
CHAPTER 165: ZONING

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ARTICLE I: General Provisions

§ 165-1. Title.

A. This Chapter shall be known and may be cited as the “Zoning Code of the Town of Coeymans.”

§ 165-2. Authority.

A. This Chapter is enacted pursuant to the authority and power granted by the Municipal Home Rule Law of the State of New York and the Town Law of the State of New York, in conformance with the Town of Coeymans Comprehensive Plan duly adopted by the Town Board.

§ 165-3. Purposes.

A. The restrictions and regulations described in the text and maps that constitute this Chapter are adopted in accordance with a Comprehensive Plan and are in the interest of the protection and promotion of the public health and welfare of the Town of Coeymans and shall be deemed specifically to include the following among others:

- (1) The facilitation of the provisions of adequate public services and facilities;
- (2) The preservation and protection of residential lands and historic structures, both visually and physically from those of nonresidential use, and wherever reasonable, the elimination of nonconforming uses, which have a deleterious effect on their surroundings;
- (3) The reduction and prevention of traffic hazards and congestion;
- (4) The general enhancement of the town appearance;
- (5) The conservation of property values through the encouragement of the most appropriate use of land within the municipality; and
- (6) Gradual elimination of nonconforming uses.

B. The above shall not in any way be construed to limit the purposes of this Chapter.

§ 165-4. Applicability.

A. In interpreting and applying this Chapter, the requirements contained herein are declared to be the minimum standards applicable to land development as regulated herein. Further, this Chapter shall not be deemed to affect, in any manner whatsoever, any easements, covenants, or other agreements between parties, provided, however, that where this Chapter imposes a greater restriction upon the use of buildings or land, or upon the erection, construction, establishment, moving, alteration, or enlargement of buildings than are imposed by other ordinances, local laws, rules, licenses, certificates, or other authorizations, or by easements, covenants, or agreements, the provisions of this Chapter shall prevail.

§ 165-5. Severability.

- A. Should any section, subsection, sentence, clause, phrase or provision of this Law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 165-6. Effective Date.

- A. This Chapter shall take effect upon the effective date of the Local Law, filed with the Secretary of State, that governs this Chapter.

§ 165-7. Reserved.

ARTICLE II: Terminology

§ 165-8. Interpretation and Use of Words.

- A. Unless otherwise listed below, the numbers, abbreviations, terms and words used herein shall have the meaning or common usage as set forth in the latest edition of Webster's New Collegiate Dictionary. Terms of law shall have the meanings as set forth in the latest edition of Black's Law Dictionary.
- B. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular include the plural; words used in the plural include the singular; the word "herein" means this Chapter; the word "requirements" means the minimum requirements necessary for the purposes set forth in Article I; and the words "this Chapter" shall mean this local law and the schedules and maps included herein as enacted or subsequently amended.
- C. The word "person" as used in this Chapter shall be defined to include, but not be limited to, and individual, a partnership, a joint venture, a corporation, an unincorporated association, a firm or any other form or entity, contractors, subcontractors, or journeymen.
- D. The word "lot" includes the word "plot".
- E. The term "occupied" or "used," as applied to any land or building, shall be construed to include the words "intended," "arranged," or "designed to be occupied or used."
- F. "Shall" is always mandatory, except when applied to public official, in which event "shall" is directory. Time requirements shall, nevertheless, be considered mandatory.
- G. Those terms related to building and land use that have not been defined herein shall have the meaning given to them under the New York State Uniform Fire Prevention and Building Code.

§ 165-9. Definitions.

- A. When used in this Chapter as well as throughout the text, the following words shall have these meanings.
- B. Where definitions are divided into classifications or categories of activities or uses, each classification or category shall be considered a different activity or use requiring separate application of the provisions of this Chapter.
- C. As used in this Chapter, the following terms shall have the meanings indicated:

ADULT CARE FACILITY: A long-term facility or a distinct part of a facility licensed or approved as a nursing home or infirmary unit of a home for the aged. Facility may provide on a regular basis, personal care, including dressing and eating and health-related care and services, to individuals who require such assistance.

ADULT USE AND ENTERTAINMENT ESTABLISHMENTS: A public or private establishment, or any part thereof, which presents any of the following entertainments, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages: service or entertainment where the servers or entertainers wear pasties or G-strings or both: adult arcade; adult bookstore or adult video stores; adult cabarets; adult motels; adult motion picture theaters; adult theaters; nude model studios and sexual encounter centers. Adult use and entertainment establishments customarily exclude minors by reason of age, and are those businesses defined as follows:

A. **ADULT ARCADE:** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion-picture machines, projectors, or other image-producing devices which are regularly used to show films, motion pictures, videocassettes, slides, or other photographic reproductions, are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing specified sexual activities or specified anatomical areas.

B. **ADULT BOOKSTORE or ADULT VIDEO STORE:**

(1) A commercial establishment that has a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its interior business advertising from the sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, videocassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or

(b) Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

(2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. For purposes of this definition, principal business purpose shall mean 25% or more of any of the following:

(a) The number of different titles or kinds of such merchandise;

(b) The number of copies or pieces of such merchandise;

(c) The amount of floor space devoted to the sale and/or display of such merchandise; or

(d) The amount of advertising that is devoted to such merchandise, either in print or broadcast media.

C. **ADULT CABARET:** A nightclub, bar, nonalcoholic or juice bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity;
 - (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
 - (3) Films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- D. **ADULT MOTEL:** A hotel, motel or similar commercial establishment which:
- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and which advertises the availability of sexually oriented type of material by means of a sign visible from the public right-of-way or by means of off-premises advertising including but not limited to newspapers, magazines, pamphlets or leaflets, radio or television;
 - (2) Offers sleeping rooms for rent on a regular basis for a period of time that is less than 10 hours; or
 - (3) Allows a tenant or occupant of a room to sub-rent the room for a period of time that is less than 10 hours.
- E. **ADULT MOTION PICTURE THEATER:** A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- F. **ADULT THEATER:** A theater, concert hall, auditorium or similar commercial establishment which for any form of consideration, features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.
- G. **MESSAGE PARLOR:** Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with specified sexual activities, or where any such person providing such treatment, manipulation, or service related thereto, exposes his or her specified anatomical areas. The definition of "adult use" shall not include the practice of massage in any licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.
- H. **MINOR:** A person less than 18 years of age.
- I. **NUDE MODEL STUDIO:** Any place where a person who appears in a state of nudity or displays specified anatomical areas is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or

any form of consideration, other than as a part of a course of instruction offered by an educational institution established pursuant to the laws of the State of New York.

- J. NUDITY OR STATE OF NUDITY: The appearance of specified anatomical areas.
- K. PERSON: An individual, proprietorship, partnership, corporation, association, or other legal entity.
- L. REGULARLY: More than once annually.
- M. SEMINUDE: A state of dress in which clothing covers no more than the specified anatomical area, as well as portions of the body covered by supporting straps or devices.
- N. SPECIFIED ANATOMICAL AREAS:
 - (1) Unless completely and opaquely covered, human genitals, pubic region, buttocks, or female breasts below a point immediately above the top of the areola; and
 - (2) Even if completely and opaquely covered, male genitals in a discernibly turgid state.
- O. SPECIFIED SEXUAL ACTIVITY: Includes any of the following:
 - (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or breasts;
 - (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 - (3) Masturbation, actual or simulated; or
 - (4) Excretory functions.
- P. SEXUAL ENCOUNTER CENTER: A business or commercial enterprise that, as one of its primary business purposes, offers, for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of specified sexual activities or exposure of specified anatomical areas, or activities between persons when one or more of the persons is in a state of nudity or seminude.

AGRICULTURE: The production, storage, keeping, harvesting, grading, packaging, processing, boarding, or maintenance, for sale, lease, or personal use, of plants, and animals useful to humans, including but not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals bees and apiary products; fur animals; tees and forest products; fruits of all kinds, including grapes, nuts, and berries; vegetables; nursery , floral, ornamental, and greenhouse products; or lands devoted to a soil conservation or forestry management program.

AGRICULTURAL RETAIL SUPPORT: Establishments that sell goods or merchandise to the general public and generally relate to or support agricultural development.

ALTERATION: As applied to a building, any change or rearrangement in the nonstructural parts, or an enlargement of said building or structure.

ALTERATION (structural): As applied to a building, any change in its supporting members, such as bearing walls, column, beams or girders.

ANIMAL HOSPITAL: A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

ANIMAL KENNEL: Any structure or premises in which animals are boarded, groomed, bred, or trained for commercial gain.

APPLICANT: Any person, corporation or other entity applying for a building permit, certificate of occupancy, Special Use Permit, site plan, sign permit, variance, or zoning amendment.

ASSEMBLY HALL: Any structure or area where large numbers of individuals collect to participate in or to observe programs.

ATTIC: That space within a building which is immediately below and wholly or partly enclosed by the roof framing. An attic with a finished floor shall be counted as 1/2 story in determining the permissible number of stories.

AUTOMOBILE SHOWROOM: An area or space devoted to the display of new vehicles.

AUTOMOBILE WRECKING YARD: An establishment licensed by the Department of Motor Vehicles that cuts up, compresses, or otherwise disposes of motor vehicles.

BASEMENT: A story partly underground by having at least 1/2 of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than four feet or if used for business or dwelling purposes.

BED AND BREAKFAST: An owner-occupied dwelling used for renting accommodations to transient, fee-paying guests and providing not more than one meal (breakfast) daily to lodging guest only. May also be referred to as a B&B.

BUILDING: A structure that 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 any tangible movable property.

BUILDING HEIGHT: The vertical distance of a structure measured from the average elevation of the finished grade surrounding the structure to the highest point of the structure.

BUILDING, DETACHED: A building fully surrounded by open space on the same lot.

BUILDING, FRONT LINE OF: The line of that face of the building nearest the front line of the lot. This face includes covered porches, whether enclosed or unenclosed, but does not include steps.

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

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

CAMPSITE: An area of land privately or publicly owned, used primarily for transient travelers, providing off-street parking and recreational facilities.

CARPORT: A roofed structure providing space for the parking of motor vehicles and enclosed on not more than three sides.

CAR WASH: Any building or premises used for washing motor vehicles.

CELLAR: A story partly underground and having more than 1/2 of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

CHILD-CARE CENTER: An establishment providing for the care, supervision, and protection of children.

CLUB (PUBLIC OR PRIVATE): A building and/or related facilities owned or operated by a corporation, association, or group of individuals established for the fraternal, social, education, recreational, or cultural enrichment of its members and not primarily for profit and whose members pay dues and/or meet certain prescribed qualifications for membership.

CODE ENFORCEMENT OFFICER: The individual who is appointed by the Town Board and authorized by law for purposes of administering and enforcing the provisions of this Chapter. The Code Enforcement Officer may also be the Building Inspector.

COMMERCIAL STORAGE FACILITY: A building used primarily for the storage of goods and materials and may be available to the general public for a fee. Such building may include a group of buildings containing separate individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time.

COMMUNITY, GOVERNMENTAL, MUNICIPAL BUILDING: A building or structure owned and operated by a governmental agency to provide a governmental service to the public.

CONVENIENCE STORE: A retail establishment of up to 5,000 square feet selling primarily food products, household items, newspapers and magazines, candy, and beverages, and a limited amount of freshly prepared foods such as sandwiches and salads for off-premises consumption.

DAY CAMP: An area of land with or without buildings designed for formal and informal recreation or education for children and young adults.

DRIVEWAY: A private roadway providing access to a street or highway.

DWELLING UNIT: A building or entirely self-contained portion thereof containing complete housekeeping and living facilities for only one family.

DWELLING, APARTMENT: A building of not more than two stories designed as a residence containing three or more dwelling units; a building not to exceed 10 family units.

DWELLING, CONDOMINIUM: A building, or group of buildings, in which dwelling units, offices, or floor area are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

DWELLING, MULTIFAMILY: A building containing three or more dwelling units or apartments, including units that are located one over another; a building not to exceed 10 family units.

DWELLING, ONE-FAMILY: A detached building designed for or occupied exclusively by one family, erected on a permanent foundation, with/without basement and equipped for year-round occupancy.

DWELLING, TOWNHOUSE: A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistance walls.

DWELLING, TWO-FAMILY: A building designed as a single structure, containing two separate living units, each of which is designed to be occupied as a separate permanent residence for one family.

ECHO (ELDER COTTAGE) HOUSING: A small, removable modular cottage on a concrete foundation or slab in the rear or side yard of a dwelling.

ESSENTIAL SERVICES: Services provided by public and private utilities, including underground surface, or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, along with normal accessory activities.

FAMILY: One or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodging house, club, fraternity or hotel.

FENCE: An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

FINANCIAL INSTITUTION: A business establishment where money, or other items for safekeeping, are kept for saving or commercial purposes or is invested, supplied for loans, or exchanged.

FLAG LOT: A lot so shaped and designed that the main portion of the lot is set back from the public street or road on which it fronts, is situated behind one or more lots and is connected to such frontage road or street only means of a relatively narrow strip of land. Required yards for a flag lot shall not include the distance of the narrow strip of land to the street frontage.

FLOOR AREA: The sum of the gross horizontal areas of the several floors of a building or buildings. Measurements shall be taken from the outer face of exterior walls or from the center line of walls separating two buildings.

A. More specifically, the "floor area" shall include:

- (1) Basement and cellar space.
- (2) Floor space for mechanical equipment with structural headroom of seven (7) feet and six (6) inches or more;

- (3) Elevator shafts and stairwells at each floor;
- (4) Penthouses;
- (5) Interior balconies and mezzanines;
- (6) Enclosed porches; and
- (7) Accessory buildings.

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

- (1) Accessory off-street parking or unloading spaces;
- (2) Uncovered steps, exterior fire escapes;
- (3) Terraces, stairways, open porches, outside balconies; and
- (4) Accessory outside water tanks and cooling towers.

FRONTAGE: A lot which is adjacent to and a portion of its lot line meets on the right-of-way line of a public street or road.

FUNERAL HOME: A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation; it may include ancillary services for cremation.

GARAGE: An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises. Garage space is not classified as living area even when part of a dwelling. Detached garages for residences are accessory structures under this Zoning Ordinance.

GOLF COURSE: A tract of land laid out for a least nine holes for playing the game of golf that may include a clubhouse, dining, and snack bars, pro shop, and practice facilities.

GOVERNMENT AND COMMUNITY SERVICE FACILITY: Those buildings and or grounds needed to service the municipality.

GRADE, ESTABLISHED: The elevation of the center line of the streets as officially established by the town authorities.

GRADE, FINISHED: The completed surfaces of lawns, walks and roads brought to grades as shown on the official plans or designs relating thereto.

GREENHOUSE, NURSERY or GARDEN SHOP: A place where trees, shrubs, vines, and/or flower and vegetable plants are propagated or grown for a period of at least six months and/or where flowers and vegetables of an annual variety are germinated and/or offered for sale on the premises.

HOME OCCUPATION: An activity carried out for gain by a resident and conducted as an accessory use in the resident's dwelling unit or on the site of the residence.

HOSPITAL: A hospital for other than mental patients, contagious or infectious diseases, or liquor or drug addicts.

HOTEL: A building containing more than six rooms which are rented or hired out to be occupied for sleeping purposes by guests and where a general kitchen and dining room are provided within the building or in an accessory building.

INDUSTRIAL and EXTRACTIVE: Includes limited manufacturing or processing involving changing the nature, size, or shape of substances of raw materials, or recombining raw materials and shall meet the performance standards, bulk controls, and other requirements contained in this ordinance. Industrial uses may involve the use of chemical applications, heat, pressure, or other mechanical processing methods.

JUNK VEHICLE: Any rusted, wrecked, damaged, dismantled or partially dismantled, inoperative, or abandoned motor vehicle in such a condition that it is economically infeasible to restore the vehicle to an operating condition.

JUNKYARD: A lot or structure, or part thereof, used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or white goods not in running condition and for the sale of parts thereof. As defined in Chapter 105, the use includes, the outdoor storage or deposit of any of the following: five or more junk motor vehicles, two or more junk mobile homes, and/or any combination of the above that totals five items.

LAND DISTURBANCE: The disturbance of land, including but not limited to grading, cutting of vegetation, the excavation or removal of soils or minerals, associated with the present or future development of the parcel.

LAUNDRY & DRY CLEANING: An establishment providing washing, drying, or dry-cleaning machines on the premises for rental use to the general public.

LIBRARY: A place containing books for reading, study, and research.

LIGHT INDUSTRY and ASSEMBLY: Includes limited manufacturing, assembly, wholesaling, warehousing, research and development, and related commercial/service that meet the performance standards, bulk controls, and other requirements contained in this Zoning Ordinance.

LINE, STREET: The dividing line between the street and the lot.

LOADING SPACE: The area required for parking delivery trucks, which in this Chapter is held to be an area twelve (12) feet wide by forty (40) feet long and fourteen (14) feet in height.

LOT: A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon, and is usually expressed in terms of square feet or acres.

LOT AREA: An area of land, the size of which is determined by the limits of the lot lines bounding said area, excluding any street rights-of-way, and is usually expressed in terms of square feet or acres.

LOT COVERAGE: The percentage of the plot or lot area covered by the building area and all impervious coverage. Parking areas and driveways, regardless of how surfaced, shall be considered impervious.

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

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

LOT, INTERIOR: A lot other than a corner lot.

LOT LINE: Any line dividing one from another.

LOT, NONCONFORMING: A plot of land which does not conform to the area, yard or bulk requirements of this Chapter.

LOT, THROUGH: An interior lot having frontage on two approximately parallel streets.

LOT WIDTH: The shortest distance between side lot lines measured at the front yard setback line or building line, as applicable.

LUMBER and BUILDING SUPPLY: An area and structures used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products.

MANUFACTURED HOUSING PARK: A plot of ground on which two or more mobile homes occupied for dwelling or sleeping purposes are located, placed and used as dwellings.

MARKET GARDENING: The commercial production of vegetables, fruits, flowers, and other plants, primarily for profit, on a scale larger than a home garden, yet small enough that many of the principles of gardening can be applied.

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

MIXED USE: Use of land and/or a building or structure for a variety of complementary and integrated uses such as, but not limited to, residential, office, retail, entertainment, public, and recreation.

MOTEL: A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" includes buildings designated as tourist courts, auto courts, motor lodges, and by similar appellations.

NONCONFORMING BUILDING, STRUCTURE: A building, structure, or other improvement that does not satisfy the dimensional requirements of this Zoning Ordinance for the area, yard and bulk in which it is located, but which was not in violation of applicable requirements when constructed and was lawfully erected pursuant to applicable permits and approvals.

NONCONFORMING LOT: Any lot existing prior to and at the time of the adoption or amendment of this Zoning Ordinance, that does not satisfy the dimensional requirements of this Zoning Ordinance.

NONCONFORMING USE: Any use lawfully existing prior to and at the time of the adoption or amendment of this Zoning Ordinance, which use is not permitted or does not conform to the permitted use provisions for the area in which it is located.

NURSERY SCHOOL: A school designed to provide daytime care or instruction for two or more children from two to five years of age inclusive, and operated on a regular basis.

NURSING HOME: An institution or a part of an institution that is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the governing authority or its members by marriage, blood, or adoption.

NUISANCE: A condition or situation that results in an interference with the enjoyment and use of property.

OFFICE: Establishments used for the organizational or administrative aspects of a trade, or used in the conduct of a profession or business, and not involving the manufacture, storage, display or direct retail sale of goods. This may include, but is not limited to, offices of sales representatives, architects, engineers, physicians, dentists, attorneys, insurance brokers, real estate brokers, and person with similar occupations. Such use may include ancillary services for office workers, such as a restaurant, coffee shop, and child-care facilities.

OFFICE, PROFESSIONAL: The office of a member of a recognized profession maintained for the conduct of that profession and may be located in a room, wing or portion of a structure used in connection with as a dwelling unit.

OFF-STREET PARKING: A temporary storage area for a motor vehicle that is directly accessible to an access aisle and that is not located on a dedicated street right-of-way.

OPEN SPACE: An unoccupied space open to the sky on the same lot with the building.

OUTDOOR STORAGE and SALES: The display and sale of products and services, primarily outside of a building or structure, including vehicles; garden supplies, flowers, shrubs, and other plant materials; food and beverages; farm equipment; and building and landscape materials.

