

ZONING LAW

Town of Denning, New York
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As Amended By Local Law No.1 of 1992

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TOWN OF DENNING

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ARTICLE I
SCOPE AND PURPOSES

SECTION 1.1 SCOPE

This Zoning Law, hereby enacted for the Town of Denning, New York, shall regulate or restrict the height, number of stories and size of buildings, the percentage of a lot that may be occupied, the size of yards, courts and open spaces, the density of population and the location and use of buildings, structures and land for residence, trade, industry or other purposes as empowered by section 261 of the Town Law of the Consolidated Laws of the State of New York. In order to accomplish the purpose of this Law and to further the comprehensive plan for the entire Town, the Town shall be divided into several districts, the regulations of which shall be administered uniformly within each district.

SECTION 1.2 PURPOSES

This Zoning Law is created in accordance with, and as a means of effectuating a comprehensive plan for protecting and promoting public health, safety, comfort, convenience, economy, and general welfare. Specifically, this Law is intended to carry out the following goals, among others:

- a. To preserve the rural character of the Town and its sensitive natural environment;
- b. To promote the use of land for its most appropriate and beneficial development;
- c. To promote and protect the character and stability of established development while allowing the flexibility and mixture of uses traditional in a rural community;
- d. To enhance the value of land and conserve the value of buildings;
- e. To enhance the physical environment of the Town and promote appropriate scale and design of land and buildings;
- f. To eliminate or improve any existing detrimental conditions with regard to land or buildings or the use thereof;
- g. To improve design and adequacy of transportation facilities, traffic circulation, and parking and loading facilities;
- h. To prevent excessively dense development;
- i. To provide adequate light and air to all buildings and prevent overcrowding of structures;
- j. To assure privacy for residences and freedom from nuisances and harmful and unsightly uses;
- k. To protect the community against unsightly, obtrusive, and noisome land uses and operations; and
- l. To facilitate the proper administration and appropriate and effective enforcement of this Law.

SECTION 1.3 NON-INTERFERENCE WITH OTHER LAWS

This Law is not intended to abrogate, render invalid, or interfere with the application and administration of any other lawful statute, ordinance, regulation, easement, private agreement, covenant, deed

restriction, or other legal relationship, public or private. Wherever any lawful statute, ordinance, regulation, easement, private agreement, covenant, deed restriction, or other legal relationship--public or private--imposes controls which are inconsistent with any provisions of this Law, then those provisions which are the most restrictive or impose higher standards shall take precedence.

ARTICLE II ENACTING CLAUSE AND SHORT TITLE

SECTION 2.1 ENACTING CLAUSE

The Town Board of the Town of Denning in Ulster County, New York, acting under the authority of the Municipal Home Rule Law of the State of New York, hereby adopts and enacts this Law as the Comprehensive Zoning Law of the Town of Denning.

SECTION 2.2 SHORT TITLE

This Law shall be known and may be cited and referred to as the TOWN OF DENNING ZONING LAW.

ARTICLE III ESTABLISHMENT OF DISTRICTS

SECTION 3.1 ZONING DISTRICTS

In order to fulfill the purpose of these regulations, the Town of Denning establishes and is hereby divided into the following zoning districts for the intent indicated:

R: Rural Residential District

This district is intended for most or the rural areas of Town. It permits residential uses, as well as agricultural and various accessory uses. In addition, small scale business uses, as well as other non-intensive uses which may be appropriate in a rural setting, may be permitted subject to criteria which protect the residential character of the district.

H: Hamlet District

This district is intended to include the areas in and around the two hamlets within the Town. These areas traditionally include both residential uses and business and service uses.

SECTION 3.2 OFFICIAL ZONING MAP

The location and boundaries of the zoning districts established in Section 3.1 are shown on the map entitled "Official Zoning Map of the Town of Denning". Said map together with everything shown thereon and all amendments thereto is hereby adopted by reference and accompanies and is declared to be an appurtenant part of this Law. Said map indicating the latest amendments shall be kept up to date in the office of the Town Clerk for the use and benefit of the general public.

SECTION 3.3 INTERPRETATION OF DISTRICT BOUNDARIES

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

3.3.1 ALONG CENTERLINES AND RIGHT-OF-WAY LINES

Where district boundaries are indicated as approximately following the center lines or right-of-way lines of streets, highways, or public utility easements, said boundaries shall be construed to be coincident with such lines. Said boundaries shall be deemed to automatically be moved if a centerline or right-of-way line of such street, highway, or public utility easement is moved a maximum of 20 feet.

3.3.2 ALONG LOT OR BOUNDARY LINES

Where district boundaries are indicated as approximately following the Town boundary line, property lines, lot lines, or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.

3.3.3 PARALLEL TO LOT OR BOUNDARY LINES

Where district boundaries are so indicated that they are approximately parallel to the Town boundary line, street lines, property lines, lot lines, or center lines of public utility easements, lands or structures, or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances there from as are indicated on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.

3.3.4 WATERCOURSES

Where district boundaries are indicated as following a river or stream said boundaries shall be construed to be coincident with the centerline of such river or stream, and said boundaries shall be deemed to be automatically moved if the main channels of such streams or rivers are moved by natural or artificial means up to a maximum of 50 feet.

3.3.5 EXISTING PHYSICAL MARKERS

Where a street, highway, railroad or public utility easement centerline, or right-of-way line is coincident with a zoning boundary line and varies from the actual on-the-ground physical monument or mark; then such on-the-ground physical monument or mark shall determine said zoning boundary.

3.3.6 LOTS DIVIDED BY ZONING DISTRICT LINES

Where a lot is divided by a district boundary line, the regulations for each respective district shall apply except that, where a district boundary line is located not farther than 25 feet away from a lot line of record, the regulations applicable to the greater part of the lot shall be deemed to apply to the entire lot.

SECTION 3.4 EFFECT OF ESTABLISHMENT OF DISTRICTS

Following the effective date of this Law:

- 3.4.1** No building shall be erected, moved, altered, rebuilt or enlarged nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner except in conformity with all regulations, requirements and/or restrictions specified in this Law for the district in which such building or land is located.
- 3.4.2** No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.
- 3.4.3** No lot shall be formed from part of a lot already occupied by a building unless such building, all yards and open spaces connected therewith, and the remaining lot comply with all requirements prescribed by this Law for the district in which said lot is located. No permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all the provisions of this Law.
- 3.4.4** Nothing contained in this Law shall require any change in the plans, construction, or designated use of a building complying with existing Law, a permit for which shall have been duly issued before the effective date of this Law, and which building shall have been completed in accordance with such plans as have been filed within one year from the effective date of this Law.
- 3.4.5** Any uses not specifically permitted shall be deemed to be prohibited. Any list of prohibited uses contained in any section of this Law, shall not be deemed to be an exhaustive list, but to have been included for the purposes of clarity and emphasis, and to illustrate by example some of the uses frequently proposed that are deemed undesirable and incompatible in the particular district.
- 3.4.6** Regardless of any other provisions of this Law, any use that is noxious or offensive by reason of emission of odor, dust, noise, vibration, smoke, gas, fumes or radiation or which presents a hazard to public safety, is prohibited.

ARTICLE IV
REGULATIONS AND STANDARDS

GOVERNING USE

SECTION 4.1 SCHEDULE OF DISTRICT USE REGULATIONS

The attached Schedule of District Use Regulations is hereby incorporated into and made part of these zoning regulations and shall be referred to as the "Use Schedule".

In the case of a question or interpretation as to the classification of a particular use, the definitions and categories used in the Standard Industrial Classification Manual published by the federal Office of Management and Budget (SIC Manual) as amended, shall prevail.

The following symbols in the Use Schedule have the indicated meaning within the district under which it is listed.

- P** Designates a use permitted by right. Some uses permitted by right may also require site plan approval by the Planning Board. See Section 8.3.1.
- SP** Designates a use permitted only upon the issuance of a special permit by the Planning Board in accord with Section 8.2.
- o** Indicates that the use is not permitted.

District designations are as follows:

- H** Hamlet
- R** Rural

LAND USE SCHEDULE

<u>Use</u>	<u>Hamlet</u>	<u>Rural</u>
	<u>District</u>	<u>District</u>
<u>RESIDENTIAL</u>		
One and two family residence	P	P
Mobile Homes	P	P
Mobile Home Parks	SP	SP
Home Occupations	P	P
Commercial Campgrounds, and Recreational Vehicle Parks	SP	SP

Organizational Campgrounds		SP	P
Bed and Breakfast Inns		P	P
Customary Accessory Uses		P	P
<u>COMMERCIAL AGRICULTURE, FORESTRY, MINING</u>			
Farmstands		P	P
Agriculture, Crops		P	P
Agriculture, Livestock and Animal Services		SP	P Veterinary
		SP	P Forestry
	P	P	Logging and Sawmills
	SP		Mining and Quarrying of
Non-metallic and Non-fuel Minerals		SP	SP
<u>MANUFACTURING, CONSTRUCTION AND RECYCLING</u>			
General Contractors and Builders and Assembling		SP	P Manufacturing
Materials	SP	SP	SP Recycling, Scrap
Wholesaling, and Junkyards.	O	SP	SP Salvaging and
<u>WHOLESALE MID RETAIL TRADE</u>			
Wholesale Trade		P	O
Retail Stores and Shops		P	SP
Food Stores/General Stores		P	SP
Motor Vehicle Sales		P	SP
Gasoline Stations		SP	O
Automobile Repair		SP	SP
Restaurants		P	SP
Bars		P	O

<u>Use</u>		<u>Hamlet District</u>	<u>Rural District</u>
<u>SERVICE AND OFFICE USES</u>			
Banks		P	O
Personal Services		P	SP
Business Services		P	SP
General and Professional Offices		P	SP
Hotels and Motels		P	O
Resorts and Conference Centers	P		SP
Clubhouses and Organizational Meeting halls, including Hunting Clubs		P	P
Public and Private Schools		P	P
Cultural Facilities		P	P
Churches and Place of Worship		P	P
Government Offices and Facilities		P	P
Health Services and Hospitals		P	SP
Social Services		SP	SP
Cemeteries		P	P
Amusement and Recreation Facilities		SP	SP
<u>TRANSPORTATION AND UTILITIES</u>			
Motor Freight Transportation and Warehousing		SP	SP

Transportation Services
Communications Systems
stations

SP
SP
SP

P 0
SP Utility Sub-

SECTION 4.2 SUPPLEMENTARY REGULATIONS ON USE

4.2.1 PRINCIPAL RESIDENTIAL BUILDINGS PER LOT

More than one principal residential building may be placed on a lot only if each residence is located so that it would conform to all area and bulk regulations of the district in which it is located if a separate lot were created for each residence.

