

*Zoning Code - Village of South Blooming Grove, NY*

## **Village Of South Blooming Grove**

*Incorporated on July 14, 2006*

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# **ZONING CODE OF THE VILLAGE OF SOUTH BLOOMING GROVE NEW YORK**

## Chapter 235

# ZONING

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## Zoning Code

HISTORY: Adopted by the Village Board of the Village of South Blooming Grove by Local Law No. 3, February 9, 2009.

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### ARTICLE I Title and Purpose

#### § 235-1. Title.

This chapter shall be entitled "A Law Regulating and Restricting the Location, Construction and Use of Buildings and Structures and the Use of Land in the Incorporated Village of South Blooming Grove, County of Orange, New York."

#### § 235-2. Short title.

This chapter shall be known and may be cited as the "Zoning Law of the Village of South Blooming Grove, New York."

#### § 235-3. Purpose; Village Law superseded.

A. There is hereby established a new comprehensive Zoning Law for the recently Incorporated Village of South Blooming Grove as set forth in the text, tables and map that constitute this chapter. This chapter is adopted for all of the purposes set forth in Article 7 of the Village Law and the Municipal Home Rule Law and all power and authority granted therein for the interest, protection and promotion of the public health, safety and general welfare. This chapter implements the policies for land use in the Village of South Blooming Grove, which include:

- (1) The guidance of population growth and development in South Blooming Grove so as to maintain the Village's rural character.
- (2) The establishment of adequate land use planning policies and development standards to ensure a balanced and orderly pattern of future growth, economic stability and environmental protection.
- (3) The formulation of Village land use development policies to ensure that future growth is coordinated with the Village's ability to provide adequate community facilities and services, particularly water and sewer service.
- (4) The accommodation of South Blooming Grove's present and future population by encouraging the development of an appropriate variety and quantity of sound housing to serve various age and economic groups, in accordance with local, County and regional considerations.
- (5) The orderly but limited expansion and addition of land uses consistent with the predominant character of the community, which should be encouraged.
- (6) The provision of a safe, adequate and efficient roadway network by builders, where appropriate, and by the Village in order to serve the various types and intensities of traffic generated by the proposed pattern of land use within the Village.
- (7) The preservation of historic features and sites of South Blooming Grove to maintain its pleasant, rural setting and to enhance the appearance of the Village.
- (8) The preservation and availability for public use, where appropriate, of the natural features of South Blooming Grove, i.e., its parks, lakes, ponds, waterways and wooded hills, which give it a pleasant, open setting and which serve, collectively, as an attractive background for the more developed areas of the Village and region.
- (9) The control of environmental degradation and the establishment of high standards of environmental quality in public and private development.

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- (10) The provision of a pleasant community in which people can live, work and pursue leisure activities and the securing and preserving of open space to ensure the foregoing.
  - (11) The protection and preservation of surface and subsurface water so as to ensure an adequate supply of potable water.
  - (12) The accommodation of new growth without the loss of the rural character which has long been one of the attractions of the Village. The Village supports its agricultural community and the practices necessary to keep agriculture healthy in South Blooming Grove. This is one of the basic ways to retain the Village's open spaces.
- B. To the extent that this chapter may be adjudged by a court of competent jurisdiction to be inconsistent with any provision of the Village Law or of any special law, this chapter is intended to and shall supersede any such inconsistent provision in order to effectuate the purposes of this chapter.

## **ARTICLE II Terminology**

### **§ 235-4. Definitions.**

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

**ACCESSORY APARTMENT** – An apartment unit in an owner – occupied residence subject to the provision of Section 235 - 45.6.

**ACCESSORY BUILDING OR USE** - The term applied to a building, structure or use which is clearly incidental or subordinate to, and is found customarily in connection with, the principal building, structure or use, and which is located on the same lot with the principal building, structure or use. Any accessory building or structure attached to a principal building or structure is deemed to be part of such principal building or structure in applying the bulk requirements to such building or structure. No use shall be considered accessory where such use requires a greater area of a lot or larger yards or for which greater restrictions than for the principal use on the lot are imposed by this chapter.

**ACTIVE ADULT USE** - The use of a building, a portion of a building or land for any adult use that is not a passive adult use, as defined herein, including but not limited to an adult entertainment cabaret, adult motel/hotel, adult theater, massage establishment, peep show or similar adult use, generally of such nature as to result in customers congregating in or about the use.

**ADULT USE** - The use of any building, structure or land, or portion thereof, for any purpose involving activities that are not open to the public generally but exclude, or are required by law to exclude, any minor by reason of age or which sell products designed or intended for use by adults, including but not limited to the establishments defined below:

- A. **ADULT BOOKSTORE OR VIDEO STORE** - An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, films, photographs, slides and/or videotapes, of which establishment a substantial portion is customarily not open to the public generally but excludes, or is required by law to exclude, any minor by reason of age. In determining whether a substantial portion of such establishment or stock is devoted to such materials or use, the following factors shall be considered:
  - (1) The proportion of floor area allocated to such use that is not available to the general public in comparison to the floor area that is available to customers without restriction by reason of age;
  - (2) The proportion of such materials maintained in space that is not available to the general public in comparison to the floor area that is available to customers without restriction by reason of age; and
  - (3) The total amount of floor space allocated to use that is not available to the general public but which is restricted by reason of age.
- B. **ADULT ENTERTAINMENT CABARET** - A public or private establishment which presents nude or seminude dancers, strippers, male or female impersonators or exotic dancers or other similar entertainments and which establishment is customarily not open to the public generally but excludes, or is required by law to exclude, any minor by reason of age.
- C. **ADULT MODELING/PHOTOGRAPHY STUDIO** - A modeling or photography studio which is not open to the public generally but excludes, or is required by law to exclude, any minor by reason of age or which engages in nude or seminude modeling or photography.
- D. **ADULT MOTEL/HOTEL** - A motel/hotel which is not open to the public generally but excludes minors by reason of age or which makes available to its patrons in their rooms films, slide shows or videotapes which, if presented in a public movie theater, would not be open to the public generally but would exclude, or be required by law to exclude, any minor by reason of age.
- E. **ADULT THEATER** - A theater that customarily presents motion pictures, films, videotapes or slide shows that are not open to the public generally but exclude, or are required by law to exclude, any minor by reason of age.



