

ZONING Ordinance of the Town of Dix, NY

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Article I. Intent, Applicability and Definitions

1-1 Title.

This chapter shall constitute and be known as "The Zoning Law of the Town of Dix," New York, heretofore known as the "Dix Zoning Law" and may be cited as such.

1-2 Intent; word usage.

The intent of this chapter is not to cause harm to property owners of Dix; to encourage appropriate and orderly physical development; promote public health, safety, convenience and general welfare; classify, designate and regulate the location and use of buildings, structures and land for agricultural use, residential, commercial, industrial or other uses in appropriate places; and, for said purpose, to divide into districts of such number, shape and area as may deemed best suited to carry out these regulations and provide for their enforcement.

This chapter is one of the key mechanisms for implementing the Comprehensive Plan's vision of guiding development in Dix to provide a balance of developed uses and open space throughout the Town; to create residential neighborhoods close to but not negatively impacted by recreation, employment and shopping opportunities; and to avoid the negative impacts of uncontrolled access and demands for inefficient expansion of public utilities.

These regulations are in accordance with a well-considered Comprehensive Plan and have been made with reasonable concern for the character of each district and its suitability for particular uses.

This Law is intended to be administered in concert with all existing Federal and State laws and regulations. In particular, in the event of any inconsistency or contradiction between the provisions of this Law and the provisions of any Federal, State, or County Law, including without limitation the New York Agriculture and Markets Law and the Schuyler County Right to Farm Law, unless otherwise strictly specified herein to the contrary, the provisions of such Federal, State, or County Law will control.

For the purposes of this chapter, all terms used in the present tense include the future tense. All terms in the plural number include the singular number, and all terms in the singular number include the plural number, unless the natural construction of the term indicates otherwise. The term "person" includes a firm, association, organization, partnership, trust, company or individual. The term "shall" is mandatory and directory. The term "may" is permissive. The term "used" includes the terms "designated, intended or arranged to be used."

1-3 Applicability.

Except as herein provided, no building or land in the Town of Dix shall be used or occupied nor shall any building or part thereof be erected, moved or altered unless in conformity with the regulations of this chapter. Existing buildings, structures and uses, which do not comply with the regulations of this chapter, shall be allowed to continue subject to the provisions of Article VIII of this chapter relating to nonconformities.

The provisions of this chapter shall be separable in accordance with the following rules:

- A. If any court of competent jurisdiction shall adjudge any provision of this chapter to be invalid, the Town will change promptly, and such judgment shall not affect any other property, building or structure.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter to a particular property, building or structure, such judgment shall not affect the application of said provision to any other property, building or structure.

1-4 When effective; lawfully issued variances or special use permits; pending applications.

- A. This chapter is enacted pursuant to the Municipal Home Rule Law of the Consolidated Laws of New York State, the Town Board of the Town of Dix, in the County of Schuyler, State of New York, and is effective upon adoption but no sooner than upon the proper filing with the New York State Department of State.
- B. Any variance or special use permit which could be lawfully issued under the most recent provisions of this chapter shall continue to be valid. Any variance or special use permit which could not be issued after the effective date of these regulations shall be allowed to continue subject to the provision of Article VIII relating to nonconformities.
- C. Any construction or alteration of a building or structure which has not yet obtained a certificate of occupancy but which has commenced construction at least 90 days before the effective date in accordance with a valid building permit shall be allowed to complete construction. If such building or use is not in conformance with the regulations of this chapter it shall be subject to the provisions of Article VIII relating to nonconformities.
- D. This chapter and any amendments thereof shall apply to all applications pending and not yet finally decided on the date of adoption except that in any case where a public hearing has been held, the application shall be decided in accordance with the law in effect on the date of such hearing.

1-5 Definitions.

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

ADULT- Any person 18 years of age or older. (A minor is any person under the age of 18 years of age).

ADULT BOOKSTORE - An establishment having a substantial or significant portion of its stock-in-trade books, magazines, videos, computer software, or other periodicals, films or viewing on the premises by use of motion-picture devices or any other coin-operated means, and materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or male or female genitalia, anatomical areas or an establishment with a segment or section devoted to the sale or display of such material, and which establishment customarily excludes any minor by virtue of age.

ADULT ENTERTAINMENT CABARET - A public or private establishment, or any part thereof, which presents any of the following entertainments or services on one or more occasions for observation by patrons therein and which is operated for profit; topless female dancers; strippers; male or female impersonators; exotic dancers; topless waitresses, bussing or service; or service or entertainment where the servers or entertainers wear pasties or G-strings or both. Adult entertainment cabarets customarily exclude minors by reason of age.

ADULT PEEP SHOW - A theater which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged and which is not open to the public generally but excludes any minor by reason of age.

ADULT THEATER-A theater that customarily presents motion pictures, films, videotapes or slide shows, that are open to the public generally but excludes any minor by reason of age whether or not they are accompanied by a parent or guardian.

ADULT USE - See "adult bookstore," "adult entertainment cabaret," "adult theater" and "adult peep show."

AGRICULTURAL OR FARM BUILDING -Any building used for the housing of agricultural equipment, products, livestock or poultry, or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with and necessary to agricultural or farming operations as defined in this article. The term "farm building" shall not include dwelling units.

AGRICULTURAL OR FARMING OPERATION - The use of a parcel of land in the raising of agricultural products, trees, nursery stock, livestock, poultry or dairy products, breweries, or wineries. It includes necessary farm buildings and the storage of necessary equipment.

AGRICULTURAL RESEARCH FACILITY - A use primarily related to agricultural research that is affiliated with an educational institution.

AGRICULTURAL SUPPORT INDUSTRY - Any industry that services farm production including feed and seed stores, farm machinery, livestock, commercial composting facility, slaughterhouse facilities, and veterinary services. Rendering plants are prohibited.

AGRICULTURE, LIVESTOCK OR CROPS - The use of a parcel of land in the raising of agricultural products, trees, nursery stock, livestock, poultry or dairy products. It includes necessary farm buildings and the storage of necessary equipment.

ALLEY - A publicly or privately owned service-way less than 22 feet in width providing a secondary means of access to abutting properties.

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

ANIMAL VETERINARY OFFICE - A facility providing animal medical care, run by a licensed Doctor of Veterinary Medicine (DVM).

APARTMENT - See "dwelling, multifamily."

BAR OR TAVERN -A business establishment with a New York State Liquor License to serve alcoholic beverages and which the establishment is designed primarily for the consumption of such alcoholic beverages on the lot, regardless of whether food or entertainment are provided as an accessory use.

BASEMENT - A story partly underground but having at least ½ of its height above finished grade.

BED AND BREAKFAST/ INN -A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

BERM - An earthen mound designed to provide visual interest, screen undesirable views and/or decrease noise.

BREWERY/ WINERY-An agricultural operation or facility used for the fermentation and processing of beer or wine.

BUFFER -A combination of physical space and vertical elements, such as plants, berms, fences or walls, the purpose of which is to separate and screen incompatible land uses from each other and/or to protect wildlife habitats, wetlands, stream corridors and other significant environmental features.

BUILDING - Any structure having a roof supported by columns, piers or walls and intended for commerce, shelter, housing or enclosure of persons, animals or chattel.

BUILDING, ACCESSORY - A subordinate building located on the same lot with the principal building, occupied by or devoted to an accessory use. Where an accessory building is attached to the principal building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the principal building.

BUILDING, PRINCIPLE - A building in which is conducted the main use of the lot on which said building is located.

BUILDING AREA - The aggregate of the areas of all enclosed and roofed spaces of the principal building and all accessory buildings. Such areas shall be computed by using outside building dimensions measured on a horizontal plane at ground level.

BUILDING HEIGHT - The vertical dimension measured from the average elevation of the finished grade adjoining the exterior walls of a building to the highest point of the roof for flat roofs, to the deck-line of a mansard roof and to the average height between the plate and ridge of a gable, hip or gambrel roof.

BULK AND USE REGULATIONS - The maximum size of a building and its location on a lot as defined by density and dimension standards viewed as appropriate for the specific zoning district

CAMPGROUND - A parcel of land used or intended to be used by two or more tents, travel trailers, or other recreational vehicles on a transitory or seasonal basis and conducted as a business or as part of a public use of a private club.

CELLULAR TOWERS - See "Telecommunications Tower or Tower" in Article XII-1.

CELLAR - A story partly underground and having ½ or more of its clear height below finished grade. A "cellar" shall not be counted as a story in determining the building height.

CEMETERY - Property used for the interring of the dead.

CERTIFICATE OF OCCUPANCY - A certificate issued by the Code Enforcement Officer signifying that a parcel of land is being used in a lawful manner with respect to the provisions of this chapter.

CLUB, HUNTING & FISHING - A property in single ownership improved with buildings and accessory structures established for the principal purposed of members engaging in fishing, hunting, or any combination of those activities. The term "conservation, hunting, and fishing" shall not be deemed to include sleeping quarters or dwelling units, except for one (1) dwelling unit to be used by the owner or manager, nor shall it include any dining facility, retail or personal service shop made available to the general public.

CLUB, SOCIAL - An organization of persons registered under the Not - For - Profit Corporation Law of the State of New York 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.

CLUSTER DEVELOPMENT - A development of residential lots not less than 0.5 acres, each containing less area than the minimum lot area required for the district within which such development occurs, but maintaining the density limitation imposed by said minimum lot area of 80,000 square feet in areas outside the water and sewer districts, and 45,000 square feet within said water and sewer districts, through the provision of open space as a part of the subdivision plan.

COMPREHENSIVE PLAN - The materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive materials that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of Dix.

COMMERCIAL COMPOSTING FACILITY - A facility for organic waste processing (OWP) for mixed solid waste, source separated organic waste, biosolids, septage, yard waste and other solid waste, designed to minimize the quantity of waste sent to landfills and to provide a marketable soil enhancement and replacement product.

CONSERVATION EASEMENT - An agreement by the property owner to restrict the use of a designated portion of such property to a particular use or to prohibit use of a designated portion of such property for certain uses.

CONVENIENCE STORE - Small commercial establishments, catering primarily to residents of nearby areas, providing frequently needed retail goods and personal services.

CONVENTION CENTER - Grounds or facilities used for the gathering of groups of people or providing large-scale space for meetings or conferences. This does not include Social Clubs, public parks or playgrounds

CULTURAL USE FACILITY OR MUSEUM - Any building, room or area designed or utilized primarily for the presentation to the general public of live theater, dance performances, musical concerts, cinema, lectures, exhibits of various art forms or exhibits of cultural, academic or scientific material which are not characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities.

CURB LEVEL - The mean street grade established by municipal code or, in the absence of an established grade, the mean level of the existing curb or of the lot at the street line.

DAYS - All references to days are calendar days.

DAYCARE, CENTER - A place other than an occupied residence providing or designed to provide day care for seven or more persons on a regularly scheduled basis for more than three but less than 24 hours per day. Also see Article 390, 1(c) of the Social Services Law of the State of New York.

DAY CARE, FAMILY - A facility caring for children provided in a family home for three to six children for more than three hours per day per child. Also see Article 390, 1(e) of the Social Services Law of the State of New York.

DEED OR TRACT RESTRICTIONS - Legal language recorded in an instrument in the chain of title for a lot, which describes specifically limitations or restrictions on the use of the property.

DENSITY STANDARDS - Determine the measure of the quantity of a particular use allowed at a particular location. The four basic measures include dwelling units per acre, minimum lot sizes, floor-area ratio (FAR), and maximum height restrictions.

DRIVE-IN FACILITY- A use or portion of a use which by design of physical facilities or by service or packaging procedures encourages or permits customers to receive a service or obtain a product which may be consumed or used in a motor vehicle on or off of the premises.

DRY-CLEANING OUTLET - An establishment used primarily to collect and distribute articles or goods of fabric to be subjected to the process of dry cleaning, dyeing or stain removal elsewhere. A dry-cleaning outlet may also include equipment to press articles of fabric cleaned elsewhere or dry-cleaning machines using only noncombustible and nonflammable solvents.

DWELLING - A building or portion thereof used exclusively as the residence or sleeping place of one or more persons, and may include garage space for personal automobiles.

DWELLING, ATTACHED OR ROW - A single-family dwelling with party walls separating it from adjacent units on both sides.

DWELLING, DETACHED - A dwelling having no party wall in common with another building.

DWELLING, MULTI-FAMILY - A building or portion thereof containing three or more dwelling units designed or used for occupancy by three or more families living independently of each other.

DWELLING, SEMI-DETACHED - A single-family dwelling separated by a party wall from only one adjacent dwelling unit.

DWELLING, SINGLE-FAMILY - A dwelling unit designed for or occupied exclusively by one or more persons living as a single, nonprofit housekeeping unit. The dwelling can consist of a single-wide mobile home ten years old or newer, a double-wide mobile home, a modular home, or a lumber-constructed home on a permanent foundation, cellar, or basement.

DWELLING, TWO-FAMILY - A building containing two dwelling units and used or intended to be used exclusively for occupancy by two families living independently of each other, or two single-family dwellings having a party wall in common.

DWELLING UNIT - One or more rooms providing living facilities for one family or housekeeping unit, including equipment for cooking, living and sleeping purposes and provisions for the same.

DWELLING UNIT, ACCESSORY - An accessory use involving a separate and complete dwelling unit either in or added to an existing single-family dwelling, or a separate accessory building on the same lot as the principal dwelling.

EASEMENT - The authorization by property owner for use by another, for a specified purpose, of any designated part of such property.

ENTERTAINMENT/ RECREATION, INDOOR - A business or commercial facility designed and used for the amusement of the general public in indoor spaces such as theaters, bowling alleys, indoor amusement arcades and health clubs/gyms. Incidental food service may also be included.

ENTERTAINMENT/ RECREATION, OUTDOOR ARCADE -A business or commercial facility designed and used for active and passive outdoor recreation of the public for athletic and general recreation activities including miniature golf, non-competitive arcade style go-karts, swimming pools, and recreation courts, golf courses, hiking or biking trails, playfields, and other similar facilities.

ENTERTAINMENT/ RECREATION, OUTDOOR PROFESSIONAL -A business or commercial facility designed and used for active and passive outdoor recreation of the public for professional motorized sports for either practice or competition including but not limited to: motocross, upper tier racing go-karts, small car racing, or other motorized racing vehicles.

FAMILY - One person or a group of related persons living together as a single household occupying a dwelling unit.

FAMILY DAYCARE HOME - An occupied family residence providing day care for three to six children for more than three hours per day. See Article 390, 1(e) of the Social Services Law of the State of New York.

FARM STAND - See Roadside Stand.

FENCE - A structure bounding an area of land designed to either limit access to the area or to screen such area from view, or both. The term "fence" shall include tennis court enclosures or backstops and similar structures.

FLAMMABLE LIQUIDS - As defined by the New York State Uniform Fire Prevention and Building Code.

FLOOR AREA RATIO - The ratio between total site area and total floor area permitted in any district. The floor area of the building considered for the computation of floor area ratio shall be restricted to those levels above the surface of the ground and shall not include any basement or garage spaces under the surface. Garage facilities above the surface shall be included in the computations. Where the ground level changes a full story height or more along a building facade, the story height above grade shall be included. Total site area shall be the entire site within the property lines of any development.

FLOOR AREA, TOTAL - The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business. Said areas shall be measured between the inside face of exterior walls or from the centerline of walls separating two uses. Said areas shall not include areas below the average level of adjoining ground, garage space or accessory building space (includes basement but not cellar).

FOREST OR WOODLAND - All areas of five or more contiguous acres of woods or sensitive areas of less than five acres.

GARAGE - A secondary building used in conjunction with a primary building which provides for the storage of motor vehicles and in which no occupation, business or services for profit are carried on.

GASOLINE STATION - See "motor vehicle service station."

GOLF COURSE - A recreation facility consisting of at least nine holes, each with tee, green, and fairway, located on a parcel of land containing at least twenty-five (25) acres, as distinguished from golf driving ranges and miniature golf.

GREENHOUSE, COMMERCIAL - A glass or plastic enclosed structure for cultivating plants that must have controlled temperature and humidity, used to grow plants for wholesale or retail purposes.

GREENHOUSE, PERSONAL - A glass or plastic enclosed structure for cultivating plants that must have controlled temperature and humidity, not used for wholesale or retail purposes.

- HOME OCCUPATION - Any occupation or profession, excluding retail sales to customers or motor vehicle repairs on the premises, which:
- A. Can be conducted without substantial change in the appearances, character or traffic generation of the residence.
 - B. Is carried on by a member of the household residing in the dwelling unit.
 - C. Is clearly incidental and accessory or secondary to the use of the dwelling unit for residential purposes.
 - D. Conforms to the following additional conditions:
 1. The occupation or profession shall be carried on wholly within the principal building.
 2. Not more than two persons outside the household residing in the dwelling shall be employed in the home occupation.
 3. There shall be no exterior display, other than a sign, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
 4. No offensive odor, noise, vibration, smoke, dust, heat or glare shall be produced, nor will the storage or handling of hazardous material be allowed.
 5. No more than 40% of the floor area of the residence will be allowed for the used of the home occupation.
 6. The Planning Board may grant a special use permit to house the home occupation in an accessory building, subject to the requirements of Article 111-6.

HOMEOWNER'S ASSOCIATION - An organization of residential property owners residing within a particular development who contractually agree to provide, reserve and maintain commonly owned facilities and/or open space, in accordance with New York State law.

HOTEL/MOTEL - A building or group of buildings whether detached or in connected units used as individual sleeping units, intended, designed, or used, rented or hired out, to be occupied by transient guests and/or the general public. A hotel/motel may or may not have accessory restaurant facilities attached. "Hotel" does not include bed and breakfast establishments.

HORTICULTURAL USE - Any land or greenhouses used for the commercial production, sale, or research of vegetative products.

IMPERVIOUS SURFACE - Impermeable surfaces that cannot effectively infiltrate rainfall. This includes paved, concrete and gravel surfaces (i.e. parking lots, driveways, roads, runways and sidewalks); building rooftops and miscellaneous impermeable structures such as patios, pools, sheds, and areas with highly compacted soil.

JUNKYARD - A place where waste, discarded or salvaged materials are bought, recycled, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled or where automobile wrecking takes place, but not including pawnshops and establishments for the sale, purchase or storage of used furniture, household equipment and clothing.

KENNEL - A lot or parcel of land where four or more adult dogs are kept for the sale, breeding, exhibition, or humanitarian reasons, whether by owners of the dogs or by persons providing facilities and care, whether or not for compensation, but not including a small animal hospital, clinic or pet shop. An adult dog is one of either sex, altered or unaltered, that has reached the age of four months.

LAND CONSTRAINTS - Consist of environmental and physical features that restrict the land from development opportunities, including but not limited to, the shape of the parcel, wet or rocky conditions, steep slopes, streams, and existing land cover.

LETTER OF CREDIT - A security which may be accepted as a guaranty of a requirement that certain improvements be made before the Code Enforcement Officer issues a certificate of occupancy, including escrow agreements and other similar collateral and surety agreements acceptable in form and amount to the Municipal Attorney and Municipal Engineer and approved by the governing board.

LANDSCAPED AREA - That area of a site plan not consisting of structures or pavement. Landscaped area shall consist of those areas on a site plan that are planted, seeded or provide similar vegetative or landscaped cover, including ponds.

LAUNDRY, SELF-SERVE - A business establishment providing clothes washers and dryers for hire to be used by customers on the premises.

LIGHT INDUSTRY/ LIGHT MANUFACTURING A use that is engaged in activities such as research and development or the processing, manufacturing, compounding, assembly, packaging, storage, treatment, or fabrication of materials and products from processed or previously manufactured materials, does not produce hazardous or polluting wastes, and is capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. This includes uses such as: Contractors yard; Equipment rental; Dry cleaning plant; the Manufacture, fabrication, processing, assembly, or other handling of material; research lab; warehouse.

LIVESTOCK - Any domestic animal, such as cattle, horses, donkeys, mules, burros, sheep, hogs, birds, fowl, goats of greater than three months age, kept for sale, utility, entertainment, or educational purposes.

LOT - A parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use and the customary accessory use and open spaces belonging to the same. A lot, within the meaning of this chapter, may or may not be a lot as shown on a subdivision plot or assessment record.

LOT AREA - An area of land, which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a public street right-of-way shall not be included in calculating lot area.

LOT COVERAGE - The percentage of the lot area covered by impervious buildings or structures

LOT DEPTH - The mean horizontal distance between the front and rear lot lines, measured at right angles to the front lot line.

LOT LINES - The property lines bounding the lot. In the case of a lot abutting more than one street, any such lot line will be considered a front lot line.

LOT WIDTH - The mean width measured at right angles to the front lot line or, for wedge-shaped lots, flag-shaped lots or lots with side boundary lines not perpendicular to the front lot line, the width measured at the required minimum front setback.

MASSING - The sense of bulk, size, and shape of a structure, usually perceived by reference to the surrounding space and nearby structures and natural features such as trees.

MINING - The excavation and sale of topsoil, sand, gravel, clay or other natural solid mineral or vegetable deposit, or the quarrying of any kind of rock formation

MOBILE HOME - A structure, transportable in one or more sections which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein and complies with Part 1220 of the New York State Uniform Fire Prevention and Building Code and federal Department of Housing and Urban Development standards; excluding, however, travel trailers, motorized homes, pickup coaches and camping trailers. This definition does not include modular manufactured homes as defined by the New York State Uniform Fire Prevention and Building Code.

MOBILE HOME, DOUBLE-WIDE - A mobile home consisting of two sections, combined at the site, with a width of no less than 20 feet, while still retaining their individual chassis for possible future movement and complying with Part 1220 of the New York State Uniform Fire Prevention and Building Code and federal Department of Housing and Urban Development standard; excluding however, travel trailers, motorized homes, pickup coaches and camping trailers. This definition does not include modular manufactured homes as defined by the New York State Uniform Fire Prevention and Building Code.

MOBILE HOME PARK - A parcel of land where two or more mobile homes are parked or which is planned and improved for the placement of mobile homes by the public not including farm camps within the Town Agricultural District and County District Boundaries.

MODULAR HOME - A factory-manufactured home which incorporates structures or components designed for residential occupancy, constructed by a method or system of construction whereby the structure or component is wholly or in substantial part manufactured in a manufacturing facility and is intended for permanent installation on a foundation on a building site. Such home shall be constructed and installed in accordance with the requirements of Subchapter B of the New York State Fire Prevention and Building Code and shall bear an insignia of approval issued by the New York State Fire Prevention and Building Code Council. Factory-manufactured homes shall be deemed to be single- or two-family or multiple dwellings. This definition does not include doublewide mobile homes as defined by the New York State Uniform Fire Prevention and Building Code.

MOTOR VEHICLE REPAIR - Engine repair, body work, frame straightening, painting, upholstery, steam cleaning, electrical work, tune-ups and all other vehicle repair services not specifically listed in the definition of motor vehicle service stations.

MOTOR VEHICLE SALES AREA - Any building, land area or other premises used for the display or sale of 2 or more new or used automobiles, motorcycles, trucks, trailers or boats, but not including any repair work other than warranty and other repair service conducted as an accessory use on such premises.

MOTOR VEHICLE SERVICES (i.e. Motor vehicle washing, accessory sales, gas station, etc) - Any building, land area or other premises, or portion thereof, used or intended to be used for any one or a combination of the following activities:

- A. Retail dispensing or sales of motor vehicle fuels.
- B. Retail dispensing or sales of motor vehicles lubricants, including oil changing and chassis lubrication where substantial disassembly is not required.
- C. Retail dispensing or sales of motor vehicles coolants.
- D. Hand- or machine-washing in a single bay motor vehicle wash.
- E. Incidental repair or replacement of parts, such as windshield wiper blades, light bulbs, air filters, oil filters, batteries, belts, tires, fuses, lubrication of vehicles, and the like.

Motor vehicle wrecking, repair, parking or storing of motor vehicles for hire, and the operation of more than one towing vehicle shall not be deemed permissible accessory uses of a motor vehicle service station.