4.2.2 PERFORMANCE STANDARDS

In general, no activity shall produce any offensive noise, smell, glare, or vibration; create a physical hazard by reason of fire, explosion, radiation, or other such cause; cause a discharge of liquid or solid waste, or any other Polluting material into the groundwater or into any stream or body of water; result in the storage of material in such manner as to breed vermin or produce a health hazard; or to produce an emission of gaseous waste, smoke, flash or dust capable of being a health hazard or damaging property.

4.2.3 AGRICULTURAL USES AND RIDING STABLES

Nothing in this Law shall prevent the keeping of domestic or farm animals by a resident, on his own property, for the resident's own personal use and enjoyment. The following provisions shall apply only to agricultural Uses where plants or animals are produced, kept or maintained for sale or lease.

4.2.3.1 No building housing horses, farm animals or fowl shall be located within 50 feet of a street or property line.

4.2.3.2 Unenclosed storage of fertilizer, manure or pesticides shall take place no closer than 100 feet from any street or property line.

4.2.4 HOME OCCUPATIONS

Any person may conduct a business, trade or profession from his residence, as an accessory use, in accord with the following standards:

4.2.4.1 One free standing sign not exceeding six square feet per face in area and one wall sign not exceeding two square feet shall be permitted to identify the use.

4.2.4.2 A home occupation may be conducted within the

principal building on the lot or a permitted accessory structure.

- 4.2.4.3 The floor area designed for and allotted to the home occupation shall not exceed 1,000 square feet of total floor area.
- 4.2.4.4 No more than two (2) persons who are not residents of the dwelling unit shall be employed in the home occupation.
- 4.2.4.5 No materials or equipment used in the home occupation shall be stored or displayed outside, except in the rear yard, unless enclosed within a fence or landscaped screen.
- 4.2.4.6 At least one additional off -street parking space shall be provided for a home occupation, in addition to those required for the principal residential use. Such spaces may be provided in the driveway but not elsewhere in any required front yard.
- 4.2.4.7 The home occupation shall not result in traffic, noise, vibration, odor, smoke, glare or electrical interference beyond that normally generated by permitted uses in the same zoning district.

4.2.5

SIGNS

The following types of signs are permitted only in the H District, or in conjunction with a non-residential use in another district permitted by right or subject to issuance of a special permit in accord with Section 8.2, subject to the standards and procedures set forth below:

4.2.5.1 WALL SIGNS OVER EIGHT SQUARE FEET IN AREA

One wall sign shall be permitted for each non-residential use in a structure.

- b. Wall signs shall not project more than 12 inches from the wall to which they are affixed.
- c. Wall signs shall not extend above or beyond the face of the wall in any direction.
- d. The aggregate area, in square feet, of all signs on any wall shall not be greater than twice the length in feet, of such wall.

4.2.5.2 PROJECTING SIGNS OVER FOUR SQUARE FEET IN AREA

- a. Each establishment shall be permitted one projecting sign for each frontage on a public right-of-way. No more than one sign may be located on each frontage.
- b. The distance between the faces of projecting signs shall not exceed twelve inches.
- c. Projecting signs shall not exceed an area of 15 square feet per face and the outer edge of such sign shall not extend more than 60 inches from the face of the building to which it is applied.
- d. The bottom edge of a projecting sign shall be no less than eight feet nor more than 15 feet above the ground.

- e. No part of a projecting sign shall extend within six (6) feet of any public street or right-of-way.

4.2.5.3 FREE STANDING SIGNS OVER SIX SQUARE FEET IN AREA

- a. Where the principal building or group of buildings is set back at least 15 feet from the right-of-way line, one free standing sign shall be permitted on a property. No part of any free standing sign or its support shall be located within six (6) feet of any building, property line or right-of-way line.
- b. The area of free standing signs shall not exceed 50 square feet per sign face.
- c. No part of any free standing sign shall be higher than 15 feet above grade.

4.2.5.4 ROOF SIGNS

Roof signs shall not be permitted on buildings with a roof pitch of less than one vertical to three horizontal and shall only be permitted on other roofs upon approval by the Planning Board based on a finding that no other suitable location for signage exists on the building or property. If permitted, such sign shall not exceed 20 square feet in area nor extend above the ridge elevation.

4.2.5.5 REQUIRED PERMITS AND PROCEDURES

a. Sign Permits

Signs described in 4.2.5.1 to 4.2.5.4 above shall not hereafter be erected, structurally altered, enlarged or relocated within the Town, except as specifically exempted below, unless a permit has been obtained from the Building Inspector. Such permit shall only be issued following submission, review and approval of an application and payment of the required fee in accord with the schedule established by the Town Board. A permit shall not be required for the repainting or refurbishing of an existing sign.

b. Application and Review

Application for a sign permit shall be made on a form designed for that purpose and provided by the Building Inspector and shall include:

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

The Building Inspector shall review all sign applications and approve, disapprove, or approve with

modifications the permit therefore within 30 days of receipt of the application.

4.2.5.6 GENERAL REGULATIONS AND RESTRICTIONS

The following general regulations and restrictions shall apply in all districts.

- a. Off-site signs, including the type commonly known as billboards, are not permitted in any district, except that signs for the purpose of directing persons to a local business may be erected providing such sign shall not exceed twelve (12) square feet in area and shall conform to the applicable regulations in such districts.
- b. Standard methods of constant illumination shall be permitted on any sign provided that the illumination shall be concentrated upon the area of the sign so as to prevent direct glare upon the street or adjacent property.
- c. Except for clocks and customary time and temperature devices, no sign shall contain intermittent, moving or flashing illumination.
- d. Signs with visible moving, revolving or rotating parts are prohibited.
- e. No sign shall be erected in such a manner as to obstruct free and clear vision for drivers; interfere with, mislead or confuse traffic; or be located where, by reason of its position, shape or color such sign may interfere with, obstruct the view of, or be confused with, any authorized traffic sign, signal or device by making use of the words "STOP", "LOOK", "DANGER," or any other words, phrase, symbol or character, or red, green or amber illumination or reflection.
- f. Signs made of cardboard, paper, canvas or similar impermanent materials may not be placed on the exterior of any building.
- g. Objects and artifacts, such as but not limited to, building and construction materials, equipment and machinery, vehicles, and finished products for retail sale such as appliances, furniture and plumbing fixtures shall not be used in place of or to serve the purpose of a sign.

4.2.6 USES REQUIRING A SPECIAL PERMIT

The following uses shall satisfy the criteria set forth in Section 8.2 in addition to the relevant standards of the Area and Bulk Schedule.

- 4.2.6.1. Mobile home parks.
- 4.2.6.2. Commercial campgrounds and recreational parks.
- 4.2.6.3. Agriculture-livestock; veterinary and animal specialty

services.

4.2.6.4 Logging, sawmills; general contractors and builders; manufacturing and assembling; motor freight transportation and warehousing.

Logging or woodcutting shall be exempt from the requirement that a special permit be issued if the following conditions are satisfied:

- (1) No more than 6,400 cubic feet (50 cords or 75,000 board feet of raw logs) will be cut.
- (2) The Town of Denning Planning Board shall be advised of the proposed location and duration of the logging operation and the proposed logging plan at a regular meeting of the Board.
- (3) The duration of the logging operation shall not exceed a total of 90 consecutive calendar days and shall not start prior to the meeting with the Planning Board. The 90 day period shall not include any days during which logging activities, have been suspended by directive of the Highway Superintendent.
- (4) The Town of Denning Highway Superintendent shall be advised of the proposed logging operation in advance. The Highway Superintendent may issue any appropriate directive to prevent or repair damage to any Town road or bridge caused by the logging operation.

4.2.6 5 Nonmetallic and non-fuel mining and quarrying.

4.2.6.6 Recycling, scrap and salvaging and junkyards.

4.2.6.7 Retail, food and general stores; personal and business services; general and professional offices.

4.2.6.8 Motor vehicle sales; automotive repair garages and shops.

4.2.6.9 Automotive service stations.

4.2.6.10 Restaurants; resorts and conference centers.

4.2.6.11 Health services and hospitals; social services; educational services.

4.2.6.12 Amusement and commercial recreation facilities.

4.2.6.13 Communication systems; utility sub-stations.

4.2.7 Multi-Purpose Organizational Complexes

The following provisions shall apply to sites upon which more than one recreational, educational or cultural use is situated as part of an integrated, multi-purpose complex of at least 1,000 acres under common ownership, of which each part in contiguous ownership is at least 500 acres.

4.2.7.1 Uses in such a complex may include organizational campgrounds, conference centers, cultural facilities, schools, places of worship and uses and facilities which support or are ancillary to such uses.

4.2.7.2 Ancillary uses include uses and facilities such as a library, dormitory, dining room, faculty housing, medical center, athletic and equestrian facilities, pool,

gymnasium and other facilities needed to accommodate a population which lives on the site, such as laundry, bakery, fire house, vehicle maintenance and repair facilities, gasoline pumps, bus and other transportation facilities, observatory, water reservoir, solid waste disposal facilities, museum, and agricultural uses. Incidental uses involving sale or production of goods or materials are considered ancillary so long as the goods and materials are for the use and enjoyment of persons residing on or attending other activities on the site.