OUTDOOR WOOD-BURNING FURNACE: Any equipment, device or apparatus which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat to a principal residential structure or any other site structure on the residential premises.

PARCEL: A piece or area of land formally described and recorded with block and lot numbers, by metes and bounds, by ownership, or in such a manner as to specifically identified the dimensions and/or boundaries.

PERFORMANCE STANDARDS: A set of criteria or limits relating to certain characteristics that a particular use or process may not exceed.

PLANNING BOARD: The Planning Board of the Town of Coeymans, the administrative board of the Town authorized to review and approve special use permits, site plans and other delegated responsibilities set for the in the Town Code.

PLANNED DEVELOPMENT DISTRICT (PDD): An area of at least five (5) contiguous or non-contiguous acres in size to be planned, developed, operated, and maintained as a single entity and

containing one or more residential cluster, which may include appropriate commercial, public, or quasi-public uses primarily for the benefit of the residential development.

PLOT: A single-unit parcel of land or a parcel of land that can be identified and referenced to a recorded plat or map.

PLOT PLAN: A map or plan showing the boundaries of a parcel and all structures and important physical features on it, drawn to scale with accurate dimensions.

PRINCIPAL STRUCTURE, BUILDING: A building in which is conducted the main or principal use of the lot on which said building is situated.

PRINTING, PUBLISHING: Establishments engaged in printing by letterpress, lithography, gravure, screen, offset or other common process, including electrostatic (xerographic) copying and other "quick printing" services; and establishments serving the printing trade including silk screening, bookbinding, typesetting, engraving, photoengraving and electrotyping. This use also includes establishments that publish newspapers, books and periodicals; and establishments manufacturing business forms and binding devices.

RECREATIONAL FACILITY: A place designed and equipped for the conduct of sports and leisure-time activities. Such facility may be operated as a business and open to the public for a fee, or operated by a private organization and open only to bona fide members and guests, but excluding accessory residential recreational uses.

RELIGIOUS USE: A structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held.

RESEARCH, DEVELOPMENT FACILITY: A facility for the testing and development of various mechanical, electronic, photonic, agricultural, medical, and biotechnological products and services that have been licensed as required by state and federal authorities.

RESTAURANT: Any premises where food and/or beverages are commercially sold for on-premises consumption to patrons seated at tables or counters and where table services is provided.

RESTAURANT FAST FOOD: A business enterprise primarily engaged in the sale of quickly prepared food and beverages selected by patrons from a limited line of prepared specialized items such as hamburgers, chicken, pizza, tacos, ice cream and hot dogs, for takeout and/or on-premises consumption, where orders are placed at a counter as opposed to table service via a waiter/waitress. The term "fast food restaurant" shall not include bakeries, delicatessens, or similar types of retail establishments.

RETAIL BUSINESS: Traditional establishments, such as florists, lumber and hardware stores, pharmacies, convenience stores, stationary stores, bookstores, video-rental stores, clothing stores, department stores, shoe stores, etc., that sell goods or merchandise to the general public for personal or household consumption, but not including an Adult Business Use.

RETAIL GROCERY: Any fixed facility in which food or drink is sold primarily for off-premises preparation and consumption.

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

RIGHT-OF-WAY: A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, lane, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, or other similar uses.

ROADSIDE STAND, or FARM STANDS --. Any activity where a farmer sells agricultural and value added products directly to consumers at a stand or kiosk located on or near his farm or along a road near the farm.

SAND AND GRAVEL PIT: An area from which sand and gravel is excavated as a source of supply.

SANITARY LANDFILL or DUMP: A land site used primarily for the disposal by dumping, burial, burning, or other means and for whatever purposes of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, and other waste, scrap, or discarded material of any kind.

SCHOOL (Public or Private): Any building or part thereof that is designed, constructed, or used for education or instruction in any branch of knowledge.

SEQRA: The State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law, and its implementing regulations codified in 6 NYCRR Part 617.

SERVICE BUSINESS: Establishments primarily engaged in providing services rendered to a business establishment or individual on a fee or contract basis including actuarial, advertising, credit reporting, janitorial, office or business equipment rental or leasing, photofinishing, telecommunications, window cleaning, blueprinting, and photocopying, and other such services.

SERVICE, PERSONAL: Establishments primarily engaged in providing services involving the care of a person or personal apparel, such as a beauty parlor, barbershop, tailor or custom cleaning services.

SETBACK: The distance between the building and any lot line.

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

SIGN: Any object, device, display, or structure, or part thereof, that are visible to the public from a street, walkway or neighboring property that are displayed outdoors or indoors, that is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. A "sign" does not include national or state flags, or the official announcements or signs of government. The following types of signs shall be included:

A. **FREESTANDING SIGN:** Any sign not attached or part of any building but separate and permanently affixed by any other means, in or upon the ground.

- B. **ILLUMINATED SIGN:** Any sign designed to give forth or reflect any artificial light, such light deriving from any source which is intended to cause such light or reflection.
- C. **NONCONFORMING SIGN:** A sign lawfully erected and maintained prior to the adoption of the current Zoning Ordinance that does not conform with the requirements of the current Zoning Ordinance.
- D. **PORTABLE SIGN:** A sign, whether on its own trailer, wheels or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or another sign, including sidewalk signs.
- E. **TEMPORARY SIGN:** A sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a short period of time.
- F. **WALL SIGN:** A sign which is painted on or attached to the outside wall of a building with the face of the sign in the plan parallel to such wall and not extending more than nine (9) inches from the face of such wall.
- G. **WINDOW SIGN:** A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material or located inside within four (4) feet of window, but not including graphics in connection with customary window display of products.

SITE PLAN: A plan, rendering, drawing, or map prepared to the specifications and containing necessary elements, which shows the arrangement, layout, and design of the proposed use of land as shown on said plan including, but not limited to building locations, road, parking areas, and other site features that may be reasonably required in order to make an informed determination by the approving authority.

SPECIAL USE: A use that, because of its unique characteristics, requires individual consideration through a review process by the Planning Board. Such a use may require the meeting of certain conditions and safeguards as well as site plan approval before being permitted.

STORY: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

STORY, HALF: A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two (2) feet above the floor of such story.

STREET: A strip of land, including the entire right-of-way, publicly or privately owned, servicing primarily as a means of vehicular, pedestrian and bicycle travel, and furnishing access to abutting properties, which may also be used to provide space for sewers, public utilities, shade trees, sidewalks, and streetscape amenities.

TELECOMMUNICATION TOWER: A federal Communications Commission (FCC) licensed facility, designed and used for the purpose of transmitting, receiving, and relaying voice and data signals from various wireless communication devices and equipment

TEMPORARY COMMERCIAL BUILDING: Seasonal facilities associated with special functions and or summer activities.

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

TRANSFER STATION: An intermediate facility in which garbage, refuse and other solid waste collected from any source is temporarily deposited to await transportation to a waste facility. This includes sites for the sorting of construction and demolition material. This definition shall not be interpreted to include sanitary landfills and/or dumps which are prohibited uses in the Town of Coeymans.

TRANSPORTATION TERMINAL: A facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express between modes of transportation, including bus terminals, railroad stations, airport terminals and public transit facilities.

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

USE, ACCESSORY: All uses, buildings, or structures that are customarily incidental to and subordinate to a particular principal use and located on the same lot as the principal use. Except for uses accessory to a dwelling unit, any use that is accessory to a special permit use shall also be a special permit use. Any use that is accessory to a permitted use shall also be a permitted use.

USE, PRINCIPAL: The main or primary use of the lot. Except for designated mixed uses and multiple retail uses within a shopping center only one (1) principal use is permitted per lot, all other uses, except special uses and permitted accessory uses, being excluded.

VARIANCE, AREA: Written permission to depart from any provision of a zoning ordinance except use.

VARIANCE, USE: Written permission granted for a use that is not permitted in the zone.

VEHICLE SALE (NEW): The use of any building, land area or other premise principally for the display, sale, rental, or lease of new automobiles and/or boats, and may include any vehicle or boat preparation, warranty, or repair, as well as financing and leasing services.

VEHICLE SALE (USED): The use of any building, land area or other premise principally for the display, sale, rental, or lease of used automobiles and/or boats, and may include any vehicle or boat preparation, warranty, or repair, as well as financing and leasing services.

VEHICLE SERVICE STATION: Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels; servicing and repair of automobiles or vehicles; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar accessories retail services.

WAREHOUSE: A building used primarily for the storage of goods and materials.

WHOLESALE STORAGE FACILITY: Establishments or places of business primarily engaged in selling merchandise to other business, including retailers, industrial, commercial, institution, or professional business users, other wholesaler, or acting as agents or brokers and buying merchandise for or selling merchandise to, such individuals or companies

YARD, FRONT: A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building at the closest point to the front lot line.

YARD, REAR: A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.

YARD, REQUIRED: The minimum open space between a lot line and the yard line within which no structure is permitted to be located except as provided in this Zoning Ordinance.

YARD, SIDE: A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

ARTICLE III: Establishment of Zoning Districts

§ 165-10. Establishment of Districts.

A. The Town of Coeymans is hereby divided into the following districts:

Title	Symbol
Residential Agricultural District	RA
Residential Low-Density District	RL
Riverfront Community District	RC
Commercial District	C
Industrial General District	IG
Neighborhood Commercial Overlay District	NC
Planned Development District	PDD

§ 165-11. District Intent.

- A. Residential Agricultural District: Areas of the Town designated under this district are characterized as important agricultural areas, often having historic structures defined as those being 100 years or older, to be protected and preserved. As identified in the Comprehensive Plan and vision for the Town, the Residential Agricultural District's intent is to support and protect farming by stabilizing the agricultural land base. The agricultural zone is designed specifically to protect farmland as a non-renewable resource for future generations.
- B. Residential Low-Density District: Areas of the Town designated under this district are characterized by traditional single-family and two-family residential development and neighborhoods, often having historic structures defined as those being 100 years or older. The purpose of this district is to ensure that the general character of these rural neighborhoods is protected.
- C. Riverfront Community District: Areas of the Town designated under this district are intended to further enhance the Town of Coeymans riverfront and strengthen its perception as a "Riverfront Community." A balanced mix of appropriate uses, including high-density residential, commercial, and water-dependent recreational uses are envisioned for the District. A variety of nonresidential water-dependent and water-enhanced uses will be permitted in this area, subject to development standards including adequate buffering between incompatible uses and a review process, which will ensure that environmental and historic resources are protected. Careful consideration will be given to architectural design, building form, and signage to ensure new development retains the District's historic qualities and unique identity.
- D. Commercial District: Areas of the Town designated under this district provide a transition zone between residential uses along higher volume traffic corridors. The district encourages a land use pattern suitable for the development of professional and business offices and limited service, retail and commercial activities.

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- E. Industrial General District: Areas of the Town designated under this district are deemed appropriate for general industrial and other appropriate nonresidential services and businesses. The purpose of this district is to provide areas for industrial uses primarily engaged in basic processing, assembling and manufacturing of products from raw materials and with tolerable levels of noise, dust, odor, vibration or smoke. The district is further intended to protect residential neighborhoods from the encroachment of such general industrial land uses that could be in conflict with the industrial and manufacturing environment. Industrial uses are subject to development standards including adequate buffering between incompatible uses and a review process, which will ensure that environmental resources are protected.
 - F. Neighborhood Commercial Overlay District: Areas of the Town designated under this Overlay District is intended to preserve and enhance the residential and rural character while permitting a concentration of neighborhood commercial uses to be, consistent with the goals and recommendations of the Comprehensive Plan.
 - G. Planned Development District: Areas of the Town designated by the Town Board. The Planned Development (PDD) District provides for mixed-uses which have been approved by the Town Board in accordance with the regulations and performance guidelines of this Chapter.

§ 165-12. Adoption of Map.

- A. The boundaries of the districts are hereby established as shown on the "Zoning Map, Town of Coeymans, New York," and certified by the Town Clerk, which map accompanies this Chapter, and which, with all explanatory matter thereon, is hereby adopted and made a part of this Chapter. The zoning map may be amended to the same manner as any other part of this Chapter. Said maps, indicating the latest amendment, shall be kept up to date in the office of the Building Inspector and the Town Planning Board for the use and benefit of the people.

§ 165-13. Interpretation of District Boundaries.

- A. 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:
 - (1) Unless otherwise shown, the district boundaries shall be construed to coincide with the centerlines of streets, alleys, stream, lake or other body of water, and main track or tracks of railroads.
 - (2) Where district boundaries are indicated as approximately parallel to the centerline of streets or highways, boundaries shall be deemed as being parallel thereto and at such a distance as indicated on the map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the said zoning map.
 - (3) Where such boundaries are indicated as approximately following the property lines of parks or other publicly or institutionally owned lands, such lines shall be construed to be such boundaries.

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- (4) In all cases where, on the effective date of this Chapter, a district boundary divides a lot, other than a through lot, in one ownership, in such a way that fifty percent (50%) or more of such lot lies in the less restricted district, the regulations prescribed by this Chapter for such less restricted district shall apply to such portion of the more restricted portion of said lot which lies within thirty (30) feet of such district boundary. For purposes of this section, the more restricted district shall be deemed that district which is subject to regulations which prohibit the particular use intended to be made of said lot or which regulations set higher standards with respect to setback, coverage, yards, screening, landscaping and similar requirements.
 - (5) In all cases when a district boundary is located not farther than twenty-five (25) feet away from a lot line of record, the boundary shall be construed to coincide with such line.

§ 165-14. Schedules of Uses; Schedule of Area, Yard and Bulk Requirements.

- A. To facilitate public understanding and for convenience in administration, there is hereby declared to be a part of this Chapter a “Schedule of Uses and Off-Street Parking”, and a “Schedule of Area Yard and Bulk Requirements”, which list the uses permitted in each district, the minimum lot areas, minimum yard widths, building height limitations, off-street parking needs, and other basic requirements which, in some cases, are supplemented by other regulation in this Chapter.
- B. Schedule of Uses and Off-Street Parking. In any district established by this Chapter, no premises shall be used and no building shall be erected, constructed, enlarged, altered, arranged, or designed to be used, in whole or in part, except for a use as set forth in the accompanying Schedule of Uses and Off-Street Parking. Only those uses specifically listed shall be permitted. Additionally, off-street parking facilities shall be provided in accordance with requirements set forth in the Schedule of Uses and Off-Street Parking, except where additional parking may be required as a condition for the issuance of a conditional permit or site plan approval and except as otherwise determined by the Planning Board.
- C. Schedule of Area, Yard, and Bulk Requirements. In any district established by this Chapter, no premises shall be used, and no principal or accessory building or structure shall be erected, constructed, enlarged, altered, or arranged on a lot except in accordance with the requirements set forth in the accompanying Schedule of Area, Yard, and Bulk Requirements. Further the following shall apply:
 - (1) No yard or other open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.
 - (2) 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 Chapter for the district in which said lot is located. No permit shall be issued for the erection of a building on any lot thus created unless such building and lot comply with all the provisions of this Chapter.

§ 165-15. Conformity Required.

- A. Uses. Following the effective date of this Chapter any use not identified in the Schedule of Uses and Off-street Parking, §165-85 of this Chapter, shall be deemed prohibited. No building or lot shall be used for any purpose or in any manner except in conformity with all regulations, requirements and/or restrictions specified in this Chapter for the district in which such building or lot is located. Where permitted uses are identified by generic words or descriptions, the Zoning Board of Appeals shall determine whether a specific use shall be construed to be part of such generic class. In making such determination, the Zoning Board of Appeals shall consider to what extent the proposed use is similar to the class of use indicated in the Schedule of Uses and Off-street Parking.
- B. Buildings. After the effective date of this Chapter no building shall be erected, moved, altered, rebuilt, enlarged, designed, or arranged to be used for any purpose or in any manner except in conformity with the regulations, requirements and/or restrictions specified in this Chapter for the district in which such building is located.
- C. Lots. After the effective date of this Chapter no lot shall be built upon unless it is a buildable lot as defined herein.

§ 165-16. Site Plan Review.

- A. Site Plan Review approval by the Planning Board shall be required in all Districts, in accordance with Chapter XXX, Site Plan Review Requirements, in association with the development, erection or enlargement of all buildings for any purpose other than one- and two-family residences and associated customary accessory uses thereto.
- B. Site Plan Review approval by the Planning Board shall be required in all Districts, in accordance with Chapter XXX, Site Plan Review Requirements, for all uses of land where no building is proposed and where a building permit or certificate of occupancy is required.

§ 165-17. Exceptions.

- A. The height limitations of this Chapter shall not apply to church spires, belfries, cupolas, sirens and load speakers for emergency purposes, penthouses and domes not used for human occupancy. Nothing in this Chapter shall prevent the erection of an ornamental parapet wall or cornice that extends not more than five (5) feet above the maximum permitted height of the building. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve.
- B. The space in any required setback shall be open and unobstructed except for the ordinary projection of windowsills, cornices, eaves, and other architectural features provided, however, that such features shall not project more than three (3) feet into any required setback.
- C. Roofed-over but unenclosed stairs and /or landings in the nature of an entryway or portico not more than eight (8) feet wide and extending not more than six (6) feet out from the front wall of the building, shall be permitted to encroach on a required front yard setback.

§ 165-18. Reserved.

§ 165-19. Reserved.

ARTICLE IV: Districts, Use, and Area Requirements

§ 165-20. Residential Agricultural District (RA).

- A. All uses permitted and all uses requiring a special use permit are listed in the Schedule of Uses and Off-Street Parking for the Residential Agricultural District located at the end of this Chapter.
- B. All area requirements for the Residential Agricultural District are so indicated in the Schedule of Area, Yard, and Bulk Requirements located at the end of this Chapter.

§ 165-21. Residential Low-Density District (RL).

- A. All uses permitted and all uses requiring a special use permit are listed in the Schedule of Uses and Off-Street Parking for the Residential Low-Density District located at the end of this Chapter.
- B. All area requirements for the Residential Low-Density District are so indicated in the Schedule of Area, Yard, and Bulk Requirements located at the end of this Chapter.

§ 165-22. Riverfront Community District (RC).

- A. All uses permitted and all uses requiring a special use permit are listed in the Schedule of Uses and Off-Street Parking for the Riverfront Community District located at the end of this Chapter.
- B. All area requirements for the Riverfront Community District are so indicated in the Schedule of Area, Yard, and Bulk Requirements located at the end of this Chapter.

§ 165-23. Commercial District (C).

- A. All uses permitted and all uses requiring a special use permit are listed in the Schedule of Uses and Off-Street Parking for the Commercial District located at the end of this Chapter.
- B. All area requirements for the Commercial District are so indicated in the Schedule of Area, Yard, and Bulk Requirements located at the end of this Chapter.

§ 165-24. Industrial General District (IG).

- A. All uses permitted and all uses requiring a special use permit are listed in the Schedule of Uses and Off-Street Parking for the Industrial General District located at the end of this Chapter.
- B. All area requirements for the Industrial General District are so indicated in the Schedule of Area, Yard, and Bulk Requirements located at the end of this Chapter.

§ 165-25. Neighborhood Commercial Overlay District (NC).

- A. **Boundaries.** The boundaries of the Neighborhood Commercial Overlay District shall include the portions of all parcels abutting Route 143 located within five-hundred (500) feet of either side of the centerline of Route 143, between Powell Hill Road and Cedar Ridge Road, as illustrated on the Zoning Map of the Town of Coeymans; and shall include the portions of all parcels abutting Route 32 located within five-hundred (500) feet of either side of the centerline of Route 32, as illustrated on the Zoning Map of the Town of Coeymans
- B. **General Requirements.** For the purposes of this Chapter, the Neighborhood Commercial Overlay District supplements the underlying zoning district(s) established within designated areas of the Town. In addition to the requirements of the underlying zoning district(s), the following additional requirements herein shall apply:
- (1) **Permitted Uses.** All uses permitted and all uses requiring a special use permit are listed in the Schedule of Uses and Off-Street Parking for the Neighborhood Commercial Overlay District located at the end of this Chapter.
 - (2) All area requirements for the Neighborhood Commercial Overlay District shall comply with the requirements of the underlying zoning district(s) so indicated in the Schedule of Area, Yard, and Bulk Requirements located at the end of this Chapter.

