet of any lot line, nor shall any manure storage area be located within 100 feet of any stream or water body, 150 feet of any well or spring providing a source of potable water or within 200 feet of the nearest neighboring residence.
- (4) Conference center. A conference center shall be allowed by special permit in the RD10, RA5 and RA3 Districts, provided that:
- (a) The establishment of the conference center facilitates the development of a parcel of not less than 100 acres in low-density, nonresidential use while preserving existing buildings through adaptive reuse and/or scenic and natural areas important to the community.
 - (b) The following design objectives are met:
 - [1] The exterior of existing houses, barns and related structures shall be appropriately rehabilitated and restored wherever feasible. Consideration shall be given to quality of original architecture and subsequent modifications, current condition and relationship of the structures to the overall property or area when considering the feasibility of appropriate rehabilitation and/or restoration.
 - [2] Formal and informal landscaping, stonewalls, entrance gates and similar features shall be preserved whenever feasible.
 - [3] New construction shall be sited so as to have minimum impact of fields, meadows and woodlands. Major grading or changing of topography shall not be permitted.
 - [4] Unique natural areas and open spaces such as streams, ponds, marshes, steeply sloped areas, woodlands, etc., shall be preserved.

ZONING

- [5] The maximum floor area of all conference center facilities shall not exceed 5% of the land included in the project proposal.
 - [6] Access to the facility shall be from a state or county highway or a through Town roadway other than a residential subdivision street.
 - [7] No building or parking area associated with the conference center shall be located closer than 150 feet to any property line, nor within 250 feet of any neighboring residence.
 - [8] Adequate water supply and sewage disposal facilities shall be provided in accordance with the requirements of the Town of Union Vale, the Dutchess County Department of Health, and the New York State Departments of Health and Environmental Conservation.
 - [9] While dining and lodging facilities for periods of not more than seven calendar days may be provided as part of the conference center facilities for the use and benefit of participants in events at the conference center, no restaurant, tavern, nightclub, hotel, motel or inn serving the general public shall be operated and maintained upon the premises.
- (5) Convenience store. A convenience store as a quick-stop retail food store shall be allowed by special permit in the NC and TC Districts, provided that:
- (a) The maximum gross floor area shall be 2,500 square feet.
 - (b) In order to maintain the neat and orderly appearance of the site, the following requirements shall be met:
 - [1] An enclosed and suitably screened trash dumpster shall be provided for use by store employees and other appropriate trash receptacles provided on the premises for use by customers.
 - [2] All rooftop heating/ventilating/air conditioning or refrigeration units shall be directed away from adjacent residential properties.
 - [3] There shall be no outdoor display of merchandise.
 - [4] All vending machines shall be located within the building.
 - (c) Convenience stores and gasoline stations shall be considered separate uses. Gas stations are not permitted in the TC District, but are allowed in the NC district pursuant to Attachment 2.
- (6) Gasoline station; automobile service facility; public or commercial garage. A gasoline station, automobile service facility, or public or commercial garage shall be allowed by special permit in the NC District, provided that:
- (a) No such establishment shall be located within 200 feet of any school, church, public library, theatre, park, playground or other public gathering place designed for occupation by more than 50 people.
 - (b) The area for use by motor vehicles, including storage, except access drives thereto, as well as any structures, shall not encroach on any required yard area.
 - (c) All fuel pumps and associated canopy structures shall comply with both the

ZONING

limitations as to number and the location and design requirements otherwise set forth in above § 210-56E(5) of this article for convenience stores.

- (d) Entrance and exit drives shall total not more than two in number and shall have an unrestricted width of not less than 24 feet nor more than 30 feet and be located not less than 15 feet to any side or rear lot line.
- (e) Gasoline or flammable oils in bulk shall be stored fully underground, in accordance with New York State Environmental Conservation Law Part 614 Regulations, as administered by NYSDEC, and may not be closer than 25 feet to any lot or street line.
- (f) All major repair work, storage of materials, supplies and parts shall be located within a structure fully enclosed on all sides, not to be construed as meaning that the doors on any repair shop must be closed at all times.
- (g) No inoperative motor vehicle shall be kept on the premises for longer than 14 calendar days except in instances where necessary repair parts have been ordered and delivery is awaited. The location of all such inoperative vehicles shall be suitably screened to obscure view from both neighboring properties and public rights-of-way and shall not be within the required front yard.
- (h) In addition to other landscaping requirements established by this chapter, suitable year-round buffering and landscaping shall be provided in all rear and side yards through a mix of deciduous and evergreen planting.
- (i) The maximum number of fuel dispensing nozzles shall be 12.
- (j) Each of the following criteria shall be met:
 - [1] There shall be safe entry and exit for motorists purchasing gasoline.
 - [2] Fuel pumps and associated canopy structures shall meet the dimensional limitations, design standards and restrictions as to number set forth below:
 - [a] No fuel pump or associated canopy structure shall either be located or otherwise project into a required side or rear yard or either be located or otherwise project within 40 feet of the front property line in the NC District.
 - [b] No canopy structure shall exceed 48 feet in length, 30 feet in width or the minimum height necessary to both accommodate vehicles in accordance with code requirements for vertical vehicular clearance and provide for a pleasing roof design.
 - [c] All canopy structures shall comply with the following design parameters:
 - [i] The design of the canopy structure shall relate in form and the use of materials and color to the principal structure(s) on the premises.
 - [ii] The design of the canopy shall include the use of natural finishes to the extent practicable in consideration of building and fire code requirements and shall exclude the use of reflective or glossy materials such as plastic, lacquers and shiny materials.
 - [iii] The design of the canopy shall employ colors that are harmonious and blend in with the rural character of the area.

ZONING

- [iv] The design of the canopy shall employ a nonilluminated fascia and shall display no advertising messages, corporate logos or similar features on such fascia.
 - [v] The design of the canopy shall include recessed lighting arranged, shall be dark sky compliant and shielded so as to reflect light downward with the direct sources of such illumination not visible from any public street or roadway or adjoining property. The lighting provided shall not exceed a footcandle rating of 5 footcandles on a horizontal plane three feet above the ground at any location beneath the canopy.
 - [vi] The design of the canopy structure shall accommodate concealed fire protection and suppression equipment in accordance with the New York State Uniform Fire Prevention and Building Code and pertinent NYSDEC and NFPA requirements.
 - [d] Not more than one canopy structure shall be located on any gasoline service, premises.
 - [e] In order to maintain the neat and orderly appearance of the site, the following requirements shall be met:
 - [i] An enclosed and suitably screened trash dumpster shall be provided for use by store employees and other appropriate trash receptacles provided on the premises for use by customers.
 - [ii] All rooftop heating/ventilating/air conditioning or refrigeration units shall be directed away from adjacent residential properties.
 - [iii] There shall be no outdoor display of merchandise.
 - [iv] All vending machines shall be located within the building.
- (7) Hotel or motel. Hotels and motels are not permitted uses in any zoning district.
- (8) Inn. An inn shall be allowed by special permit in the RD10, RA5, RA3 and TC Districts, provided that:
- (a) The inn shall be limited to a maximum of 10 guest rooms.
 - (b) The inn may provide dining facilities open to both guests and the general public as an accessory use. The total number of seats in its dining room, its outdoor dining areas and its lounge, if any, shall however not exceed 30 seats.
 - (c) The inn may not operate as a nightclub, as such use is defined in Article XII, § 210-86A, of this chapter.
 - (d) The inn shall be established through the adaptive reuse of either a residential or nonresidential structure existing on May 30, 2002, except in the TC District where adaptive reuse is encouraged but not required.
 - (e) The minimum lot area shall be 20 acres in either the RD10 or RA5 District and 10 acres in the RA3 District.
 - (f) Access to the facility shall be provided from a state or county highway or a through Town roadway other than a residential subdivision street.

ZONING

- (g) Adequate water supply and sanitary sewage disposal facilities shall be provided in accordance with the requirements of the Town of Union Vale, the Dutchess County Health Department and the New York State Departments of Health and Environmental Conservation.
 - (h) No parking area or other improvement associated with the facility shall be located within 100 feet of any property line in the RD10 District or within 75 feet of any property line in the RA5 or RA3 Districts, or such greater distance as may be prescribed within the District Schedule of Area and Bulk Regulations. Screening shall be provided by intervening landform and/or vegetation to reduce visual and other impact on neighboring residential properties.
- (9) Office building. An office building shall be allowed by special permit in the Airport (A) District, provided that the office building, whether as a separate use or in combination with an authorized trade shop or light manufacturing use, consists of not more than 10,000 square feet of gross floor area.
- (10) Restaurant, fast-food or drive-in facility. A fast-food or drive-in restaurant shall be allowed by special permit in the TC District, provided that:
- (a) The standard design package for any franchise facility shall be subject to modification so as to comply with the architectural and site plan preferences of the Town of Union Vale so as to achieve the community's land use and design objectives as set forth in the Town Master Plan and embodied in this chapter.
 - (b) Vehicle stacking lanes for drive-in service shall be adequate so that adjacent pedestrian and vehicular ways will not be obstructed and that the safety of both pedestrians and motorists can be assured.
 - (c) The inclusion of accessory recreational facilities and similar amusement areas, including tot lots, video games, and the like, as part of the restaurant shall be strictly prohibited.
 - (d) Hours of operation shall be reviewed and approved by the Planning Board so as to be compatible with adjacent business and residential areas and to avoid the creation of any nuisance condition.
 - (e) No fast-food or drive-in restaurant shall be located within 5,000 feet of another fast-food or drive-in restaurant.
- (11) Riding academy. A riding academy shall be allowed by special permit in the RD10, RA5, RA3 Districts, provided that:
- (a) The minimum lot or parcel area shall be 20 acres.
 - (b) The maximum number of horses permitted shall be limited to the keeping of one horse per acre of lot or parcel area devoted to the riding academy use.
 - (c) Buildings or other fully enclosed structures associated with the facility shall be located not less than 100 feet from any property line nor less than 250 feet from any neighboring residence.
 - (d) Yard areas shall be landscaped and/or maintained in agricultural use and natural screening shall be provided, where necessary, to harmonize with the character of the

ZONING

neighborhood.

- (e) No riding ring or manure storage areas shall be located within 100 feet of any lot line, nor shall any manure storage area be located within 100 feet of any stream or water body, within 150 feet of any well or spring providing a source of potable water or within 200 feet of the nearest neighboring residence.
- (12) Shopping center. A shopping center, as defined within Article XII, § 210-86A, of this chapter, is not a permitted use in any zoning district.
- (13) Veterinarian's office. A veterinarian's office shall be allowed by special permit in the RD10, RA5, NC and TC Districts, provided that:
- (a) If located within either the RD10 or RA5 District, the facility be designed and maintained consistent with the architectural appearance of either a residence or a farm building.
 - (b) No services are provided for the boarding of cats, dogs or other domestic pets and/or animals of any type.
- (14) Commercial nursery. A commercial nursery shall be allowed by special permit in the NC and TC Districts, provided that **[Added 4-3-2003 by L.L. No. 2-2003]**
- (a) The establishment shall be limited to a maximum land area of three acres.
 - (b) There shall be neither any structures, except for permitted fences or walls, nor any service areas, equipment or other storage areas or any display of nursery stock, landscaping materials or any other commodity intended for either sale on the premises or use at a customer's property, except for design display areas that may be authorized by the Planning Board during the site plan review and approval process, within either 30 feet of a front or rear property line or 15 feet of a side property line.
- (15) Kennel. A kennel shall be allowed by special permit in the RD10 District, provided that: **[Added 3-11-2010 by L.L. No. 12-2010]**
- (a) The facility shall be located on a parcel of not less than 25 acres.
 - (b) The kennel area shall be fenced, suitably screened by natural vegetation and located not less than 250 feet from any roadway or neighboring residential property boundary.
- (16) Food and Grocery Store. A food and grocery store shall be allowed by special permit in the TC district, provided that it is no larger than 4,000 square feet in size. To promote buildings that are in scale with village and hamlets, the dimensions of a food and grocery store structures shall be narrower and longer to the maximum extent feasible.
- (17) Mixed Use Buildings. In the TC District, a building may be allowed to contain both a commercial use and a residential use with a special use permit and site plan approved of by the Planning Board.
- (a) All such mixed use buildings shall meet all area, dimension, design, and other development requirements for the district in which it occurs.
 - (b) When two-story mixed use building is proposed, the commercial use shall occupy the

ZONING

first floor and shall have street frontage and the residential component shall be on the second floor. When a one-story mixed use building is proposed, the commercial use shall occupy the street frontage and the residential component shall be to the rear. No residential component of a mixed use building shall occupy street frontage.

- F. Nonresidential principal uses/commercial, light industrial and transportation uses and establishments.
- (1) Airport-related uses. Airport-related uses, to the extent such uses are specifically listed at Article V, § 210-47B, of this chapter, shall be allowed by special permit in the A District, provided that:
 - (a) Any limitations with respect to any of the specific uses set forth within the afore-cited § 210-47B are met.
 - (b) The Planning Board determines that all other applicable requirements of this chapter, including the supplementary regulations set forth for all Airport District uses within Article V, § 210-47, are met.
 - (2) Communication tower. A communication tower or other personal wireless service facility shall be allowed by special permit in the RD10, NC and Airport Districts upon approval of a special use permit by the Planning Board and provided that the specific standards, application requirements, and related administrative provisions set forth in § 210-57 of this article and chapter are met.
 - (3) Equipment rental and/or sales. Equipment rental and/or sales shall be allowed by special permit in the TC District, provided that:
 - (a) There be no outdoor display of equipment, whether available for rental or sale or otherwise located on the premises, within 25 feet of any side or rear property line or beyond any portion of the property approved for said purpose on the site plan reviewed and approved by the Planning Board which location(s) shall be adequately screened in the opinion of the Board by either intervening landform and/or natural vegetation from neighboring uses and public rights-of-way.
 - (b) To the extent any outdoor display of equipment may be authorized within the required front yard as established pursuant to the District Schedule of Area and Bulk Regulations found at Article IV, § 210-11, of this chapter, such display shall be limited the display within a suitably landscaped area of equipment available for either rental or sale, which display area shall be limited to a land area occupying not more than 10% of the front yard and situate not less than 40 feet from any public right-of-way.
 - (4) Extractive operation, including soil mining. An extractive operation, including soil mining, shall be allowed in the RD10, RA5, RA3, R1.5 and R1 Districts, provided that:
 - (a) The applicant demonstrates that contact has been established with the New York State Department of Environmental Conservation regarding the proposed extraction use and activity and that the intended use and activity shall comply fully with all applicable provisions of the New York State Mined Land Reclamation Law, Article 23, Title 27 of the Environmental Conservation Law, and related 6 NYCRR Parts 420 through 426, and other State and federal regulations controlling mining activity.
 - (b) A time schedule for completion of both the entire operation or, if the commercial extraction is to occur in phases, of each phase of the operation is submitted for the

ZONING

Planning Board's information.

- (c) An operations plan, including the number and type of trucks and other machinery to be used at the site, including their respective noise levels, is submitted for the Planning Board's information.
- (d) An overall mining location plan is submitted for the Planning Board's approval, with it required that said plan be designed to ensure the following criteria are met:

[1] Mining.

[a] The top and base of slope shall not be nearer than 100 feet to any right-of-way line of a public or private street or highway nor nearer than 200 feet to any property line, except in instances where greater proximity is required to carry out the intended rehabilitation plan and such greater proximity is both approved in writing by the owner or owners of the adjacent property and found acceptable by the Planning Board.

[b] The above notwithstanding, to the extent that such rehabilitation plan involves the restoration of the mining site for either a conservation pond or agricultural purposes within a period of five years from the time of the initiation of the mining activity, or within such additional period as the Planning Board may deem reasonable, approval of the owner or owners of the adjacent property shall not be required provided a minimum setback of 100 feet from the property boundary is maintained.

[2] That earthen berming, seeded and planted, the introduction of natural vegetation, the retention of existing vegetation and/or fencing shall be provided where deemed necessary by the Planning Board for either aesthetic purposes or to protect public health and safety.

(e) Rehabilitation plan.

[1] A progressive restoration and rehabilitation plan depicting both existing contours and proposed final contours after the entire operation, or any applicable phase thereof, is completed is submitted for the Planning Board's approval.

[2] The rehabilitation plan shall be based on NYSDEC mining site rehabilitation criteria and such stricter guidelines and criteria that may be promulgated by the Town of Union Vale and include consideration of appropriate grading, management of storm water runoff, and seeding, planting and revegetation to prevent erosion, unsightliness and other detrimental impact on neighboring properties. The rehabilitation plan shall not include the deposition of either sanitary wastes or construction and demolition debris.

(f) A performance guaranty (performance bond or escrow deposit) is provided to ensure both rehabilitation of the site in accordance with said rehabilitation plan, or applicable portion thereof, and necessary repairs that may be required to the Town highway network to address damage incurred as a result of mining operations, with this performance guaranty to be in an amount and form satisfactory to the Town Attorney and the Town Board, with recommendation thereon provided by the Planning Board and the Town Engineer. This performance guaranty may be either in an amount supplemental to or for duration extending beyond any performance guaranty required by the New York State Department of Environmental Conservation. The amount of said performance guaranty,

ZONING

although established on a case-by-case basis, shall be within a range specified in the fee schedule established and annually reviewed by the Town Board.

- (g) Conditions for ingress and egress to the mine site from the State, County or Town highway have been reviewed and deemed safe and adequate by the appropriate jurisdiction, i.e., the New York State Department of Transportation, the Dutchess County Department of Public Works or the Town Highway Superintendent, respectively.
 - (h) The intended routing of commercial vehicles associated with the extractive operation on any Town roads has been reviewed and approved by the Town Highway Superintendent, with routing through established residential areas discouraged to the extent practicable.
 - (i) The right of the Town to enforce or to cause the enforcement of mining permit requirements established by the New York State Department of Environmental Conservation is acknowledged by the applicant, with such requirements including but not limited to:
 - [1] Setbacks from property boundaries and public rights-of-way.
 - [2] Natural or man-made barriers to restrict access.
 - [3] Sediment and erosion control.
 - [4] Control of fugitive dust.
 - [5] Hours of operation.
 - (j) The right of the Town to enforce or to cause enforcement of the reclamation requirements imposed by NYSDEC through the mining permit is acknowledged by the applicant.
 - (k) Special use permit.
 - [1] The special use permit shall be limited to a period of three years, which time limit is not to be construed however as limiting the applicant's submission of subsequent requests for new or renewed permits.
 - [2] The above limitation notwithstanding, the Planning Board may authorize the special use permit for a period of up to 42 calendar months to provide that the termination date of any special permit issued by the Town of Union Vale shall be coincident with the termination date of any mining permit issued by NYSDEC.
 - (l) Should however the commercial extraction be projected to occur over more than a single special use permit term of between 36 and 42 calendar months as above provided, supplemental information shall be submitted as part of the application identifying the extent of extraction that will occur within the initial permit period and the extent of land area that will either have been rehabilitated or will be ready for rehabilitation at the close of the initial permit period.
- (5) (Reserved)¹⁰
- (6) Light industry or manufacturing. Light industry or manufacturing, including associated office and storage facilities, shall be allowed by special permit in the A District, provided that: **[Amended 3-11-2010 by L.L. No. 12-2010]**

ZONING

- (a) The individual light industry or manufacturing use or establishment is determined by the Planning Board to be consistent with the Airport District development and use standards set forth within Article V, § 210-47, of this chapter.
- (b) The use is determined by the Planning Board to be consistent with the general performance standards set forth at § 210-24 of this chapter and found to both comply with all other pertinent use and development standards established by this chapter and related laws, codes, rules and regulations administered either by the Town, county, state or federal agencies of jurisdiction and be deemed suitable for the site without threat to public health or safety, loss of natural resources or diminution of real property values.

G. Nonresidential accessory uses.

- (1) Accessory dwelling unit incidental to permitted business or institutional use. An accessory dwelling unit incidental to a permitted business or institutional use shall be allowed by special permit in all zoning districts, except A, provided that:
 - (a) The explicit written approval of the Town Code Enforcement Officer shall be obtained for the design, location, access and other safety-related elements of such dwelling unit in accordance with the applicable requirements of the New York State Uniform Fire Prevention and Building Code. No such dwelling unit shall be permitted on a second floor or other upper floor wholly or partially above a gasoline station, a store retailing flammable or fume-producing goods, a restaurant or any other place of business with a commercial kitchen, or other facilities producing intense heat.
 - (b) The habitable floor area of such dwelling unit shall be at least 750 square feet. The dwelling unit shall contain all services for safe and convenient habitation, meeting the applicable requirements of the New York State Uniform Fire Prevention and Building Code, and shall be served by water supply and sanitary sewage facilities acceptable to the Town of Union Vale and the Dutchess County Health Department.
 - (c) There shall be no more than one such dwelling unit created or maintained in a single building or on a single premise.
 - (d) The dwelling unit shall have a separate access to the outside of the building, which must be distinct from any exterior access to the business or institutional use.
 - (e) The dwelling unit shall have two reserved and appropriately designated off-street parking spaces meeting the standards set forth in Article V, § 210-25, of this chapter, conveniently located for access to the dwelling unit.
 - (f) A suitably landscaped, private outdoor open space of not less than 6,000 square feet shall be maintained for the use and beneficial enjoyment of the residents of the dwelling unit.
 - (g) Neither the dwelling unit nor any proprietary or other interest therein shall be sold to the tenant or any other party except as part of the sale of the entire building in which the dwelling unit is situated or of the premises in which such dwelling unit is located.
- (2) Housing for farm principals and employees. Housing for farm principals and employees shall be allowed by special permit in any residential district, provided that the criteria set forth at Article V, § 210-42B, of this chapter are met.

ZONING

- (3) Farm industry. A farm industry shall be allowed by special permit in the RD10, RA5 and RA3 Districts, provided that the criteria set forth at Article V, § 210-42C, of this chapter are met.
- (4) Accessory uses to golf course and/or country club. The below uses accessory to a golf course and/or country club development shall be allowed by special permit within the RD10, RA5 and RA3 Districts, provided that:
 - (a) The use is accessory to a golf course that is a regulation, minimum eighteen-hole facility open for play by the public and occupying a parcel of not less than 150 acres.
 - (b) The use is wholly managed and operated by the owner of the golf course and its employees and is neither managed nor operated on a concession basis.
 - (c) Except for occasional use of a tent or similar portable shelter to serve those attending a golf-related event, all activities associated with the use, including the conduct of all catered affairs, are conducted within the clubhouse or on its adjacent terrace and patio areas.
 - (d) No lodging accommodations may be provided on the golf course property in association with any of the components of the special permit use.
 - (e) To the extent authorization of any special permit use causes the golf course property to be illuminated at times that would not be associated with golf course operations, such lighting shall be provided only to the minimum extent necessary to meet public health and safety requirements and shall be shut down to the minimum level necessary for security purposes within 30 minutes of the closing of the public restaurant or the end of a catered banquet, meeting or other event.
 - (f) To the extent authorization of the special permit use causes a desire by the golf course owner for additional signage, any such message shall be incorporated within the signage otherwise authorized by type, number and square footage for the golf course.
 - (g) To the extent a public restaurant is included as one of the components of the special permit use, the following shall apply:
 - [1] Year-round operations may be authorized but shall be restricted to the hours of 11 a.m. through 10 p.m.
 - [2] Musical entertainment shall be restricted to a single piano player, vocalist or like performer who may entertain dinner guests but not within a nightclub atmosphere or in a situation where a cover charge is imposed.
 - [3] Adequate parking shall be provided for the patrons and employees of the restaurant with the Planning Board authorized to take into account to the extent it deems practicable joint use of parking spaces that may not be required for golf course operations during the hours of operation of the restaurant with due consideration to any simultaneous catered banquet, meeting or other event.
 - [4] Occupancy standards as established pursuant to the New York State Uniform Fire Prevention and Building Code, the Americans with Disabilities Act (ADA) and/or Health Department requirements regarding food service and other operations shall

ZONING

be met.

- (h) To the extent that catering services for banquets, weddings and similar gatherings are included as one of the components of the special permit use, the following shall apply:
 - [1] Year-round operations may be authorized but shall be restricted to Friday, Saturday and Sunday between the hours of 12 noon and 12 midnight.
 - [2] Musical entertainment, both as authorized for the public restaurant and including bands, may be provided for guests, however strict consideration shall be afforded to the maintenance of ambient outdoor noise levels at both the property boundaries and at the various golf course greens.
 - [3] Adequate parking shall be provided for the guests of the catered event and those employed in support of the event with the Planning Board authorized to take into account to the extent it deems practicable joint use of parking spaces that may not be required for golf course, public restaurant or other operations during the time of catered events.
 - [4] Occupancy standards as established pursuant to the New York State Uniform Fire Prevention and Building Code, ADA and/or Health Department requirements regarding food service operations shall be met.
 - (i) To the extent golf course facilities are made available as one of the components of the special permit use for the conduct of meetings, business trade shows, seminars and similar events by public or private sector sponsors, both profit and not-for-profit, the following shall apply:
 - [1] Year-round daily operations may be authorized but shall be restricted to the hours of 8 a.m. through 10 p.m.
 - [2] Any such event must be open exclusively to an invited list of guests and must include the serving of not less than a continental breakfast or one or more fuller meals.
 - [3] Adequate parking as determined by the Planning Board in consideration of the above-stated parameters shall be provided to accommodate the parking requirements for attendees and support staff associated with any such meeting, business trade show, seminar or similar event.
 - [4] Occupancy standards and other requirements as stated above for public restaurant and catered events shall be met to the extent applicable.
 - (j) Any special use permit issued for such use shall be limited in the instance of the first permit to a time period of three calendar years and include provision for periodic monitoring of the use by the Code Enforcement Officer for conformity with the above standards, and any other mitigating conditions that may be imposed by the Planning Board upon consideration of the specific circumstances associated with the application for special use permit. Reports submitted to the Planning Board not less than annually by the Code Enforcement Officer shall be required and shall be taken into consideration at the time of request for renewal of the special use permit.
- (5) Wind energy system. Windmills, wind turbines or similar components of a wind energy system shall be allowed by special permit in the A District, provided that: **[Added 3-11-**

ZONING

2010 by L.L. No. 12-2010]

- (a) The wind energy system shall be incidental to and fully located on the same parcel as the residential, institutional, commercial, or other permitted principal use that will exclusively derive all or some portion of its energy supply from the wind source.
 - (b) No component of the wind energy system shall extend more than 80 feet above naturally occurring grade as measured from either the base of the windmill or other facility or at grade level of the building to which it is attached.
 - (c) No component of the wind energy system shall be located within 100 feet of a public or private roadway or property boundary.
- (6) Ground-mounted solar systems. Accessory ground-mounted solar systems shall be allowed by special permit in NC and A commercial districts, provided that: **[Added 10-6-2016 by L.L. No. 3-2016]**
- (a) Ground-mounted solar systems shall not be permitted in a front yard or within the area between the front wall of a commercial structure and the front property line, whichever is greater.
 - (b) Ground-mounted solar systems shall comply with the side and rear yard requirements of the zoning district in which the property is located.
 - (c) Ground-mounted solar systems shall not exceed the area dimensions of the principal structure located on the parcel.
 - (d) Ground-mounted solar systems shall not exceed 12 feet in height.
 - (e) Site plan approval is required.
 - (f) The Planning Board is authorized to require landscaping and/or fencing or a combination of both around the portion of the system between the panels and the ground to offset visual impacts to adjacent properties and roads. Plantings should consist of deciduous or evergreen plantings in order to achieve year-round screening.
 - (g) General placement of ground-mounted solar systems should be done in a manner which maximizes distance from adjacent properties to ensure that the installation does not seek to minimize impact to the applicant at the expense of adjacent properties. The Planning Board has authority to increase the setback requirements to accomplish this goal.
 - (h) Lot coverage. The surface area of a ground-mounted solar system shall be included in lot coverage and impervious surface calculations.

§ 210-57. Additional standards and requirements for communication (personal wireless service) facilities and towers.

A. Specific standards. Except for communication facilities and towers placed on municipal properties, the Town Planning Board shall apply the specific standards set forth below in its consideration of any application for special permit for a communication (personal wireless service) facility or tower:

- (1) Shared use.

ZONING

- (a) Shared use of existing communication towers or the use of other existing structures shall be preferred to the erection or construction of new towers.
- (b) Where shared use of an existing communication tower or other existing structure is a technologically feasible alternative, the applicant may be denied a special permit for erection or construction of a new tower.
- (c) Determination of feasibility.
 - [1] In determining feasibility, the Planning Board shall also consider the comparative total costs to the applicant over a span of some five to 10 years of the following:
 - [a] Adapting an existing communication tower to shared use.
 - [b] Erecting a new communication tower.
 - [2] This assessment shall include consideration of all of the following:
 - [a] Work that may be required to adapt the communication tower to shared use, including structural reinforcement, preventing transmission or receiver interference, site landscaping and other physical changes that may be required to the tower and/or its site.
 - [b] Initial expenses involved in entering into a lease or similar agreement to accommodate shared use or acquiring another site for a new communication tower.
 - [c] Costs of maintaining either the shared use location or new communication tower.
 - [3] For the purposes of this determination, the total costs over a span of some five to 10 years associated with the shared use alternative shall be considered unreasonable if such costs exceed by more than 10% the costs of an otherwise proposed new communication tower at the same or another site.
- (2) Compatibility with Federal Aviation Administration (FAA) navigational aids. The applicant must demonstrate that the proposed communication (personal wireless service) facility or tower will not interfere in any way with in-place VOR radio beacon navigational aids for aircraft, particularly in consideration of the location of Sky Acres Airport within the Town of Union Vale.
- (3) Site requirements: area and bulk standards.
 - (a) Minimum lot area.
 - [1] The minimum lot area shall be 10 acres.
 - [2] The above notwithstanding, depending upon the configuration of the site and its relationship to neighboring properties, a site in excess of the minimum lot area may be required to ensure the protection of public health, safety and welfare through both substantial setback from neighboring properties, with special consideration given to properties on which preexisting residential dwellings are located, and proper visual screening of the proposed communication facility or tower from these properties.
 - (b) Minimum setbacks.