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- F. **MASSAGE ESTABLISHMENT** - Any establishment having a fixed place of business where massages are administered, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the lawfully established office of a duly licensed health care professional, such as a physician, surgeon, chiropractor, osteopath or physical therapist, or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders or total body massage in said establishments by certified or licensed massage therapists. This definition shall also exclude health clubs which have facilities for exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.
- G. **PEEP SHOWS** - The use of a building or a portion of a building to present material in the form of live shows, films or videotapes viewed from an individual room or similar enclosure which is not open to the public generally and which excludes, or is required by law to exclude, any minor by reason of age.

**AFFORDABLE HOUSING** - Housing units for which occupants of a household earning up to 80% of the Village of South Blooming Grove median income (as defined by the latest United States Census Bureau data) would pay less than 30% of total gross income for mortgage and property taxes. If median income information for the Village is not available, information for the Town shall apply.

**AGRICULTURAL USE**

- A. The principal or accessory use of a parcel of land for equestrian purposes, the raising, training and breeding of horses, the cultivating, raising or growing of crops, fruits, vegetables, flowers or ornamental trees or plants; or the feeding, breeding and management of livestock or poultry.
- B. "Agricultural use" does not include the following:
  - (1) Breeding, raising or maintaining of fur-bearing animals or of a poultry flock of less than 12 birds;
  - (2) Animal kennels;
  - (3) Riding or livery stables; and
  - (4) A garden which is accessory to a residential use.

**ANIMAL KENNEL/HOSPITAL** - A use or building where keeping, raising, breeding, boarding and/or medical care of household pets occurs. For the purpose of this chapter, any such activity, excluding boarding, shall not be considered a kennel where accessory to a principal residential use, provided that not more than five animals exceeding six months of age are kept.

**AREA, GROSS** - The measure of land in a horizontal plane, uncorrected or adjusted for legal encumbrances, surface conditions or slope.

**AUTO BODY REPAIR SHOP** - A building used for the repair of motor vehicles or machinery; such repair shall be wholly within a completely enclosed building.

**AUTO SALES** - An establishment used for the sale of new or used motor vehicles; no outside storage or display of motor vehicles shall be permitted in the required front yard.

**BASEMENT**- A story partly underground but having at least 1/2 of its height above the average curb level of the street abutting the front of the lot or above the average finished grade level of the ground immediately adjacent to the building.

**BED-AND-BREAKFAST ESTABLISHMENT** - An establishment in a private owner-occupied dwelling or in a building located on the same lot or on an adjacent lot under the same ownership, which establishment offers guest rooms for occupancy on a transient basis and meals for guests only in exchange for a fee.

**BOARD OF APPEALS** - The Zoning Board of Appeals of the Village of South Blooming Grove, New York.

**BUFFER** - An area of specified dimension extending between the property line and a required yard which may be required for conditional or special permit uses in residential districts. The buffer shall not be used or otherwise encroached upon by any activities on the lot.

**BUILDING** - Any structure, or extension thereof or addition thereto, having a roof supported by such things as columns, posts, piers or walls and intended for the shelter, business, housing or enclosing of persons, animals or property.

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**BUILDING AREA** - The total area of a lot covered by all buildings thereon, both principal and accessory, measured by the exterior dimension of such buildings as viewed from above, but not including uncovered steps, courts and terraces.

**BUILDING COVERAGE** - The percentage of the area of the lot covered by a building or buildings.

**BUILDING HEIGHT** – The vertical distance from the average elevation of the proposed finished grade along the wall of a building (or adjacent to the side of a non-building use) to the highest point of the roof for flat roofs and the mean height between eaves and ridge for gable, hip and gambrel roof of such building (or non building uses), except as specifically exempted in Article VII, Section 235-20.

**BUILDING INSPECTOR**- The individual or firm designated by the Village Board as building inspector.

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

**BURIAL GROUNDS** - Any piece of land where a person is buried, notwithstanding that the land or site may not be recognized as a traditional cemetery.

**BUSINESS CENTER DEVELOPMENT** - Establishments that deal in the retail sales of convenience goods (food, drugs and sundries) and such personal services as laundry and dry cleaning (pickup and delivery), hair styling and shoe repair. The maximum permitted aggregate gross floor area on any site shall not exceed 100,000 square feet. The floor area of any single store shall not exceed 15,000 square feet, except that food stores or combined sales stores may not exceed 45,000 square feet. Other commercial uses of any kind elsewhere specified in this chapter shall not be deemed a business center development.

**CATERING FACILITY** – A facility containing space and equipment for the preparation and serving of food at functions for which advance reservations are made, guests are present by invitation, menu is established in advance, and all guests at a particular function are served at the same time.