§ 165-26. Reserved.

§ 165-27. Reserved.

ARTICLE V: Supplemental Regulations

§ 165-28. Accessory Uses and Structures.

- A. Uses customarily incidental to principal uses listed in on the Schedule of Uses Off-Street Parking shall be allowed on the same terms as the principal uses, whether or not on the same lot, unless otherwise indicated in the Schedule of Uses and Off-Street Parking or other provisions of this Chapter.
- B. In the case of any detached garage, tennis court, swimming pool, or any non-agricultural accessory structure attached to the principal structure, all the minimum setback requirements of this Chapter applicable to the principal structure shall be met. Other detached accessory structures or uses may encroach into required setback areas provided that they:
- (1) Are not used for human habitation
 - (2) Have a footprint no larger than two-hundred (200) square feet;
 - (3) Do not exceed sixteen (16) feet in height;
 - (4) Do not occupy more than ten percent (10%) of a required rear setback area;
 - (5) Are set back at least ten (10) feet from side or rear lot lines;
 - (6) Do not prevent emergency fire fighting access or to shade a residential structure on an adjacent lot; and
 - (7) Are not located closer to the street than the setback required for a principal structure, except for fences, gates, mailboxes, newspaper receptacles, signs, sand storage bins, and similar roadside structures with less than one-hundred (100) square feet of footprint, as well as ornamental structures such as entry pillars and statues.

§ 165-29. Adult Uses.

- A. Purpose. In the execution of this provision, it is recognized that there are some adult uses which, due to their very nature, have serious objectionable operational characteristics particularly when located in close proximity to residential neighborhoods and other sensitive land uses. The objectionable characteristics of these uses are further heightened by their concentration in any one area thereby having deleterious effects on adjacent areas. It has been acknowledged by communities across the nation that state and local governments have a special concern in regulating the operation of such businesses under their jurisdiction to ensure that these adverse secondary effects will not contribute to the blighting or downgrading of adjacent neighborhoods nor endanger the well-being of the youth in their communities. The special regulations deemed necessary to control the undesirable secondary effects arising from these enterprises are set forth below. The primary purpose of these controls and regulations is to preserve the integrity and character of residential neighborhoods and important natural and human resources of the Town, to deter the spread of blight and to protect minors from objectionable characteristics of these adult uses by restricting their proximity to churches, schools,

nursery schools, day-care centers, educational institutions, parks, historic and scenic resources, civic and cultural facilities and residential areas.

- B. Adult uses, as defined in §165-9, of this Code, are to be restricted in the following manner, in addition to any other requirements of the Code:
- (1) Adult uses shall not be located within a five-hundred (500) foot radius of any district zoned for residential use. For measurement purposes, the distance between an adult use and any residential zoning district shall be measured in a straight line, without regard to intervening structures or objects, from the closest structural wall of such adult use to the boundary line of such residential district.
 - (2) Adult uses shall not be located within a one-thousand-five-hundred (1,500) foot radius of another adult use. For measurement purposes, the distance between adult uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest structural wall of any adult use to the closest structural wall of any other adult use.
 - (3) Adult uses shall not be located within a one-thousand (1,000) foot radius of any school, nursery school, day-care center, educational institution, house of worship, park or playground, historic or scenic resource and civic or cultural facility. For measurement purposes, the distance between an adult use and other such named uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest structural wall of such adult use to the closest property boundary of such school, nursery school, day-care center, educational institution, house of worship, park or playground, historic or scenic resource and civic or cultural facility.
 - (4) Not more than one adult use shall be located in the same building or upon the same lot or parcel of land.
 - (5) No loudspeakers or sound equipment shall be used for adult uses that can be discerned by the public from public or semipublic areas.
 - (6) Parking shall be located in the side or rear yard, and no parking space may be located less than fifty (50) feet from any property line. Such use and parking area shall be adequately fenced and/or buffered (landscaping/berms) for screening from any adjacent property, and lighting shall be directed away from adjacent property and public highways.
 - (7) Any signage associated with an adult use shall be subject to the standards and guidelines contained in §165-46 of this Chapter.
 - (8) Adult uses are limited to the Industrial District only.
- C. Display prohibited. All adult uses and entertainment establishments shall be conducted in an enclosed building. It shall be a violation to display or exhibit (in the open air, through a window, or by means of a sign, depiction or decoration), or to allow to be displayed or exhibited, any specified anatomical area or specified sexual activity.
- D. Waivers. The restrictions enumerated above may be waived by the Town Zoning Board of Appeals if the applicant shows and the Board finds that the following conditions have been met:

- (1) That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this Code will be observed.
- (2) That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation or improvement, either residential or nonresidential.
- (3) That fifty-one percent (51%) or more of those persons residing, owning or operating a business within the restricted area as defined in §165-29 (B)(1) through (B)(3) of this section have signed a petition stating that they have no objection to the establishment of one of the uses defined in §165-9 of this Code.

E. Violations. Any person, firm, corporation or entity that shall violate any portion of this chapter shall be guilty of a violation and, upon conviction thereof, shall be fined in an amount not to exceed \$500 for each violation. The continuation of a violation of the provisions of this chapter shall constitute, for each day the violation is continued, a separate and distinct offense hereunder. Any person, firm, corporation or entity violating any of the provisions of this chapter shall become liable to the Town for any expense or loss or damage occasioned the Town by reason of such violation. The imposition of penalties herein prescribed shall not preclude the Town or any person from instituting appropriate legal action or proceedings to prevent a violation of this chapter, or to restrain or enjoin the use or occupancy of a building, premises or part thereof in violation of this chapter.

§ 165-30. Agricultural Uses and Right-to-Farm.

A. The Town of Coeymans supports the use of land for agricultural purpose, and through the Town Comprehensive Plan and this Chapter has attempted to provide, to the fullest extent allowed by law, for the protection of agricultural uses and lands suitable for agricultural production. The Town supports the continued operation of active farm operations and has provided, through the regulations of this Chapter the means for the Planning Board to approve non-agricultural land development subject to such conditions as may be required to assure the long-term viability of active farm operations and agricultural activities by limiting the potential for conflict between established farms and agricultural uses and newly established non-agricultural uses. The Town support sound agricultural practices necessary for the on-farm production, preparation, and marketing of the agricultural commodities and supports the farm protection polices set forth in §308 of the Agriculture and Markets Law.

§ 165-31. Animal Hospitals and Animal Kennels.

A. Animal Hospitals.

- (1) All facilities other than exercise pens and runways shall be maintained in enclosed structures.
- (2) No outdoor runway or exercise pen shall be located within one-hundred (100) feet of any lot or street line.
- (3) An off-street area located on-site shall be utilized for walking dogs while waiting for appointments and such area shall be maintained so as to minimize odors and insects from dog feces.

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- B. Private Animal Kennels. A kennel that is used solely for the keeping of dogs for the residents located on the same property shall not require a special use permit or site plan provided that the following requirements are met:
- (1) No more than four (4) dogs are kept for the residents and/or where no more than one (1) dog is bred at any one time.
 - (2) No runway or exercise pen shall be located within one-hundred (100) feet of any lot or street line.
 - (3) No building or part thereof that is used for the housing of dogs shall be erected nearer than fifty (50) feet of any lot line.
 - (4) The property shall be regularly maintained so as to minimize odors and insects from dog feces.
- B. Commercial Animal Kennels. A kennel that may be used for the keeping or housing of dogs for a fee or for non-profit humane purposes (with or without attendant commercial services such as grooming, breeding, or veterinary care or adoption services) shall require a special use permit and shall comply with the following minimum requirements:
- (1) Minimum lot size shall be 2 acres.
 - (2) Any residence with more than four (4) dogs and/or more than one dog bred at any one time shall also be defined as a commercial animal kennel.
 - (3) No kennel, runway or exercise pen shall be located within three-hundred (300) feet of any lot or street line.
 - (4) No building or part thereof that is used for housing dogs overnight shall be erected nearer than one-hundred (100) feet of any lot line.
 - (5) All facilities shall be permanently screened from all surrounding properties.
 - (6) The property shall be regularly maintained so as to minimize odors and insects from dog feces.
 - (7) Provisions shall be made for removal or handling of dog feces in such a manner that does not pollute ground or surface water or create a public nuisance. A stormwater plan must be submitted and approved which is designed to keep runoff from any area that is utilized for the dogs from other properties.
 - (8) In issuing the Special Use Permit, the Planning Board shall stipulate the maximum number and type of animals boarded and harbored or trained.

§ 165-32. Bed and Breakfast.

- A. A bed and breakfast may have no more than five (5) bedrooms for guests and may accommodate no more than ten (10) transient lodgers at any one time.
- B. No guest shall occupy the premises more than fourteen (14) days within any thirty (30) day period.
- C. The only meal to be provided to guests shall be breakfast, and it shall only be served to guests taking lodging in the facility.

- D. Guest rooms shall primarily be accessed through interior entryways. Secondary exterior entryways shall be limited such that the individual guest rooms are not apparent from off the premises.
- E. No food preparation or cooking for guests shall be conducted within any bedroom made available for guests, with the exception of coffee makers and similar small beverage-warming appliances.
- F. The applicant/operator must be the owner and must reside full-time in the residence that is to be the bed and breakfast facility unless an accessory structure is to be converted to a bed and breakfast, in which case the owner must reside in the principal residence on the same parcel as the accessory structure. If the principal residence and an accessory structure are to have bed and breakfast rooms, the total bedrooms allowed is still limited to five (5) and the total transient lodgers is still limited to ten (10).
- G. Small-scale receptions or similar gatherings may be held incidentally to the primary bed and breakfast inn use, subject to the following:
 - (1) The number and duration of the gatherings and the number of participants may be limited by the Planning Board, based on the location and characteristics of the site (e.g. size of parcel, level of traffic, number of parking spaces, proximity to adjoining residences, number of restrooms, and location in a rural or urban setting).
 - (2) The gatherings and all participants shall be restricted to the vicinity of the bed and breakfast inn; and
 - (3) The gatherings shall not involve the use of amplified sound or lighting that are highly visible from off-site.
- H. The applicant shall comply with all applicable health codes, building codes and other applicable laws. Upon request the operator shall provide documentation that all required permits, including but not limited to, the County Health Department, State, County, and Local highway permits, etc. have been obtained. Prior to the issuance of a certificate of occupancy, the applicant must show that all applicable permits have been received.
- I. The dwelling shall comply with all applicable bulk regulations and other applicable provisions of this Chapter.

§ 165-33. Child Care Centers.

- A. A buffer landscape strip shall be required to protect play yards from dust, dirt and noise as well as to screen and protect adjacent properties from any site-generated noise. The landscaped strip shall be densely planted in shrubs and trees to create an opaque screen. No plantings shall cause an interference with required lines of sight for entry and exit drives.
- B. Outdoor play areas shall be provided with a minimum space of forty (40) square feet per child. Play areas shall include turf grass areas and space for play equipment and circulation. Play areas shall not exceed ten percent (10%) in slope.
- C. Fencing not less than four (4) feet high and not greater than six (6) feet high shall be required in addition to a landscape strip, unless it can be demonstrated to the satisfaction of the Planning Board

not to be necessary for the protection of health and safety. Only a day-care center that is on a local road may apply for the waiver.

§ 165-34. Conservation Subdivisions.

A. Purposes. The purpose of Conservation Subdivisions is to enable and encourage flexibility of design and development of land in such a manner as to preserve the natural and scenic qualities of open lands.

B. Applicability/Location

- (1) Conservation subdivisions are applicable only in the Residential Agricultural (RA) Zoning District of the Town.
- (2) An applicant for subdivision approval may propose or the Planning Board, in its discretion, may require the submission of a Conservation Subdivision plat where the Planning Board finds that a Conservation Subdivision is appropriate.
- (3) In order for the Planning Board to require a Conservation Subdivision without the applicant's consent, the Planning Board must find that a Conservation Subdivision is appropriate for the particular parcel of land in question and its location based upon the following criteria:
 - (a) The purpose for Conservation Subdivisions as set forth in §165-34 (B)(2) above will be furthered;
 - (b) The open space to be preserved via a Conservation Subdivision will not be as effectively preserved by any other method;
 - (c) The open space to be preserved via a Conservation Subdivision is of value to the community and will preserve or enhance the rural character of the Town;
 - (d) The site features and constraints will allow for a feasible clustered or conservation lot layout; and
 - (e) The soils and water supply are sufficient to allow on-site septic systems and water wells to service each lot in the Conservation Subdivision lot layout or there is public sewer and water available.

C. Density Standards.

- (1) Overall Density. The maximum number of lots permissible in a Conservation Subdivision shall in no case exceed the maximum number of lots permissible in a Conventional Subdivision for the same parcel of land if the parcel was subdivided via a Conventional Subdivision where the lots conform to the minimum lot size, density, and other requirements otherwise applicable to the District or Districts in which such parcel of land is located.
- (2) Density Calculation. The applicant shall submit a sketch plan for a Conventional Subdivision conforming to the minimum lot size, requirements and standards otherwise applicable to the District or Districts in which the subdivision is located in order to establish the number of dwelling units permitted in a Conservation Subdivision. Said sketch plan must show that each

lot meets the minimum lot size and area requirements for the Zoning District in which is located and that each lot shown can be developed as a viable single-family residential lot. Except as specified herein, all development standards and controls normally applicable to Conventional Subdivisions shall also be applicable to Conservation Subdivisions. Thus, areas of land needed for roads, infrastructure as well as site constraints that limit the number of lots in a conventional subdivision shall be taken into account in determining the number of lots allowable in a Conservation Subdivision. The area of lands which may be required for parks, playgrounds or recreation areas in a Conservation Subdivision, if any, or a fee in lieu of such parks, playground or recreation areas shall in no case exceed the area of such lands that may be required in a Conventional Subdivision. However, the area of lands which would be required, in a Conventional Subdivision, for parks, playgrounds or recreation lands pursuant to the Town's Subdivision Regulations (Chapter 145 of the Town Code) shall be excluded in determining the number of lots permitted in a Conservation Subdivision.

D. Development Standards.

- (1) The intent of this section is to allow flexibility of design that allows for enhancement of rural character and conservation of open space. Lots should vary in size and shape and should utilize existing land features in configuration of the lots.
- (2) The minimum lot size allowed in a Conservation Subdivision shall be no less than 1/3-acre and at least fifty percent (50%) of the total number of lots in the subdivision shall be 1/2-acre or more.

E. Open Space Requirements.

- (1) **Amount of Open Space Required:** The size of the Open Space shall be determined on a case-by-case basis with the final determination to be made by the Planning Board in its discretion upon review of the subdivision application. The portion of the subdivision tract to be set aside for Open Space conservation shall be of such minimum dimensions and size as to be functional for its intended purpose, taking into consideration environmental, density and other site specific factors. There shall be a minimum of fifty percent (50%) of the parcel preserved as Open Space.
- (2) **Location:** Open Space areas shall be convenient to the dwelling units they are intended to serve and shall be sited with sensitivity to surrounding land features and development. Open Space areas shall be integrated wherever possible into a connected Open Space system within the development as well as outside the development. Open Space areas should form a contiguous system with other Open Space areas in the vicinity of the subdivision development to the maximum extent practicable.
- (3) **Use of Open Space Areas:** Open Space areas may include features and improvements for active and/or passive recreation provided that such features do not materially detract from the purpose for preservation of the Open Space. As a general principle, Open Space areas should be left in their natural state. Accepted conservation management techniques may be employed to maintain its natural state and allow for passive recreational opportunities such as, but not limited to, hiking trails, cross-country skiing or snow shoeing trails, picnic areas, etc. Where

appropriate, active recreational facilities may be included in the Open Space areas. In addition, farming activities are allowed to continue on Open Space areas pursuant to an agricultural easement or other suitable arrangements. Where active agricultural lands are set aside in a Conservation Subdivision, such lands may remain in active agricultural use.

- (4) Deed Restrictions: Any lands set aside for Open Space purposes shall contain appropriate easements, deed covenants, conditions and restrictions approved by the Planning Board and/or the Town Attorney ensuring that:
- (a) The Open Space area or areas will not be further subdivided or developed in the future;
 - (b) The designation of the Open Space will continue in perpetuity for the purposes specified;
 - (c) Appropriate provisions are made for the continual maintenance, management and use of the Open Space with the purpose in preserving the Open Space;
 - (d) The delegation of authority for management of the Open Space area is appropriately placed in the owner or owners of the Open Space area;
 - (e) The Open Space area will not be able to be converted or used for a for-profit commercial enterprise except for agricultural uses;
 - (f) The easements, deed covenants, conditions and restrictions shall be recorded against the parcel with reference to such recording made in each deed of conveyance of each lot and shall be enforceable by the Town.
- (5) Open Space Ownership: The type of ownership of the land set aside for Open Space shall be selected by the applicant subject to the approval of the Planning Board. An acceptable type of ownership may include, but is not necessarily limited to, the following:
- (a) Land preservation or conservation organizations or trusts;
 - (b) Public agencies or governmental bodies;
 - (c) The Town, subject to acceptance by the Town Board;
 - (d) The owner or owners of an individual lot or lots in the subdivision;
 - (e) Homeowner associations with the following requirements:
 - [1] The homeowners association must be established prior to the conveyance of any lot or parcel within the proposed subdivision;
 - [2] Membership must be mandatory for each lot owner and each lot owner must have an equal voting right within the association;
 - [3] The association's organizational documents must be submitted to, and approved by the Planning Board and/or its attorney, as part of the subdivision approval process and must also be approved by the Office of the Attorney General of New York State if required by applicable laws, rules or regulations;
 - [4] An estimate of the association annual budget must take into account insurance, property taxes, and maintenance of the Open Space areas as well as other shared common areas or facilities such as access roads, recreational areas;

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- [5] The association must be able to adjust the homeowners fees or assessments on an annual basis and be able to collect and enforce the payment of annual fees or assessments;
 - [6] The association cannot be dissolved without a vote of the association membership and without the conveyance of the Open Space and common facilities to an entity acceptable by the Planning Board; and
 - [7] The deed conveying title to each individual lot in the subdivision must include reference to the fact that conveyance is subject to and includes membership in a homeowners association pursuant to deed covenants either set forth in each deed or recorded against the entire subdivision. Both grantors and grantees should sign deeds of conveyance to ensure purchasers or grantees are aware of the homeowner association requirements, obligations and fees, if any.
- (6) Process in Determining Design. In order to effectively create a Conservation Subdivision, the applicant, in consultation with the Planning Board should:
- (a) Identify the area or areas of the parcel to be subdivided which are to be conserved as Open Space and the area or areas which are to be utilized for development;
 - (b) Locate the house sites;
 - (c) Align streets, trails and infrastructure; and
 - (d) Draw in lot lines.
- (7) Exception to or waiver of requirements or standards: The Planning Board may permit minor deviations to, or waive, certain Open Space requirements or standards when it determines that: (a) the objectives underlying the Open Space standards and requirements can still be met with such deviations or waivers; and/or (b) because of peculiarities in the tract of land proposed for subdivision or the development proposed, it would be unreasonable to require strict adherence to such requirements or standards.
- (8) The setting aside of Open Space, forested land, or active agricultural land in a conservation subdivision shall in no case preclude the Planning Board from requiring the dedication of an area or areas for parks, playgrounds or recreation lands within the subdivision pursuant to the Town of Coeymans Subdivision Regulations or other provisions of the Town Code.