ZONING

- [1] In order to achieve the above-stated objectives, the minimum setback of a communication tower shall be 250 feet from any adjoining property line and 500 feet from any existing residential dwelling. In addition, the minimum separation of any structure or facility appurtenant to the tower shall be not less than 50% of the required tower setback.
 - [2] The above notwithstanding, in no event may the minimum setback of any new tower from any property line and/or vegetative screening be less than the sum of the height of the communication tower to be erected and an additional 30 feet.
 - [3] This minimum setback distance shall apply to all communication tower components, including guy wires, guy wire anchors and accessory or appurtenant facilities.
- (4) Site requirements: design standards.
- (a) Ability to accommodate shared use. Any new communication tower or major modification of an existing tower shall be designed so as to be structurally capable of accommodating shared use.
 - (b) Tower lighting. In addition to any beacon light, other type of illumination or warning device, if any, required by the FAA, any communication tower erected within the Town of Union Vale shall be equipped with a beacon light if deemed necessary by the Planning Board due to the proximity of the tower to the Sky Acres Airport or to movement of aircraft passing over elevated portions of the Town such as the ridge of West Clove Mountain.
 - (c) Scale and appearance.
 - [1] No communication tower or attachments thereto shall exceed 150 feet in height.
 - [2] The above provisions regarding height and lighting notwithstanding, any communication tower shall be sited and designed to be the minimum height necessary to fulfill its function and to avoid, whenever possible, compliance with additional FAA lighting and marking requirements based on tower height and location.
 - [3] Except as required by the FAA, no communication tower shall be painted in a color or colors not in harmony with its natural and man-made surroundings. In general, an unpainted galvanized tower is preferred, with light blue and light gray acceptable if painting of the tower is proposed.
 - [4] No communication tower shall support any advertising messages or other commercial signs. non-ionizing warning signs and other signs necessary to meet the legal requirements of the applicant's Federal Communications Commission (FCC) license to operate shall be permitted.
 - [5] A chain link fence not less than eight feet in height with locking gate(s) shall be installed to fully surround the base of any communication tower, including all of its components and any accessory buildings or other appurtenant facilities and improvements on the tower site.
 - [6] All communication towers and accessory buildings or other appurtenant facilities and improvements shall be sited to minimize any adverse visual effect on the environment. Accessory buildings or other facilities shall employ building

ZONING

materials, colors and textures that are both durable and selected to blend with the natural surroundings.

[7] Vegetation.

- [a] Existing on-site vegetation shall be preserved to the maximum extent practicable to both mitigate the visual impact of the communication tower and related buildings and facilities and maintain the stability of soils within the project site.
- [b] No cutting of trees exceeding four inches in diameter at breast height shall take place except as may be expressly authorized by the Planning Board as part of its issuance of a special permit and grant of site plan approval.

[8] Construction of access road.

- [a] Adequate access to, and parking at, the communication tower site shall be provided for both service and emergency vehicles, with maximum use made of existing roadways, either public or private.
- [b] Any access road shall be improved and maintained at not less than the design standards for a common driveway, as set by the Town of Union Vale within Town Code Chapter A215, Street Specifications, including in particular Figure A as set forth therein.
- [c] Moreover, to the extent practicable, any roadway construction required to access a tower site shall be carried out in a manner that minimizes disturbance to the land, generally limiting grading and the cutting of vegetation to the more restrictive of the following: either the toe-of-slope in fill sections or the top- of-slope in cut sections, or a distance of 10 feet beyond the edge of the required twenty-foot wide cartway.
- [d] In order to meet the above criteria, and otherwise both minimize adverse visual impact and reduce soil erosion potential, any access road shall closely follow natural contours.

[9] Maintenance of access road. As a condition of the special permit and as a requisite for maintaining a certificate of occupancy and/or certificate of compliance once issued, any access roadway shall be maintained throughout the useful life of the communication tower site in a workmanlike manner, including as pertinent the plowing of snow, periodic trimming of vegetation that may obstruct the cartway, and undertaking of repairs in a timely manner to address any roadway defects, drainage problems, erosion conditions or other circumstances that may develop, so as to ensure the roadway is at all times in a safe and passable condition for both service and emergency vehicles.

B. Application requirements. In addition to the more generic requirements otherwise set forth within § 210-59 of this article and chapter, all applications for issuance of a special permit and/or grant of site plan approval for a communication (personal wireless service) facility or tower shall be accompanied by maps, reports and other data presenting to the extent pertinent the following information:

- (1) An existing site conditions map depicting the following:

ZONING

- (a) The location of all structures and other improvements within the project site and all structures and above-grade improvements on adjacent properties and located within 50 feet of the boundaries of the project site.
 - (b) The location, type. Approximate height and mass of all trees within the project site and within 100 feet of its boundaries.
 - (c) The topography of the project site and adjacent property within 100 feet thereof, based on either field survey or, where field survey information is not available, interpretation of United States Geological Survey (USGS) data.
- (2) Manufacturer's data regarding the proposed communication (personal wireless service) facility or tower including but not limited to the following:
- (a) Make and model of the communication tower to be erected or the equipment to be installed.
 - (b) Design data, installation instructions and construction plan.
 - (c) Identification of the cumulative levels of radiation emitted by or from both the communication tower and its appurtenant facilities and all other communication towers and facilities located within 1,000 feet thereof. This data shall specifically include:
 - [1] Frequencies in use.
 - [2] Effective radiated power.
 - [3] Calculated data demonstrating that all transmissions are in compliance with FCC regulations in effect at the time of application.
 - (d) Identification of the effects siting and operation of the communication tower and its appurtenant facilities will have on existing communication towers, antennas or other electromagnetic devices within 1,000 feet of the proposed installation.
- (3) Proposed communication tower maintenance and inspection procedures and records system, including demonstration of how initial and continuing compliance with FCC and FAA standards will occur. A copy of each report filed with the FCC or FAA to comply with these standards shall be simultaneously filed with the Town Code Enforcement Officer and each such report shall be certified to be true, complete and accurate or otherwise subject to applicable penalty of law.
- (4) A communication tower siting report shall also be submitted with regard to any proposed new tower. The report shall document the following:
- (a) In accordance with above § 210-57A(1) of this article, good faith efforts to secure shared capacity from existing towers as well as capacity for future shared use of the proposed communication tower. The former demonstration shall include at least the following:
 - [1] Inventory of existing communication towers within a reasonable distance of the proposed site.
 - [2] Identification of opportunities for shared use of existing towers as an alternative to erection of a new communication tower.

ZONING

- [3] Copies of written requests made to, and responses received from, the owners of existing communication towers regarding shared use of their towers.
- (b) A technical and visual impact analysis of other alternatives to the proposed communication tower at the location intended, including at least the following:
 - [1] Consideration of alternative new communication tower sites which could similarly satisfy the applicant's requirements.
 - [2] Consideration of the installation of towers, antenna or masts on existing buildings or other alternative structures, particularly for fill- in sites.
- (c) Alternative designs for the communication tower, or rerad, including those that minimize adverse visual impact by using nontraditional design elements to blend more effectively with the natural and/or man-made surroundings.
- (5) A compliance report on non-ionizing electromagnetic radiation (NIER) prepared by a qualified engineer and/or health physicist setting forth calculations regarding the maximum amount on non-ionizing electromagnetic radiation which will be emitted from the communication (personal wireless service) facility or tower and demonstrating compliance with the applicable NIER standards set forth below:
 - (a) The standards for public exposure to NIER established by the Institute of Electrical and Electronics Engineers, American National Standards Institute (ANSI).
 - (b) Any standard for NIER that may be promulgated by the FCC.
- (6) A completed visual assessment form (EAF Visual Addendum) as part of the initial State Environmental Quality Review Act (SEQRA) submission. Upon its evaluation of the information provided by the Visual Addendum, the Planning Board may scope and require the submission of a more detailed visual assessment and analysis.
- (7) Landscaping; buffering and screening.
 - (a) A detailed landscape plan addressing through initial and continuing maintenance of existing vegetation and the installation of new plantings the visibility of the communication (personal wireless service) facility or tower from adjacent properties and from other key viewing points identified during the visual assessment and analysis, including to the extent pertinent locations both within the Town and beyond its borders.
 - (b) With regard to mitigation of visual impact on immediately adjacent and other neighboring properties, not less than the planting or retention of native evergreen species capable of forming a continuous natural barrier at least 10 feet in height within 24 calendar months of communication tower construction shall be provided to effectively screen the tower base and accessory facilities from such properties.
- (8) As part of the submission and as a condition precedent to the issuance of any special permit by the Planning Board for a communication (personal wireless service) facility or tower, either the applicant or both the applicant and the landowner should the applicant not be the landowner shall specifically recite and acknowledge in writing the provision of each of below § 210-57(C)(1) through (5) of this article.

C. Procedural and administrative matters.

ZONING

- (1) Evaluation by independent consultants. Upon submission of an application for special permit for a communication (personal wireless service) facility or tower, the Planning Board may retain an independent consultant, as a reasonable rate to be paid by the applicant, to assist the Planning Board and its usual consultants, the Town Planning Consultant and the Town Engineer, in technical review of the application. The consultant shall be a qualified professional in one or more of the following fields: telecommunications engineering, structural engineering, monitoring of electromagnetic fields, or other relevant field deemed essential by the Planning Board.
- (2) Required inspections. Any communication (personal wireless service) tower erected within the Town of Union Vale shall be subject to the below structural inspection requirements:
 - (a) Biannual inspection; report.
 - [1] The applicant, or the applicant's successors, shall cause a biannual inspection of the communication tower and related accessory structures and improvements to be conducted by a qualified licensed professional engineer. The inspection shall specifically address whether the communication tower and related accessory structures and related improvements are being maintained in a structurally safe and skillful manner.
 - [2] A written report certified to by the inspecting professional engineer shall present information regarding the nature and timing of the inspection conducted, identify all deficiencies noted, proposed appropriate corrective action and include a schedule for carrying out the work.
 - (b) Such certified biannual report shall be filed with the Town Code Enforcement Officer within 60 calendar days of the first and each succeeding biannual anniversary of the issuance of the initial certificate of occupancy authorizing use of the facility site.
 - (c) Upon submission of such report, the applicant, or the applicant's successors, shall schedule with the Code Enforcement Officer an appointment for his inspection of the property.
- (3) Additional requirements.
 - (a) As a condition of any special permit issued by the Planning Board for a communication (personal wireless service) facility or tower and in addition to the requirement set forth above in § 210-57C(2) of this article, the Planning Board may require future submission of reports and other documentation demonstrating continuing compliance with any of the regulations in effect at the time the special use permit was issued or any superseding or new regulations that may be adopted by either the FCC or other Federal regulating agency.
 - (b) Performance guaranty.
 - [1] As a condition of any special permit issued by the Planning Board for a communication (personal wireless service) facility or tower, the Planning Board shall require the posting of a suitable performance guarantee, the performance guarantee being at the Town's discretion either a performance bond or an irrevocable letter of credit with a specific schedule of payments if work is not completed to ensure either of the following:
 - [a] The completion of all work associated with the authorized facility installation or tower construction within the time frame specified by the building permit.

ZONING

- [b] Both removal of any facility installation or tower construction left incomplete and the restoration of the facility site to its prior state to the extent deemed practicable by the Planning Board. Except as may be authorized by the Planning Board in consideration of seasonal factors, all such removal and remediation shall occur within six calendar months of the cessation of work on the facility installation or tower construction. The date of such cessation of work shall be determined by the Code Enforcement Officer and set forth in a notice to the applicant or the applicant and landowner should he applicant not be the landowner.
- [2] No building permit shall be issued until the Town Board has accepted such performance bond or similar guarantee. The Town Board shall employ the following criteria to determine the adequacy of the performance guarantee proposed by the applicant:
- [a] The scope of work governed by the performance guarantee shall be the worst-case, or most extensive, scenario of removals and remediation defined by the Planning Board.
 - [b] The amount of the performance guarantee shall be based on an estimate for carrying out the above work, such estimate either prepared or reviewed and confirmed by the Town Engineer.
 - [c] The form of the performance guarantee shall be reviewed and approved by the Town Attorney.
- (4) Abandonment and removal. Within 60 calendar days of receipt of written notice from the Code Enforcement Officer, either the applicant, the landowner or their successors shall cause the dismantling and removal of any communication (personal wireless service) facility or tower, whether erected prior to or subsequent to April 9, 1998, the date of enactment of L.L. No. 2-1998, the substantive provisions of which local law are incorporated within this chapter, as comprehensively amended in 2002, the use of which the Code Enforcement Officer has deemed to be discontinued or otherwise abandoned for the period specified below:
- (a) Pertaining to a communication tower and related accessory structures and improvements, where operations have ceased for a period of 24 consecutive months, with intent to resume the use or operation not providing exemption from this requirement.
 - (b) Pertaining to any other facility, where the operation of such facility has ceased for a period of six consecutive months, with intent to resume its use or operation not providing exemption from this requirement.
- (5) Certificate of insurance required.
- (a) Adequate and sufficient liability insurance shall be maintained during the construction period and throughout the life of any communication (personal wireless service) tower erected within the Town of Union Vale. The minimum acceptable amount of liability insurance shall be established by the Planning Board in its review of the application for special use permit.
 - (b) Prior to the issuance of the special use permit, documentation that such liability insurance has been secured shall be submitted to the Town in the form of a certificate of insurance identifying the Town of Union Vale as a coinsured party and in at least the

ZONING

minimum amount specified by the Planning Board. Maintenance without interruption of liability insurance in like or greater amount and with the Town named as a coinsured party shall be required as a continuing condition of the special use permit and related certificate of occupancy and/or certificate of compliance.

- (6) Partial exemption for amateur ham radio operations.
- (a) For purposes of this chapter, communication (personal wireless service) facilities or towers in support of amateur ham radio operations shall, while subject to the requirement that a special use permit be secured for any communication tower in excess of the height and/or locational limitations set forth within Article V, § 210-44, of this chapter, be exempt from certain provisions within this section, as set forth in below § 210-57C(6)(b), provided that there is strict compliance with the following limitations:
- [1] Not more than one such tower for the exclusive use of the owner of the residential premises shall be constructed on any parcel within a residential district.
 - [2] There shall be no sale or lease of space for commercial purposes on any tower erected and maintained on a residential parcel in support of amateur ham radio operations.
- (b) For amateur ham radio operations satisfying with the above criteria, compliance is not required with the following:
- [1] Within § 210-57A, Specific standards, Subsection A(1), relating to shared use in its entirety, and those site requirements: design standards set forth within Subsection A(4)(a), (b), (c)(5), (c)(8) and (c)(9).
 - [2] Within § 210-57B, Application requirements, as set forth within § 210-57B(3) through (7) and that portion of § 210-57B(8) dealing with required biannual inspection.
 - [3] Section 210-57C(2), Required inspections, in its entirety.
 - [4] Section 210-57C(5), Certificate of insurance required, in its entirety.

§ 210-58. Additional standards and requirements for development within Flood- Fringe Overlay (FF-O) District.

- A. All uses proposed within the Flood-Fringe Overlay (FF-O) District shall be considered special permit uses subject to review by the Planning Board for compliance with the following design standards, as shall be certified by a registered architect or licensed professional engineer, and related additional submission requirements:
- (1) Design standards.
- (a) All structures shall be designed and anchored to prevent flotation, collapse or lateral movement due to floodwater-related forces.
 - (b) All construction materials and utility equipment used shall be resistant to flood damage.
 - (c) Construction practices and methods shall be employed which minimize potential flood damage, including the requirement that all structures and other improvements be designed to withstand hydrostatic pressure, erosion and seepage to an elevation not less than the one-hundred-year- flood elevation.

ZONING

- (d) Adequate drainage shall be provided to reduce flood hazard exposure.
 - (e) All public utilities and facilities shall be located and constructed to minimize or eliminate potential flood damage.
 - (f) All water supply and sanitary sewage systems shall be designed to minimize or eliminate water infiltration or discharges into the floodwaters, including the provision that on-site sewage systems shall be located so as to both avoid their impairment or contamination potential during flooding.
 - (g) All new residential construction or substantial improvements to existing residential structures shall have the lowest floor, including basement, elevated to at least two feet above the water level of the one-hundred-year flood.
 - (h) All new nonresidential construction or substantial improvements to existing nonresidential structures shall have their lowest floor, including basement, elevated to at least two feet above the water level of the one- hundred-year flood or, as an alternative, be flood-proofed up to the same water level, including attendant utility and sanitary facilities.
 - (i) No use shall be permitted, including fill, dredging or excavation activity, unless the applicant has demonstrated that the proposed use, in combination with all other existing and anticipated uses, will not raise the water level of the one-hundred-year flood more than one foot at any point.
 - (j) No storage of materials or equipment that are potentially buoyant, flammable or explosive or which could otherwise be injurious to human, animal or plant life, either terrestrial or aquatic, shall be permitted.
- (2) Additional submission requirements. In addition to the submission of the forms, fees and other documentation set forth for all special permit uses at § 210-59 of this article and chapter, the following additional information shall accompany any Application to undertake work within the Flood-Fringe Overlay (FF-O) District:
- (a) Record of the status of any other permit, approval or compliance determination that may be required from a state or county agency.
 - (b) Plans providing adequate detail to determine the suitability of the site for the proposed development or use which information shall include, but not be limited to, the following:
 - [1] The location of the lot or construction site in relation to affected watercourses or other bodies of water, boundaries of the Flood- Fringe Overlay (FF-O) District, topography of the site with elevations in relation to mean sea level, existing and proposed buildings and other structures, fill areas, drainage facilities and the location and description of any materials proposed to be stored within the FF-O District on either a permanent or temporary basis.
 - [2] The elevation in relation to mean sea level of the lowest floor, including basement, of all existing and proposed structures.
 - [3] The elevation in relation to mean sea level to which any nonresidential structure is proposed to be flood-proofed, together with its attendant utility and sanitary facilities.
 - [4] Details regarding how any nonresidential flood-proofed structure meets or exceeds essential flood-proofing standards, i.e., that flood- proofing occurs so

ZONING

well 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 of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

[5] Documentation that any nonresidential structure or any residential structure intended for habitation, whether termed a principal structure or an accessory structure by this chapter, has at least one access route from a public road, street or highway which is wholly above the one-hundred-year flood elevation and which route can be safely used for access by emergency equipment and for the evacuation of persons.

[6] A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

B. Any special permit issued for a use proposed within the Flood-Fringe Overlay (FF-O) District shall satisfy any further criteria set forth in Chapter 135, Flood Damage Prevention, and shall include as a condition the additional requirement that certification by a registered architect or licensed professional engineer of as-built compliance with the approved plans be submitted to the Code Enforcement Officer prior to either use of the property or the issuance of a certificate of occupancy for the intended use or structure. Any such certification shall be maintained by the Deputy Code Enforcement Official as a permanent record and be available for inspection.

§ 210-59. Application for special use permit and associated review procedures; fee.

A. Special use permit application procedure. The Planning Board shall review and act on all special permit uses in accordance with the procedure specified herein:

(1) Application and fee. All applications made to the Planning Board shall be in writing, on forms and in accordance with the schedule prescribed by the Board, and, in order to be considered complete, except as may be waived by the Planning Board on a case-by-case basis due to the minor nature of the specific request, include the following which at a minimum shall be construed to require submission not less than 21 days prior to a regularly-scheduled meeting of the Planning Board and submission of 14 copies, consisting of three full-scale prints and 11 half-scale prints, and a portable document format (PDF) file of any site plan and building plans and elevations presented in satisfaction of below Subsection A(1)(a) and (b): **[Amended 3-11-2010 by L.L. No. 12-2010; 10-9-2014 by L.L. No. 5-2014]**

(a) A preliminary site plan which demonstrates the overall site layout and building locations, access drives and parking areas, setbacks and buffer areas, lighting, landscaping and signage, and the location and extent of existing development on adjacent parcels.

(b) Preliminary building plans and elevations illustrating proposed building construction and alteration, including an indication of exterior materials, textures and colors.

(c) Payment of the applicable application fee in accordance with the fee schedule established and annually reviewed by the Town Board.

(d) Either a short or full Environmental Assessment Form (EAF) as required by the Planning Board pursuant to the State Environmental Quality Review Act (SEQRA), Article 8 of the Environmental Conservation Law and Title 6 Part 617 NYCRR.

ZONING

- (e) If the parcel subject of the special permit use lies partially, wholly or within 500 feet of either a certified agricultural district or land for which an individual commitment has been received pursuant to §§ 305 and 306 of the Agriculture and Markets Law of the State of New York, a complete application for special use permit shall also include an agricultural data statement in a form prescribed by the Planning Board.
 - (f) Any other information deemed helpful by the applicant or necessary by the Planning Board to explain the nature of the proposed use and its consistency with the standards established by this chapter for special permit uses.
- (2) Public notice and hearing.
- (a) The Planning Board shall within 62 calendar days of the receipt of the complete application conduct a public hearing on any such special permit application. The Planning Board shall provide a copy of the notice of said hearing to the applicant, at which hearing, the applicant shall appear in person or by agent. The Board shall additionally provide notice as follows:
 - [1] By publishing at least five calendar days prior to the date thereof a legal notice in an official newspaper of the Town.
 - [2] By requiring the Clerk of the Planning Board to provide notice of the public hearing and data regarding the substance of the application by certified mail, return receipt requested, to the owners of all property abutting that held by the applicant and all other owners within 200 feet of the land involved in the application. Notice shall be mailed at least 10 calendar days prior to the hearing, with compliance with the notification procedure certified to by the Clerk or other designated Town employee. The Town shall charge the applicant either a flat rate or a stated amount per notice for satisfying this requirement.
 - [a] The names and addresses of owners notified shall be taken as such appear on the last completed tax roll of the Town.
 - [b] Provided that there has been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board in connection with granting or denying a special use permit.
 - [3] Posting a conspicuous sign on its road frontage indicating the parcel is subject of a pending proceeding before the Planning Board for a period of not less than five calendar days prior to the public hearing and in such manner as otherwise specified by the Planning Board at the time of acceptance of the application for special use permit. **[Added 3-11-2010 by L.L. No. 12-2010]**
 - (b) If the land involved in the application lies within 500 feet of the boundary of any other municipality, the Clerk of the Planning Board shall also mail at least five calendar days prior to the public hearing to the municipal clerk of such other municipality or municipalities a copy of the notice of the substance of every application, together with a copy of the official notice of the public hearing.
- (3) Consultant review. In its review of an application for special use permit the Planning Board may consult with the Town Code Enforcement Officer and/or Deputy Code Enforcement Official, the Superintendent of Highways, the Conservation Advisory

ZONING

Council, the Design Review Committee, the Dutchess County Health Department, other local and county officials and its designated private planning, legal and engineering consultants, in addition to representatives of New York State agencies including but not limited to the Department of Transportation, the Health Department and the Department of Environmental Conservation. [Amended 3-11-2010 by L.L. No. 12-2010]

- (4) Required referral. A full statement of any special use permit application that meets the referral requirements of §§ 239-l and 239-m of the General Municipal Law shall also be referred prior to the public hearing to the Dutchess County Department of Planning for its review. The Planning Board shall take no action on such application until an advisory recommendation has been received from the County Department of Planning or 30 calendar days have elapsed since the Department received such full statement. In the event that the Dutchess County Department of Planning recommends disapproval or recommends modification thereof, the Planning Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all members adopting a resolution fully setting forth the reasons for the contrary action. Within seven calendar days after such final action, the Planning Board shall file a report of the final action it has taken with the County Department of Planning.
- (5) Waiver of requirements. The Planning Board may waive upon written request of the applicant and as an integral part of its decision on the application any of the additional specific standards and requirements set forth in §§ 210-56 and 210-57 of this article and chapter for the approval of a particular special use permit. The grant of any such waiver shall be accompanied by a finding that compliance with the additional requirement is either not requisite in the interest of the public health, safety and general welfare or inappropriate to the circumstances of the particular special permit use. The finding shall also be supported by a determination under SEQRA that the grant of such waiver will not cause any significant adverse environmental effect that would have been avoided or more fully mitigated were there compliance with the requirement.
- (6) Decisions. Every decision of the Planning Board with respect to a special use permit application shall be made by resolution within 62 calendar days of the public hearing, which resolution shall clearly state the decision, including findings made, any waivers granted and any modifications or conditions attached thereto. Each such decision shall be filed in the office of the Town Clerk within five business days thereof. Certified copies shall also be sent to the applicant and to the Town Code Enforcement Officer.

§ 210-60. Other administrative provisions.

- A. Reimbursable costs. Reimbursable costs incurred by the Planning Board for private consultation fees or other extraordinary expense in connection with the review of a special use permit application shall be charged to the applicant. Such reimbursable costs shall be in addition to the fee required in § 210-59 above. Maximum amounts for such reimbursable costs by project type and size shall be in accordance with the fee schedule established and annually reviewed by the Town Board.
- B. Effect of special use permit approval.
 - (1) In addition to compliance with all other applicable sections of this chapter, and all other local, county and state laws, rules and regulations, no building permit shall be issued for any structure regulated by this article until such special use permit has received Planning Board approval and a copy of a resolution to that effect has been presented to the Code

ZONING

Enforcement Officer, such resolution accompanied as may be pertinent by a letter from the Planning Board Chairperson advising that any conditions set forth within the resolution have been satisfied.

- (2) No certificate of occupancy shall be issued for any structure or use of land covered by this article until the structure is completed or the land developed in strict accordance with the Planning Board resolution of special use permit approval and other applicable requirements of this chapter.
 - (3) Any use for which a special use permit may be granted shall be deemed a conforming use in the district in which it is located provided that such permit shall be deemed to affect only the lot or portion thereof for which such special use permit has been granted.
 - (4) The Planning Board may require in its resolution of approval that a special use permit be renewed periodically. Such renewal may be withheld only after a public hearing and upon specific determination by the Planning Board that such conditions as may have been prescribed in conjunction with the issuance of the original permit have not been, or are no longer being, complied with by person responsible for conduct of the use. In such cases, the applicant shall be granted a period of 60 calendar days for full compliance prior to revocation of the special use permit.
 - (5) The granting of a special use permit in the Flood Fringe Overlay (FF-O) District shall not be held to constitute a representation, guarantee or warranty of any kind by the Town of Union Vale or any employee or official thereof, or consultant thereto, regarding the practicability or safety of any structure or use or the proper functioning of the proposed facilities and plans and shall not be held to create a liability upon, or cause of action against, such public body, official or employee for any damage that may result pursuant to such development or use.
- C. Expiration of special use permit. A special use permit shall be deemed to authorize only the particular use or uses expressly specified in the special permit and shall expire if the special use permit activity is not commenced and diligently pursued within six calendar months of the date of issuance of the special use permit. Upon prior written request to the Planning Board, the time period for initiation of the special permit use may be extended for a maximum period of one calendar year from its otherwise specified termination date.
- D. Revocation of special use permit. In all instances, including those cited in above § 210-60B(4) of this article, a special use permit may be revoked by the Planning Board, after public hearing, if it is found and determined that there has been a substantial failure to comply with any of the terms, conditions, limitations and requirements imposed by said special permit.
- E. Integration of procedures. Whenever a particular action requires both the consideration of an application for special use permit and site plan review and approval by the Planning Board, the Planning Board shall integrate, to the extent practicable and consistent with applicable law, special use permit review, as required by this chapter, with the site plan review and approval process. Such integration of procedures may require, upon mutual consent of the Planning Board and applicant, reasonable modification of the time schedules otherwise stated in this article for consideration of an application for special use permit or in Article VII of this chapter, as related to site plan review and approval.
- F. Relief from decisions. Any person or persons jointly or severally aggrieved by any decision of the Planning Board on a special use permit application may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice

ZONING

Law and Rules of the State of New York. Such proceeding shall be subject to the provisions of Article 78, except that the action must be initiated as therein provided within 30 calendar days after the filing of the Board's decision in the office of the Town Clerk.

ARTICLE VII

Site Plan Review and Approval Procedure

§ 210-61. Requirement for site plan approval.

- A. In accordance with Article III, § 210-10, District Schedule of Use Regulations, prior to the issuance of a building permit or a certificate of occupancy in any district, the Code Enforcement Officer shall require the preparation and approval of a site plan for each of the circumstances set forth below, except in the matter of a one-family dwelling and related accessory uses, including permitted home occupations, or agricultural and conservation uses permitted by right and not involving the clearing of more than five acres of land and/or the construction of any farm buildings or other structures in excess of 10,000 square feet in footprint. **[Amended 3-11-2010 by L.L. No. 12-2010]**
- (1) A new principal or accessory building for which the Town of Union Vale requires a building permit will be erected.
 - (2) Expansion of an existing principal or accessory building for which the Town of Union Vale requires a building permit will occur.
 - (3) A change of use of an existing principal or accessory building that causes requirement for a greater number of off-street parking spaces under Article V, § 210-25, of this chapter than for the prior use will occur.
 - (4) A change of the intensity of use, or the amount of floor area devoted to that use, (e.g., creating a greater number of dwelling units, increasing the amount of retail space or other floor area available to customers, or providing additional seating in a restaurant, tavern or place of public assembly) will occur so as to require additional parking and examination of the sufficiency of water supply, sanitary sewage disposal, and other arrangements.
 - (5) A change will occur in the extent of the site devoted to off-street parking, service or loading areas, outdoor storage (whether open, partially-enclosed or wholly-enclosed), and similar features.
 - (6) Site modifications will be undertaken to comply with the requirements of the Dutchess County Health Department, the New York State Department of Transportation, the New York State Department of Environmental Conservation, or any other agency of jurisdiction.
 - (7) Alterations will occur in principal site elements, including but not limited to the location, number and configuration of parking spaces; the location and configuration of egress and access points; the location, height, type and intensity of outdoor lighting; the location and treatment of site landscaping, including the extent of the site devoted to lawns and open space and the location, type and extent of landscape plant materials; the location, number, area and/or design of any freestanding signs; and the location and height of fences, walls and similar improvements.
 - (8) Initial use of a building or buildings and/or open land will be established for an occupancy

ZONING

requiring site plan review and approval in accordance with the District Schedule of Use Regulations set forth at Article III, § 210-10, of this chapter.