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

**CEMETERY** - A public, private, religious, historic and/or family cemetery where (a) deceased person(s) are buried.

**CHURCH or OTHER PLACE OF WORSHIP** - A freestanding building or structure, or groups of freestanding buildings or structures, by design and construction primarily intended for conducting organized religious services and associated accessory uses.

**CLUB, MEMBERSHIP** - Land, buildings or other facilities operated by a membership corporation, association or fraternal order, for the purpose of accommodating recreational, athletic, social, literary or similar activities, where the members of the membership corporation, association or fraternal order control the assets and management of the club. A membership club does not operate primarily for profit, nor regularly render services to the general public.

**CLUSTER DEVELOPMENT** - Residential development in accordance with Section 7-738 of the Village Law.

**COMMERCIAL TRAILER** – Any non-motorized vehicle used intended, or constructed for commercial purposes as described in the definition of **COMMERCIAL VEHICLE**. The use of such vehicles or trailers for dwelling purposes or for storage purposes is prohibited. See Attachment 1 Types of Recreations, Commercial, Trailers and Vehicles at end of code for illustrative examples of commercial trailers.

**COMMERCIAL VEHICLE** – Any motor vehicle used or intended for commercial purposes, such as the transportation of goods, wares and merchandise or passengers for hire; or any type of vehicle used as a place in which any business or commercial enterprise is conducted, or which is objectionable for reasons such as noise, fumes, vibration, odor, dust, gas or lights. The use of such vehicles for dwelling purposes or for storage purposes is prohibited. See Attachment 1-Types of Recreations, Commercial, Trailers and Vehicles at end of code for illustrative examples of commercial vehicles.

**COMMUNITY CENTER OR BUILDING** - A building used for recreational, social, educational and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency.

**COMMUNITY WATER AND/OR SEWER SYSTEM** - A utility system approved as to design and capacity by the

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Village Engineer and Planning Board and which is capable of acceptance by the Village Board as a community water or sewer district or system.

**CONFERENCE CENTER** – One or more buildings and accessory facilities designed, arranged, intended and used for conferences, meetings and similar activities. A conference center may be a principal use or an accessory use to a hotel or similar use otherwise permitted in the zoning district, provided that the parking and other zoning requirements for both uses are met.

**CORPORATE TRAINING CENTER** - A facility for the training of executives and technicians employed in offices, research institutes or research laboratories permitted in the ORI District.

**COURT** — An open, uncovered and unoccupied space bounded on two or more sides by the walls of a principal building.

- A. **COURT, DEPTH OF** - The dimension of a court at right angles to its width.
- B. **COURT, HEIGHT OF** - The distance from the lowest level the court is required to serve to the top of the highest wall which bounds it.
- C. **COURT, INNER** - A court entirely within the walls of a building.
- D. **COURT, OUTER** - A court extending to a street, front yard or rear yard.
- E. **COURT, WIDTH** - The horizontal dimension parallel to the principal open side in the case of an outer court; and the least horizontal dimension in the case of an inner court.

**CUSTODIAN RESIDENCE** - A dwelling unit permitted for a caretaker employed in connection with an office building and/or research institute or laboratory in an ORI District.

**CUSTOMARY AGRICULTURAL OPERATION** - The conducting of usual farm activities, including the processing of products which primarily originate from the farm on which such processing is conducted.

**DEVELOPMENT COVERAGE** - The percentage of the area of a lot covered by buildings, indoor and outdoor parking areas, accessory structures and any impervious materials, including natural impervious areas.

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

**DWELLING** - A building arranged, intended or designed to be occupied by one or more families living independently of each other upon the premises.

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

**DWELLING, TWO-FAMILY** - A building containing two dwelling units only.

**DWELLING UNIT** - A building or portion thereof providing complete housekeeping, cooking, sanitary, sleeping and living facilities and quarters for one family.

**ENTERTAINMENT COMPLEX** - A tract of land, maintained and operated under common management and sharing common elements of infrastructure and including indoor and/or outdoor areas arranged, intended, maintained and operated pursuant to a common plan for entertainment activities open to the general public, such as theaters for live stage or music performances, movie theaters, sports arenas, miniature golf, accessory gift and souvenir shops and similar uses. Such complex may include more than one structure or use if common ownership and management is maintained. Motor sports or activities, adult use, video or pinball arcades or uses primarily involving coin-operated amusement devices are not permitted in or as part of an entertainment complex.

**FAMILY**- One or more persons living as a single housekeeping unit and using cooking facilities and certain rooms in common as a nonprofit household. A "family" shall not include the occupants of a boarding- or rooming house, a residential club or a hotel.

**FARM ANIMALS** - Domestic animals, i.e., horses, cattle, pigs, sheep, goats, chickens and ducks, whether housed on the property as an agricultural use or as pets.

**FAST-FOOD ESTABLISHMENTS** - Any establishment whose primary business is the selling of a food product for off-premises consumption, provided that such establishment does not have a delivery service, does not have a drive-through for sales, does not exceed 15,000 square feet in gross floor area and is not less than 200 feet from the zone

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district boundary of any residence district.

FLAG LOT - A parcel of land that does not have at least 100 feet of frontage on a Village, County, or State road and the bulk of which parcel is located behind another lot or lots with frontage on a Village, county, or State road.

FLOODWAY - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FRONTAGE - See "street frontage."

FRONT WALL - The wall of a building which is nearest to and faces the street on which the lot fronts.

FUNERAL HOME - The business establishment of a funeral director and/or undertaker.

GARAGE, PRIVATE - An accessory building or part of a main building used only for the permitted storage of motor vehicles for the owner's private use.