F. Provision of Water and Sewer or Septic Systems

- (1) Water.
 - (a) There shall be an adequate potable water supply for each of the lots in a proposed subdivision and such water supply, whether by individual wells, public or community systems, shall not adversely affect water supply or wells for properties in the surrounding area. For each subdivision that proposes more than 5 lots, the applicant must provide the Planning Board with a water report or study, certified by a New York State licensed engineering professional establishing:
 - [1] There is adequate capacity for potable water to service the proposed lots for their intended use; and

- [2] The service of water to each of the proposed lots will not adversely affect the existing wells or future water supply for other properties in the surrounding area.
- (b) If a subdivision is to be serviced by individual wells for each lot, each such well shall be adequately spaced from septic systems and other wells on the lot and adjacent lots pursuant to applicable Albany County Department of Health regulations.
 - (c) If a Community System is proposed, the water supply and distribution system together with the provisions for repair, maintenance, upgrades, and fees from homeowners shall be approved by the Planning Board and Town Board pursuant to requirements specified by the Town Board prior to final subdivision approval.
 - (d) If connection to a Public System is proposed, the applicant shall establish adequate capacity to service the subdivision without adversely affecting capacity service to existing users of the Public System. Improvements for connection and/or capacity shall be paid for by the applicant.
 - (e) Any subdivision approval shall be conditioned upon approval of the water supply by the Albany County Department of Health pursuant to the applicable County regulations.
- (2) Septic/Sewer Systems.
- (a) Individual systems. If individual septic systems are proposed for each lot, each lot shall have suitable soils and be of sufficient size to be able to accommodate each such system and meet required spacing from water wells and setback requirements. Percolation and deep hole tests shall be performed for each lot as part of a preliminary plat application and accepted as adequate by the Albany County Department of Health. Final approval of the design of systems by the Albany County Department of Health shall be part of, or a condition to, final plat approval.
 - (b) Public Sewer Systems. If a Public Sewer System is available, the applicant shall demonstrate that adequate capacity exists to service the proposed subdivision or to propose improvements to increase capacity to service the system. Such improvements shall be paid for by the applicant. Any such report on capacity or proposed improvements must be approved by the Town Board and/or the Albany County Department of Health pursuant to applicable Town and/or County specifications.
 - (c) Community Systems. If a Community System is proposed as part of the subdivision, the preliminary design and specifications of the facilities and improvements comprising such Community System must be submitted as part of the preliminary plat and referred to the Town Board for its approval. In order for the subdivision to proceed, the Town Board must approve the Community System whether or not it is intended to be offered for dedication to the Town. The Town Board, in its sole discretion, may either approve the system as a private Community System, require that the facilities comprising the Community System be dedicated to the Town on such terms and at such time it specifies, or deny approval of the Community System. In either case where the Community System is approved, the Town Board shall have the authority to require a performance and

maintenance bond in the amounts and terms it specifies as well as to specify or approve the annual funding and fees that will be required from the homeowners whether or not a special district is to be created pursuant to Articles 12 or 12-a of the Town Law. In the case where the Town Board denies approval of the Community System, the subdivision shall be denied. The applicant shall be responsible for reimbursing the Town for any engineering, technical, or legal consultants it deems necessary to review the Community System proposal.

- G. Procedure. Notwithstanding any requirements established in this Section, the proposed plat of a Conservation Subdivision shall be subject to the application procedures established in the Town of Coeymans Subdivision Regulations and shall be subject to public review at the public hearing or hearings held pursuant to those regulations.

§ 165-35. Corner Lots & Thru Lots.

- A. Where a side or rear yard is adjacent to a street, the front yard setback shall apply to such side or rear yard. Corner lots shall be deemed to have two front yards, two side yards, and no rear yard.

§ 165-36. ECHO Housing.

- A. The ECHO unit shall only be permitted on lots upon which one single-family detached dwelling is located.
- B. The ECHO unit shall not be located in the front yard.
- C. The ECHO unit shall meet the setback requirements of the zoning district in which the lot is located.
- D. The lot on which the ECHO unit is located shall be a minimum of one acre.
- E. The ECHO unit shall not exceed a maximum of nine-hundred (900) square feet of gross floor area and shall have a maximum height of fifteen (15) feet.
- F. The ECHO unit shall be designed to resemble a single-family detached dwelling. The unit shall have a pitched roof and shall contain at least five windows.
- G. The ECHO unit and foundation shall be constructed so as to be easily removed. No permanent fencing, walls, or other structures shall be installed that will hinder the removal of the unit.
- H. The need for additional off-street parking shall be determined by the Planning Board.
- I. Two inhabitants are permitted per ECHO unit, at least one of whom is 65 years of age or greater.
- J. Smoke detectors shall be provided within the ECHO unit and shall be wired so as to activate the smoke detector in the principal dwelling and vice versa.
- K. The special use permit shall terminate after the death of the inhabitant, after the property that the ECHO unit is located on has changed ownership, or after the ECHO unit has been unoccupied for a period of one or more years.

§ 165-37. Flag Lots and Shared Driveways.

- A. Each flag lot must have a minimum frontage of fifteen (15) feet on an improved public road that provides adequate and physically practical access from the lot to the public road.
- B. Flag lots must meet all other requirements for a lot in the applicable Zoning District. For purposes of determining front yard setbacks, the front yard shall be the yard area lying between the principal structure and the street from which access is obtained and the setback shall be measured from the closest rear yard property line of the abutting parcel or parcels.
- C. All flag lots must have safe access for fire, police, and emergency vehicles.
- D. The Planning Board may require the applicant to implement a deed restriction enforceable by the Town that limits the area within which the house and driveway may be constructed on the rear lot.

§ 165-38. Home Occupations.

- A. Home occupations are defined as any occupation or business activity that occurs within structures or on property where the primary land use is residential and where the occupation, business, or commercial activity is clearly incidental to such residential use.
- B. All home occupations, as defined above, that comply with the following requirements are considered minimal impact home occupations and are allowed as accessory uses to a residential dwelling pursuant to a Zoning Permit issued by the Building Inspector:
 - (1) No employees working on the premises other than family members residing thereon;
 - (2) No additional parking required;
 - (3) No outside storage of equipment, vehicles, or materials used in the business other than an automobile for personal transportation;
 - (4) No regular traffic to the site for other than mail services, occasional deliveries, and client/customer visits. Such mail services, deliveries, or client/customer visits shall occur no more than three (3) times per week;
 - (5) No physical change to the exterior of a principal or accessory structure is required to accommodate the Home Occupation;
 - (6) There is no sign or other exterior advertisement of the existence of the Home Occupation use; and
 - (7) There is no exterior storage of materials, equipment, vehicles, or other supplies used in conjunction with the Home Occupation.
- C. All home occupations, as defined above, that comply with the following requirements are allowed as accessory uses to a residential dwelling but only pursuant to a special use permit. The special permit expires when the occupation changes or the property is sold. Permitted home occupations operated in any dwelling unit may be operated only if they comply with the following conditions:

- (1) A home occupation must be incidental to the use of a dwelling unit for residential purposes; it shall be conducted in a manner which does not give the outward appearance of a nonresidential use or business being conducted on the premises; does not infringe on the right of neighboring land owners to the quiet enjoyment of their land; and does not alter the character of the district in which the lot is located.
- (2) The dwelling unit must be owner-occupied and a resident of the dwelling unit must carry out the home occupation.
- (3) The home occupation shall employ no more than one person who is not a resident in the dwelling unit.
- (4) The home occupation shall be conducted wholly within an area not to exceed the equivalent of thirty percent (30%) of the total floor area of the dwelling unit, or six-hundred (600) square feet, whichever is less. In no case shall the home occupation cause the scale of use on the lot to exceed the maximum permitted. More than one home occupation may be conducted on a lot provided that the total floor area of the dwelling unit devoted to all of the home occupations does not exceed the maximum floor area as provided herein.
- (5) An existing accessory structure may be used for a home occupation, provided that there are no exterior modifications and that the use will not change the residential character of the area.
- (6) There shall be no exterior display, exterior storage of materials, or other exterior evidence of any home occupation except for signs and off-street parking.
- (7) In no case shall a home occupation be open to the public at times earlier than 8:00 a.m. nor later than 9:00 p.m.
- (8) Delivery and pick-up of material or commodities to and from the premises by a commercial vehicle shall not exceed three (3) trips per week and the parking of delivery vehicles shall not impede or restrict the movement of traffic on adjacent streets.
- (9) No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced; nor shall the home occupation use store, produce or dispose of any toxic or hazardous materials.
- (10) Electrical or mechanical equipment that creates visible or audible interference in radio or television receivers or causes fluctuations in line voltage outside the dwelling unit or that creates noise not normally associated with residential uses is prohibited.
- (11) The intensity of a Home Occupation use shall be restricted to no more than twenty (20) vehicle trips per week, or five (5) per day, generated by customers, clients, or sales representatives.
- (12) The Planning Board shall determine the number of off-street parking space(s) for the home occupation use on a case-by-case basis and may require landscaping, buffering, and other such considerations to protect the residential character of the neighborhood.
- (13) One wall sign or ground sign shall be permitted to advertise the home occupation provided that the signage does not exceed 1 ½ square feet in total area. Wall signs shall have a maximum height of ten (10) feet; ground signs shall have a maximum height of four (4) feet and provide a minimum setback of ten (10) feet.

D. Permitted Home Occupations. The following uses are allowed, provided that they comply with the conditions set forth in §165-38 (C) listed above:

- (1) Artist.
- (2) Custom dressmaking/seamstress.
- (3) Tutoring instruction in any area shall be limited to five students at one time.
- (4) Home crafts.
- (5) Drafting and graphic services.
- (6) Data processing, computer programming and word processing.
- (7) Professional and other consulting services, e.g., interior design, engineering, financial planning, architecture, law and real estate.
- (8) Medical doctors, dentists, chiropractors and other health-care professionals.
- (9) Gardening and landscape maintenance, so long as no equipment, materials or commercial trucks used in the occupation are stored or parked on the exterior premises.
- (10) Single-chair beauty salons or barbershops.
- (11) E-commerce businesses, with the exception of warehousing.

E. Prohibited Home Occupations. Because of parking requirements and other issues of compatibility, the following uses are specifically prohibited as home occupations:

- (1) Ambulance service.
- (2) Vehicle repair, towing, parts, sales, upholstery or detailing and washing service.
- (3) Church and religious instruction.
- (4) Restaurant and tavern.
- (5) Taxi and limousine service.
- (6) Warehousing.
- (7) Kennel.
- (8) Dance studio, aerobic exercise studio, and gymnasium or health club.
- (9) Laundry service or dry-cleaning service.
- (10) Mortician, funeral home or hearse service.
- (11) Restaurant, café, or tavern.
- (12) Tractor trailer operations including parking, storage, or repair.

F. Occupations not listed above in §165-38 (D) or (E) must be considered on their merits and are subject to requirements set forth in this section and to procedures for special use permits as outlined in Article VI of this Chapter.

§ 165-39. Hospitals, Nursing Homes and Adult Care Facilities.

- A. Hospitals, nursing homes and other adult care facilities are permitted as specified on the Use Table. Adult care facilities shall be defined as any premises containing sleeping rooms, with or without kitchens, or living units used by persons who are lodged and furnished with optional meals, health care of other supportive services connected with the activities of daily living; including nursing homes, assisted and independent living projects and other similar uses primarily intended for the elderly or infirm; and not including group homes, hospitals, clinics or alcohol and drug rehabilitation facilities. These facilities may receive, at the discretion of the Planning Board, up to a twenty-five percent (25%) density bonus but be subject all other applicable multifamily dwelling standards.
- B. Hospitals providing community general hospital care, including outpatient mental health services, are permitted on lots with the minimum area and lot width specified for the applicable zoning district, provided that all other requirements are in full compliance with these regulations.
- C. In addition to approval of a Special Use Permit for a hospital, nursing home or convalescent home, the Planning Board may also allow in separate facilities upon the same or an abutting lot offices and facilities for administration, doctors' offices, dispensaries or other like uses that are clearly accessory to the principal use, provided that such facilities shall observe the setbacks for the principal use from any property line other than property lines which adjoin another such hospital. Such facilities need not be in the same ownership.
- D. A parking plan shall be submitted for approval together with the special use permit that ensures the adequacy of parking facilities for all in-patient, out-patient, and staff needs.

§ 165-40. Industrial.

- A. Industrial uses may include an industrial tower, smoke stack and/or similar structure exceeding the height limits of the industrial general district that is necessary for the operation of the industrial use. The Planning Board shall require the following in determining the appropriateness and the visual impact of such use:
 - (1) The Planning Board shall require a viewshed analysis for all such structures to determine the visual impacts of the structures where the tower and any appurtenant facilities may be visible.
 - (2) The Planning Board shall require graphic representation of before and after views from key viewpoints located inside and outside of the Town including, but not limited to state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public residential developments and from any other location where the site is visible to a large number of visitors or travelers.
 - (3) The Planning Board shall assess alternative tower designs, including but not limited to height variations and color schemes as may be requested by the Planning Board. The Planning Board may request a review of the tower design by a qualified engineer in order to evaluate the need for, and the design of, any new and potential alternatives.

B. In no case shall any structure, tower, smoke stack and/or similar structure exceed a combined height of three (300) feet.

§ 165-41. Landscaping and Screening.

A. General requirements. Landscaping shall be required as follows:

- (1) All portions of improved multifamily and nonresidential properties which are not used for buildings, structures, off-street parking and loading, permitted outdoor storage, driveways, walkways, or similar purposes shall be appropriately landscaped with grass, shrubs, trees, and other ground cover in such a manner as to minimize erosion and stormwater runoff and to maintain or improve the aesthetics of such development.
- (2) Where required by the Planning Board, all landscaping, trees, and planting materials adjacent to parking areas, loading areas or driveways shall be protected by barriers, curbs, or other means from damage by vehicles and from stormwater runoff.
- (3) Parking areas will be landscaped and shall comply with the following minimum standards:
 - (a) All uses required to provide 20 or more off-street parking spaces shall have at least ten (10) square feet of interior landscaping within the paved portion of the parking area for each parking space and at least one tree for every ten (10) parking spaces or fraction thereof. New trees shall have a caliper of not less than three inches from the base and shall be at least six (6) feet high when planted.
 - (b) Each separate landscaped area shall contain a minimum of one-hundred (100) square feet, shall be planted with grass or shrubs and shall include at least one tree. New trees shall have a caliper of not less than three inches from the base and shall be at least six (6) feet high when planted.
 - (c) A landscaped area shall be provided along the perimeter of any parking area of ten (10) or more parking spaces, except that portion of the parking area which provides access. This requirement may be waived at the discretion of the Planning Board to achieve a superior design.
 - (d) No more than twelve (12) parking spaces should be allowed in a continuous row uninterrupted by landscaping. This requirement may be waived at the discretion of the Planning Board to achieve a superior design.

B. Industrial Zoning District. Non-residential uses within the Industrial Zoning District shall provide a buffer area along each property boundary abutting a residential use or a residential district.

- (1) Within required buffer areas, a solid and continuous landscape screen shall be planted and maintained. Said landscaping shall consist of massed evergreen and/or deciduous trees and shrubs of at least six (6) feet in height so as to continually restrict a clear view beyond said buffer area.
- (2) The required height of the buffer strip shall be measured in relation to the elevation of the edge of the adjacent area to be screened. In cases where the ground elevation of the location at

- which the screen is to be planted is less than the elevation of the edge of the adjacent area, the required height of the screen shall be increased in an amount equal to said difference in elevation. In the event that the ground elevation of the location at which the screen is to be planted is greater than that at the edge of the adjacent area, the minimum height of the screen shall prevail.
- (3) A minimum buffer area of at least fifty (50) feet in width shall be landscaped. Landscaping may include site grading, shrubberies, and/or, but not limited to, trees as may be determined necessary by the Planning Board. The entire area shall be attractively maintained and kept clean of all debris and rubbish.
 - (4) The Planning Board may determine a natural buffer strip to be impracticable, inappropriate and/or insufficient and may require an opaque fence, berm, hedge fence or wall to be substituted in whole or in part for a natural buffer. Such specifications shall be determined and approved by the Planning Board.
- C. Commercial Zoning District. Non-residential uses within the Commercial Zoning District shall provide a buffer area along each property boundary abutting a residential use or residential district.
- (1) Within required buffer areas, a solid and continuous landscape screen shall be planted and maintained. Said landscaping shall consist of massed evergreen and/or deciduous trees and shrubs of at least six (6) feet in height so as to continually restrict a clear view beyond said buffer area.
 - (2) A minimum buffer area of at least ten (10) feet in width shall be landscaped. Landscaping may include site grading, shrubberies, and/or, but not limited to, trees as may be determined necessary by the Planning Board. The entire area shall be attractively maintained and kept clean of all debris and rubbish.
 - (3) The Planning Board may determine a natural buffer strip to be impracticable, inappropriate and/or insufficient and may require an opaque fence, berm, hedge fence or wall to be substituted in whole or in part for a natural buffer. Such specifications shall be determined and approved by the Planning Board.
- D. Historic District. The Planning Board may require a vegetative buffer or a wood fence not less than six (6) feet high be installed and maintained for purposes of separating incompatible activities or shielding properties within a historic district from negative impacts.
- E. Maintenance. All fences, trees, plantings, shrubbery, or other screening required by direction of the Town Board, the Zoning Board of Appeals, the Planning Board, or the Zoning Ordinance shall be maintained at all times at least to the same quality required of said items at the time they were initially installed.
- F. Penalties. If after thirty (30) days notice, such fences, trees, planting, shrubbery, or other screening is not erected, replaced, repaired or maintained by or on behalf of such owner, the Town Board may authorize the Highway Department to perform the necessary work and provide for the assessment of all costs and expenses so incurred by the Town in connection with any action taken against the land

on which such screening facilities are located. The costs and expenses so incurred shall be certified to the Tax Assessor and shall become a municipal lien against the property.

§ 165-42. Lots With Access By Private Road.

- A. A subdivision of property in certain limited instances, may provide access via a shared private road. This is provided as an option to owners of a farm or together with large parcels of property to allow some development on such parcels while maintaining the integrity of the parent parcel for continued agricultural use or as open space. The following requirements shall apply in such cases:
- (1) A maximum of four lots, not including the parent parcel, shall be allowed and each shall meet the minimum road frontage and other area requirements for the Zoning District in which they are located.
 - (2) The parent parcel must be at least fifty (50) acres prior to subdivision.
 - (3) The combined acreage of lots to be subdivided from the parent parcel shall not equal more than one-quarter of the acreage of the parent parcel prior to subdivision.
 - (4) The subdivision plat shall contain a note that prohibits any further subdivision of the parent parcel for a minimum of ten (10) years from the date of the final approval of the subdivision and shall also contain a note that prohibits any further subdivision of the subdivided lots at any time in the future. The deed to each subdivided lot shall also contain a deed covenant and/or restriction that prohibits any further subdivision of such lot in perpetuity.
 - (5) The private road or shared driveway shall meet the following requirements
 - (6) The right-of-way shall be fifty (50) feet wide.
 - (7) The improved road area shall be a minimum of twenty (20) feet wide.
 - (8) Safe access for fire, police, and emergency vehicles must be provided with a suitable turn-around area.
 - (9) A written road maintenance and usage agreement shall be made binding on each subdivided parcel and shall include terms for usage, utilities, repairs, maintenance and show clearing. Such agreement shall be submitted to the Planning Board for its review and approval prior to final subdivision approval and shall be in such form as to enable it to be recorded against the deed for each subdivided parcel. Such recording shall be a condition of the final subdivision approval.

§ 165-43. Nonconforming Lots, Buildings and Uses.