- (9) As set forth within Town Code Chapter 111, Driveways, the installation of an individual or common driveway providing access to a residential dwelling or other habitable structure having any portion of the driveway greater than 12% in grade, but no greater than the maximum 15% in grade established therein, is proposed.
- B. The Code Enforcement Officer shall refer the applicant to the Planning Board for applicant's conformance with the site plan review and approval procedure in accordance with § 274-a of the Town Law and the more specific submission requirements, design criteria and review procedures set forth in this article.

§ 210-62. Sketch plan conference.

- A. A sketch plan conference between the Planning Board and applicant shall be held to initially review the basic site design concept and to generally determine the extent of site plan review necessary for the intended project and the minimum information to be required on the Site Plan and in accompanying reports.
- B. At the sketch plan conference, the applicant shall provide a written statement and/ or sketch plan describing what is proposed, including indication of all existing structures, other improvements and uses, if any, on the site. The applicant should also provide an area map keyed to the Dutchess County Real Property Tax Maps showing the parcel under consideration for site plan review and all properties, structures, subdivisions, streets and easements within 200 feet of the boundaries thereof.
- C. At the sketch plan conference, the Planning Board shall take one of the below three actions:
 - (1) Administratively determine that the intended project is limited in scope, with compatible land use, site and building design characteristics, thus requiring no further review under this article and chapter. Such determination shall be restricted to intended projects involving exclusively the establishment of permitted uses within existing complying structures or the limited modification of existing conforming uses and complying structures, as determined by the Code Enforcement Officer, wherein no substantial site improvements are either required or proposed and where no existing violations of either this chapter or other laws, rules and regulations governing building construction, site development and/or the related occupancy of related buildings and lands are present.
 - (2) Administrative determinations.
 - (a) Administratively determine that the intended project does require full review under this article, based upon the project's scope and/or land use, site and building design characteristics, and advise the applicant of the site plan submission requirements in accordance with the site plan checklist set forth in below § 210-63A of this article.
 - (b) At this time, the Planning Board may waive one or more of the data requirements for site plan submission, as set forth on the checklist. The Planning Board may also require that the applicant seek pre-application input from one or more of the persons and agencies cited in § 210-65C of this article.
 - (c) In such instance, the Planning Board shall additionally employ the sketch plan conference as an opportunity to review with the applicant both the site plan design

ZONING

criteria set forth within this article at § 210-64 and any complementary design guidelines which may be adopted by the Town Board upon recommendation of the Town's Design Review Committee and which shall be subsequently considered to be an integral part of this chapter.

- (3) Require additional sketch plan information prior to making a determination regarding the applicability of the full site plan review and approval procedure to the intended project.

§ 210-63. Application for site plan approval; fee. [Amended 3-11-2010 by L.L. No. 12-2010; 10-9-2014 by L.L. No. 5-2014]

Within six calendar months of the sketch plan conference, a complete application for site plan approval shall be made in writing to the Planning Board not less than 21 days prior to a regularly-scheduled meeting and shall be accompanied by not less than 14 copies, consisting of three full-scale prints and 11 half-scale prints, and a portable document format (PDF) file of a site plan which includes information from the following checklist of items, as determined necessary by the Planning Board at the time of the sketch plan conference, and which is provided on a drawing certified by appropriate licensed design professionals, in compliance with the professional licensing requirements administered by the New York State Education Department:

A. Site plan checklist.

- (1) Title of drawing, including the names and addresses of the applicant and the person(s) responsible for the preparation of such drawing and a signature block for the Planning Board's endorsement of its approval of the site plan and, if applicable, the Dutchess County Health Department's endorsement of its approval of the water supply and sanitary sewage facilities depicted thereon.
- (2) North arrow, scale and date, with the scale to be not less than one-inch equals 40 feet.
- (3) Identification of the zoning district(s) within which the project is located, and identification if located with a certified New York State Agricultural District.
- (4) An area map keyed to the Real Property Tax Maps, showing the parcel under consideration for site plan review and all properties, subdivisions, streets and easements within 200 feet of the boundaries thereof.
- (5) Accurate boundaries of the property plotted to scale, including reference to the specific data source.
- (6) The names of all owners of record of lands adjacent to or directly opposite the applicant's property, i.e., on the other side of an adjoining street or roadway.
- (7) The location of structures, uses and facilities on adjacent properties within 100 feet of the subject property line.
- (8) Existing watercourses, wetlands and floodplains, including reference to specific data source.
- (9) The location and boundaries of other pertinent natural features that may occur on the site and influence the design of the proposed use such as, but not limited to soil types, rock outcrops, existing vegetative cover and either specimen trees or substantial tree masses which may be located within that portion of the site to be prepared for development, and other natural resources as identified in the Town of Union Vale Natural Resources

ZONING

Inventory (2021). Applications shall specify if the area proposed for development is in an area known for rare species, critical habitats, or listed species.

- (10) Grading and drainage plan, showing existing and proposed contours at an appropriate interval to be specified by the Planning Board at the sketch plan conference, with minimum two-foot contour intervals and related soils data generally required on that portion of any site proposed for development or where general site grades exceed 5% or there may be susceptibility to erosion, flooding or ponding. A calculation of the extent of cut and fill shall accompany the grading plan, and an erosion and sediment control plan shall also be provided in accordance with the requirements of the Dutchess County Soil and Water Conservation District's Soil Erosion and Sediment Control Guidebook.
- (11) The location, dimension, proposed use and height of all buildings, both existing and proposed.
- (12) Both the location, design and construction materials of all parking and loading areas, including their access and egress drives, and a clear diagram depicting all traffic patterns on the site.
- (13) Provision for pedestrian access both within and, if applicable, beyond the project site.
- (14) The location of outdoor storage for equipment and materials, if any, and the location, type and design of all solid waste-related facilities, including dumpsters and recycling bins, and screening.
- (15) The location, design and construction materials of all existing or proposed site improvements, including but not limited to drains, culverts, retaining walls, fences and pedestrian amenities, such as benches and bicycle racks.
- (16) A description of the means for sewage disposal and the location, design and construction materials of such facilities.
- (17) A description of the water supply and the location, design and construction materials of such facilities.
- (18) The location of fire and other emergency zones or lanes, including the location of fire hydrants, if any, or the nearest alternative water supply for fire emergencies.
- (19) The location, design and construction materials of franchise and other energy distribution and communications facilities, including electrical, gas and solar energy, and telephone, cable television, satellite and other communications.
- (20) The design, location, type, size, height and design of all proposed signage, including associated lighting, if any.
- (21) The location and proposed development of all buffers, screening and required setback areas, including indication of both existing vegetative cover and that portion that will be preserved.
- (22) The location, type and design of all outdoor lighting facilities, whether freestanding or building-mounted, including catalog cuts and data regarding lumen output and related lighting levels both within the site and at the site's boundaries.
- (23) Building plans designating the amount of building area proposed for retail sales, office use or similar business or commercial activity, including information regarding any

ZONING

proposed division of buildings into smaller units for separate occupancy or tenancy, with such information to be in sufficient detail to permit minimum off-street parking and other zoning requirements to be calculated.

- (24) A detailed landscaping plan and planting schedule, consistent with the requirements therefor set forth at Article V, § 210-37, of this chapter including but not limited to the number, size, caliper, type and location of all canopy trees or understory trees, shrubs and ground covers to be planted.
- (25) Building elevations, façade treatments, illustrations and/or photosimulations and sections at a scale sufficient to delineate clearly the massing and the exterior materials, textures and colors of all buildings and other structures shown on the site plan, such data to be complemented by catalog cuts and/or material samples, as may be appropriate describing the design and architectural elements of all proposed buildings.
- (26) Stormwater pollution prevention plan (SWPPP) pursuant to NYSDEC and EPA Phase II Stormwater Regulations and Town Code Chapter 122, Erosion and Sediment Control, and consistent with the submission requirements and the performance and design criteria and standards set forth therein.
- (27) Other elements integral to the proposed development as considered necessary by the Planning Board, including a proposed development schedule and the identification of any federal, state or county permits required for the project's execution.
- (28) If, upon a review of the materials submitted by the applicant, the Planning Board determines that a proposed commercial project could have traffic or, visual impacts, the Planning Board may require the applicant to prepare and submit a traffic impact analysis or a visual impact assessment. Costs for all reports, assessments, or plans required by the Planning Board shall be borne by the applicant.
 - a. Traffic Report. When a traffic report is required by the Planning Board, it shall include the following for the study area:
 1. Internal traffic flow analysis.
 2. Existing and projected average daily traffic and peak hour levels.
 3. Existing and projected intersection levels of service (LOS).
 4. Directional vehicular flows resulting from the proposed project.
 5. Proposed methods to mitigate the estimated traffic impact.
 6. Identification of any pedestrian crossing issues.
 7. The methodology and sources used to derive existing data and estimations.
 - b. Visual Impact Report. The Visual Impact Assessment shall be prepared by a registered Landscape Architect or other qualified professional and shall include:
 1. A report that visually illustrates and evaluates the relationship of proposed new structures or alterations to nearby natural landscapes and to pre-existing structures in terms of visual character and intensity/scale of use (e.g., scale, materials, color, door and window size and locations, setbacks, roof and cornice lines, and other major design elements).
 2. An analysis of the visual impacts on neighboring properties from the proposed development and alterations, and of the location and configuration of proposed structures, parking areas, open space, and gradient changes.
 3. The Planning Board may require use of photo-simulations or balloon tests as part

ZONING
of the visual impact assessment.

- B. Required fee. A complete application for site plan review and approval shall include the applicable fee and escrow deposit in accordance with the fee schedule established and annually reviewed by the Town Board.
- C. Environmental assessment form (EAF). A complete application for site plan review and approval shall also include either a short or full environmental assessment form (EAF) as required by the Planning Board pursuant to SEQRA, Article 8 of the Environmental Conservation Law, and Title 6, Part 617, NYCRR.
- D. Agricultural Data Statement. If the parcel which is the subject of the application lies partially, wholly or within 500 feet of either a certified agricultural district or land for which an individual commitment has been received pursuant to §§ 305 and 306 of the Agriculture and Markets Law of the State of New York, a complete application for site plan review and approval shall also include an agricultural data statement in a form prescribed by the Planning Board.
- E. Number of copies. Not fewer than 14 copies of the complete site plan application, including all accompanying reports and drawings and the environmental assessment form, shall be provided to permit the Planning Board to initiate its formal review of the site plan application. Additional copies may be required due to review and referral requirements set forth in the Town Law, the General Municipal Law or the Environmental Conservation Law. To the extent practicable, submission of a portable document format (PDF) file of not only the drawings but also all other documents supporting the submission is requested.

§ 210-64. Site plan design criteria.

- A. The following criteria and standards are complemented by the design guidelines, if any, referenced in § 210-62C of this article and Attachment 3, and are in combination intended to provide an overall framework on a Town-wide basis within which the site designer is free to exercise creativity, invention and innovation while recognizing the historic, scenic, visual and rural qualities inherent in the community. In the case of lands and structures within the Hamlet (H) District or the Environmental Resource Overlay (ER-O) and Scenic Corridor Overlay (SC-O) Districts, the site designer shall also be guided by the design criteria and principles set forth in Article V, §§ 210-46, 210-48 and 210-49, respectively, of this chapter.
- B. The following design criteria shall be met:
 - (1) Relationship of proposed development to the Town Master Plan; the County Plan, Directions; and Greenway Connections.
 - (a) Due attention by the applicant should be given to the goals and objectives and the stated general land use policies for the Town of Union Vale as set forth both in the Town Master Plan, including consideration of the related policies set forth in the County Plan, Directions, and Greenway Connections, and by this chapter and the relationship of the proposed development to the specific area of the Town in which it is located.
 - (b) In the site plan and design, consideration should be given to the use of traditional building forms and layouts which are evidence of the distinctive historical development of the area and, in particular, of any specially designated or recognized scenic, historic or natural areas and properties within the vicinity of the proposed development.

ZONING

(2) Relationship of buildings to site.

- (a) The site shall be planned to accomplish a desirable transition with the streetscape or roadscape and to provide for adequate planting, safe pedestrian movement and adequate parking areas.
- (b) Except as may be inappropriate to a hamlet, the TC District, an historic or traditional streetscape or roadscape characterized by a uniform setback or front building line, site planning in which setbacks and yards are varied and generally in excess of minimum zoning restrictions is encouraged to provide a variation in relationship between buildings.
- (c) Parking shall be located to the rear or sides of buildings so as to not interfere with the landscape treatment and streetscapes and shall be fully screened from view of adjacent residences.
- (d) Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing and anticipated adjoining buildings, to the extent that the existing buildings are considered positive contributing structures to the neighborhood.
- (e) Newly installed franchise utility services and service modifications necessitated by exterior modifications or building expansion shall, to the extent practicable, be underground.
- (f) New structures shall be sited and located to take advantage of solar access insofar as practical.

(3) Relationship of buildings and site to surrounding area.

- (a) Site plans proposed for nonresidential uses either within or adjacent to a residential district shall be specifically reviewed with regard to the impact of the development on the residential district.
- (b) The Planning Board shall encourage the use of a combination of common materials and architectural characteristics (e.g., rhythm, color, texture, form or detailing), landscaping, buffers, natural screens and other visual disruptions to create attractive transitions between buildings of different architectural styles.

(4) Landscape, buffering and site treatment.

- (a) Where possible, natural or existing topography contributing to the beauty and character of a development shall be preserved.
- (b) The design, materials and grades of walkways, parking spaces, terraces and other paved areas shall provide an inviting appearance.
- (c) Landscaped treatment shall be provided to enhance architectural features, to strengthen vistas and visual corridors and to provide shade.
- (d) Unity of design shall be achieved through repetition of certain plant varieties and other materials and by coordination with adjacent developments and existing natural areas.
- (e) Plant material shall be selected of interest for its structure, texture and color and in consideration of its ultimate growth pattern. Native plants that are indigenous to the

ZONING

area and others that will be hardy and harmonious to the design, exhibit a good appearance, and be salt-tolerant and pollinator-friendly where necessary, shall be used.

- (f) In locations where plants may be susceptible to injury by pedestrian or vehicular traffic, the plant materials should be protected by appropriate berms, curbs, tree guards or other devices.
- (g) Parking areas and traffic ways shall be enhanced with both perimeter landscaping and landscaped islands, where appropriate, containing trees and tree groupings.
- (h) Screening of service yards, refuse containers and other places that tend to be unsightly shall be accomplished by use of berming, walls, fencing or planting, or combinations of these, with any structural enclosure being compatible in material, texture and color with the principal building or buildings on the site.
- (i) Landscaping shall be designed and maintained so as to not create hazardous conditions related to traffic, police or fire protection, or other factors.

(5) Lighting.

- (a) Exterior lighting shall enhance the architectural concept, the building design and the adjoining landscape but shall not adversely impact dark skies. Lighting standards and fixtures shall be of a design and size compatible with the building and adjacent areas.
- (b) The number of light standards and the intensity of lighting shall be appropriate to illuminate the location for safety and security but shall not cause glare upon adjoining properties, including public rights-of-way. All lighting and fixtures shall be dark sky compliant.
- (c) Lighting standards and fixtures shall be appropriate to the design of structures and shall in combination not exceed 15 feet in height in a residential district or 15 feet in height in a Commercial District except where these limitations may be modified by the Planning Board upon its determination that the extraordinary lighting requirements for a particular use require in the interest of public health and safety the employ of combined lighting standards and fixtures of greater height.
- (d) In addition to the foregoing, all exterior lighting shall comply with the general performance standards set forth at Article V, § 210-24D, of this chapter.

(6) Building design.

- (a) Building design shall make appropriate recognition of compatible building forms and scale indigenous to the community and, in particular, the rural and historic character of the Town's hamlets and farm properties.
- (b) Materials shall have good architectural character and shall be selected for harmony with traditional building materials. Wherever practicable, natural materials shall be used.
- (c) Building components, such as windows, rooflines, doors, eaves and parapets, shall have well designed proportions, scale and relationships to one another and be compatible with the rural and historical character of the Town's hamlets and farm properties.
- (d) Mechanical equipment, such as air conditioners and satellite dishes, or other utility

ZONING

hardware located on roofs, the ground or buildings shall be screened from adjacent properties and public view with materials harmonious with the building, specified as to color so as to blend with their surroundings, or located so as not to be visible from any public way or lands.

- (e) Franchise modern architecture typical of gasoline station, convenience store, automobile service, fast-food restaurants and similar establishments shall not be considered appropriate building design within the Town of Union Vale.

(7) Signs.

- (a) Every sign shall be wholly consistent with the requirements set forth in Article V, § 210-26, of this chapter and shall be well-proportioned in its design and in its visual relationship to buildings and surroundings.
- (b) Every sign shall be designed as an integral architectural element of the building and site to which it principally relates.
- (c) The colors, materials and lighting of every sign shall be restrained and shall be harmonious with the building and the site to which it principally relates.
- (d) The number of graphic elements on a sign shall be held to the minimum necessary to convey the sign's major message and shall be composed in proportion to the area of the sign face.
- (e) Identification signs of a prototype design and corporation logos shall be modified as necessary by the applicant and project designer to conform to the criteria set forth within this chapter for all signs within the Town of Union Vale.

(8) Ecological considerations.

- (a) The proposal shall result in minimal degradation of unique or irreplaceable land types and in minimum adverse impact upon areas of environmental concern.
- (b) The proposal shall conform to the extent practicable with the existing ecological, geological and topographic features, to the end that the most appropriate use of the land is encouraged and excessive site alteration and imposition of features inimical to rural character, such as retaining walls, avoided.
- (c) The Town of Union Vale Natural Resources Inventory shall be used as a guide to identify and understand natural resources that may be present on a site.

(9) Storm drainage.

- (a) The proposed development shall be so designed as to provide for proper surface water management through a system of controlled drainage that preserves existing drainage patterns and protects other properties.
- (b) Wherever practicable, storm water management techniques, including on-site detention, should be employed to both address existing drainage problems, if any, and avoid an increase in either the peak volume or rate of storm water discharge from the project site in its post-development condition. Low impact development standards pursuant to the New York State Stormwater Design Manual Chapter 5 shall be used to address drainage and stormwater to the maximum practical.
- (c) All drainage plans shall be reviewed and approved by the Town Engineer.

ZONING

- (10) Solid waste. Facilities to handle solid waste, including compliance with recycling requirements, shall be easily accessible, secure and properly screened.
- (11) Vehicular traffic.
- (a) All entrance and exit driveways shall be located with due consideration for traffic flow so as to afford maximum safety on public streets and shall meet all current design standards of the appropriate state, county or Town authority, i.e., agency of jurisdiction, unless specifically waived or modified by that authority. The Planning Board shall ensure plans avoid or mitigate adverse impacts on traffic along Route 55 and CR 21.
 - (b) On-site circulation shall be designed for ease of use and to connect safely with adjoining properties via internal service roadways and similar vehicular links where appropriate without necessity of returning to the public street system, including consistency with related recommendations discussed in the Town Master Plan.
- (12) Pedestrian and bicyclist circulation.
- (a) Pedestrian circulation shall be separated, to the extent practicable, from vehicular circulation. Walkways shall be provided on the site, on its approaches, and linked to off-site pedestrian connections where deemed appropriate, or where a density bonus for this amenity has been provided for.
 - (b) Proper provision shall be made for buildings and associated site development that are accessible to and functional for handicapped persons, such as by provision of walks and ramps of suitable width and grade, curb cuts, signed and suitable dimensioned parking spaces and ground level building entrances, as required by the New York State Uniform Fire Prevention and Building Code and the New York State Vehicle and Traffic Law.
 - (c) Facilities shall be provided, where deemed applicable by the Planning Board, for bicycle travel within the site and to adjacent areas as well as for the short-term parking of bicycles.
- (13) Water. The Planning Board may require hydrology studies or well pump tests to ensure that the proposed use has adequate water supplies and that such water supply does not adversely affect groundwater supplies to nearby or adjacent existing uses.

§ 210-65. Planning Board review procedure.

Planning Board review procedure. The Planning Board shall review and act on all applications for site plan approval in accordance with the standards and procedure specified herein:

- A. Planning Board review. The Planning Board's review of a site plan shall include the following considerations:
- (1) Whether the applicant has applied to the intended project to the extent deemed reasonable and practicable by the Planning Board the site plan review criteria set forth in the aforesaid Article VII, § 210-64, of this chapter, including consideration of the design guidelines and various supplementary regulations referenced herein.
 - (2) Whether the applicant has suitably addressed the below technical criteria:

ZONING

- (a) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, turning lanes, dividers and other traffic controls.
- (b) Adequacy and arrangement of pedestrian traffic access and circulation, walkways, control of intersections with vehicular traffic and overall pedestrian convenience.
- (c) Location, arrangement, appearance and sufficiency of off-street parking and loading facilities.
- (d) Location, arrangement, size, design and general site compatibility of principal and accessory buildings, lighting and signage.
- (e) Adequacy of stormwater and drainage facilities.
- (f) Adequacy of water supply and sewage disposal facilities.
- (g) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between the applicant's lands and adjoining lands, including concern for the maximum practicable retention of existing vegetation.
- (h) In the case of a multifamily dwelling or dwellings, the adequacy of open space areas for play and informal recreation.
- (i) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
- (j) Adequacy of fire lanes and other emergency zones and water supply for fire emergencies.
- (k) Special attention to the adequacy of structures, roadways and landscaping in areas where susceptibility to ponding, flooding and/or erosion or in the vicinity of wetlands or similar natural features.
- (l) Compatibility of building design and the design of all visible site appurtenances with existing characteristics of the neighborhood and appropriateness to the rural character of the Town of Union Vale, including consideration of nearby properties recognized locally as historic or architecturally significant.

B. Public notice and hearing.

- (1) The Planning Board shall within 62 calendar days of the receipt of a complete application, as set forth in § 210-63 of this article and chapter, conduct a public hearing on any such application for site plan approval. The Planning Board shall provide a copy of the notice to the applicant, at which hearing the applicant shall appear in person or by agent to present his intended project to the public.
- (2) The Board shall additionally provide notice as follows:
 - (a) By publishing at least five calendar days prior to the date thereof a legal notice in the official newspaper of the Town.
 - (b) By requiring the Clerk to provide notice of the public hearing and data regarding the substance of the application by certified mail, return receipt requested, to the owners of all property abutting that held by the applicant and all other owners within 200 feet of the land involved in the application. Notice shall be mailed at least 10 calendar

ZONING

days prior to the hearing, with compliance with the notification procedure certified to by the Clerk or other designated Town employee. The Town shall charge the applicant either a flat rate or a stated amount per notice for satisfying this requirement.

[1] The names and addresses notified shall be taken as such appear on the last completed tax roll of the Town.

[2] Provided that there has been substantial compliance with these provisions, the failure to give individual notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board in connection with approving or disapproving an application for site plan approval.

(c) Posting a conspicuous sign on its road frontage indicating the parcel is the subject of a pending proceeding before the Planning Board for a period of not less than five calendar days prior to the public hearing and in such manner as otherwise specified by the Planning Board at the time of acceptance of the application for site plan approval. **[Added 3-11-2010 by L.L. No. 12-2010]**

(3) If the land involved in the application lies within 500 feet of the boundary of any other municipality, the Clerk of the Planning Board shall also mail at least five calendar days prior to the public hearing to the municipal clerk of such other municipality or municipalities a copy of the notice of the substance of every application, together with a copy of the official notice of public hearing.

C. Consultant review. In its review of an application for site plan approval, the Planning Board may consult with the Town Code Enforcement Officer and/or Deputy Code Enforcement Official, the Conservation Advisory Council, the Design Review Committee, the agency of highway jurisdiction, i.e., the Town Superintendent of Highways, the Dutchess County Department of Public Works and/or the New York State Department of Transportation, the Dutchess County Health Department, other local and county officials, and its designated private planning, legal and engineering consultants, in addition to representatives of other state or federal agencies, including but not limited to the New York State Departments of Health and Environmental Conservation, the New York State Office for Parks, Recreation and Historic Preservation, and the U.S. Army Corps of Engineers. All costs related to the site inspection and review of a site plan, including any studies, reports, analysis, or other information that may be required by the Planning Board, shall be borne by the applicant. **[Amended 3-11-2010 by L.L. No. 12-2010]**

D. Required referral. A full statement of any application for site plan approval that meets the referral requirements of §§ 239-l and 239-m of the General Municipal Law shall also be referred prior to the public hearing to the Dutchess County Department of Planning for its review. The Planning Board shall take no action on such application until an advisory recommendation has been received from the County Department of Planning or 30 calendar days have elapsed since the Department received such full statement. In the event the Dutchess County Department of Planning recommends disapproval or recommends modification thereof, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one of all members adopting a resolution fully setting forth the reasons for the contrary action. Within seven calendar days after such final action, the Planning Board shall file a report of the final action it has taken with the County Department of Planning.

E. Waiver of requirements. The Planning Board may find that some requirements of this Article are not requisite in the interest of the public health, safety or general welfare as applied to a particular project or application or are inappropriate to a particular site plan. In such cases,

ZONING

the Planning Board may, in its sole discretion, waive any requirements for the approval, approval with modifications, or disapproval of site plans submitted for approval provided such a waiver does not prevent or circumvent the purposes and intent of any Town of Union Vale law or regulation or the Comprehensive Plan. Waivers shall be explicitly requested by the applicant in writing, and expressly granted only by the Planning Board. The grant of such waiver shall be accompanied by a finding that compliance with the requirement is either not requisite in the interest of the public health, safety and general welfare or inappropriate to the particular site plan. The finding shall also be supported by a determination under SEQRA that the grant of such waiver will not cause any significant adverse environmental effect that would have been avoided or more fully mitigated were there compliance with the specific requirement. In granting waivers, the Planning Board may, in its sole discretion, incorporate such reasonable conditions as will in its judgment substantially secure the objectives of the requirements so waived. The Planning Board must state, in writing, its grounds for electing to waive such requirements and file such statement along with the site plan application and supporting documents. Requirements of this law may not be waived except as properly voted by the Planning Board.

F. Decisions.

- (1) Within 62 calendar days of the close of a public hearing, the Planning Board shall act on the application for site plan approval. The Planning Board's action shall be by resolution approving, disapproving or approving with modifications the application for site plan approval. A copy of the resolution shall be filed in the office of the Town Clerk within five business days thereof. Certified copies shall also be sent to the applicant and the Town Code Enforcement Officer.
- (2) A resolution of either approval or approval with modifications shall include authorization to the Planning Board Chairperson to stamp and sign the site plan upon the applicant's compliance with the submission requirements for stamping set forth in § 210-66A below and any additional conditions and/or requirements stated within the resolution. If the Planning Board's resolution includes a requirement that modifications be incorporated in the site plan, explicit conformance with said modifications shall be considered a condition of approval.
- (3) If the site plan is disapproved, the Planning Board's resolution shall state specific reasons for such decision. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

§ 210-66. Other administrative provisions.

A. Submission requirements for stamping. After receiving site plan approval, with or without modifications, from the Planning Board, the applicant shall within six calendar months submit six prints and one reproducible Mylar of the site plan to the Planning Board for stamping and signature by the Chairperson. The site plan submitted for stamping shall conform strictly to the site plan approved by the Planning Board except that it shall further incorporate any revisions or modifications directed by the Planning Board and shall be accompanied by the following information:

- (1) Record of application for and documentation of approval status of all necessary permits, certifications, etc., from federal, state and county agencies.
- (2) Detailed sizing and final material specification of all improvements depicted on the site

ZONING

plan.