HEALTH CLUB, FITNESS CENTER or SPA - A membership facility designed, intended and used for physical conditioning and/or physical rehabilitation activities.

HOME OCCUPATION - An accessory use of a personal service character customarily conducted entirely within a residence, by the residents thereof, which use is incidental and secondary to the use of the residence for dwelling purposes; does not change the character thereof; does not have any exterior evidence of such accessory use other than a permitted announcement sign; does not involve the parking, storage or standing of any commercial vehicles or construction equipment or the outdoor storage of materials; and which does not involve keeping stock-in-trade or the sale of any goods or the use of any chemical, mechanical or electrical equipment which is not a customary household appliance or light office equipment. Said activity shall not occupy more than 1/2 of the ground floor area of the dwelling or its equivalent elsewhere in the dwelling, if so used. No more than one person other than the residents engaged in such activity may be employed by them in connection with said activity. Conducting of a clinic, hospital, barbershop, beauty parlor, photographer's salon, tea room, tourist home, animal hospital, boarding or breeding kennel, convalescent home, funeral home, stores of any kind or any similar use shall not be a home occupation.

HOME PROFESSIONAL OFFICE - The office or studio which is the principal residence of a physician, dentist, lawyer, architect, artist, engineer, real estate broker or salesperson, insurance broker or agent, accountant or teacher, as herein restricted, provided that not more than two persons are employed or engaged who are not members of the family, and that such office shall be in the main building and shall not occupy more than the equivalent of 1/2 of the area of one floor of said building. For the purposes of this definition, a "teacher" shall be restricted to a person giving individual instruction in academic or scientific subjects to a single pupil at a time. A home professional office shall not include the office of any person professionally engaged in the purchase or sale of economic goods. Dancing instruction, musical instrument or voice instruction, tea rooms, tourist homes, beauty parlors, barbershops, hairdressing and manicuring establishments, convalescent homes, mortuary establishments and stores, trades or business of any kind not herein excepted shall not be deemed to be home professional offices. The home professional office of a physician shall not include a biological or other medical testing laboratory or a dental laboratory, other than personal, professional use.

HOSPITAL - An establishment for temporary occupation by the sick or injured for the purpose of medical treatment, and does not include an establishment for permanent occupation by the poor, infirm, incurable and insane.

HOTEL - A building or part thereof which offers transient lodging accommodations to the general public and which contains at least 50 separate sleeping units, none of which have cooking facilities or direct access to the outside except for emergency purposes.

HOTEL UNIT - Any room or combination of rooms comprising a single suite that is made available for transient lodgers.

HOUSEHOLD PET - Animals that are customarily kept for personal enjoyment or use within the home. Household pets shall include, but not be limited to, domestic dogs, domestic cats, domestic tropical birds and rodents.

INDUSTRY, NON-NUISANCE - Industrial uses such as manufacturing, processing and assemblage that are of a nonpolluting nature, particularly in regard to reservoir, groundwater resources, air and noise.

JUNKYARD - A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or other scrap or discarded material; or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof.

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**LABORATORY AND RESEARCH FACILITIES** - A building for experimentation in pure or applied research, design, development and production of prototype machines or of new products, and uses accessory thereto, wherein products are not manufactured for wholesale or retail sale.

**LOADING SPACE** - Any off-street space available for the loading or unloading of goods.

**LOT** - A parcel of land used or designed to be used by one use or structure, or by a related group of uses or structures, and the accessory uses or structures customarily incident thereof, including such open spaces as are arranged or designed and required in connection with such structure or group of structures. A lot may be or may not be the land shown as a single lot on a duly recorded plat or other official record.

**LOT AREA** - The total horizontal area included within the lot lines.

**LOT, CORNER** - A lot at the junction of and fronting on two or more intersecting streets.

**LOT, INTERIOR** - A lot other than a corner lot.

**LOT LINE** - Any boundary of a lot. Any lot line not a rear line, nor a front lot line, shall be deemed a side lot line.

**LOT LINE, FRONT** - The street line at the front of a lot. On a corner lot, the owner may specify the front lot line on the plot plan.

**LOT LINE, REAR** - The lot line opposite to the front lot line.

**LOT, THROUGH** - A lot extending from one street to another.

**LOT WIDTH** - The distance between side lot lines taken at the minimum front yard setback and measured by the straight line distance between side lot lines.

**MEMBERSHIP CLUB** - See "club, membership."

**MOTOR VEHICLE SERVICE STATION** — Any area of land, including structures thereon, or any building or part thereof that is used for the sale of motor fuels and which may include the sale of motor vehicle accessories and facilities for lubricating, washing or otherwise servicing motor vehicles, but not including body work or painting by any means. Repair work shall be permitted on premises only within a totally enclosed soundproof building. Sale of other retail products from the premises shall not be deemed to affect use of the facility as a motor vehicle service station, so long as gasoline continues to be sold on the premises.

**NONCOMPLYING BULK** - A structure or building the size, dimension or location of which was lawful prior to the adoption, revision or amendment to a zoning law, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

**NONCONFORMING USE** — Any use of a building or structure, lot or land, or part thereof, lawfully existing at the effective date of this chapter or of any amendments thereto affecting such use, which does not conform to the use requirements of this chapter, as may be amended, for the district in which it is located.

**NURSERY SCHOOL** — A private establishment enrolling more than four children between two and five years of age, where tuition fees or other forms of compensation for the care of children is charged, and which is licensed or approved to operate as a child-care center.

**OPEN SPACE** — That percentage of the land area not covered by the combined area of all buildings, structures and paved areas on all or that portion of the lot within the same zoning district as the main building.