- A. The lawful use of any building or land existing at the time of the enactment of this Chapter may be continued although such use does not conform with the provisions of this Chapter subject to the limitations set forth below:
- B. Any lot, building, and or use in existence at the time of the effective date of this Chapter, except as otherwise provided in this Article, which does not comply with the requirements of this Chapter shall be deemed to be legally nonconforming, provided:

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- (1) The nonconformity results solely from the adoption of this Chapter (including any preceding zoning law or subsequent amendments); and
 - (2) The nonconformity has not been increased by an act or event subsequent to the effective date of this Chapter.
- C. Nonconforming lots. Any lot in existence at the time of the effective date of this Chapter, except as otherwise provided in this Article, which does not comply with the requirements of this Chapter shall be deemed to be a nonconforming lot. A nonconforming lot may be built upon for any purpose permitted in the zoning district in which it is located, without a variance, despite its failure to comply with the area, shape, or frontage requirements of this Chapter, provided:
- (1) There is no reduction in the lot's size, or any other increase in the degree of its nonconformity for any reason, other than the adoption of a more stringent zoning law; or
 - (2) Acquisition after the effective date of this Chapter by the owner of the adjoining land which, when added to the original nonconforming lot, forms one or more lots complying with the area, shape, and frontage requirements of this Chapter. In such case no portion of the lot(s) so formed shall thereafter qualify as an eligible nonconforming lot under this Section, unless and until again made nonconforming by the adoption of a more stringent zoning law; or
 - (3) Acquisition after the effective date of this Chapter by the owner of the adjoining land which when added to the original nonconforming lot, reduces its nonconformity, but does not form a lot complying with the area, shape, and frontage requirements of this Chapter. In such case, a new eligible nonconforming lot shall be formed which reflects the addition of the adjoining lot.
- D. Nonconforming buildings. Any building or structure in existence at the time of the effective date of this Chapter, except as otherwise provided in this Article, which does not comply with the requirements of this Chapter shall be deemed to be a nonconforming building. A nonconforming building may continue to be used for any purpose permitted in the zoning district in which it is located, without a variance, despite its failure to comply with the area requirements of this Chapter, provided:
- (1) A nonconforming building may not be renovated or structurally altered during its life to an extent exceeding in aggregate cost fifty percent (50%) of the full-assessed value of the building unless said building is changed to a conforming use.
 - (2) A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this Chapter shall not be deemed the extension of such nonconforming use.
 - (3) Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming buildings existing therein.
 - (4) If less than seventy-five percent (75%) of the floor area of any nonconforming building or structure is damaged, it may be restored or reconstructed within twelve (12) months of the date of the damage, with an extension in time allowable where proven necessary to the Planning Board. A nonconforming building damaged by fire or natural causes to the extent of more than

seventy-five (75%) of its full-assessed value shall be repaired or rebuilt in conformity with the regulations of this Chapter.

E. Nonconforming uses. Any use in existence at the time of the effective date of this Chapter, except as otherwise provided in this Article, which does not comply with the requirements of this Chapter shall be deemed to be a nonconforming use. A nonconforming use may be permitted in the zoning district in which it is located, without a variance, despite its failure to comply with the requirements of this Chapter provided:

- (1) A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this Chapter shall not be deemed the extension of such nonconforming use.
- (2) Whenever a nonconforming use has been discontinued for period of one year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this Chapter.
- (3) Once changed in use, no building or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to a use of the same or higher classification, and such use thereafter shall not be changed to a lower classification, except upon approval of Board of Appeals.
- (4) No nonconforming use shall be extended to displace a conforming use.
- (5) Notwithstanding any other provisions of this Chapter, any automobile wrecking yard or other junkyard which becomes a nonconforming use upon the date of enactment of this Chapter shall, at the expiration of three years from such date, become a prohibited and unlawful use and shall be discontinued.
- (6) Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.
- (7) If less than seventy-five percent (75%) of the floor area of any nonconforming use is damaged, it may be restored or reconstructed within twelve (12) months of the date of the damage, with an extension in time allowable where proven necessary to the Planning Board. A building of nonconforming use damaged by fire or natural causes to the extent of more than seventy-five percent (75%) of its full-assessed value shall be repaired or rebuilt in conformity with the regulations of this Chapter.

F. Discontinuance. Whenever a nonconforming structure or use has been discontinued, vacated or abandoned for a period of twelve (12) months, any future structure or use shall be in conformity with the provisions of this Chapter.

§ 165-44. Off-street Parking and Loading.

A. Off-street parking spaces shall be required for all structures and uses constructed or rebuilt after the effective date of this Chapter, except that parking spaces shall not be required for structures in

existence on the effective date hereof that are rebuilt or repaired as a result of damage or destruction by causes beyond the control of the owner or lessee. This exception shall not permit the rebuilding or repair of a building having a greater number of stories or square feet of ground space than the building damaged or destroyed unless provision is made for off-street parking as provided in this Chapter.

- B. Off-street parking space shall be provided for all dwellings. No portion of the right-of-way of an existing or proposed street or highway shall be used for parking space(s) for a residential use. A parking space may be fully enclosed (as a garage), covered (as a carport) or open. An open parking space shall have a minimum length of twenty (20) feet and a minimum width of ten (10) feet, not including the access drive or maneuvering space.
- C. Off-street parking space shall be provided for other uses as follows:
 - (1) Each off-street parking space shall measure not less than twenty (20) feet in length with a minimum width of nine (9) feet.
 - (2) The number, size and dimensions of parking spaces suitable for use by the physically handicapped shall comply with the requirements set forth in the New York State Uniform Fire Prevention and Building Code. Each area reserved for handicapped off-street parking shall have a minimum length of twenty (20) feet and a minimum width of sixteen (16) feet. Spaces in a lot shall have a minimum clear width of eight (8) feet and an adjoining access aisle having a minimum clear width of eight (8) feet. Two (2) accessible parking spaces are permitted to share a common access aisle.
- D. Prohibited Parking. In any commercial district, no vehicles, trailers, portable signs, or any device capable of being or designed to be towed by a vehicle shall be parked on a lawn or landscaped area in a front or side yard, unless specifically approved by the Planning Board, Town Board, or Zoning Board of Appeals.
- E. In all Residential Districts, not including the Residential Agricultural District,
 - (1) No more than two commercial vehicles per dwelling unit may be parked overnight on a single lot subject to the following:
 - (a) In no instance shall a commercial vehicle in excess of twenty-three (23) feet in length or eight thousand (8,000) pounds curb weight be parked overnight on a single lot without first obtaining a special use permit.
 - (b) Parking and storage of boats, trailers and recreational vehicles in the front yard is prohibited.
- F. In the Commercial and Industrial General Districts off-street parking shall not be permitted within ten (10) feet of any property line providing road frontage to the property. Such setback area shall be considered as a minimum; however, additional setback area may be required if determined to be necessary by the Planning Board. In addition, such setback area shall be suitably landscaped in accordance with the requirements of §165-40 of this Chapter.

- G. Except as otherwise provided, off-street parking areas, as required for any use within the Commercial and Industrial General Districts shall be located no closer than fifteen (15) feet from any side or rear property line, except as may be approved by the Planning Board for the purpose of providing adjacent properties, joint driveway access from the street, off-street access between properties and shared parking areas. Where such setback is reduced, the Board may require that a comparable amount of site area be added to other setback areas on the same site.
- H. If the Planning Board finds that compliance with the off-street parking requirements herein would have an adverse impact upon the physical environment or visual character of the area, and if the Board also finds that all of the parking required in the Schedule of Uses and Off-Street Parking, §165-85 of this Chapter, will not be necessary for the anticipated use of the site, the Planning Board may reduce the amount of parking required to be constructed, provided that sufficient usable land is set aside to satisfy the parking requirements in the future should the need for such additional parking arise. The Planning Board shall, as a condition of any approval granted, retain the right to require the owner of the property to construct such additional parking whenever it finds that such parking is needed. If a proposed use is not listed in Schedule of Uses and Off-Street Parking, §165-85 of this Chapter, the Planning Board shall use its discretion to determine the amount of parking to be required.
- I. For any buildings having more than one (1) use, parking space shall be required for each use.
- J. Nothing contained in this Chapter shall be interpreted to prevent the provision of joint parking lots for one (1) or more uses located on separate lots or on common lots. Parking spaces located in a joint parking lot may be used to satisfy the off-street parking requirements of this article, provided said spaces are located within six hundred (600) feet walking distance of the lot containing the land use they are intended to serve, as measured along the public right-of-way, and further provided that said spaces shall be subject to appropriate deed restrictions (or other legal instrument), as approved by the Planning Board Attorney, binding the owner of the parking spaces and his/her heirs and assigns to provide and maintain the required number of spaces for the land use that they are intended to serve either throughout the existence of such land use, or until such spaces are provided elsewhere. In no instance shall parking spaces in a joint parking lot that are devoted to meeting the parking requirements of one (1) land use be used to meet the parking requirements of another land use.
- K. Loading facilities. Off-street loading facilities, appropriate for the intended use, shall be provided for each non-residential use and shall be so arranged as not to interfere with pedestrian or motor traffic on the public highway or any adjacent residential area. Such off-street loading facilities shall be confined to the side or rear yard and screening shall be provided to minimize the view of any off-street loading or commercial use from any point along a property line common to any residential use or from any street.
- (1) The minimum size loading space shall be sixty (60) feet in depth and twelve (12) feet in width with an overhead clearance of fourteen (14) feet.
 - (2) Loading areas shall be required for any non-residential use that receives deliveries by truck or involves loading or unloading activities for supplies, products, or goods.
 - (3) The number of required off-street loading spaces shall be determined by the Planning Board.

§ 165-45. Riparian Buffers.

- A. Riparian buffers are intended to ensure that property is developed in a manner consistent with the zoning regulations, and the proposed physical elements are designed and arranged to protect both the Hannacroix Creek and the Coeymans Creek, identified in the Town's Comprehensive Plan as priority resources. Such riparian buffers shall be as follows:
 - (1) A minimum of a fifty (50) foot buffer shall be provided and maintained along both sides of the Hannacroix Creek Buffer. The buffer shall be measured from the median high water mark of the Hannacroix Creek.
 - (2) A minimum of a one-hundred (100) foot buffer shall be provided and maintained along both sides of the Coeymans Creek Buffer. The buffer shall be measured from the median high water mark of the Coeymans Creek.
- B. No permanent structures shall be allowed within the riparian buffers.
- C. Erosion and sediment control measures may be required as part of a site development plan to protect the riparian buffers. After site development, it shall be the responsibility of the landowner or person in possession or control of the land to properly maintain all necessary permanent erosion and sediment control measures installed for the protection of the riparian buffers.

§ 165-46. Signs.

- A. Signs are accessory uses which may be erected and maintained upon issuance of a sign permit and in accordance with the following requirements. Signs proposed in connection with a Special Use Permit or Site Plan shall be part of such process and the Planning Board shall have jurisdiction over the approval of such signs as part of that process. The issuance of a Special Use Permit or of a Site Plan approval shall include approval for the signage. All other signs proposed that are not part of an approval process shall be under the jurisdiction of the Building Inspector.
- B. Signs Allowable Without a Sign Permit. The following signs may be erected and maintained without a Sign Permit, provided that they are less than four (4) square feet in sign area and are non-illuminated (except as indicated below):
 - (1) Signs advertising the sale or rental of the premises upon which the sign is located. Such signs must be non-illuminated and limited to two per property. They shall be set back a minimum of ten (10) feet from any property line on a non-corner lot and thirty-five (35) feet from any property line on a corner lot.
 - (2) Signs denoting the architect, engineer, or contractor where construction, repair, or renovation is in progress, limited to one (1) per property.
 - (3) Signs that mark property boundaries, give directions for roads or trails, prohibit trespassing, hunting, fishing, or off-road vehicles, or warn of hazards.
 - (4) Any sign erected by the federal, state, county, or town government or any department or agency thereof. Such signs are not limited in size.

- (5) Political campaign signs.
- (6) Signs giving the name of the residents of a dwelling and/or its address. Such signs may be illuminated by external white light only and shall be limited to one per dwelling.
- (7) Temporary signs, including banners or pennants, relating to garage, lawn, or other individual, non-recurring sales, or for a church bazaar, fund drive, parade, fair, fireman's field day, or other event or undertaking conducted by a political, civic, religious, charitable, or educational organization. Such signs may be erected no more than ninety (90) days prior to the event and shall be removed by the sponsor within fifteen (15) days after the close of the event. Such temporary signs are not limited in size.
- (8) A sign placed temporarily to advertise the sale of produce grown or harvested by the property owner where the subject sign is located, limited to one per principal location of the subject of the sign. Such temporary signs shall be removed immediately after the termination of the activity being advertised.
- (9) Temporary signs, customarily of paper or cardboard, placed in the windows of grocery stores and supermarkets to advertise weekly specials. Such temporary signs are not limited in size or number.
- (10) Signs that provide the name, and/or owner, of a farm that is located on said farm and that does not advertise any other enterprise or business.

C. Signs Allowable by Sign Permit. The following signs may be erected and maintained only upon the issuance of a Sign Permit by the Building Inspector. The Building Inspector shall issue a Sign Permit upon a proper application showing compliance with all the applicable provisions of this Section.

- (1) A freestanding or attached and projecting advertising sign, being perpendicular or approximately perpendicular to the line of a public highway from which it is intended to be seen. No such sign shall exceed twenty-four (24) square feet in sign area. There shall be not more than one such sign for any commercial enterprise or for any group of enterprises located on a parcel of land under single ownership.
- (2) An advertising sign located on and parallel to a wall of a building housing the enterprise advertised. No such sign shall exceed forty (40) square feet in sign area. There shall be no more than one such sign for any commercial enterprise.
- (3) A sign, including a bulletin board, customarily used by places of worship, libraries, museums, social clubs, and societies, provided that there shall be no more than one such sign per establishment or organization, and that no such sign shall exceed fifteen (15) square feet in sign area.

D. General Sign Regulations. The following regulations apply to signs throughout the Town:

- (1) No sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights. All luminous signs, indirectly illuminated signs, and lighting devices shall employ only lights emitting light of constant intensity, except in the case of digital street clocks and temperature indicators. No luminous sign shall exceed fifteen (15) square feet of sign area.

- (2) No luminous sign, indirectly illuminated sign, or lighting device shall be placed or directed so as to cause beams of light to be cast upon any public highway, sidewalk, or adjacent premises, or otherwise to cause glare or reflection that may constitute a traffic hazard or nuisance. No sign shall contain any mirror or mirror-like surface, nor any day-glow or other fluorescent paint or pigment.
 - (3) No sign relating to a permanent commercial enterprise, with the exception of traditional barber poles, shall contain or consist of any banner, pennant, ribbon, streamer, spinner, or other similar moving, fluttering, or revolving device. No sign or part thereof may rotate or move back and forth, except that a sign may be suspended and swing, though not rotate, in the wind.
 - (4) No permanent sign shall extend more than fifteen (15) feet above the natural ground elevation or be located upon or higher than the roof of the associated establishment.
 - (5) Where feasible and practical no sign shall be painted or placed upon or supported by any tree, rock, or other natural object other than the ground.
 - (6) No motor vehicle, trailer, or wagon upon which is painted or placed any sign shall be parked or stationed in a way primarily intended to display the sign.
 - (7) All signs shall be constructed of durable materials and maintained at all times in good repair.
 - (8) No advertising sign shall be maintained with respect to an enterprise which, for a period of one year, conducts no business or with respect to a product or service which is no longer offered by the enterprise maintaining the sign.
 - (9) No sign shall be erected or maintained within the right-of-way nor within ten (10) feet of the roadbed of any public highway. Such minimum setback shall not apply in the Riverfront Community (RC) District or to any signs located on and parallel to a wall of a building entirely housing the business or activity with which the signs are principally associated.
 - (10) 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 word, phrase, symbol or character, or red, green or amber illumination or reflection.
- E. Abandoned or Illegal Signs. In the event that a sign is (a) unlawfully erected after the effective date of this Chapter, (b) is a non-complying sign maintained in violation of §165-43 Nonconforming Lots, Buildings and Uses of this Chapter or (c) is maintained in violation of this section and/or the terms of a sign permit previously issued, then the Building Inspector shall mail to the owner of said sign, if known, at the sign owner's last known mailing address and to the owner of the parcel of land upon which such sign is situated, at the parcel owner's last known mailing address, an order that the violation be cured within thirty (30) days after the date of the order. If after such date the violation is not cured, the Building Inspector may enter upon the land and remove and discard the sign, without liability to the Town or its agents.
- F. Non-Complying Signs. A sign in existence as of the effective date of this Chapter which does not comply with the sign regulations hereof shall be brought into compliance or removed by its owner at

the owner's cost and expense not later than the latter of (i) one year from the effective date of this Chapter or (ii) if applicable, the date upon which such sign has been fully depreciated for income tax purposes, which shall in no case be later than 10 years after the date, prior to the effective date of this Chapter, that such sign was first erected or last substantially reconstructed. Any sign owner claiming the right to maintain a non-complying sign after one year from the effective date of this Chapter, shall file with the Building Inspector appropriate proof of the sign's useful life for income tax purposes on or before such date. Failure to so file shall be deemed a waiver of such sign owner's right to maintain the sign beyond such date.

§ 165-47. Vehicle Service Stations and Car Washes.

- A. Lot shall not be located within five-hundred (500) feet of any lot occupied by a school, hospital, playground, library or religious institution. Measurement shall be made between nearest respective lot lines.
- B. Pumps, other service devices and fuel and oil storage, except air pumps, shall be located at least thirty (30) feet from all lot lines.
- C. All automobile parts and dismantled vehicles are to be stored within a building, and no major repair work is to be performed outside a building. Gasoline or oil sales, changing of tires and other similar automobile servicing shall not be considered to be major repair work.
- D. There shall be no more than two access driveways from any street. Maximum width of each access driveway shall be thirty (30) feet.
- E. A suitable curbed landscaped area shall be maintained at least three (3) feet in depth along all street frontage not used as driveway.
- F. No automotive use area shall be used for auto wrecking or for the storage of wrecked, partially dismantled or junked vehicles or equipment or motor vehicles which do not qualify for New York State vehicle registration.
- G. Premises shall not be used for the display of automobiles, trailers, mobile homes, boats or other vehicles, unless specifically permitted by Planning Board site plan approval.
- H. No inoperative motor vehicle shall be kept on the premises of a motor vehicle service station for longer than two weeks.
- I. No motor vehicles shall be serviced on or over a public sidewalk.
- J. No portable or temporary tire racks may be used outside of any building. Permanent, enclosed tire racks may be constructed in accordance with plans which shall be approved by the Town Board prior to construction. Such storage racks shall not be used for advertising or for merchandise display. Such storage racks shall not be used for advertising or for merchandise display.
- K. Entrance and exit driveways shall be located not nearer than ten (10) feet to any property line and shall be so laid out as to avoid the necessity of any vehicle entering the property having to back out across any public right-of-way or portion thereof.

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- L. All service or repair of motor vehicles and all storage of gasoline or flammable oils shall be performed or located in accordance with the regulations contained in the State Uniform Fire Prevention and Building Code.
 - M. These requirements shall in no way be construed to cause any existing use to become nonconforming, except that if such a use has been discontinued for any reason for a period of over one year or has been changed to or replaced by a conforming use, such use shall be subject to the provisions of §165-43.

§ 165-48. Wireless Communication Facilities.

A. Legislative Intent. The legislative intent is:

- (1) To establish clear standards for the siting of wireless communication facilities, buildings and structures, equipment, communication towers, antenna towers and monopoles.
- (2) To promote the health, safety, and general welfare of the residents of Coeymans through the establishment of minimum standards to reduce the adverse visual effects of communication facilities, including but not limited to, transmission towers and antennas, through the use of advanced technology, careful design, siting, and screening and buffering.
- (3) To protect residential areas and land uses and property values from potential adverse impacts of towers and antennas.
- (4) To minimize the total number of communication facilities and communication towers throughout the community.
- (5) To encourage the joint use of new and existing communication tower sites as a primary option rather than construction of additional single-use communication towers while recognizing that collocation on higher towers is not always preferable to less visible, less obtrusive towers; thereby minimizing the use of existing communication towers or alternative antenna host sites, while not unreasonably limiting competition among communication providers or unreasonably limiting reception of receive-only antenna.
- (6) To require users of communication towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is shown to be minimal.
- (7) To require users of communication towers and antennas to configure them in a way that minimizes adverse visual, aesthetic and community character intrusion impacts caused by the installation and view of communication towers and antennas, through careful design, siting, landscape screening and buffering, sufficient setbacks to reduce visual impacts to adjacent properties, and innovative camouflaging techniques such as alternative tower structures, thereby protecting the physical appearance of the community and preserving its scenic and natural beauty.
- (8) To avoid potential damage to adjacent properties from communication towers through careful engineering and appropriate siting of communication towers.