- (3) An estimated project construction schedule and, if a performance guarantee has been deemed by the Planning Board to both be authorized and required for all or some portion of the work, a detailed site improvements' cost estimate reviewed and approved by the Town Engineer.
- B. Effect of stamping by the Planning Board Chairperson. Upon stamping and signature by the Chairperson, the Planning Board shall forward a copy of the approved site plan to the Town's Code Enforcement Officer and the applicant. The Code Enforcement Officer may then issue a building permit and/or certificate of occupancy if the project conforms to all other applicable requirements.
- C. Expiration of approval.
- (1) Planning Board approval of a site plan shall expire if either of the following circumstances occurs:
 - (a) The site plan is not submitted in approvable form for stamping and signature by the Chairperson within six calendar months of the Planning Board's resolution of site plan approval, with or without modifications.
 - (b) A complete application is not submitted within six calendar months of the stamping and signing of the site plan by the Chairperson to the Code Enforcement Officer for either a building permit or certificate of occupancy
 - (2) Upon written request to the Planning Board prior to the date of such expiration, the time period for either submission of the site plan or submission of the complete application for a building permit or certificate of occupancy may be extended for a maximum period of six calendar months from its otherwise specified termination date.
- D. Reimbursable costs. Reasonable costs incurred by the Planning Board for private consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant. Such reimbursable costs shall be in addition to the application fee required above in § 210-63 of this article. Except where specifically authorized by the applicant, maximum amounts for such reimbursable costs by project type and size shall be in accordance with the fee schedule established and annually reviewed by the Town Board.
- E. Performance guaranty. No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for all improvements not yet either completed or inspected and confirmed as to their adequacy. Such performance guarantee shall be posted in accordance with the same procedure as specified within § 277 of the Town Law relating to subdivisions. The amount and sufficiency of such performance guarantee shall be determined by the Planning Board after consultation with the Town Attorney, the Town Engineer, other local officials, or any of the Planning Board's other designated private consultants.
- F. Inspection of improvements. The Code Enforcement Officer shall be responsible for the overall inspection of site improvements, including coordination with the Town Engineer and other local officials and agencies, as may be appropriate of multifamily residential, institutional, commercial or other large-scale projects. Reasonable expenses incurred by the Town for inspections by the Town Engineer, or other appropriate professionals, shall in addition to costs associated with site plan review, be reimbursed to the Town by the applicant

ZONING

in accordance with the fee schedule established and annually reviewed by the Town Board.

- G. Integration of procedures. Whenever the particular circumstances of a proposed development require compliance with either another procedure under this chapter, such as special permit review and approval, the requirements of Chapter 192, Subdivision of Land, or the requirements of the State Environmental Quality Review Act, the Planning Board may integrate, if it deems appropriate, and to the extent of its authority under law, site plan review as required by this article with the procedural and/or submission requirements for such other compliance. Such integration of procedures may require, upon mutual written consent of the Planning Board and the applicant, reasonable modification of the time schedules otherwise stated in this article for consideration of an application for site plan approval or in the aforesaid related regulations or requirements.
- H. Relief from decisions. Any person or persons jointly or severally aggrieved by any decision of the Planning Board on an application for site plan approval may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Such proceeding shall otherwise be governed by the specific provisions of Article 78, but must be initiated as therein provided within 30 calendar days after the filing of the Board's decision in the office of the Town Clerk.

ARTICLE VIII

Nonconforming Uses and Noncomplying Buildings, Structures and Bulk

§ 210-67. Applicability.

The following provisions shall apply to all buildings, structures and uses existing on the effective date of this chapter, to all buildings and uses that may become nonconforming or noncomplying by reason of any subsequent amendment to this chapter and the Zoning District Map which is a part hereof, and to all complying buildings housing nonconforming uses.

§ 210-68. Nonconforming uses.

A. Any lawful nonconforming use of buildings or open land in existence on the effective date of this chapter may be continued indefinitely if maintained in accordance with all applicable codes, ordinances, regulations and other requirements, but shall not be expanded, extended, moved, changed or reestablished except as specifically provided in this article:

- (1) A nonconforming use may be expanded within an existing structure or on an existing site, provided that the extent of such expansion, whether occurring as a single expansion or as the aggregate of two or more smaller expansions, does not exceed 50% of the gross floor area of the structure or land area of the portion of the site dedicated to the nonconforming use at the time of enactment of this chapter. Any such expansion shall be preceded by site plan review and approval by the Planning Board in accordance with Article VII of this chapter.
- (2) An existing building housing a nonconforming use may be extended and thereafter occupied by the nonconforming use, provided that the extent of such addition, whether occurring as a single addition or as the aggregate of two or more smaller additions, does not exceed 50% of the gross floor area of the existing building and the addition is in strict compliance with the requirements set forth for the zoning district in the District Schedule of Area and Bulk Regulations. Any such extension shall be preceded by site plan review and approval by the Planning Board in accordance with Article VII of this chapter.
- (3) Nothing contained herein shall be deemed to prevent the restoration of a lawful nonconforming use after damage for any reason or by any cause, provided that the replacement facility shall not have a greater floor area or be able to accommodate a greater number of patrons or customers than the facility which existed prior to the damage, that all applicable provisions of the New York State Uniform Fire Prevention and Building Code are strictly met, and that the restoration is commenced within 12 calendar months of the damage and is fully completed within two calendar years of such occurrence. The issuance of a building permit for any such restoration shall be preceded by site plan review and approval by the Planning Board in accordance with Article VII of this chapter.

B. A nonconforming use shall not be moved to another location or placed on a different portion of the lot or parcel of land occupied by such use at the time of enactment of this chapter

ZONING

where such use would be nonconforming.

- C. A nonconforming use shall not be changed to another nonconforming use without prior approval by the Zoning Board of Appeals and then only to a use that, as determined by the Board of Appeals, is of the same or more restricted nature. Such change shall also be preceded by site plan review and approval by the Planning Board in accordance with Article VII of this chapter.
- D. A nonconforming use shall not be reestablished if such use has been discontinued for any reason, whether through vacancy or cessation of use, irrespective of the intent of the owner of the premises or any other person, for a period of 18 calendar months or longer or has been changed to or replaced by a conforming use for any period of time.

§ 210-69. Noncomplying buildings and structures.

- A. Any noncomplying building or structure in existence on the effective date of this chapter may be continued indefinitely if maintained in accordance with all applicable codes, ordinances, regulations and other requirements, but shall not be enlarged or extended, maintained, altered or reconstructed in such manner as to increase the degree of existing noncompliance with the requirements set forth for the zoning district in this chapter or to create any new noncompliance.
- B. Nothing contained herein shall prohibit the extension of a conforming use to any portion of a noncomplying building or structure legally existing at the time of enactment of this chapter.
- C. Nothing contained herein shall be deemed to prevent the normal repair and maintenance of or structural alteration within a noncomplying building, provided that such action does not increase the degree of or create any new nonconformity. Further, any noncomplying building or structure declared unsafe by the Town Code Enforcement Officer or other proper authority may be restored to a proper condition within the time period provided by such authority or may be modified to the extent essential to meet minimum health and safety requirements or orders issued by the Code Enforcement Officer or other authority.
- D. Nothing contained herein shall be deemed to prevent the reconstruction of a lawful noncomplying building existing at the time of enactment of this chapter after damage for any reason or by any cause, provided that no new noncompliance is created, that the bulk, height and area of the building as reconstructed shall not be in excess of that which existed prior to the loss or removal, that all applicable provisions of the New York State Uniform Fire Prevention and Building Code are strictly met, and that a building permit is applied for within six calendar months of the loss or removal and that all work associated with the replacement building is completed within 12 calendar months of the issuance of said building permit.

§ 210-70. Termination of certain uses and/or structures.

Each of the nonconforming uses and/or structures specified below is deemed to be sufficiently objectionable and out of character within the zoning district in which such use is located as to depreciate the value of other property and uses permitted in the district and to otherwise inhibit the proper, safe and orderly development of such district. Therefore, each such nonconforming use must be and shall be terminated on or before the expiration of the specified period of time after the effective date of this chapter. Said period of time is specified herein as one that is reasonable to permit the amortization of the remaining value, if any, of such use.

ZONING

- A. Any nonconforming or noncomplying sign, whether accessory or non-accessory, existing on the effective date of this chapter which includes any of the specific features prohibited in Article V, § 210-26B(4), (5) or (7) of this chapter shall be modified by its owner to conform or be removed within 90 calendar days of the effective date of this chapter upon prior notification of not less than 30 calendar days from the Town Code Enforcement Officer.
- B. Any accessory sign existing on or after the effective date of this chapter which is obsolete, i.e., the sign advertises a business no longer conducted, product no longer available or service no longer provided on the premises, shall be removed from the premises by the owner of the sign and/or premises upon which the sign is located within 60 calendar days of the effective date of this chapter upon prior notification of not less than 30 calendar days from the Town Code Enforcement Officer. A period of 30 calendar days following notification from the Town Code Enforcement Officer shall be provided for the removal of any accessory sign that may later become obsolete.
- C. Except for temporary and directional signs authorized in Article V, § 210-26C and E, respectively, of this chapter, use of any billboard sign shall be discontinued and the billboard sign, including its supporting structure, removed upon passage of a reasonable period for the amortization of its value, as such period is set forth in § 74-c of the General Municipal Law of the State of New York.
- D. Any other type of sign, including its supporting structure, unrelated to the activity on the site, except for authorized off-premises directional signs, shall be removed within three calendar years from the effective date of this chapter.
- E. A nonconforming motor vehicle junkyard or junkyard, as each term is defined in Article XII, § 210-86A, of this chapter, shall be discontinued and all material therein properly disposed of not later than three calendar years from the effective date of this chapter.

§ 210-71. Completion of ongoing construction.

Any individual building, the construction of which has been legally started through the installation of footings and/or foundation before the effective date of this chapter or of any amendment thereto may be completed in accordance with plans on file with the Code Enforcement Officer, provided that all other required permits and approvals have been issued prior to the effective date of this chapter and such construction is diligently pursued and the building is completed within two calendar years of the enactment of this chapter or any subsequent amendment thereto.

ARTICLE IX

Administration and Enforcement

§ 210-72. General provisions; designation of enforcement official; processing of applications and fees.

- A. The Town Code Enforcement Officer shall administer and enforce all provisions of this chapter except where otherwise specifically stated herein.
- B. Whenever any permit or other approval by the Town of Union Vale is required hereunder, processing of the application shall be coordinated by the Code Enforcement Officer with the Building Official, the Planning Board, the Zoning Board of Appeals or other persons and agencies in accordance with the requirements of this chapter and other applicable Town, county and state regulations governing building construction and the use of land and buildings. **[Amended 3-11-2010 by L.L. No. 12-2010]**
- C. All applications submitted pursuant to this chapter shall be accompanied by the applicable fee as set forth within the fee schedule established and annually reviewed by the Town Board.
- D. At the discretion of the Town Board, the positions of Code Enforcement Officer and Building Official may be held by either two persons or a single person, in the latter event the Code Enforcement Officer shall have both the combined authority and the full power and duties of the Code Enforcement Officer and the Building Official as set forth within this article. **[Amended 3-11-2010 by L.L. No. 12-2010]**

§ 210-73. Powers and duties of Code Enforcement Officer.

In addition to all other authority conferred by law, the Code Enforcement Officer shall have the following powers and duties with respect to this chapter:

- A. Except as otherwise provided, it shall be the duty of the Code Enforcement Officer to enforce the provisions of this chapter and of all rules, conditions and requirements specified hereunder by the Zoning Board of Appeals and the Planning Board.
- B. The Code Enforcement Officer shall review all applications submitted to the Town of Union Vale pursuant to this chapter and shall either act directly on the application or refer the application to the appropriate agency or person.
- C. The Code Enforcement Officer shall have the right to enter upon, examine and inspect or cause to be entered, examined or inspected any building or property at any reasonable time for the purpose of carrying out his duties and to determine compliance with the provisions of this chapter. A written report of each such examination and inspection shall be prepared on an appropriate form and kept on file by the Code Enforcement Officer.
- D. The Code Enforcement Officer shall keep a record of every identifiable complaint of a violation of any provisions of this chapter and the action taken on each such complaint.

ZONING

- E. The Code Enforcement Officer shall report to the Town Board and to the Planning Board, at not less than quarterly intervals, summarizing for the period since the previous report all significant actions taken in the administration and enforcement of this chapter, including but not limited to site plans and special use permits required, certificates of occupancy issued and enforcement actions taken.

§ 210-74. Powers and duties of Building Official. [Amended 3-11-2010 by L.L. No. 12-2010]

In addition to all other authority conferred by law, the Building Official shall have the following powers and duties with respect to this chapter:

- A. It shall be the duty of the Building Official to issue building and demolition permits upon determination as to the conformance of the intended construction or demolition with the requirements of this chapter and as may be more specifically set forth within Chapter 105, Building Construction and Fire Prevention, of the Town Code of the Town of Union Vale.
- B. The Building Official shall have the right to enter upon, examine and inspect any building or property at any reasonable time for the purpose of carrying out his duties and to determine compliance with the provisions of this chapter. A written report of each such examination and inspection shall be prepared on an appropriate form and kept on file by the Building Official.
- C. The Building Official shall maintain files of all applications for building and demolition permits and plans submitted therewith and records of all related inspections and certificates of completion. These files and records shall be public records.
- D. The Building Official shall report to the Town Board at monthly intervals, summarizing for the period since the previous report all building permits and demolition permits issued and enforcement actions taken.
- E. The Building Official shall administer and enforce the provisions of the New York State Uniform Fire Prevention and Building Code and any local law governing the disposition of unoccupied or unsafe buildings and structures.

§ 210-75. Actions and procedures. [Amended 3-11-2010 by L.L. No. 12-2010]

- A. Issuance of building permits. Except as provided for in Article IV, § 210-17, of this chapter as pertains to portable, and other minor, accessory structures, no person shall commence or cause to be commenced the erection, construction, enlargement, alteration or reconstruction of any building or structure, including the undertaking of excavation therefor, or substantial alteration of or additions to related facilities such as sewage disposal systems, electrical systems, water supply systems, including plumbing or drainage facilities, until the Code Enforcement Officer has issued a certificate stating that the proposed use complies with all applicable provisions of this chapter and the Building Official has issued upon request of the applicant a building permit stating that the proposed building or structure or modification of an existing building or structure complies with all applicable provisions of the New York State Uniform Fire Prevention and Building Code.

ZONING

- (1) The application shall be made either by the owner or agent of the owner or by the architect, engineer or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner, or similar legal instrument executed by the owner, that the proposed work is authorized by the owner and that the applicant is authorized to make such application.
- (2) The application shall include three copies of the completed form application for a building permit and shall be accompanied by the required fee as set forth within the fee schedule established and annually reviewed by the Town Board and the following information:
 - (a) Three copies of building plans and construction specifications bearing the signature of the person responsible for the design and drawings. Such plans and specifications for all buildings shall carry the official seal of a registered architect or licensed professional engineer to attest that they conform to all requirements of the New York State Uniform Fire Prevention and Building Code except, as specified in § 7307 of the State Education Law, in the case of the following exempt applications:
 - [1] Alterations, costing \$20,000 or less, to any building or structure which do not involve changes affecting the structural safety or public safety thereof.
 - [2] Farm buildings, including barns, shed, and other buildings used directly and solely for agricultural purposes.
 - [3] Residence buildings of gross floor area of 1,500 square feet or less, not including garages, carports, porches, cellars or uninhabitable basements or attics.
 - (b) Three copies of a plot plan or Planning Board-approved site plan, if applicable, with the plot plan drawn to scale and accurately dimensioned and showing the location and size of all proposed new construction and all existing structures on the site, the nature of the work to be performed and the materials to be incorporated, distance from lot lines or property boundaries and such other information as may be required by either the Code Enforcement Officer or the Building Official to determine compliance with this chapter, including conformance with all required building setbacks set forth either in the District Schedule of Area and Bulk Regulations found at Article IV, § 210-11, or elsewhere throughout Article IV, of this chapter, and other applicable regulations, including the requirements of the New York State Uniform Fire Prevention and Building Code.
 - (c) To the extent such are not provided on the completed application form or by either the building plans and specifications or the submitted plot or site plan, the following data shall be otherwise provided in writing:
 - [1] A description of the land on which the work is to be done.
 - [2] A statement of the use or occupancy of all parts of the land and the

ZONING

building(s) or structure(s) thereon.

- [3] An estimate of the valuation of the proposed work.
 - [4] The full name and address of the owner and the applicant, and the names and addresses of their responsible officers if they are corporations or like entities.
 - [5] Evidence that all water supply and sanitary sewage installations shall conform to regulations administered by the Dutchess County Health Department.
 - [6] Evidence of a driveway access and/or work permit from the appropriate authority or jurisdiction, i.e., the New York State Department of Transportation, the Dutchess County Department of Public Works or the Town Highway Superintendent.
 - [7] Evidence of the issuance of any other permits, approvals or compliance determinations (e.g., by the New York State Department of Environmental Conservation or the U.S. Army Corps of Engineers) required to carry out the intended project.
 - [8] Evidence of compliance with stormwater management requirements set forth within Town Code Chapter 122, Erosion and Sediment Control.
 - [9] Such other information as may reasonably be required by the Code Enforcement Officer or Building Official to establish compliance of the proposed work with the requirements of the New York State Uniform Fire Prevention and Building Code and other pertinent laws, ordinances, codes, rules and regulations, including, where applicable, details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data.
- (3) Upon issuance by the Building Official, the building permit shall be effective to authorize the commencing of work in accordance with the application, plans and specifications, and other supporting data on which it is based for a period of six calendar months.
 - (4) The issuance of the building permit shall constitute authority to the applicant to proceed with the work in accordance with the approved plans and specifications and in accordance with all applicable laws, ordinances, codes, rules and regulations. All work shall conform to the approved plans and specifications and other supporting data. Amendments thereto may, however, be filed with the Building Official at any time prior to the undertaking of such modification and shall further be subject to approval of the Code Enforcement Officer to the extent that such amendments to the approved plans and the intended work may affect conformance with any of the requirements of this chapter.
 - (5) Except as otherwise provided by this chapter, all work authorized under the building permit shall be completed within one calendar year of the commencing of work or 18 calendar months of the issuance of the building permit, whichever shall first occur. For good cause, the Code Enforcement Officer may allow two extensions for periods not to exceed six calendar months each.
 - (6) As a condition of the issuance of the building permit, the Building Official may require the applicant to name the Town as an additional insured during the construction period.
 - (7) Upon completion of the work governed by the building permit, there shall be filed with the Building Official an affidavit of the registered architect or licensed professional engineer who filed the original plans, of the registered architect or licensed professional engineer who supervised the conduct of the work or of the superintendent of construction who

ZONING

supervised the work and who, by reason of his experience, is qualified to superintend the work for which a certificate of occupancy is sought. This affidavit shall state that the approved plans of the structure for which a certificate of occupancy is sought have been examined and that the structure has been erected in accordance with the approved plans and, as erected, complies with all other requirements governing building construction except insofar as variations therefrom have been legally authorized. Such variations shall be specified in the affidavit and for major projects documented through submission of an as-built drawing.

- (8) Upon completion of the work governed by the building permit and, where applicable, receipt of the above-cited affidavit, the Building Official shall conduct an inspection of the work for which the building permit has been issued. When, after final inspection, it is found that the heretofore proposed work has been completed in accordance with the application, plans and specifications, and supporting data filed in connection with the issuance of the building permit, or as amended, the Building Official shall issue a certificate of occupancy. If it is found that the proposed work has not been properly completed, the Building Official shall order the work completed in conformity with the building permit and in conformity with applicable regulations and requirements governing building construction.
- B. Issuance of demolition permits. No person shall commence or cause to be commenced the demolition of any building or structure, or part thereof, until the Building Official has issued upon application and payment of the required fee a demolition permit therefor in accordance with applicable Town regulations regarding the disposition of unoccupied buildings or the removal of unsafe buildings and structures. Except where deemed by the Building Official to be an emergency action necessary to protect the public health and safety, no such demolition permit shall be issued either within the Hamlet (H) District or on any other premises governed by Article V, § 210-48D(3), of this chapter until the application for demolition permit has been reviewed and a certificate of appropriateness issued by the Planning Board.
- C. Approval of stormwater pollution prevention plans. No person shall commence any work for which the preparation of a stormwater pollution prevention plan is required pursuant to the requirements of Town Code Chapter 122, Erosion and Sediment Control, until the stormwater pollution prevention plan has been submitted to and approved by the Code Enforcement Officer in his role as Stormwater Management Officer in accordance with the procedure and requirements set forth therein.
- D. Issuance of certificates of occupancy or use. Except as provided in § 210-17B of this chapter, no use shall be established or land or structure occupied or otherwise used until the Building Official and/or Code Enforcement Officer, as applicable, has issued a certificate of occupancy stating that the use, land and structure comply with all applicable provisions of this chapter. In particular, the following requirements shall be strictly met:
 - (1) No building hereafter erected shall be used or occupied in whole or in part unless a certificate of occupancy shall have been issued by the Building Official stating that the building and its intended occupancy comply with the requirements of the New York State Uniform Fire Prevention and Building Code and the intended use of the building and related lands has been reviewed by the Code Enforcement Officer and determined to be in conformance with all other applicable requirements of this chapter.
 - (2) No building hereafter enlarged, extended or altered, or upon which work has been performed which required the issuance of a building permit, shall be occupied or used, or in the case of an established occupancy shall continue to be occupied or used, for more than 30 calendar days after the completion of the alteration or work, unless a certificate of

ZONING

occupancy shall have been issued by the Building Official stating that the building and its intended occupancy comply with the requirements of the New York State Uniform Fire Prevention and Building Code and the intended use of the building and related lands has been reviewed by the Code Enforcement Officer and determined to be in conformance with all other applicable requirements of this chapter.

- (3) No change shall be made in the specific use or type of occupancy of an existing building unless a certificate of occupancy authorizing such change has been issued by the Building Official stating that the building and its intended occupancy comply with the requirements of the New York State Uniform Fire Prevention and Building Code and the intended use of the building and related lands has been reviewed by the Code Enforcement Officer and determined to be in conformance with all other applicable requirements of this chapter.
 - (4) No use of land permitted as a principal use or accessory use under the District Schedule of Use Regulations set forth at Article III, § 210-10, of this chapter shall be established in any zoning district nor a change in a specific existing use of land made prior to the issuance of a certificate of occupancy by the Code Enforcement Officer stating that the intended use has been determined to be in conformance with all applicable requirements of this chapter. The above notwithstanding, such certificate of occupancy shall not be required for those agriculture, conservation or farm uses that are permitted in all zoning districts under this chapter nor for the establishment of accessory uses customarily incidental to principal residential uses, such exception not to be construed, however, as including farm industries, home occupations or accessory dwelling units.
 - (5) No home occupation or farm industry permitted as an accessory use under the aforementioned District Schedule of Use Regulations and §§ 210-31 and 210-42C, respectively, of this chapter, shall be established prior to the issuance of a certificate of occupancy by the Code Enforcement Officer, which certificate shall be separate from the certificate of occupancy governing the principal residential or farm use of the premises. Prior to issuing a certificate of occupancy for any such use involving occupancy of a building or structure, the Code Enforcement Officer shall require that the applicant provide certification from the Building Official stating that the building or structure has been constructed and/or may be occupied for the intended purpose in accordance with applicable provisions of the New York State Uniform Fire Prevention and Building Code.
 - (6) Every certificate of occupancy with respect to a building or structure and/or land for which a special use permit has been issued or site plan approval has been granted by the Planning Board or in connection with which a variance has been issued by the Zoning Board of Appeals shall contain a detailed statement of any conditions to which the same is subject and include, by attachment, a copy of the applicable Planning Board and/or Zoning Board of Appeals decision. No such certificate of occupancy shall be issued prior to the applicant's compliance with related requirements set forth in Article VI, § 210-60B, and Article VII, § 210-66E and F, of this chapter.
- E. Issuance of sign permits. No person shall commence the installation of any sign except upon application for, and issuance of, a sign permit by the Code Enforcement Officer pursuant to, and in accordance with, the requirements set forth within Article V, § 210-26, of this chapter.
- F. Issuance of permits for fences and walls. No person shall commence the installation, whether by replacement or new construction, of any fence or wall within any required yard except upon application for, and issuance of, a fence or wall permit by the Code Enforcement Officer pursuant to, and in accordance with, the requirements set forth within Article V, § 210-27, of

ZONING

this chapter.

- G. Issuance of driveway construction permits. No person shall commence the installation of an individual private or common driveway intended for purposes of residential access, present or future, except upon application for, and issuance of, a driveway construction permit by the Code Enforcement Officer pursuant to the requirements of and in accordance with the standards set forth within Chapter 111, Driveways, of the Town Code.
- H. Whenever, in the opinion of the Code Enforcement Officer, in the case of the use of any building or land, or the Building Official in the case of work on any building or structure, after proper examination and inspection, there appears to be a violation of any provision of this chapter, or of any rule, condition or requirement established pursuant thereto, he shall, on his own initiative, serve a written notice of the alleged violation upon the owner of the property, the owner's agent or the persons performing the work. Such notice shall inform the recipient of the nature and specific details of such alleged violation and the date of compliance by which the alleged violation shall be remedied or removed, which date shall be not less than 20 calendar days from the date of service or such additional time as deemed necessary by the Code Enforcement Officer or, as may be applicable, the Building Official. Service shall be by registered mail addressed to the owner as set forth on the latest assessment roll or the address on the application for building permit or other Town approval. Service shall be considered completed either upon depositing said notice in a stamped envelope in a mailbox maintained by the United States Postal Service or upon personal service.
- I. Issuance of stop orders. Whenever the Code Enforcement Officer, in the case of the use of any building or land, or the Building Official, in the case of work on any building or structure, has reasonable grounds to believe that such activity is occurring in violation of the provisions of this chapter, not in conformity with any application made, including the accompanying plans and specifications, permit granted or other approval issued hereunder or in an unsafe and dangerous manner, the Code Enforcement Officer or the Building Official, as applicable to the particular action being undertaken, shall promptly notify the owner of the property, the owner's agent or the persons performing the work to suspend work on any such building or structure or the use of any such land. Such person or persons shall forthwith suspend such activity until such time that the issuing party has in writing rescinded the stop order. Such stop order and notice shall be in writing, shall state the conditions under which the work or use may be resumed and shall be served by delivering it personally or by posting the same upon a conspicuous portion of the building or other structure under construction or the premises in use. In addition, a copy of the stop-work order shall be sent the owner by registered mail.
- J. Revocation of building permits. The Building Official may order the revocation of an approved building permit in the following instances:
 - (1) Where he finds that there has been any false statement or misrepresentation as to significant material fact in the application, plans or specifications on which the building permit is based.
 - (2) Where he finds that the building permit was issued in error and should not have been issued in accordance with the applicable provisions of this chapter or the New York State Uniform Fire Prevention and Building Code.
 - (3) Where he finds that the work performed under the building permit is not being completed in accordance with the provisions of the application, approved plans or specifications.
 - (4) Where the person to whom a building permit has been issued refuses to comply with a stop

ZONING

order issued by the Building Official.

K. Taking of emergency action.

- (1) If in the opinion of the Code Enforcement Officer or the Building Official, the latter as applicable in the case of building construction, a violation exists which requires immediate action to avoid a direct hazard or imminent danger to the health, safety or welfare of the occupants of a building or to other persons, the Code Enforcement Officer or Building Official, as applicable, may direct that such violation be immediately remedied or may take direct action on his own initiative to abate the hazard.
- (2) The owner, occupant or person responsible for the violation shall pay to the Town any costs incurred in undertaking such action. The Code Enforcement Officer or Building Official, as applicable, shall keep on file an affidavit stating with fairness and accuracy the items of expense and date of execution of action taken and is furthermore authorized to institute a suit, if necessary, against the person liable for such expenses in order to recover said costs.

§ 210-76. Penalties for offenses; other remedies.

A. Penalties for offenses. [Amended 3-11-2010 by L.L. No. 12-2010]

- (1) Violation of any provision of this chapter or any violation of any statement, plan application, permit or certificate approved under the provisions of this chapter, shall be considered an offense punishable by a civil penalty of not more than \$350 for a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a civil penalty of not less than \$350 nor more than \$700 and/or imprisonment for not more than 14 days; and upon conviction of a third or subsequent offense within a period of five years, punishable by a civil penalty of not less than \$700 nor more than \$1,000 and/or imprisonment for a period of not more than six months. The penalties set forth for violations of this chapter are meant to supersede the penalties set forth in Town Law § 268(1) regarding first violations. Specifically, the Town of Union Vale has added a provision for a minimum civil penalty for a first offense, which is not provided for in Town Law § 268(1).
- (2) The owner, general agent, contractor or lessee of the land and/or building premises, or part thereof, where such violation has been committed or does exist, and any agent, contractor builder, architect or engineer, corporation or other person who commits, take part or assists in such violation, shall be guilty of an offense, as set forth in § 268 of the Town Law and shall be liable, upon conviction, to a penalty, as provided herein.
- (3) All such penalties shall be collectible by and in the name of the Town. Each and every week that any such violation continues after notification that such violation exists shall constitute a separate chargeable offense, provided such initial notice and subsequent weekly notice shall be given in writing by registered mail or personal service as more fully described in above § 210-75, Subsection G.
- (4) Violations of this chapter shall be deemed misdemeanors only for the purpose of conferring jurisdiction upon courts and judicial officers.

B. Other remedies.

- (1) Court action.
 - (a) The opportunity for citation of violations of the provisions of this chapter and related

ZONING

imposition of the penalties herein prescribed for such offenses shall not preclude the Town or any person from instituting an appropriate legal action or proceeding in a court of competent jurisdiction to prevent the unlawful construction or modification of a building or structure, order the correction or abatement of a violation of or restrain by injunction the illegal occupancy of a building, land or premises.

- (b) The Town may request in any enforcement proceeding commenced by it, in addition to the penalties, fines or injunctive relief provided herein, a judgment for the costs of prosecuting such action, including attorney fees, expert testimony and other reasonable costs associated with the prosecution of such action.
- (2) Citizen action. In the event the Code Enforcement Officer fails or refuses to act upon or refer a violation of this chapter to the Town Attorney for legal action in accordance with the provisions stated herein within a 10 calendar day period following written request by any taxpayer to so proceed, or if the Town Attorney fails to promptly initiate a legal action or proceeding upon referral of a matter, including report thereon, from the Code Enforcement Officer, then any three or more residents and/or property owners within the Town of Union Vale may institute appropriate legal action in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this chapter.
- (3) Individual action. Nothing contained herein shall in any way restrict the right of an aggrieved individual to institute an appropriate legal action or proceeding on his own behalf for equitable relief or for damages alleged to have been suffered as a result of a violation of this chapter.