- 4.2.7.3 No building shall be located within 100 feet of the perimeter of all contiguous lands in the same ownership. Other yard regulations shall not apply within the site.
- 4.2.7.4 Lot area requirements per dwelling unit shall not apply to freestanding individual residences if connected to an approved central sewer and water system.
- 4.2.7.5 Parking requirements for individual uses, where applicable, may be modified by the Planning Board based on the nature of the specific use and the inter-relationship of uses.
- 4.2.7.6 A use included in 4.2.7.1 above which already exists at the time of enactment of this local law or for which a special permit has been issued may be altered or expanded without the issuance of another special permit. Site plan approval shall be required where applicable.

**ARTICLE V
REGULATIONS AND STANDARDS
GOVERNING AREA, BULK AND
OFF-STREET PARKING**

SECTION 5.1 SCHEDULE OF DISTRICT AREA AND BULK REGULATIONS

The following Schedule of District Area and Bulk Regulations is hereby adopted and declared to be part of this Law and is hereinafter referred to as the "Area and Bulk Schedule."

SCHEDULE OF DISTRICT AREA AND BULK REGULATIONS

	<u>Hamlet District</u>	<u>Rural District</u>
<u>Lot Requirements</u>		
Minimum Lot Area*	1 Acre	3 Acres
Minimum Lot Width	150 Feet	200 Feet
<u>Minimum Yard Requirements</u>		
Front Yard	25 Feet	40 Feet
Side Yard	20 Feet	25 Feet
Rear Yard	40 Feet	50 Feet
<u>Maximum Building Height</u>		
Maximum Lot Coverage	20%	20%

*In the case of residential uses, this requirement shall apply to each dwelling unit.

SECTION 5.2 SUPPLEMENTARY REGULATIONS ON AREA AND BULK

5.2.1 HEIGHT EXCEPTIONS

The height limitations of this Law, as shown on the Area and Bulk Schedule, shall not apply to the following

structures, subject to paragraphs band c of this Section:

- a. Church spires, belfries, cupolas and domes not used for human occupancy; chimneys, ventilators, skylights, water tanks, bulkheads and other necessary mechanical appurtenances usually carried above the roof level; parapet walls or cornices

provided they do not exceed the height limit by more than five (5) feet; radio or television receiving antennas, public utility transmission towers or cable.

- b. No such structures shall, in their aggregate coverage, occupy more than 10 percent of the roof area on which it is located, or 5 percent of the lot area, if free standing.
- c. Any such proposed structure exceeding 50 feet in height shall be permitted only by special permit issued by the Planning Board.

5.2.2

YARDS

5.2.2.1 FRONT YARD MEASUREMENT

The required front yard shall be measured from the abutting right-of-way or street line, except that, where such right-of-way or street is less than 50 feet in width, the required front yard shall be measured from a line 25 feet from and parallel to the centerline of the abutting street or right-of-way.

5.2.2.2 ACCESSORY BUILDINGS

Accessory buildings shall comply with all yard requirements except that an accessory building shall be permitted in any required rear yard, no closer than six feet to any property line. Accessory buildings physically attached to a principal building are deemed to be part of such principal building in applying bulk regulations.

5.2.2.3 ENCROACHMENTS IN REQUIRED YARDS

The space in any required yard shall be open and unobstructed except as follows:

- a. Awnings and canopies shall be permitted to project a maximum of six feet.
- b. Any open or enclosed porch or carport shall be considered a part of the building in the determination of the size of the required yard or lot coverage.

5.2.3

MOBILE HOME STANDARDS

5.2.3.1 General Regulations

- a. A single mobile home shall comply with all area, bulk and parking requirements as apply to a one-family dwelling in the same district. A single mobile home is any such home not located in an approved mobile home park.

- b. All mobile homes shall have a permanent supply of potable water and sewage disposal system in accordance with the requirements of the Ulster County Health Department.
- c. Distribution systems for electricity, gas, telephone and fuel oil service to mobile homes shall be installed and maintained in accordance with all applicable state and local regulations.
- d. Mobile homes are subject to all applicable provisions of these regulations pertaining to building permits and certificates of occupancy.

5.2.3.2 Construction Standards

- a. **Foundation** - All mobile homes shall have the wheels or skids removed and shall be set upon a permanent foundation within sixty (60) days of placement on the site. The foundation shall consist of either an eight-inch-wide wall, piers or columns extending at least thirty-six (36) inches below ground level, or a four-inch-thick slab with a perimeter footing of a least ten (10) inches. The foundation shall be in contact with and support the mobile home structural frame at such number of points and at such intervals as required to provide adequate, rigid support.
- b. **Anchoring** - The structural frame of the mobile home shall be attached to the foundation in not less than four (4) places, in such locations and by such devices as to ensure the stability of the mobile home.
- c. **Perimeter skirting** - The open area, if any, between the bottom of the mobile home and the top of the foundation shall be enclosed by a skirt extending around the full perimeter of the mobile home. Such skirt shall be constructed of weather and fire-resistant wood, masonry or metal, securely fastened to the mobile home and its foundation and shall extend from the side wall of the mobile home to the adjacent ground at all points.

SECTION 5.3 OFF-STREET PARKING AND LOADING STANDARDS

Off-street parking and loading spaces shall be provided at the time a new use is established through construction of a new building or alteration or conversion of an existing building, in accord with the following standards and regulations:

5.3.1 OFF-STREET PARKING

a. Required Parking Spaces

Off-street parking spaces shall be provided as follows:

<u>TYPE OF USE</u>	<u>MINIMUM NO. OF PARKING SPACES</u>
<u>Residential and Related uses</u>	

One and two-family Residences	Two (2) spaces for each dwelling unit
Religious Facilities	One (1) space for every eight (8) seats.

Places of Public Assembly, Clubs and Fraternal Organizations, and Recreation Facilities
 One (1) space for every four (4) seats in the largest hall or meeting area, or for every four (4) members whichever is greater.

Cultural Facilities	One (1) space for every 500 square feet of gross floor area.
Hospital One (1) space for every two beds.	
Convalescent Home One (1) space for every four beds.	
Tourist Home One (1) space for every two beds.	
Home Occupation One (1) space, plus one (1) additional space for any non-resident employee in addition to those spaces required for the residential use.	
Day Care Center or Nursery School	One (1) space per staff member plus one (1) space per classroom.

Commercial and Related U

Commercial and Related Uses

Banks	Three (3) spaces for each teller or service window.
Retail Stores or Service Establishments	One (1) space for each 200 square feet of gross floor area.
Professional or business offices	One (1) space for each 250 square feet of gross or business floor area.
Medical and Dental Offices	Four (4) spaces per doctor or dentist plus one (1) for each additional

Restaurants and bars

One (1) space for every 3 seats or 100 square feet of gross floor area, whichever is greater.

Theatres and Similar Places of Public Assembly	One (1) space for every 4 seats or 100 square feet of gross floor area, whichever is greater.
Undertakers	One (1) space for each 3 seats provided under maximum occupancy.
Hotel and Motel	One (1) space per guest room plus one space for every 3 employees.

Heavy Commercial and Industrial Uses

Wholesale, Storage and Warehousing One (1) space for every 2,500 square feet of gross floor area.
 Light Assembly, General Industrial and Similar Uses One (1) space for each 400 square feet of gross floor area.
 Automotive Sales and Repair One (1) space for each 200 square feet of sales of sales area and (1) space for each 500 square feet of service area.
 Other Industrial Heavy Commercial uses One (1) space for each 500 square feet of gross or floor area uses

Uses Not Listed Above

As determined by the Planning Board based on the nature of the use and the applicable parking requirement for similar uses.

b. Pre-existing Uses

Structures and uses in existence as of the effective date of this Law shall not be subject to the parking requirements herein. However, if the parking spaces serving such structure or use are less than would be required by this Law, they shall not be reduced; and, if the structure or use is expanded, additional parking spaces in the appropriate amount required in (a) above shall be provided to serve such expanded area.

c. Dimensions of Parking Spaces

(1) All parking spaces shall measure at least nine (9) feet wide and eighteen (18) feet long.

d. Location of Parking Spaces

- (1) All required parking spaces shall be located on the same lot as the use they are intended to serve.
- (2) In the R District, no open or enclosed parking area for

more than three (3) cars shall encroach on any required front yard. Parking areas may extend into a required side or rear yard to within twenty-five (25) feet of a side or rear lot line.

- (3) In the H District, open parking areas shall not extend within 10 feet of a street or right-of-way line or within 15 feet of a property line.

e. Screening and Landscaping of Parking Areas

- (1) Parking areas of ten (10) or more cars which are adjacent to or across the street from a residential property shall be screened from the view of such properties by a combination of walls, fences or hedges.

- (2) All areas in a parking lot not required for parking space or access drives shall be suitably landscaped and maintained. A landscaping plan for parking areas shall be submitted for those uses requiring Site Plan Review by the Planning Board.

f. General Provisions

Off-street parking areas shall not be used for any purpose other than the parking of vehicles for customer, resident or employee use. There shall be no (1) commercial storage, (2) servicing or dismantling of automobiles or other vehicles; and (3) no part of any parking lot shall be used for the sale, storage or abandonment of any articles or goods.

5.3.2 OFF-STREET LOADING

a. Required Loading Facilities

Off-street loading facilities shall be provided for non-residential uses so that service vehicles do not obstruct adjacent streets or driveways.

b. Location and Dimensions of Loading Berths

- (1) All off-street loading berths shall be located on the same lot as the use for which they are required.
- (2) Open off-street loading areas shall not encroach on any required front or side yard, off-street parking area or accessway.
- (3) No loading berth shall be located within 25 feet of a property line.