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- (9) To enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently by facilitating the siting of personal wireless communication facilities.
- B. Compliance with the SEQRA. The Planning Board shall comply with the provisions of the SEQRA. An application for approval of a major wireless communications facility shall constitute a Type 1 action under SEQRA.
- C. Restrictions on Use. No wireless communications facilities except those approved prior to the effective date of these regulations, shall be used, located, constructed or maintained on any lot, structure or land area unless in conformity with these regulations. No wireless communications facilities may hereafter be erected, moved, reconstructed, changed or altered unless in conformity with these regulations. No existing structure shall be modified to serve as a wireless communications facility unless in conformity with these regulations.
- (1) All communication facilities shall at all times be in conformance with the rules and regulations of any governmental entity having jurisdiction over such communication facilities and uses, antenna and/or supporting structures and towers, including, without limitation, the Federal Communications Commission and Federal Aviation Administration (hereinafter referred to as "FCC" and "FAA").
 - (2) All communication facilities shall be operated and maintained by FCC licensee only.
 - (3) All communication facilities shall be shown to be necessary provide coverage to an area of Town with currently lacks adequate coverage and that any related communication tower or antenna is proposed at the minimum height and aesthetic intrusion possible to provide adequate coverage. The applicant seeking to locate a communication facility in the Town of Coeymans shall demonstrate the need for new or additional antennas or communication towers.
 - (4) All communication facilities, in proposed for placement on a lot that is within or abuts a residential district, shall prove that adequate coverage cannot be achieved by siting the facility on a lot which is not or does not abut a residential district.
 - (5) All communication facilities shall be constructed and maintained in conformance with all building, electrical, fire prevention and other applicable codes.
- D. Minor wireless communications facilities. At all times, the shared use within existing tall structures (for example, multistory buildings, church steeples, farm silos, etc.) and upon existing approved towers shall be preferred to the construction of major wireless communications facilities including new wireless communications towers and/or monopoles. Minor wireless communications facilities areas are a permitted use in the Commercial (C) and Industrial General (IG) Zoning Districts within the Town of Coeymans.
- (1) Minor wireless communications facilities permitted upon issuing of a building permit only.
 - (2) An application to collocate a wire communications facility upon an existing wireless communications facility designed for collocation, may be approved by the Building Inspector after referral and consultation with the Town Engineer by issuance of a building permit incorporating the regulatory requirements of this Chapter.

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- (3) Minor wireless communications facilities permitted upon site plan approval. An application for any other minor wireless communications facility shall be subject to site plan review by the Planning Board. The Planning Board may require the applicant to submit any of the items required for submission in major wireless communications facilities applications as part of the site plan review process. An application for site plan approval of a minor telecommunications facility shall include the following:
- (a) A completed site plan application form;
 - (b) Consent from the owner of the existing facility to allow shared use;
 - (c) A site plan. The site plan shall show all existing and proposed structures and improvements including antennae, road, buildings, guy wires and anchors, parking and landscaping and shall include grading plans for new facilities and roads. Any methods used to conceal the modification to the existing facility, shall be indicated on the site plan;
 - (d) An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure, will not hamper existing emergency networks and explaining what modifications, if any, will be required in order to certify the above.
 - (e) A copy of the applicant's Federal Communications Commission (FCC) license.
 - (f) The Planning Board may waive any of the above requirements if it is demonstrated by the applicant that under the facts and circumstances the submission of such documentation would cause an unnecessary and undue hardship.
 - (g) The Planning Board may add any other documentation, reports or evidence that it deems necessary to ensure the health, safety, and welfare of the community is adequately addressed.
- E. Major wireless communications facilities shall be permitted as Special Use Permit uses in the Commercial (C) and Industrial General (IG) Zoning Districts requiring approval from the Planning Board.
- (1) Conditions precedent to granting Special Use Permit approval.
 - (a) A service coverage map and report shall be provided. The service coverage map shall show and describe all existing and proposed areas of service coverage relating to the proposed communications facility. The service coverage map shall locate all existing sites in the Town and in bordering communities that contain communications towers or related facilities. A detailed report shall accompany the service coverage map and shall indicate why the proposed communications tower, equipment and facility are necessary. The report shall identify locations within the proposed project site service coverage area that are not, and could not be, served by either existing facilities, by collocation, utilization of alternative technology or an alternative tower structure.

- (b) A long-range communications facilities plan shall be provided, evidencing that the proposed location of the communication facility and supporting buildings and equipment has been planned to the result in the fewest number of communications transmissions tower locations within the Town. The Plan shall indicate how the applicant intends to provide service throughout the Town, and how the applicant plans to coordinate with all other providers of wireless communication services in the Town. The Plan shall address the applicant's planned and possible location of additional tower sites, additional antennas, related service area coverage, and alternative long-range plan scenarios that illustrate the potential effects of multiple towers and tower height, community intrusion impacts and visual and aesthetic impacts.
 - (c) Documentation, sufficient to demonstrate that the proposed communication tower height and bulk are the minimum height and bulk necessary, to provide licensed communication services to locations within the Town which the applicant is not able to serve with existing facilities in the project site area, shall be provided, including evidence that visual, aesthetic and community character intrusion impacts have been minimized to the greatest extent practicable.
 - (d) Demonstration that shared use is impracticable. The Planning Board may issue a permit for a major wireless communications facility only when the applicant demonstrates that shared use of an existing structure or site is impractical. An applicant shall be required to present a report inventorying all existing structures within one-half mile of the proposed site that are at an elevation which renders them potential sites. The report shall describe opportunities for shared use of these existing facilities as an alternative to a proposed new tower. The report shall demonstrate that the applicant used its best efforts to secure permission for shared use from the owner of each existing facility as well as documentation of the physical, technical and/or financial reason why shared usage is not practical in each case. The applicant's written request and the property owner's written responses for shared use shall be provided.
 - (e) Commitment for future shared use. New wireless communications towers shall be designed to accommodate future shared demand for reception and transmitting facilities. The applicant shall submit to the Town Board and Planning Board an irrevocable letter of intent committing to the owner of the proposed new tower and its successors in interest, to permit shared uses of the proposed tower by other telecommunications providers in the future. This letter shall also be filed with the Building Inspector prior to issuance of a building permit. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the site plan approval following a hearing and opportunity to be heard.
- (2) Visual impact assessment.
- (a) A viewshed analysis in order to determine locations where the tower and appurtenant facilities may be visible.
 - (b) Graphic representation of before and after views from key viewpoints located inside and outside of the Town including, but not limited to state highways and other major roads,

state and local parks, other public lands, preserves and historic sites normally open to the public residential developments and from any other location where the site is visible to a large number of visitors or travelers.

- (c) Assessment of alternative tower designs and color schemes, as described in §165-47 (E)(3), below.
 - (d) Assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.
- (3) Tower design. A report regarding alternative tower designs which includes lattice and monopole structures and other designs to minimize visual impacts. The Board may request a review of the tower design by a qualified engineer in order to evaluate the need for, and the design of, any new and potential alternatives. All designs to be considered shall be required to include, at a minimum, the following characteristics:
- (a) Towers shall be designed to accommodate future shared use by other wireless communications providers;
 - (b) Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of impact;
 - (c) No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to company name, phone numbers, banners and streamers;
 - (d) Any new tower shall be securely mounted to withstand damage from earthquakes and the wind and ice loads for the place of installation in accordance with New York State Uniform Fire Prevention and Building Code;
 - (e) The height of any new tower shall be the minimum height necessary, considering shared use, to meet the minimum requirements of the Federal Communications Commission for coverage of the service area encompassing the Town of Coeymans;
 - (f) Fully engineered site plan. A site plan showing, at a minimum, all existing roads, buildings, tower(s), guy wire and anchors, antennae, parking and landscaping, and shall include grading plans for new facilities and roads.
- (4) Engineer's report.
- (a) A report by a New York State licensed professional engineer specializing in electrical engineering with expertise in radio communication facilities and, if a monopole or tower is required or the electrical engineer is not qualified to certify the structural soundness of the installation, a New York State licensed engineer specializing in structural engineering. The report shall contain the following information:
 - [a] Name(s) and addressees) of person(s) preparing the report;
 - [b] Name(s) and addressees) of the property owner, operator and applicant;
 - [c] Postal address and section, block and lot number of the property;

- [d] Zoning district in which the property is situated;
 - [e] Approximate size of the property and the approximate location of all lot lines;
 - [f] Approximate location of nearest residential structure;
 - [g] Approximate location of nearest occupiable structure;
 - [h] Approximate location of nearest day care center, school, camp or recreational park;
 - [i] Approximate location of all structures on the property which is the subject of the application;
 - [j] Approximate location, size and height of all proposed and existing antenna(e) and all appurtenant structures;
 - [k] Type, size and location of all proposed and existing landscaping;
 - [l] The number, type and design of the antenna(e) proposed and the basis for calculations of capacity;
 - [m] The make, model and manufacture of the antenna(e);
 - [n] A description of the proposed antenna(e) and all related fixtures, structures appurtenances and apparatus, including height above grade, materials, color grounding and lighting;
 - [o] The frequency, modulation and class of service of radio equipment;
 - [p] Transmission and maximum effective radiated power of the antenna(e);
 - [q] Certification that the proposed antenna(e) will not cause interference with existing communication devices;
 - [r] Elevation drawings depicting the front, side and rear of the property, illustrating the proposed antenna, mounting device and structure, if any, on which the antenna(e) is mounted;
 - [s] A map depicting and listing all existing sites in the Town and bordering communities containing transmitting antenna(e) used by the operator, owner of applicant; and
 - [t] All applications, communications and permits submitted to and issued by the Federal Aviation Administration.
- (b) The Planning Board may, in a proper case, waive one or more of the forgoing requirements set forth in this section and may require additional reports or evidence that it deems necessary to ensure the health, safety and welfare of the community are adequately addressed.
- (5) Intermunicipal notification. In order to keep neighboring municipalities informed, and to facilitate the consideration of shared use of existing tall structures in a neighboring municipality, and to assist the continued development of communication for emergency services, the applicant shall provide the following additional notice of the application:
- (a) Notification in writing to the municipal clerk of any adjoining municipality within one mile of a proposed site or a greater distance if determined by the Board to be impacted by a proposed new telecommunications tower.

- (b) Notification in writing by certified mail of all landowners within one-thousand (1,000) feet of the property line of the parcel on which a new tower is proposed.
- (6) Location, lot size and setbacks. Any proposed wireless communications towers and its accessory structures shall be located on a single parcel and shall comply with setback requirements as identified below.
 - (a) Distance from public facilities. In order to protect the health, safety and welfare of children who may be injured by falling ice or debris, all wireless communication towers shall be a distance of not less than one-thousand (1,000) feet from the nearest school, day-care center, camp, public park or playground, or residence and/or dwelling unit.
 - (b) Lot size of major wireless communications facilities sites shall be determined by the amount of land required to meet the setback requirements. If the land is to be leased, the entire area required shall be leased from a single parcel.
 - (c) Wireless communications towers shall be located with a minimum setback from any property line equal to the height of the tower in any zoning district, except, however, if the applicant can demonstrate that the fall zone for the structure can be safely accommodated on a smaller size parcel or with reduced setbacks to no less than the minimum bulk requirements in the underlying zoning district, the Planning Board shall have the discretion to reduce the size accordingly. The applicant must demonstrate that there is adequate protection to adjoining properties from the dangers of falling ice or debris through either an easement or other safeguards. The Planning Board shall make findings of fact justifying a reduction and shall impose such additional conditions that the Board may deem appropriate to protect the health, safety and welfare. Accessory structures shall comply with the minimum setback requirements in the underlying district.
 - (d) Additional setbacks may be required by the Planning Board to contain on-site substantially all ice fall or debris from tower failure and preserve the privacy of any adjoining residential and public properties.
- (7) Vegetative screening and landscaping. All communication facilities shall provide landscaping as follows:
 - (a) All communications towers shall be located and designed to have the least possible adverse visual and aesthetic effect on the environment.
 - (b) The area surrounding the installation, other than the area necessary to maintain a clear line of sight to the signal source, shall be landscaped and maintained with trees, shrubs, and ground cover to maximize screening and visual buffer with meets or exceeds the above requirements may be substituted or enhanced for said requirements.
 - (c) Screening and buffering, utilizing trees of a height and density established by the Planning Board that will, over time, reduce visual impacts resulting from the installation of said facility, shall be provided.

- (d) The outside security fencing shall be screened with evergreen shrubs, trees or climbing evergreen material on the fencing.
 - (e) The base of any communication tower and any accessory structure shall be effectively screened using primarily vegetative screening, including a continuous evergreen screen planted in a natural setting and consisting of native plant species. Existing vegetation shall be preserved to the maximum extent practicable. Additional planting shall be required, as necessary, to screen and buffer all structures from nearby properties or important viewsheds of scenic areas. All landscaping shall be properly maintained to ensure continued screening and buffering.
- (8) Security and safety fencing. Security and safety fencing shall be located around all communication towers, equipment and related facilities to restrict unauthorized access. Access to all structures shall be through a locked gate or principal building. Fencing shall be designed to minimize visual and aesthetic impacts and shall be equipped with appropriate anti-climbing devices. Failure to maintain said security and safety fencing in an appropriate manner shall be grounds for immediate revocation of all permits and certificates of use by the Building Inspector. In addition:
- (a) All communication towers, antenna towers or monopoles, and other supporting structures shall be made inaccessible to non-authorized persons, particularly children, and shall be constructed or shielded in such a manner that they cannot be climbed.
 - (b) All transmitter controls that could cause the transmitter to deviate from its authorized operating parameters shall be designed and installed in such a manner that they are readily accessible only to persons authorized by the licensee to operate or service them.
 - (c) All transmitters used with in-building radiation systems shall be designed in such a manner that, in the event an unauthorized person does gain access, that person cannot cause the transmitter to deviate from its authorized operating parameters in such a way as to cause interference to other stations.
 - (d) All transmitters (other than hand-carried or pack-carried mobile transmitters) and control points shall be equipped with a visual means of indicating when the control circuitry has been put in a condition that should cause the transmitter to radiate.
 - (e) All transmitters shall be designed in such a manner that they can be turned off independently of any remote control circuits.
- (9) Coloring and marking. Unless otherwise required by the FAA or FCC, all communication facilities, including antenna and communication towers, shall be colored, camouflaged and/or shielded to blend with surrounding areas, provided such coloring, camouflage and/or shielding do not inhibit their effectiveness. The painting or marking of such facilities shall have a finish or coloring which will minimize visual and aesthetic impacts. Towers and all appendages shall generally have a galvanized finish and shall be painted gray or blue gray, or some other finish or color that is shown to be visually unobtrusive.

- (10) Signals and lights. No communication tower, antenna tower or monopole shall include any signals, lights or illumination unless required by the FAA or other applicable authority. The applicant shall provide evidence mandating any requirement for lighting. If lighting is required, said lighting shall be shown to cause the least disturbance to surrounding properties and views. Any lighting necessary for accessory structures or buildings shall be minimized and shall be properly shielded to prevent light emission and glare onto adjacent properties.
- (11) Signage. No signs, including advertising signs, shall be permitted on any antenna, communication tower, antenna tower or monopole, or antenna support structure except as follows:
 - (a) Signs specifically required by a federal, state, or local agency.
 - (b) Each site shall include a sign containing the name of the owner and operator of any antenna present, including an emergency phone number. In addition, any door having access to a roof-mounted antenna and all entrances to the fenced enclosure shall be similarly signed.
 - (c) Any signage permitted above shall comply with the sign regulations of the Town Code.
- (12) Undergrounding of electrical power and noise suppression. All electrical power supply to service the on-site buildings and appurtenances supporting the tower antenna operations shall be installed underground. Noise suppression shall be utilized in the structural design and construction of the tower support buildings and appurtenances.
- (13) Access. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the tow of the fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- (14) Parking. Parking shall be provided on-site in an amount determined by the Board based upon recommendation from the applicant. No parking shall be located in any required front yard.

F. Required to be imposed on all approvals.

- (1) Removal.
 - (a) Any antenna, communication facility, communication tower, antenna tower or monopole, including any supporting structure and related appurtenances, or part thereof, that is not used for a period of six (6) months in any twelve-month period, shall be removed and the site restored by, and at the expense of, the owner of the property or the operator of said facility.
 - (b) An extension of an additional six (6) months may be granted by the Building Inspector upon a written request, including proof as determined reasonable by the Building Inspector that the owner is actively engaged in the marketing of the property for sale or rent.

- (c) In the event the tower is not removed and the site restored as herein required, the Town, after notice and opportunity to be heard, may cause the same to be removed and the site restored as the expense of the property owner collectible in the same manner as a real property tax.
- (2) Operational certification. Within forty-five (45) days of initial operation or modification of a wireless communication facility, the owner or operator shall submit to the Code Enforcement Officer a written certification by a professional engineer that the operation facility is in compliance with the application submitted, any conditions imposed, and all other provisions of this chapter as a condition to continue operating past the forty-five-day period. The Town may confirm and periodically reconfirm compliance as necessary to insure that the provisions of this chapter, including thresholds, as set forth by the FCC are in compliance. The owner/operator of the facility shall supply all necessary documentation to permit the Town to make such a determination regarding compliance is restored.
- (3) Reimbursement of review expenses. All costs and expenses incurred by the Planning Board in connection with its review and approval of an application for a wireless communication facility shall be reimbursed to the Town by the applicant prior to final approval.
- (4) Existing installations.
 - (a) The current operator of any communication facility or communication tower, antenna or monopole, existing at the time that these regulations take effect, shall be permitted to remain in operation, provided the operator submits proof within six (6) months of the enactment of these regulations that a valid building permit was issued for the facility and that the facility complies with current emission standards as recommended by the FCC.
 - (b) Any legal nonconforming communication facility or communication tower shall be permitted to remain until such time as said use and facility is altered, at which time the compliance herein shall be brought in.
 - (c) Any facility for which emission and security compliance documentation is not received shall cease operation within six (6) months of the enactment of these regulations and shall be immediately removed thereafter.

§ 165-49. Reserved.

§ 165-50. Reserved.

§ 165-51. Reserved.

ARTICLE VI: Special Use Permit

§ 165-52. Special Use Permit Purpose.

- A. Purpose. The purpose of this section is to provide regulations governing the standards for review and design, and due process, for special use permit approval. These regulations are designed to protect the community from traffic congestion, noise, flooding, excessive soil erosion, excessive noise and odor, and other forms of pollution; to provide the design that will be in harmony with the appropriate and orderly development of the district in which it is located; and to ensure that the impact of new development and redevelopment are mitigated by compliance with reasonable conditions. Both new development and redevelopment in the Town of Coeymans shall be respectful and protective of the Town's rural, historic, scenic, and environmental character. These regulations are also designed to ensure that land development conforms to the Town's planning goals and objectives as expressed in its Comprehensive Plan.
- B. Consistency. Before approving any use that is subject to special use permit, the Planning Board must make a written finding that the proposed use is one that is allowed in the district in accordance with the Schedule of Uses, that it meets the special use permit performance standards as specified herein, and that the site layout, site design, and architectural appearance would, as determined by the Planning Board, enhance and be protective of the aesthetic, existing, historic, and environmental features of the surrounding neighborhood. In addition to local land use and environmental polices, the Planning Board shall determine whether the site use, site design, and architecture proposed by an applicant comply with the objectives expressed in the Comprehensive Plan.
- C. Special Use Permit Approval by the Planning Board, in accordance with this Article, is required for the following uses and activities:
 - (1) All uses and uses accessory thereto which require special use permit approval as set forth in the Schedule of Uses and Off-Street Parking, §165-85.
 - (2) All uses that require special use permit approval as set forth in Article VI of this Chapter.
 - (3) The expansion, enlargement, or extension of a structure containing a non-conforming use pursuant to §165-43.
 - (4) The expansion, enlargement, or extension of a non-conforming structure pursuant to §165-43.

§ 165-53. Special Use Permit Review Requirements.

- A. Reviewing Agency. Pursuant to Town Law §274-b, Subsection 2, the Planning Board is hereby empowered to review and approve, approve with modifications and/or conditions, or disapprove special use permit applications as provided in this Chapter.
- B. General. All uses allowed subject to special use permit approval are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an

individual case. Special permit uses are specifically declared to be allowed within the district in which they are located provided the Planning Board makes a written finding that the individual case meets the special use permit performance standards of this Chapter.