MOTOR VEHICLE WASH - Any building or premises, or portion thereof, the use of which is devoted to the business of washing motor vehicles for a fee, whether by automated cleaning devices or otherwise.

MOTOR VEHICLE WRECKING - The dismantling or disassembling of motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

NATURE PRESERVE - An area designated for the preservation of unique or locally significant natural resources for the purposes of protection and public education.

NEIGHBORHOOD - A residential development, or mixed-use development where the primary use is residential housing.

NONCONFORMING BUILDING - A building which in its design or location does not conform to the regulations of this chapter for the district in which it is located.

NONCONFORMING LOT - A lot of record lawfully existing at the date of adoption of this chapter or any amendment thereto which does not have the minimum width or depth, or contain the minimum area for the district in which it is located.

NONCONFORMING USE - Any use of any building, structure or land lawfully existing at the date of adoption of this chapter or any amendment thereto which does not conform to the use regulations of the district in which it is situated.

OPEN SPACE and USABLE OPEN SPACE - An area or areas of a lot, including required yards, which are:

- A. Open and unobstructed from ground to sky, except by facilities specifically designed, arranged and intended for use in conjunction with passive or active outdoor recreation or relaxation.
- B. Landscaped, maintained or otherwise treated to create a setting appropriate to recreation or relaxation.
- C. Accessible and usable by the general public, business patrons or residents of all dwellings or stores it is intended or required to serve.

PARKING AREA - Off-street parking areas including parking spaces and loading and unloading areas required by Article X.

PLANNED UNIT DEVELOPMENT DISTRICT - A form of development characterized by a unified site design and providing for residential, commercial, industrial, or other land uses, or a mix thereof, in which economies of scale, creative architectural or planning concepts and open space preservation may be achieved by a developer in furtherance of the town comprehensive plan. Such district is authorized in accordance with NY Town Law Article 261-c. and involves additional requirements as set forth in Article XV.

PERVIOUS SURFACE - Ground cover through which water can penetrate at a rate comparable to that of water through undisturbed soils. Examples of pervious materials include: porous concrete, permeable pavers, grass pavers, plastic grids, and interlocking concrete pavers

PLANNING BOARD - The officially established Planning Board of the Town of Dix.

PROFESSIONAL OFFICE - A building that is divided into offices, either single or suites, for the transaction of business other than for mercantile or manufacturing purposes or where merchandise is on display and offered for sale. This would include businesses such as providing skilled professional labor to consumers including insurance offices, financial services, business to business consulting, medical offices, and other similar services.

PROPERTY LINE - See also "lot lines."

PUBLIC USES - Any one or more of the following uses, including grounds and accessory buildings necessary for their use:

- A. Places of worship, cemeteries, parish houses and convents.
- B. Public parks, playgrounds and recreational areas when authorized or operated by governmental authority.
- C. Nursery schools, elementary schools, high schools, colleges or universities having curriculum approved by the Board of Regents of the State of New York.
- D. Public libraries and museums.
- E. Non-profit fire, ambulance and public safety buildings.

PUBLIC UTILITIES - Any facility or related equipment, including but not limited to all lines, pipes, transformers, poles, etc., performing an essential public service and subject to special governmental regulation. Nonessential components of public utility operations, such as general storage and maintenance facilities, are excluded from this definition.

RESIDENTIAL CARE FACILITY - A community-based residence which provides residential services and twenty-four hour supervision to five or more persons. Such a facility must be licensed by the NYS Department of Health.

RESTAURANT - Any establishment, however designed, at which food is sold for consumption on the premises to patrons seated within an enclosed building or elsewhere on the premises. Alcohol may be sold as an accessory to food items. A snack bar or refreshment stand at a public, semipublic or community swimming pool, playground, playfield or park, or an approved vendor operating the recreational facilities for the convenience of the patrons of the facility, shall not be deemed to be a restaurarrt.

RETAIL - The sale of goods, articles or consumer services individually or in small quantities directly to the consumer.

RIGHT-OF-WAY – A strip of land with a minimum width of 25 feet, either public or private, occupied or intended to be occupied by a street, sidewalk, trail, railroad, electrical transmission line, oil or gas pipeline, water main, sanitary or storm sewer or other similar use.

ROADSIDE STAND - A permanent or temporary structure for the sale of agricultural products grown primarily on the premises where they are sold.

RURAL HERITAGE FEATURES - Historical, cultural, and environmental resources that are assets to the community including, but not limited to, farmland preservation, scenic byways, heritage areas, parks, and historic roads and transportation corridors.

SALVAGE YARD - See Junk Yard.

SCREENING - A method of reducing the impact of noise, glare and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls or any appropriate combination thereof.

SEASONAL ACCOMMODATIONS - A building containing rooms intended, designed, or used, rented or hired out, to be occupied for sleeping purposes by transient guests and/or the general public. The facility is open for business during a specific time of year, numbering 240 days or less.

SETBACK, MINIMUM FRONT - The least required horizontal distance between the street or right-of-way limit and the principal building measured at the shortest point.

SETBACK, MINIMUM REAR - The least required horizontal distance between the rear lot line and the principal building measured at the closest point.

SETBACK, MINIMUM SIDE - The least required horizontal distance between the side lot line and the principal building measured at the closest point.

SETBACK, MINIMUM STREAM - The least required horizontal distance between any building and any stream shown on the Zoning District Map, measured at the closest point to the centerline of the low flow channel, as it exists at the time of the development proposal.

SHADE TREE - Usually a large deciduous tree (rarely, evergreen) planted for its high crown of foliage or overhead canopy.

SHED, TOOL OR STORAGE - An enclosed building, 200 square feet or less, used for storage of domestic supplies and non-commercial equipment. Tool or Storage sheds are not intended for habitation.

SHOPPING CENTER, COMMUNITY - A grouping of retail and service uses providing a wide range of such uses, including apparel and/or home furnishings. Such centers typically range in size from 100,000 to 450,000 square feet.

SHRUB - A woody plant, smaller than a tree, consisting of several stems from the ground or small branches near the ground, may be deciduous or evergreen.

SMALL SCALE SOLAR - Solar photovoltaic systems that produce up to ten kilowatts (kW) per hour of energy or solar-thermal systems which serve the building to which they are attached or adjacent, and do not provide energy for any other buildings.

SPECIAL USE PERMIT - See Article XIV.

STABLES - Premises on which one or more horses are boarded, whether or not by the owner, whether kept for agricultural or personal uses, or where horses are maintained commercially for hire, breeding, exhibition, or sale.

STEEP SLOPE - Grade change of 15% or more.

STORY - That portion of a building between the surface of any floor and the surface of the floor next above, and any portion of a building used for human occupancy between the topmost floor and the roof. For purposes of height measurement, in determining the permissible number of stories, a basement or cellar shall not be counted.

STORY, HALF - A story with at least two (2) opposite exterior sides meeting a sloping roof not more than two (2) feet above the floor of such story.

STREET - A public or private thoroughfare which affords the principal means of access to abutting property. Includes streets, roads, avenues, lanes or other traffic ways, between right-of-way lines.

STREET LINE - That line determining the limit of the highway right-of-way of the public street, either existing or contemplated.

STRUCTURAL ALTERATIONS - Any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

STRUCTURE - Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

SUBDIVISION - See Article XIII.

SWIMMING POOL, PRIVATE - A swimming pool operated as an accessory use to a residential dwelling unit or units located on an individual residential lot.

SWIMMING POOL, PUBLIC - A publicly or privately owned pool open to the general public or on a membership basis and having appropriate dressing room facilities, recreation facilities and *off-street* parking area.

TELECOMMUNICATIONS TOWER- See Article XII.

TEMPORARY OR SEASONAL OCCUPANCY - The use of any premises, structure or use for living and/or sleeping purposes for 240 days or less in any calendar year.

TEMPORARY OUTSIDE SALES - Selling of retail items outdoors for a limited amount of time for events such as sidewalk sales, open markets, art displays, and festivals.

TEMPORARY USE - Any activity conducted for a specific limited period of time which may not otherwise be permitted by the provisions of this chapter. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work.

TENANT - An occupant who temporarily holds or occupies land, a building or other property owned by another.

TOOL OR STORAGE SHED - An enclosed building, 200 square feet or less, used for storage of domestic supplies and non-commercial equipment. Tool or Storage sheds are not intended for habitation.

TRAVEL TRAILER - A vehicular portable structure designed as a temporary dwelling for travel, recreational and vacation uses and not for year-round living.

USE - The specific purposes for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.

USE, ACCESSORY - A use clearly incidental and subordinate to the principal use whether located in a principal or accessory building and located on the same lot therewith. An accessory use does not dominate, in area, extent or purpose, the principal lawful use or building.

USE, PRINCIPAL - The main use for which a building or lot is used or intended to be used.

VARIANCE, AREA - The authorization by the Zoning Board of Appeals for the use of land in a manner, which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

VARIANCE, USE - The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

WAREHOUSE - A structure or premises for storing of goods, wares, and merchandise, whether for the owner or for others, prior to shipment to final retail sale operation, whether it is in public or private ownership and use.

WIND FARM - The use of land for the purpose of energy production from wind with the use of wind power generation facilities.

WIND POWER GENERATION FACILITY - A system of components which converts the kinetic energy of the wind into electrical or mechanical power and which comprises all necessary components to provide electricity or mechanical power for residential, commercial, industrial, utility or governmental use.

YARD, FRONT - An open space extending the full width of the lot between the street or right-of-way limit and the principal building.

YARD, REAR - An open space extending the full width of the lot between the rear lot line and the required minimum rear setback.

YARD, SIDE - An open space extending from the front yard to the rear yard between the side lot line and the required minimum side setback.

ZONING BOARD - The officially established Zoning Board of Appeals of the Town of Dix.

ZONING DISTRICT - The classification of lands as established in this chapter.

ZONING PERMIT - A permit issued by the Code Enforcement Officer stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this chapter for the district in which it is located.

Article II. Administration

11-1 Enforcement.

It shall be the duty of the Code Enforcement Officer to keep a record of all applications for permits and a record of all permits issued with a notification of all special conditions relating thereto. Such records shall be filled in by the Code Enforcement Officer and shall be available for use by the Town Board of Assessors of the Town of Dix and the municipal clerk. The Planning Board of the Town of Dix shall issue no permit for the use of any property not in conformity with the requirements of this chapter and all other regulations of the Town of Dix.

11-2 Duties of Code Enforcement Officer.

For the purpose of this chapter, it shall be the duty of the Code Enforcement Officer, or any duly authorized assistants, to cause any plans, buildings or premises to be examined or inspected to determine that they are not in violation of the provisions of this chapter and to issue certificates and permits as outlined in the following section.

If, in the course of work, the Code Enforcement Officer determines that any plans, buildings or premises are in violation of the provisions of this chapter, he/she shall order the responsible party in writing to remedy such conditions. Said written order shall specify the nature of the violation found to exist, the remedy ordered and the time permitted for such action, the penalties and remedies which may be invoked, and the violator's right of appeal, all as provided for by this chapter.

On the serving of notice by the Code Enforcement Officer to the owner of any violation of any of the provisions of this chapter, the Certificate of Occupancy for such building or use shall be held null and void. A new Certificate of Occupancy shall be required for any use of such building or premises. The Code Enforcement Officer shall maintain a permanent record of all matters and all action taken. Such records shall form a part of the records of the office and available for use by the governing board and other municipal officials and shall be available for inspection by the public.

11-3 Certificates and permits.

The certificates and permits enumerated herein are hereby established for the equitable enforcement and administration of the provisions of this chapter. A zoning permit or special use permit shall be prerequisite to the erection or alteration of a building structure or use thereof, but only if the alteration increases the dimensions or changes the uses or exit facilities thereof.

- A. Zoning permit. The Code Enforcement Officer is hereby empowered to issue a zoning permit for any plans regarding the construction or alteration of any building or part of any building, or the change in the use of any land or building or part thereof, where it has been determined that such plans are not in violation of the provisions of this chapter.
- B. Special use permit. Upon written direction of the Planning Board, the Code Enforcement Officer is hereby empowered to issue any special use permit provided for by this chapter. Special use permits are those uses having some special impact or uniqueness which requires a careful review of their location, design, configuration and special impact or uniqueness which requires a careful review of their desirability of permitting their establishment on any given site. They are uses which may or may not be appropriate in a particular location depending on a weighting, in each case, of the public need and benefit against the local impact and effect.
- C. Certificate of Occupancy. The Code Enforcement Officer is hereby empowered to issue a Certificate of Occupancy which shall certify that all provisions of this chapter have been complied with in respect to the location and use of the building, structure or premises in question. The Code Enforcement Officer is also empowered to issue a Certificate of Occupancy for nonconforming uses, provided that the nonconforming use is defined and the sections of nonconformance with this chapter are listed.

11-4 Application procedures.

- A. Procedures of a Zoning Permit.
 - 1. All applications for a Zoning Permit or special use permit or appeal shall be made to the Code Enforcements Officer in the detail specified in 11-4 B. of this article.
 - 2. Where the proposed use is listed as a permitted use and conforms to all regulations of the Zoning Law and all other laws of the Town of Dix, the Code Enforcement Officer shall carefully consider the application for compliance with this chapter and either issue or deny a Zoning Permit.
 - 3. When the application is for any use in any district listed as requiring a Special Use Permit, a preliminary site plan application, in accordance with Article XIV, and one copy of the application and all supporting documents shall be submitted to the Planning Board for action thereon, and the Planning Board shall be responsible for reviewing compliance. Where applicable under 239-m and 239-n of the General Municipal Law, one copy of the application shall also be submitted to the County Planning Board.
 - 4. Zoning Permits shall be issued in duplicate and one copy shall be posted conspicuously on the premises while any alterations are being completed.
- B. Application Details for a Zoning Permit. Each application for a zoning permit shall be made on forms available from the Code Enforcement Officer. The materials to be submitted with the application shall clearly show the conditions on the site at the time of the application, the features of the site which are to be incorporated into the proposed use or building and the appearance and function of the proposed use of building. At a minimum, the application shall include the following information and plans for both before and after conditions.
 - 1. The location, use, design, dimensions, setbacks and height of each use and building.
 - 2. Location of any easements and water supply and sewage disposal facilities.
 - 3. Natural features, including steep slopes, special flood hazard areas, streams and wetlands.
- C. Procedures for appeal. Should an applicant choose to appeal a decision by the Code Enforcement Officer to deny issuance of a zoning permit, an application for an appeal shall be filled out, submitted along with supporting documents to the Code Enforcement Officer for referral to the Zoning Board of Appeals for review. Where applicable under 239-m and 239-n of the General Municipal Law, one copy of the application shall also be submitted to the County Planning Board.
- D. Procedures for a Certificate of Occupancy. Follow the completion of the construction, reconstruction or alteration of any building or where a change in the use of a structure is proposed, the applicant shall transmit by registered mail or deliver in person to the Code Enforcement Officer a letter stating that such construction has been completed or that a new use has been proposed. Within seven days of the receipt of this letter, the Code Enforcement Officer shall make all necessary inspections of the completed structure or proposed use to determine the conformance with this chapter. A Certificate of Occupancy shall be issued only if the Code Enforcement Officer finds that the construction or proposed use complies with all the requirements and provisions of this chapter.

11-5 Application fees.

Any application for any permit, approval or other action by the Zoning Board of Appeals, Planning Board or Town Board shall be accompanied by a fee payable in cash or as otherwise approved by the attorney for the Town in accordance with a schedule established by the resolution of the applicable Board from time to time. The fee schedule shall be available at the Town Clerk's office and the Code Enforcement Officer's office. Each such application shall also be accompanied by a sum as shall be determined by the applicable Board, in consultation with the attorney for the Town, as shall be necessary to pay for any attorneys', engineers and/or other professional fees and expenses that may be incurred by the applicable Board in connection with the subject action. Such a sum shall be held by the Town Clerk in an account designated for such purpose and distributed by the Clerk as such expenses are incurred by the applicable Board. The applicable Board may require additional payments for such expenses from time to

time as the Board shall determine, and receipt of such additional payments shall be a condition to further action or consideration by the applicable Board. An application shall not be deemed complete until, without limitation, all payments required by this section have been made by or on behalf of the applicant.

II-6 Public hearing.

The Zoning Board of Appeals shall conduct a public hearing on applications referred to it by the Code Enforcement Officer in accordance with the procedures and requirements established in Town Law 267-a for appeals. The Planning Board shall hold a public hearing on applications referred to it in accordance with the procedures and requirements established in Town Law 274-a and 274-b for Special Use Permit and/or Site Plan Review. Public notice of all such hearings shall be printed in an official newspaper of general circulation at least five days prior to the date of the hearing.

II-7 Planning Board action on permit applications.

- A. Within 62 days from the date of such public hearing, and following a report back by the County Planning Board when applicable, the Planning Board shall by resolution either approve, approve with conditions, or disapprove the application so heard. If the Planning Board does not make a determination within 62 days after the closing of the public hearing or after receipt if there is no public hearing, the application is automatically approved. In approving the application for a special use permit, the Board may impose reasonable conditions and restrictions directly related and incidental to the proposed special use permit.
- B. If an application is approved by the Planning Board, the Code Enforcement Officer shall be furnished with a copy of the approving resolution of the Board and shall issue the permit applied for in accordance with the conditions imposed by the Board.
- C. If any application is disapproved by the Planning Board, the reasons for such denial shall be set forth in the Board's resolution, and a copy of such resolution shall be transmitted to the Code Enforcement Officer. The Code Enforcement Officer shall deny the application accordingly by providing the applicant with a copy of the Board's reasons for disapproval.
- D. Permanent record shall be available to the Municipal Clerk, the Town Assessor and, where applicable, the County Planning Board.

II-8 Revocation and expiration of permits.

- A. The Code Enforcement Officer may revoke a zoning permit at any time if it appears that the application is in any material respect false or misleading or that work being completed differs materially from that proposed in the application.
- B. Any zoning or special use permit not exercised within 18 months from its date of issuance shall become null and void.

Article III. Board and Commissions

111-1 Creation, appointment and organization of Zoning Board of Appeals.

- A. A Zoning Board of Appeals, pursuant Town Law Article 267, is hereby created by the Town of Dix.
- B. Appointment of members. The Town Board shall appoint a Zoning Board of Appeals consisting of three members and shall designate the chairperson thereof. In the absence of a chairperson the board of appeals may designate a member to serve as acting chairperson. The Town Board shall provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the Town Board for such purpose. In making such appointments, the Town Board may require board of appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members.
- C. Town Board members ineligible. No person who is a member of the Town Board shall be eligible for membership on such board of appeals.
- D. Terms of members first appointed. The appointment of members to the board shall be for terms so fixed that one member's term shall expire at the end of each year thereafter. At the expiration of each original member's appointment, the replacement member shall be appointed for a term, which shall be equal in years to the number of members of the board.
- E. Vacancy in office. If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.
- F. Removal of members. The Town Board shall have the power to remove, after public hearing, any member of the zoning board of appeals for cause. Any zoning board of appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the Town Board by local law or ordinance.
- G. Chairperson duties. All meetings of the board of appeals shall be held at the call of the chairperson and at such other times as such board may determine. Such chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

111-2 Minimum requirements for Zoning Board of Appeals members.

- A. Training. Each Board member is required to complete three hours of training per calendar year. At the discretion of the remaining members of the Zoning Board of Appeals, failure to comply with this requirement may be grounds for removal from the Board.
- B. Attendance. Each Board member shall be required to attend 75% of the scheduled meetings in each calendar year. At the discretion of the remaining members of the Zoning Board of Appeals, failure to attend the required number of meetings without good cause may be grounds for removal from the Board. In addition, failure to attend three consecutive meetings without good cause may be grounds for removal from the Board.
- C. Compensation. The town will provide reimbursement for all approved training. Compensation for Board members may be provided by action of the Town Board.

111-3 Powers and duties of Zoning Board of Appeals.

The Zoning Board of Appeals shall have all the powers and duties prescribed by 267-b of the Town Law of the State of New York and by this chapter. These powers and duties are more particularly specified as follows:

- A. Interpretation. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect hereto.
- B. Variances. When in its judgment, the public safety, convenience and welfare will be served; the Zoning Board of Appeals may vary or modify the application of the regulations or provisions of this chapter relating to the use, construction or alteration of structures or use of the land. In such cases, the Board is empowered to grant exceptions in harmony with the general purposed and intent of this chapter. Variances will be granted in appropriate and specific cases only after public notice and hearing and subject to such appropriate conditions and safeguards the Zoning Board of Appeals may impose.
- C. As used in this chapter, a variance is authorized for height, area, size of structure, size of yards and open spaces or for establishment or expansion of a use otherwise not allowed. A variance shall not be granted solely because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.
- D. Variance procedures.

An application for the approval of a variance shall be made, by an owner of an interest in the lot, to the Code Enforcement Officer on forms available there from, accompanied by the necessary fees and documents as provided in this chapter and the regulations issued hereunder. The application shall be accompanied by a map drawn to an appropriate scale and showing all existing and proposed characteristics of the site and adjacent properties necessary for consideration of the variance request. For applications where site plan approval is also required, a preliminary site plan in accordance with Article XIV of this chapter shall be required. An application for a use variance in or within 500 feet of an agricultural operation in a county agricultural district shall be accompanied by an agricultural data statement.

 1. For a use variance, the affidavit should provide all of the following:
 - a) The applicant cannot realize a reasonable return, provided that lack of return is substantial, as demonstrated by competent financial evidence.
 - b) That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
 - c) That the requested use variance, if granted, will not alter the essential character of the neighborhood.
 - d) That the alleged hardship has not been self-created.
 2. An application for an area variance shall be accompanied by a narrative answering the following:
 - a) Whether granting such variance has the potential to produce undesirable change in the character of the neighborhood or a detriment to nearby properties.
 - b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
 - c) Whether the requested area variance is substantial.
 - d) Whether the proposed variance could have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
 - e) Whether the alleged difficulty was self-created.
 3. The Zoning Board of Appeals shall fix a time and place for a public hearing thereon and shall provide for the giving of notice as follows:

- a) A notice shall be published in the official newspaper of the town at least five days prior to the date thereof.
- b) The Code Enforcement Officer shall mail a copy of such notice to all agencies, municipalities, authorities, etc., as prescribed in 267-a of the Town Law and 239-n of the General Municipal Law.
- c) The applicant shall be required to erect a sign or signs giving notice of such public hearing and the purpose thereof, which sign(s) shall be prominently displayed on the premises facing each public street or road on with the property abuts. The sign(s) shall be furnished to the applicant for this purpose by the Code Enforcement Officer and shall be set back 15 feet from the property line and shall not be less than two nor more than six feet above the grade at said property line. Said sign shall be displayed for a period of not less than 10 days immediately preceding the public hearing date or any adjournment date thereof. The applicant shall file with the Code Enforcement Officer, prior to the public hearing, an affidavit regarding compliance with the provision of this section and that the sign(s) will be removed from the premises and returned to the Code Enforcement Officer within three days after such public hearing is held. The Code Enforcement Officer shall collect from the applicant a fee as currently fixed by the appropriate governing board, as a deposit per sign, which sum shall be refunded to the applicant upon the return of said sign in good condition.
- d) The Board shall approve, with or without conditions, or disapprove the application within 62 days of the public hearing as specified in 267-a of Town Law and shall communicate its action, in writing, to the applicant, and to the Code Enforcement Officer within one week of the meeting at which it decided upon the application. When applicable, compliance shall be required in accordance with the provisions of 239-m and 239-n of the General Municipal Law.
- e) The Code Enforcement Officer shall, upon receipt of the notice of approval and upon application by the applicant, collect all required fees and issue a building permit or such other approval permitting the variance, subject to all conditions imposed by such approval.

1114 Creation, appointment and organization of Planning Board.

A Planning Board, pursuant to Town Law Article 271 is hereby created by the governing boards of the Town of Dix.