ARTICLE VI

ENFORCEMENT AND ADMINISTRATION

SECTION 6.1 ENFORCEMENT AND PENALTIES

6.1.1 ENFORCEMENT OFFICER

This Zoning Law shall be enforced by the Building Inspector who shall be appointed by the Town Board. No building permit or certificate of occupancy shall be issued by the Building Inspector for any purpose except in compliance with the provisions of this Law.

6.1.2 INSPECTION AND NOTICE OF VIOLATION

6.1.2.1 The Building Inspector, based upon reasonable cause and upon the showing of proper credentials and in the discharge of his or her duties, is authorized to enter, inspect and examine any building, structure, place, premises or use in the Town of Denning at any reasonable hour with regard to the provisions of this Law and to issue a written order for the proper remedying or compliance, within a reasonable period of time, of any condition found to be in violation thereof. In case of refusal of entry, the Building Inspector may obtain a warrant from a court of competent jurisdiction.

6.1.2.2 The Police, the Fire Department Inspector and the Health Department Inspector shall, at the request of the Building Inspector or on their own initiative, upon the showing of proper credentials, examine or investigate, based upon reasonable causes, any building, structure, use or premises with regard to any provision of this Law and shall issue reports and recommendations to the Building Inspector regarding any violation thereof. In the case of refusal of entry, a warrant may be obtained from a court of competent jurisdiction.

6.1.3 LEGAL ACTION BY ENFORCEMENT OFFICER

If an unlawful condition or use is found not to have been properly remedied or made to comply with the provision of this law by the expiration of the reasonable time period granted by the Building Inspector, then the Building Inspector is empowered immediately to institute appropriate action in the Town Court of the Town of

Denning to prosecute any occupant, owner, or offender for the violation and to enforce the penalties set forth in section 6.1. 5 hereof; and, upon approval of the Town Board, to take any other appropriate action, charge, or proceeding in the proper legal court for the prevention, cessation, or discontinuance of any condition, use, or occupancy, or act in, on, of, or around any building, structure, or tract of land in violation of this local law and for the prosecution of any owner, occupant, or offender.

6.1.4 LEGAL ACTION BY TAXPAYERS

If the Enforcement Officer fails or refuses to proceed with any action in accordance with Section 6.1.3 within a thirty-day period

following written request by any taxpayer so as to proceed, then any three or more taxpayers of the Town of Denning residing or owning property in the district wherein such condition or use in violation of this Law exists or in an adjacent district and who are jointly or severally aggrieved by such violation, may institute for reasonable causes, such appropriate action, charge, or proceeding in like manner as such Enforcement Officer is authorized.

6.1.5 PENALTIES FOR VIOLATIONS

A violation of any provision of this Law shall be a misdemeanor. Each week of continued violation shall constitute a separate additional violation. If more than one provision is violated, each provision shall be considered a separate misdemeanor, each liable to maximum penalties as specified in the "Ordinance Establishing Enforcement Procedures for Violation of the Town of Denning Land Subdivision Regulations"

SECTION 6.2 BUILDING PERMITS

6.2.1 BUILDING PERMIT REQUIRED

A building permit in accord with the procedures of the Town of Denning, shall be issued prior to any action requiring such a permit. Upon receipt of an application for a building permit, the Building Inspector shall review said application to determine compliance with all relevant provisions of this Zoning Law and act to approve, deny or refer such application, as appropriate, within 30 days of receipt. A building permit shall only be issued if the proposed action complies with all relevant provisions of this Law as well as those of any other applicable codes, laws or ordinances of the Town of Denning. All applications for such permits shall be made in accordance with the

requirements established by the Town Board including payment of a fee in accordance with a schedule established therefore.

6.2.2 PRIOR APPROVALS REQUIRED

The Building Inspector shall not issue a building permit for any use requiring issuance of a special permit or approval of a site plan by the Planning Board unless and until such permit or approval has been transmitted in writing by the Planning Board to the Building Inspector and any conditions attached thereto have been satisfied.

SECTION 6.3 CERTIFICATES OF OCCUPANCY

All persons desiring permission to:

- a. Occupy and use a building or structure following construction, erection, alteration, extension, relocation, or structural changes, wholly or in part, in accord with previously issued building permit;
- b. Change the use of an existing building or of a part thereof;
- c. Occupy and use vacant land for any commercial or

industrial uses other than those consisting principally of tilling the soil; Shall apply to the Building Inspector for a certificate of occupancy. All applications for such certificates shall be made in accordance with requirements established by the Town Board and shall only be issued upon a finding by the Building Inspector that all provisions of this Law have been satisfied including any conditions established as part of the approval of a special permit.

SECTION 6.4 NON-CONFORMING USES AND BULK

The provisions of this section shall apply to all non-conforming uses or bulk existing on the effective date of this Law and to a use or bulk that becomes nonconforming by reason of any amendment thereof, and to buildings or other structures housing such uses. Any appeals from this provision shall be dealt with in accord with the procedures provided in Article VII.

6.4.1 CONTINUANCE

Any nonconforming use or building may be continued indefinitely except as hereinafter provided in this Section.

6.4.2 CESSATION OF USE

Any nonconforming use which is discontinued for a period of more than three years, shall thereafter be replaced only by a use permitted in the district in which the building is located; except that upon issuance of a special permit by the Planning Board, in accord with the provisions of Section 8.2, the building may be used for a similar or more restricted use. The Board shall consider, in addition to those criteria set forth in Section 8.2.3, the size, condition and adaptability of the building to other uses in arriving at its decision.

6.4.3 CHANGE TO CONFORMING USE

A nonconforming use may be changed to a conforming use at any time, but shall not thereafter be changed back to a nonconforming use.

6.4.4 CHANGE TO ANOTHER NONCONFORMING USE

A nonconforming use may be changed to another nonconforming use upon a determination by the Zoning Board of Appeals that the proposed nonconforming use is similar in nature to the existing nonconforming use or more in character with surrounding conforming uses than the existing nonconforming use.

6.4.5 EXTENSION OF NONCONFORMING USE

A nonconforming use may be enlarged or extended or relocated to a different position on the lot which it occupies so long as such enlargement or extension shall not exceed 50% of the area devoted to the use at the time of enactment of this Law so long as no new non-conformities are created.

6.4.6 MAINTENANCE AND REPAIRS

Customary maintenance of a building or other structure containing a nonconforming use is permitted, including necessary structural

repairs and minor alterations, subject to the provisions of 6.4.5 above.

6.4.7 STRUCTURAL ALTERATIONS IN NONCONFORMING BUILDINGS

Buildings and structures which are only non-conforming in bulk may be altered, moved, reconstructed, or enlarged provided that such change does not increase the degree of, or create any new, nonconforming bulk in such building and does not violate any other provisions of this Law.

6.4.8 REDUCTION IN LOT AREA

No lot shall be reduced in area so that it creates a non-conforming bulk or use in violation of any regulations contained in this Law.

6.4.9 DAMAGE OF NONCONFORMING USE OR BULK

A building housing a nonconforming use or which is nonconforming in terms of bulk or set back, which sustains damage or destruction by any cause may be repaired or reconstructed, so long as the nonconformity is not increased or expanded, subject to the provisions of 6.4.2.

SECTION 6.5 EXISTING UNDERSIZED LOTS

6.5.1 SEPARATE LOTS

Any lot held in single and separate ownership, prior to the adoption of this Law, whose area and/or width and/or depth are less than the specified minimum lot requirements of this Law for the district in which it is located, may be considered as complying with such minimum lot requirements, and no variance shall be required, provided that:

- a. Such lot does not adjoin other land held by the same owner which lands may be aggregated to create a complying lot or a lot more nearly complying to the minimum lot area required for that district.
- b. Such lot has an area of at least 5,000 square feet and a minimum width of at least 50 feet at the required setback line;
- c. All other bulk and yard requirements for that district are complied with.

6.5.2 APPROVED SUBDIVISIONS

Any lot in a subdivision whose plat has been approved and properly filed prior to the passage of this Law and whose area and/or width and/or depth are less than the specified minimum lot requirements of this Law for that district, may be considered as complying with such minimum lot requirements for a period of two years from the date of filing of said plat.

**ARTICLE VII
BOARD OF APPEALS**

SECTION 7.1 ESTABLISHMENT, APPOINTMENT AND ORGANIZATION

- 7.1.1** Pursuant to applicable provisions of the Town Law, the Town Board shall appoint a Board of Appeals consisting of five members and shall designate its chairman. No member of the Board of Appeals shall be a member of the Town Board or the Planning Board. Members of the Board of Appeals may receive compensation for their services as provided by the Town Board.
- 7.1.2** Of the members first appointed, one shall hold office for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. Each successor to an original appointee shall be appointed for a term of five years. A vacancy occurring for reason other than by expiration of a term shall be filled by the Town Board by appointment for the unexpired term only.
- 7.1.3** The Board of Appeals shall have the power to make, adopt, and promulgate such written rules of procedure, by-laws and forms as they may deem necessary for the proper execution of their duties and to secure the intent of this Law. Such rules, by-laws and forms shall not be in conflict with, nor have the effect of waiving any provision of this Law or any other Law of the Town of Denning.

SECTION 7.2 POWERS AND DUTIES

The Board of Appeals is governed by, and shall act in strict accordance with the procedures specified by Town Law, this Law, and its own duly-adopted rules, by-laws, and forms. Upon proper request made in the form and manner prescribed by the Board and accompanied by a fee in accord with a schedule adopted by the Town Board, the Zoning Board of Appeals shall perform the following functions:

- 7.2.1** Hear and decide any question properly brought before it involving the interpretation of any provision of this Law;

7.2.2 Hear and decide appeals from any decision, determination, act, or failure to act of the Enforcement Officer, and all matters properly referred to it by the Building Inspector;

7.2.3 Grant variances to provisions of this Law in accordance with Section 7.6.

In exercising the above mentioned powers and duties, the Board of Appeals may, in conformity with Town Law, reverse, affirm or modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as ought to be made in the case referred to it. To that end the Board shall have all the powers of the Enforcement Officer from whom the appeal is made. The concurring vote of a majority of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Enforcement Officer or to decide in favor of the applicant any matter upon which such Board is required to pass.