ZONING

ARTICLE X

Zoning Board of Appeals

§ 210-77. Creation, appointment and organization.

- A. A Zoning Board of Appeals shall be maintained in accordance with § 267 of the Town Law. Said Board of Appeals shall consist of five regular members appointed by the Town Board for staggered terms of five years. An alternate member, who may serve in the absence or requirement for recusal of a member in the consideration of a particular matter before the Board, may as authorized by Town Law also be appointed at the discretion of the Town Board pursuant to L.L. No. 1-2002, as adopted on May 30, 2002.
- B. The Town Board shall annually designate the Chairperson of the Zoning Board of Appeals from among the regular members, while the Board shall annually designate its Secretary and may prescribe reasonable rules, in addition to those provided herein, for the conduct of its business.
- C. No person who is a member of the Town Board shall be eligible for membership on such Board of Appeals.
- D. Members and alternates shall be residents of the Town of Union Vale. **[Added 1-8-2004 by L.L. No. 1-2004]**

§ 210-78. Powers and duties.

The Zoning Board of Appeals shall have all the powers and duties prescribed by Town Law and by this chapter, which are more particularly specified as follows:

- A. Interpretation. The Zoning Board of Appeals may reverse or affirm, wholly or partially, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made by the administrative official, i.e., the Town Code Enforcement Officer, charged with the administration and enforcement of this chapter and to that end shall have the power of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.
- B. Use variances.
 - (1) The Zoning Board of Appeals, upon appeal from the decision or determination of the Code Enforcement Officer, shall have the power to grant use variances authorizing a use of land which otherwise would not be allowed or would be prohibited within the specific zoning district by the terms of this chapter.
 - (2) No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that the applicable regulations and restrictions imposed by this chapter have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals compliance with each of the following criteria:
 - (a) That under the applicable regulations and restrictions imposed by this chapter the

ZONING

applicant cannot realize a reasonable return, provided that the lack of return is substantial as demonstrated by competent financial evidence.

- (b) That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
 - (c) That the requested use variance, if granted, will not alter the essential character of the district or neighborhood.
 - (d) That the alleged hardship has not been self-created.
- (3) The Board of Appeals, in the granting of a use variance, shall grant the minimum variance that is deemed necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

C. Area variances.

- (1) The Zoning Board of Appeals, upon appeal from the decision or determination of the Code Enforcement Officer, shall have the power to grant area variances from the area and bulk requirements of this chapter.
- (2) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the area variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board of Appeals shall explicitly consider each of the following factors:
 - (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
 - (b) Whether the benefit sought by the applicant can be achieved by some other method or means feasible for the applicant to pursue, other than an area variance.
 - (c) Whether the requested variance is substantial.
 - (d) Whether the requested area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
 - (e) Whether the alleged practical difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.
- (3) The Board of Appeals, in the granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

D. Nonconforming uses. To review any request for change of use of a nonconforming use, as required by Article VIII, § 210-68C, of this chapter, and to determine whether the intended use is similar or more restricted.

§ 210-79. Procedures.

In its quasi-judicial role, the Zoning Board of Appeals shall act in strict accordance with the procedure specified by § 267 of the Town Law and this chapter.

ZONING

A. Meetings, quorum and records.

- (1) Meetings shall be held at the call of the Chairperson or at such other times as the Zoning Board of Appeals may determine. All meetings and deliberations of the Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law.
- (2) A quorum shall consist of a simple majority, i.e., three, of the members, of the Board of Appeals but in order to reverse a decision of the Zoning Enforcement Officer, grant a variance or otherwise a change of use, an affirmative vote of at least three members shall be required. An affirmative vote of a majority plus one, i.e., of at least four members, shall further be required if the action taken by the Board of Appeals is contrary to an advisory recommendation received from the Dutchess County Department of Planning pursuant to the provisions of § 239 of the General Municipal Law.
- (3) The Board of Appeals shall keep accurate minutes of its proceedings documenting fully all findings and showing the vote of each member upon each question.

B. Application and fee.

- (1) All applications made to the Zoning Board of Appeals shall be in writing, on forms prescribed by the Board, within 60 calendar days of the action appealed from, and shall be accompanied by the applicable fee in accordance with the fee schedule annually reviewed and established by the Town Board. Every appeal or application shall refer to the specific provision of this chapter that is involved and shall precisely set forth either the interpretation that is claimed or the details of the variance that is applied for and the ground on which it is claimed that such variance should be granted. Each application shall also be accompanied by a Short or Full Environmental Assessment Form (EAF) as required by the Board of Appeals pursuant to SEQRA, Article 8 of the Environmental Conservation Law and Title 6 Part 617NYCRR.
- (2) Any application for an area variance from a dimensional requirement set forth within this chapter shall be accompanied by a drawing prepared by a licensed land surveyor documenting the specific area variance requested by depicting, through precise dimension, the proposed improvement and both the minimum setback or other requirement as established by this chapter and the setback or other requirement that would apply were the requested area variance granted. **[Added 3-11-2010 by L.L. No. 12-2010]**

C. Public notice and hearing. The Zoning Board of Appeals shall convene a public hearing within 62 calendar days on any such appeal or application, of which hearing date the appellant or applicant shall be given notice and at which hearing he shall appear in person or be represented by attorney or other agent. Any interested party may appear at such public hearing in person, or be represented by attorney or other agent, or submit comments in writing for timely receipt prior to the public hearing. The Board shall additionally provide notice as follows:

- (1) By publishing at least five calendar days prior to the date thereof a legal notice in the official newspaper of the Town, which notice shall set forth the location and the substance of the appeal or application.
- (2) By requiring the Secretary of the Board of Appeals provide notice not less than five calendar days prior to the date thereof of the substance of every appeal for a variance together with a notice of the hearing thereon by certified mail, return receipt requested, to the owners of all property abutting, lying directly opposite or otherwise lying within 300 feet of the land involved in the appeal.

ZONING

- (a) The Secretary shall certify compliance with this notification procedure.
 - (b) In accordance with the fee schedule established by the Town Board, the Town shall charge the appellant either a flat rate or a stated amount per notice for satisfying this requirement.
 - (c) The names and addresses of owners notified shall be taken as such appear on the last completed tax roll of the Town.
 - (d) Provided that there has been substantial compliance with this extraordinary notification requirement, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Board of Appeals in either granting or denying an appeal for a variance from a specific provision of this chapter.
- (3) If the land involved in the appeal lies within 500 feet of the boundary of any other municipality, the Secretary of the Board of Appeals shall also submit at least five calendar days prior to the public hearing to the municipal clerk of such other municipality or municipalities a copy of the notice of the substance of every appeal, together with a copy of the notice of such public hearing as submitted to the official newspaper of the Town.
 - (4) In the case of either an appeal for use variance or a request for determination with respect to the conversion of a nonconforming use to another nonconforming use under §§ 210-78B and D, respectively, of this article, by causing any parcel affected by the requested use variance or request for determination to be conspicuously posted on each road frontage for at least 10 calendar days prior to the public hearing.

D. Referrals.

- (1) A full statement of any appeal meeting the specific referral requirements of §§ 239-l and 239-m of the General Municipal Law shall also be referred prior to the public hearing to the Dutchess County Department of Planning for its review. The Zoning Board of Appeals shall take no action on such appeal until an advisory recommendation has been received from said County Planning Department or 30 calendar days have elapsed since the Planning Department received such full statement. Such actions shall include those affecting property located within 500 feet of any of the following:
 - (a) Municipal boundary.
 - (b) Boundary of any existing or proposed county or state park or other recreation area.
 - (c) Right-of-way of any existing or proposed county or state road or highway.
 - (d) Existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated.
- (2) The Zoning Board of Appeals shall additionally refer to the Town Planning Board both all applications for use variances and requests for change in nonconforming uses and may refer to the Planning Board any other matters it deems pertinent for review and recommendation. The Board of Appeals shall defer decision on any such application for a period of 30 calendar days to permit a report thereon to be issued by the Planning Board. Upon its failure to submit such report to the Board of Appeals within the 30 calendar days, the Planning Board shall be deemed to have waived any rights concerning the matter being referred.

E. Consultant review. In its review of an application for variance or request for interpretation, the

ZONING

Zoning Board of Appeals may, in addition to referral as may be required to the Dutchess County Department of Planning or either required or deemed appropriate to the Town Planning Board, consult with the Town's designated private planning, legal and engineering consultants. **[Added 3-11-2010 by L.L. No. 12-2010¹¹]**

- F. Decisions. Every decision of the Zoning Board of Appeals on an appeal or other request shall be made within 62 calendar days of the close of the public hearing by the Board, shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and contain a full record of the findings on which the decision is based, including record of compliance with the applicable provisions of SEQRA, Article 8 of the Environmental Conservation Law and Title 6 Part 617 NYCRR. Every decision shall be by resolution of the Board, with such decision being filed in the office of the Town Clerk within 10 calendar days thereof. The Board of Appeals shall also notify the Code Enforcement Officer, the Clerk of the Planning Board and any affected municipality given notice of the public hearing of its decision in each case. Should an action be taken contrary to a recommendation made by the Dutchess Court Department of Planning pursuant to § 239 of the General Municipal Law, report thereof shall be filed within seven calendar days with said Department.
- G. Attachment of conditions. The Zoning Board of Appeals shall, in the granting of either area variances or use variances, have the authority to impose reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property or the period of time such variance will be in effect. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- H. Expiration of approval. Unless construction or use is diligently commenced within one calendar year from the date of the Zoning Board of Appeals' granting of a variance, such variance shall become null and void without further hearing or action by the Board.

§ 210-80. Other administrative provisions.

- A. Strict construction. All provisions of this chapter pertaining to the Zoning Board of Appeals shall be strictly construed. The Board of Appeals, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and this chapter and in strict compliance with all limitations contained therein, provided, however, that if the procedural requirements set forth in this chapter have been substantially observed, no appellant or other applicant shall be considered to have been deprived of the right of appeal or other application.
- B. Effect of appeal. Unless the Code Enforcement Officer finds there to be an imminent threat either to life or to property, an appeal stays all proceedings by either the Town or appellant in furtherance of the action which is the subject of the appeal.
- C. Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reviewed may be made by any member of the Board. A unanimous vote of all members of the Board then present and constituting not less than a quorum is required for such rehearing to be scheduled. Upon such rehearing, the Board may reverse, modify or annul its original order, decision or determination by unanimous vote of all members then present, provided that the Board finds that the rights vested in persons acting in good faith in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.
- D. Relief from decisions. Any person or persons jointly or severally aggrieved by any decision of

ZONING

the Zoning Board of Appeals may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Such proceeding shall otherwise be governed by the specific provisions of Article 78, but must be initiated as therein provided within 30 calendar days after the filing of the Board's decision in the office of the Town Clerk.

ZONING

ARTICLE XI

Amendments

§ 210-81. Statutory procedure.

This chapter, or any part thereof, including both the text and the Zoning District Map indicating the various district boundaries, may from time to time be amended, supplemented, changed, modified or repealed by the Town Board in the manner prescribed by § 265 of the Town Law.

§ 210-82. Initiation of amendments; fees.

An amendment to this chapter may be initiated in any of the following four ways:

- A. By the Town Board upon its own motion.
- B. By resolution of the Planning Board, filed with the Town Clerk, wherein certain changes to, or repeal of certain provisions of, this chapter are recommended, in which case it shall be the responsibility of the Planning Board to provide as part of its recommendation the report described in below § 210-90 and the responsibility of the Town Board to initiate consideration of such proposed amendment within 90 calendar days of the time such resolution is filed by the Planning Board in the office of the Town Clerk.
- C. By petition duly signed and acknowledged from the owners of 50% or more of either the frontage or the acreage in any zoning district requesting a specific amendment, supplement, change or modification in the regulations prescribed by this chapter for such district, in which case it shall be the duty of the Town Board to initiate consideration of such petition or amendment within 90 calendar days of the time such petition is filed in the office of the Town Clerk. The filing of said petition shall be accompanied by the applicable fee in accordance with the fee schedule established and annually reviewed by the Town Board and by the necessary supporting information indicated on a checklist available from the office of the Town Clerk.
- D. By petition signed and acknowledged by one or more other property owners requesting a specific amendment, supplement, change or modification in any of the regulations prescribed by this chapter. The filing of said petition shall be accompanied by the applicable fee in accordance with the fee schedule established and annually reviewed by the Town Board and by necessary supporting information indicated on a checklist available from the office of the Town Clerk.

§ 210-83. Report of Town Planning Board.

- A. All proposed amendments, supplements, changes or modifications introduced by the Town Board and originating by either petition or by motion of the Town Board shall be referred to Planning Board for a period of not less than 45 calendar days for a report and recommendation thereon.
- B. In undertaking such review, the Planning Board shall make inquiry and provide recommendation concerning the matters specified below:

ZONING

- (1) Whether such change is consistent with the purposes embodied in this chapter as applied to the particular zoning districts concerned.
 - (2) Which areas and establishments in the Town will be directly affected by such change and in what way will they be affected.
 - (3) Whether adequate public services and facilities and other supporting infrastructure exist or can be created to serve the needs of any additional development that may occur as a result of such change.
 - (4) The indirect implications of such change in its effect on other regulations.
 - (5) Whether such proposed amendment is consistent with the underlying objectives of this chapter, including but not limited to whether such proposed amendment is consistent with the Town of Union Vale Master Plan (2001) and Dutchess County land use policies as set forth in Directions (1987) and/or Greenway Connections (2000).
- C. If the Planning Board fails to report its recommendation within 45 calendar days or such longer period as may be specified by the Town Board, the Town Board may act without such report and the Planning Board's failure to report shall be deemed a recommendation of approval of the proposed amendment.

§ 210-84. Town Board procedure.

- A. Public notice and hearing. The Town Board by resolution adopted at a stated meeting shall fix the time and place of a public hearing on any proposed amendment introduced by the Board in the form of a proposed local law and cause notice thereof to be given as follows:
- (1) By publishing a notice at least 10 calendar days prior to the time of such hearing in the official newspaper of the Town, specifying the following information:
 - (a) The nature of the proposed amendment.
 - (b) The specific land or zoning district affected.
 - (c) The status of the proposed amendment under SEQRA.
 - (d) The date, time and place where the public hearing shall be held.
 - (e) The opportunity for either oral or written comment.
 - (2) By providing a copy of such notice of any proposed change or amendment affecting property within 500 feet of any other municipality to the Clerk of such other municipality or municipalities at least 10 calendar days prior to the date of such public hearing.
 - (3) Zoning District Map amendments.
 - (a) In the case of a proposed Zoning District Map amendment:
 - [1] By providing a copy of such notice be certified mail, return receipt

ZONING

requested, to both the owners of property directly affected by the proposed Zoning District Map amendment and those owners of property which either abuts or lies within 300 feet of lands affected by the proposed amendment, as such names appear on the last completed tax roll of the Town; and

[2] By causing each parcel affected by the Zoning District Map amendment to be conspicuously posted on each road frontage with a sign at least 10 days prior to the date of public hearing.

(b) The Town Clerk or other designated Town employee shall certify compliance with this extraordinary notification procedure. Where applicable, the Town shall charge the petitioner either a flat rate or a stated amount per notice and/or sign for satisfying this requirement.

B. Required referral. The Town Board shall transmit a full statement of any proposed amendment, whether a zoning text amendment or a Zoning District Map amendment, that meets the referral requirements of §§ 239-l and 239-m of the General Municipal Law to the Dutchess County Department of Planning for its review and recommendation. The Town Board shall not take action on such proposed amendment until a recommendation has been received from the County Planning Department of 30 calendar days have elapsed since the Department received such full statement.

C. Compliance with SEQRA.

(1) Proposed zoning text and Zoning District Map amendments are both actions subject to the provisions of the New York State Environmental Quality Review Act. Any action to initiate an amendment to this chapter shall be specifically accompanied by either a Short or Full Environmental Assessment Form (EAF) as deemed appropriate by the Town Board pursuant to SEQRA, Article 8 on the Environmental Conservation Law and Title 6 Part 617 NYCRR.

(2) During its initial review of any proposed amendment, the Town Board shall further classify the same under SEQRA as either an unlisted or Type I action and determine whether the Town Board or another involved agency should serve as lead agency for environmental quality review thereof. Prior to either the close of the public hearing or any action on the proposed amendment, the Town Board or other lead agency shall have concluded the SEQR process through either the issuance of a Negative Declaration or the acceptance of a Final Environmental Impact Statement and issuance of related Findings.

D. Town Board action.

(1) The Town Board may approve any such proposed amendment by majority vote of said Board, except that a favorable vote of at least four members of the Town Board, i.e., a majority plus one, shall be required if either of the following circumstances is present:

(a) Action being taken is contrary to the advisory recommendation received from the Dutchess County Department of Planning under the provisions of §§ 239-l and 239-m of the General Municipal Law; or

(b) In accordance with the provisions of § 265 of the Town Law, a protest petition against such amendment has been duly signed and acknowledged by the owners of at least 20% of the land area included in such proposed change or of that immediately adjacent extending 100 feet therefrom or directly opposite thereto, extending 100 feet from the

ZONING

street frontage of the opposite land.

- (2) If the action is contrary to the advisory recommendation of the Dutchess County Department of Planning, a report on the action shall be filed within seven calendar days thereof with said Department.
- E. Filing requirement. Any amendment approved by either majority vote, or majority plus one vote as may be pertinent, of the Town Board shall become effective immediately upon its filing in the office of the Secretary of State of the State of New York, in accordance with the applicable provisions of law, specifically § 27 of the Municipal Home Rule Law. The Town Board resolution adopting the amendment shall be entered into the minutes of the Town Board and, in the case of a Zoning District Map amendment, the amendment graphically depicted in the Zoning District Map filed in the Town Clerk's Office.

§ 210-85. Reimbursable costs.

Reasonable costs incurred by the Town Board for professional consultation fees or other extraordinary expense in connection with the review of a petition for a zoning text or Zoning District Map amendment shall be charged to the petitioner. Such reimbursable costs shall be in addition to the required fee set forth in § 210-82 of this article. Maximum amounts for such reimbursable costs shall be in accordance with the fee schedule established and annually reviewed by the Town Board. Said fee schedule shall include the requirement that an escrow account be established upon the Town Board's receipt of the petition to cover the anticipated costs of such consultant review and other expenses.

ZONING
ARTICLE XII

Terminology

§ 210-86. Definitions.

Subsections A and B below set forth the meanings of various terms used within this chapter and complement the general rules with respect to word usage and terminology found at Article I, § 210-4, of this chapter.

A. Terms used throughout chapter. As used throughout this chapter, the following terms shall have the meanings indicated:

ACCESSORY APARTMENT — A dwelling unit subordinate to the principal dwelling unit within the same dwelling or elsewhere on the residential premises in an accessory structure. May also be referred to as "accessory residential unit."

ACCESSORY RESIDENTIAL UNIT — See "accessory apartment."

ACCESSORY STRUCTURE — A structure, the location and use of which are customarily incidental and subordinate to that of the principal building and which is either attached thereto or located elsewhere on the same lot or premises. Except in the case of permitted accessory apartments, guest houses, caretaker cottages and permitted dwellings accessory to business, institutional or farm uses, an accessory structure is not for the purpose of human habitation, either temporary or for a longer time period, with the term including such buildings and other structures as garages, tennis courts, swimming pools, garden or tool sheds, barns and private stables, studios, greenhouses and playhouses, gazebos and pergolas, and such elements as satellite dish antennas, windmills and other components of wind energy systems and solar collectors. The term "accessory structure" shall also apply to any bona fide art sculpture greater than 40 square feet in footprint or 15 feet in height which may be placed on a residential, institutional or commercial premises at a location visible from a public or private roadway or a neighboring residential property.**[Amended 3-11-2010 by L.L. No. 12-2010]**

ACCESSORY USE — A use, occupancy or tenancy customarily incidental and subordinate to the principal use, occupancy or tenancy, and located on the same lot or premises with such principal use.

ACF RESIDENT — A person who is unable to live independently and is housed within an alternate care facility designed and approved to meet the resident's specific needs. May also be referred to as "ACF client" or "ACH resident."

ACRE — Land area of 43,560 square feet.

ADAPTIVE REUSE — Contemporary use of a building or structure for use other than for which it was originally designed, intended and occupied, e.g., adaptation of a former barn or carriage house as a residential dwelling.

ADDITION — An extension or increase in floor area or height of a building.

ADULT ENTERTAINMENT BUSINESS — Any use, however otherwise identified by this chapter, falling within the purview of Chapter 84, Adult Uses, of the Code of the Town of Union Vale and subject to both the adult use license requirements set forth therein and the standards, requirements and procedures set forth within this chapter.

ZONING

AGRICULTURAL DISTRICTS LAW — Article 25-AA of the Agriculture and Markets Law of the State of New York.

AGRICULTURE — The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry practices; livestock, including beef cattle, swine, horses, ponies, mules or goats; or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals; bees and apiary products; fish; fur-bearing animals; trees and forest products; fruits of all kinds, including apples, grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program. For purposes of this chapter, the term "agriculture" does not include the operation of a riding academy, livery or boarding stable and dog kennel or cattery.**[Amended 3-11-2010 by L.L. No. 12-2010]**

AIRPORT — A runway and associated aprons and taxiways, communications systems and other navigational aids, fire and other protective services and refueling and emergency repair facilities developed and maintained in accordance with Federal Aviation Administration (FAA) design standards to accommodate the takeoff and landing of general aviation aircraft.

AIRPORT OVERLAY AREA — Land area outside the Airport (A) District lying below and within 1,000 feet of the center line of one or more of the principal arrival and departure flight tracks for Sky Acres Airport Runways 17 and 35 as recognized by the Federal Aviation Administration (FAA), the development of which land may be subject to certain special notification and/or disclosure requirements pursuant to Article V, § 210-47, of this chapter.

AIRPORT RESIDENTIAL SUBDIVISION — A planned single-family residential subdivision of not less than five lots incorporating both taxi-way-type connection to Sky Acres Airport and opportunity for development of either a community hangar or individual hangars as accessory uses on the residential lots, provided that no individual hangar shall be designed so as to be able to accommodate more than two aircraft and from which hangar, whether a community hangar or an individual hangar, no business may be conducted or other use occur exceeding the limitations therefor otherwise established by this chapter for a home occupation, authorized by special use permit pursuant to Article VI, § 210-54A, of this chapter.

ALTERATION — Any change, rearrangement or addition to a building, other than normal repairs; provided, however, that the term "normal repairs" shall not be construed to involve a change in design, material, color or outward appearance of any structure governed by the provisions of Article V, §§ 210-46, 210-48 or 210-49, of this chapter; any modification in construction or in building equipment or the moving of a building or structure from one location to another.

ALTERNATE CARE FACILITY —

- (1) A facility designed for housing those persons (ACF residents) who are unable to live and work independently at a particular time and for the providing for his or her specific needs. For purposes of this chapter, alternate care facility, or ACF, includes the following specific types of supervised facilities, but shall not be construed to include a community residence as defined in this chapter:
 - (a) A dwelling providing room and board, recreation and rehabilitative services for the mentally disabled under responsible supervision.
 - (b) A halfway house providing twenty-four-hour on-site responsible supervisory staff for short-term residents.
 - (c) A supervised living facility or group home, providing twenty-four-hour on-site

ZONING

supervisory staff for long-term residents.

- (d) A supportive living facility providing responsible supervision of residents.
- (e) Family-care housing, i.e., a dwelling providing room, board and supervision for patients who are maintained in an inpatient status by a State-operated psychiatric facility.
- (f) Housing for the disabled, i.e., for those persons who are unable to function in society without assistance and/or supervision because of their physical, mental or emotional deficiencies.
- (g) A rehabilitation services facility, i.e., a professionally planned and operated treatment facility designed to improve the functioning of physically, mentally or emotionally disabled persons in their skills of daily living, including alcohol abusers, drug-dependent persons, the mentally ill and the developmentally disabled.
- (h) A residential school for those persons having physical, mental, emotional or drug-dependent problems.

(2) Also known as "alternate care housing."

ANIMAL HOSPITAL — An establishment with facilities for the medical diagnosis and treatment of sick or injured animals including facilities for temporary occupation of such animals to the extent as essential to such diagnosis and treatment.

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

APARTMENT — A dwelling unit contained within a two-family or multifamily dwelling.

AQUIFER — A geologic unit of stratified drift capable of yielding usable amounts of water, comprised for purposes of this chapter of both the aquifer and its secondary protection area as delineated by the Dutchess County Water and Waste Water Agency.

AREA AND BULK REGULATIONS — The combination of controls that establish the minimum area of a lot, the minimum extent of yards and open space areas and the maximum dimension of buildings and other improvements and their location on such lot. May also be referred to as "bulk regulations."

AUTOMOBILE BODY SHOP — Any area of land, including structures thereon, that is used for the painting of motor vehicles; the rebuilding or reconditioning of motor vehicles; including collision services involving frame and fender straightening and repair; or the dismantling or disassembly of frames or exterior parts.

AUTOMOBILE SERVICE FACILITY — Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and other lubricating substances including the sale of motor vehicle accessories and which may or may not include facilities for lubricating and other minor servicing of motor vehicles. For purposes of this chapter, any facility used for the painting of motor vehicles, reconditioning or collision services involving frame and fender straightening or repair, or any dismantling or disassembly of frame or exterior parts is not an automobile service facility.

BAR OR TAVERN — An establishment licensed under the laws of New York State for the sale of alcoholic beverages and their consumption on the premises, not to include a nightclub.

BASEMENT — Space within a building partly below grade, which has more than half of its

ZONING

height, measured from floor to ceiling, above the average finished grade of the ground adjoining the building.

BED-AND-BREAKFAST ESTABLISHMENT — A private owner-occupied dwelling in which at least one but not more than five rooms are offered for rent for transient occupancy, in which overnight lodging and breakfast are offered to such guests and in which no public restaurant is maintained.

BEGINNING OF CONSTRUCTION — Incorporation of both labor and materials within the footings or foundation of a building or group of buildings subsequent to the issuance of a building permit in full conformance with this chapter.

BILLBOARD — See "sign, advertising."

BOARDING, ROOMING OR LODGING HOUSE — A private dwelling in which at least three but not more than six rooms are offered for rent, whether or not table board is furnished to lodgers, and in which no transients are accommodated and no public restaurant is maintained.

BOARDING STABLE — A structure designed for the feeding, housing and exercising of horses that are not owned by the owner of the premises or a resident tenant thereof and/or maintained for remuneration, hire or sale, not to include the boarding of three or fewer horses on a farm parcel of not less than 10 acres within the RA3, RA5 or RD10 District.**[Amended 3-11-2010 by L.L. No. 12-2010]**

BOARD OF APPEALS — See "Zoning Board of Appeals."

BONA FIDE WORK OF ART — An original object of an established art form possessing positive aesthetic qualities and created by the artist upon application of his or her skills and with the intent of both expressing human emotion or exhibiting an individual point of view and producing a work of art; the term "bona fide work of art" not to be construed to include any object produced for prior, present or future utilitarian purpose.**[Added 3-11-2010 by L.L. No. 12-2010]**

BUFFER — A strip of land established and suitably maintained with fencing, earthen berms and natural vegetation to visually separate one use from another or to shield or block light, noise or other nuisances. The term "buffer" or "screen" also applies, when used throughout this chapter, to the act of establishing and maintaining a buffer as defined herein.

BUILDABLE AREA — The land area remaining on the lot once the minimum yard and open space requirements have been met.

BUILDING — A structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals, property or business activity. See "structure."

BUILDING, ACCESSORY — See "accessory structure." **BUILDING AREA** — See "floor area, gross."

BUILDING COVERAGE — Percentage of the land area of a lot covered by the composite building area on or extended to the ground plane of all principal and accessory structures located thereon. Such coverage excludes uncovered porches, terraces and steps, except where utilized for display, seating or other commercial purposes.

BUILDING, DETACHED — A building unattached to any other building surrounded by open space on the same lot.

BUILDING GROUP — A group of two or more principal buildings and any buildings accessory

ZONING

thereto, occupying a lot in one ownership and having any yard or other improvements in common.

BUILDING INSPECTOR — See "Building Official."**[Added 3-11-2010 by L.L. No. 12-2010]**

BUILDING LINE — The line, established by this chapter or other more restrictive law, ordinance or regulation, beyond which no part of a building, other than exceptions expressly stated in Article IV, § 210-16, of this chapter, may extend.

BUILDING LINE, FRONT — A line generally parallel to the street, road or highway beyond which the front of a building may not project into the required front yard as specified for the district in which the lot is situated.

BUILDING MATERIAL SUPPLY AND SALES — An establishment operated for storage, display and sale of building products. May also be cited as "lumberyard."

BUILDING OFFICIAL — The Town employee appointed by the Town Board and charged with the responsibility of administering and enforcing the New York State Uniform Fire Prevention and Building Code, which employee shall be qualified by education, training and experience and certified as a building official by the New York State Department of State, Division of Code Enforcement and Administration. The Building Official may also serve as the Code Enforcement Officer and may also be referred to as the "Building Inspector."**[Added 3-11-2010 by L.L. No. 12-2010]**

BUILDING PERMIT — Official authorization issued by the Deputy Code Enforcement Official to begin construction in accordance with approved plans and in strict compliance with all applicable requirements of this chapter, the New York State Uniform Fire Prevention and Building Code, and related laws, rules and regulations.

BUILDING, PRINCIPAL — A building in which is conducted the main or principal use of the lot on which said building is located. In any residence district, any dwelling shall be deemed to be the principal building on the lot on which it is located.