**PARKING AREA** — A lot or part thereof used for the storage or parking of motor vehicles, with or without the payment of rent or charges in money and/or other consideration.

**PARKING LOT** — Lot or part thereof used for the storage of motor vehicles which contains space rented to the general public by the hour, day, week, month or year.

**PARKING SPACE** — An off-street area suitable for parking one automobile, which, in addition, contains sufficient other areas for ingress, egress and maneuvering.

**PASSIVE ADULT USE** — The use of a building, a portion of a building or land for the sale or rental for use off site of books, films, videotapes or other materials, including products designed or intended for use by adults, displayed in an area that is not open to the public generally and/or from which area the owner or operator of the use excludes, or is required by law to exclude, any minor by reason of age.

**PERSONAL SERVICES** — Commercial or business services provided to individuals or to other businesses to

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include the cleaning of clothes; repair of shoes or other personal effects; hair grooming; physical therapy and health aid; and printing, copying, design, typing and computer services to include studios for the production of arts and crafts. Such definition shall exclude automotive services, retail and general business and industrial uses.

PLANNING BOARD — The Planning Board of the Village of South Blooming Grove, New York.

PLANNING BOARD ATTORNEY – The duly designated attorney assigned to represent Planning Board activities in the Village.

PRINCIPAL OR MAIN BUILDING OR USE — The primary or predominant use for which a lot or building is used.

PUBLIC TRANSPORTATION STOP — A facility associated with a bus transportation system, with or without a shelter, intended for the pickup and discharge of passengers.

PUBLIC UTILITY BUILDING — Buildings, structures and facilities, including generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves and all building and structures relating to the furnishing of utility services, such as electric, gas, telephone, water, sewer and public transit, to the public.

RECREATION — Golf courses, indoor cinemas, indoor health and exercise facilities, tennis courts (indoor and outdoor) indoor swimming pools, racquet ball and squash courts, excluding facilities intended primarily for spectator activities, such as stadia and arenas, shooting ranges and amusement parks, automotive tracks and other similar uses or structures maintained for the amusement, patronage or recreation of the public.

RECREATIONAL TRAILER – Any non-motorized vehicle designed to be hauled by a motorized vehicle and to carry any structure, object, material, person, or things that can be transported by a small vehicle, pickup truck or van, and which are commonly used to transport other vehicles associated with recreational activities, such as motorcycles, ATVs, snowmobiles, etc. The use of such vehicles or trailers for dwelling purposes or for storage purposes is prohibited. See Attachment 1 Types of Recreations, Commercial, Trailers and Vehicles at end of code for illustrative examples of recreational trailers.

RECREATIONAL VEHICLE — A motor-driven recreational vehicle or vehicular chassis or structure designed to be hauled by another vehicle and to carry any structure, object, material, person, animal or thing.

REPAIR – The restoration to good or sound condition, conforming to all code requirements, of a building or structure, as referenced in Section 235-69.F.

RESIDENTIAL FARMING — The principal or accessory use of a parcel of land for the raising and training of horses for personal purposes subject to § 235-43, or for the purpose of producing agricultural, vegetable and fruit products of the soil, livestock, poultry, eggs, dairy products, nuts and honey, but not to include: the breeding, raising or maintaining of fur-bearing animals, pigs, goats, less than 12 head of poultry and animal kennels. A garden accessory to a residential use shall not be deemed a farm use. A farm use shall not include the processing of farm products.

RESTAURANT — A business enterprise engaged in preparing and serving food and beverages selected from a full menu by patrons seated at a table or counter, served by a waiter or waitress and consumed on the premises, with takeout food as a permitted accessory use, excluding fast food.

RIDGELINE — That area shown on the Village's Zoning Map as the Ridgeline Area Overlay.

RIDING ACADEMIES, BOARDING STABLES AND BREEDING FARMS — Any establishment where horses are kept for riding, driving, stabling or breeding for compensation or incidental to the operation of any club, association, ranch or similar establishment, subject to the provisions of § 235-42.

ROADSIDE STAND — A temporary structure constructed for the seasonal sale of fruits, vegetables and other agricultural produce items. Roadside stands shall not include mobile refreshment stands or stands erected for the sale of retail goods.

SAND OR GRAVEL PIT OR ROCK QUARRY — A lot of land or part thereof used for the purpose of extracting stone, sand, gravel, topsoil or any natural material for sale, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made to the Building Inspector.

SCHOOL, PRIVATE — A kindergarten, primary or secondary school, junior college, college or university, not operated by a public school district but furnishing a comprehensive curriculum of academic instruction similar to that of a public school, licensed by the State of New York Education Department.

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**SCHOOL, PUBLIC** — Any educational institution operated by a public school district under the laws of the State of New York, or any junior college, college or university operated under or by any municipal or quasi-municipal subdivision or agency.

**SENSITIVE USE** — The use of a parcel of land for certain uses determined to be by their nature particularly susceptible to the secondary impacts of adult uses, such as existing residences; a public or private school; a church or other place of religious worship; a cultural, civic or historic use open to the general public; a day-care use; or a park, playground or recreational facility open to the general public.

**SIGN** — The term "sign" shall include every billboard, illustration, insignia, lettering, picture, display, banner, pennant, flag or other device, however made, displayed, painted, supported, attached, intended for use for the purpose of advertisement, identification, publicity or notice, when located out-of-doors and visible from any street or from any lot other than the lot on which the sign is located. The term "sign" shall not include any flag, pennant or insignia of any governmental unit or nonprofit, civic, political, philanthropic or educational organization.