- A. Authorization. The Town Board of the Town of Dix hereby creates a planning board consisting of five members and shall, by resolution, appoint the members of such board and designate the chairperson thereof. In the absence of a chairperson the planning board may designate a member to serve as temporary chairperson. The Town Board may provide for the compensation of planning board members.
- B. Appropriation for planning board. The Town Board is hereby authorized and empowered to make such appropriation as it may see fit for planning board expenses. In a town containing one or more villages, or parts thereof, such charges and expenses less fees, if any collected, shall be a charge upon the taxable property of that part of the town outside of said villages and shall be assessed, levied and collected there from in the same manner as other town charges. The planning board may recommend the Town Board employ experts, clerks and a secretary and to pay for their services and to provide for such other expenses as may be necessary and proper.
- C. Town Board members ineligible. No person who is a member of the Town Board shall be eligible for membership on such planning board, provided however, the Town Board shall conduct the powers and duties of the Planning Board until the first Planning Board is duly constituted. The Town Board shall not act as the Planning Board for more than one year from the date of adoption of this ordinance.
- D. Terms of members first appointed. The terms of members of the board shall be for terms so fixed that the term of one member shall expire at the end of the calendar year in which such members

- were initially appointed. The terms of the remaining members shall be so fixed that one term shall expire at the end of each calendar year thereafter. At the expiration of the term of each member first appointed, his or her successor shall be appointed for a term, which shall be equal in year to the number of members of the board.
- E. Vacancy in *office*. If a vacancy shall occur other than by expiration of term, the Town Board shall appoint the new member for the unexpired term.
 - F. Removal of members. The Town Board shall have the power to remove, after public hearing, any member of the planning board for cause. Any planning board member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the Town Board by local law or ordinance.
 - G. Chairperson duties. All meetings of the planning board shall be held at the call of the chairperson and at such other times as such board may determine. Such chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

111-5 Minimum requirements for Planning Board members.

- A. Training. Each Board member is required to complete three hours of training per calendar year. Failure to comply with this requirement may be grounds for removal from the Board.
- B. Attendance. Each Board member shall be required to attend 75% of the scheduled meetings in each calendar year. Failure to attend the required number of meetings without good cause may be grounds for removal from the Board.
- C. Failure to attend three consecutive meetings without good cause may be removal from the Board.
- D. Compensation. The town will provide reimbursement for all approved training. Compensation for Board members may be provided by action of the Town Board.

111-6 Powers and duties of Planning Board.

The Planning Board shall have the powers and duties as specified below.

- A. Plats. The Planning Board will approve plats showing lots, blocks or sites, with or without streets or highways, and conditionally approve preliminary plats and pass and approve the development of plats already filed in the office of the Clerk of the County of Schuyler if such plats are entirely or partially undeveloped.
- B. Street changes. The Planning Board will approve or disapprove changes in the lines of existing streets, highway or public areas shown on subdivision plats or maps filed in the office of the Clerk of said county and the laying out, closing *off* or abandonment of streets, highways or public areas under the provisions of the town highway laws.
- C. Special use permit. The Planning Board will approve, approve with conditions or deny special use permits in accordance with Article XIV of these regulations.
- D. Special use permits. To hear and decide upon application for such permits as specified in this chapter. A permit for any special permit use shall be granted only if evidence is presented which establishes that:
 1. The proposed building or use will be in harmony with the general purpose, goals, objectives and standards of the Comprehensive Plan and this chapter.
 2. The proposed building, or hours of operation, or use will not have a substantial or undue adverse effect upon adjacent property the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety and general welfare.
 3. The proposed building or use will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations.
 4. The proposed building or use will be adequately served by essential public facilities and services.
 5. The proposed building or use complies with all additional standards imposed on it by the

particular provision of this chapter authorizing such use.

6. All steps possible have been taken to minimize any adverse effects of the proposed building or use on the immediate vicinity through building design, site design, landscaping and screening.
7. If appropriate, a performance bond or other suitable financial guaranty has been provided to assure compliance with the conditions of the special use permit.

111-7 Conflict with other laws.

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

111-8 Amendments.

- A. The regulations, restrictions, uses and boundaries provided in this chapter and the official Map may be amended, supplemented, changed, modified or repealed in accordance with the provisions of Article 264 and Article 265 of Town Law for all property in the Town of Dix and all other applicable laws of the State of New York and in accordance with the following procedures.
- B. Whenever any person, firm or corporation desires that any amendments or changes be made in this chapter, including the text and/or the Zoning Map as to any property in Dix, there shall be presented to the Town Board a petition requesting such change or amendment. The petition shall clearly describe the property and its boundaries and shall indicate the existing zoning district and the requested zoning district. The petition shall also show existing highways, municipal boundary lines and state parks, name and addresses of all property owners bordering the proposed change. A filing fee pursuant to regulations adopted by the Town Board shall be paid at the time of filing the petition.
- C. All such amendments shall be referred to the Planning Board for review and recommendation.

Article IV. Violations

IV-1 Enforcement

It shall be the duty of the Code Enforcement Officer and any duly authorized assistants to enforce the provisions of this chapter and/or any determination of the Town Board, Zoning Board of Appeals and/or Planning Board. Proceedings with respect to any violation, as herein defined, shall be conducted pursuant to this Article IV, and/or any other consistent provision of law or regulation.

IV-2 Violations

Any state of non-compliance with the provisions of this chapter and/or any determination of the Town Board, Zoning Board of Appeals and/or Planning Board is a violation. For purposes of this Article IV, each week of non-compliance with the provisions of this chapter and/or any determination of the Town Board, Zoning Board of Appeals and/or Planning Board shall be a separate and additional violation.

IV-3 Proceedings for Criminal Penalties

Each violation is hereby declared an offense punishable by a fine of three hundred fifty dollars or imprisonment for a period not exceeding fifteen days, or both. The Code Enforcement Officer or duly authorized assistant is hereby authorized to issue appearance tickets pursuant to the Criminal Procedure Law in the enforcement of this or any related laws of the Town of Dix.

IV-4 Proceedings for Civil Penalties

Each violation is hereby declared an offense subject to a civil penalty of up to five hundred dollars. The Code Enforcement Officer may commence a civil action on behalf of the Town to recover such penalties.

IV-5 Proceedings for Injunctive Relief

Should any land or building be used, erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land be used, so as to constitute a violation, the Town Board or the Code Enforcement Officer, in addition to other remedies (including but not limited to the proceedings provided for in sections IV-3 and IV-4), may institute an appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, and/or to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any violating act, conduct, business or use in or about such premises.

Article V. Districts

V-1 Districts established.

The Town of Dix is hereby divided up into the following types of districts which shall be differentiated according to use and area and hereafter used and developed for the purposes designated:

LOR	Low Density Rural
MOR	Medium Density Residential
MU	Mixed Use
BP	Business Park
SE	Special Entertainment

V-2 Official Zoning District Map.

The above zones shall be located, bounded and described as shown on the Zoning District Map of the Town of Dix, which has been designated the Official Map of the Town, now on the file with the Code Enforcement Officer, and together with the boundaries and the designations therein, is made part of this chapter.

V-3 Interpretation of Zone boundaries.

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

- A. Distances shown on the Zoning District Map are perpendicular or radial distances from street lines measured back to the zone boundary line, which lines in all cases, where distances are given, are parallel to the street line.
- B. Where zone boundaries are indicated as approximately following the center of streets or highways, street lines or highway right-of-way lines, such centerlines, street lines or highway right-of-way lines shall be construed to be such boundaries.
- C. Where zone boundaries are so indicated that they approximately follow the lot line, such lot lines shall be construed to be said boundaries.
- D. Where zone boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets or the centerlines or right-of-way lines of highways, such zone boundaries shall be construed as being parallel thereto and at such dimension shall be determined by the use of the scale shown on said Zoning District Map.
- E. Where the boundary of a zone follows a railroad line or is parallel thereto, such boundary shall be deemed to be located, or shall be measured from a point, midway between the main tracks of said railroad line.
- F. Where the boundary of a zone follows a stream, lake or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Town of Dix unless otherwise designated. If no distance is given, the dimension shall be determined by the use of the scale shown on said Zoning District Map.
- G. If an uncertainty still exists as to a boundary line following review of the above items, then the Zoning Board of Appeals shall determine such boundary location.

V-4 Regulations.

Except as herein provided, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the allowable uses and standard for development set forth for each district by this chapter, nor shall any open space contiguous to any building be encroached upon or reduced in any manner, except in conformity to the area and bulk requirements, off-street parking requirements, landscaping requirements and all other regulations designated in this chapter for the district in which such building or use is located. In the event of any such unlawful encroachment or reduction, such building or use certificate of occupancy shall become void.

Article VI. Zoning District Regulations

VI-1 Low Density Rural (LDR)

- A. Intent: Agriculture and agricultural related land uses in the Town of Dix, Schuyler County, are seen as an important and integral characteristic of the local economy and lifestyle. In an effort to retain viable tracts of farmland, ensure the economic stability of the agriculture economy in the Town and County, and retain the rural landscape and quality of life related to farming, the Town of Dix has identified a Low Density Rural Zone, in accordance with the Dix Comprehensive Plan of 2001. This zone is separate, but supportive, of the County Agricultural District boundaries, established in accordance with Article 25AA of the Agriculture and Markets Law of New York State. Therefore, the Low Density Residential Zone has been established to:
1. Reserve areas within the Town that have prime agricultural or state significant soils;
 2. Provide for agricultural uses and uses compatible with or supportive of agriculture within the district;
 3. Avoid conflicts between agricultural and non-agricultural uses by limiting the type and amount of non-agricultural uses within the district;
 4. Direct non-agricultural development away from prime agricultural soils, state significant soils, and farm operations; and
 5. Retain tracts of land of sufficient size to encourage viable farming operations.
- B. General Development Requirements for the LDR Zone.
1. Any new development or structure, other than structures commonly used in acceptable farming practices, should avoid Prime Agricultural Soils, Prime Agricultural Soils -If Drained, Farmland of Statewide Importance, and other land viable for farming operations to the maximum extent possible.
 - a) If a site contains a combination of either Prime Agricultural Soils OR Prime Agricultural Soils -If Drained OR Farmland of Statewide Importance, AND soils that are less suitable for agriculture, any development should be placed on the soils that are less suitable for agriculture.
 - b) If a site contains only Prime Agricultural Soils, Prime Agricultural Soils -If Drained, and/or Farmland of Statewide Importance, any development should be placed in a manner that allows the greatest contiguous area of priority agricultural soils to remain intact and useable for future agricultural endeavors.

VI-2 Medium Density Residential (MDR)

- A. Intent. The 2001 Comprehensive Plan indicates the desire to encourage most new development to occur in existing nodes of development or in areas with existing infrastructure. The Medium Density Residential zone is intended to encourage the development of residential neighborhoods and less intensive small businesses or commercial services near existing nodes of development, where infrastructure already exists or could most easily be extended in the future. Therefore, the Medium Density Residential Zone has been established to:
1. Provide areas for primarily residential neighborhoods and small scale commercial development that respect the rural, agricultural character and economic capabilities of the Town of Dix;
 2. Provide variety in housing options in the Town of Dix;
 3. Ensure efficiency of infrastructure and costs by placing new development near existing nodes and future infrastructure upgrades; and
 4. Direct non-agricultural development away from prime agricultural soils, state significant soils, and farm operations.

VI-3 Mixed Use (MU)

- A. Intent. The 2001 Comprehensive Plan indicates the desire to encourage most new development to occur in existing nodes of development or in areas with existing infrastructure. By providing a mixed-use area that incorporates efficient service delivery, the Town of Dix can retain the quality of life and rural landscape that its residents enjoy. This zone is based upon areas where development potential is seen to be the greatest and most feasible. Therefore the Mixed Use Zone has been established to:
1. Provide areas that include a strong cluster and mix of different uses and services in the Town of Dix including residences, shops, civic and public spaces, places to work, and recreational opportunities all within close proximity;
 2. Allow flexibility and opportunity for appropriately scaled economic developments in the Town of Dix;
 3. Provide variety in housing options in the Town of Dix;
 4. Ensure efficiency of infrastructure and costs by placing new development near existing nodes and future infrastructure upgrades; and
 5. Direct non-agricultural development away from prime agricultural soils, state significant soils, and farm operations.

VI-4 Business Park (BP)

- A. Intent. The Town of Dix has an existing business park located within its boundaries. The Business Park Zone is adjacent to the Mixed Use Zone on 2 sides and future developments in the Mixed Use Zone are anticipated to be similar in scale to the business park. Therefore the Business Park Zone has been established to:
1. Plan for the needs and limitations of the existing business park on these parcels;
 2. Create a continuous corridor for development through consistent regulations between the BP and MU Zones

VI-5 Special Entertainment Zone (SE)

- A. Intent. The Town of Dix is fortunate to have a successful tourist destination, Watkins Glen International which generates significant economic benefits both locally and regionally. It is the intent of the Special Entertainment zone to provide use and development regulations appropriate to development of entertainment type commercial uses within the zone as outlined on the official zoning map. Therefore the Special Entertainment Zone has been established to:
1. Provide standards for development that will enhance the success of the Town's large scale entertainment legacy;
 2. Provide areas that include a strong cluster and mix of recreational and economic opportunities;
 3. Ensure efficiency of infrastructure and costs by placing new development near existing nodes and future infrastructure upgrades; and
 4. Direct non-agricultural development away from prime agricultural soils, state significant soils, and farm operations.

VI-6 Use Regulation Table

Key to abbreviations:

'Z' A use labeled with a "Z" is Allowed by Right as long as it meets Zoning regulations. It requires a simple form be submitted to and reviewed by the Code Enforcement Officer.

'SUP' A use labeled with "SUP" requires a Special Use Permit in order to be allowed. It will require a submission of a Site Plan and review by the Planning Board.

A box with nothing in it indicates that a use is not allowed in that particular zone.

Residential	Low Density Rural	Medium Density Residential	Mixed Use	Business Park	Special Entertainment
Dwelling, Single Family	Z	Z	Z		
Dwelling, Two Family	Z	Z	Z		
Dwelling, Multifamily	SUP	SUP	SUP		SUP
Dwelling Unit, Accessory	SUP	SUP	SUP		
Mobile Home Park	SUP	SUP	SUP		
Commercial	Low Density Rural	Medium Density Residential	Mixed Use	Business Park	Special Entertainment
Adult Use					SUP
Agricultural Research Facility	SUP		SUP		
Agricultural Support Industry	SUP		SUP		
Agricultural, livestock or crops	Z	SUP	Z		Z
Bar or Tavern			SUP		SUP
Bed & Breakfast	Z	Z	Z		Z
Brewery & Winery	Z	SUP	Z		Z
Campground	SUP		SUP		SUP
Club, Hunting & Fishing	SUP				
Club, Social	SUP	SUP	SUP		SUP
Convenience Store	SUP	SUP	SUP		SUP
Convention center					SUP
Cultural facility			SUP		SUP
Day Care, Center	SUP	SUP	SUP		SUP
Day Care, Family	Z	Z	Z		Z
Entertainment/ Recreation: Indoor			SUP		SUP
Entertainment/ Recreation: Outdoor, Arcade	SUP		SUP		SUP
Entertainment/ Recreation: Outdoor, Professional					SUP
Greenhouse, commercial	Z	SUP	Z		

Home Occupation	SUP	SUP	SUP		
Hotel/Motel			SUP		SUP
Junkyard	SUP				
Kennel	SUP		SUP		
Motor Vehicle Repair	SUP	SUP	SUP		
Motor Vehicle Sales	SUP	SUP	SUP		
Motor Vehicle Services (washing, accessory sales, gasoline station)			SUP		
Professional Office			SUP		SUP
Residential Care Facility		SUP	SUP		
Restaurant			SUP		SUP
Retail Sales			SUP		SUP
Stables	Z		SUP		
Storage Units	SUP		SUP		
Other Commercial Uses not listed here			SUP		SUP
Accessory	Low Density Rural	Medium Density Residential	Mixed Use	Business Park	Special Entertainment
Garage	Z	Z	Z		Z
Greenhouse, personal	Z	Z	Z		
Roadside stand	Z	Z	Z		
Shed	Z	Z	Z		Z
Small Scale Solar	Z	Z	Z		Z
Industrial	Low Density Rural	Medium Density Residential	Mixed Use	Business Park	Special Entertainment
Light Industrial/ Light Manufacturing			SUP	SUP	SUP
Wind: Utility Scale WECS, Private WECS, Wind Measurement Towers	SUP	SUP	SUP		SUP
Other	Low Density Rural	Medium Density Residential	Mixed Use	Business Park	Special Entertainment
Nature Preserve	Z	Z	Z		
Public Uses	SUP	SUP	SUP		SUP
Public Utilities	SUP	SUP	SUP		SUP
Mineral Extraction	SUP		SUP		SUP

Table 2. Bulk & Density Table									
	Lot Size		Minimum Lot Width (ft.)	Minimum Setbacks**				Maximum Lot Coverage (%)	Maximum Building Height (ft.)
	Lot size restrictions: without infrastructure *(minimum acres)	Lot size restrictions: with infrastructure *(minimum acres)		Front Yard (ft.)	Side Yard (ft.)	Back Yard (ft.)	Streams (ft.)		
Low Density Rural	2	2	200	50	30	30	100	20	35
Medium Density Residential	2	0.5	100	30	15	30	100	50	35
Mixed Use	2	0.25	75	15	10	15	100	75	50
Business Park	2	0.25	75	15	10	15	100	75	50
Special Entertainment	2	0.25	200	30	15	30	100	75	100

*Infrastructure indicates public water and/or sewer

**Setbacks indicate the number of feet that structures must be set back from the right of way.

Article VII. Regulations Applicable to All Zoning Districts

VII-1 Principal buildings.

No single-family or two-family residential lot shall have erected upon it more than one principal building.

VII-2 Permissible structures within minimum required side or rear setbacks.

- A. A detached accessory building with a total floor area of 120 square feet or less and a maximum height of 10 feet may be located no closer than four feet from a side or rear lot line.
- B. Fences 6 feet or less in height, excluding dog runs, may be located along the side or rear lot line.
- C. Unenclosed steps or stairways providing access to the first story of a building may extend into any required setbacks. Decks and porches shall not extend into required setbacks.

VII-3 Access to improved street.

No permit for the construction of any building, except a detached accessory building permitted under Article VII-2.A, shall be approved, unless such structure has access from an improved street or a street on an official map, plan, approved subdivision or duly filed plat in accordance with Subdivision of Land, Article XIII.

VII-4 Clear vision at intersections.

Clear vision shall be maintained on corner lots in a triangle formed by the street lines of such lots to a point 25 feet from the intersection and a line connecting those points. Within that area no fence, wall, hedge, screen planting, bushes or shrubbery shall be permitted higher than two feet above the average finished grade of the lot. Trees shall be permitted within the area only if maintained and trimmed so that no branches or foliage is less than eight feet above the average finished grade of the lot.

VII-5 Widening of right-of-way.

Where a building lot has frontage on a street which is proposed for right-of-way widening, the required front setback shall be measured from such proposed right-of-way line.

VII-6 Lots in more than one zone.

Every reasonable effort must be made for all the uses, buildings and facilities, yards, open space, off-street parking and required landscaping must be contained within the zone in which the use is permitted.

VII-7 Corner and through lots.

The locations of all buildings on corner lots and on lots extending between two parallel streets shall comply with the following requirements: any yard fronting on an improved street shall be a front yard, one other yard shall be a rear yard, and any other yards shall be a side yard.

VII-8 Creation of a new lot.

When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing building or use, the subdivision must be carried out in such a manner as will not infringe upon any of the provisions of this chapter, either with respect to any existing structures or use or any proposed structures or use.

VII-9 Travel trailers.

Except as permitted by Article VII-17, Temporary Uses and Structures, no person shall use or occupy any travel trailer, tent trailer, tent or motor home for living or sleeping quarters within Dix for more than 240 days in the Low Density rural, unless such use is carried on within a campground, or 14 days in Mixed Use, Medium Density Residential, Business Park, or Special Entertainment Zones.

VII-10 Keeping of Livestock.

Keeping, sheltering, harboring or maintaining accessory livestock that is not part of an agricultural or farming operation or agricultural youth project, shall be subject to the following standards and requirements:

- A. Special Use Permit. Accessory livestock facilities and livestock activities including but not limited to fencing, waste management, shelter, and food provision shall be subject to a special use permit by the Planning Board.
- B. Fencing and Retaining. Livestock shall not be allowed to roam freely in the public realm at large. Adequate fencing and restraining structures shall be provided and maintained to keep the livestock on the property of which it is being kept.
- C. Location. Accessory Livestock and accessory uses except food shall be setback at least 20 feet from all property lines.
- D. Community Water Resources. The placement of livestock and any accessory uses such as fencing, waste management, animal shelter, and food provision on a parcel shall not negatively impact any community water resources. Surface water runoff systems should be designed to avoid contamination of neighboring properties' soils and community water resources.
- E. Sanitation. Adequate methods for sanitation and waste removal shall be demonstrated.

VII-11 Kennels.

Kennels shall be subject to the following requirements:

- A. Demonstration that the kennel will not create nuisance conditions for adjoining properties due to noise or odor.
- B. Demonstration that all animals will be confined to the property.
- C. Demonstration of adequate methods for sanitation and sewage disposal.
- D. Every kennel and its associated outside dog runs shall be located at least 200 feet from the nearest dwelling (other than the owner or user of the property) and at least 50 feet from any lot line.
- E. Maximum 20 animals kept on premises.

VII-12 Dumping of waste material.

Dumping, piling or accumulation of refuse, garbage (other than in closed containers which are regularly emptied in a lawful manner), waste material, scrap or other noxious substances is prohibited.

- A. Composting is permitted by approved practices with animal proof containers for household waste and with wooden, plastic, wire, or combination of materials for yard waste; i.e. grass clippings and leaves. All commercial composting facilities will be in accordance with regulations under 6 NYCRR (New York Conservation Rule and Regulations), Subpart 360-5, Composting and Other Class A Organic Waste Processing Facilities.

VII-13 Filling and excavating.

- A. Any excavation or filling, including removal of topsoil over 1 acre in size, shall require a Special Use Permit by the Town Planning Board in accordance with the requirements of Article XIV.
- B. Placement of fill must be in accordance with Town of Dix Flood Damage Prevention regulations
- C. Placement of fill must be in accordance with Department of Environmental Conservation

Regulations, particularly sections relating to stormwater management, erosion and sediment control, wetlands, and stream protection. Installation or improvement of natural or constructed drainage channels may be required to assure adjacent property owners are not negatively impacted by fill activities.

- D. Any grade alteration, which involves removal of vegetation, but no built improvement so on an area greater than 5,000 square feet, shall be seeded to provide an effective cover crop within the first season after initiation of the grade change operation.
- E. Uncontaminated soil, asphalt, brick, stone, concrete, glass and organic debris from the premises may be used in such fill activities. Other regulated materials are subject to DEC approval.

VII-14 Outdoor storage of materials and equipment.

- A. No material of any kind shall be stored outdoors in any zoning district unless:
 - 1. Allowed as part of an approved site plan;
 - 2. Used in the construction or alteration of a structure on the same lot or in the same development and stored for not more than one year or not more than 60 days after completion of construction, whichever is less; or
 - 3. Such outdoor storage is limited to machinery, equipment or supplies typical to the operation of a farm or storage of any products grown on the premises of a farm or nursery.
 - 4. Storage of materials that are not hazardous (explosive, incendiary, health) may be done if not visible from the front road and are 50 feet from any residence.
 - 5. Materials shall not be stored in or near streams, ditches, drainage ways, or stormwater management facilities, where they can obstruct the conveyance of water and contribute to flooding or erosion.
- B. No more than one unregistered, unlicensed motor vehicle is allowed to be stored outside on any lot except in accordance with Article VII-24, Motor vehicle fueling, service, sales or repair establishment.
- C. No front yard shall be used for any open storage or other storage of boats, motor homes, camping trailers, utilities trailers or other similar equipment.
- D. All enclosed storage shall be within structures, which meet the requirements of the New York State Uniform Fire Prevention and Building Code. Storage in mobile homes not connected to public utilities is not allowed in any zone. Storage in or tractor-trailer bodies and sea-land shipping containers is permitted in AG, CA, CB, and OSD, only, and is subject to site plan review and approval.
 - 1. §

VII-15 Ponds.