BUILDING, SEMIDETACHED — A building attached by a party wall to another building normally of the same type on another lot, but having one side yard.

BUILDING, TEMPORARY — A building intended for short-term occupancy in connection with the construction of a permitted structure or development of land for purposes of accommodating a permitted use, such occupancy not to include use as a dwelling unit. Such temporary building shall be removed from the premises prior to the issuance of a certificate of occupancy for the permitted structure and/or use.

BULK REGULATIONS — See "area and bulk regulations."

BUSINESS OFFICE — A building no larger than 2500 square feet or portion thereof wherein services are performed involving predominantly administrative, professional or clerical operations. A business office shall not include an office used for transient 'rent-an-office' space. See also "professional office."

BUSINESS SERVICE — An establishment no larger than 2500 square feet primarily engaged in rendering services on a fee or contract basis, such as advertising and mailing, building maintenance, employment service, office equipment rental and leasing, commercial research, development and testing, photo finishing and personnel services. May also be referred to as "service business."

CALENDAR YEAR — A period of time measured by the passage of any 12 consecutive months.

CAMP — A parcel of land, often referred to as the "campground," on which are located two or

ZONING

more cabins, tents, shelters, or other accommodations of a design or character suitable for seasonal or other more temporary living purposes, including summer colony, but not including a trailer or recreational vehicle park, boardinghouse, hotel, motel or other lodging establishment.

CARETAKER'S COTTAGE — An accessory dwelling located on an estate or other large acreage premises maintained for the purpose of housing a resident caretaker.

CARPORT — A roofed structure, with or without enclosing walls and without a door, used for the storage of one or more automobiles.

CAR WASH — A building, the use of which is devoted to the washing of automobile and similar motor vehicles.

CATERING FACILITY — A facility providing a gathering place for the conduct of scheduled events such as parties, weddings, banquets, business meetings and similar events and food and beverages for invited guests, not to include a bar, tavern or restaurant open to the public though sometimes operated in tandem therewith. May also be referred to as "banquet hall."

CELLAR — That space of a building partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average finished grade of the ground adjoining the building.

CEMETERY — Land used or intended to be used for the burial of dead human beings and dedicated for cemetery purposes, including mausoleums and mortuaries when operated within the boundary of such lands and in accordance with requirements found within § 210-56 of this chapter.

CENTER LINE, STREET OR HIGHWAY — An imaginary line on the precise center of the legal right-of-way, whether by fee or user roadway status, of a street, highway, roadway, driveway or similar feature.

CENTRAL WATER — For purposes of this chapter, a water supply system serving five or more dwelling units and approved by the Town of Union Vale, the Dutchess County Health Department and the New York State Health Department for either private or public operation. The water supply system shall be both designed and installed in strict accordance with no less than the minimum technical engineering criteria and owned and operated under legal arrangements acceptable to both said Departments and the Town of Union Vale. The water supply system shall further be the subject, where deemed appropriate by the Town, of an irrevocable offer of dedication to the Town, or a special district created and administered by the Town, for a nominal sum. Also referred to as "central water supply."

CERTIFICATE OF APPROPRIATENESS — Determination made by the Planning Board that either the intended improvements, alterations or modifications of a designated historic or architectural resource are compatible with, and will not adversely affect, the property and its environs or the intended demolition and removal of such a designated historic or architectural resource, including structures within the Hamlet (H) District, is unavoidable due to the lack of a reasonable alternative to such demolition.

CERTIFICATE OF OCCUPANCY — Official certification issued by the Code Enforcement Officer, after consultation as may be pertinent with the Deputy Code Enforcement Official, that a premise conforms to the applicable provisions of this chapter, the New York State Uniform Fire Prevention and Building Code and other applicable regulations and may be legally used and occupied. Also referred to as "C.O."

CERTIFICATE OF VISUAL COMPATIBILITY — Determination by the Planning Board that the intended improvements involving either buildings, other structures or land within a designated

ZONING

scenic corridor are compatible with, and will not adversely affect, scenic character.

CHANGE OF USE - The change of use or occupancy of land, or buildings, structures, or other improvements on land, from either residential, commercial or industrial to one of the other uses, or a change in the nature, substance or intensity of the same use. Chapter 3 (Use and Occupancy Classification) of the Building Code of New York State shall be used to define uses that are not specifically defined in this local law. Change of occupancy or change of ownership shall not be construed as a change of use.

CHILD DAY CARE — Care for a child on a regular basis provided away from the child's residence for less than 24 hours per day by someone other than the parent, stepparent, guardian, or relative of the parents or stepparents of such child. Child day care shall not refer to care provided in any of the following:

- (1) A day camp, as defined in the New York State Sanitary Code.
- (2) An after-school program operated for the purpose of religious education, sports or recreation.
- (3) A facility either providing day services under an operating certificate issued by the NYS Department of Social Services or day treatment under an operating certificate issued by the NYS Office of Mental Health or Office of Mental Retardation and Developmental Disabilities.
- (4) A kindergarten, prekindergarten or nursery school for children three years or older, or after-school program operated by a public school district or by a private school or academy which is providing elementary or secondary education, or both, provided such use occurs on the campus where elementary or secondary education is provided.

CHILD DAY CARE CENTER — Any program or facility caring for children more than three hours per day per child in which child day care is provided except those programs operating at a small scale within a residential environment as a family day care home, a group family day care home or a school-age childcare program.

CHURCH — See "place of religious worship."

CLEAR-CUTTING — The removal of more than 50% of the trees over six inches in diameter measured at 4 1/2 feet above ground in a period of 10 years or less. The percentage shall be calculated relative to the cleared area and not relative to the entire lot, parcel or combination of parcels.**[Added 3-11-2010 by L.L. No. 12-2010]**

CLINIC, MEDICAL, DENTAL OR HEALTH — A facility designed for the practice of dentistry or medicine at which nonresident patients are treated.

CLUB, PRIVATE — See "membership club."

CLUSTER DEVELOPMENT — A residential development carried out in accordance with Chapter 192, Subdivision of Land, of the Code of the Town of Union Vale and authorized under § 278 of the Town Law and Article V, § 210-32, of this chapter with dwellings grouped or clustered through a density transfer within the particular development, rather than spread evenly throughout the parcel as in conventional lot-by-lot development, thus maintaining substantial common open space. See also Conservation Subdivision.

CODE ENFORCEMENT OFFICER — The person, who may also serve as the Building Official, qualified on the basis of education, training and experience, appointed by the Town Board and charged with the responsibility of administering and enforcing this chapter, Chapter 192,

ZONING

Subdivision of Land, and related regulations pertaining to the use and development of land and the use of structures within the Town of Union Vale. The Code Enforcement Officer may also be referred to as the "Zoning Enforcement Officer" or the "Zoning Administrator."**[Amended 3-11-2010 by L.L. No. 12-2010]**

COFFEE SHOP — A retail establishment selling breads, pies, cakes, cookies and other bake goods and which establishment may provide a maximum of 12 seats at tables or a counter for the on-premises consumption of bake goods and related coffee, tea, milk or fruit juices. May also be referred to as "tea room."

COMMERCIAL AMUSEMENT, ENTERTAINMENT AND/OR RECREATION FACILITY — An establishment engaged in providing entertainment or recreation for a fee or admission charge, including dance halls, bowling alleys, billiard and pool halls, amusement and video arcades, miniature golf courses, batting cages, membership sports and recreation clubs, game parlors, and health clubs. For purposes of this chapter, the term "commercial amusement, entertainment and/or recreation facility" shall specifically exclude the following:

- (1) Any arena, ring or racetracks, whether full-size or miniature and whether located indoors or outdoors.
- (2) Any use classified as an adult entertainment establishment under Chapter 84, Adult Uses, of the Code of the Town of Union Vale.

COMMERCIAL DISTRICTS — For purposes of this chapter, the following zoning districts, as established in Article II, § 210-5, herein shall be considered commercial districts: Neighborhood Commercial (NC) District, Town Center (TC) District and Airport (A) District.

COMMERCIAL EXTRACTION — Removal from a premises of natural materials, e.g., minerals, sand, gravel, clay, stone or rock, shale, loam, humus, fill, topsoil or similar material, which activity may be classified as "soil mining" in accordance with the definition set forth within this article.**[Amended 3-11-2010 by L.L. No. 12-2010]**

COMMERCIAL HORSE BOARDING OPERATION — An agricultural enterprise, consisting of at least seven acres and boarding at least 10 horses, regardless of ownership, that receives \$10,000 or more in gross sales annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production.**[Added 3-11-2010 by L.L. No. 12-2010]**

COMMERCIAL LOGGING — The harvesting of saw-timber, generally trees 12 inches and larger in diameter at breast height, whether intended for milling as lumber, consumption as firewood or for any other purpose, within an area of five or more acres, on a single parcel or within contiguous parcels, with the intent of removing the saw-timber from the property. For purposes of this chapter, the term "commercial logging" shall not include the harvesting of Christmas trees, the clearing of land by franchise utilities for rights-of-way, reasonable site clearing preparatory to construction of a building for which a building permit has been issued, the clearing and maintenance of land for agricultural purposes, and the harvesting of trees and firewood for the personal use of the property owner not to exceed 20 cords per year; may also be known as "timber harvesting."**[Amended 3-11-2010 by L.L. No. 12-2010]**

COMMERCIAL NURSERY — An establishment separate from a farm where herbaceous plants and related lawn care, landscaping and gardening products are sold to retail customers.

COMMERCIAL VEHICLE — Any vehicle in excess of 20 feet in length carrying a valid New York State registration license plate, which is used for the transportation of persons, animals or goods, primarily for profit, or carries a permanently affixed business identification sign exceeding one square foot in area; or any vehicle used for earthmoving or construction

ZONING

purposes.

COMMON DRIVEWAY — A vehicular way providing access from a public roadway to two or more lots, parcels or uses.

COMMON SEWER — For the purposes of this chapter, a sewage disposal system serving five or more dwelling units and approved by the Town of Union Vale, the Dutchess County Health Department and the New York State Department of Environmental Conservation for either private or public operation. The sanitary sewage system shall be both designed and installed in strict accordance with no less than the minimum technical engineering criteria and owned and operated under legal arrangements acceptable to both said Departments and the Town of Union Vale. The sanitary sewage system shall further be the subject, where deemed appropriate by the Town, of an irrevocable offer of dedication to the Town, or a special district created and administered by the Town, for a nominal sum. See also "common sewage system."

COMMUNICATION TOWER — A structure used primarily for transmitting and/ or receiving radio, television, microwave, cellular telephone, or similar electromagnetic signals. As set forth in § 210-51C herein, for purposes of this chapter neither receive-only antennas or satellite dishes for residential use nor any other building-mounted or other structure-supported antennas less than 15 feet in height, no part of which exceeds 12 feet in diameter, shall be considered a communication tower.

COMMUNITY AREAS — Those areas intended for the beneficial use or enjoyment by all residents of a development, including driveways, roadways, parking areas, walkways, landscaped areas, open space and recreation areas.

COMMUNITY BUILDING — A building used for neighborhood meetings and recreation whether a fee is charged or not, but excluding buildings belonging to a church or other place of worship.

COMMUNITY RESIDENCE — A facility for mentally disabled persons, as defined by the Mental Hygiene Law and as regulated by the provisions of The Codes of New York State. Such facilities shall include all supervised living facilities serving up to 14 long-term residents and those supportive living facilities serving four to 14 long-term residents.

COMPOSTING FACILITY, ACCESSORY — An area of land, accessory structures and processes, both natural and mechanical, for the accelerated decomposition of site-generated organic waste on a farm premises to which the composting facility is accessory into a humus-like substance through use of naturally-occurring microorganisms. No more than 25% of the total product of an accessory composting facility shall be created for purposes of resale or profit.

COMPOST, MULCH OR OTHER BIO-MASS OPERATION — The on-site processing, mixing, handling or marketing of organic matter that is grown or produced by a farm operation to rid the farm operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm-generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste. This shall also include on-farm processing, mixing or handling of off-farm-generated organic matter for use in the farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage, organic farm waste, vegetation, wood biomass or by-products of agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic bio-mass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. Such compost shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material. **[Added 3-11-2010 by L.L. No. 12-2010]**

ZONING

- COMPREHENSIVE PLAN** — See "Master Plan." A document that details an underlying purpose to control land uses for the benefit of the whole community based upon consideration of the community's problems and applying a general policy to obtain a uniform result and adopted pursuant to NYS Town Law 272-a.
- CONDOMINIUM** — Individual ownership of a dwelling unit or other occupancy, typically within a multifamily dwelling or multi-tenant building, but not including individual ownership of all or some portion of the land underlying such dwelling or building.
- CONFERENCE CENTER** — A facility used for business, professional or institutional conferences and seminars, often with campus-type accommodations for sleeping, eating and recreation.
- CONGREGATE CARE FACILITY** — A type of housing for senior citizens that provides communal dining and social facilities and other services for its residents, while at the same time permitting the senior citizen to maintain his or her own individual housing unit. May also be referred when limited in scale as "enriched housing for the elderly."
- CONSERVATION ADVISORY COUNCIL** — The Conservation Advisory Council of the Town of Union Vale as established pursuant to the Environmental Conservation Law of the State of New York.
- CONSERVATION AREA** — Vegetation and terrain left undeveloped and essentially unaltered in its natural state.
- CONSERVATION EASEMENT** — An easement, covenant restriction or other interest in real property created under the provisions of § 247 of the General Municipal Law and/or the provisions of §§ 49-0301 through 49-0311 of the Environmental Conservation law, which limits or restricts the development, management or use of such real property for the purpose of preserving or maintaining the scenic, open, historic, archaeological, architectural or natural condition, character, significance or amenities of the real property.
- CONSERVATION SUBDIVISION**- A residential subdivision where the number of dwelling units that would be yielded by a conventional subdivision plan are allowed to be placed on the parcel to be subdivided in a flexible manner, where lot sizes, road frontages, and other bulk dimensions are allowed to be relaxed and where a minimum of 50% of the remaining land is left in its natural open space condition in perpetuity. Conservation development results in a flexibility of design and development to promote the most appropriate use of land, to facilitate the adequate and economical provisions of streets and utilities, and to preserve the natural and scenic qualities of open lands.
- CONTAMINATION** — The degradation of water, air or other natural resources as a result of human activities to the extent that their quality and/or usefulness are impaired.
- CONTRACTOR'S YARD** — Any space, whether inside or outside a building, used for the storage or keeping of construction supplies, materials, equipment, machinery or vehicles or parts thereof which are in operable condition and active use by a construction contractor.
- CONVENIENCE STORE** — A one-story retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages and household supplies to customers who purchase only a relatively few items. The term "convenience store" does not include a gas station.
- CONVENTIONAL SUBDIVISION** — A subdivision carried out pursuant to Chapter 192, Subdivision of Land, of the Code of the Town of Union Vale established as either a permitted use or special permit use under the District Schedule of Use Regulations found at Article III, § 210-10, of this chapter whereby individual lots satisfying the requirements of said Chapter 192,

ZONING

Subdivision of Land, and meeting the minimum requirements set forth for the zoning district within the District Schedule of Area and Bulk Regulations found at Article IV, § 210-11, of this chapter are authorized, with such authorization subject in certain districts to the issuance of a special use permit pursuant to Article VI, § 210-54C, of this chapter.

CONVERSION — A change in use or occupancy of a building, generally by alteration or other reorganization as to increase the number of families or dwelling units within a structure.

COUNTRY INN — See "inn."

COVERAGE — See either "building coverage" or "lot coverage," as pertinent. **CREMATORIUM** — A facility for the burning of either human or animal remains.

CROPS, LIVESTOCK AND LIVESTOCK PRODUCTS — Include, but not limited to, the following:**[Added 3-11-2010 by L.L. No. 12-2010]**

- (1) Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
- (2) Fruits, including apples, peaches, grapes, cherries and berries.
- (3) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- (4) Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
- (5) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur-bearing animals, wool-bearing animals, such as alpacas and llamas, milk, eggs and furs.
- (6) Maple sap.
- (7) Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
- (8) Aquaculture products, including fish, fish products, water plants and shellfish.
- (9) Woody biomass, which means short-rotation woody crops raised for bioenergy, and shall not include farm woodland.
- (10) Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs (small honeybee colonies created from larger colonies) and queens.

DAY CAMP — Non-overnight camp providing recreation, arts and crafts and other activities for preschool and school age participants, limited to summer and other school vacation periods.

DAY-CARE CENTER — See "child day care center."

DELICATESSEN — A retail establishment selling meats, salads, other foods and condiments in a prepared state and which establishment may include a maximum of 12 seats at tables and/or a counter for the on-premises consumption of sandwiches or other foods and related coffee, tea, milk, fruit juices and other nonalcoholic beverages. A delicatessen can also sell other convenience items, food or groceries.

DENSITY — The ratio of land area per family or dwelling unit on a lot, "gross density" referring to the ratio of dwelling units to the land area of the total lot and "net density" referring to the ratio of dwelling units to the land area of the developed portion of a lot supporting a large-scale development, such as a conservation or residential cluster development.

ZONING

DENSITY BONUS – An increase in the number of residential units permitted on a parcel and provided as an incentive for the construction of specific amenities desired by the Town of Union Vale.

DEPTH — See "lot depth."¹²

DESIGN STANDARDS — Criteria stated within Article VII, § 210-64 of this chapter, setting forth community preferences in siting and design of buildings including consideration of their massing and scale, the configuration of vehicle access, parking and service areas, the design of other site improvements including lighting, signage and pedestrian ways, related conservation or incorporation of landscaped and other natural buffer areas, and the selection of materials, colors and textures for both buildings and improvements. This also includes Attachment 3, Design Standards for TC District. May also be referred to as "site plan design criteria."

DEVELOPMENT — Any activity other than normal agricultural, conservation or forestry management activity which materially affects the existing condition of unimproved, improved land or the improvements thereon, including but not limited to any of the following:

- (1) Removal of trees or other natural cover.
- (2) Substantial excavation or deposit of earth or other fill, including alteration of the banks of any stream or body of water.
- (3) Construction, reconstruction, alteration or demolition of any improvement.
- (4) Dumping or parking of any object or material, whether mobile, liquid or solid.
- (5) Commencement of any use of the land and improvements thereto and any change in the type or intensity of such use.
- (6) Commencement or change of use in type or intensity of any noise, light, smoke or other emission, in contravention of the general performance standards stated in Article V, § 210-24, of this chapter.

DEVELOPMENT PROGRAM — A schedule of the proposed use of buildings and lands by square footage, number of bedrooms, intended occupancy, parking requirements, project phasing and similar measures.

DINER OR LUNCHEONETTE — For purposes of this chapter, a type of restaurant authorized in either the Neighborhood Commercial (NC) District or the Town Center (TC) District.

DISH ANTENNA — Any parabolic dish, antenna or other mechanical device or equipment of whatever kind or nature, the primary purpose of which is to receive television, radio, microwave or other electronic signals from space satellites or transmission towers, either freestanding or attached to the roof, a chimney or any other part of a building.

DISTRICT OR ZONING DISTRICT — An area or section of the Town established under Article II, § 210-5, of this chapter, and depicted on the Zoning District Map set forth pursuant to Article II, § 210-6 thereof, and within which uniform requirements regulate the use of land and structures and the height, bulk, density and setback of structures.

DRIVE-IN ESTABLISHMENT — A premises constructed to cater to the motoring public, whether or not additionally serving pedestrians as well as the vehicular trade, and used for the sale to the public of any product and providing curbside, window, counter or other takeout service. Other deposit and pickup services not involving the sale of products shall not be construed to be drive-in establishments as defined herein.

ZONING

DRIVEWAY — Land situated on a lot used or intended to be used as a private access route directly serving a parking area or serving parking spaces not directly serving more than two dwelling units and not providing a route for through traffic.

DRIVEWAY CONSTRUCTION PERMIT — Official authorization issued by the Code Enforcement Officer to begin construction of a vehicular accessway and related improvements, including stormwater management facilities, in accordance with approved plans and in strict compliance with all applicable requirements set forth within Town Code Chapter 111, Driveways, and all related requirements of the agency of jurisdiction for the roadway intersected by the driveway (New York State Department of Transportation, Dutchess County Department of Public Works or Town of Union Vale Highway Superintendent in the case of a public roadway, or, in the case of a private roadway, a homeowners' association or similar entity).**[Added 3-11-2010 by L.L. No. 12-2010]**

DUMP — See "landfill."

DWELLING — A building designed or used principally as the living quarters for one or two families. For purposes of this chapter, a mobile home, travel trailer, or camping trailer shall not be deemed to be a dwelling.

DWELLING, ACCESSORY — A self-contained dwelling unit, having its own exterior or interior entrance and which is subordinate to the principal dwelling unit, shares no kitchen, bath, living or sleeping facilities with the principal dwelling unit, and is located on the same lot. See "accessory apartment."

DWELLING, MULTIPLE — A detached, semidetached or attached building or portion thereof, containing at least three but no more than twelve dwelling units. Also referred to as "dwelling, multifamily."

DWELLING, SINGLE-FAMILY — A detached building containing one dwelling unit only.

DWELLING, TWO-FAMILY — A detached or semidetached building containing two dwelling units only.

DWELLING UNIT — A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrances or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit. For purposes of this chapter, a boardinghouse, dormitory, hotel, motel, inn, nursing home, or other similar building shall not be deemed to constitute a dwelling unit.

DWELLING UNIT, DETACHED — A dwelling unit that is freestanding and not attached to any other dwelling unit. See "dwelling, single-family."

DWELLING UNIT, ROW OR ATTACHED — A dwelling unit having common walls with one or more other dwelling units.

DWELLING UNIT, SEMIDETACHED — A dwelling unit having a common wall, floor or ceiling with one other dwelling unit.

EDUCATIONAL INSTITUTION — Any private school, public school or other organization or institution conducting a regularly scheduled comprehensive curriculum of academic and/or alternative vocational instruction similar to that furnished by kindergartens, primary or secondary schools or institutions of higher learning and operating under the Education Law of the State of New York.

ELDERLY OR SENIOR CITIZEN HOUSING — A residential development owned by a public agency or private nonprofit sponsor in which rental units are exclusively provided for elderly

ZONING

persons, aged 62 and older, and other members of the households which they head, in accordance with the eligibility requirements stated in § 202 of the Housing and Community Development Act of 1974, as amended.

ENRICHED HOUSING FOR THE ELDERLY — A residence offering alternative living arrangements (i.e., small congregate living arrangements where comprehensive supportive services are shared) for frail, older adults who do not want or need institutional care but are no longer able to carry out the activities of living without assistance.

ENVIRONMENTAL CONSERVATION LAW — The Environmental Conservation Law of the State of New York, Chapter 43-B of the Consolidated Laws.

EROSION AND SEDIMENT CONTROL LAW — Chapter 122 of the Code of the Town of Union Vale. **[Added 3-11-2010 by L.L. No. 12-2010]**

ESTABLISHMENT — A building or related group of buildings for the purposes of the conduct of business located on a single parcel or lot and including one or more uses.¹³

EXISTING LOT OF RECORD — As employed herein, a legally existing lot at the time of adoption of this chapter the plat and/or deed of which is duly filed and/or recorded, as applicable, in the Dutchess County Clerk's office as either an individual parcel of land or as part of a subdivision approved by the Town of Union Vale in accordance with Chapter 192, Subdivision of Land, and applicable provisions of Town Law. May also be referred to as "lot of record."

EXTRACTIVE OPERATION — A lot or part thereof used for the purpose of extracting and/or removing sand, gravel, clay, stone or rock, shale, humus, topsoil, or other earthen material from the parcel, whether or not the material is intended for sale, exclusive of work undertaken both on a timely basis in grading a lot or other parcel preparatory to the construction of a building for which a building permit has been issued or installing roadways or other improvements described on a subdivision plat or site plan approved by the Planning Board and in accordance with the limitations set forth within Article V, § 210-28, of this chapter. **[Amended 3-11-2010 by L.L. No. 12-2010]**

FACADE — The face or front of a building as viewed the public roadway and/or feeder road.

FACTORY-MANUFACTURED HOME — See "modular or manufactured home."

FAIR — An occasional or periodic competitive exhibition of farm products, livestock, crafts or similar items, usually accompanied by amusement features and entertainment, and for which an admission fee is charged.

FAMILY — A family consists of either one person, two or more persons related by blood, marriage or adoption, or not more than five persons not necessarily related by blood, marriage or adoption, and in addition any domestic servants or gratuitous guests, who live together in a single dwelling unit and maintain a common household.

FAMILY DAY CARE HOME — A program caring for children for more than three hours per day per child in which child day care is provided in a family home for three to six children. A family day care provider may, however, be authorized by the NYS Department of Social Services to care for one or two additional children at any one time provided no more than six of the children are less than school age and the school-aged children receive care primarily before or after the period such children are ordinarily in school, on school holidays, or during those periods of the year school is not in session.

FARM — **[Amended 3-11-2010 by L.L. No. 12-2010]**

ZONING

- (1) A farmhouse and related land, buildings and machinery used in the practice of agriculture and the commercial production of agricultural products.
- (2) For purposes of this chapter, the term "farm" specifically excludes riding academies, livery or boarding stables, dog kennels or catteries, and the raising of fur-bearing animals.

FARM INDUSTRY — A limited business use conducted by the farm operator, which is clearly incidental and secondary to the use of the farm premises for agricultural purposes and does not alter the character thereof, with the objective of expanding the income of the farm throughout all seasons by the employ of equipment and skills customary to the agricultural enterprise and which use shall be fully consistent with the use limitations set forth in § 210-42C of this chapter.

FARM OPERATION — Land, consisting of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other, and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a commercial horse boarding operation, timber processing, compost, mulch or other bio-mass crops, and the production, management and harvesting of farm woodland, each as defined within § 301(11) of the NYS Agriculture and Markets Law and incorporated herein.**[Added 3-11-2010 by L.L. No. 12-2010]**

FARM PARCEL — A parcel supporting a commercial farm operation and meeting one of the following criteria:**[Added 3-11-2010 by L.L. No. 12-2010]**

- (1) Consisting of not less than seven acres located within a certified agricultural district established pursuant to Article 25-AA, §§ 303 and 304, of the New York State Agriculture and Markets Law and used as a single farm operation with gross sales of not less than \$10,000 annually, and as such protected under Article 25-AA, § 305-a, thereof.
- (2) Consisting of not less than seven acres and subject to an individual landowner commitment to agricultural land use pursuant to § 306 of the aforementioned New York State Agriculture and Markets Law and used as a single farm operation with gross sales of not less than \$10,000 annually, and as such protected under Article 25-AA, § 305-a, thereof.
- (3) Consisting of a parcel of less than seven acres within a certified agricultural district established pursuant to Article 25-AA, §§ 303 and 304, of the New York State Agriculture and Markets Law and used as a single farm operation with gross sales of not less than \$50,000 annually, and as such protected under Article 25-AA, § 305-a, thereof.
- (4) Consisting of not less than 15 acres used as a single farm operation with gross sales of not less than \$10,000 annually but neither located within a certified agricultural district established nor subject to an individual landowner commitment to agricultural land use executed pursuant to the New York State Agriculture and Markets Law.

FARM PRODUCTS — Plants and animals useful to human beings, including but not limited to forage and sod crops; grains and seed crops; dairy animals and dairy products; livestock and horses, including breeding and grazing; bees and apiary products; fruits, vegetables, seeds and grasses of all kinds; trees, flowers, ornamentals and other greenhouse products; fish; or any other products which primarily incorporate the use of food, feed, fiber or fur produced on the farm.

FARM WOODLAND — Land used for the production for sale of woodland products, including but not limited to logs, lumber, posts and firewood. Farm woodland does not include land used to produce Christmas trees or land used for the processing or retail merchandising of woodland

ZONING

products.[Added 3-11-2010 by L.L. No. 12-2010]

FAST-FOOD OR DRIVE-IN RESTAURANT — An establishment whose principal business is the sale in disposable packaging of already prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises. Neither a coffee shop nor delicatessen with 12 or fewer seats shall be construed to be a fast-food restaurant.

FEEDER ROAD — An internal service, or collector, roadway serving as common access to a number of businesses and related establishments from a public roadway.

FENCE — An unroofed enclosing structure erected for the purpose of preventing passage or view or delineating property or lot lines.

FILED MAP — A subdivision plat filed in the Dutchess County Clerk's office and bearing the stamp of the Town of Union Vale Planning Board and Dutchess County Health Department, as required pursuant to the Chapter 192, Subdivision of Land, of the Code of the Town of Union Vale and the Public Health Law.

FILL — Materials deposited in an area to change the ground elevation. **FLAG LOT** — See "lot, flag."

FLEA MARKET — For purposes of this chapter, an establishment or premises, whether indoor or outdoor, for the periodic sale of antiques, crafts, collectibles and other small personal and household items, within which booths, or other spaces, are typically rented to vendors and for which an admission may be charged.

FLOOD HAZARD BOUNDARY MAP (FHBM) — A map prepared by the Federal Emergency Management Agency delineating the boundaries of the special flood hazard area within the Town of Union Vale. The Flood Insurance Rate Map (FIRM) replaces the FHBM in those instances where the former has been issued.

FLOOD INSURANCE RATE MAP (FIRM) — A map prepared by the Federal Emergency Management Agency delineating both the special flood hazard areas and the premium risk zones within the Town of Union Vale.

FLOOD INSURANCE STUDY — A report prepared by the Federal Emergency Management Agency showing flood profiles, water surface elevations of the base flood and including a Flood Boundary/Floodway Map (FBFM) depicting any regulatory floodway, as may be applicable, within the Town of Union Vale.