**SIGN ADVERTISING** — A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises and only incidentally on the premises, if at all.

**SIGN AREA** — Where a sign consists of a single board or face with the information on one or both sides, the area which results by measuring the outside dimensions of such sign, and not including the vertical, horizontal or diagonal supports which may affix the sign to the ground or to a structure. Where the sign consists of individual letters or symbols attached to or painted on a building, the area shall be considered to be that of the smallest basic geometric shape (rectangle, circle or triangle) which encompasses all of the letters or symbols of the sign.

**STEEP SLOPES** — Areas with an average slope equal to or greater than 25% with a minimum area of 200 square feet and a minimum width perpendicular to the contour of 10 feet.

**STREET** — A street which is one of the following: an existing Village, County or State highway or street; a street shown on an approved subdivision final plat; a street shown on a map filed with the County Clerk (in accordance with section prior to Planning Board authorization to review subdivisions); or a street shown on the Official Map.

**STREET FRONTAGE** — The length of the street line across the frontage of a lot.

**STREET LINE** — The dividing line between a street and a lot.

**STRUCTURE** — Anything or any combination of materials constructed, assembled or erected on, above or below the ground or attached to something having location on, above or below the ground, including, but not limited to, buildings, fences, tanks, towers, flag poles, dish antennas and solar energy collectors and swimming pools. A driveway shall not be considered to be a structure.

**SWIMMING POOL, NONCOMMERCIAL** — A constructed body of water or structure to contain water, and any accessory equipment pertaining thereto, used or intended to be used for swimming or bathing by a family or persons residing on the premises and their guests. Such noncommercial swimming pool shall not be operated for gain and shall be located on a lot only as an accessory use to the dwelling or dwellings, hotel, motel or membership club.

**TELEPHONE EXCHANGE** — A building housing a telephone communication center controlling the distribution of a telephone communication network.

**TOWN** — The Town of Blooming Grove, unless otherwise specified.

**USE** — The specific purpose for which land, water or a building or structure is designed, arranged or 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.

**UTILITY, PRIVATE** — Those normal and customary services to a building or group of buildings within a corporate park or subdivision to provide heat, electric, power, water, communications, sanitary waste disposal and/or fire protection.

**UTILITY, PUBLIC** — Any person, firm, corporation or municipal agency duly authorized to furnish to the public, under public regulation, electricity, gas, water, sewerage treatment, steam, cable TV, telephone or telegraph.

**VARIANCE** — A modification of the regulations of this chapter granted on grounds of practical difficulties or unnecessary hardship, not self-imposed, pursuant to the provisions of § 235-89C.

**VILLAGE ATTORNEY** — The duly designated attorney of the Village.

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VILLAGE ENGINEER – The duly designated engineer or engineering consultant of the Village.

WAREHOUSE — A building, a part of a building or a group of buildings used by a business or similar commercial enterprise for the storage and/or distribution of goods and merchandise manufactured, used or sold by the enterprise, and which is not open to the public. A warehouse may be an accessory use to the principal enterprise use, and may include accessory office or garage areas, but shall not include vehicle maintenance or repair facilities not otherwise allowed in the district. "Warehouse" shall not be construed to mean a self-storage center or similar use allowing access to the general public.

WATERCOURSE — A visible path through which surface water travels on a regular basis, including an intermittent stream. A drainage ditch, swale, or surface feature that contains water only during and immediately after a rainstorm or a snowmelt shall not be considered to be a watercourse.

WETLANDS — Any area, regardless of size, that meets the definition for wetlands according to the Federal Clean Water Act and regulations and using the methodology contained in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989) (also known as the "Federal Interagency Wetland Delineation Manual of 1989") as revised from time to time.

WHOLESALE FACILITY — Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional or professional users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

YARD, FRONT — An open unoccupied space on the same lot with a building situated between the nearest roofed portion of the building and the front lot line of the lot and extending from side lot line to side lot line.

YARD, REAR — An open unoccupied space on the same lot with a building situated between the nearest roofed portion of the building and the rear lot line of the lot and extending from side lot line to side lot line.

YARD, SIDE — An open unoccupied space on the same lot with a building situated between the nearest roofed portion of the building or any accessory building and the side lot line of the lot and extending through from the front lot line, where no front yard exists, to the rear yard.

ZONING LAW — This Chapter 235 of the Code of the Village of South Blooming Grove .



## **ARTICLE III**

### **Zoning Districts and Zoning Map**

#### **§ 235-5. Districts established.**

##### **A. Establishment of districts.**

- (1) The zoning districts listed below are hereby established and the Village of South Blooming Grove is divided into the districts listed:

##### **Symbol Zoning District**

RR	Rural Residential District
RC-I	Rural Crossroads I District
RC-II	Rural Crossroads II District
ORI	Office Research/Light Industrial District

- (2) The overlay districts listed below are hereby established:

##### **Symbol Overlay District**

SG	Scenic Gateways Overlay District
SV	Scenic Viewshed Overlay District
RL	Ridgeline Overlay District
SR	Scenic Roads Overlay District
SW	Surface Water Overlay District
SB	Significant Biological Overlay District

##### **B. Intent of districts.**

- (1) Intent of districts.

- (a) Rural Residential District. The purpose of this district is to promote the Village's rural character, protect open space and environmentally sensitive resources, and to guide residential development in a manner that is consistent with the Village's Comprehensive Plan.
- (b) Rural Crossroads I District. The purpose of the RC-I District is to promote the traditional development pattern in which commercial and residential uses would be located at the intersections of rural roads, in a manner compatible with the Village's rural character.
- (c) Rural Crossroads II District. The purpose of the RC-II District is to establish a new focal point for the Village's public institutions and support a mix of public, commercial and residential uses.
- (d) Office Research/Light Industrial District. The purpose of the ORI District is to allow areas of well-buffered light industrial, service commercial, office and research facilities with minimal visual impacts.