SECTION 7.3 PUBLIC HEARINGS

The Board of Appeals on due notice shall hold a public hearing on every appeal and application for a variance referred to said Board or upon which it is required to pass under this law.

7.3.1 NOTICE

Notice of each public hearing shall be published in a newspaper of general circulation in the Town of Denning at least fifteen (15) days prior to such hearing. In addition, the Board of Appeals shall cause a notice of such hearing and an explanation of any change sought to be sent to the owners of all property within 400 feet of the subject property. Such notices shall be sent to the last known address as shown on the most recent Town tax records and mailed at least fifteen (15) days prior to such public hearing.

7.3.2 FINDINGS AND CONCLUSIONS

Within 60 days after such public hearing, and after considering the application, the Board of Appeals shall either grant or deny the request or appeal and make a written report on the findings and conclusions concerning the subject matter of such hearing, including the reasons for the grant or denial of the relief sought. Such decision shall be filed in the office of the Town Clerk within 10 days.

SECTION 7.4 INTERPRETATION

The Board of Appeals shall, upon proper request, interpret any provision of this Law about which there is uncertainty, lack

of understanding or misunderstanding, ambiguity, or disagreement, and shall determine the exact location of any zoning district boundary about which there may be uncertainty or disagreement.

SECTION 7.5 APPEALS

- 7.5.1 Any person allegedly aggrieved by a decision, determination, act, or refusal to act of the Enforcement Officer may file an appeal with the Board of Appeals. Such request shall clearly state the decision, determination, act, or failure to act, of the Enforcement Officer from which the appeal is taken.
- 7.5.2 Any appeal from a decision of the Enforcement Officer, properly filed with the Board of Appeals, shall stay all proceedings in furtherance of the action appealed from, unless the Enforcement Officer certifies to the Board of Appeals that by reason of facts stated in the certification, a stay would, in his opinion, cause imminent peril to life and property.
- 7.5.3 The Board of Appeals shall have the power to grant a restraining order to stay all proceedings in furtherance of the action appealed from, over any action by the Enforcement Officer from whom the appeal is taken, upon notice to the Enforcement Officer and on due cause shown.

SECTION 7.6 VARIANCES

Where strict application of any of the requirements of this Law would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of his land or building--but in no other case--the Board of Appeals shall have the power, in passing upon appeals, to grant a variance to any of the regulations or provisions of this zoning law relating to the area, bulk, construction or alteration of building or structures, or the use of land and buildings, so that the spirit of this Law shall be observed; public health, safety and welfare secured; and substantial justice done. Application for such variance shall clearly state the specific provisions of this Law from which a variance is sought, the special circumstances which allegedly justify such variance, and the interpretation or ruling which is desired.

7.6.1 CRITERIA FOR GRANTING VARIANCES

A variance to the provisions of this Law shall be granted by the Board of Appeals only as set forth below:

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a. Use Variance

A variance to permit a parcel of land or a building to be used for a purpose not otherwise allowed may only be granted upon a finding that:

- (1) The land in question cannot yield a reasonable return if used only for a purpose allowed in the district in which it is located; and
- (2) The circumstances applying to the property are unique and do not generally apply to other properties in the district; and
- (3) The use to be authorized by the variance will not alter the essential character of the surrounding area.

b. Area Variance

Permission to waive the dimensional requirements applying to a parcel of land in the district in which it is located shall

only be granted upon a finding that:

- (1) The property owner will suffer significant economic injury if strict compliance with the zoning is required; and
 - (2) The particular zoning requirement is not related to the public health, safety and welfare and the waiver will not adversely affect the surrounding community.
- c. For reasons fully set forth in the findings, the granting of the variance by the Board of Appeals is the minimum variance necessary.

In no case shall a variance be granted solely for reasons of additional financial gain on the part of the owner of the land or building involved.

7.6.2 **CONDITIONS AND COMPLIANCE TO LAW**

In granting any variance the Board of Appeals may prescribe any conditions that it deems to be necessary or desirable. The granting of a variance to any provisions of this Law shall not obviate the necessity of complying in every other respect with the other provisions of this Law.

7.6.3 **REFERRALS**

a. **Referral to the Town Planning Board**

At least 30 days before the date of a public hearing held in connection with any application for a variance submitted to the Board of Appeals, the Board of Appeals shall transmit to the Planning Board a copy of said application, and shall request that the Planning Board submit to the Board of Appeals its advisory opinion on said application prior to the date of said hearing. Should the Planning Board fail to submit such report within the stipulated time, the Board of Appeals may proceed to make a determination.

b. **Referral to Ulster County Planning Board**

Any application for a variance involving real property lying within 500 feet of any of the features listed under Section 9.3.2 (a) shall be referred to the Ulster County Planning Board prior to final action in accord with Sections 239.1. and m. of the General Municipal Law. The Board shall not make a determination until it has received comment from the Ulster County Planning Board or until 30 days has elapsed.

ARTICLE VIII

PLANNING BOARD

SECTION 8.1 POWERS AND DUTIES

In addition to those other powers and duties assigned to it by law, the Planning Board is hereby empowered to perform the following functions:

- 8.1.1 Issue special permits for those uses specifically listed as requiring such a permit in the Use Schedule in accord with the provisions of Section 8.2 below.
- 8.1.2 Review the site development plan for those uses requiring such review in accord with Section 8.3 below.
- 8.1.3 Review and submit advisory opinions concerning applications for variances and amendments to the zoning regulations, as required by this Law.

All resolutions or official actions of the Planning Board shall require the concurring vote of a majority of the Board.

SECTION 8.2 SPECIAL PERMITS

Pursuant to an application, either directly or through the Building Inspector, the Planning Board is hereby authorized to issue a special permit only for a use specifically listed as requiring such permit in the district in which it is proposed, subject to the following regulations and procedures:

8.2.1 APPLICATION

Each application for a special permit shall be submitted in the number of copies and form prescribed by the Planning Board, accompanied by a fee in accord with a schedule adopted by the Town Board, and shall include the following data. The Planning Board, at the request of the applicant, may waive such information as it deems not relevant to its review or which would cause unusual hardship to obtain. Application for a special permit shall also constitute simultaneous application for site plan approval in accord with Section 8.3.

8.2.1.1 Basic Data

a. Legal Data

- (1) The names of all owners of record of the property in question and of all adjacent property and the lot, block and section number of such properties as shown on the Town Tax Assessment Maps.
- (2) Existing zoning and special district boundaries.
- (3) Boundaries of the property, building or setback lines, if different from those required in the zoning law and lines of existing streets and lots as shown on the Tax Assessment Maps. Reservations, easements and areas dedicated to public use shall also be shown.

b. Existing Buildings

A plan showing the location of existing buildings on the site and on adjacent property if within 100 (250) feet of the property line.

c. Development Data

- (1) Title of development, date, north point, scale, name and address of record owner, engineer, architect, land planner or surveyor preparing the Plan.
- (2) The proposed use or uses of land and buildings and proposed height and location of buildings.
- (3) All existing and proposed means of vehicular ingress and egress to and from the site onto public streets.
- (4) The location and design of any off-street parking areas or loading areas.
- (5) The proposed location, direction, power and hours of operation of proposed outdoor lighting.
- (6) The proposed screening and landscaping plan.
- (7) Proposed storm water drainage systems and erosion control plans.

8.2.1.2 ADDITIONAL DATA WHICH MAY BE REQUIRED

Where due to special conditions peculiar to a site, or the size, nature and complexity of the proposed use or development of land or buildings, the Planning Board finds that all or portions of the additional data listed below are necessary for proper review of the application, it may require any or all of the data below to be included in the required submission.

Legal Data

- (1) A survey of the property showing all lengths in feet and decimals of a foot and all angles to the nearest minute, or closer if deemed necessary by the surveyor.
- (2) A copy of any covenants or deed restrictions that are intended to cover all or part of the tract.

Existing Features

- (1) Location of existing water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
- (2) The location of existing features such as watercourses, wetlands, rock outcroppings, wooded areas, steep slopes and similar physical features.

Topographic Data

- (1) Existing contours with intervals of five feet or less, referred to a datum satisfactory to the Board.
- (2) Proposed grading with a contour interval of two feet.

- d. Development Data
All proposed lots, easements, and public and private recreation areas. All proposed streets with profiles indicating grading and cross sections showing width of sidewalk, and locations and size of utility lines. All lengths shall be in feet and decimals of foot, and all angles shall be given to the nearest 10 seconds or closer.

8.2.2 PUBLIC NOTICE AND HEARING

8.2.2.1 Public Hearing Schedule

The Planning Board shall schedule a public hearing to be held within 45 days of receipt of a complete application for a special permit.

8.2.2.2 Hearing Notice

Notice of the public hearing shall be published in the official newspaper of the Town at least fifteen (15) days prior to the date of such hearing. In addition, the Planning Board shall cause a notice of such hearing to be mailed to the owners of all property within 400 feet of the subject property at least fifteen (15) days prior to the public hearing. Such notices shall be sent to the owner's last known address as shown on the most recent Town Tax Assessment records.

8.2.2.3 Referral to County Planning Board

Any application for a special permit involving real property lying within 500 feet of any of the features listed under Section 9.3.2 (a) shall be referred to the Ulster County Planning Board prior to final action in accord with Sections 239 1. and m. of the General Municipal Law. The Planning Board shall not make a decision until it has received comment from the Ulster County Planning Board or until 30 days have elapsed.