FLOOD, ONE-HUNDRED-YEAR OR BASE — The highest level of flood that, on the average, is likely to occur once every 100 years, i.e., has a 1% chance of occurring each year.

FLOODPLAIN AREA WITH SPECIAL FLOOD HAZARDS — Maximum area of the floodplain that, on the average, is likely to be flooded once every 100 years (i.e., that has a 1% chance of being flooded in any given year). The floodplain area with special flood hazards includes the area shown on the FHBM as Zone A and on the FIRM as Zone A, AO, AH, A1 to A30, A99, V and V1 to V30.

FLOODPLAIN MANAGEMENT — The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness measures, flood control structures, and land use and development control measures.

FLOODPLAIN OR FLOOD-PRONE AREAS — A land area adjoining a river, stream, lake, pond, or other watercourse or water body which is likely to be flooded.

ZONING

FLOODPROOFING — Any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.

FLOOD PROTECTION ELEVATION — Height above sea level deemed to be equal to the one-hundred-year flood elevation plus an additional two feet.

FLOODWAY — The channel of a stream or other watercourse and the adjacent land areas required to carry and discharge a flood of a given magnitude without cumulatively increasing the water surface elevation

FLOOR AREA, GROSS —

- (1) The sum of the horizontal area of the floor or floors of a building as measured from the exterior faces of the exterior walls or from the center line of walls separating two or buildings. May also be referred to as "floor area."
- (2) In particular, the gross floor area of a building or buildings shall include all of the following:
 - (a) Basement area.
 - (b) Elevator shafts and stairwell at each floor.
 - (c) Floor space for mechanical equipment with structural headroom of seven feet six inches or greater.
 - (d) Penthouses.
 - (e) Attic space.
 - (f) Interior balconies and mezzanines.
 - (g) Accessory uses.
 - (h) Structured parking above grade.
- (3) The term "gross floor area" shall not, however, include any of the following:
 - (a) Cellar space.
 - (b) Elevator and stair bulkheads.
 - (c) Floor space used for mechanical equipment with structural headroom of less than seven feet six inches.
 - (d) Attic space, whether or not a floor has actually been laid, providing structural headroom of less than seven feet six inches.
 - (e) Uncovered steps, terraces, breezeways and open spaces.
 - (f) Accessory off-street parking spaces.
 - (g) Accessory off-street loading berths.

FLORIST AND NURSERY SALES — Any structure or building whose primary design and function is for the production and raising of flowers and other horticultural products for sale.

FORESTRY — The raising, harvesting and sales of forest products. **FRONTAGE, LOT** — See

ZONING

"lot frontage."

FUNERAL HOME — A dwelling or other structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

GALLERY — A building or portion thereof designed to accommodate the production, display and/or retail sale of various forms of art and crafts such as paintings, photographs, sculpture, furniture, stained glass, etc.

GARAGE, PRIVATE — An enclosed space, whether an accessory building or part of a principal building, for the storage of one or more vehicles, provided that no business occupation or service, other than a Class 2 home occupation authorized by special use permit, is conducted for profit therein nor any space therein for more than one vehicle leased to a nonresident of the premises.

GARAGE, PUBLIC OR COMMERCIAL — Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, servicing or equipping of automobiles or other motor vehicles.

GARAGE SALE — Any temporary sale of merchandise sold from a residence; also typically referred to as "yard sale" or "barn sale."

GASOLINE ISLAND CANOPY — A roof-like accessory structure supported by posts sheltering gasoline service islands from natural elements and accommodating suitable lighting and fire suppression equipment in its design. For purposes of this chapter, such gas island canopy may not cover an attendant's booth unless the canopy is in conformance with all setback and related standards established by this chapter for a principal structure in the particular zoning district.

GASOLINE STATION — Any are of land, including structures thereon, that is used or designed to be used for the sale of gasoline, oil or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning or otherwise servicing motor vehicles, but not including the painting or major repair thereof or the use of mechanical car washing equipment. The term "gasoline station" does not include a quick-stop retail store or convenience store.

GENERAL BUSINESS — See "trade shop."

GENERALLY ACCEPTED AGRICULTURAL AND FARM MANAGEMENT

PRACTICES — Those activities and practices including but not limited to business and administrative activities related to the operation of a farm; operation of farm equipment; production, preservation, processing and marketing of farm products; proper use of legal agricultural chemicals and other crop protection methods; and construction, maintenance, repair and use of farm structures, including such buildings used to store farm equipment and to store and/or process farm products; and such other improvements that are necessary to the operation of the farm. Said practices are those that either have been or would be determined "sound agricultural practices" by the New York State Commissioner of Agriculture and Markets upon application of the guidelines recommended for the Commissioner's use by the NYS Advisory Council on Agriculture, including but not limited to

- (1) "the practice should be legal," (2) "the practice" should not cause bodily harm or property damage off the farm," (3) "the practice should achieve the results intended in a reasonable and supportable way," and (4) "the practice should be necessary."**[Added 3-11-2010 by L.L. No. 12-2010]**

GENERAL MUNICIPAL LAW — The General Municipal Law of the State of New York, Chapter 24 of the Consolidated Laws.

GIFT SHOP — A building or portion thereof used for the display and retail sale of gifts, keepsakes and antiques, as distinguished from the retail sale of food, clothing, hardware and other items

ZONING

more commonly associated with and/or essential to the maintenance of home, person or property.

GOLF COURSE — A facility developed in accordance with the standards of the United States Golf Association (USGA) to accommodate playing of the game of golf over either nine or 18 regulation, executive or par-3 holes, though a greater number of holes may be provided. The golf course may include a driving range, putting greens, a clubhouse and other appurtenances integral to the overall facility. A private golf course may be referred to as a "country club."

GRADE, FINISHED — The elevation at which the finished surface of the surrounding lot, either naturally occurring or upon completion of change in contour, intersects the walls and supports of a structure.

GREENHOUSE — A building, portion thereof or other structure constructed mainly of translucent material and used as a conservatory for the growing and protection of flowers, vegetables and other plants and for the propagation and culture thereof.

GROUND FLOOR — The horizontal area of the floor of any structure measured to the exterior of the outside walls of such building, level with the ground or raised by a foundation, but not to include attached or built-in garages, porches or terraces, basements, cellars or unfinished floor area having a clear headroom of less than seven feet. May also be referred to as "first floor."

GROUNDWATER — Water in the subsurface zone beneath the water table in which all pore spaces are saturated.

GROUP FAMILY DAY CARE HOME — A program caring for children more than three hours per day per child in which child day care is provided in a family home for seven to 10 children of all ages, or up to 12 children where all such children are over two years of age. Subject to authorization from the NYS Department of Social Services, a group family day care provider may provide child day care services to two additional children if such additional children are of school age and such children receive services only before or after the period such children are ordinarily in school, on school holidays, or during those periods of the year school is not in session.

GUEST COTTAGE — An accessory building on the same lot as a principal residential dwelling or on an adjacent lot within the same ownership used for temporary occupancy without compensation by either short-term guests of the owners or tenants of the principal dwelling, provided that such building shall contain no kitchen facilities and shall meet all applicable setback and lot coverage requirements of this chapter and those requirements related to the provision of suitable water supply and sewage disposal facilities.

HABITABLE SPACE — Space which may be occupied by one or more persons for living, sleeping, eating or cooking purposes, excluding storage spaces and enclosures for equipment installations, and as may be more specifically defined in the New York State Uniform Fire Prevention and Building Code. **[Amended 1-8-2004 by L.L. No. 1-2004]**

HAZARDOUS MATERIAL — Material that may pose a present or potential threat to human health or the environment when improperly stored, transported, disposed of or otherwise managed, including without exception hazardous waste as identified and listed in accordance with Section 3001 of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580) and related implementing regulations.

HEIGHT, BUILDING — The vertical distance measured from the average elevation of the finished grade along the side of the building having the lowest finished grade to the highest point on the coping of a flat roof, to the deck line of mansard roofs or to the average height between eaves and ridge for gable, hip and gambrel roofs, but not including chimneys, spires,

ZONING

towers, elevator penthouses, tanks and similar projections except where such features occupy an aggregate area of more than 80 square feet or 10% of the roof area of the building, whichever shall be less.

HISTORIC SITE — For purposes of this chapter, any cultural resource, including buildings and other structures, lands and archaeological sites, so designated by the Town Board of the Town of Union Vale or other governmental authority, including but not limited to the New York State Office for Parks, Recreation and Historic Preservation.

HOME OCCUPATION —

- (1) Any limited personal service, professional or business use customarily conducted within a dwelling or customary accessory building on a residential premises and carried on by the residents thereof, which is clearly incidental and secondary to the use of the premises for residential purposes and does not alter the residential character thereof, and which use shall be fully consistent with the use limitations stated in Article V, § 210-31, of this chapter, and subject to the classification set forth therein of Class 1 and Class 2 home occupations.
- (2) The term "home occupation" shall include the provision of child day care services to two or fewer children who are not residents of the dwelling and the operation of a bed-and-breakfast establishment, as defined herein but limited to two guest rooms.

HOMEOWNERS' ASSOCIATION — An organization of residential property owners, duly constituted, residing within a particular development, whose major purpose is to own, preserve, maintain and provide community areas, facilities and services for the common enjoyment of the residents of the development.

HOSPITAL — An institution providing health service, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices. The term "hospital" shall not include "alternate care facility."

HOTEL — A type of multiple dwelling under the New York State Uniform Fire Prevention and Building Code or any part thereof which contains living and sleeping accommodations for transient occupancy for 15 or more guests and has a common exterior entrance or entrances and which may contain one or more dining rooms.

HOUSEHOLD PET — A domesticated animal, such as a cat or a dog, retained for companionship rather than commercial purposes.

HUNTING AND/OR FISHING CLUB — A group of persons organized to pursue the sport of hunting and/or fishing with certain membership qualifications, payment of dues or fees, regular meetings and a constitution or bylaws and the lands upon which their activities are conducted, including the maintenance of lodging and dining facilities for members and guests and the keeping of dogs as an incidental accessory use in a number that would otherwise be construed to be a kennel.

INDIVIDUAL LOT DEVELOPMENT — Authorized construction and use involving the entirety of a lot of record as defined herein and, thus, for which Planning Board approval pursuant to the Chapter 192, Subdivision of Land, of the Code of the Town of Union Vale, is not required.

INN — A building or part of a building in which habitable rooms or suites are reserved primarily for transient guests who rent the rooms or suites on a daily basis for 30 days or less. Guestrooms or suites may not include kitchens, kitchenettes, or other facilities to prepare meals. The term "inn" shall not be interpreted to include a hotel, motel, private club, rooming house, boarding house, tenement house, or apartment house. Inns may have a central dining room or restaurant.

ZONING

INSTITUTIONAL USE — A nonprofit, not-for-profit or quasi-public use, such as a hospital or other health-related facility, school, library, church, or municipally- owned or operated buildings, structures or land used for public purposes.

INTERNATIONAL CONFERENCE OF BUILDING OFFICIALS — An organization of building and code enforcement officers and related persons and agencies, often cited as "ICBO."

JUNK STORAGE CONTROL LAW — Chapter 151 of the Code of the Town of Union Vale. **[Added 3-11-2010 by L.L. No. 12-2010]**

JUNKYARD — An area of land, with or without buildings, used for or occupied by a deposit, collection, or storage outside a completely enclosed building of used or discarded materials such as wastepaper, rags, scrap metal, or used building materials, home furnishings, machinery or parts thereof, with or without the dismantling, processing, salvage or other use or disposition of the same.

JUNKYARD, MOTOR VEHICLE — An area of more than 200 square feet of land, with or without buildings, used for or occupied by a deposit, collection or storage outside a completely enclosed building of used or discarded motor vehicles or parts thereof, with or without the dismantling, wrecking, salvage, sale or other use or disposition of the same. A deposit, collection or storage on a lot of two or more vehicles no longer in condition for legal use on the public highways, i.e., registered and inspected, or parts thereof for more than one month in a residential district or more than three months in any nonresidential district shall constitute a motor vehicle junkyard.

KENNEL — Any premises on which are kept more than three dogs, including household pets, more than six months old or any number of dogs that are kept for the primary purpose of boarding, care or breeding for which a fee is charged or paid. For the purposes of this chapter, the term "kennel" shall be construed to include the term "cattery."

LABORATORY — A use of a building or part thereof and/or land where scientific research, development and/or experiments are conducted and which meets all applicable federal, state, county and Town requirements for the control of emissions and pollutants.

LAND ALTERATION — Change in contour or grade of a tract of land through either the movement of naturally occurring earthen materials or other similar materials within the boundaries of a site or either the importation and deposition of material or the removal of material for the purpose of changing the contour or grade of some portion of the tract. See related definitions of "extractive operation," "excavation, major," "excavation, minor" and "fill."

LANDFILL — A lot or land area used primarily for the disposal or abandonment, burial, burning, or other disposition, and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind. For purposes of this chapter, a private compost pile shall not however be construed to be a landfill.

LANDFILL, CONSTRUCTION OR DEMOLITION — A type of landfill for the disposal of construction and/or demolition debris.

LANDFILL, SANITARY — A type of landfill for the disposal of domestic and related wastes, including septage.

LAUNDROMAT OR LAUNDRY, SELF-SERVICE — A business premises equipped with individual clothes washing or dry cleaning machines for use by retail customers, exclusive of laundry facilities provided as an incidental accessory use within a multifamily residential, alternate care facility, lodging or similar establishment.

ZONING

LIBRARY — A building or part thereof used by a public or nonprofit institution for the purpose of housing books, manuscripts, exhibits or other educational materials available for reference and, as may be applicable, circulation.

LIFE CARE COMMUNITY — A campus-type facility on which is provided a range of independent and assisted living arrangements and related support services for a senior citizen population.

LIGHT INDUSTRIAL PARK — A tract of land with individual sites and structures or multi-tenant sites and structures intended for occupancy by two or more manufacturing or other light industrial and transportation establishments and uses. **[Amended 3-11-2010 by L.L. No. 12-2010]**

LIGHT INDUSTRY OR MANUFACTURING — A use involving the manufacture of a product, not requiring heavy, noisy or otherwise objectionable machinery or transporting equipment in contravention of the general performance standards stated within Article V, § 210-24, of this chapter. Light industry or manufacturing shall include, subject to compliance with the above-cited standards, the following categories:

- (1) Food and beverage production, including but not limited to such uses as dairy processing plant, bakery and bottling plant.
- (2) Apparel and other textile products.
- (3) Furniture and fixtures.
- (4) Printing and publishing.
- (5) Electrical and electronic machinery and equipment.
- (6) Metal fabrication.
- (7) Mail order distribution center.
- (8) Warehousing ancillary to the authorized use.

LOADING SPACE — Any off-street space available for the loading or unloading of goods and of a dimension deemed by the Planning Board to be suitable for the intended purpose.

LOT — A single contiguous parcel of land, undivided into two or more portions by a street, having defined boundaries and considered as a unit, devoted to a specific use or occupied by a structure or group of structures that are united by a common interest, use or ownership, and including customary accessory uses, open spaces and yards, which parcel shall have frontage on a street, or on such other mean of access as may be deemed sufficient in accordance with the applicable provision of § 280-a of the Town Law to provide suitable access as a condition precedent to the issuance of a building permit.

LOT AREA — The total land area within the property lines excluding any area devoted to external streets, e.g., in the case of a user highway.

LOT, CORNER — A lot abutting two or more streets at their intersection or upon two parts of the same street forming an interior angle of not less than 135°. The point of intersection of the street right-of-way lines is the corner.

LOT COVERAGE — The entire nonvegetated area of the lot, including the area covered by all structures, paved areas, driveways, walkways, patios or terraces.

ZONING

LOT DEPTH — The horizontal distance from the street line of a lot to the rear lot line of such lot, measured along the median between the two side property lines.

LOT, FLAG — A lot with significantly less than the minimum required lot frontage otherwise required within the zoning district and generally consisting of a narrow accessway, the "flagpole," leading from the street or roadway to the buildable portion of the lot, "the flag."

LOT FRONTAGE — That side of a lot measured along the right-of-way of any dedicated town, county or New York State highway or along a line parallel to and feet from the center line of any user highway. For purposes of this chapter, the width of any lot shall not be less than its required frontage throughout its entire depth leading to the buildable portion of the lot, i.e., that portion of the lot with at least the minimum prescribed lot width. A corner lot shall be considered to have two such frontages.

LOT LINE — That line dividing one premise from another or from a street or other public place.

LOT OF RECORD — See also "existing lot of record."

LOT, THROUGH — A lot, other than a corner lot, extending between two streets or other roadways.

LOT WIDTH — The minimum horizontal distance between the side lot lines measured at right angles to the lot depth along the rear line of the required front yard (i.e., at the minimum front setback) as established pursuant to the District Schedule of Area and Bulk Regulations.

LUMBERYARD — See "building material supply and sales."

MASTER PLAN — As described in § 272-a of the Town Law, the materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material that identifies the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-term protection, enhancement, growth and development of the Town. Such document may be officially adopted by the Town Board in satisfaction of the requirements of the Town Law and may otherwise be referred to as the "Town Plan," the "Town Master Plan," or the "Town Comprehensive Plan."

MEMBERSHIP CLUB — Premises of an organization of persons who meet periodically to promote some nonprofit social, educational, athletic, service or recreational objective and who cater exclusively to members and their guests, with no vending, merchandising or commercial activities conducted except as required generally for the membership and purposes of the club. May also be referred to as a "nonprofit club."

MINED LAND RECLAMATION LAW — Article 23, Title 27, of the Environmental Conservation Law of the State of New York.

MINIMUM OPEN SPACE — See "open area, required."

MIXED USE BUILDING – An individual structure used in part for one use and in part for some other use not customarily accessory to the first use. Mixed Use Buildings are commonly a combination of commercial and residential.

MIXED HOUSING STYLE DEVELOPMENT – A residential development that includes more than one housing type provided that all such housing types are allowed in the district.

MOBILE HOME — A structure, transportable in one or more sections, which, in the traveling mode, is eight feet or more in body width and 40 feet or more in body length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis, comprised of frame and wheels, and designed to be used without permanent foundation as a dwelling, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and

ZONING

electrical systems contained therein. Any addition to such mobile home shall, for the purposes of this chapter, be deemed to be part of such mobile home.

MOBILE HOME PARK — Any lot, parcel or tract of land or portion thereof on which two or more mobile homes are located and occupied.

MODULAR OR MANUFACTURED HOME — A factory-built dwelling, not including a mobile home, transported to the site in one or more components, assembled as necessary, and permanently attached to the site via footings and foundation.

MOTEL — A type of multiple dwelling or multiple-dwelling premises under the New York State Uniform Fire Prevention and Building Code containing individual living and sleeping accommodations for hire, each of which is provided with a separate exterior entrance and is offered for rental and use principally by motor vehicle travelers. The term "motel" includes but is not limited to every type of similar establishment known variously as an "auto court," "motor hotel," "motor court," "motor inn," "motor lodge" or "roadside hotel."

MOTOR HOME — See "recreational vehicle."

MOVIE HOUSE — An indoor facility devoted to presenting movies and films on a paid admission basis that can accommodate no more than 250 seats.

MOVIE THEATER - An indoor facility devoted to presenting movies and films on a paid admission basis that can accommodate more than 250 seats.

MUNICIPAL HOME RULE LAW — The Municipal Home Rule Law of the State of New York, Chapter 36-A of the Consolidated Laws.

MUSEUM — A nonprofit, noncommercial establishment operated as a repository for a collection of literary, natural or scientific curiosities, objects of interest or works of art, not including the regular sale or distribution of the objects collected.

NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE — A collection of eight codes based on International Conference Codes and published by the International Conference of Building Officials which are the standards adopted by the State of New York with New York Modifications to the International Conference Codes and effective July 2002. The collection of eight codes is referred to as the "New York State Uniform Fire Prevention and Building Code" and consists of the following volumes:[**Amended 1-8-2004 by L.L. No. 1-2004**]

- (1) Building Code of New York State.
- (2) Residential Code of New York State.
- (3) Fire Code of New York State.
- (4) Plumbing Code of New York State.
- (5) Mechanical Code of New York State.
- (6) Fuel Gas Code of New York State.
- (7) Property Maintenance Code of New York State.
- (8) Energy Conservation Construction Code of New York State.

NIGHTCLUB — An eating and/or drinking establishment which includes an area in which patrons may dance and/or provides live entertainment other than by a single instrumental musician or

ZONING

vocalist.

NONCOMPLYING BUILDING OR STRUCTURE — An existing building or structure which contains a use permitted in the zoning district in which it is located, but which does not conform to the applicable district regulations for lot area, width or depth; front, rear or side yard; maximum height; lot coverage; parking requirements; or density after the adoption or subsequent amendment of this chapter. This condition may also be cited as "noncomplying bulk."

NONCONFORMING USE — A legal existing use which does not conform to the applicable use regulations for the zoning district in which the use is located after the adoption or subsequent amendment of this chapter.

NON-FARM PARCEL — Any parcel that does not meet the definition of "farm parcel" as earlier set forth within this section.**[Added 3-11-2010 by L.L. No. 12-2010]**

NONPROFIT — For purposes of this chapter, restricted to a person, as defined herein, so designated as "nonprofit" or "not-for-profit" by virtue of charter or incorporation and certification by the Internal Revenue Service. Such person or facility may also be cited within this chapter as "noncommercial."

NOXIOUS USE — Any use which is dangerous, offensive or injurious by reason of the emission of dust, smoke, refuse matter, odor, gas fumes, noise or vibration in contravention of the standards and criteria established by this chapter and other applicable laws, rules, codes and regulations; also referred to as "nuisance."

NUISANCE — See "noxious use."

NURSERY — Any place used as a garden for cultivation and growing of trees, shrubs, flowers and other plants, including the replanting of plants grown at places other than the nursery.

NURSERY SCHOOL — Any premises, however designated, which operates on a regular basis to provide care or instruction for seven or more enrolled children under six years of age other than the children of the resident family. For purposes of this chapter, the term "nursery school" shall also include a kindergarten, day nursery and day-care center and family day-care facility as regulated by § 390 of the New York State Social Services Law.

NURSING HOME — Premises on which are provided lodging, meals and continuing nursing care for compensation to convalescent or chronically ill persons. The term "nursing home" shall include a convalescent home and a rest home.

OCCUPANCY — Use of a building, structure or premises.

OFFICE BUILDING — A structure housing two or more office, personal service or business service establishments.

OFFICE or OFFICE ESTABLISHMENT — A structure or part thereof used for the purpose of conducting the affairs of a business or other organization or providing professional services. The term "office or office establishment" does not include businesses that sell goods, such as a retail store.

OFFICIAL MAP — A map, established and adopted by the Town Board in accordance with § 270 of the Town Law, showing streets, highways, parks, recreational facilities, and other public improvements heretofore laid out.

ONGOING CONSTRUCTION — The incorporation of both labor and materials within the footings and/or foundation of a building subsequent to the issuance of a building permit in full accordance with this chapter, the New York State Uniform Fire Prevention and Building Code

ZONING

and all other applicable laws, rules and regulations governing the construction of the building and the installation of appurtenant systems and improvements necessary for the intended occupancy.

OPEN AREA DEVELOPMENT — A land development project, whether intended for residential, commercial or mixed occupancy, authorized by special use permit pursuant to Article VI, § 210-54D, of this chapter and carried out within an open development area created by the Town Board.

OPEN AREA, REQUIRED — That area of a lot which shall, in accordance with the requirements of this chapter, be properly maintained with a combination of natural, not artificial, lawns, shrubs, trees and other plant materials and related ground covers; also known as "minimum open space."

OPEN DEVELOPMENT AREA — An area so designated by the Town Board pursuant to § 280-a, Subdivision 4, of the Town Law and depicted on the Town of Union Vale Zoning District Map wherein access to individual lots may be provided via private streets or roadways and required lot frontage may be measured along such private streets or roadways.

OPEN PORCH — A wholly or partially-roofed structure, including a pergola and other than a carport, extending from the outside wall of a building without window sash or other form of permanent enclosure from the elements.

OPEN SPACE — Land left in a natural state for conservation, agricultural purposes, or for scenic purposes, devoted to the preservation of distinctive ecological, physical, visual, architectural, historic, geologic or botanic sites. It shall also include land left in a natural state that is devoted to passive recreation such as but not limited to walking paths. The term shall not include land that is paved, used for the storage, parking or circulation of automobiles, or used for playgrounds; or manicured recreational lands such as ball fields, lawns, landscaped areas; or land, used for stormwater management, or occupied by any structure except agricultural buildings. In a conservation subdivision, open space shall include both primary and secondary open space areas as such terms are defined in this local law. Open space may be included as a portion of one or more large lots, provided the lot(s) are greater than five acres in size and are contiguous to each other, forming a larger unfragmented open space area. Alternatively, open space may be contained in a separate open space lot but shall not include private yards within 50 feet of a principal structure.

ORGANIC WASTE — For purposes of a commercial composting facility or accessory composting facility as regulated by this chapter, limited to animal manure and vegetable plant waste, and shall not include human waste, household waste or septic waste.

OVERLAY DISTRICT — A district described by this chapter within which, due to special circumstances and the imposition of a special overlay designation, additional regulations and requirements apply to complement those of the underlying land use district to which such designation is added, the presence of such overlay district not changing either the authorization or prohibition of certain uses on the property as set forth within the District Schedule of Use Regulations.

OWNER — Owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building, structure or premises. In a given situation the term "owner" may refer to more than one of the above.

PARK — Any land and/or associated structures created and maintained by a municipality for the express use and enjoyment by the general public for recreational purposes, including both

ZONING

passive or active recreation areas and trail systems.

PARKING AREA, OFF-STREET — For purposes of this chapter, an off-street parking area containing five or more spaces as required by this chapter.

PARKING SPACE, OFF-STREET — An area of land, not less than nine feet in width by 19 feet in length, excluding driveways or access drives thereto, which is wholly out of the public right-of-way, does not encroach upon or cause vehicles to overhang any required open space or landscaped area, and is available and adequately improved for the parking of one motor vehicle.

PERFORMANCE STANDARDS — Regulations applicable to nonresidential and nonagricultural uses for the control of dangerous or objectionable elements as set forth within Article V, § 210-24, of this chapter. May also be referred to as "general performance standards."

PERFORMING ARTS CENTER — An indoor facility operated and maintained by a nonprofit entity and devoted to presenting cultural entertainment through live performances in music, theater and dance.

PERIODIC REVIEW — Requirement imposed by this chapter for examination by the Planning Board at a defined interval of the effectiveness of the provisions of this chapter and related laws, rules and regulations in guiding land use and development within the Town of Union Vale and report thereon to the Town Board.

PERMISSIBLE USE — Any use not classified by this chapter as a "prohibited use" as defined herein.

PERMITTED USE — A specific use noted in Article III, § 210-10, District Schedule of Use Regulations, of this chapter for which land, lots, buildings or structures may be used, occupied or maintained under this chapter as a matter of right.

PERSON — Any individual or group of individuals, corporation, partnership, association, trustee or and any other legal entity, including state and local governments and agencies.

PERSONAL SERVICE BUSINESS OR USE — An establishment primarily engaged in providing services involving the specialized care of a person or a person's apparel, including but not limited to barber and beauty shops, tailor and dressmaking shops, exercise or dance studios, physical therapy and other health-related offices.

PLACE OF RELIGIOUS WORSHIP — Any building or land, together with its accessory buildings and uses, where persons regularly assemble for religious worship and/or related educational, social, cultural and fund-raising activities, and which building or land is maintained and controlled by a recognized religious body organized to sustain public worship.

PLANNING BOARD — The Town of Union Vale Planning Board. May also be referred to as "Town Planning Board."

PREMISES — A lot, plot or parcel of land, together with all structures, other improvements and uses thereon.

PRIMARY CONSERVATION AREA — The area delineated in a conservation subdivision that is the first priority resource area to be conserved including regulated environmentally constrained areas and areas that provide connections or opportunities for connections to offsite open space. These include, but are not limited to streams, floodplains, wetlands, critical habitats, wetland and watercourse buffers, steep slopes, agricultural lands, and groundwater recharge areas.

PRINCIPAL STRUCTURE — The structure in which is conducted the main or principal use of the lot on which said structure is located. In any residential district, a dwelling shall be deemed the

ZONING

principal structure on the lot on which it is located.

PRINCIPAL USE — The primary purpose for which land and/or structures are designed, arranged or intended or for which land or structure(s) may be occupied or maintained under this chapter.

PRIVATE OUTDOOR RECREATION AREA OR FACILITY — Land developed by a private sponsor with facilities for passive recreation, e.g., trails and picnic areas, and/or facilities for active outdoor individual or organized recreation, e.g., ball fields, tennis courts, swimming pools, a golf course, and ski slope or other winter recreation area, not to include any of the following:

- (1) Arenas, stadiums or other spectator recreation facilities for the accommodation of more than 200 spectators.
- (2) Activities involving the discharge of firearms.
- (3) Activities involving the development of substantial structures that compositely occupy more than 1% of the gross land area of the outdoor recreation area or facility.

PRIVATE STABLE — An accessory building in which horses are kept by the owner or residential tenant of the premises, and which horses are for private use and not maintained for remuneration, hire or sale.

PROFESSIONAL OFFICE — A building no larger than 2500 square feet or portion thereof wherein persons perform services involving predominantly administrative, professional or clerical operations. A professional office shall not include an office used for transient 'rent-an-office' space. See also Business Office.