A pond or any artificial body of water over a depth of two feet must be set back a minimum of 50 feet from all property lines, 20 feet from all roads, and 100 feet from all existing septic systems. Dry hydrants are permitted with the approval of the Schuyler County Director of Emergency Management.

VII-16 Fences, walls and other structural screening elements.

- A. Building Permit. A building permit is required prior to installation of a fence unless prohibited by the New York State Agriculture and Markets Law.
- B. General Regulations.
 - 1. No fence or freestanding wall shall be located in a public right-of-way.
 - 2. All fences shall be in compliance with Article VII-4 regarding clear vision at intersections.
 - 3. No fence erected shall unduly impair views to the lake from neighboring lots.
 - 4. The Planning Board, as part of subdivision or Special Use Permit, may require a fence or other screen to shield adjacent residences or other uses from undesirable views, noise or light.

- C. Height.
 - 1. Fences 6 or fewer feet in height (see §VII-2.B) are exempt from the side and rear yard setback requirements. Front yard setbacks of the underlying zone are applicable to all fences.
 - 2. Fences over 6 feet in height require a setback of one additional foot back for each foot in fence height over 6 feet.
 - 3. The height of all fences shall be measured from the average finished grade of the lot at the base of the fence.
- D. Finished Sides. Any fence shall have its most pleasant or decorative side facing the adjacent properties. The fence posts and other supporting structures of the fence shall face the interior of the area to be fenced.
- E. Materials. Fences designed to maim or injure prospective intruders are prohibited except as authorized here. Fences incorporating barbed wire, electric current or similar materials or devices shall be allowed only when necessary for agricultural or public utility operations and, unless part of an agricultural operation, shall be subject to a minimum ten foot setback.
- F. Maintenance. Fences shall be maintained to provide functional, visual and structural integrity.
- G. Exempt Fencing. Fencing used for agricultural purposes on farms shall be exempt from all regulations except for maintenance requirements. Invisible Fences are not considered as part of this section.

VII-17 Temporary uses and structures.

Temporary use permits may be issued by the Code Enforcement Officer for a period not exceeding one year for nonconforming uses incident to housing and construction projects, including such structures and uses as the storage of building materials and machinery, the processing of building materials, a real estate office located on the tract being offered for sale or a temporary dwelling, such as a recreational vehicle with appropriate provisions for water supply and sewage disposal used during construction of a building, provided that such permits are conditioned upon agreement by the owner or operator to remove the structure or structures or use upon expiration of the permit or issuance of any applicable Certificate of Occupancy. Such permits may be renewed upon application to the Code Enforcement Officer for additional periods not exceeding one year.

VII-18 Swimming pools.

Residential swimming pools shall comply with New York State Uniform Fire Prevention and building Code regulations Article 720. Pool and deck placement shall comply with structure setback requirements of the applicable zoning district.

VII-19 Multi-family dwellings.

- A. Driveways for ingress and egress shall be as required by the Dix Site Plan Approval.
- B. The minimum distance between buildings in a multifamily project shall be 25 feet. No multifamily dwelling or required recreation area shall be closer to a preexisting single family or two-family dwelling than 25 feet.
- C. Parking areas may be located in any yard other than the front yard, but no closer than 20 feet from any property line and shall comply with all other regulations of the zone in which the use is located.
- D. Every multifamily dwelling building in a project shall have minimum setback of 20 feet from all interior roads, driveways and parking areas.
- E. Each multifamily dwelling project shall provide a common recreation area furnished with suitable equipment at a standard of 100 square feet for each dwelling unit with minimum recreation area of 16,000 square feet.
- F. Multifamily dwellings must be served by public water and sanitary sewers.
- G. Development applications for multi family dwelling units shall be subject to Special Use Permit by the Planning Board in accordance with Article XIV.
- H. No multifamily building shall contain more than eight dwelling units.

VII-20 Accessory Buildings and Uses.

- A. Accessory Buildings. Accessory buildings not attached to principal buildings shall be located on a lot as follows:
 - 1. In compliance with all setback requirements for principal buildings in the zoning district.
 - 2. Be located no closer to the principal building or another accessory building than twelve (12) feet.
 - 3. Be located in the side yard or rear yard, but not in front of the primary structure.
- B. Accessory Uses. In a residential district, accessory uses not enclosed in a building, including swimming pools and tennis courts, shall be erected only on the same lot as the principal structure, shall not be located in front yard on such lot and shall be located not less than twenty (20) feet from any lot line nor less than 10 feet from the principal structure, and shall not adversely affect the character of any residential neighborhood by reason of noise or glare or safety. Regulations for swimming pools are as follows:
 - 1. A swimming pool or the lot or any part thereof within which a pool is located shall be completely enclosed by a chain-link fence, or a type of fence that offers the same degree of security against accidental or unauthorized entry. Such fence shall be four (4) to six (6) feet in height, and all entrance gates thereof shall be self-enclosing, self-latching and capable of being locked. The fence shall be separate and physically detached from the swimming pool itself, and shall be a minimum distance of four (4) feet from the water's edge.
 - 2. An above ground pool with no part of its side wall height less than four (4) feet above ground and so constructed by the manufacturer that the vertical sides are smooth, sheer and do not provide any means for intermediate foot or hand holds, may be exempt from the full provisions of the above fence requirement. However, a full height fence with a self-closing, self-latching gate capable of being locked shall enclose the ladder area not less than four (4) feet in width and four (4) feet in depth, and the ladder shall remain permanently therein. Above ground pools provided with foot or hand holds (draw-banded) and above ground pools less than four (4) foot side wall height above ground are not exempt from the full fencing requirement.
- C. Accessory dwelling units.
 - 1. The owner(s) of the lot upon which the accessory dwelling unit is located shall reside within the principal or accessory dwelling unit.
 - 2. An accessory dwelling unit may be located either in the principal building or in an accessory building.
 - 3. The area for an accessory dwelling unit shall not exceed 40% of the area of the principal dwelling unit.
 - 4. Only one accessory dwelling unit per every 2 acres is allowed.

VII-20 Mobile home parks.

- A. All double-wide mobile homes and preexisting single-wide replacements installed and occupied pursuant to this section shall conform to the New York State Uniform Fire Prevention and Building Code.
- B. All mobile homes installed and occupied pursuant to this section shall also comply with such additional construction regulations as may be adopted by resolution of the governing board.
- C. All double-wide mobile homes and single-wide replacements must be skirted prior to the issuance of a Certificate of Occupancy.
- D. The minimum size of a lot in a mobile home park shall be 8,000 square feet.
- E. Minimum required setbacks.
 - 1. Front: 20 feet from an interior road.
 - 2. Side: 15 feet.
 - 3. Rear: 30 feet.
 - 4. Stream: 100 feet.

- F. No mobile home or communal recreation area in a mobile home park shall be located closer to a preexisting single-family or two-family dwelling than 100 feet.
- G. Private roads providing access to individual lots in a mobile home park shall have a pavement as required by the Town of Dix Planning Board.
- H. Every mobile home park shall provide a common recreational area furnished with suitable equipment at a standard of 100 square feet for each mobile home with a minimum area of 16,000 square feet.
- I. Mobile home parks shall be served by public or community water supply and sanitary sewer collection and treatment systems.

VII-21 Campgrounds.

- A. Minimum size of a campground shall be 10 acres.
- B. Campsites shall have a minimum area of 2,500 square feet and a minimum width of 40 feet.
- C. Roadways in the camp shall have a minimum width of 12 feet for one-way traffic and 18 feet for two-way traffic.
- D. All roadways in the camp shall have a minimum weight capacity of 30 tons.
- E. All roads and parking areas shall be paved or dust-treated.
- F. Suitable covered garbage and recycling receptacles shall be available.
- G. Plans for sewage disposal, water supply, waste disposal and electrical hookups and the number and location of toilets, sinks, showers, water spigots and dump stations shall receive approval of the New York State Department of Environmental Conservation & Department of Health, and the Schuyler County Department of Health.
- H. Buildings shall be set back at least 100 feet from all streams. Natural vegetation shall be retained wherever possible.
- I. All roads shall be named and the sites shall be numbered using three-inch high numbers.

VII-22 Roadside stands.

- A. If allowed by zone regulations, produce, including fresh fruit, vegetables, flowers or other products of the soil, may be sold or offered for sale as an accessory use.
- B. 75% or more of items for sale must be produced on the property.
- C. If such sales of produce are from a structure, such structure shall not exceed 2,000 square feet in area nor exceed 15 feet in height.
- D. The Planning Board during Site Plan Review shall ensure that the proposed structure is architecturally compatible with the surrounding neighborhood and that adequate off-street parking is provided for a minimum of two vehicles.
- E. Signs may be permitted in compliance with the sign regulations in Article XI.
- F. Nothing herein contained shall be applicable to the sale of livestock or the bulk sale of produce.

VII-23 Drive-in facilities.

- A. All vehicle stacking areas shall be clearly identified through the use of pavement markings, signs and/or curbing and landscaping features and shall be designed so they do not interfere with safe pedestrian and vehicle circulation on the site or along the public right-of-way.
- B. The length of stacking areas shall be determined by the maximum length of stacking required to serve vehicles during the facilities peak hour of operation.
- C. All drive-in establishment vehicle stacking areas shall be located a minimum of 30 feet from any lot line adjoining the Medium Density Residential or Low Density Rural zones.
- D. Any speaker system installed as part of the drive-in establishment shall be located a minimum of 30 feet from any property line adjoining a residential property.

VII-24 Motor vehicle fueling, service, sales or repair establishment.

- A. In addition to the information required for Site Plan Review as specified in Article XIV, the site plan submitted shall also show the location and number of fuel tanks to be installed, the dimensions and capacity of each storage tank, the depth the tanks will be placed below the ground, the number and location of pumps to be installed and the type of structure and accessory buildings to be constructed.
- B. All fuel pumps shall be located at least 25 feet from any street or property line.
- C. The entire area of the site traveled by motor vehicle shall be hard-surfaced.
- D. Any repair of motor vehicles shall be performed in a fully enclosed building, and no motor vehicle shall be offered for sale on the site, except in accordance with an approved site plan. No motor vehicle parts or partially dismantled motor vehicle parts or partially dismantled motor vehicle shall be stored outside of an enclosed building.
- E. Up to 5 unlicensed motor vehicles may be temporarily stored, not to exceed 2 months, at a repair or service establishment if adequate off-street parking spaces are available.
- F. Accessory goods for sale may be displayed outdoors on the pump island and the building island only. The outdoor display of oil cans and/or antifreeze and similar products may be placed on the respective island if provided for in a suitable stand or tank.
- G. No motor vehicle establishment with fuel-dispensing equipment shall be located within 500 feet of any public entrance to a church, school, library, hospital, charitable institution or place of public assembly. Such distance shall be measured in a straight line from said public entrance to the lot line nearest said entrance along the street line.

VII-25 Incentive zoning.

- A. Intent. The purpose of the incentive zoning provision is to offer incentives to applicants who provide amenities that assist the Town of Dix in implementing specific physical, environmental or cultural policies of the Comprehensive Plan.
- B. Applicability. Incentives may be offered to applicants in any zone who offer an acceptable amenity to the community in exchange for the incentive.
- C. Allowable amenities. The selection of land or other amenities within a parcel to be considered for incentive zoning shall be made by the applicant and subject to the approval of the Planning Board. The following amenities may be accepted by the governing board:
 - 1. Permanent conservation of natural areas or agricultural lands.
 - 2. Provision of permanent publicly accessible passive/active open space.
 - 3. Infrastructure improvements.
 - 4. Public access to waterfronts.
 - 5. Provision of publicly accessible trail linkages.
 - 6. Preservation of publicly accessible scenic views.
 - 7. Provision of cross access easement or shared access.
 - 8. Preservation of rural heritage features
- D. Allowable incentives. The following incentives may be granted by the local governing board to the applicant on a specific site:
 - 1. Changes in required lot coverage.
 - 2. Changes in required minimum lot width
 - 3. Changes in required property line setback or height standards.
 - 4. Changes in lot size requirements

- E. Criteria and procedure for approval. Applications for incentives in exchange for amenities shall be submitted to the governing board of the municipality in which the property is located. In order to preliminarily evaluate the adequacy of amenities to be accepted in exchange for the requested incentive, the following information shall be proposed by the applicant:
 - 1. The proposed amenity.
 - 2. The value of the proposed amenity.
 - 3. A narrative which:
 - a) Describes the benefits to be provided to the community by the proposed amenity.
 - b) Provides preliminary indication that there are adequate sanitary sewers, water, transportation, waste disposal and fire protection facilities in the zoning district in which the proposal is located in order to accommodate additional demands, if any.
 - c) Explains how the proposed amenity promotes implementation of physical, environmental or cultural policies articulated in approved plans.
 - d) Describes the requested incentive and its value.
- F. The Planning Board will review the proposal and report to the governing board with its evaluation of the adequacy with which the amenity(s)/incentive(s) fit the site and how they relate to adjacent uses and structures. The Planning Board's review shall be limited to the planning, design and layout considerations involved with project review or such other issues as may be specifically referred by the local governing board.
- G. The local governing board will review the Planning Board's report. The local governing board will notify the applicant as to whether it is willing to further consider the proposal and hold a public hearing thereon.
- H. All applicable requirements of the State Environmental Quality Review Act (SEQRA) shall be complied with as part of the review and hearing process. In addition to other information that may be required as part of the environmental assessment of the proposal, the assessment shall include verification that the zoning district in which the proposal is to be located has adequate sanitary sewer, water, transportation, waste disposal and fire protection facilities to:
 - 1. Serve the remaining vacant land in the district as though it were developed to its fullest potential under the district regulations in effect at the time of the amenity/incentive proposal.
 - 2. Serve the onsite amenity and incentive, given the development scenario described in Subsection 6(a) above.
- I. Following the hearing and in addition to compliance with all SEQRA requirements, the local governing board shall, before taking action, refer the proposal for review and comment to other governmental agencies as may be required and may refer the proposal to the Planning Board and other boards and officials for review and comment. In order to approve an amenity/incentive proposal, the local governing board shall determine that the proposed amenity provides sufficient public benefit to act on an application for site plan or subdivision approval pursuant to applicable regulations.
- J. Following preliminary plan approval and subject to meeting all conditions imposed on the preliminary plan, including all documentation required by the Town Attorney and local governing board on the amenity, the applicant may submit a final plan for review and approval.

VII-26 Performance standards.

- A. Applicability.
 - 1. Planning Board action. All uses subject to the requirements of this section may be established and maintained if their operation is approved by the Planning Board as being in conformance with the standards and regulations limiting dangerous and objectionable elements, such as dust, smoke, odor, fumes, noise or vibration. In approving the site plan, the Planning Board shall decide whether the proposed use will conform to these applicable performance standards or any additional performance standards required by state or federal laws or which are generally recognized performance standards for a given industry.

2. Use subject to the performance standards procedures.
 - a. All uses subject to Site Plan Review must comply with these performance standards.
 - b. In addition, if the Code Enforcement Officer has reasonable grounds to believe that any other existing or proposed use violates any of the performance standards, such proposed use may be required to certify compliance with these performance standards or such existing use may be cited for violation of these regulations.
- B. Performance standards procedures.
1. The Planning Board as part of the sketch plan conference shall tentatively identify whether a proposed use will be required to certify compliance with any of the performance standards listed in this section. Certification may require signing a written statement or presentation of construction detail and a description of the specifications for the mechanisms and techniques to be used in restricting the emissions of any dangerous and objectionable elements. The applicant shall also file with such plans and specifications an affidavit acknowledging understanding and stating agreement to conform to the same at all times. Any information which is designated by the applicant as a trade secret and submitted herewith will be treated as confidential under provisions of the New York State Freedom of Information Law. During the course of Site Plan Review, the Planning Board will determine if the applicant's proposal falls within the performance standards. New York State SEQRA requirements will be fulfilled.
 2. Vibration.
 - a. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or beyond the lot lines, nor shall any vibrations produced exceed 0.002g peak at up to a frequency of 50 cycles per second, measured at or beyond the lot lines using either seismic or electronic vibration measuring equipment.
 - b. Vibrations occurring at higher than a frequency of 50 cycles per second or a periodic vibration shall not induce accelerations exceeding 0.001 g. single impulse periodic vibrations occurring at an average interval greater than five minutes shall not induce accelerations exceeding 0.01 g.
 3. Noise.
 - a. The maximum decibel level radiated by any use or facility at any lot lines shall not exceed the values in the designated octave bands given in Table 1. The sound-pressure level shall be measured with a second-level meter and associated octave-band analyzer conforming to standards prescribed by the American Standards Association. (American Standard Sound-Level Meters for Measurement of Noise and Other Sound, Z24.3-1944, American Standards Association, Inc., New York, and American Standard Specifications for an Octave-Band Filter Set for the Analysis of Noise and Other Sound, Z24.10-1953, American Standards Association, Inc., New York, New York, shall be used.)

Frequency Band (cycles per second)	Maximum Permitted Sound-Pressure Level (decibels)
0 to 75	69
75to150	60
150 to 300	56
300 to 600	51
600 to 1,200	42
1,200 to 2,400	40
2,400 to 4,800	38
4,800 to 10,000	35

- b. Where any use adjoins a residential or transitional district at any point at the district boundary, the maximum permitted decibel levels in all octave bands shall be reduced by six decibels from the maximum levels set forth in Table I.
4. Smoke. The density emission of smoke or any other discharge into the atmosphere during normal operations shall not exceed visible gray smoke of a shade equal to or darker than No. 2 on the standard Ringelmann Chart. (A Ringelmann Chart is a chart published by the United States Bureau of Mines, which shows graduated shades of gray for use in estimating the light-obscuring capacity of smoke). These provisions applicable to visible gray smoke shall also apply to visible smoke of a different color but with an apparent equivalent capacity.
5. Odor. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable when diluted in the ratio of one volume of odorous air emitted to four volumes of clean air. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control will be maintained if the primary safeguard system should fail. There is hereby established, as a guide in determining such quantities of offensive odors, in Table 111, Odor Thresholds, in Chapter 5 of the Air Pollution Abatement Manual, Copyright 1959, by the Manufacturing Chemical Association, Inc., Washington, D.C., as said manual and/or table is subsequently amended.
6. Fly ash, dust, fumes, vapors, gases and other forms of air pollution. No emission shall be permitted which can cause any damage to health, animals, vegetation or other forms of property or which can cause any excessive soiling at any point beyond the boundaries of the lot. The concentration of such emission on or beyond the boundaries of the lot. The concentration of such emission on or beyond any lot line shall not exceed 0.1 the maximum allowable concentration set forth in 12-29 of the Board of Standards and Appeals of the New York State Department of Labor, effective October 1, 1956, and any subsequent standards.
7. Electromagnetic radiation. It shall be unlawful to operate or cause to be operated any planned or intentional source of electro magnetic radiation which does not comply with the current regulations of the Federal Communications Commission regarding such sources or electromagnetic radiation, except that, for all governmental regulations regarding such sources of electromagnetic radiation of the Interdepartment Radio Advisory Committee shall take precedence over the regulations of the Federal Communications Commission. Further, said operation in compliance with the Federal regulations shall be unlawful if such radiation causes an abnormal degradation in performances of other electromagnetic radiators or electromagnetic receptors of quality and pro-per design because of proximity, primary field, blanketing, spurious re-radiation, harmonic content or modulation of energy conducted by power or telephone lines. The determination of abnormal degradation in performance and of quality and proper design shall be made in accordance with good engineering practices, as defined in the latest principles and standards of the American Institute of Radio Engineers and the Electronic Industries Association. In case of any conflict between the latest standards and principles of the above groups, the following precedence in interpretation of the standards and principles shall apply: American Institute of Electrical Engineers; Institute of Radio Engineers; and Electronic Industries Association.
8. Radioactive radiation. No activities shall be permitted which emit dangerous radioactivity at any point beyond the property lines. The handling of such radioactive materials, the discharge of such materials into the air and water and the disposal of radioactive wastes shall be in conformance with the regulations of the Nuclear Regulatory Commission, as set forth in Title 10, Chapter 1, Part 20, as amended, and all applicable regulations of the State of New York.
9. Heat. Heat emitted at any or all points shall not at any time cause a temperature increase on any adjacent property in excess of 5 F., whether such change is in the air or

on the ground, in a natural stream or lake or in any structure on such adjacent property.

10. Glare.
 - a. Direct glare. No such direct glare shall be permitted, with the exception that parking areas and walkways may be illuminated by luminaries so hooded or shielded that the maximum angle of the cone of direct illumination shall be 60 degrees drawn perpendicular to the ground, and with the exception that such angle may be increased to 90 if the luminary is less than four feet above ground.
 - b. Indirect glare. Indirect glare shall not exceed that value which is produced by an illumination of the reflecting surface, not to exceed 0.3 foot-candle (maximum) and 0.1 foot-candle (average). Deliberately induced sky-reflected glare, as by casting a beam upward for advertising purposes, is specifically prohibited.
11. Liquid or solid waste. No discharge shall be permitted at any point into a public sewer or stream or into the ground, except in accordance with standards approved by the State and Schuyler County Departments of Health and local ordinances, of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements. There shall be no accumulation of solid wastes conducive to the breeding of rodents or insects.
12. Stormwater. For all construction activities involving soil disturbances of one or more acres, the New York State Department of Environmental Conservation (NYSDEC) requires that the owner prepare a Stormwater Pollution Prevention Plan (SWPPP) and obtain a SPDES permit for stormwater discharges. A copy of the SWPPP shall be provided to the Town prior to plan approval.

VII-27 Mineral and Natural Gas Resource Extraction.

Mineral and natural gas extraction will be in accordance with New York State Consolidated Laws Article 23, Mineral Resources. In addition, Town and County Site Plan Review and Approval are required.

VII-28 Wind Farm.

Refer to the Town of Dix Wind Law Article XVI for regulations governing wind farms or wind energy systems in the Town of Dix.

VII-30 Yards.

No yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be considered to provide a yard or open space for any other principal building.

VII-31 Steep Slope Guidelines.

The Town of Dix is characterized by numerous steep slope (15% or greater) areas. These slopes benefit the community by providing scenic views, aquifer recharge areas and wooded areas and substantial protection against flooding and erosion. If these areas are not carefully protected, the benefits of these areas will be irreparably lost and extensive erosion and flooding is likely to occur. Road construction, building site development, and other construction activity proposed for these areas require special design consideration to prevent erosion, minimize storm water runoff, and preserve large trees, natural terrain and scenic views. Development on steep slopes will be permitted subject to the following guidelines:

- A. Development proposals shall be of sufficient detail to show site work (cut and fill), housing site location, erosion and drainage control measures (terraces, sediment basins, diversions, retaining walls, stream channel improvement, etc.) and road location (including cross-sections).
- B. Padding, which is the creation of level building sites, shall be permitted only when it can be clearly demonstrated that the final treatment of the site meets the requirements of this section and will not create or exacerbate an unfavorable environmental impact.
- C. Design principles shall include, but not be limited to, the following:

1. Landscaping of areas around structures making them compatible with the natural terrain.
2. Shaping, grouping and placement of man-made structures to complement the natural landscape.
3. Arrange buildings so they complement one another to promote visual interest. Clustering of residential units and multiple dwellings shall be encouraged to house a given population with a minimum spoilage of land.
4. The developer shall first of all determine the qualities of the site and then plan and build to accentuate these qualities rather than change or destroy them.
5. Shape of essential grading to complement existing land forms and prohibit any appearance of successive padding, terracing or other similar forms for building sites in the hill area.
6. Encourage split - level building sites.
7. Land within the hill area that is in excess of fifteen (15%) percent slope shall not be developed as individual residential lots.
8. Outstanding natural features such as the highest crest of the hill, range, natural rock outcroppings, particularly desirable vegetation, etc. should be retained.