8.2.3 DECISION AND FINDINGS

8.2.3.1 CRITERIA FOR DECISIONS

The Planning Board shall only approve the issuance of a special permit if it finds that the following criteria have been met:

- a. Than any specific standards set forth for the proposed use in Section 4.2.6 have been satisfied and that the objectives for site plan review set forth in 8.3.2. have been achieved.
- b. That all proposed structures, equipment, or material shall be readily accessible for fire and police protection and shall be adequately served by sewer and water facilities and recreation facilities.
- c. That the proposed use is of such location, size, and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent

properties in accordance with the zoning classification of such properties.

- d. That, in addition to the above, in the case of any use located in, or directly adjacent to, a residential district:
 - (1) The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient, or incongruous with, the said residential district or conflict with the normal traffic of the neighborhood.
 - (2) The location and height of buildings, the location, nature, and height of walls and fences, and the nature and extent of screening and landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or diminish the value thereof.

8.2.3.2 FINDINGS AND CONCLUSIONS

- a. Within 45 days after the public hearing, unless the time has been extended by mutual consent of the applicant and the Planning Board, the Planning Board shall review its decision as to whether to issue the special permit and shall make a written report setting forth its findings and conclusions and the basis for its decision.
- b. The decision of the Board shall be filed with the Town Clerk within ten days and a copy thereof mailed to the applicant.

8.2.4 ADDITIONAL CONDITIONS

When issuing a special permit, the Planning Board may attach such conditions and safeguards as it deems necessary to further the intent of these regulations and to protect the public interest. Such conditions may include a requirement that the special permit be periodically renewed. Such renewal shall only be withheld, following due public notice and hearings, upon a determination that the applicant has not complied with the provisions of the original application or with any conditions prescribed by the Board in conjunction with approval of such application. In such case, the applicant shall be granted a period of 60 days within which to achieve full compliance with all conditions prior to revocation of the special permit.

SECTION 8.3 SITE PLAN APPROVAL

8.3.1 USES REQUIRING SITE PLAN APPROVAL

No building permit shall be issued for the following categories of use or building prior to the review and approval of a site development plan by the Planning Board in accord with the provisions of this section:

- a. Any structure or use which requires or proposes to provide more than 10 off-street parking spaces;
- b. Any use requiring a special permit.

Any amendment of the Site Plan for a use listed above must also be approved by the Planning Board. No Certificate of Occupancy shall be issued for any building or use of land within the purview of this section unless the building is constructed or used, or the land is developed or used, in conformity with an approved Site Plan; or an amendment of any such plan.

8.3.2 OBJECTIVES OF SITE PLAN REVIEW

In reviewing site plans, consideration shall be given to the public health, safety, and welfare; the comfort and convenience of the public in general, or the residents or users of the proposed development and of the immediate neighborhood in particular; and the accomplishment of the following objectives in particular.

- a. That the design of all structures is compatible with that of surrounding structures. Compatibility shall be determined by a review of proposed use of materials, scale, mass, color, height, texture, and location of the structure or structures on the site.
- b. That all proposed traffic access ways are adequate but not excessive in number; adequate in width, grade, alignment, and visibility; not located too near street corners or other places of public assembly; and other similar safety considerations.
- c. That off-street parking and loading spaces are designed to prevent obstruction in public streets, and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots, loading bays and building services.
- d. That all parking, and service areas are adequate in size and reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and that the general landscaping of the site is such as to enhance the character of the Town and is in character with that generally prevailing in the neighborhood.
- e. That all existing trees, wooded areas, water courses and other natural features shall be retained to the maximum extent possible consistent with the development plan.
- f. That all outdoor lighting is of such nature and so arranged as to preclude the diffusion of glare onto adjoining properties and streets.
- g. That the drainage system and the internal water and sewer systems are adequate.

- h. That the site plan and building design accommodate the needs of the handicapped and are in conformance with state standards for construction concerning the handicapped.
- j. That the site plan and building design consider the conservation of energy.

8.3.3

PROCEDURE

- a. Pre-Submission. Prior to the submission of a formal Site Plan, the applicant shall meet in person with the Planning Board, and/or their designated representative, to discuss the proposed Site Plan and to determine the specific items and level of detail of the submission requirements necessary for review of the required Site Plan.
- b. Within six months following the presubmission conference, the site plan and any related information shall be submitted to the Building Inspector in as many copies, not to exceed 10, as may be agreed during the presubmission conference. The site plan shall be accompanied by a fee in accordance with the schedule established by the Town Board. If not submitted within this six month period, another presubmission conference may be required.
- c. The Building Inspector shall certify on each original or amended site plan whether or not the application is complete; whether the plan meets the requirements of all the provisions of this Law other than those of this section regarding site plan review. The Building Inspector shall act within 30 days to certify the application as complete or return it to the applicant for completion or revision.
- d. Upon certification that an application is complete, the Building Inspector shall forward it to the Planning Board at least 10 days prior to its next regular meeting which shall be considered the official submission date.
- e. Simultaneously with its submission to the Planning Board the certified application may be forwarded to the Fire Chief, Highway Superintendent, the County Department of Public Works; or any other agency that the Building Inspector deems appropriate.
- f. Any application for a site plan involving real property lying within 500 feet of any of the features listed under Section 9.3.2. (a) shall be referred to the Ulster County Planning Board prior to final action in accord with Sections 239.1 and m. of the General Municipal Law. The Planning Board shall not make a decision until it has received comment from the Ulster County Planning Board or until 30 days have elapsed.
- g. The Planning Board may hold a public hearing on the site plan if it determines that the matter is of wide public interest. If such a hearing is held, the provisions relating to public notice as required in 8.2.2 for a Special Permit shall be followed.

- h. The Planning Board shall act to approve, disapprove or approve with conditions any such site plan within 45 days after the public hearing or, if no hearing is held, within 45 days of the official submission date, unless the time has been extended by mutual consent of the applicant and the Planning Board.

Conditional approval by the Planning Board shall include written findings concerning site plan elements found contrary to the provisions or intent of this Law and what revisions are appropriate. All conditions must be satisfied prior to issuance of a building permit.

- i. Amendments to a previously approved site plan shall be acted upon in the same manner as the original site plan.

8.3.4 TIME LIMIT ON VALIDITY OF APPROVAL

Approval of a site plan by the Planning Board shall be valid for a period of 180 days from the date thereof for the purpose of obtaining a building permit. Failure to secure a building permit during this permit shall cause the site plan to become null and void. Upon application, the Planning Board may extend the time limit on the validity of the approval to not more than two years from the date of original approval.

8.3.5 REQUIRED SUBMISSION

The data set forth in Section 8.2.1, Special Permits, shall be submitted in support of a request for site plan approval in accord with the provisions therein.

SECTION 8.4 ADVISORY OPINIONS

The Planning Board shall review all applications for variances submitted to the Board of Appeals and all proposed amendments to the text or map of this Zoning Law being considered by the Town Board referred to it in accord with the provisions of this Law. The Board shall have 30 days prior to the public hearing in which to prepare and submit its advisory opinion. Failure to submit an opinion within 30 days shall not prevent determination and action on the proposed variance or amendment by the appropriate Board.

ARTICLE IX

AMENDMENTS

SECTION 9.1 AUTHORITY TO AMEND

- 9.1.1 The Town Board may from time to time amend, supplement or repeal, in whole or in part, this Law, including the Zoning Map, subject to the provisions of this Article and Town Law. Such amendment

shall be adopted by majority vote of the Town Board, except as specified in Section 9.1.2 and 9.3.2 hereof, and may be initiated in the following ways:

- a. By the Town Board on its own motion;
- b. On the recommendation of the Planning Board or the Zoning Board of Appeals;
- c. By the filing of a petition by Town taxpayers or residents, on a form prescribed by the Town Clerk, describing such proposed amendment, accompanied by a fee in accord with a schedule established by the Town Board.

9.1.2 If a duly signed and acknowledged protest against a proposed amendment to this Law is submitted to the Town Board, by anyone of the following, it shall not become effective except by a favorable vote of three-fourths of the members of the Board.

- a. The owners of twenty percent or more of the area of the land included in such proposed change, or
- b. The owners of twenty percent or more of the land immediately adjacent to such proposed change extending one hundred feet therefrom, or
- c. The owners of twenty percent or more of the land directly opposite such proposed change extending one hundred feet from the street frontage of such opposite land.

SECTION 9.2. PROCEDURES

9.2.1 PUBLIC HEARING

No change in the text or zoning district boundary of this Law shall become effective until a public hearing is held

in relation thereto at which the general public shall have an opportunity to be heard.

9.2.2 NEWSPAPER NOTICE OF HEARING

At least fifteen (15) days prior to the date of such public hearing, a notice of the time and place shall appear in the official newspaper of the Town. Such notice shall describe the area, boundaries, regulations, or requirements that such proposed change involves.

9.2.3 REFERRALS

All proposed changes to these zoning regulations or map shall be referred to the appropriate body as set forth in Section 9.3.

9.2.4 PUBLICATION AND POSTING

Every amendment to this, Zoning Law, including any map incorporated therein, adopted in accordance with the Town Law shall be entered in the minutes of the Town Board, and a copy or summaries thereof, exclusive of any map incorporated therein, shall be published once in a newspaper of general circulation in the Town. In addition, a copy of such Law or amendment, together with a copy of any map incorporated therein, shall be posted conspicuously at or near the office of the Town Clerk in accordance with Town Law. Affidavits of the

publication and posting thereof shall be filed with the Town Clerk.

9.2.5 **EFFECTIVE DATE**

An amendment or change in this Law shall take effect 10 days following publication and posting in accordance with Section 9.2.4. and filing of the local law with the Secretary of State in accord with Article 3 of the Municipal Home Rule Law.

SECTION 9.3. REFERRAL TO THE PLANNING BOARD

9.3.1 **REFERRAL TO THE PLANNING BOARD**

Procedure. All proposed amendments originated by petition or by motion of the Town Board shall be referred to the Town of Denning Planning Board 30 days prior to the required public hearing for a report and recommendations thereon. If the Planning Board shall not have made its final report thereon within 30 days of reference thereto, the Town Board may proceed to final action.