- (2) Overlay districts. The purpose of overlay districts in this Zoning Code is to protect specific types of resources such as scenic viewsheds, scenic roads, and ridgelines. Overlay districts do not change the use and dimensional requirements of the underlying land use districts unless specifically so stated. They do impose specific requirements that must be followed. Three visually sensitive districts, Scenic Roads, Ridgeline, and Scenic Viewshed, will require an additional visual assessment review in order to obtain approval. On any given parcel of land, more than one overlay district may apply, and the Planning Board shall have the discretion to determine how best to reconcile the requirements of different overlay districts. Unless there is a sound reason to do otherwise, the more restrictive requirements will apply. See the Comprehensive Plan for

background of the Overlay Districts.

- (a) Scenic Gateways Overlay District. The purpose of this overlay district is to protect those areas defined as Village Gateways in order to foster civic pride, promote healthy economic development, and maintain and preserve cultural identity.
- (b) Scenic Viewshed Overlay District. The purpose of this overlay district is to protect areas of scenic importance. This district serves to provide additional protection to ensure the preservation of scenic qualities, which include landscaping and site design, the preservation of native vegetation, and the design of buildings and structures.
- (c) Ridgeline Overlay District. The purpose of this overlay district is to protect the ridgelines and hillsides in order to preserve this scenic resource, help protect people and property from potentially hazardous conditions particular to hillsides, and require all practical innovative design solutions.
- (d) Scenic Roads Overlay District. The purpose of this overlay district is to protect the scenic character of roads in the Village that are in areas that remain substantially undeveloped and/or provide important scenic views, pursuant to the Village's Comprehensive Plan.
- (e) Surface Water Overlay District. The purpose of this overlay district is to protect the scenic character and water resource values of the surface water bodies in the Village, including any stream, lake, pond or other water body (including wetlands).
- (f) Significant Biological Overlay District. The purpose of this district is to protect and preserve threatened and endangered species of flora and fauna, as well as recognizing the community of species necessary to support their presence and survival.

**§ 235-6. Zoning Map.**

Zoning district boundaries. The boundaries of said districts are hereby established as shown on the Zoning Map which, with all explanatory matter thereon, is hereby adopted and made a part of this chapter. A copy of said map, indicating the last amendments, shall be available in the offices of the Village Clerk and the Building Inspector for the use and benefit of the public and shall be kept up-to-date.

**§ 235-7. Interpretation of district boundaries.**

In determining the boundaries of districts shown on the Zoning Map, the following rules shall apply:

- A. Where a district boundary is shown as following a street, highway, road, right-of-way, interstate highway, public utility right-of-way, railroad or stream or watercourse, the boundary is respectively the center line of such street, highway, road, right-of-way, interstate highway, public utility right-of-way, railroad or main channel of a stream.
- B. Where a district boundary is shown as following a Village boundary line, property line, lot line or a projection of any one of the same, such boundary shall be such landmarked or monumented line or projection thereof. If such boundary is shown as separated from, but approximately parallel to any such landmarked or monumented line or projection thereof, such boundary shall be deemed to be parallel to any landmarked or monumented line or projection thereof, as the case may be, at such distance therefrom as shown on the Zoning Map. If such boundary is shown as separated from but approximately parallel to any such landmarked or monumented line, such district boundary shall be deemed to be parallel to the aforesaid center line at such distance therefrom as shown on the Zoning Map.
- C. Where a question arises as to the exact boundary of a district, the boundary shall be determined by the Board of Appeals.

**§ 235-8. Effect of establishment of districts.**

Following the effective date of this chapter:

- A. No building shall be erected, moved, demolished, structurally altered, reconstructed or enlarged, nor shall any land or building be used, designed or arranged to be used for any purpose in any manner except in compliance with this chapter and all other applicable laws, together with all rules, requirements and restrictions appurtenant thereto.
- B. No yard or open space required in connection with any building or use shall be considered as providing a required yard or open space for any other building or use on the same or any other lot.
- C. No lot shall be formed from part of a lot already occupied by a building or use unless such building or use, 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. Such lot shall be created by Planning Board approval of a subdivision.
- D. Any use not specifically permitted by this chapter, but not prohibited by this chapter (§ 235-12), shall be permitted only by special permit of the Village Board. Uses identified as special permit uses or conditional uses shall be deemed prohibited unless a valid special permit is granted for such use by the Village Board or conditional use approval is granted by the Planning Board, as identified in the Table of General Use Requirements. *Editor's Note: The Table of General Use Requirements is located at the end of this chapter.*
- E. Preexisting uses identified as special permit uses or conditional uses in this chapter for which a valid certificate of occupancy exists on the effective date of this chapter or amendment thereof shall not be deemed nonconforming unless such uses are noncompliant as to the bulk or supplemental regulations of this chapter.
- F. No building permit or certificate of occupancy shall be granted for any building, structure or use unless the Building Inspector first finds that said building, structure and use conforms to the standards set forth in this chapter. Where a question, ambiguity or controversy exists concerning such conformance, the Building Inspector shall make an appeal for an interpretation to the Zoning Board of Appeals.
- G. No land or buildings shall be used in any manner so as to create any hazard to the public health, peace or comfort or to hinder the most appropriate use of land in the vicinity in that all such uses shall conform to the performance standards prescribed in § 235-66 for the control of noise; vibration; smoke, dust and other atmospheric pollutants; odor; radiation and electromagnetic interference; fire, explosive hazard and heat; liquid or solid wastes; and vehicular traffic emissions therefrom.