D. Slopes Greater Than Fifteen Percent. A slope greater than fifteen (15) percent (1.5 feet of vertical rise in a ten (10) feet horizontal distance) shall not be developed in a final plat unless the lots can meet the requirements of a buildable lot without excessive grading and/or filling. There shall be an area that is a minimum of five thousand (5,000) square feet available on each proposed lot in a final plat that has an existing slope of less than fifteen (15) percent for such lot to be considered a buildable lot.

VII-32 Floodplains

Refer to the Town of Dix Local Law for Flood Damage Prevention for development standards within the special flood hazard area (Zone A) as shown on the Town of Dix Flood Insurance Rate Maps.

VII-33 Solar Energy Systems and Solar Access.

A. Purpose & Intent. The ordinance aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and convenience of access necessary therefor.

B. Definitions

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS - A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the facade and which does not alter the relief of the roof.

COLLECTIVE SOLAR - Solar installations owned collectively through subdivision homeowner associations, college student groups, "adopt-a-solar-panel" programs, or other similar arrangements.

FLUSH-MOUNTED SOLAR PANEL - Photovoltaic panels and tiles that are installed flush to the surface of a roof and which cannot be angled or raised.

FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM - A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure.

NET-METERING - A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

PHOTOVOLTAIC (PV) SYSTEMS -A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

QUALIFIED SOLAR INSTALLER - A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSEDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar installers if the Town of Dix determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

ROOFTOP OR BUILDING MOUNTED SOLAR SYSTEM - A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

SMALL-SCALE SOLAR - For purposes of this Ordinance, the term "small-scale solar" refers to solar photovoltaic systems that produce up to ten kilowatts (kW) per hour of energy or solar-thermal systems which serve the building to which they are attached, and do not provide energy for any other buildings.

SOLAR ACCESS - Space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

SOLAR COLLECTOR - A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR ENERGY EQUIPMENT/SYSTEM - Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic and concentrated solar.

SOLAR PANEL - A device for the direct conversion of solar energy into electricity.

SOLAR STORAGE BATTERY - A device that stores energy from the sun and makes it available in an electrical form.

SOLAR-THERMAL SYSTEMS - Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

C. Applicability

1. The requirements of this Ordinance shall apply to all Small Scale solar energy systems (residential, commercial, multi-family and condominium) modified or installed after the effective date of this Ordinance.
2. Solar energy systems for which a valid permit has been properly issued or for which installation has commenced prior to the effective date of this article shall not be required to meet the requirements of this solar article of the zoning ordinance. Any such installations are still subject to other Town of Dix and NYS ordinances.
3. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and standards.
4. Solar energy collectors shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit "collective solar" installations or the sale of excess power through a "net billing" or "net-metering" arrangement in accordance with New York Public Service Law § 66-j or similar state or federal statute.

D. Permitting

1. No Small Scale solar energy system or device shall be installed or operated in the Town of Dix of except in compliance with this article.
2. To the maximum extent practical, and in accordance with Town of Dix law, the accommodation of solar energy systems and equipment and the protection of access to sunlight for such equipment shall be encouraged in the application of the various review and approval provisions of the Town of Dix Code.
3. All Solar Energy Systems are permitted as accessory structures in all districts, including:
 - a. Rooftop and Building Mounted Solar Collectors
 - b. Building-Integrated Photovoltaic (BIPV) Systems
 - c. Ground-Mounted and Free Standing Solar Collectors
 - d. Solar-Thermal Systems
4. Building permits shall be required for installation of all solar energy systems and collectors.
5. Solar collectors shall meet all applicable requirements for setbacks and lot coverage for accessory structures in the zoning district in which it is located.
6. Any height limitations of the Town of Dix Code shall not be applicable to solar collectors provided that such structures are erected only to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve, and that such structures do not obstruct solar access to neighboring properties.
7. Solar Energy Equipment and Systems shall respect the rural character of the Town of Dix. When practical, solar equipment shall be screened through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.
8. Solar energy systems and equipment shall be permitted only if they are in compliance with section VII-33.E of this article and are determined by the Town of Dix not to present any unreasonable safety risks, including, but not limited to, the following:
 - a. Weight load
 - b. Wind resistance
 - c. Ingress or egress in the event of fire or other emergency.

E. Safety

1. All solar collector installations must be performed by a qualified solar installer.
2. Prior to operation, electrical connections must be inspected by an appropriate electrical inspection person or agency, as determined by the Town of Dix.
3. Any connection to the public utility grid must be inspected by the appropriate public utility.

4. Solar energy systems shall be maintained in good working order.
 5. Rooftop and building-mounted solar collectors shall meet New York's Uniform Fire Prevention and Building Code standards.
 6. If solar storage batteries are included as part of the solar collector 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 Town of Dix and other applicable laws and regulations.
- F. Future Solar Access. To the maximum extent possible, all new development proposals totaling ten (10) or more acres shall be designed so that the maximum number of buildings shall receive direct sunlight sufficient for using solar energy systems for space, water, or industrial process heating or cooling. Buildings and vegetation should be sited and maintained so that unobstructed direct sun light reaches the southern exposure of the greatest number of buildings according to the following guidelines:
1. Solar Access shall be protected between the solar azimuths of -45 degrees (east of due south) to +45 degrees (west of due south).
 2. In considering dimensional modifications permitted Articles XV -Planned Unit Development, the Town Board shall also consider solar access and design considerations.
 3. For purposes of solar access, streets, lots and building setbacks should be designed so that the buildings are oriented with their long axes running from east to west for single - family development and north to south for townhouse and multi-family development.
 4. In order to maximize solar access, the highest densities shall to the maximum extent possible be placed on the south facing slopes with lower densities sited on north - facing slopes.
 5. Streets should be oriented on an east/west axis to the greatest possible extent.
 6. Buildings shall to the greatest extent possible be sited as close to the north lot line or lines as possible to increase yard space to the south for better owner control of shading.
 7. Tall buildings shall to the greatest possible extent be sited to the north of shorter ones and be buffered from adjacent development.
 8. Existing vegetation shall be retained and incorporated into the design as practicable.
 9. A description of any mechanisms, such as deed restrictions covenants, etc. that are to be applied shall be provided.
- G. Appeals. If a permit for a solar energy system or device is denied, the applicant may appeal the decision in accordance with the established procedures of the Town of Dix code through the Town of Dix Zoning Board of Appeals.

Article VIII. Nonconforming Uses, Buildings and Lots

VIII-1 Nonconforming uses and buildings.

- A. Except as otherwise provided in this chapter, the lawful use of land or buildings existing on the date of the adoption of this chapter may be continued although such use of building does not conform to the regulations specified in this chapter. However, the following provisions shall apply to all such nonconforming uses:
 - 1. Property owners at the time of the adoption of this ordinance may expand an existing nonconforming use up to a 50% increase in ground floor area while maintaining the same nonconforming use and meeting setback, open space, building height, and F.A.R requirements. Otherwise, a nonconforming use or building may be expanded by grant of a variance by the Zoning Board of Appeals.
- B. Discontinuance. In any zone, whenever a nonconforming use of land, premises, building or structure, or any part or portion thereof, has been discontinued for a period of one and a half years, such nonconforming use shall not be reestablished, and all future uses shall be in conformity with the provisions of this chapter. Such discontinuance of the active and continuous operation of such nonconforming use, or a part or portion thereof, shall be considered an abandonment of such nonconforming use, or portion thereof, regardless of any reservation of an intent not to abandon or of an intent to resume such nonconforming use. If actual abandonment in fact is evidenced by the removal of buildings, structures, machinery, equipment and other evidences of such considered to be completed, and all rights to reestablish or continue such nonconforming use shall thereupon terminate.
- C. Except as allowed by Article VIII-2 regarding nonconforming lots, no nonconforming building damaged by fire or other causes to the extent of more than 50% of its value shall be repaired or rebuilt except in conformity with the regulations of this chapter. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe by the Code Enforcement Officer.
- D. Changes. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.

VIII-2 Nonconforming lots.

Any lot of record prior to the adoption of the local law codified in this chapter, and whose area is less than the specified minimum lot requirements in the Bulk and Density requirements found in Article VI-7 may be considered as complying with such minimum lot requirements and no variance shall be required, provided that the following minimum conditions are met:

- A. No nonconforming lot shall be further reduced in size.
- B. Such lot does not adjoin any other lot or lots held by the same owner where the aggregate area of such adjoining lot is equal to or greater than the minimum lot area required in the Bulk and Density requirements found in Article VI-7.
- C. A septic permit from the one of the following agencies is issued for the nonconforming lot and a copy of such permit is provided to the town prior to commencement of any construction thereon:
 - 1. NYS Department of Environmental Conservation;
 - 2. NYS Department of Health;

3. Schuyler County Health Department;
- D. For residential use, such lot shall have a minimum area of at least ten thousand (10,000) square feet and minimum width of fifty (50) feet at the required setback line and have the following minimum yard and stream setbacks:
 1. Side yard: Six feet.
 2. Rear yard: Fifteen (15) feet.
 3. Front yard: Twenty (20) feet.
 4. Stream: One hundred (100) feet.
- E. For general or business use, such lot shall have a minimum area of at least twenty thousand (20,000) square feet and minimum width of seventy five (75) feet at the required setback line and have the following minimum yard and stream setbacks:
 1. Side yard : 8 feet
 2. Rear yard: fifteen (15) feet
 3. Front yard: fifteen (15) feet
 4. Stream: one hundred (100) feet.
- F. Accessory structures shall be located as follows:
 1. A minimum of three feet from any rear or side lot line;
 2. A minimum of one hundred (100) feet from any stream;
 3. Behind the front line of a residential building;
 4. In accordance with all other requirements specified in Article VII-20
- G. In any zone where residences are permitted, such undersized nonconforming lot may be used for not more than one single-unit dwelling.

Article IX. Landscaping, Screening and Buffer Regulations

IX-1 Intent.

The following standards are intended to implement the goals and policies of the Comprehensive Plan by assuring an acceptable degree of buffering between land uses, particularly between residential and nonresidential uses, providing a balance between developed uses and open space, enhancing the visual and aesthetic appearance of the community and encouraging preservation of existing natural features. Specifically, these regulations are intended to:

- A. Provide natural visual screening of parking areas and along property boundaries to protect the existing visual quality of adjacent lands.
- B. Reduce surface runoff and minimize soil erosion through the natural filtering capability of landscaped areas.
- C. Provide natural buffers that reduce glare and noise, provide wildlife corridors and protect wildlife habitats, wetlands, stream corridors and other significant environmental features.
- D. Moderate the microclimate of parking areas by providing shade, absorbing reflected heat from paved surfaces and creating natural wind breaks.
- E. Enhance the overall visual quality of the community by surrounding developed areas with a variety of plant materials that are consistent and compatible with the existing natural vegetation of the area.

IX-2 Applicability.

These landscaping regulations shall apply to all uses in all zones. More specifically, requirements and procedures shall be as follows:

- A. Major residential subdivisions shall be required to submit landscaping plans in accordance with Article IX-4 of this article indicating appropriate landscaping of entrances, common open spaces and recreation areas and perimeter buffer areas.
- B. Development activities requiring site plan approval shall submit, as part of such approval, a landscaping plan in accordance with Article IX-4 of this article.

IX-3 General requirements.

- A. Existing site vegetation and unique site features, such as stonewalls, shall be incorporated into landscaping plans to the maximum extent feasible. Existing healthy trees which are retained shall be credited against the requirements of these regulations in accordance with their size and location.
8. Whenever a grading/landscaping plan is required by Site Plan Procedure, such grading/landscaping shall be complete before the Issuance of a Certificate of Occupancy, provided however, posting of a performance guaranty acceptable to the Code Enforcement Officer if the applicant cannot perform the work due to seasonal impracticalities may be acceptable.
- C. All required landscaping shall be of healthy stock, planted according to accepted horticultural practices. Landscaping plans shall clearly indicate who is responsible for plant maintenance during the first 12 months after planting, and a performance guaranty shall be posted for assuring replacement in kinds of plants, which die or become diseased with in that time.
- D. All required landscaping shall be maintained in healthy condition. Failure to maintain such landscaping or to replace dead, damaged, or diseased landscaping required by this article shall constitute a violation of these regulations.
- E. Where existing conditions make compliance with these regulations not feasible, the Planning Board, at its discretion, may approve planters, plant boxes or pots containing trees, shrubs and/or flowers to comply with the intent of these regulations.
- F. In cases where the edge of pavement within a public right-of-way does not coincide with the front lot line, the property owner shall landscape the area between the front lot line and the edge of the

street pavement.

- G. Trees for screening shall be of species and stock that will provide a visual screen from the ground up, at least 5 feet in height.
- H. No landscaping shall encroach into the site triangle or interfere with the clear intersections section VII-4.
- I. A 50-foot vegetated buffer shall be maintained adjacent to any stream or wetland shown on the Zoning District Map. In order to provide stability to streams and streambanks, native vegetation with trees, understory, and ground cover shall be preserved or established to the extent practicable.

IX-4 Landscaping plan.

- A. Based on the scale and location of the project the Planning Board shall determine whether the landscaping plan must be prepared by a licensed landscape architect or other professional. All landscaping plans shall contain the following information:
 - 1. A title block with the name of the project, then name of the person preparing the plan, a scale, North arrow and date.
 - 2. All existing significant plant materials on the site.
 - 3. Existing and proposed structures.
 - 4. Topographical contours at two-foot intervals.
 - 5. Parking areas.
 - 6. Access aisles.
 - 7. Drainage patterns.
 - 8. Streams and wetlands.
 - 9. Location, size and description of all landscape materials existing and proposed, including all trees and shrubs, and shall identify those existing plant materials that are to be removed.
 - 10. Other information as may be required by the Planning Board.
- B. Alternative landscaping plans may be submitted, provided that they meet the purpose and intent of these regulations.

Article X. Off-Street Parking and Loading Regulations

X-1 Intent.

The intent of this article is to prevent or alleviate congestion on public streets and to promote the public safety and welfare by establishing standards for the provision of off-street parking and loading spaces. The listed parking standards reflect reasonable standards for most uses in most locations. The Town of Dix governing board, in adopting these standards, is providing guidance to future developers, tenants and residents of uses requiring off-street parking and loading. From an environmental and cost perspective, it is always desirable to construct the least number of parking spaces to accommodate a particular use.

X-2 Applicability.

- A. In all zones, every industrial, business, institutional, recreational, residential or other use shall provide, at the time of any change of use or when any building or structure is erected, enlarged or increased in capacity, off-street parking for motor vehicles in accordance with the requirements of this and other applicable sections of these regulations, especially special use permit approval in accordance with Article XIV and landscaping with Article IX.
- B. Loading spaces shall be provided and maintained on the same premises with every building or structure erected, occupied, enlarged or intended to be used, involving the receipt or distribution by vehicles of material or merchandise. No such activity shall use public right-of-way or parking area for standing, loading and unloading services.
- C. Bus, taxi or passenger loading spaces may also be required, depending on the use.

X-3 General Standards.

- A. Site Plan Review. The creation, expansion, or significant alteration of off-street parking facilities is subject to site plan review and approval by the Planning Board.
- B. It shall be the responsibility of the owner of a property to provide the off-street parking spaces required in the listing below for any use, which is erected, enlarged, or altered after the effective date of this Ordinance.
- C. A parking space shall be considered adequate if it is not less than eighteen feet by nine feet (18' X9') for a total area of one hundred sixty two (162) square feet in area exclusive of the maneuvering passageway.
- D. All off-street parking shall be paved, surfaced or covered so as to be well-drained. Impervious surfaces should be minimized wherever practical. Runoff water should be redirected so that land is available to absorb storm water and to reduce polluted runoff and flooding. Constructions of pervious roadways are preferred.
- E. Applicants are encouraged to provide evidence of lesser parking and loading demand if appropriate.
- F. The Planning Board, at its discretion, may require less off-street parking or loading if warranted based on the information presented. In any case where less off-street parking is required, the Planning Board reserves the right to require the set-aside of additional open space sufficient to accommodate the amount of off-street parking which would ordinarily be required.
- G. The Planning Board also reserves the right to request additional information, such as but not limited to expected number of employees, students, expected attendance or expected deliveries, relevant to judging the adequacy of listed parking and loading standards. Such information may result in application of off-street parking standards higher than those listed.
- H. For uses not listed, the required number of off-street parking or loading spaces shall be determined by the Planning Board based on similarity to listed uses and information provided by the applicant.
- I. In all cases, provided off-street parking and loading should be sufficient to prevent frequent on-street outside designated on-street parking areas by users or employees or the loading and

unloading of passengers or materials from the public right-of-way in such a manner that is disruptive to traffic.

- J. In addition to the off-street parking required based on the following standards, one appropriately sized parking required based on the following standards, one appropriately sized parking space shall be available for each commercial vehicle used in any business conducted on or from the premises.
- K. The Planning Board reserves the right to require off-street parking spaces suitable for vehicles with boats or trailers in tow.
- L. Parking of any tractor-trailer combinations, except in conjunction with provision of a commercial service to an owner or occupant of the property, shall be prohibited in any residential or transitional district. The parking of one tractor without an attached trailer which is owned by or leased to the occupant of a dwelling is allowed, subject to the availability of an off-street parking space which meets all the requirements of these regulations.
- M. Adequate off-street loading space(s) shall be provided for any commercial, institutional or industrial use which involves receipt or distribution of goods.

X-4 Location of required spaces.

Parking and loading spaces shall be located in accordance with the following:

- A. For single-family detached, semi-detached, two-family, attached and accessory dwelling units, off-street parking shall be provided on the same lot with the building it serves.
- B. For multifamily dwellings, required off-street parking shall be located as close to the use as possible, given site conditions, and in no case more than 200 feet from the building it is required to serve.
- C. Access drives to any commercial or industrial uses through any residential or transitional district shall not be considered to be a permitted use.
- D. The location, dimensions and signage of handicapped parking shall meet the requirements of the New York State Uniform Fire Prevention and Building Code.
- E. Uses not permitted within the Medium Density Residential Zone or the Low Density Rural Zones shall not locate their parking within those zones, unless specifically permitted to do so in writing by the Board of Zoning Appeals.

X-5 Computation of required spaces.

- A. In places of public assembly in which patrons or occupants are accommodated in pews, benches or other similar seating facilities, each 24 inches of such seating shall be counted as one seat for the purpose of determining adequacy of parking.
- B. If spaces are provided on the basis of employees or students, the number on the maximum shift or peak period shall be used.
- C. Unless otherwise specified, off-street parking standards are based on square feet of all floor area, including the area of any accessory buildings.
- D. If the number of required spaces is calculated to require any parts of a space (such as 0.2, 0.6, etc) 0.5 spaces and above shall be rounded up to require a whole space, and below 0.5 spaces shall not require an additional space.

X-6 Exceptions.

At the discretion of the Planning Board, uses within 500 feet of a municipal parking lot or designated on-street parking may be wholly or partially exempt from off-street parking requirements. Such uses may be required to make a cash payment in lieu of providing off-street parking with such moneys dedicated to expansion or improvement of public parking facilities within the same commercial zone.

X-7 Alternate parking arrangements.

- A. The collective provision of off-street parking areas for two or more buildings or uses located on adjacent lots is permitted and encouraged. If it can be demonstrated that joint use is appropriate in accordance with Subsection C below, the total requirement of such off-street parking facilities may be reduced to a sum that is less than the sum required for the various buildings or uses computed separately. The land upon which the collective facilities are located must be owned or leased by one or more of the collective users.
- B. Off-site parking. Off-site parking meeting the location requirements of Article X-4 may be used to meet the requirements of this article. Such off-site parking shall be subject to deed, lease or contract restrictions acceptable to the Municipal Attorney binding the owner, heirs or assigns to maintain the required number of spaces available throughout the life of such use.
- C. Joint use. The off-street parking requirement of two or more use, structures or parcels of land may be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap at any point in time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.

X-8 Nonconforming parking and loading.

No building or lot alterations nor change of use shall be allowed which would increase the degree of nonconformity with the off-street parking and loading regulations of this article unless approved by the Zoning Board of Appeals.

X-9 Uses and Required Spaces

Table 3. Parking Requirements	
Use	Required Spaces
Residential	
Dwelling, All Residential Uses	1.5 per dwelling
Commercial	
Bar, or Tavern Restaurant	1 per four (4) seats
Bed & Breakfast/Inn Campground Hotel/Motel	1 per sleeping room/unit or camping area unit, plus parking spaces as required for any accessory uses
Club, Social; Club, Hunting& Fishing Convention Center Public Uses	As determined by the Planning Board.
Entertainment/Recreation, Indoor, Outdoor Arcade, Outdoor Professional	As determined by the Planning Board.
Home Occupation	In addition to spaces(s) required for the dwelling: 1 per nonresidential employee, and At least one (1) client parking space if clients will be visiting the property
Motor vehicle services station	As determined by the Planning Board.
Professional Office	2.5 per 1,000 square feet of office area
Residential Care Facility	0.3 per resident
Retail Sales Convenience Store	4 per 1,000 square feet of Gross Floor Area
Other Commercial Uses Not listed here	As determined by the Planning Board.
Industrial	
Light Industrial/ Light Manufacturing	1.5 per 2,000 square feet of Gross Floor Area
Other Industrial	As determined by the Planning Board.

X-10 Design standards for off-street parking spaces.

- A. All parking areas shall be located to the side or rear of the primary use.
- B. All parking areas, passageways and driveways serving commercial or industrial uses shall be illuminated adequately during the hours between sunset and sunrise when the parking areas are in operation. Adequate shielding shall be provided by commercial and industrial uses to protect adjacent residential uses from the glare of such illumination and from that of automobile headlights.
- C. Off-street parking areas shall include landscaping in accordance with Article IX.
- D. Where parking spaces abut sidewalks, landscaped areas, lighting fixtures or fences, appropriate car stops shall be installed to prevent encroachment on or damage to such features.
- E. All off-street parking areas of more than 20 spaces shall provide a snow-storage area independent of required parking and loading areas.
- F. All required parking areas shall be independent of required emergency access lanes, loading areas and drive-in queuing lanes.
- G. No driveway to an off-street parking area shall be located closer than 50 feet to the intersection of any two streets or within 20 feet of any side lot line, provided that sufficient distance will always remain for all required radii for said driveway. The distances from the driveway to the intersection shall be measured by extending the curb line of the intersecting street until it intersects the curb line, extending if necessary of the driveway in question.
- H. Driveways shall be designed to provide for the safe and efficient movement of traffic between the roadway and the site, to eliminate the potential for stacking of vehicles along the public right-of-way and to minimize interference with pedestrians and vehicles using the site and the public right-of-way.
- I. Stormwater drainage from a driveway shall be directed in such a manner as to not drain directly onto the road. Runoff shall be directed into infiltration areas whenever practicable.

X-11 Design standards for loading spaces.

- A. Required loading spaces shall be 12 feet by 35 feet, with a fourteen-foot height clearance. If tractor-trailer deliveries are expected, at least one loading space 12 feet by 55 feet shall be provided.
- B. All required loading areas shall be independent of required of required emergency access lanes, parking areas and drive-in queuing lanes.

X-12 Design standards for loading spaces.

- A. Required loading spaces shall be 12 feet by 35 feet, with a fourteen-foot height clearance. If tractor-trailer deliveries are expected, at least one loading space 12 feet by 55 feet shall be provided.
- B. All required loading areas shall be independent of required of required emergency access lanes, parking areas and drive-in queuing lanes.

Article XI. Sign Regulations

XI-1 Intent.