- C. Approval required. Where special use permit approval is required by this Chapter, no Building Permit or Certificate of Occupancy shall be issued by the Building Inspector until such special use permit has been approved by the Planning Board as provided herein. In addition, no premises shall be occupied or used and no permanent Certificate of Occupancy shall be issued until all of the requirements of this Chapter, and any conditions of special use permit approval have been complied with. All uses allowed by special use permit are subject to the requirements for site plan approval unless site plan approval is waived by the Planning Board as set forth in Chapter XXX, Site Plan Review Requirements. The site plan review shall be conducted in unison with the review of the special use permit application, and the Planning Board shall, at the time it issues its decision on the special use permit application, also issue its decision on the site plan. No authorization is granted for a waiver of the special use permit requirements of this Article, and no authorization is granted to separate the review of the special use permit from the review of the site plan.
- D. Compliance. All applications for any use allowed subject to the issuance of a special use permit shall be accompanied by a sworn statement by the owner of subject property that the proposed use will be constructed and operated in accordance with the standards and qualifications hereinafter set forth. The Planning Board shall not issue a permit to allow any use subject to the special use permit provision of this Chapter unless said Board first finds that the use, as proposed, shall be in compliance with the standards set forth in this section.
- E. Violations. No special use permit shall be issued for any use or construction where there is on the subject property an existing violation of any Chapter of the Town of Coeymans Code or the New York State Building Code. Further, upon written report or receipt of a notice of violation or order to cease and desist from the Building Inspector, the Planning Board shall not review, hold public meetings or public hearings, or take action regarding an application for special use permit approval until notified by the Building Inspector that such violation has been cured or ceased by the applicant. However, the Planning Board may, upon written recommendation of the Building Inspector, review and act on an application involving property for which there is a violation and bring the property, or use of the property, into compliance with this Chapter.
- F. Special Use Permit Performance Standards. In granting any special use permit, the Planning Board shall take into consideration the public health, safety, and general welfare of the Town, and the comfort and convenience of the public in general, and the immediate neighborhood in particular. The Board may require modifications to an application, including submission of alternative design and layout proposals, and may attach reasonable conditions and safeguards on its approval to eliminate or minimize potential impacts on surrounding properties and the community in general. Before making a decision on whether to approve, approve with modifications, or disapprove a special use permit, the Planning Board shall give specific consideration to the following standards and the Planning Board is hereby authorized to use its discretion to determine whether one (1) or more of these standards apply to a particular application:

- (1) Discharge of water. No polluting or objectionable waste shall be discharged into any stream or other natural drainage channel or upon the land that will in any way interfere with the quality, operation, or continuation of these natural systems, or contribute to their despoliation.
 - (2) Traffic access. All proposed traffic access ways shall be adequate but not excessive in number; adequate in width, grade and alignment and visibility; shall be sufficiently separated from street intersections; and shall meet other similar safety considerations.
 - (3) Parking. Adequate off-street parking and loading spaces shall be provided in accordance with §165-44.
 - (4) Circulation. The interior circulation system shall be adequate to provide safe accessibility to all required off-street parking, and to provide for the convenience and safety of vehicular, pedestrian, and bicycle movement within the site and in relation to adjacent areas or roads.
 - (5) Character and appearance. The character and appearance of the proposed use, buildings, structure, outdoor signs, and lighting shall be in general harmony with the character and appearance of the surrounding neighborhood, and shall not adversely affect the general welfare of the inhabitants of the Town.
 - (6) Historic and natural resources. The proposed use shall be designed and carried out in a manner that minimizes impacts to historic and natural environmental features on the site and in adjacent areas.
 - (7) Emergency Services. All proposed buildings, structures, equipment, and/or material shall be readily accessible for fire, police, and other emergency service protection.
 - (8) Nuisances. The propped use shall not be more objectionable to nearby property owners or occupants by reason of noise, fumes, vibration, or lighting, than would the operations of a permitted use.
 - (9) Size and scale. The location and size of the proposed use, the nature and intensity of operations involved in or conduction in connection therewith, and the site layout and its relation to existing and future access streets shall be such that both pedestrian and vehicular traffic to and from the use will not be hazardous or inconvenient to, or incongruous with, or conflict with the normal traffic of the neighborhood.
 - (10) Additional safeguards and conditions. The Planning Board shall impose additional conditions and safeguards upon the special use permit as may be reasonably necessary to assure continual conformance to all applicable standards and requirements, including reasonable assurances that these standards and requirements can be responsibly monitored and enforced.
- G. Non-complying uses deemed prohibited. Any use, which is unable to meet the performance standards required in this Chapter, as determined by the Planning Board, shall be deemed a prohibited use and a special use permit shall be denied by said Board.

§ 165-54. Special Use Permit Approval Process.

- A. Applications. All applications for special use permit approval shall be in writing and on forms and in such quantity as may be prescribed by the Planning Board. Application forms and instructions are available from the Secretary to the Planning Board. The application must include an Environmental Assessment Form and all necessary documentation to comply with SEQRA. No application shall be deemed complete until a Negative Declaration has been issued, or until a Draft Environmental Impact Statement has been accepted by the lead agency as satisfactory with respect to scope, content, and adequacy.
- B. Fee. An application for a special use permit shall be accompanied by an application fee as set forth by the Town Board. All application fees are in addition to any required escrow fees, and do not cover the cost of environmental review.
- C. Procedures. Within sixty-two (62) days of a complete application, the Planning Board shall schedule a public hearing and provide public notice of the hearing in the official newspaper at least five (5) days prior to the date set for the public hearing. The Planning Board may require that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of the application, including the prominent placement of one (1) or more signs on the premises that is the subject of the application notifying interested persons that an application for a special use permit is under consideration by the Board. All notices shall include the name of the project, the location of the project site, and the date, place, time and subject of the public hearing at which the application will be reviewed. Such notice shall not be required for adjourned dates.
- D. Decision. The Planning Board shall make a determination for approval within sixty-two (62) days of the close of the public hearing. In rendering its decision the Board shall approve, disapprove, or approve with modifications and conditions, the special use permit application. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Board shall be filed in the office of the Town Clerk within five (5) business days of the date such decision is rendered and a copy thereof shall be mailed to the applicant.
- E. Findings. In rendering its decision concerning any special use permit application, the Planning Board shall consider the nature of the proposed activity, the performance standards of Article VIII of this Chapter, and the applicable design standards of this Chapter, including the nature, arrangement, and appearance of all proposed structures, improvements, and uses of the lot, including their potential impact on adjacent properties and land uses. The Planning Board shall issue its findings in writing to support its decision on the application.
- F. Expiration. A special use permit shall be determined to authorize only the particular special use or uses applied for and shall expire if:
 - (1) Construction has not been commenced within one (1) year, and has not been completed within two (2) years of the date special use permit approval is granted. If no construction is involved, approval shall expire if the use or use have not been commenced within one (1) year of the date special use permit approval is granted.

(2) The special use or uses shall have ceased for more than twelve (12) consecutive months for any reason.

(3) The special use permit has expired.

G. Extensions. Extensions may be granted at the discretion of the Planning Board.

H. Appeals. Any person aggrieved by any decision of the Planning Board hereunder may apply to the Supreme Court for review pursuant to section 274-b(9) of the Town Law.

§ 165-55. Reserved.

ARTICLE VII: Planned Development District

§ 165-56. Intent and Objectives.

- A. Purpose. The regulations and procedures in this section have been developed because it is not always possible to determine in advance the exact location, type, standards, and mixture of all uses which are planned and developed as a unit, which are self-contained and which occupy sites of sufficient size to provide adequate separation from adjacent uses and properties. Planned development district (PDD) regulations are intended to provide for new residential uses in which economies of scale or creative architectural or planning concepts may be utilized by the developer without departing from the spirit and intent of this Chapter. Planned development districts and building projects within planned development districts may be established in accordance with the procedures specified below.
- B. Objectives. In order to carry out the intent of this Article, a PDD shall achieve the following objectives.
 - (1) A maximum choice in the types of environment, occupancy, tenure, types of housing, lot sizes, and community facilities available to exiting and potential Town residents at all economic levels.
 - (2) More flexibility in the location and design of large scale nonresidential uses which are compatible in primarily residential areas.
 - (3) A creative use of land and related physical development which allows an orderly transition between lands of differing characteristics.
 - (4) An efficient use of land and utilities than would otherwise develop.
 - (5) A development pattern in harmony with the objectives of the Town of Coeymans Comprehensive Plan.

§ 165-57. General Requirements for Planned Development District.

- A. Minimum area. No PDD shall include less than five acres of contiguous land unless the Planning Board and the Town Board find that property of less than five acres is suitable as a PDD by virtue of its unique historical character, topography, land use or landscaping features.
- B. Ownership. An application must be filed by the owner or the joint owners of all lands included in the proposed PDD. The district plan approved at the time of rezoning to PDD shall be binding on all owners and future owners or tenants as well.
- C. Location. Planned development districts may be designated by the Planning Board acting independently or on the basis of an application.
- D. Permitted uses. All uses permitted within a PDD shall be governed by the provisions of this section and the district plan approved at the time of rezoning to PDD. Permitted uses may include any one or a combination of the following:

- (1) Residential uses. Residences may be any of a variety of types, including single-family homes, townhouses, multifamily residences, senior housing, assisted living facilities, or any other residential use recommended by the Planning Board and approved by the Town Board. A variety of building types, styles, and designs are encouraged so as to create a balanced community.
 - (2) Nonresidential uses. Nonresidential uses may be permitted in combination with residential uses. Consideration shall be given to the location, scale, and setting of the project in determining the appropriateness of such uses and their location and design within the PDD.
 - (3) Customary accessory or associated uses. Accessory uses, such as private garages, storage places, day care centers, recreational and community facilities, churches, schools, and any other similar use as recommended by the Planning Board and approved by the Town Board shall also be permitted as appropriate to the PDD.
- E. Intensity of land use. Standards for land area per dwelling unit, land coverage by building, density, front, side, and rear yard setback requirements, building height requirements, aesthetic considerations and other requirements deemed necessary by the Town Board and the Planning Board shall be determined by standards established in the applicable existing zoning district most similar in nature and function to the proposed PDD, as determined by the Town Board. Exceptions to these standards are permissible when the Town Board find that such exceptions will:
- (1) Encourage a desirable living environment.
 - (2) Not adversely affect property values of adjacent or neighboring lands or the character of same, but rather will be compatible with existing uses and structures found thereon.
 - (3) Not unreasonably impact school facilities, public facilities, or other services without adequate provision being made to minimize or relieve such impact.
 - (4) Not create traffic or parking demands incompatible with existing or proposed infrastructure to serve it.
 - (5) Be of benefit to the Town and in the public interest.
 - (6) Promote the intended purpose of the district and of this Chapter.
- F. Common property and open space.
- (1) Common property in a PDD is a parcel or parcels of land, for the use and enjoyment of which is shared by the owners and occupants of the individual building sites. Common property may be either in public or private ownership. When common property exists in private ownership, satisfactory arrangements must be made for the improvement, operation, and maintenance of such common property and facilities, including private streets, drives, service areas, parking facilities, and recreational and open space areas.
 - (2) Open Space shall not be required unless at the discretion of the Town Board is determined appropriate.

§ 165-58. Application Procedure and Approval Process.

- A. Pre-petition conference. Prior to official submittal of a petition for consideration of a PDD, the developer or his agent shall meet with the Town Board and its technical advisory staff for a preliminary discussion as to the scope and nature of the proposed development and to consider alternate solutions to the development of a given area.
- B. Petition. Following the preliminary consultation with the Town Board and its technical advisory staff, petition may be made to the Town Board by the owner for approval of a specific project plan under the provisions of these regulations and for a change in zoning to a PDD. The petitioner shall include in the petition evidence satisfactory to the Town Board that petitioner is or has the legal right to become the owner of all lands in the proposed planned development area.
- C. Referral to Planning Board. Prior to making a final determination, the proposed development plan shall be referred by the Town Board to the Planning Board for its recommendation. The recommendation of the Planning Board shall be made to the Town Board within sixty (60) days of such referral unless such time is extended by the Town Board.
- D. Recommendation of Planning Board. In making its recommendation, the Planning Board may recommend a denial of the development plan and development schedule as submitted, or may recommend approval of said plan and schedule subject to specified amendments.
- E. Approval.
 - (1) The Town Board, after receiving favorable recommendations from the Planning Board shall initiate the procedures for the purpose of considering designation of a PDD for the applicant's plan in accordance with the procedures established Article VII of this Chapter.
 - (2) Prior to holding a public hearing, the Town Board shall render a determination of environmental significance in accord with the procedures of the State Environmental Quality Review (SEQR). All procedures under SEQR shall be completed prior to the Town Board's action on the application.
 - (3) Within thirty (30) days of the close of public hearing, the Town Board may, by resolution, approve or disapprove the development plan as presented or modified, with or without conditions as necessary in order to fully protect the health, safety, and welfare of the community. The findings of the Town Board shall be based upon the facts submitted with the application and presented at the hearings to establish that the development plan is in accord with the intent and purpose of this Chapter and is in the public interest. If approved, there shall be set forth in a written resolution the time within which the applicant must complete the development and/or the periods of time in which phased development must be completed and new phases commenced.
 - (4) The Town Board shall disapprove the application if it finds that, in its opinion, the objectives of this Chapter will not be achieved or that adverse environmental impacts are not minimized or avoided to the maximum extent practicable.

- (5) If the Town Board grants the application for a PDD District, the Zoning Map shall be so notated.
- (6) As a condition of final approval, the Town Board may require the posting of adequate performance guaranties to ensure the installation of all site improvements. Such performance guaranties shall be in an amount established by the Town Board and deemed sufficient to cover the cost of all such improvements as estimated by the Town Board and should include an agreed upon date for the completion of said improvements and shall be in a form satisfactory to the Town Attorney.

§ 165-59. Reserved.

ARTICLE VIII: Performance Standards

§ 165-60. Applicability of Performance Standards.

- A. All uses of lands or building in Coeymans shall comply with the performance standards as described in this Article where the regulations are not superseded as a matter of law by State, Federal or other more stringent local standards; and except to the extent any Federal or State required approval of any of the regulations is not in effect.
- B. Dust, fumes, glare, noise, odors, refuse matter, smoke, vapor, electromagnetic or equivalent interference, vibration, or similar noxious substances or conditions shall be effectively confined to the premises where located, or minimized so as not be injurious or detrimental to the adjacent land uses, neighborhood, or general public.
- C. No use shall be established or operated in a manner so as to create hazards, vibration, glare, air, water, ground pollution, or other nuisance elements in excess of the limits established under this Article.

§ 165-61. Determination of Nuisance Elements.

- A. The Building Inspector may require independent expert evaluation to determine the compliance of a proposed use with the performance standards at the expense of the applicant before issuing a permit.
- B. The determination of the existence of any nuisance elements shall be made at the following:
 - (1) The property lines of the use creating such elements for noise, vibration, glare, dust, and safety hazards.
 - (2) Anywhere in the Town for elements involving air, water, and ground pollution.
- C. The Building Inspector shall investigate any written or alleged violation of performance standards. If reasonable evidence of a violation exists, the Building Inspector may then revoke the zoning permit.

§ 165-62. Fire and Explosion Hazards.

- A. All activities involving the manufacturing, production, storage, transfer, or disposal of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion. In addition, on-site fire suppression equipment and device(s) standard to the industry shall be installed.
- B. Burning of waste materials in open fires is prohibited.
- C. Use of an outdoor wood burner and/or boiler shall be permitted upon the Building Inspector's satisfaction that the outdoor wood-burning device is in accordance with the manufacture's written instructions.

§ 165-63. Lighting and Glare.

- A. No direct or sky-reflected glare, whether from installed lighting or from high-temperature processes (such as combustion or welding), shall be permitted. Illumination in excess of 0.5 foot-candles at the property line shall be prohibited.
- B. All outdoor lighting shall be designed so as to avoid unnecessary or unsafe spillover of light and glare onto operators of motor vehicles, pedestrians, and land uses in proximity to the light source and shall comply with the following:
 - (1) Non-cutoff and semi-cutoff light(s) are prohibited.
 - (2) Full-cutoff light fixtures shall have a maximum combined height of pole and base of no more than thirty-five (35) feet in height.
 - (3) Wall pack lights shall be full-cutoff light fixtures.
 - (4) Focused light fixtures may be used to illuminate a sign, structure, or similar element.
 - (5) Globe lights shall have a maximum combined height of pole and base of no more than fifteen (15) feet in height.
- C. All outdoor light fixtures provided in connection with permitted construction work or the abatement of an emergency shall be exempt.

§ 165-64. Noise.

- A. Noise shall be as measured with a sound level meter using a-weighting network. The unit of measurement is the dB(A).
- B. Unnecessary, excessive and offensive noises from all sources are prohibited. It shall be unlawful for any person to create any noise which exceeds 65 dbA from one-hundred (100) feet of the property line of the noise source for more than fifteen (15) minutes in duration and more than two (2) times in one hour.
- C. Exemptions. The following uses and activities shall be exempt from noise level regulations:
 - (1) Sounds emerging from the operation of motor vehicles on a public highway or from the normal operation of railroad trains and aircrafts.
 - (2) Lawn maintenance equipment, including lawn mowers, power hedge clippers and power saws.
 - (3) Non-amplified noises resulting from the activities such as those planned by school, governmental, or community groups.
 - (4) Noises resulting from any authorized emergency vehicle or warning device when responding to an emergency call or acting in time of emergency.
 - (5) Construction equipment used in conjunction with a valid building or construction permit.
 - (6) Noises of church chimes.
 - (7) Maintenance equipment operated by a public agency or utility.

§ 165-65. Odor and Air Pollutants.

- A. No continuous, frequent, or repetitive odors may be emitted which are easily detectable and offensive at the property line and which cause annoyance to a person of reasonable sensitivity. An odor which is emitted no more than fifteen (15) minutes in any one day nor more than two (2) days out of the calendar month shall not be deemed to be continuous, frequent, or repetitive under this subsection.
- B. No emission of fly ash, dust, fumes, vapors, toxic gases or other forms of air pollution shall be permitted which can cause any damage to health, animals, vegetation, or other forms of property, or which can cause any excessive soiling.
- C. No emissions in compliance with the New York State regulations shall be deemed to constitute a harmful extent.

§ 165-66. Radioactivity and Electrical Disturbance.

- A. No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment.

§ 165-67. Vibration.

- A. No ground transmitted vibration shall be permitted which is detectable without an instrument at the property line and which may cause annoyance to a person of reasonable sensitivity.
- B. Vibrations within the safe limits established by the United States Bureau of Mines shall be permitted.

§ 165-68. Reserved.

ARTICLE IX: Administration and Enforcement

§ 165-69. Interpretation.

- A. In interpreting and applying the provisions of this Chapter, provisions of this Chapter shall be held to be the minimum requirement adopted for the promotion of health, safety, morals, comfort, convenience and/or the general welfare of the residents of the Town of Coeymans.
- B. This Chapter shall not repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law, ordinance, rules or regulations previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of building or premises, provided that where this Chapter imposes a greater restriction upon the use of buildings or premises or upon the heights of buildings or requires larger lots or yards than are imposed or required by such existing provisions or regulations, the provisions of this Chapter shall control.
- C. The lot or yard areas required by this Chapter for a particular building shall not be diminished and shall not be included as a part of the required lot or yard areas of any other building. If the lot or yard areas required by this Chapter for a particular building are diminished, the continued existence of such building shall be deemed to be a violation of this Chapter. The lot or yard areas of buildings existing at the time of passage of this Chapter shall not be diminished below the requirements herein provided for buildings hereafter erected, and such required areas shall not be included as part of the required areas of any building hereafter erected.
- D. Nothing contained in this Chapter shall require any change in the plans, construction or designated use of a building under construction prior to the enactment of this Chapter if the following is found to exist:
 - (1) A building permit shall have been duly issued and construction shall have been started before the date of first publication of notice of the public hearing on this Chapter.
 - (2) The ground story framework (including the second tier of beams) shall have been completed within six (6) months of the date of the building permit.
 - (3) The entire building shall have been completed in accordance with such plans as have been filed with the Building Inspector within one year from the effective date of this Chapter.

§ 165-70. Enforcement Officer.