PROHIBITED USE — Any use not listed as a permitted use, special permit use or permitted accessory use in the District Schedule of Use Regulations, Article III, § 210-10, of this chapter within a zoning district shall be considered a prohibited use hereunder within such zoning district. Moreover, any use not specifically listed as a permitted use, special permit use or permitted accessory use within any zoning district in the District Schedule of Use Regulations shall be considered a prohibited use under this chapter within all zoning districts within the Town of Union Vale.

PUBLIC HEALTH LAW — The Public Health Law of the State of New York, Chapter 45 of the Consolidated Laws.

PUBLIC OR FRANCHISE UTILITY — A person, firm, corporation or municipal agency duly authorized to furnish to the public, under public regulation, electricity, gas, water, transportation, telephone, cable television, internet or other service.

PUBLIC OR FRANCHISE UTILITY STATION — An essential appurtenant facility within an overall utility network or system, such as an electric unit substation, water or sewage pumping station or telephone relay station, not to be construed to include either a communications tower or a storage yard, garage, maintenance shop or similar establishment operated by the public or franchise utility.

PUBLIC RECREATION USE OR AREA — A facility maintained by a municipal corporation for either indoor or outdoor recreation activities, whether or not a fee is levied for the use thereof. See "park."

RECREATIONAL VEHICLE — A portable, temporary dwelling designed to be used for travel, recreation and vacation, either constructed as an integral part of a self-propelled vehicle or intended to be mounted thereon. May also be referred to as a "motor coach" or "pickup camper," respectively.

ZONING

RECREATIONAL VEHICLE PARK — A premise designed for the temporary parking and occupancy of recreational vehicles and camping or travel trailers and occupancy in tents.

REIMBURSABLE COSTS — Costs incurred by the Town Planning Board, Zoning Board of Appeals or Town Board for engineers, planners, attorneys and other experts employed by the Town for the purpose of reviewing project-specific applications under either this chapter, Chapter 192, Subdivision of Land, Chapter 143, Grading, Filling and Erosion Control, or Chapter A215, Street Specifications.

REPAIR — Replacement or renewal, excluding additions, of any part of a building, structure, device or equipment with like or similar materials or parts for the purpose of maintenance of such building, structure, device or equipment.

REQUIRED — Required by this chapter.

RESIDENTIAL DISTRICTS — For purposes of this chapter, the following zoning districts, as established in Article II, § 210-5 herein, shall be deemed residential districts: Rural Development 10 (RD10) District, Residential Agricultural 5 (RA5) District, Residential Agricultural 3 (RA3) District, Residential 1.5 (R1.5) District, Residential 1 (R1) District and Hamlet (H) District.

RESTAURANT —

- (1) A commercial establishment licensed by the Dutchess County Health Department where food and drink are prepared, served, consumed and sold primarily within the principal building or its outdoor terrace or patio area.
- (2) The term "restaurant" shall not include any type of drive-in or fast-food restaurant whose primary business is the sale in disposable packaging of prepared or rapidly consumed food directly to the customer in a ready-to-consume state for consumption within the restaurant building, elsewhere on the restaurant premises or off premises. See "fast-food or drive-in restaurant."

RETAIL BUSINESS — An establishment engaged in selling or renting goods or merchandise to the general public in small quantities for personal or household consumption or business use and rendering services incidental to the sale of such goods. A gasoline station or automotive service facility shall not be considered a retail business nor shall a restaurant or other eating and/or drinking establishment of any type be so considered.

RIDING ACADEMY — An establishment where horses are kept for riding, driving or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment, not to include the boarding of three or fewer horses on a farm parcel of not less than 10 acres within the RA3, RA5 or RD10 District. **[Amended 3-11-2010 by L.L. No. 12-2010]**

RIGHT TO FARM LAW — Chapter 124, Farming, of the Code of the Town of Union Vale.

ROAD, MAJOR — A highway under the jurisdiction and maintenance responsibility of either the New York State Department of Transportation (NYSDOT) or the Dutchess County Department of Public Works (County DPW).

ROAD, MINOR — A highway either privately-owned and maintained or under the jurisdiction and maintenance responsibility of the Town of Union Vale.

ROADSIDE STAND — A structure where products grown on the premises or elsewhere by the operator of the roadside stand may be sold and purchased.

SATELLITE DISH ANTENNA — See "dish antenna."

ZONING

SCENIC AND RURAL ROADS LAW — Chapter 183, Scenic and Rural Roads, of the Code of the Town of Union Vale.

SCENIC ROADWAY — For purposes of this chapter, any public street, road or highway so designated by either the Town Board of the Town of Union Vale pursuant to Chapter 183, Scenic and Rural Roads, or other governmental authority, including but not limited to the New York State Department of Environmental Conservation under authority of the New York State Scenic Byways Law, Article XII-c of the Highway Law.

SCHOOL, PRIVATE — A kindergarten, primary or secondary school not operated by a public school district but furnishing a comprehensive curriculum of academic instruction similar to that of a public school.

SCHOOL, PUBLIC — An educational institution operated by a public school district under the Education Law of the State of New York and jurisdiction of the Board of Regents.

SECONDARY CONSERVATION AREA — The area delineated in a conservation subdivision having secondary resource value to be conserved including, but not limited to lands located with any Critical Environmental Area that may be established by the Town of Union Vale, agricultural lands, healthy woodlands holding important ecological functions such as forested core areas, wetland and watercourse buffer areas, hedgerows and other vegetation features representing the site's rural past, historic structures or sites, and visually prominent features such as knolls, or hilltops.

SENIOR CITIZEN HOUSING — See "elderly or senior citizen housing." SERVICE BUSINESS — See "business service."

SETBACK — The horizontal distance from the property line to any structure, roadway, parking area, accessory building, driveway or other such improvement on a lot is located, the minimum requirements for which are stated in the District Schedule of Area and Bulk Regulations found at Article IV, § 210-11, of this chapter or otherwise set forth within either Article IV, Article V, Supplementary Regulations, or Article VI, Special Permit Uses, of this chapter.

SHOPPING CENTER — One or more structures intended for occupancy by three or more retail, restaurant, personal service, business service, commercial amusement or office occupancies authorized within the zoning district within which the shopping center is located, whether either situated on a single parcel or adjacent parcels or in single or multiple ownership, with common site improvements such as access, parking, loading and other facilities or amenities. Such facility shall be designed and operated in strict conformity with the additional specific requirements set forth within Article VI, § 210-56, of this chapter.

SHORT TERM RENTAL— An accessory use or supplementary business in a dwelling unit allowing a short-term rental (less than 30 days) of at least one room.

SIGN —

- (1) Any material, structure or device or part thereof composed of lettered or pictorial matter which is located out of doors, on the exterior of a building or either affixed to a window or located within three feet of a window thereof and intended to be viewed from the exterior of the building, displaying an advertisement, announcement, notice or name, and includes sign frames, billboards, signboards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs or ground signs, and shall include any declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person or business or cause when the same is placed in view of the general public.

ZONING

(2) For purposes of this chapter a sign shall not include display of any of the following:

- (a) Official court or public office notices.
- (b) Official traffic control devices.
- (c) The flag, emblem or insignia of a nation, political unit, school or religious group.
- (d) A single private residential identity sign not exceeding two square feet in area and denoting the name, address and profession of the occupants of the residential premises.

SIGN, ACCESSORY — A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

SIGN, ADVERTISING — A sign or structure which directs attention to an idea, product, business activity, service or entertainment which is primarily conducted, sold or offered elsewhere than upon the premises on which such sign is located or to which it is affixed. "Sign, advertising" includes but is not limited to the term "billboard."

SIGN, DIRECTIONAL — An off-premises sign directing the way to a place of business, public service, residence or other facility or use.

SIGN, FREESTANDING — A sign that is not affixed to a building and is so constructed as to be an independent unit; included are pole signs, pylon signs and masonry wall types.

SIGN, HEIGHT OF — The distance from the mean ground level beneath the sign to the highest point of the sign structure.

SIGN, NONACCESSORY — See definition of "sign, advertising."

SIGN, OBSOLETE — A sign advertising a nonexistent product or establishment or a past event.

SIGN, PORTABLE — Any device on wheels or a stand designed to be easily moved, the purpose of which is to display a sign.

SIGN, SURFACE AREA OF — The entire area within a single, continuous perimeter enclosing the extreme limits of such sign, said perimeter consisting of not more than five sides or courses, and in no case passing through or between any adjacent elements of the same. However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign and not forming an integral part of the display. Only one face of a sign shall be counted in computing the area, provided that there is identical copy of both sign faces.

SIGN, WALL — A sign attached directly to the wall of a building, parallel to said wall and having a visible edge or border extending not more than 12 inches from the face of such wall.

SIGN, WINDOW — A sign intended to be visible from the exterior of a building and either affixed to the interior of a window or located within three feet thereof.

SINGLE OWNERSHIP — Possession of land under single or unified control, whether by sole, joint, common or other ownership or by a lease having a term of not less than 30 calendar years, regardless of any division of land into parcels for the purpose of financing.

SITE PLAN — The map or drawing and all related information which together constitute a complete application, submitted for review by the Planning Board in accordance with the requirements and procedure specified in Article VII of this chapter.

SKI SLOPE OR OTHER WINTER RECREATION AREA — A parcel of land, premises or real property, together with the building or buildings, structure or structures thereon, as well as the accessory use or uses, land, premises or real property, occupied, owned or employed for use by

ZONING

skiers, skaters, tobogganists or other outdoor sports permitted by law and customarily engaged in by persons, as spectators or participants, during the winter months or cold weather, as outdoor exercise and/or recreation.

SOIL MINING — The use of any land for the excavation, extraction or removal of more than 1,000 tons of sand, gravel, clay, stone or rock, shale, loam, humus, or topsoil within a period of 12 calendar months for sale or exchange or for use other than on the property from which the material is extracted, such use being a regulated activity under both this chapter and the New York State Mined Land Reclamation Law; may also be cited as "commercial extraction" or "extractive operation."**[Amended 3-11-2010 by L.L. No. 12-2010]**

SPECIAL PERMIT USE — A use which is deemed permissible within a given zoning district or districts, but which may exhibit characteristics or create impacts incompatible with other uses provided therein. The special permit use shall, therefore, be subject to approval by the Planning Board in accordance with the requirements set forth for such use, as well as the other applicable provisions set forth in Article VI of this chapter. May also be referred to as "special use" or "special exception."

SPECTATOR RECREATION FACILITY — A large-scale, high-volume, recreation or spectator facility, such as a stadium, sports arenas, amusement park and track for horse, automobile or other racing activities.

STATE OF NEW YORK CODES — See "New York State Uniform Fire Prevention and Building Code."

STEEP SLOPE, AREA OF — Any area with an average slope of more than 25% over a horizontal distance of more than 100 feet.

STORAGE, OPEN — Land used for the keeping of goods, wares or supplies on land outside of any building or structure. Open storage shall, however, not be construed as including the activities either of a junkyard, a junkyard, motor vehicle, or a landfill as defined herein.

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

STORY, HALF — A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

STREET — A public or private right-of-way which provides vehicular access to abutting properties, which, even if a private way, may not be less than 15 feet in width to constitute access under § 280-a of the Town Law; or a proposed way shown on a plat approved by appropriate jurisdictions and filed in the Dutchess County Clerk's Office. Also referred to as "roadway" or "highway."

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

STRUCTURAL ALTERATION — Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in roofline.

STRUCTURE — A static construction or assembly of materials, the use or occupancy of which requires a fixed location on the ground or attachment to an object having such a fixed location. The term "structure" includes, among others, buildings, stadiums, sheds, storage bins, reviewing and display stands, platforms, towers, walls, fences, swimming pools, tennis courts, gasoline pumps, billboards, signs and mobile dwellings. The term "structure" shall not include utility poles, wire and related equipment.

STRUCTURE, ACCESSORY — See "accessory structure." **STRUCTURE, PRINCIPAL** — See

ZONING

"principal structure."

SUBDIVISION — As defined in Chapter 192, Subdivision of Land, of the Code of the Town of Union Vale, the term "subdivision" shall include each of the following:

- (1) The division of any parcel of land into two or more lots, plots, sites or other division of land for the purpose, whether immediate or future, of lot line alteration, transfer of ownership, lease for other than recreation, conservation or agricultural purposes, or building development.
- (2) The resubdivision of any parcel of land for which an approved plat has already been filed in the Dutchess County Clerk's office and which is entirely or partially undeveloped.
- (3) Reinstatement of any subdivision approval that may have expired for reasons including but not limited to the imposition of a sunset or like provision by either the Planning Board or the Dutchess County Health Department or the failure of the subdivider to complete required improvements in a timely manner pursuant to the terms of the Planning Board's approval and pertinent provisions of Town Law related to either project phasing, i.e., filing of a plat in sections, or posting and satisfaction of performance guarantees.

SUBDIVISION OF LAND REGULATIONS —Chapter 192, Subdivision of Land, of the Code of the Town of Union Vale. Also known as "Subdivision Regulations."

SUBSTANTIAL ALTERATION OR IMPROVEMENT —

- (1) For the purposes of Article VIII, § 210-69, of this chapter, "substantial alteration or improvement" shall mean repair, reconstruction, or improvement of a structure, the cost of which exceeds 50% of the fair market value of the structure either before the improvement or repairs started or, if the structure has been damaged and is being restored, before the damage occurred.
- (2) The term "substantial alteration or improvement" does not, however, include either of the following:
 - (a) Any project for improvement of a structure to comply with current county or state health, safety or sanitary code requirements which are necessary to ensure safe and healthful living conditions.
 - (b) Any alteration of a structure listed on the National Register of Historic Places undertaken in accordance with the Section 106 Rehabilitation Guidelines for Historic Preservation promulgated by the U.S. Department of the Interior.

SWIMMING POOL — Any outdoor pool, tank, depression or excavation created for the specific purpose of swimming or bathing that causes the retaining of water to a depth greater than 18 inches and having a water surface area in excess of 100 square feet.

TEMPORARY — For the purposes of this chapter, defined as a period of not more than 30 calendar days except where otherwise explicitly specified herein as being of either shorter or longer duration.

TERRACE — An open porch without a permanent roof.

THEATRE — An indoor facility devoted to presenting movies, films and other programmed entertainment on a paid admission basis.

TIMBER HARVESTING — See "commercial logging."

ZONING

TIMBER PROCESSING — The on-farm processing of timber grown on a farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, through the use of a readily movable, nonpermanent saw mill, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products with an annual gross sales value of not less than \$10,000 and that the value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.[**Added 3-11-2010 by L.L. No. 12-2010**]

TOWN ENGINEER OR DESIGNATED TOWN ENGINEER — That New York State licensed professional engineer, either employee or consultant, who shall be chosen by the Town Board upon recommendation of the Planning Board to perform the duties of the designated Town Engineer for purposes of this chapter and related requirements, including but not limited to Chapter 143, Grading, Filling and Erosion Control; Chapter 192, Subdivision of Land; and Chapter A215, Street Specifications.

TOWNHOUSE (TOWNHOME) — A residential dwelling in a structure that is divided vertically and consisting of three or four attached dwelling units, each of which has a separate entrance from an outside yard area. Each unit within a townhouse shall be considered a separate dwelling unit.

TOWN LAW — The Town Law of the State of New York, Chapter 62 of the Consolidated Laws.

TOWN PLAN — See "Master Plan."

TOWN PLANNER OR TOWN PLANNING CONSULTANT — That professional planner, either employee or consultant, who shall be a member of the American Institute of Certified Planners, who shall be chosen by the Town Board upon recommendation of the Planning Board to assist in the review of project-specific applications and to advise on the administration of this chapter and related requirements, including but not limited to Chapter 192, Subdivision of Land.

TRADE SHOP — A nonretail establishment for the conduct, within enclosed structures, of general business uses, including but not limited to painting, carpentry, woodworking, printing and copying, machine printing and general repair shops.[**Amended 3-11-2010 by L.L. No. 12-2010**]

TRAILER, BOAT — A vehicle designed exclusively for the transport of one boat with beam width of no more than 10 feet and length of no more than 24 feet.

TRAILER, CAMPING — A folding structure, mounted on wheels and designed for limited travel recreation and vacation use only.

TRAILER, HOUSE — See definition of "mobile home."

TRAILER, TRAVEL — A vehicular, portable structure built on a chassis, designed as a temporary one-family dwelling for travel, recreation and vacation purposes, having a body length not exceeding 26 feet and a body width not exceeding eight feet.

TRANSFER STATION — A solid waste management facility, other than a recyclables' handling and recovery facility exclusively handling nonputrescent recyclables, that can have a combination of structures, machinery and devices, where solid waste is taken from collection vehicles and placed in other transportation units for movement to another facility.

TRUCK TERMINAL — A facility for the storage and/or repair of heavy trucks and other large commercial vehicles except as accessory and incidental to the authorized principal use of the premises.

USE — The specific purpose for which land, a building or a building group is designed, arranged, intended to be used, or for which it either is or may be occupied or maintained. See related

ZONING

definitions of accessory use, nonconforming use, principal use, prohibited use and special permit use.

USE REGULATIONS — The controls enumerating the permitted principal, permitted accessory and special permit uses, either principal or accessory, within each of the zoning districts established by this chapter.

USER ROADWAY — A public roadway not lying within a right-of-way owned in fee by the Town, county or state agency of jurisdiction and existing by virtue of easement or prescription. See § 183 of the Highway Law.

VARIANCE — An action taken by the Zoning Board of Appeals, pursuant to § 267 of the Town Law and Article X, §§ 210-78 through 210-80, of this chapter, to vary or modify the regulations or provisions of this chapter as applied to a specific use or premises.

VARIANCE, AREA — An exception granted by the Zoning Board of Appeals from the area and bulk regulations or supplementary regulations of a related character (such as amount, size, location or design of access, off-street parking, landscaping or signage) to authorize on a specific lot a permissible use which could not be feasibly established without relief from one or more of the dimensional requirements pertaining to the zoning district.

VARIANCE, USE — An exception granted by the Zoning Board of Appeals from the use regulations to allow the establishment on a specific lot of a use otherwise not allowed or prohibited in the particular zoning district but otherwise authorized under this chapter pursuant to the District Schedule of Use Regulations found at Article III, § 210-10, herein at some location within the Town of Union Vale.

VETERINARIAN'S OFFICE — An establishment for the medical and/or surgical care of sick or injured animals, including facilities for their temporary occupation and, when operated as an accessory use by a licensed veterinarian, facilities for their cremation. Also known as "animal hospital."

VOCATIONAL TRADE OR SPECIALTY SCHOOL — An educational facility operated as a business primarily teaching usable skills that prepare students for jobs in a trade or for a specialized endeavor, and licensed as may be required with the New York State Department of Education or other agency.

WALL — A structure of wood, masonry, stone or other materials, or a combination thereof, intended for defense, security, screening or enclosure or for the retention of earth, stone, fill or other materials as in the case of either a retaining wall or a bulkhead.

WAREHOUSE — A building or portion thereof used for the storage of property. The term "warehouse" shall not be deemed to include the storage area normally associated with a retail business and located on the same property.

WETLAND — Any area designated as either within a NYSDEC freshwater wetland or subject to delineation by the U.S. Army Corps of Engineers (ACOE) as either a jurisdictional wet area or isolated waters under the Clean Water Act of 1974, as amended, and related implementing regulations.

WHOLESALE BUSINESS — An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers, to other wholesalers or to industrial or professional business users or primarily acting as agents or brokers and buying merchandise for or selling merchandise to such individuals or companies.

YARD — An open space on the same lot, plot or parcel of land with a building or building group lying between the closest point of the front, rear or side wall of a building and the nearest lot

ZONING

line, unoccupied and fully open to the sky, except as otherwise provided by specific provisions set forth within Article IV of this chapter wherein certain architectural features, accessory structures, fences and walls, parking areas and/or access driveways, signage and outdoor storage may be authorized therein.

YARD, FRONT — A yard extending across the principal street side (i.e., front lot line) of a lot measured between the side yard lines, the depth of which yard is the minimum horizontal distance between the street line and the any principal building on the lot.

YARD, REAR — A yard extending across the full width of a lot measured between the side lot lines, being the minimum horizontal distance between the rear lot line and the rear of any principal building on the lot.

YARD, REQUIRED — Any yard as required by this chapter.

YARD, SIDE — A yard between any lot line, other than the street line or rear lot line, and a line drawn parallel thereto and located between the front and rear yards.

ZERO LOT LINE — A development configuration in which a building is sited along one or more lot lines with no yard. Such building may be freestanding or it may share a common wall with a zero lot line building on the adjacent lot.

ZONING ADMINISTRATOR — See "Code Enforcement Officer." [**Added 3-11-2010 by L.L. No. 12-2010**]

ZONING BOARD OF APPEALS — The Zoning Board of Appeals of the Town of Union Vale as provided for in Article X, § 210-77, of this chapter.

ZONING DISTRICT MAP — The map delineating the boundaries of the various districts established under Article II of this chapter pursuant to § 264 of the Town Law and which may from time to time be modified pursuant to Article XI of this chapter and § 265 thereof, which map, along with the text, comprises this chapter.

ZONING ENFORCEMENT OFFICER — See "Code Enforcement Officer."

B. Terms used principally within Article V, § 210-51, and Article VI, § 210-57, of this chapter pertaining to communication (personal wireless service) facilities and towers. The following terms pertaining to communication (personal wireless service) facilities and towers shall have the meanings indicated:

ADEQUATE CAPACITY — Capacity is considered to be adequate if the grade of service is p.05 or better for at least 50% of the days in a preceding month, prior to the date of application, as measured using direct traffic measurement of the personal wireless service facility in question, where the cell blocking is due to frequency contention at the antenna(s).

ADEQUATE COVERAGE — Coverage is considered to be adequate within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is greater than -95 dbm. It is acceptable for there to be holes within the area of adequate coverage where the signal is less than -95 dbm, as long as the signal regains its strength to greater than -95 dbm further away from the base station. For the limited purpose of determining whether the use of a repeater is necessary or desirable, there shall be deemed not to be adequate coverage within said holes. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain a strength of greater than -95 dbm.

ANTENNA — A device attached to a tower or other structure for transmitting and receiving electromagnetic waves.

ZONING

AVAILABLE SPACE — The space on a tower or other structure to which antennas of a personal wireless service provider are both structurally able and electronically able to be attached.

BASE STATION — The primary sending and receiving site in a wireless telecommunications network. More than one base station and/or more than one variety of personal wireless service provider can be located on a single tower or other structure.

CHANNEL — The segment of the radiation spectrum from an antenna which carries one signal. An antenna may radiate on many channels simultaneously.

COMMUNICATIONS EQUIPMENT SHELTER — A structure located at a base station designed principally to enclose equipment used in connection with personal wireless service(s) transmissions.

DBM — Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to one milliwatt.

ELECTROMAGNETICALLY CAPABLE — The determination that the new signal from and to the proposed antennas will not significantly interfere with the existing signals from and to other facilities located on the same tower or other structure as determined by a qualified professional telecommunications engineer. The use of available technologies to alleviate such interference shall be considered when making this determination.

EMF — Electromagnetic frequency radiation.

FAA — The Federal Aviation Administration, the government agency responsible for regulating and ensuring the safety of air traffic in the United States.

FACILITY SITE — A property or any part thereof which is owned or leased by one or more personal wireless service providers and upon which one or more personal wireless services facility(ies) and required landscaping are located. Also known as "project site."

FCC — The Federal Communications Commission, the government agency responsible for regulating telecommunications in the United States.

FCC 96-326 — A report and order which sets national standards for levels of radio- frequency emissions from FCC-regulated transmitters.

GHZ — Gigahertz, a measure of the frequency of an electric or magnetic field equal to 1 billion Hertz.

GRADE OF SERVICE — A measure of the percentage of calls which are able to connect to the base station during the busiest hour of the day. Grade of service is expressed as a number, such as p.05, which means that 95% of callers will connect on their first try. A lower number, e.g., p.04, indicates a better grade of service.

HERTZ — One Hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

MAJOR MODIFICATION OF AN EXISTING FACILITY — Any change or proposed change in power output, number of antennas, change in antenna type or model, repositioning of antenna(s) or change in number of channels per antenna above the maximum number approved under an existing special use permit.

MAJOR MODIFICATION OF AN EXISTING TOWER — Any increase or proposed increase in the dimensions of an existing and permitted tower or other structure designed to support personal wireless service(s) transmission, receiving or relaying antennas and/or equipment.

MHZ — Megahertz, a measure of the frequency of an electric or magnetic field equal to one

ZONING

million Hertz.

MONITORING — The measurement, by the use of instruments in the field, of the radiation from a site as a whole, or from the individual personal wireless service facilities, towers, antenna or repeaters.

MONITORING PROTOCOL — The testing protocol, initially the Cobbs Protocol but subject to state-of-the-art advances as technology changes, which is to be used to monitor the emissions from existing and new personal wireless service facility(ies).

MONOPOLE — A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal pole or a wooden pole, with below-grade foundations.

PERSONAL WIRELESS SERVICE FACILITY — All equipment [including any repeater(s)] with which a personal wireless service provider broadcasts and receives the radio-frequency waves which carry its services and all locations of said equipment or any part thereof. This facility may be sited on one or more towers or other structures owned and permitted by another owner or entity.

PERSONAL WIRELESS SERVICE PROVIDER — An entity licensed by the FCC to provide personal wireless services to individuals or institutions.

PERSONAL WIRELESS SERVICES — Commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services. These services include but may not be limited to any of the following:

- (1) Cellular services.
- (2) Personal communications services.
- (3) Specialized mobile radio services.
- (4) Paging services.

RADIATION PROPAGATION STUDIES — Computer-generated estimates of the radiation emanating from an antenna or repeaters sited on a specific tower or other structure. The height above ground, power input and output, type of antenna, antenna gain and the topography of the site and its surroundings are all taken into account to create such simulations. These simulations are the primary tool used in determining whether a site will provide adequate coverage for the personal wireless service facility proposed for that site. Also known as "radial plots."

REPEATER — A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas that are not able to receive adequate coverage directly from a base station. Also known as a "rerad."

STRUCTURALLY CAPABLE — The determination that a tower or other structure is capable of carrying the load imposed by the proposed new antenna(s) under all reasonably predictable conditions as determined by professional structural engineering analysis. Condition may also be referred to as "structurally able."

TELEPORT — A facility utilizing satellite dishes of greater than 2.0 meters in diameter designed to uplink to communications satellites for transmitting in the C- Band (four to six GHZ) spectrum.

TOWER — A lattice structure or framework, or a monopole, that is designed to support personal wireless services transmission, receiving and/or relaying antennas and/or other equipment.

ARTICLE XIII

Interpretation and Applicability

§ 210-87. Interpretation; conflict with other laws.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the protection and promotion of the public health, safety or the general welfare. Whenever the requirements of this chapter are inconsistent with the requirements of any other lawfully adopted rules, regulations, ordinances or local laws, the more restrictive provisions, or those imposing the higher standards, shall govern.

§ 210-88. Effect of existing violations.

No site plan or special use permit shall be approved, no building permit or certificate of occupancy issued, or variance granted under this chapter pertaining to any premises upon which there is an existing violation of this chapter or any related Town, county or state regulation governing either building construction or the use of land and structures within the Town of Union Vale. This limitation does not, however, prohibit such an approval, issuance, or grant with respect to a legal nonconforming use or legal noncomplying structure.

§ 210-89. Pending applications, current permits and ongoing enforcement proceedings.

- A. All applications of whatsoever kind and description submitted to and accepted by the Town's Zoning Board of Appeals and/or Town Planning Board prior to May 30, 2002, and those further applications subject of either the exceptions set forth within L.L. No. 2-2002, as adopted by the Town Board on May 30, 2002, and amended pursuant to L.L. No. 4-2002, on October 7, 2002, or a waiver therefrom as may have been granted on a case-by-case basis by the Town Board, shall be processed under and decided pursuant to the applicable provisions of the Zoning Law of the Town of Union Vale in force and effect on and prior to May 30, 2002, provided that the application is diligently pursued in strict accordance with the time frames provided within said Zoning Law.
- B. All building permits and/or other permits of whatsoever kind and description issued by the Deputy Code Enforcement Official and/or Code Enforcement Officer on or before May 30, 2002, or subsequently pursuant to any application described above, shall be processed under and enforced pursuant to the applicable provisions of the Zoning Law of the Town of Union Vale in force and effect on May 30, 2002, provided that the work governed by the permit is diligently pursued in accordance with time frames specified within said Zoning Law.
- C. The enactment of this comprehensive amendment of the Town of Union Vale Zoning Law, Town Code Chapter 210, shall not be construed as either the termination or the abandonment of any enforcement action begun by the Code Enforcement Officer pursuant to the provisions of the Town Zoning Law as in effect at the time of said enactment.

ZONING

§ 210-90. Periodic review required.

From time to time, at intervals of not more than seven calendar years, the Planning Board shall conduct a review of the effectiveness of the provisions of this chapter, including the location of zoning district boundaries, and submit a report thereon to the Town Board, recommending such changes or amendments, if any, which may be desirable in its opinion in the interest of the public health, safety, convenience, necessity or welfare.

§ 210-91. Severability clause.

Should any section or provision of this chapter be decided by the court to be unconstitutional or otherwise invalid, such decision shall not affect the validity of this chapter as a whole or any part thereof other than the section or provision so declared to be unconstitutional or invalid. The Town Board hereby declares that it would have adopted this chapter and each section and subsection thereof notwithstanding the fact that one or more of its sections, subsections, clauses or phrases may be found by court action to be unconstitutional or otherwise invalid.

§ 210-92. Effect on prior legislation.

Except as specifically provided in above § 210-89 of this article and chapter, this chapter upon its effective date shall supersede in its entirety original Chapter 90, Zoning, of the Code of the Town of Union Vale as initially adopted on May 27, 1969, and from time- to-time amended.