The intent of these provisions is to promote and protect the public health, safety and welfare by providing comprehensive time, place and manner restrictions on signage which shall include controls on size, height, quantity, location, spacing, shape, scale, proportions, lighting, motion, design and appearance. More specifically, the provisions of this article are intended to accomplish the following:

- A. Protect and enhance community appearance.
- B. Encourage signs and graphics to be designed so as to be functional and compatible with the aesthetic appearance of the building they are located on and the surrounding neighborhoods.
- C. Reduce the frequency and magnitude of hazards to motorists and pedestrians caused by sign obstructions and distractions.'
- D. Preserve and create more attractive business and residential environments.
- E. Conserve the value of buildings and properties and preserve existing neighborhood character.
- F. Preserve the rural night sky and the ability to enjoy the amenities of a dark rural environment.

XI-2 Definitions.

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

ABANDONED SIGN - A sign that is no longer in use and/or held in good maintenance.

ACCESSORY SIGN - A small sign typically intended to provide accessory information including but not limited to: directions, name plates, business listings, warnings such as 'no trespassing', indications such as 'private property', other commercial or non-commercial speech or similar information. This list is meant only to provide examples. Accessory signs shall not be regulated based on their content.

A-FRAME SIGN - A freestanding sign which is ordinarily in the shape of "A" or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure.

ATTENTION-GETTING DEVICE OR SIGN- Any flag, streamer, spinner, light, balloon, inflatable or air activated material or structure, reflective device, or similar device or ornamentation used for purposes of attracting attention for promotion.

AWNING and/or CANOPY -A roof-like protective cover over a door, entrance, window or outdoor service area that projects from the face of a structure and is constructed of durable materials, including but not limited to fabrics and/or plastics.

AWNING and/or CANOPY SIGN -Any sign that is a part of or attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area.

BANNER SIGN-Any sign of lightweight, flexible fabric or similar material that is mounted to poles, fences, stakes, or a building by a permanent frame or ropes, cables, cords, or other similar method.

FLAG - Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision or other entity.

FREESTANDING SIGN -A sign supported by one or more upright poles, columns or braces or a base placed in or otherwise embedded in the ground and not attached to any building or structure.

LOGO - Any picture, shape or drawing, with or without letters or words, used to identify a product, service, business or organization.

MOVABLE SIGN - A sign that is designed and constructed and installed to be permanent yet mobile and not to be permanently affixed to a buildings or other sign structure, or embedded in the ground. Moveable signs can be moved readily at any point in time, and are intended to be present and visible for daily use during business hours or for periods of time of longer than 60 days per year.

NONCONFORMING SIGN - Any sign that does not meet the requirements of this article.

PROJECTING SIGN - Any sign other than a wall sign that is attached to and projects from the wall or face of a building or structure but does not act as protective cover over a door, entrance, window or outdoor service area.

REFLECTIVE SURFACE - Any material or device which has the effect of intensifying reflected light, such as Scotchlite (trademark), Dayglo (trademark) or glass beads.

ROOF SIGN - A sign that is mounted upon the roof of a building.

SIGN - Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out-of-doors or on the exterior of any building or indoors as a window sign, displaying an advertisement, announcement, logo, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interest of any person or business or cause when such is placed in view of the general public.

SIGN AREA - The area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign, the areas shall be defined by projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines said sign.

SIGN PERMIT - No sign shall be hereafter erected, placed or maintained at any place in the Town of Dix except as provided by this article and only after a permit therefore has been obtained in compliance with the provisions of this article, unless stated otherwise.

TEMPORARY SIGN - A sign that is designed and constructed and installed such as to be not permanently affixed to a buildings or other sign structure, or embedded in the ground. Temporary signs can be moved readily at any point in time, and is present and visible for up to 60 days per year.

WALL SIGN - A sign attached to, painted to, carved in, or erected parallel to the outer face of a building and supported or attached throughout its length by such building.

WINDOW AREA- The total area of any single windowpane or series of windowpanes separated by mullions.

WINDOW SIGN - A sign painted or affixed on glass or other window material or located inside within four feet of the window, but not including graphics or structures in connection with customary window display of products.

XI-3 Nonconforming signs; applicability.

- A. Upon the adoption of this article, all nonconforming signs shall cease and desist at the time when there is any one or more of the following:
 - 1. A change in ownership unless within three years after the adoption of this Zoning Law, and that case, upon the third anniversary of the adoption of this Zoning Law.
 - 2. A change in the manner in which the sign is used.

3. Failure to maintain signs.
 4. Destruction or damage of said sign to the extent that 51% of its replacement cost as of the time of the destruction or damage.
 5. Creation of a hazard or disturbance to the health, safety and welfare of the general public as determined by the Code Enforcement Officer.
- B. For the purpose of these regulations, the term "sign" does not include:
1. Signs erected and maintained pursuant to and in discharge of any governmental function, including state or federal historic markers, or required by any law, ordinance or governmental regulation.
 2. Repainting, cleaning and other normal maintenance and repair of a sign or sign structure, unless a structural change is made or if the repair is in violation of the sign regulations.
 3. Memorial tablets or signs and locally designated historic markers not exceeding two square feet in area.
 4. Flags, emblems or insignias of the United States, the United Nations or similar organizations of which this nation is a member.
 5. Signs for the direction or convenience of the public, including signs which identify rest rooms or locations of public telephones or traffic control devices; however, the total area shall not exceed two square feet.

XI-4 General regulations.

Signs are important components of the streetscape. However, signs do more than communicate information. By the quality of their design, they can either contribute to or diminish the character or appearance of structures as a whole. They can serve as attractive accents, or they can clutter and detract from the street's character. The purpose of these general requirements is to promote the visual cohesiveness of the streetscape by encouraging signs to be harmonious with the architecture of each building and the character of the surrounding area.

- A. No sign shall be permitted in any zoning district except in compliance with the provisions of these regulations.
- B. No sign shall be erected, altered, moved or used without first obtaining a sign permit where required, and signs shall be used only for a permitted use, special use or for a nonconforming use which may lawfully continue in accordance with the terms of these regulations.
- C. All signs shall be marked as to the owner contact information, date of erection, and permit number as designated by the Code Enforcement Officer.
- D. The Planning Board, in reviewing sign permits subject as part of a site plan, special use permit, or subdivision review, or the Code Enforcement Officer in reviewing sign permits not subject to such review, shall consider the compatibility of the sign's location, color(s), lettering, size and overall design with onsite and adjacent architecture and community character.
- E. If any sign consists of attention getting devices such as posters, pennants, ribbons, streamers, spinners, balloons, searchlights and other similar moving, fluttering or revolving, reflecting, flashing, smoke-generating or visual signal generation or animated devices that creates an adverse impact on safe traffic movements or strings of lights used for the purpose of advertising, illumination or attracting attention, the Code Enforcement Officer will have the authority to have the offending sign or part thereof removed.
- F. Pictorial designs, logos and trademarks shall be permitted, provided that they are incorporated in and made a part of a permitted sign face, and the area thereof is included in calculating the total permitted sign face area allowed under these regulations.
- G. No application for approval of signs or for a sign permit shall be processed or permitted unless permission is granted from the property owner.
- H. No sign shall project across or over a property line or lease lien, nor be in a public right-of-way.
- I. All signs shall comply with applicable provisions of the State of New York Uniform Fire Prevention and Building Code.
- J. No sign shall be constructed of cloth, oilcloth, paper or other destructible material for display outside of any building, except for temporary signs, in which case said signs shall be permissible if properly mounted on a frame in a stationary manner.

- K. Maintenance of all signs:
 - 1. All signs and all components thereof, including supports, braces and anchors, shall be kept in a good state of repair.
 - 2. If the message portion of a sign is removed or a business or other activity is no longer operating, it shall be the property owner's responsibility to assure that the abandoned sign is promptly removed or properly covered to the satisfaction of the Code Enforcement Officer.
- L. No sign shall be erected or allowed to exist so as to constitute a traffic hazard. No sign or other advertising structure as regulated by any of the provisions of this section shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision; or at any location where, by reason of position shape or color, it may interfere with, obstruct the view or be confused with any authorized traffic sign, signal or device or makes use of word, phrases, symbols or character in such a manner as to interfere with, mislead or confuse traffic.
- M. Every principal building or structure shall have street identification numbers subject to the provision in the applicable Dix Building Numbering Law.
- N. Signs may be double faced.
- O. Prohibited signs. Signs containing sequin-studded letters are prohibited.
- P. Lighting. Illumination of any sign permitted or allowed within this chapter shall comply with the following requirements:
 - 1. Illumination of signs shall be accomplished by means of shielded light sources or in such other manner that no glare shall extend beyond the property lines of the property upon which such signs are located, and no glare shall disturb the vision of passing motorists or constitute a hazard to traffic.
 - 2. Illumination shall be, to every practicable extent, directed downwards towards the ground and shall not direct light above a 90 degree horizontal angle parallel to the ground.
 - 3. No flashing, rotating or moving light sources shall be permitted to constitute a part of any sign.
- Q. Portable Sign Regulations. Portable signs must be adequately constructed to withstand wind loads and may not pose any danger from unintentional movement into a right of way or non-intended property

XI-5 Permitted Zone for Signs

Table 4. Permitted Zones for Signs					
A - Allowed, No Permit required, but Must Conform to Sign Ordinance in Zoning Law					
P - Allowed, Must have Permit and Conform to Sign Ordinance in Zoning Law					
Blank - Not permitted					
	Low Density Rural	Medium Density Residential	Mixed Use	Business Park	Special Entertainment
Permanent and Semi-Permanent					
Freestanding	p	p	p	p	p
Wall	p		p	p	p
Projecting			p	p	p
Banners			p	p	p
Awning And Canopy			p	p	p
Roof			p	p	p
Window And Door	p	p	p	p	p
Moveable	p	p	p	p	p
Accessory	A	A	A	A	A
Temporary					
Temporary	A	A	A	A	A

XI-6 Sign Size and Location Requirements

Table 5. Sign Size & Location Requirements

	Maximum Area	Height	Setback	# per Property	Special
Permanent					
Freestanding	300 sq. ft.	Max: 35 ft. above the natural grade	10 feet from public Right of Ways	1	Minimum space between signs on one property to be 325 ft. Or one per property if frontage is less than 325 ft.
Wall	100 Sq. ft.	Max: No taller than the building the sign is placed upon	NA	1	
Projecting	12 Sq. ft.	Min: 8 ft. from the bottom of the sign to the ground or to where people will be walking or material or equipment will be moving under the sign. Max: No taller than the building the sign is placed upon	NA	1	Max: 2 ft. projection from building or wall on which it is mounted
Banners	30 Sq. ft.	Max: 20 ft. above the natural grade	10 feet from public Right of Ways	1	
Awning or Canopy	20 Sq. Ft.	NA	NA	1	
Roof	80 Sq. ft.	Max: No taller than the building the sign is placed upon	NA	1	For multilevel roofs: signs are permitted only on the lowest roof.
Window And Door	Maximum of 50% of window or door area maybe covered with signs	NA	NA	Maximum of 50% of window or door area maybe covered with signs	
Moveable	32 Sq. Ft.	Max: 4 ft. above natural grade	1) From public right of ways(non-pedestrian paths): Min 10 feet setback 2) On or near sidewalks and other pedestrian paths: Must not block or prohibit free flow of foot traffic or accessible entries or paths.	1	
Accessory	2 Sq. Ft.	Max: 8 ft. above natural grade	10 feet from public Right of Ways	3	

<i>Temporary</i>					
Temporary	6 Sq. Ft.	Max: 4 ft. above natural grade	10 feet from public Right of Ways	2	May be installed for up to 60 days.

XI-7 Application for permit; fees; issuance.

- A. Application for a sign permit. Application for the permit shall be made in writing to the Code Enforcement Officer upon forms prescribed by and provided by the Code Enforcement Officer and shall contain the following information:
 - 1. The name, address and telephone number of the applicant.
 - 2. Location of buildings, structures or land to which, or upon which, the sign is to be erected.
 - 3. A detailed drawing or blueprint showing a description of the construction details of the sign and showing the colors, lettering and/or pictorial matter composing the sign; position of lighting and other extraneous devices; and a location plan showing the position of the sign on any building or land and its positioning in relation to nearby buildings, structures or existing signs and to any private or public streets or highway or other right-of-way.
 - 4. Written consent of the owner of the building, structure or land to which or upon which the sign is to be erected in the event that the applicant is not the owner thereof.
 - 5. A copy of any required or necessary electrical permit issued for said sign or a copy of the application thereof.

- B. Fees.
 - 1. The fees to be paid to the Town of Dix for the erection of each sign and for each of the conforming signs now erected are listed on the schedule in the Town Clerk's Office.

- C. Issuance of permit.
 - 1. It shall be the duty of the Code Enforcement Officer, upon the filing of any application for a sign permit to erect a sign, to examine such plans, specifications and other plans submitted with the application and, if necessary, the building or premises upon which it is proposed to erect the sign or other advertising structures be erected. If it shall appear that the proposed sign is in compliance with all the requirements of this article and other laws and ordinances of Dix, the Code Enforcement Officer shall, upon payment of a fee in accordance with the fee schedule available at the office of the Code Enforcement Officer, issue an appropriate Sign Permit. If it shall appear that the proposed sign is not in compliance with this article or the laws and ordinances of Dix, the Code Enforcement Officer shall deny the Sign Permit.
 - 2. The Code Enforcement Officer or other designated local official shall issue a permit number for each sign, which shall be permanently attached to or displayed on each sign, billboard or structure so that it may readily be ascertained that a permit has been issued for each use.

XI-8 Variances. In the event a variance is required, the Board of Zoning Appeals is authorized to grant relief in conformance with Town Code§ 85-28 from the provisions of this chapter, with or without modification thereto, and may impose such reasonable conditions upon its grant of approval of any such relief as it deems appropriate, or may deny the application.

XI-9 Severability. If any clause, sentence, paragraph or section of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair or invalidate the remainder hereof, but such adjudication shall be confined in its operation to the clause, sentence, paragraph or section directly involved in the controversy in which judgment shall have been rendered.

Article XII. Telecommunications Facilities

XII-1 Intent.

The intent of these regulations is to promote the health, safety and general welfare of the residents of the Town of Dix. Specifically, these regulations are intended to:

- A. Provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations.
- B. Minimize the number of telecommunications towers in the community by encouraging shared use of existing and future towers and the use of existing tall buildings and other high structures.
- C. Minimize adverse visual effects from telecommunications facilities by requiring careful siting, visual assessment and appropriate screening.

XII-2 Definitions.

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

ANTENNA (E) - A system of electrical conductors that transmit or receive electronic frequency signal. Such signals shall include but not be limited to radio, television, cellular, paging and personal communication services (PCS).

ACCESSORY FACILITY - Any facility or structure serving or being used in conjunction with a telecommunications tower and located on the same lot as the telecommunications tower. Examples of such facilities include transmission equipment and storage sheds, buildings or cabinets.

TELECOMMUNICATIONS FACILITY - Telecommunications towers, antenna(s) and accessory facilities used in connection with the provision of radio, television, cellular telephone, PCS, paging and similar services.

TELECOMMUNICATIONS TOWER OR TOWER - A structure on which transmitting and/or receiving antenna(s) are located. It includes, without limit, freestanding towers, guyed towers, monopoles and other similar structures.

XII-3 Applicability.

- A. No telecommunication facility shall be used, erected, moved, reconstructed, changed or altered, except after approval of a special use permit, site plan, and in conformity with these regulations. No existing structures shall be modified to serve as a telecommunications facility unless in conformity with these regulations.
- B. These regulations shall apply to all zoning districts.
- C. Exemption to these regulations are limited to:
 1. New uses which are accessory to residential uses, such as satellite dishes and television antenna(s).
 2. Amateur radio operators as licensed by the federal communications commission {FCC}.
 3. Lawful or approved uses existing prior to the effective date of these regulations.
- D. Where these regulations conflict with other laws and regulations of the Town of Dix, the more restrictive shall apply, except for tower height restrictions, which are governed by these special use standards.

XII-4 General requirements.

- A. No special use permit or renewal thereof or modification of a current special use permit relating to a telecommunications facility shall be authorized by the Planning Board unless it finds that such telecommunications facility:
 - 1. Is located in the Low Density Rural Zone.
 - 2. Is necessary to meet the current or expected demand for service.
 - 3. Conforms with all applicable regulations promulgated by the federal Communications Commission (FCC), Federal Aviation Administration (FAA) and other federal agencies.
 - 4. Is considered a public utility in the State of New York.
 - 5. Is designed and constructed in a manner which minimizes visual impact to the extent practical.
 - 6. Is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility.
 - 7. When including the construction of a tower, such tower is designed to accommodate future shared use by at least one other telecommunication service provider on subsequent location of telecommunications equipment by other service providers on existing towers specifically designed for shared use shall not require a new or modified special use permit if there would be no increase in the height of the tower. However, the additional equipment will require site plan approval.
- B. A site plan, in conformance with Article XIV of this chapter. The site plan shall show elevations, height, width, depth, types of materials, color schemes and other relevant information for all existing and proposed structures, equipment, parking and other improvements. The site plan shall also include a description of the proposed telecommunications facility and such other information that the Planning Board requires.
- C. A completed environmental assessment form (EAF), including a visual EAF addendum, pursuant to State Environmental Quality Review Act (SEQRA). Particular attention shall be given to the visibility of the facility from key viewpoints identified in the visual EAF, existing tree lines and proposed elevations.
- D. A landscape plan delineating the existing trees or areas of existing trees to be preserved, the location and dimensions of proposed planting areas, including the size, type and number of trees and shrubs to be planted, curbs, fences, screening elevations of fences and material used.
- E. A safety analysis of the electromagnetic environment surrounding the proposed telecommunications facility must accompany any special use permit or site plan application, modification or renewal thereof. The safety analysis shall be prepared by a qualified electromagnetic engineering specialist or health professional qualified to produce such analysis. The safety analysis must demonstrate that the general public electromagnetic radiation exposure does not exceed the standards set by federal regulations.
- F. The governing board may, at the expense of the applicant, employ its own consulting assistance to review the findings and conclusions of the safety analysis, visual analysis or structural inspection provided by the applicant.

XII-5 Collocation.

- A. The shared use of existing telecommunications facilities or other structures shall be preferred to the construction of new facilities. Any special use permit application, renewal or modification thereof shall include proof that reasonable efforts have been made to collocate onto an existing telecommunications facility or upon an existing structure, such as a silo, water tank or emissions stack. The application shall include an adequate inventory report specifying existing telecommunication towers and structures exceeding 75% of the height of the proposed tower within the applicant's cell grid area. The inventory report shall contain an evaluation of opportunities for shared use as an alternative to the proposed location.
- B. The applicant must demonstrate that the proposed telecommunications facility cannot be accommodated on existing telecommunications facility sites in the inventory due to one of the following reasons:

1. The planned structures would exceed the structural capacity of existing and approved telecommunications facilities, or other structures, considering existing and planned uses for those facilities.
2. The planned equipment would cause radio frequency interference with other existing or planned equipment can be placed so it can function effectively and reasonably.
3. Existing or approved telecommunications facilities or structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably.
4. Other technical reasons make it impractical to place the equipment proposed by the applicant on existing facilities or structures.
5. The property owner or owner of the existing telecommunications facility or other structure refuses to allow such collocation.

XII-6 Lot standards.

- A. A lot leased or owned for the purpose of construction of a tower as part of a telecommunications facility shall not result in the creation of a nonconforming lot.
- B. All telecommunications facilities shall comply with the greater of the setback tower.
- C. The entire fall zone may not include public roads and must be located entirely within property either owned or leased by the applicant or for which the applicant has obtained an easement and may not contain any structure other than those associated with the telecommunications facility.

XII-7 Lighting, screening and aesthetics.

- A. Towers shall not be artificially lighted and marked beyond requirements of the Federal Aviation Administration (FAA). However, an applicant may be required to add FAA-style lighting and marking if, in the judgment of the Planning Board, such a requirement would be of direct benefit to public safety.
- B. The use of any portion of a telecommunications facility for signs, promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers or balloons is prohibited.
- C. The facility shall have the least practical visual effect on the environment, as determined by the Planning Board. Any tower that is not subject to FAA marking pursuant to Subsection A of this section shall:
 1. Have a galvanized finish or shall be painted gray above the surrounding tree line and gray or green below the tree line, as deemed appropriate by the Planning Board; or
 2. Be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the facility to perform its designed function.
- D. Accessory facilities shall maximize the use of building materials, colors and textures designed to blend in with the natural surroundings.
- E. In addition to a visual EAF addendum, the Planning Board may require visual and aesthetic information as it deems appropriate on a case-by-case basis. Such additional information may include, among other things, line-of-sight drawings and/or visual simulations.
- F. Proposed telecommunications facilities shall have appropriate vegetative screening around the tower base area and any accessory facilities to screen their view from neighboring residences, recreation areas or public roads. Such screening shall include the maximum feasible retention of existing vegetation. The Planning Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities or conservation or historic areas within common view of the public.

XII-8 Access and parking.

- A. Access ways shall make maximum use of existing public or private roads to the extent practical. New access ways constructed solely for telecommunications facilities must be at least 20 feet but no more than 30 feet wide and closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- B. The road surface (driveway) shall be centered within access ways and shall not comprise more than 60% of the width of the access way.
- C. Parking areas shall be sufficient to accommodate the greatest number of service vehicles expected on the premises at any one time.
- D. Driveways or parking areas shall provide adequate interior turnaround, such that service vehicles will not have to back out onto a public thoroughfare.
- E. Equipment or vehicles not used in direct support, renovation, additions or repair of any telecommunications facility shall not be stored or parked on the facility site.

XII-9 Security.

- A. Towers and accessory facilities shall be surrounded by a fence or wall at least eight feet in height of a reasonable design approved by the Planning Board, but with limited visual impact. Barbed wire is not to be used in residential areas or on public property unless specifically permitted by the Zoning Board of Appeals and/or by the Planning Board as part of Site Plan Review and special use approval.
- B. Motion-activated or staff-activated security lighting around the base of a tower or accessory facilities may be provided if such lighting does not project off the site. Such lighting should only occur when the area within the fenced perimeter has been entered.
- C. There shall be no permanent climbing pegs within 30 feet of the ground of any tower.
- D. A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right-of-way.

XII-10 Engineering and maintenance.

- A. All telecommunications facilities shall be built, operated and maintained to acceptable industry standards, including but not limited to the most recent applicable standards of the Institute of Electronic and Electrical Engineers (IEEE) and the American National Standards Institute (ANSI).
- B. All telecommunications facilities shall be inspected at least every fifth year for structural integrity by a New York State licensed professional engineer. A copy of the inspection report shall be submitted to the Code Enforcement Officer.

XII-11 Removal.

- A. The applicant shall submit an agreement, in writing, to remove all towers, antenna(s), accessory facilities, etc., if such facilities become technically obsolete or cease to be used for its originally intended purpose for more than 12 consecutive months. Upon removal of said facilities, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soil.
- B. The applicant must submit an analysis, certified by a New York State licensed professional engineer, of the cost of removal of the telecommunications facility and surrounding property restorations.
- C. Prior to obtaining a building permit, the applicant must provide a financial security bond for the removal of the telecommunications facility, with Dix as the designated assignee, in an amount approved by the Planning Board, but not less than \$100,000.

Article XIII. Subdivision of Land

XIII-1 Authority for plat approval; compliance with policy.