Planning Board Report. In preparing a report on a proposed amendment, the Planning Board shall consider the following:

- (1) Whether such change is consistent with the objectives and purposes of the district(s) to be affected.
- (2) The nature and location of uses and buildings to be affected and the manner in which they will be affected.
- (3) Whether uses permitted by the proposed change will be appropriate in the affected area(s).
- (4) The affect of the change on existing or proposed public facilities and services such as schools, streets, utilities, etc.

9.3.2 **REFERRAL TO THE COUNTY PLANNING BOARD**

Matters to be Referred. Any change in the district classification of, or the regulations applying to, real property lying within a distance of 500 feet of the following shall be referred to the Ulster County Planning Board prior to final action in accord with Sections 239 1. and m. of the General Municipal Law. No final action shall be taken within 30 days of such referral unless a response is received sooner.

- (1) The boundary of any other municipality.
- (2) The boundary of any existing or proposed county or state park or other recreation area or state forest preserve lands.
- (3) The right-of-way of any existing or proposed county or state road, parkway, or other controlled access highway.
- (4) The existing or proposed right-of-way of any stream or drainage channel owned by the county for which the county has established channel lines.
- (5) The existing or proposed boundary of any county. or state owned land on which a public building or institution is located.

County Planning Board Recommendations. If the Ulster County Planning Board fails to report its recommendations within 30 days after receipt of a full statement of such referred material, the Town Board shall construe such inaction as approval of the proposed zoning action and may act without such a report.

Affect of Negative Report. If the Ulster County Planning Board disapproves the proposed amendment, or recommends modification thereof, the proposed amendment shall not become effective except by a vote of a majority plus one of all members of the Town Board and after the adoption of a resolution fully setting forth the reasons for such action.

9.3.3

REFERRAL TO ADJACENT MUNICIPALITIES

At least 10 days prior to the date of the public hearing, written notice of any proposed change or amendment affecting property within 500 feet of the boundary of any adjacent Town or Village shall be transmitted to the Town or Village Clerk of that Town or Village. The Town or Village shall have the right to appear and to be heard at such public hearing with respect to any such proposed change or amendment, but shall not have the right of review by a court as provided in Article 78 of the Civil Practice Act.

ARTICLE X TERMINOLOGY

SECTION 10.1 USE AND INTERPRETATION OF WORDS

Except where specifically defined herein, all words used in this Law shall carry their customary meanings. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.

The word "shall" is always mandatory. The word "may" is permissive.

"Building" or "structure" includes any part thereof. A "building" includes all other structures of every description except fences and walls, regardless of dissimilarity to conventional building forms. The word "lot" includes the word "plot" or "parcel". The word "person" includes a corporation as well as

an individual. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for" and "occupied for".

SECTION 10.2 DEFINITIONS

Accessory Building - A structure detached from the principal building on the same lot and customarily incidental and subordinate to the principal building or use.

Accessory Use - A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use.

Alteration - As applied to a building or structure, a change or rearrangement in the non-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.

Alteration (Structural) - Any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.

Attic - That part of a building which is immediately below and wholly or partly within the roof framing. An attic with a finished floor shall be counted as one-half story in determining the permissible number or stories.

Bed and Breakfast Establishment/Inn - An establishment providing no more than three rooms of transient housing accommodation (less than one week in length), which provides food and/or drink only to persons occupying the transient quarters.

Billboard - A sign or structure which directs attention to an idea, product, business activity, service, or entertainment which is conducted, sold or offered at a location other than the premises on which such sign is located.

Boarding House - A private dwelling in which at least three but not more than six rooms are offered for rent, and table board is furnished only to roomers, and in which no transients are accommodated. A rooming house or a furnished room house shall be deemed a boardinghouse.

Building - Any structure which is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing, or enclosure of persons, animals, or equipment or goods.

Building (Accessory) - See Accessory Building.

Building Area - The total square footage of interior floor areas measured on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

Building (Completely Enclosed) - A building separated on all sides from adjacent open space or other buildings by fixed interior walls or party walls, pierced only by windows and doors, and covered by a permanent roof.

Building (Detached) - A building entirely surrounded by open space on the same lot.

Building, Principal - A building in which is conducted the principal use of the lot on which said building is located.

Building Line - A line parallel to the street line and set back there from a distance equal to the required front yard in the zoning district in which a

lot is located.

Bulk - A term used to describe the size, volume, area, and shape of buildings and structures and the physical relationship of their exterior walls or their location to lot lines, other buildings and structures or other walls of the same building, and all open spaces required in connection with a building, other structure, or tract of land.

Commercial Campground and Recreational Vehicle Parks - A plot of a ground which two or more campsites are located, established or

maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes; operated as a business and open to the public for a fee.

Conference Center - A facility which is used for conferences, seminars or similar purposes and which provides housing, food service, meeting space, educational and recreational facilities as well as ancillary facilities for twenty or more guests.

Coverage - The lot area or percentage of lot area covered by all principal and accessory buildings and structures.

Dwelling - A building designed or used principally as the living quarters for one or more families (see "Residences").

Dwelling (One family) - A building containing only one dwelling unit.

Dwelling (Two family) - A building containing two dwelling units.

Dwelling Unit - A building or entirely self-contained portion thereof designed for occupancy by only one family (including any domestic staff employed on the premises) and having complete cooking and sanitary facilities for the exclusive use of the occupants of the "dwelling unit". A boarding house, convalescent home, dormitory, fraternity or sorority house, hotel, inn, lodging or rooming house, nursing, or other similar home, or other similar structure shall not be deemed to constitute a dwelling unit.

Family - A "family" consists of one or more persons who live together and maintain a common household. More than five persons not related by blood, marriage or adoption, shall not be deemed to constitute a family.

Finished Grade - The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not horizontal, the finished grade - in computing height of buildings and other structures or for other purposes - shall be the average elevation

of all finished grade elevations around the periphery of the building.

Floor Area (Gross) - The aggregate sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerline of walls separating two buildings. In particular, the gross "floor area" of a building or buildings, shall include:

- (a) Basement spaces;
- (b) Floor space used for mechanical equipment, with structural headroom of 6 feet 6 inches or more;

- (c) Attic spaces (whether or not a floor has actually been

laid) providing structural headroom of 6 feet 6 inches or more;

(d) Interior balconies and mezzanines; and

(e) Enclosed porches;

However, the "gross floor area" of a building shall not include:

(a) Cellar spaces, except that cellar spaces used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths;

(b) Accessory water tanks and cooling towers;

(c) uncovered steps; exterior fire escapes;

(d) Terraces, breezeways, open porches and outside balconies;

(e) Accessory off-street parking spaces;

(f) Accessory off-street loading berths; and

(g) Elevator shafts and stairwells at each floor.

Floor Area, Livable - All spaces within the exterior walls of a dwelling unit exclusive of garages, breezeways, unheated porches, cellars, heater rooms, and basements having a window area of less than 20 percent of the square foot area of the room. Usable floor area shall be deemed to include all spaces not otherwise excluded above such as: principal rooms, utility rooms, bathrooms, all closets and hallways opening directly into any rooms within the dwelling unit and all attic space having a clear height of at least five feet from finished floor level to pitch of room rafter with a clear height of seven feet six inches from finished floor level to ceiling height of seven feet six inches from finished floor level to ceiling level over 50 percent of the area of such attic space.

Forestry - The operation of timber tracts, tree farms, forest nurseries, and related activities such as reforestation services and the gathering of gums, barks, balsam needles, maple sap, Spanish moss, and other forest products.

Gasoline Service Station - See "automobile service station".

Height of Building - The vertical distance measured from the average finished grade along the exterior walls of the building (or adjacent to the side of a structure) to the highest point of such building or structure.

Hotel - A building or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances, and may contain one or more common dining rooms, drinking places and entertainment facilities.

Home Occupation - An activity carried out for gain by a resident in his or her dwelling which is clearly incidental and secondary to the primary use of the dwelling for residential purposes.

Junkyard - An area of land with or without buildings used for or occupied by the storage, keeping, or abandonment of junk, including scrap metals or other scraps, used or salvaged building materials, or the dismantling, demolition, or abandonment, of automobiles other vehicles, appliances or machinery or the major parts thereof for three (3) months or more shall be deemed to make the lot a "junkyard".

Kenel - An establishment in which more than six (6) dogs or other domestic animals are housed, groomed, bred, boarded, trained or sold.

Loading Berth, Loading Facility - A space at a building, housing a nonresidential use, specifically designed to allow loading or unloading of goods and materials from a vehicle.

Loading Facilities - One or more loading berths at a building.

Logging - The removal of timber from a property in quantities greater than 20 standard cords of wood, 2,000 cubic feet or 10,000 board feet within any given calendar year. Nothing in this law shall prevent cutting of trees by a property owner on his own land for his own personal use and enjoyment.

Lot - A defined portion or parcel of land considered as a unit, devoted to a specific use or occupied by a building or a group of buildings that are united by a common interest, use, or ownership, and the customary accessories and open spaces belonging to the same.

Lot Area - The total horizontal area included within the lot lines.

Lot (Flag) - A lot fronting on a public or private road or street which does not meet the lot width requirements of the district in which the lot is located at the rear of the required front yard but widens or extends to a point where the distance between the side lot lines is equal to or greater than the required lot width.

Lot Coverage - See Coverage.

Lot Frontage - A lot line which is coincident with a street line.

Lot Line - The lines bounding a lot as defined herein.

Lot Width - The width of a lot measured parallel to the lot frontage at the rear of the required front yard.

Lot of Record - A lot which is recorded in the office of the Ulster County Clerk.

Mobile Home - (also Trailer) - A portable, factory-made dwelling unit, built" on its own chassis, designed to be transported on its own wheels or those of another vehicle, and intended, when connected to all required utility systems, to be suitable for year-round occupancy. The term mobile home shall not be construed to include a modular home or a recreational vehicle.