- A. This Chapter shall be enforced by the Building Inspector and by such other officers, agents and employees of the Town of Coeymans as the Town Board may from time to time designate. Land use applications may then be forwarded to the Town Board, the Planning Board or the Zoning Board of Appeals depending on the appropriate jurisdiction over such applications pursuant to this Chapter. Compliance with this Zoning Code and all permits, approvals, and decisions that are rendered under the Law shall be enforced by the Building Inspector. The duties of the Building Inspector shall be as follows:

- (1) To enforce all provisions of this chapter and all rules, conditions and requirements adopted or specified pursuant thereto.
 - (2) To act promptly on all applications for building permits and certificates of occupancy.
 - (3) To maintain files for all applications for building permits and plans submitted therewith and for certificates of occupancy and for records of all building permits and certificates of occupancy issued by him, which files and records shall be open to public inspection.
 - (4) To record all identifiable complaints of violations of any provision of this chapter, and the subsequent action taken on each such complaint, which shall be public records.
 - (5) To file a report with the Town Board at monthly intervals, summarizing for the period since the last previous report, listing all building permits and certificates of occupancy issued by him and all complaints of violations and the subsequent action taken by him in each case. The said Inspector or his duly authorized assistants shall have the right to enter any building or enter upon any land at any reasonable hour in the course of their duties.
 - (6) In any case where a building or use requires site plan review, the Building Inspector shall refer the site plan to the Planning Board for review before issuing a building permit.
 - (7) In any case where a building or use requires a special use permit, no building permit shall be issued therefore unless such special use permit shall have been issued and shall be in effect.
 - (8) The Building Inspector shall require that the application for a building permit shall be accompanied by a plot plan, building plans and specifications, which shall contain all the information necessary to enable the Building Inspector to ascertain whether the proposed building complies with the provisions of this Chapter.
 - (9) Included in the duties of the Building Inspector shall be the responsibility to enforce all of the provisions of the New York State Uniform Fire Prevention and Building Code and other laws, ordinances, rules and regulations applicable to plans, specifications or permits for the construction, alteration and repair of buildings and structures.
- B. The Building Inspector or his duly authorized assistant(s) shall have the right to enter any building or enter upon any land at any reasonable hour as necessary in the execution of their duties, provided that:
- (1) The Building Inspector shall notify the owner and tenant before conducting any inspection.
 - (2) The Building Inspector or his duly authorized assistants shall display identification, signed by the Town Clerk, upon commencing an inspection.
 - (3) Inspections shall be commenced in the presence of the owner or his representative or the tenant.

§ 165-71. Building Permits.

- A. No building or structure shall be erected or structurally altered, nor shall any excavation be made or footing or foundation be constructed, until a building permit authorizing the same shall have been

issued by the Building Inspector. Storage sheds under one-hundred-twenty (120) square feet will not require a building permit. All structures must comply with setback requirements as set for zone.

- B. All persons desiring a building permit shall apply in duplicate on an appropriate form stating the proposed work, use and occupancy. The application for a permit shall be accompanied by two copies of all plans, drawn to scale, showing the actual dimensions of the plot to be build upon and the locations of the building and any accessory buildings to be erected on the plot and the location of any proposed alterations, relocation, demolition or other structural change, and any other pertinent information as may be necessary to determine and provide for the enforcement of this chapter.
- C. If approval of plans is required by the Planning Board, Board of Appeals, County Health Department or other agency for any of the proposed work, the applicant shall obtain such approval in writing and submit it along with the application for a building permit.
- D. The Building Inspector upon determining that the proposed work, use and occupancy are in compliance with this chapter, and other applicable ordinances and regulations, shall approve the application within ten (10) days and issue a building permit in connection therewith.
- E. A building permit not exercised within twelve (12) months of the date of issuance shall be deemed revoked, null and void; provided, however, that the Building Inspector may, upon good cause shown, extend the period of exercising such building permit an additional six (6) months.
- F. Disapproval. Should the Building Inspector determine that the proposed work, use and/or occupancy are not in compliance with this and other applicable ordinance, codes or restrictions, he shall disapprove the application and return one copy of said application and plans marked as disapproved and with a statement of reasons for such disapproval, within ten (10) days.
- G. Fees. There shall be paid to the Building Inspector, prior to the issuance of any building permit, a building permit fee as set forth in the fee schedule as established by the Town Board.
- H. Validity. Each building permit issued shall remain valid for a period of one calendar year following the date of issuance. Prior to expiration of a permit the applicant may apply for an extension of the original permit; such extension shall be for a reasonable time as determined by the Building Inspector.
- I. Rescission. The Building Inspector, for just cause, may rescind a building permit which he has issued. He shall notify the applicant in writing of his reasons for such rescission.

§ 165-72. Certificate of Occupancy.

- A. No land shall be used or occupied, and no building or structure thereafter erected, altered or extended shall be used or changed in use, until a certificate of occupancy shall have been issued by the Building Inspector.
- B. The Building Inspector shall be authorized to make periodic inspections during construction or alteration of buildings or structures in order to determine compliance with the New York State Uniform Fire Prevention and Building Code and other laws, ordinances and/or rules or regulations applicable to the construction of buildings or structures requiring a certificate of occupancy.

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- C. Within five (5) days after notification that a building or structure or premises or part thereof is ready for occupancy or use, it shall be the duty of the Building Inspector to make a final inspection thereof and issue a certificate of occupancy if the land, building, structure or part thereof is found to conform to the provisions of this Chapter and other applicable local laws and ordinances.
 - D. If the Building Inspector, after such final inspection, refuses to issue a certificate of occupancy, he or she shall state such refusal in writing, with the cause, and immediately mail notice of such refusal to the applicant at the address indicated on the application.
 - E. Records. Whenever a building permit, certificate of occupancy or other special permit is issued by the Town of Coeymans, it shall be the responsibility of the office of the Building Inspector to see that proper records are kept reflecting the issuance of said permits and/or certificates.

§ 165-73. Violations and Penalties for Offenses.

- A. Notice of violation.
 - (1) Whenever, in the opinion of the Building Inspector and after proper investigation, there appears to exist a violation of any provision of this chapter, or of any rule or regulation pursuant thereto, said officer shall serve a written notice of violation upon the appropriate person responsible for such alleged violation.
 - (2) Such notice of violation shall include the following:
 - (a) The nature and details of the violation;
 - (b) The recommended action, which, if taken, will remedy the situation and effect compliance with the provisions of this chapter or with rules and regulations pursuant thereto;
 - (c) The compliance date by which the violation must be remedied or removed; and
 - (d) Notification of the right to a hearing before the Building Inspector in accordance with §165-73 (F).
- B. Compliance date extension. The specified date of compliance may be extended if, in the opinion of the Building Inspector, there is reasonable evidence of intent to comply and if unusual conditions prevent compliance by said specified date.
- C. Certificate of compliance. Upon re-inspection following the date of compliance as specified in the notice of violation, if the violation has been remedied or removed and there is no longer a violation of this chapter, or any rules and regulations pursuant thereto, then the Building Inspector shall issue a certificate of compliance.
- D. Complaints of violations. Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Building Inspector, who shall properly record such complaint and report thereon to the Board of Appeals.
- E. Emergency action.

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- (1) If a violation exists, in the opinion of the Building Inspector, which requires immediate remedial action to remove a direct hazard or imminent danger to persons or property, said officer may take action on his own initiative to abate the hazard or danger. Any costs so incurred shall be paid for by the person responsible for such violation.
 - (2) The Building Inspector shall keep on file an affidavit stating accurately the items of expense incurred and the date of execution of the action taken, and shall be authorized to institute suit, if necessary, against the responsible party, or to place a lien on his property, for the purpose of recovering such costs.

F. Hearings.

- (1) Request for hearings. Any person served with a notice of violation in accordance with §165-14A above of this chapter and who denies the alleged violation or is otherwise aggrieved by the required action necessary for compliance may, within ten (10) days after service of such notice, file a written request for a hearing with the Building Inspector stating the reasons for his request.
- (2) Time of hearing. The Building Inspector shall, within ten (10) days after receipt of a request for a hearing acknowledge said request in writing and set a time and place for the hearing not later than fifteen (15) days after the receipt of said request. Hearing may be postponed beyond fifteen (15) days by the Building Inspector for just cause, and upon service of a notice for such postponement.

G. Testimony and findings.

- (1) The person requesting the hearing shall be required to give evidence why he should not be required to remedy the violation or show cause why he is unable to comply with the remedial action set forth in the notice of violation.
- (2) After consideration of all testimony given at the time of hearing the Building Inspector shall sustain, amend or withdraw the notice of violation as originally served. If the notice is sustained or amended he shall set a new compliance date by which the violation shall be remedied or removed in accordance with the original or amended notice.

H. Legal action for noncompliance by the Town Board.

- (1) Upon reinspection following the date of compliance as specified in the notice of violation or as extended in accordance with §165-14B above, if the violation has not been remedied or removed as a specified and there is still in existence a violation of this chapter in the opinion of the Building Inspector, then said Officer shall immediately notify the Town Attorney who shall thereupon institute appropriate legal action to restrain, prevent, remedy or remove such violation and to compel compliance with this chapter.
- (2) By the taxpayers. If the Building Inspector fails or refuses to refer a continued violation of this chapter to the Town Attorney for appropriate legal action within a ten-day period following a written request for such action by any taxpayer, then any three or more taxpayers of the town may institute such legal action.

I. Penalties for offenses.

- (1) Any person who shall violate, cause to be violated, or assist in the violation of any of the provisions of this chapter shall be subject to conviction for an offense against an ordinance. He shall also be subject to a fine not exceeding \$250, or by imprisonment for a period not exceeding fifteen (15) days, or by both such fine and imprisonment, for each and every violation. The issuance of a notice of violation shall signify the existence of a single violation and every week the violation exists beyond the date of compliance, or extension thereof, shall constitute a separate additional violation.
- (1) Penalty for failure to apply for building permit or certificate of occupancy. Any person who proceeds to construct, add to, alter, move or demolish a building or part thereof, and/or who subsequently proceeds to occupy said building, land or parts thereof, without first applying for and obtaining the necessary permits shall be considered in violation of a section or sections of this chapter and shall be subject to prosecution according to §165-73A above. Further, he shall be required, upon receipt of a written notice from the Building Inspector, to file application for the necessary permit or permits and shall be required to pay any fees as specified in §165-77. The Building Inspector shall then inspect the building or land involved and shall issue a certificate of occupancy or a notice of violation.

§ 165-74. Injunctive Relief.

- A. In case of any violation or threatened violation of any of the provisions of this Chapter, or conditions imposed in any project permit or certificate of compliance, the Town may, by resolution of the Town Board, institute an action for injunctive relief to prevent, restrain, correct or abate such violation. As apart of such action, the Town may request the Court for an order that requires the violator to reimburse the Town for the costs, including the attorney fees, incurred with respect to the action for injunctive relief.

§ 165-75. Misrepresentation.

- A. Any permit or other approval granted under this Chapter shall be void if it is based upon or is granted in reliance upon any material misrepresentation or failure to make a material fact or circumstance known.

§ 165-76. State Environmental Quality Review Act Compliance.

- A. All actions taken with respect to this Chapter shall comply with the New York State Environmental Quality Review Act (SEQRA) and applicants shall be responsible for providing such data as may be required to determine the significance of any environmental impacts associated with such actions.

§ 165-77. Fees.

- A. The Town Board, by resolution, shall establish and amend from time to time, a schedule of fees for the applications and permits required or contemplated by this Chapter. The current schedule shall be on file with the Building Inspector and with the Town Clerk. Such fees shall be payable to the Town of Coeymans at the time of application or, as appropriate, at the time of issuance of a permit. In certain instances where the reviewing Board deems the application, or any aspect thereof, requires a consultant to assist the reviewing Board, said Board may require as part of the fee, a deposit in an amount sufficient to reimburse the Town for reasonably estimated costs of a consultant to be retained by the reviewing Board in order to assist the Board in reviewing the application. Said amount shall be based on the specific fee schedule of the particular consultant to consultants retained as well as the scope of services to be provided by such consultant(s). The Town shall hold such deposit in escrow for the sole purpose of paying the costs and fees of the consultant(s) retained for review of the application. The consultant retained shall provide the Town with detailed invoices showing the services rendered for the time-period billed and the Town shall provided the applicant with an opportunity to review said invoices prior to payment. Additional deposits may be required as the review process continues. Any deposit amounts that remain at the end of the process shall be returned to the applicant.

§ 165-78. Reserved.

ARTICLE X: Zoning Board of Appeals

§ 165-79. Establishment.

- A. There is hereby established a Board of Appeals pursuant to provisions of the Town Law. Said Board shall consist of five members appointed by the Town Board.
- B. The Town Board may fix the compensation of such members and provide for the payment thereof. The Town Board shall have the power to remove any member of the Board of Appeals for cause and after public hearing.

§ 165-80. Terms.

- A. Of the five original appointees, one shall be appointed for terms of one, two, three, four and five years respectively; upon expiration of which their successors shall be appointed for terms of five years.
- B. Vacancies shall be filled for the unexpired term in cases other than expiration.
- C. Chairman and bylaws. The Town Board shall appoint the Chairman and the Board of Appeals shall prescribe such written rules of procedure, bylaws and forms as it may deem necessary for the proper execution of its duties. Such rules, bylaws and forms shall be submitted to the Town Board for approval and filing for public view. The Town Board shall move to approve, reject or modify the same within thirty (30) days after submission. Failure of the Town Board to so move shall be construed to constitute approval of the rules, bylaws and forms.
- D. Staff and expenditures. The Board of Appeals shall employ a secretary to keep the minutes of meetings, receive applications and appeals, and to assist in any other manner as may be necessary. Other assistance and expense may be authorized, provided that the expenses do not exceed any appropriation then available for such purposes.

§ 165-81. Powers and Duties.

- A. The Board of Appeals shall have all the powers and duties prescribed by law and by this chapter, which are more completely prescribed as follows:
 - (1) Interpretation.
 - (a) Upon proper request the Board of Appeals shall decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary.
 - (b) Every request for interpretation shall be made in the form and manner specified by the rules for such procedure adopted by the Board of Appeals. Said request shall set forth the exact interpretation which is claimed or sought.

(2) Variances.

(a) Criteria for granting a variance.

[1] The Board of Appeals shall have the power to vary or adapt the strict application of any of the requirements of this chapter, in the case of extraordinary physical conditions, whereby such strict application would result in unnecessary hardship that would deprive the owner of reasonable use of the land or building, but in no other case. A variance in this chapter shall be granted by the Board of Appeals only if it finds:

[a] There are special conditions, described in the findings of the Board applying to the case in question and not generally to the neighborhood, and that said conditions are such that strict application of the provisions of this chapter would deprive the owner of reasonable use of such land or buildings; and

[b] The granting of the variance is necessary for reasonable use of land or building and that said variance is the minimum variance, within the same use, that will accomplish this purpose; and

[c] The granting of the variance will be in harmony with the general purpose of this chapter and will not be injurious to the neighborhood and public welfare.

[2] In no case shall reasons of additional financial gain on the part of the owner of the buildings or land to be considered as grounds for granting a variance.

(b) Conditions. The Board of Appeals, in granting any variance, shall prescribe any conditions that it deems to be necessary or desirable.

(c) Compliance. The granting of a variance to this chapter shall not obviate the necessity of complying with all other applicable provisions of this chapter, in every other respect.

(d) Application fees. Fees for applications to the Zoning Board of Appeals for variances shall be set by resolution of the Town Board upon recommendation of the Zoning Board of Appeals and the Building Inspector.

(3) Appeals.

(a) Application. All appeals shall be made in the form and manner prescribed in the rules of procedure adopted by the Board of Appeals: Every appeal or application shall refer to the specific provisions of the ordinance involved, the decision, requirement, act or failure to act of the Building Inspector as the case may be.

(b) Decisions.

[1] Every decision of the Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed in the office of the Town Clerk, by case number, and under appropriate headings, together with all other documents pertaining thereto.

- [2] The Board of Appeals may reverse, affirm, wholly or partly, or modify any order, requirement or decision, as it deems necessary, in any case referred to it, and therefore shall have all the powers of the Building Inspector from whom the appeal was taken. The concurring vote of the majority of the members of the Board of Appeals shall be necessary to affirm any appeal upon which the Board is required to pass.
- (c) Stay of proceedings. Any appeal, properly filed, shall stay all actions under such action appealed from, unless the Building Inspector from whom the appeal is taken certifies to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to person or property.
- (d) Restraining order. 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 Building Inspector from whom the appeal is taken, upon notice to said officer and on due cause shown.

§ 165-82. Reserved.

ARTICLE XI: Amendments

§ 165-83. Method of Amendment.

- A. Amendments by the Town Board. The Town Board may from time to time, on its own motion or on petition or by recommendation of the Planning Board, amend, supplement, modify or repeal, in whole or in part, this chapter or the boundary of a district established by this chapter. Such action shall take place after a public notice and hearing as required by the Town Law.
- B. Advisory report by Planning Board.
- (1) Any such proposed change in the text or zoning district boundary shall be submitted to the Planning Board which shall submit its advisory report in writing to the Town Board prior to the public hearing.
 - (2) The Planning Board in its written report shall recommend favorably the adoption of any proposed change only if it meets the following conditions:
 - (a) The revision is not contrary to the general purposes and intent of this chapter; and
 - (b) The revision is accordant with the Comprehensive Master Plan.
 - (3) The Planning Board's advisory report shall be submitted to the Town Board within thirty (30) days after receiving notice from the Town Clerk of the proposed change.
- C. Notice and hearing.
- (1) Newspaper notices. At least 10 days prior to a scheduled public hearing on a changer, a notice announcing the time and place and giving a description of the regulations, boundaries and areas involved in the proposed change shall appear in a newspaper having general circulation in the town.
 - (2) Public hearing. No change of this chapter's text or the Zoning Map shall be effective until a hearing has been held and the public has had occasion to be heard.
 - (3) Written notice.
 - (a) At least ten (10) days prior to a scheduled hearing, written notice of any proposed change affecting property within five-hundred (500) feet of the boundaries of any county, town, village, city or state park, reservation or parkway shall be given to the respective clerk or other person performing such duties or to the commission, authority or other body having jurisdiction over the area concerned. Said county, town, village, city or state park, reservation or parkway have the right to appear and be heard at such hearing, but shall not have the right of review by a court as provided in Article 78 of the Civil Practice Law and Rules.
 - (b) At least ten (10) days prior to a scheduled hearing, written notice of any proposed change affecting property within the protectively zoned area of a housing project authorized under

the Public Housing Law shall be given to the housing authority in charge of the project and to the government providing financial aid or assistance thereto.

D. Publication, posting and effective date.

(1) Publication and posting.

- (a) Every zoning ordinance, every amendment thereto, and every map incorporated therein, adopted in accordance with Town Law shall be entered into the minutes of the Town Board, and a copy thereof shall be published once in a newspaper of general circulation in the town.
- (b) A copy of such ordinance, amendment and any map incorporated therein shall be posted conspicuously at or near the office of the Town Clerk as required by law. Affidavits of such publishing and posting shall be filed with the Town Clerk.

(2) Effective date.

- (a) An amendment to this chapter involving a change in boundaries shall become effective only when:
 - [1] The revision has been duly adopted;
 - [2] Drawn on the Official Zoning Map; and
 - [3] Proper entry has been recorded thereon referring to the revision number, its location in the public record and the date of adoption.
- (b) After public notices. An amendment or revision in this Chapter shall not take effect until ten (10) days following the publication and filing in the office of the Secretary of State, but if a certified copy under Town Seal is served personally against a person, such amendment or revision shall take effect from the date of such service.

E. Protest.

- (1) Signatures required. A protest against a proposed revision of this chapter must be signed by the owners of the following:
 - (a) Twenty percent or more of the land area included in the proposed revisions; or
 - (b) Twenty percent or more of the land immediately adjacent and extending one-hundred (100) feet there from; or
 - (c) Twenty percent (20%) or more of the land directly opposite thereto and extending one-hundred (100) feet from the street, road or highway frontage of such opposite land.
- (2) Vote requirements. No protest shall become effective unless four members of the Town Board vote favorably on such a protest.

F. Fee. Every petition for a change or amendment to this chapter shall be accompanied by a fee of \$50 which will be used to defray the cost of investigations, studies or advertising as may be necessary to present said change or amendment for adoption.

§ 165-84. Reserved.

ARTICLE XII: Use and Area Schedules

§ 165-85. Schedule of Uses and Off-Street Parking.

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§ 165-86. Schedule of Area, Yard and Bulk Requirements.

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