- A. By the authority of the resolution of the Town Board of the Town of Dix, the Planning Board of the Town of Dix is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the County and to approve preliminary plats within the Town of Dix.
- B. Purpose and Intent. It is the policy of the Planning Board to consider land subdivisions plats as part of a plan for the orderly, efficient and economical development of the Town of Dix. This means, among other things that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace and that proper provisions shall be made for drainage, water supply, sewerage and other needed improvements.
- C. All proposed lots shall be laid out and of such a size so as to be in harmony with the development pattern of neighboring properties so that the proposed streets shall compose a convenient system conforming to the Official Zoning Map, and shall be properly related to the proposals shown on the Comprehensive Plan, and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of firefighting equipment to buildings, and so that proper provision shall be made for open spaces for parks and playgrounds or for natural resource protection.
- D. All proposed lots and infrastructure shall be laid out so as to be in harmony with natural features, such as streams, wetlands, floodplains, and steep slopes. Proposed lots shall have potential building sites outside of these environmentally sensitive areas, in conformance with Town of Dix requirements for stream setbacks, steep slopes, and buffers. Proposed infrastructure shall be free from flood damage and shall not aggravate flooding.
- E. In order that land subdivisions may be made in accordance with this policy, these regulations shall be known as the "Dix Land Subdivision Regulations."
- F. As the authority responsible for the review, approval, or disapproval of land subdivision applications, and for the implementation and administration of this Article, the Planning Board may, at its discretion in appropriate cases, waive, when reasonable, any requirements or improvements contained in this Article or in NYS Town Law § 277. Any such waiver, which may be made subject to appropriate conditions, shall be exercised, only, in the event any such requirements or improvements are found not to be requisite in the interest of the public health, safety, and general welfare, or are found to be inappropriate because of inadequacy or lack of connecting facilities adjacent to the proposed subdivision. Whenever the Planning Board shall waive any such requirement or improvement, it shall state its reasons, on the record, for doing so.

XIII-2 Definitions.

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

COLLECTOR STREET - A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

DEAD-END STREET or CUL-DE-SAC - A street or portion of a street with only one vehicular traffic outlet.

DRAINAGE RIGHT-OF-WAY - The lands required for the installation of storm water sewers or drainage ditches or field tile or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

ENGINEER or LICENSED PROFESSIONAL ENGINEER - A person licensed as a professional engineer

by the State of New York.

GOVERNING BOARD - The Town Board.

LOT LINE ADJUSTMENT - A process where a lot line is moved or altered between adjacent parcels of land, which are or are not developed, but are "fully conforming" to the zoning and subdivision laws both before and after the adjustment.

MAJOR STREET - A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic-generating areas.

MAJOR SUBDIVISION - Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of six or more lots or any sized subdivision requiring any new street or extension of municipal facilities.

MINOR STREET - A street intended to serve primary access to abutting properties.

MINOR SUBDIVISION - Any subdivision which contains not more than five lots fronting on an existing street: does not include any new street or road; does not require the extension of municipal facilities: does not adversely affect adjacent properties: and is not in conflict with any provision of the Comprehensive Plan and Official Zoning Map of the Town of Dix, or these regulations.

MUNICIPAL ENGINEER - The duly designated engineer of the Town of Dix or a position assigned with similar duties.

PLAT, SUBDIVISION PLAT or FINAL PLAT - A drawing, in final form, showing a proposed subdivision, containing all information or detail required by law and by these regulations to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk.

PRELIMINARY PLAT - A drawing or drawings, clearly marked "preliminary plat," showing the significant features of a proposed subdivision, as specified in Article XIII-5 of this chapter, submitted to the Planning Board for the purposes of consideration prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

RESUBDIVISION - Revision of all or part of an existing filed plat.

STREET PAVEMENT - The wearing or exposed surface of the roadway used by vehicular traffic.

STREET WIDTH - The width of the right-of-way, measured at right angles to the centerline of the street.

SUBDIVIDER - Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof as defined herein, either personally or on behalf of ownership, lease or building development, and shall include resubdivision.

SUBDIVISION - The legal division of any tract of land into two or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future, of transfer of ownership, lease or building development, and shall include resubdivision.

SURVEYOR - A person licensed as a land surveyor by the State of New York.

UNDEVELOPED PLATS - Those plats existing at the time of the enactment of this chapter that have been filed in the office of the County Clerk, where 20% or more of the lots within the plat are unimproved.

XIII-3 Applicability.

- A. Whenever any subdivision or resubdivision of land is proposed and before any contract for the sale of or any offer to sell any lots in such subdivision or any part thereof is made and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or a duly authorized agent shall apply, in writing, for approval of such proposed subdivision in accordance with the following procedures.
- B. The subdivider or his duly authorized representative shall attend a regular monthly meeting of the Planning Board to discuss the requirements of this regulation and/or to submit a sketch layout.
- C. Coordination with the State Environmental Quality Review Act (SEQR). The Planning Board shall comply with the provisions of the NY State Environmental Quality Review Act under article eight of the Environmental Conservation Law and its implementing regulations

XIII-4 Procedures for Lot Line Adjustments.

- A. Requirements.
 - 1. A lot line adjustment meeting the definition in this article shall not be considered a subdivision.
 - 2. If a proposed alteration of lot lines or dimensions does not meet the definition of "lot line alteration", it shall be subject to subdivision review and determination.
 - 3. In no case shall a lot line adjustment result in more lots than the original number.
 - 4. No lot line change shall create any nonconforming lots or make existing lots more nonconforming.
 - 5. A lot line adjustment should result in lots that are generally better configured than the original and/or solve property line questions.
 - 6. A lot line adjustment shall not result in any detrimental effects to water quality, drainage, traffic, or natural resources.
- B. Administration. A lot line change must be processed by the Planning Board.
- C. Submission Requirements. The submission requirements of a lot line adjustment will be the same as those required for a minor subdivision, except only one (1) copy shall be required.
- D. Public hearing. A public hearing for a lot line adjustment will not normally be required; however, if the Planning Board has reason to believe that a public hearing on the application is needed, such a public hearing may be scheduled. Notice shall be given in the manner specified in this chapter for public hearings on subdivisions.

XIII - 5 Pre-application sketch plan conference.

Prior to the application for approval of a subdivision plat for either a major or minor subdivision, the subdivider is encouraged to have a sketch plan conference with the Planning Board. The purpose of the sketch plan conference shall be to present to the Planning Board, for initial review, discussion and comment, a design concept or plan for the development of a parcel or parcels within the Town of Dix. During the conference, the applicant and the Planning Board shall review and discuss the basic subdivision design concept and generally determine the information to be required and provided on the sketch subdivision plat.

- A. Sketch plan submission requirements. Prior to submitting an application for approval of a subdivision plat, for either a major or a minor subdivision, the subdivider may submit a sketch plan for informal review by the Planning Board. The sketch plan shall contain the following information:
 - 1. The general location of the site with respect to existing or proposed streets and rights-of-way, permanent open space, as well as buildings and other facilities.
 - 2. Specific identification of all properties, subdivisions, streets and easements within 200 feet of the parcel.
 - 3. General identification of all existing utilities in the area.

4. Identification of internal streets or traffic circulation pattern, if any, of the proposed development, including pedestrian ways.
 5. The location of all existing and proposed structures on the site, and designated uses for each.
 6. Identification of existing zoning classification(s) of the property and all adjacent properties, and any restrictions on land use of the site.
 7. Identification of existing natural features on the site or within 200 feet of the site or at the discretion of the Planning Board. Natural features shall include, but are not limited to, natural forests, steep slopes, special flood hazard areas, scenic views, drainage ways, stream corridors, wetlands and other features that are subject to state or federal regulations or that may restrict development.
 8. A map of site topography with contour lines not less than 2 feet nor more than 10 feet or at the discretion of the Planning Board. If general site grades exceed 5% or portions of the site are susceptible to erosion, flooding or ponding, a soils overlay and topographic map showing contour intervals greater than 2 feet but not more than 10 feet of elevation may be required.
- B. The Planning Board shall determine whether the sketch plan meets the purposes of this article. The Planning Board shall also determine whether the proposed subdivision is a minor subdivision or a major subdivision for the purposes of this article. The Planning Board shall inform the subdivider of the necessary action to take in meeting the requirements of this article.

XIII-6 Procedures for review of major and minor subdivision plats.

- A. Application.
1. Prior to subdividing land in the Town of Dix, the subdivider shall submit an application for approval of a subdivision plat to the Code Enforcement Officer.
 2. The Planning Board shall determine whether the proposed subdivision is a major or minor subdivision for the purposes of this chapter.
 3. If the proposed subdivision is determined to be a minor subdivision, the subdivider shall submit a final plat for a minor subdivision in conformance with the requirements of NYS Real Property Law Article 334, and NYS Town Law Article 276 and 277, and proceed in accordance with the provisions of Article XIII-7 of this Law.
 4. If the proposed subdivision is determined to be a major subdivision, the subdivider shall, prior to a filing a final plat for a major subdivision, submit a preliminary plat for a major subdivision, and proceed in accordance with the provisions of Article XIII-7 of this Law.
- B. Number of copies. The subdivider shall submit a minimum of two copies and an electronic version of the plat unless otherwise specified by the Planning Board.
- C. Study proposed subdivision. The Planning Board shall study the practicability of the proposed subdivision, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to water supply, sewage disposal, flood hazards, stream corridors, drainage, natural resources, lot sizes and arrangements, the future development of the adjoining lands as yet unsubdivided and the requirements of the Comprehensive Plan, and the Official Zoning Map and regulations. Where applicable, the Planning Board shall also consider the arrangement, location and width of streets and driveways or access road as well as other circulation elements with regard to their relation to the topography of the land, safety and efficiency, and the adequacy of municipal facilities proposed to serve the subdivision. Planning board review of subdivision plats shall also comply with SEQRA.
- D. Public hearing. A public hearing shall be held by the Planning board within 62 days from the submission of a complete subdivision plat for approval or within 62 days after the filing of the notice of completion of a draft environmental impact statement, if required. Said hearing shall be advertised at least once in a newspaper of general circulation at least five days before such hearing or 14 days prior if a joint hearing under the SEQRA.

XIII-7 Final minor subdivision plat approval.

- A. Applications for plat approval for minor subdivisions shall be accompanied by a fee established by resolution of the Town Board.
- B. All applications for final minor subdivision plat approval shall be made in writing. Final plats for minor subdivision must be prepared in accordance with the requirements of the NYS Real Property Law § 334, and NYS Town Law §§ 276 and 277. Other maps, drawings and materials submitted in support of final minor subdivision plat approval shall be prepared as determined by the Planning Board to be reasonable and appropriate under the circumstances. In its determination of the manner and quality of such supporting maps, drawings and materials, the Planning Board may require preparation and certification of any or all of such supporting documents by a licensed engineer, architect, landscape architect, or surveyor.
- C. The subdivider shall submit two copies and an electronic version of the minor subdivision plat together with supporting documentation, clearly indicating the following:
 - 1. A location map, showing that portion which is to be subdivided in relation to the entire tract and the distance to the nearest existing street intersection. The location map may be drawn to a smaller scale than the subdivision plat itself.
 - 2. The name and address of the owner(s) of the land to be subdivided and the subdivider and the names of all adjoining property owners as disclosed by the most recent municipal tax records.
 - 3. The Tax Map sheet, block and lot numbers.
 - 4. Within 500 feet of the property, all the utilities available and all streets which are proposed, mapped or built.
 - 5. The proposed pattern of lots, including lot width, depth and area, within the subdivided area.
 - 6. All existing restrictions on the use of land, including easements and covenants.
 - 7. The location of any wells and septic systems within 100 feet of any property boundary.
 - 8. Boundaries and designation of any flood hazard zones located on the property.
 - 9. The zoning district, including exact boundary lines of the zone, if more than one zone, and any proposed changes in the zoning district lines and/or the text of this Chapter, Zoning, applicable to the area to be subdivided.
 - 10. The location of existing property lines, easements, structures and natural features within 200 feet of the proposed subdivision or at the discretion of the Code Enforcement Officer. Natural features shall include, but are not limited to, natural forests, steep slopes, special flood hazard areas, scenic views, drainage ways, stream corridors, wetlands and other features that are subject to state or federal regulations or that may restrict development.
 - 11. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearing and distances, made and certified by a licensed land surveyor.
 - 12. All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the State Department of Health, and a note to this effect shall be stated on the plat.
 - 13. The proposed subdivision name and the names of the municipality and county in which it is located.
 - 14. The date, North point, map scale, name and address of the record owner and subdivider.
 - 15. The plat to be filed with the County Clerk shall be printed and produced in accordance with the standards established by the County Clerk.
- D. The following documents shall also be submitted:
 - 1. All forms and information necessary for compliance with New York State Environmental Quality Review Act (SEQRA).
 - 2. An agricultural data statement if the proposed subdivision is in or within 500 feet of a farm operation in a county agricultural district.
 - 3. Result of soil percolation and groundwater availability tests if deemed necessary by the Planning Board.

- E. Action on final plat for minor subdivision. The Planning board shall, within 62 days from the date of the public hearing approve, approve with modifications, conditionally approve, disapprove and authorize the signing of the final plat. Grounds for disapproval shall be stated in the records of the Planning Board. Such plat shall not be approved unless previously signed by all other applicable municipal and/or utility officials.

XIII-8 Preliminary major subdivision plat approval.

- A. Applications for plat approval for major subdivisions shall be accompanied by a fee established by resolution of the Town Board.
- B. All applications for preliminary major subdivision plat approval shall be made in writing. The preliminary plat for a major subdivision and any maps, drawings, and materials submitted in support shall be sufficient to address and conform to the expectations set forth in Article XIII-8.C. of this Law. To the extent the preliminary plat as considered by the Planning Board is in substantial agreement with the final plat for major subdivision including the adherence to the requirements and standards contained in NYS Real Property Law Article 334, and NYS Town Law Articles 276 and 277, a (second) public hearing on the final plat for major subdivision shall not be required.
- C. The subdivider shall submit two copies and an electronic version of the major subdivision plat together with supporting documentation, clearly indicating the following:
 - 1. A location map, showing that portion which is to be subdivided in relation to the entire tract and the distance to the nearest existing street intersection. The location map may be drawn to a smaller scale than the subdivision plat itself.
 - 2. The name and address of the owner of the land to be subdivided and the subdivider and the names of all adjoining property owners as disclosed by the most recent municipal tax records.
 - 3. The Tax Map sheet, block and lot numbers.
 - 4. Within 500 feet of the property, all the utilities available and all streets which are either proposed, mapped or built.
 - 5. The proposed pattern of lots, including lot width, depth and area, within the subdivided area.
 - 6. All existing restrictions on the use of land, including easements and covenants.
 - 7. The location of any wells and septic systems within 100 feet of any property boundary.
 - 8. Boundaries and designation of any flood hazard zones located on the property.
 - 9. The zoning district, including exact boundary lines of the zone, if more than one zone, and any proposed changes in the zoning district lines and/or the text of this chapter, Zoning, applicable to the area to be subdivided.
 - 10. The location of existing property lines, easements, structures and natural features within 200 feet of the proposed subdivision or at the discretion of the Code Enforcement Officer. Natural features shall include but are not limited to natural forests, steep slopes, special flood hazard areas, scenic views, drainage ways, stream corridors, wetlands and other features that are subject to state or federal regulations or that may restrict development.
 - 11. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments as approved by the Municipal Engineer and shall be referenced and shown on the plat.
 - 12. All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the State Department of Health and all other applicable public utilities, and a note to this effect shall be stated on the plat.
 - 13. The proposed subdivision name and the names of the municipality and county in which it is located.
 - 14. The date, North point, map scale, name and address of the record owner and subdivider.
 - 15. The plat to be filed with the County Clerk shall be printed and produced in accordance with the standards established by the County Clerk.

16. All parcels of land proposed to be dedicated to public use and the conditions of such dedication, including maintenance easements.
 17. The location of existing and proposed sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction off low.
 18. Contours with intervals of two feet or less as required by the board, including elevations on existing roads and the approximate grading plan if natural contours are to be changed more than two feet.
 19. Location of proposed permanent open space.
- D. Applications involving improvements intended for public dedication shall include plan and detail sheets for the required improvements. The form and design criteria and construction specifications of the relevant municipality and other public utility agencies.
1. The width and location of any streets or public ways or places shown on the Official Zoning Map or the Comprehensive Plan, within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the subdivider.
 2. The approximate location and size of all proposed waterlines, valves, hydrants and sewer lines; connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the New York State Public Health Law; and profiles of all proposed water- and sewer lines.
 3. A storm-drainage plan indicating the methodology used, the quantity of storm water projected, the approximate location and size of proposed lines, and their profiles and connection to existing lines or alternate means of disposal.
 4. Plans and cross section showing the proposed location and type of sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains and the size and type thereof; the character, width and depth of pavements and subbase; and the location of manholes, basins and underground conduits.
 5. Preliminary designs of any bridges or culverts which may be required.
 6. Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the preliminary plat shall show the boundaries of proposed permanent easements over or under private property, which permanent easement shall not be less than 20 feet in width and shall provide satisfactory access to an existing public highway or public open space shown on the subdivision plat or the Official Zoning Map.
- E. The following documents shall be submitted for approval:
1. All forms and information necessary for compliance with New York State Quality Review Act (SEQRA).
 2. An agricultural data statement if the proposed subdivision is within 500 feet of a farm operation in a county agricultural district.
 3. Records of soil percolation tests and ground water availability, demonstrating that any proposed on-site water supply and sewage disposal systems are feasible for the lot sizes and density of the proposed subdivision.
 4. If the application covers only part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than 400 feet to the inch, showing an outline of the platted area with its proposed streets and indication of the probable future street system with its grades and drainage in the remaining portion of the tract, shall be considered in light of the entire holdings.
 5. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract shall be provided.
- F. Action on preliminary plat for major subdivision. Within 62 days after the date of the public hearing, the Planning Board shall approve, with or without modifications, or disapprove such preliminary plat. The grounds of a modification, if any, as it deems necessary for submission of the plat in final form. A copy of the resolution, including any conditions or modifications necessary for final plat approval shall also be mailed to the subdivider or duly authorized agent.

XIII-9 Final major subdivision plat approval.

- A. Application and fee.
 - 1. Within six months of the approval of the preliminary plat, the subdivider shall file with the Planning board an application for approval of the subdivision plat in final form.
 - 2. All applications shall be accompanied by a fee established by resolution of the governing board.
 - 3. If the final plat is not submitted within six months of the approval of the preliminary plat, the Planning Board may revoke the approval of the preliminary plat.
- B. Number of copies. The subdivider shall submit to the Planning Board a copy of the application and two copies of the plat, an electronic version, plus the original and one true copy of all offers of cession, covenants and agreements and two prints of all construction drawings. These documents shall be submitted at least 10 days prior to the regularly scheduled meeting of the Planning Board.
- C. Endorsement of state and county agencies. Applications for approval of plans for sewer and water facilities will be filed by the subdivider with all the necessary village, town, county and state agencies. Endorsement and approval by the Schuyler County Department of Health shall be secured by the subdivider before official submission of the final subdivision plat.
- D. The following documents shall be submitted for approval: The plat to be filed with the County Clerk shall be printed and produced in accordance with the requirements of NYS Real Property Law Article 334, and NYS Town Law Articles 276 and 277, and the standards established by the County Clerk. The plat shall be drawn oriented with the North point at the top of the map. When more than one sheet of the same size shall be filed, an index sheet of the same sized shall be filed, showing to scale the entire subdivision with lot and block numbers clearly legible. The plat will show:
 - 1. The proposed subdivision name or identifying title and the name of the municipality and county in which the subdivision is located, the name and address of the record owner and subdivider and the name, license number and seal of the licensed land surveyor.
 - 2. Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
 - 3. Sufficient data acceptable to the Municipal Engineer to determine readily the location, bearing and length of every street line, lot line and boundary line and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the state system of plane coordinates and, in any event, should be tied to reference points previously established by a public authority.
 - 4. The plat shall also clearly label those public open spaces which are to be dedicated to the municipality and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the subdivision plat copies of agreement or the provisions for such maintenance.
 - 5. All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Municipal Attorney as to their legal sufficiency.
 - 6. Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing municipal practice.
 - 7. Permanent reference monuments shall be shown and shall be constructed in accordance with specifications of the Municipal Engineer.
 - 8. All lot corner markers shall be permanently located satisfactorily to the Municipal Engineer and shall be at least 5/8 inch (if metal) in diameter and at least 24 inches in length and located in the ground at existing grade.
 - 9. Monuments of a type approved by the Municipal Engineer shall be set at all corners and angle points of the boundaries of the original tract to be subdivided and at all street intersections, angle points in street intersections, angle points in street lines, points of curves and such intermediate points as shall be required by the Municipal Engineer.
 - 10. Street names must be indicated on the plat and shall have been approved by the Schuyler County Director of Emergency Management Services to ensure that they do not duplicate nor resemble phonetically existing street names within the emergency service area.

- E. Construction drawings, including plans, profiles and typical cross section, as required, showing the proposed location, size and type of streets, sidewalks, street lighting standards, street trees, cubs, water mains, sanitary sewers and storm drains, facilities, shall be submitted as part of the plat.
- F. Public hearing. If a final plat, as submitted, is not in substantial agreement with the approved preliminary plat, the plat shall be subject to a public hearing as required by Town Law 276.
- G. Action on proposed subdivision plat. The Planning Board shall, by resolution, grant final approval, conditionally approve with or without modifications, or disapprove the subdivision plat. The action shall be taken within 62 days of its receipt by the Clerk of the Planning Board if no hearing is required to be held or, in the event a hearing is held, within 62 days after the date of such hearing or within such other time specified by state, town or village law. If the subdivision is conditionally approved, the Secretary of the Planning Board shall, when completed, authorize the signing of the final plat. Signing of the final plat for recording also requires the completion of required improvements or posting of an irrevocable letter of credit as outlined in Article XIII-10.

XIII-10 Required improvements.

- A. Improvements and letter of credit. Before the Planning Board grants final approval of the final plat for a major subdivision, the subdivider shall follow the procedure set forth in the following sections:
 - 1. Letter of credit. A letter of credit shall be submitted for construction and improvements and shall be approved as to form by the Municipal Attorney and as to amount by the Municipal Engineer. The member of the Planning Board designated to sign plats shall not sign a plat until a letter of credit, if required, has been received by the Code Enforcement Officer and approved by the Town Board.
 - 2. Installation of required improvements. The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Municipal Engineer and a map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements prior to endorsement of the plat by the appropriate Planning Board officer. However, if the subdivider elects to provide a bond or certified check for all required improvements as specified in Subsection A(1), such bond shall not be released until such map is submitted.
- B. Modification of design improvements. If, at any time before or during the construction of the required improvements, if it is demonstrated to the satisfaction of the Municipal Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the subdivider shall submit the proposed modifications in a form acceptable to the Municipal Engineer. The Municipal Engineer may approve, upon agreement by the previously delegated member of the Planning Board, that the proposed modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Planning Board. The Municipal Engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regularly scheduled meeting.
- C. Inspection of improvements. At least five days prior to commencing construction of required improvements, the subdivider shall notify the Code Enforcement Officer, in writing, of the proposed construction schedule. It is the applicant's responsibility to schedule and coordinate required inspections and to assure that all specifications and requirements are met and to assure the satisfactory completion of improvements and utilities required by the Planning Board.
- D. Proper installation of improvements. If the Municipal Engineer or Code Enforcement Officer shall find, upon inspection of the improvements performed before the expiration date of the letter of credit, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he/she shall so report to the governing board, Code Enforcement Officer and Planning Board. The governing board shall then notify the subdivider and, if necessary, take all necessary steps to preserve the municipality's right under the letter of

credit. No plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.

XIII-11 Filing of approved subdivision plats.

- A. Final approval and filing. Upon completion of the requirements in Article XIII-7 and Article XIII-9 above and notation to that effect upon the subdivision plat, it shall be deemed to have final approval and shall be properly signed by the appropriate officer of the Planning Board (Chairperson or Acting Chairperson) and shall be filed by the applicant in the office of the County Clerk. Any subdivision not so filed or recorded within 62 days of the date upon which such plat is approved shall become null and void.
- B. Plat void if revised after approval. No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless said plat is first resubmitted to the Planning Board and such Board approves any modifications. In the event that any such subdivision plat is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

XIII-12 Acceptance of public streets and recreation areas.