Modular Home - A dwelling unit consisting of two or more major segments constructed Off-site, which complies with the New York State Uniform Fire Prevention and Building Code, and designed to be transported to a site for permanent assembly and anchoring to a permanent foundation and to become a fixed part of the real estate.

Motel - A building or group of buildings containing individual living and Sleeping accommodations primarily consisting of one bedroom and bath units, each of which is provided with a separate exterior entrance and a parking space, and is offered principally for rental and use by motor vehicle travelers. The term "motel" includes but is not limited to every type of similar establishment known variously as an auto court, motor hotel, motor court, motor inn, motor lodge, tourist court, tourist cabins, roadside hotel.

Motor Vehicle Repair - General repair, rebuilding or reconditioning of engines, motor vehicles, or trailers, such as collision service, body repair and frame straightening; painting and upholstering; vehicle steam Cleaning; and undercoating.

Motor Vehicle Service or Gasoline Station - Any building, land area, or other

premises used or intended to be used for the retail dispensing or sale of automobile fuels, which activity may be accompanied by accessory uses such as sales of lubricants, tires, accessories or supplies, minor repairing of automobiles or a Single-bay auto wash; provided, however, that automobile wrecking, major repairing of automobiles, parking or storing automobiles for hire and operation of more than one towing vehicle shall not be deemed permissible accessory uses of an automobile service station.

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.

Non-conforming Bulk - That part of a building, other structure, or tract of land which does not conform to one or more of the applicable bulk regulations of this Law, either following its effective date or as a result of subsequent amendments thereto.

Non-conforming Use - Any use of a building, other structure, or tract of land, otherwise lawfully established, which does not conform to the use regulations for the district in which such use is located, either at the effective date of this Law or as a result of subsequent amendments thereto.

Nursery - An establishment where woody or herbaceous plants are grown for sale, including a structure for the sale of such merchandise.

Nursery School or Preschool - A place providing or designed to provide daytime care or instruction by an individual, association, corporation, institution, or agency, whether or not for compensation or reward, for seven or more children from the age of two to five years inclusive, away from their homes for more than two and one half but less than 10 hours per day.

Organizational Campgrounds - A facility in which young people, families, and adults live at a camp and are supervised and instructed by counselors, program directors, teachers, and other camp staff. A camp's facilities usually include group housing, eating facilities, hiking trails, swimming, campsites, sports fields and other recreational facilities for the camp attendees, as well as ancillary facilities.

Premises - A lot together with all the buildings and uses thereon.

Public and Private Schools - Schools formally accredited by the New York State Department of Education and schools which instruct more than twenty students per year, even though not formally accredited by the New York State Department of Education. The latter category would encompass nursery schools, environmental education centers, trade schools and elderhostels.

Recreational Vehicle - A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and is primarily designed as temporary living accommodation for recreational camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

Recycling Centers, Commercial - See "Junkyard".

Residence - A building, or any part of a building, which contains living and sleeping accommodations for permanent occupancy. "Residence" therefore includes all one-family and two-family

houses, row houses, mobile homes, apartment houses, boarding, rooming, fraternity, and sorority houses. However, "residence" shall not include the following:

- (a) Transient accommodations, such as hotels, motels, and camp grounds; or
- (b) That part of a building containing both residences and other uses which is used for any nonresidential uses, except accessory uses for residences.

Restaurant - An establishment where food and beverages are prepared, served and intended to be consumed primarily within the principal building and where such food and beverages are not primarily packaged for removal by the customer.

Riding Academy - Any establishment where horses are kept for riding, driving or stabling for compensation.

Right-of-Way - A strip of land acquired by reservation, dedication, purchase, prescription or condemnation used or intended to be used to afford legal access to abutting property. See also street.

Right-of-Way Line - The dividing line between a lot and the adjacent right-of-way.

Roadside Farm Stand - An establishment, usually a booth or stall, which is accessory to a farm, primarily engaged in the retail sale of produce and farm products to the general public and which is open no more than eight months in any calendar year.

Rooming House - See "Boardinghouse."

Setback - The distance in feet from the street line to the principal building on a lot.

Scrap Materials Salvaging and Wholesaling - See "Junkyard"

Sign - Any letter, word, model, banner, flag, pennant, insignia, device, or representation designed or used as, or which is in the nature of, an announcement, direction or advertisement. The word "sign" does not include the flag, pennant or insignia of any nation, state, city or other political entity, or signs devoted to prohibiting trespassing. The following words and phrases shall have the meanings ascribed to them as they relate to sign regulations:

- (a) Accessory Sign - Any sign related to a business or profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.
- (b) Awning - A roof-like covering of canvas, fiberglass or other material attached to a metal or other frame and supported entirely from a building or other structure.
- (c) Freestanding Sign - Those signs which are affixed to the ground and not attached to a building.
- (d) Front Face - The outer surface of a building which is visible from any public street or walkway. A building may have more than one front face.
- (g) Mobile Sign - A sign not permanently affixed to a structure or to the ground and designed or intended to be moved from one location to another (see also "Temporary Sign").
- (h) Projecting Sign - A sign which is affixed to an exterior wall of

the structure extending perpendicular or at an angle of more than 30 degrees from the wall and with the sign surface plane (upon which the typography is displayed) perpendicular to or at an angle of more than 30 degrees to the wall plane.

- (i) Roof Sign - A sign which is erected, constructed, or maintained on, partly above, or as part of the roof of any building.
- (j) Sign Area - The area of a sign shall be measured as follows:
 - (1) When such sign is on a plate or framed or outlined: all of the area of such plate or the area enclosed by such frame or outline shall be included.
 - (2) When such sign consists only of letters, designs, or figures engraved, painted, projected, or in any manner affixed on a wall or a fascia panel integrated into the building design, the total area of such sign shall be deemed the area of the smallest triangle, rectangle, or circle within which all of the matter of which such sign consists may be inscribed.
- (k) Temporary Sign - A sign which is designed to advertise or announce a particular event or series of events, to solicit political support, or to announce the availability for sale of a particular item or items which will be available for a limited period.
- (l) Wall Sign - A sign which is affixed to or painted on an exterior wall of a structure and the surface on which the typography is displayed is in the same plane as the wall plane.

Sign (Directly Illuminated) - A sign which incorporates any artificial lighting as an integral part or feature or which depends for its illumination on transparent or translucent material or electricity or radio-activated material or substance.

Sign (Flashing) - An illuminated sign on which the artificial lighting is not maintained stationary or constant in intensity and color at all times while in use.

Sign (Indirectly Illuminated) - A sign illuminated with an artificial light which is separated from or is not an intrinsic part of the sign itself.

Site Plan - A plan that indicates the proposed development and uses of land or structures.

Skilled Nursing Home or Convalescent Home - A facility operated for the purpose of providing lodging, board, and nursing care to sick, invalid, infirm, disabled, or convalescent persons for remuneration.

Special Permit Use - A use of property that is basically appropriate to a given zoning district, but which may be incompatible (in some locations within the district and therefore is not permitted by right everywhere within such district. A special permit use, therefore, is one which is allowable only when specified facts and conditions are found to exist.

Street - An existing public way which affords principal means of access to abutting properties and is suitably improved; or a proposed way shown on a plat approved by the Town Planning Board and/or recorded in the office of the County Clerk.

Street Line - The dividing line between a lot and a street, which forms the front lot line of a lot abutting a street, and is defined by the right-of-way or parcel containing a street.

Street Width - The width of the right-of-way or the distance between property, street parcel or takings lines on opposite sides of a street.

Structure - A static construction of building materials, including buildings, mobile homes, stadia, platforms, towers, sheds, storage bins, antennas and other receivers, swimming pools and the like.

Swimming Pool - An outdoor water pool which is intended to be used for swimming or bathing. An outdoor water pool shall, for the purposes of this law, be construed to mean any swimming pool, tank,

depression, or excavation in any material, dike, or berm constructed, erected, excavated, or maintained, which will cause the retention of water to a greater depth than 18 inches or having a plane surface area of water greater than 100 square feet, and includes in ground as well as above ground swimming pools.

Trailer - See "Mobile Home."

Trailer (Private Utility): A vehicle not capable of self propulsion, designed or used primarily for the transportation or storage of materials, equipment, or personal effects, not exceeding one ton in capacity.

Use - This term is employed in referring to:

- (a) The purpose for which any buildings, other structures, or land may be arranged, designed, intended, maintained, or occupied; or
- (b) Any occupation, business activity, or operation conducted (or intended to be conducted) in a building or other structure, or on land.

Yard (Required) - That portion of the open area of a lot extending open and unobstructed from the ground upward, along a lot line, for a depth or width as specified by the bulk regulations of the district in which the lot is located. No part of such yard shall be included as part of a yard or other open space similarly required for buildings on another lot.

Yard, Front - An open, unoccupied space extending across the full width of the lot, between the front lot line and a line drawn parallel thereto at the closest building.

Yard, Rear - An open, unoccupied space extending across the full width of the lot between the rear lot line and a line drawn parallel thereto at the closest building.

Yard, Side - An open, unoccupied space between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a street line shall be deemed a side line.

ARTICLE XI SEPARATE VALIDITY

If any part or provision of this Law or the application thereof to any

person or circumstance is adjudged invalid or unconstitutional by any court of competent jurisdiction, such judgment shall be confined in its effect to the part, provision, or application directly involved in the controversy in which each judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town Board hereby declares that it would have enacted this Law and each article, section, and subsection thereof even without any such part, provision, or application.

ARTICLE XII
EFFECTIVE DATE

This Law together with the appurtenant official Zoning Map shall take effect immediately upon adoption by the Town Board of the Town of Denning, New York, and proper publication, posting and filing as required by Municipal Home Rule Law.

Denning

ZONING LAW

Town of Denning
Ulster County, New York