- A. Public acceptance of streets. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the Town of Dix of any street, easement or other open space shown on such subdivision plat.
- B. Ownership and maintenance of recreation areas. When a park, playground or other recreation area shall have been shown on a plat, the approval of said plat, shall not constitute an acceptance by the Town of Dix of such area. The Planning board shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the governing board covering future deed and title dedication and provisions for the cost of grading, development and equipment of any such recreation area.

XIII-13 Variances and waivers.

- A. Application for an Area Variance. Notwithstanding any provision of law to the contrary, where a plat contains one or more lots which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an Area Variance pursuant to 267-b of the New York State Town Law, without the necessity of a decision or determination of the Code Enforcement Officer. In reviewing such application, the Zoning Board of Appeals shall request the Planning Board to provide a written recommendation concerning the proposed variance.
- B. Waiver of requirements. The Planning Board may waive, when reasonable, any requirements of improvements for the approval, approval with modifications or disapproval of subdivisions submitted for its approval. Any such waiver, shall depend upon whether the improvements are found not to be requisite in the interest of the public health, safety and general welfare or inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

Article XIV. Special Use Permit

XIV-1 Intent.

The purpose of Special Use Permit is to implement the recommendations of the Comprehensive Plan of the Town of Dix. The objective is to evaluate various land uses that may cause a conflict between existing and proposed uses or be in conflict with natural site conditions and thereby minimize the potential adverse effects concerning health, safety, and overall welfare of the residents of the community.

XIV - 2 Authorization.

- A. The power to approve, approve with conditions or modifications, or deny site plans for special use permits as required by this Ordinance is vested in the Planning Board. Prior to issuing a building permit for the construction of any development determined to be a special use, a site plan and supporting documentation shall be submitted to the Planning Board for its review and approval.
- B. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed use requiring a special use permit and approval of a site plan. Upon the Planning Board's issuance of a special use permit and approval of a site plan, any such conditions must be met in connection with the issuance of permits and certificate of occupancy by the Code Enforcement Officer.
- C. The Planning Board may require that the site plans be prepared by a licensed architect or engineer. Such requirement shall be based on the complexity of the site features and of the proposed structure(s) or land use as related to same.

XIV-3 Sketch Plan Conference

- A. Applicants are encouraged to meet with the Planning Board to review the basic site design concept and determine the information to be required on the preliminary site plan. The purpose of the sketch plan conference is to discuss with the applicant the project's conformity with the Dix Comprehensive Plan, to determine whether the activity is subject to the performance standards of Article VII-26, and to advise the applicant of other issues or concerns. The sketch plan conference provides an opportunity to indicate whether the proposal, in its major features, is acceptable or whether it should be modified before expenditures for more detail plans are made.
- B. Developers of land adjoining state or county highways are advised to consult with the District Engineer of the New York State Department of Transportation or County Highway Superintendent at the concept layout stage in order to resolve problems of street openings or storm water drainage at the earliest possible stage in the design process. The Planning Board shall provide comments on the concept plan of a proposed development in relation to the applicable requirements of this Article, existing or potential development of the adjacent area, the Town Comprehensive Plan, and in the course of its review may consult with other interested public agencies.
- C. Required data. Information to be included on the sketch plan is as follows:
 - 1. An area map showing the parcel under consideration for a Special Use Permit, all adjacent parcels owned by the applicant, and all parcels, structures, subdivisions, streets, driveways, easements and permanent open space within 200 feet of the boundaries thereof or at the discretion of the Planning Board.
 - 2. A map of site topography at no more than five-foot contour intervals or at the discretion of the Planning Board. If general site grades exceed 15% or if portions of the site have susceptibility to erosion, flooding or ponding, a soils overlay and topographic map showing contour intervals of not more than two feet of elevation should also be provided.
 - 3. General identification of all existing natural features and utilities on the site and in the area. Natural features shall include, but are not limited to, natural forests, steep slopes, special flood hazard areas, scenic views, drainage ways, stream corridors, wetlands and other features that are subject to state or federal regulations or that may restrict development.

4. Identification of classification(s) of the property and all adjacent properties such as:
 - a. Zoning districts
 - b. Certified agricultural districts
 - c. School districts
5. Any restrictions on land use of the site.
6. Special improvement districts (such as water, sewer, light, fire).
7. Easements.
8. The location of all existing and proposed man-made structures on the site and designated uses for each.

XIV - 4 Preliminary Site Plan Application

- A. Application for preliminary site plan approval. An application for preliminary site plan approval shall be made in writing to the Planning Board and shall be accompanied by information drawn from the following checklist, as determined necessary by the Planning Board at the sketch plan conference. All site plan information and building designs shall be prepared by a licensed architect or engineer.
- B. Preliminary site plan checklist. The preliminary site plan shall include, or specify if not applicable, the following:
 1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
 2. North arrow, graphic scale and date.
 3. Boundaries of the property, plotted to scale.
 4. The location of existing property lines, easements, structures, streets, driveways and natural features within 200 feet of the proposed site or at the discretion of the discretion of the Planning Board. Natural features shall include, but are not limited to, natural forests, steep slopes, special flood hazard areas, scenic views, drainage ways, stream corridors, wetlands and other features that are subject to other state or federal regulations or that may restrict development.
 5. Grading and drainage plan, showing existing and proposed contours. The drainage plan shall also clearly explain the methodology used to project storm water quantities and the resultant peak flow conditions.
 6. Location, proposed use, hours of operation and height of all buildings. Summary of the amount of square footage devoted to each use requiring off-street parking or loading.
 7. Number, location, design and construction materials of all parking and loading area, showing access and egress. Location of reserved parking areas as required by the off-street parking regulations of Article X, Article X-7.
 8. Provision for pedestrian access.
 9. Size, type, location and screening of all facilities used for recycling and disposal of solid waste.
 10. Location, dimensions and vehicle capacity of drive-in facilities and related queuing lanes.
 11. Building elevation(s) showing building massing, window and door spacing and treatments and other architectural features; and indication of building materials suitable to evaluate architectural compatibility.
 12. Location, purpose and holder of all proposed easements or dedications for utilities, recreation, conservation or other purpose.
 13. Location, size, screening and type of material for any proposed outdoor storage.
 14. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
 15. Description of the type and quantity of sewage expected, the method of sewage disposal and the location, design and construction materials of such facilities.
 16. Description of the type and quantity of water supply needed, the method of securing

- water supply, and the location, design and construction materials of such facilities.
17. Location of fire and other emergency zones, including the location of fire hydrants.
 18. Location, design and construction material of all energy-distribution facilities, including electrical, gas and wind power and solar energy and other public utility facilities, such as cable or phone service.
 19. Location, size design and construction materials of all proposed signs.
 20. Location of proposed buffer areas, including existing vegetative cover.
 21. Location, type, height, brightness and control of outdoor lighting facilities.
 22. Size, location and use of recreation areas for multifamily dwellings as required by Article VII-19.
 23. Identification of permanent open space or other amenity provided in conjunction with cluster or incentive zoning provisions.
 24. A table summarizing each building footprint, total size in square feet and number of stories; the number of dwelling units and the amount of square feet devoted to each use type; size, in square feet or acres, of access, parking and circulation areas and the number of loading, queuing and parking spaces; size in square feet of landscaped and natural open space; and size in square feet and text of all signs.
 25. A landscaping plan and planting schedule in accordance with Article IX.
 26. Other elements integral to the proposed development as considered necessary by the Planning Board, to include showing railroads or any other type of transportation facilities not specified.
 27. All forms and information pursuant to New York State Environmental Quality Review Act (SEQRA).
 28. An agricultural data statement if the proposed use is located on or within 500 feet of a farm operation in a county agricultural district.
- C. For all construction activities involving soil disturbances of one or more acres, the New York State Department of Environmental Conservation (NYSDEC) requires that the owner prepare a Stormwater Pollution Prevention Plan (SWPPP) and obtain a SPDES permit for stormwater discharges. A copy of the SWPPP shall be provided to the Town prior to plan approval. Required fee. The fee will be established by the governing board and paid when the application is made.

XIV-5 Planning Board review of preliminary site plan.

The Planning Board's review and approval of a preliminary site plan shall include, as appropriate, but is not limited to, the following:

- A. General considerations as to:
 1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls for parking, loading and drive-in facilities. Conformance with access management standards, including but not limited to driveway spacing and provision of shared driveways and cross access easements.
 2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience. In general sidewalks shall be required along all dedicated roads on lots within 1,000 feet of a school, park or residential concentration.
 3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
 4. Location, arrangement, size, design and general architectural and site compatibility of buildings, lighting, signs and landscaping.
 5. Adequacy of storm water calculation methodology and storm water and drainage facilities to eliminate off-site runoff and maintain water quality.
 6. Adequacy of water supply and sewage disposal facilities.
 7. Size, location, arrangement and use of required open space and adequacy of such open space to preserve scenic views and other natural features, to provide wildlife corridors and habitats, to provide suitable screening and buffering; and to provide required recreation areas.
 8. Suitability of proposed hours of operation.

9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other similar nuisances.
 10. Adequacy of community services, including fire, ambulance and police protection, and on-site provisions for emergency services, including fire lanes and other emergency zones, fire hydrants and water pressure.
 11. Adequacy and unobtrusiveness of public utility distribution facilities, including those for gas, electricity, cable television and phone service. In general, all such utility distribution facilities shall be required to be located underground.
 12. Making provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary thereof.
 13. Conformance with the Dix Comprehensive Plan and other planning studies.
 14. Conformance with density, lot size, height, yard and lot coverage and all other requirements of district regulations.
 15. Compatibility of development with natural features of the site and with surrounding land uses.
- B. Adequacy of flood protection measures including conformance with the Town of Dix Flood Damage Prevention regulations and protection from other known flooding problems. Applicant to attend Planning Board meeting. Applicant and/or duly authorized representative shall attend the meeting of the Planning Board.
 - C. Site plans shall also provide conformance with the performance standards of Article VII-26.
 - D. Consultant review. The Planning Board may consult with the Code Enforcement Officer, Fire Commissioners and other appropriate local and county officials and departments and its designated private consultants, in addition to representatives of federal and state agencies, including but not limited to the Natural Resources Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.
 - E. Public hearing. Upon the Planning Board's certification that the preliminary site plan application is complete and satisfactory, the Planning Board shall schedule a public hearing within forty-five (45) days after the time of such certification. All desirable revisions that should be incorporated in the final site plan application.
 - F. Notification of Decision on Preliminary Site Plan. Within forty-five (45) days, the Town may withdraw funds from this escrow account as fees and expenses are incurred. The Planning board may require additional deposits into this account the public hearing at which a preliminary site plan is considered, the Planning Board shall act upon it. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, conditionally approved, or disapproved. A copy of the appropriate minutes of the Planning Board shall be a sufficient report. The Planning Board's statement may include recommendations as to desirable revisions to be incorporated in the final site plan application. If the preliminary layout is disapproved, the Planning Board's statement will contain the reasons for such findings.

XIV-6 Final site plan approval procedure.

- A. After receiving approval, with or without modifications, from the Planning Board on a preliminary site plan, the applicant shall submit a final detailed site plan to the Planning Board for approval. If more than six months has elapsed since the time of the Planning Board's action on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review. The Planning Board may also require a new public hearing. The final site plan shall conform substantially to the approved preliminary site plan. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliance shall be clearly indicated by the applicant on the appropriate submission.
- B. The following additional information shall accompany an application for final site plan approval.
 1. Record of application for and approval status of all necessary permits from local, state and county officials.
 2. An estimated project construction schedule.

3. A legal description of all areas proposed for municipal dedication.
 4. A conservation easement or other recordable instrument executed by the owner for any permanent open spaces created and whether such open space is the result of Site Plan Review, clustering or incentive zoning provisions.
- C. If no building permit is issued within one calendar year from the date of final site plan approval, the final site plan approval shall become null and void.

XIV-7 Referral to County Planning Board.

Prior to taking action on the final site development plan, the Planning Board shall refer the site plan to the County Planning Board for advisory review and a report in accordance with 239-m of General Municipal Law.

XIV-8 Planning Board action on final site plan.

- A. Within 45 days of receipt of the application for final site plan approval, the Planning Board shall notify the Code Enforcement Officer, in writing, of its decision.
- B. Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due and letter of credit if required, the Planning Board shall endorse its approval on a copy of the final site plan. A copy of the approved final site plan shall be filed with the Code Enforcement Officer and upon request will be provided to the applicant.
- C. Upon disapproval of a final site plan, the Planning Board shall so inform the Code Enforcement Officer, and the Code Enforcement Officer shall deny a building permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval.

XIV-9 Reimbursable costs.

Costs incurred by the Planning Board for consultation fees or other extraordinary expense in connection with the review of a proposed site plan or inspection of required improvements shall be charged to the applicant. Estimated review fees shall be deposited into an escrow account when making application for preliminary site plan approval. Estimated inspection fees shall be deposited into an escrow account prior to Planning Board endorsement of final site plan approval. The Town may withdraw funds from this escrow account as fees and expenses are incurred. The Planning Board may require additional deposits into this account as a condition to continuing review of an application.

XIV-10 Letter of credit.

No Certificate of Occupancy shall be issued until all improvements shown on the site plan are installed or an irrevocable letter of credit has been posted for improvements not yet completed. The letter of credit shall be approved as to form by the Municipal Attorney and as to amount by the Municipal Engineer. The member of the Planning Board designated to sign site plans shall not sign until a letter of credit, if required, has been received by the Code Enforcement Officer and approved by the governing board.

XIV-11 Inspection of improvements.

The Code Enforcement Officer shall be responsible for the overall inspection of site improvements. The applicant shall be responsible for advance notice for inspection coordination with officials and agencies, as appropriate. The Code Enforcement Officer may retain the services of a qualified private consultant to assist with inspection of site improvement.

XIV-12 Integration of procedures.

Whenever the particular circumstances of a proposed development require compliance with the requirements for the Subdivision of Land in Article XIII, the Planning Board shall attempt to integrate, as appropriate, the Special Use Permit as required by this section with the procedural and submission requirements for such other compliance.

Article XV. Planned Unit Development District.

XV-1. Intent.

It is the intent of this Article to provide flexible and innovative land use and design regulations of development at a larger scale than allowed by traditional zoning, without necessitating constant exceptions to the zoning law, through the use of performance criteria so that a large area may be developed in a unified manner by a single developer, or a group of associated developers. Such a Planned Unit Development is to be characterized by various residential densities, recreational, commercial, industrial, or retail space, and combinations of these, maintaining flexibility in architectural design and the preservation of key natural features, such as scenic views, forested areas, wetlands, stream corridors, floodplains and open space. These opportunities are extremely difficult to provide for by traditional lot-by-lot zoning techniques, and accordingly, this District may contain both individual building sites and common property, which is planned and developed as a unit. The Planned Unit Development District designation is a zoning amendment that shall be subject to special use permit and approval in accordance with Article XIV.

In order to carry out the purpose of this District, a development shall achieve the following objectives:

- A. Innovation in community developments providing for a maximum choice in the types of environment, occupancy, tenure, types and variety of buildings, lot sizes and community facilities available to existing and potential Town residents at all economic levels.
- B. More usable open space and recreation areas that provide recreational opportunities close to home.
- C. District maintenance of open space.
- D. Separation of pedestrian and vehicular traffic.
- E. Safe and efficient traffic circulation.
- F. Preservation of trees, outstanding natural features, stream corridors, wetlands, floodplains and natural areas.
- G. An efficient use of land resulting in smaller networks of utilities and streets and thereby lower costs.
- H. A development pattern in harmony with the objectives of the Comprehensive Plan.
- I. Be compatible with all applicable guidelines and standards set forth the Zoning Law of the Town of Dix, in particular but not limited to density guidelines and standards otherwise set forth therein.

XV-2. Applicable Zoning Districts.

The Planned Unit Development District (hereinafter "PUD") shall be applicable only where the applicant can demonstrate that the characteristics of his holdings meet the objectives of this Article.

XV-3. Permitted uses.

All uses contemplated by a proposed PUD shall conform to the standards of development and the Bulk and Use Tables contained in this Chapter applicable to such uses. At such time as the PUD is authorized by the zoning amendment, all such uses, together with other essential facilities or services shall be permitted subject to site plan review and approval in accordance with Article XIV.

XV-4. Standards Governing the PUD.

Any development proposal to be considered as a Planned Unit Development District shall conform to the following standards, which are regarded as minimum requirements, in addition to applicable standards in other sections of this Chapter:

- A. Lot area. The minimum area required for a PUD designation shall be a contiguous parcel of ten (10) acres in size. Where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this Article, the Planning Board may consider projects with less acreage.
- B. Water and Sewer Service. All parcels shall be serviced by community water and sanitary sewer systems. Camp Grounds shall have dump station(s); one station per twenty (20) sites. The sewage dump stations servicing Camp Grounds located within a municipal sewer district shall be connected to the municipal sewage collection system.
- C. Density. The Planning Board shall determine in each case the appropriate density and placement of proposed units on the parcel. Density shall be calculated using the total parcel acreage.
- D. Open Space and Recreation Requirements. All development proposals shall provide for land available for park, recreation, open space, or other community purposes directly related to the development. The Planning Board, as a condition of approval, may establish such conditions on the ownership, use, and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes. The Planning Board may require that such conditions be approved by the Town Board before final approval of the development.
- E. Buffers, Landscaping and Barriers. All PUD developments shall provide for Buffers, Landscaping, and Barriers that comply with the provisions of Article IX, and as follows:
 - 1. All buffers, landscaping, and barriers shall comply with a minimum clear vision zone distance, which shall be twenty-five (25) feet from the edge of the pavement at an intersection.
 - 2. All buffers, landscaping, and barriers shall be as imposed by the Planning Board in accordance with the purpose, visual nature, noise impacts, and security needs of the proposal.
 - 3. Buffers, landscaping, or barriers shall be maintained in perpetuity by the applicant. If the applicant fails to maintain such property in reasonable order, the Town Board may cause such property to be maintained in accordance with the provisions of Article XV-5.C hereof.
 - 4. Buffers, landscaping, and barriers shall be constructed entirely within the boundaries of a lot.
 - 5. All "fences" and "walls" shall be required to face the finished side toward adjoining lots and/or the street.
- F. Access. A minimum of two (2) vehicular access points is to be preferred. Such access shall be provided from a road with a minimum classification as a collector road. Single access points shall be justified in terms of safety concerns. Roadways shall meet NYS DOT requirements with regard to intersections with NY State Highways, and shall be approved by the Town Highway Superintendent.
- G. Solar Access. To the maximum extent possible, all PUD development proposals totaling ten (10) or more acres may be designed so that the maximum number of buildings shall receive direct sunlight sufficient for using solar energy systems for space, water, or industrial process heating or cooling. Guidance and requirements

XV-5. Ownership of Common Property; Maintenance.

- A. The tract of land proposed for a PUD may be owned, leased or controlled at the time of approval either by a single person, or corporation or a group of individuals or corporations. An application shall be filed by the owner or jointly by the owners and any other such controlling interest of all property included in a project. In the case of multiple ownership, the approved plan and any conditions shall be binding on all parties.
- B. When common property exists, the ownership of such common property may be either public or private.
 - 1. When common property exists in private ownership, satisfactory arrangements must be made for the improvement, operation and maintenance of common property and facilities, including private streets, utilities, drives, service and parking areas, and recreational and open space areas.
 - 2. When common property exists in private ownership, the owners/developers must inform the Town Code Enforcement Officer of the names, addresses, and year-round contact information including telephone numbers of all of the common owners. This information must be revised to ensure it is current at all times.
- C. In the event that the organization established to own and maintain common property, or any successor organization, fails to maintain such property in reasonable order, the Town Board may cause such property to be maintained in accordance with the following procedure:
 - 1. In the event that the Code Enforcement Officer serves notice to the organization established to own and maintain common property, or any successor organization, that they have failed to maintain the common property in reasonable order and condition in accordance with the plan, said notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof. If the deficiencies are not cured within this time, or any extended deadline duly authorized by the Code Enforcement Officer, the Town of Dix Town Board may serve written notice upon such organization or upon the tenants and owners of the development setting forth the manner in which the organization has failed to maintain the common property in reasonable condition, and shall state the date and place of a hearing thereon. Such written notice may be personally delivered or may be sent by US Mail. If personal delivery is used, the hearing may be held at least fourteen (14) days after the date of the notice. If US Mail is used, the hearing may be held at least twenty-eight (28) days after the date of the notice.
 - 2. At such a hearing before the Town Board, the Town Board may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within thirty (30) days of any extension thereof, the town may enter upon said common open space and maintain the same for a period of one year. This action is to preserve the taxable values of the properties within the development and to prevent the common property from becoming a public nuisance. Said entry and maintenance shall not vest in the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the tenants and owners of the development. Before the expiration of said year, the Town Board shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common property, call a public hearing. Notice shall be served to such organization or to the tenants and owners of the development at which hearing, to be held by the Town Board, such organization or the tenants and owners of the development shall show cause why such maintenance by the Town shall not, at the election of the Town Board, continue for a succeeding year.
 - 3. If at any time the Town Board shall determine, at its sole and absolute discretion, that such organization is ready and able to maintain said common property in reasonable condition, it shall cease to maintain said common property. If the Town Board shall determine that such organization is not ready and able to maintain said common property in a reasonable condition, the Town Board may, at its discretion, continue to maintain

said common property during the next succeeding year, subject to a similar hearing and determination in each year thereafter.

4. The cost of such maintenance by the town shall be assessed at the same proportion as each unit's assessed value bears to the total assessment of the development. Such costs shall be invoiced to the respective unit and shall be payable within thirty (30) days of such invoice. In the event any such invoices remain unpaid on November 1, of any year, the amount of such invoices plus an administrative fee in the amount of 5% of the invoice shall be re-levied upon the respective unit, shall be a lien upon such unit, and shall be collected with the real property tax levied upon such unit.
- D. For the purposes of regulating the development and use of property after initial construction and occupancy, any changes shall be subject to a site plan approval by the Planning Board. Properties lying in the PUD are unique and shall be so considered by the Planning Board when evaluating these requests, and maintenance of the intent and function of the planned unit shall be of primary importance.

XV-6. Procedures for establishment.

- A. Any applicant seeking approval for a Planned Unit Development District shall submit his request for an amendment to the zoning law to the Town Board and the Planning Board filed on appropriate forms accompanied by an application for preliminary site plan approval as defined in Article XIV, a filing fee as is to be determined by the Town Board from time-to-time by resolution, and, if applicable, a request to develop the PUD in phases with a schedule for that development.
- B. All applications for a PUD shall be referred to the Planning Board for review and recommendation prior to any action by the Town Board. The Planning Board shall make its recommendation and shall specifically make reference to the effect of the proposed PUD on the intent of the Zoning Law of the Town of Dix and its relation to the Comprehensive Plan.
- C. Following receipt of the recommendation of the Planning Board the Town Board may by local law adopt an amendment to this chapter creating a Planned Unit Development District. The local law may include a schedule for phased development if phased development is contemplated as part of the planned unit development, and shall provide that the existence of the Planned Unit Development District is conditioned upon site plan, subdivision and special use permit review and approval by the Planning Board, as applicable to the contemplated planned unit development, for the entire development or the first phase of development if a phased development is contemplated.
- D. If the Planned Unit Development District proposal involves the subdivision of land into parcels for sale to individual owners, the site plan review process required for the PUD shall be conducted in parallel with Planning Board review under Article XIII, Subdivision of Land. The Planning Board shall ensure the PUD satisfies all applicable requirements of Article XIII in its review. In such cases, the developer shall prepare a subdivision plat suitable for filing with the Schuyler County Clerk in addition to the required site plan drawings. Site plan approval shall constitute Final plat approval under the Town Subdivision Regulations. The plat shall be signed by the Planning Board Chairman, or his designee, and filed with the County Clerk in the manner prescribed by said regulations.
- E. Upon the expiration of the schedule for submitting site plans for phased development as approved as part of the PUD zoning amendment, the PUD zoning designation shall be removed from the remaining sections and the property shall return to the zoning designations applicable immediately before the time of PUD approval.