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## ARTICLE IV

## Use Requirements

### § 235-9. General use requirements.

The general requirements affecting the use of buildings, structures and land for each of the districts established by Article III are hereby established and set forth in this article.

### § 235-10. Use Table.

The accompanying table entitled "Table of General Use Requirements" shall be deemed part of this chapter and is referred to herein as the "Use Table." *Editor's Note: The Table of General Use Requirements is located at the end of this chapter.*

### § 235-11. Utilization of Use Table.

- A. The Use Table identifies the principal and accessory uses that are permitted by either site plan approval by the Planning Board (following Article XI of this chapter), subdivision approval by the Planning Board (following Chapter 163 of the Village Code), special permit approval by the Village Board (following Article XVIII of this chapter), or conditional use approval by the Planning Board (following Article XI of this chapter) within each zoning district. All uses requiring a Village Board special permit or Planning Board conditional use approval also require Planning Board site plan approval. A permitted single-family or two-family dwelling to be constructed on an existing lot must comply with lot size and setback requirements but does not require any of the approvals listed in this subsection, except as provided in § 235-14.4C and § 235-14.4E with respect to the Ridgelines Overlay and Surface Water Overlay Districts.
- B. Where a question or ambiguity exists concerning the classification of a proposed use and/or its status as a permitted or prohibited use, the Building Inspector shall make a determination, which may be appealed to the Zoning Board of Appeals (see Article XVII).
- C. Accessory uses. In addition to the specific accessory uses identified in the Use Table, structures customarily accessory to a residence, such as private garages, sheds, pool houses, aboveground and in-ground swimming pools, tennis courts and basketball courts, are permitted but may be further regulated by other sections of this chapter
- D. Keeping of domestic animals. The keeping of domestic animals is considered an accessory use to a residence, provided that, in the interpretation of the Building Inspector, appropriate means for housing such animals and managing waste from the animals are provided. The keeping of large animals and farm animals (such as, but not limited to, horses, cows, goats, llamas, and poultry) as an accessory use is limited to two such animals on lots of at least five acres, plus one additional animal for each additional five acres.

### § 235-12. Prohibited uses.

No building, structure, lot or land in any zoning district in the Village of South Blooming Grove shall be used for any one or more of the following uses:

- A. Any trade, industry or use which is noxious or offensive by reason of the emission of smoke, noise, gas, odor, dust, vibration or excessive light beyond the limits of its lot, so as to be dangerous or prejudicial to the public health, safety or general welfare or which is not in conformance with § 235-66, Performance standards.
- B. Sky rides, Ferris wheels, roller coasters, shooting galleries and similar recreation center devices.
- C. Rendering plants for animal products.
- D. Outdoor free standing ATM machines not associated with another commercial building on the same parcel of land or on a vacant parcel of land.
- E. Manufacture or storage of explosives or fireworks except as permitted by Chapter 118 of the Village Code.
- F. Dumps or junkyards.

- G. Vending machines not located entirely within or directly adjacent to a principal or accessory building.
- H. Open front stores arranged and designed for the purpose of making sales to persons on the public street or sidewalk, except approved roadside stands.
- I. Open air retail sales establishments, other than for automotive fuels or horticultural products.
- J. Sand or gravel pits or rock quarries.
- K. Active adult use, including but not limited to an adult entertainment cabaret, adult motel/hotel, adult theater, massage establishment not in compliance with definition of Massage Facility, peep show, adult modeling and photography or similar adult use that is generally of such nature as to result in patrons or customers congregating in or about the use.

**§ 235-12.1. (Reserved)**

**§ 235-12.2. (Reserved)**

**§ 235-12.3. (Reserved)**

**§ 235-12.4. (Reserved)**

**§ 235-12.5. Senior Housing Floating District.**

- A. Purpose. The Village Board of the Village of South Blooming Grove hereby finds and declares:
  - (1) There is a need in the Village of South Blooming Grove for housing developments located and designed to meet the needs of senior citizens, to be known as "senior housing." Such housing can contribute to the dignity, independence and meaningful activity of senior citizens in their retirement years. It is recognized that housing for the elderly, if not properly located, constructed and maintained, may be detrimental to the general welfare, health and dignity of the occupants of such developments and to the Village at large.
  - (2) Senior citizens have different needs from the population as a whole. These needs may include support services, such as central food service, social services and referral consultation, medical services, housekeeping assistance and central laundry. Senior citizens also need to be provided with a comfortable, independent and supportive setting where they can move when a single-family residence is no longer appropriate.
  - (3) Senior housing developments can be integrated into existing or planned communities or neighborhoods if properly planned, constructed and maintained. A senior housing development that blends into the fabric of the community has a much higher degree of acceptance by neighbors, and the senior citizens who live there find it much easier to become a part of the community as a whole.
  - (4) The Village of South Blooming Grove has determined that the most appropriate means to fulfill the purposes of this section is to establish Senior Housing (SH) Floating Districts by zoning amendment.
  - (5) The purpose of the Senior Housing (SH) Floating District is to enable the Village Board to permit, on a case-by-case basis, senior housing that satisfies the need for such developments in locations appropriate for the residents and surrounding land uses. Any use, other than the uses specifically enumerated herein, shall be prohibited in an SH Zone.
  - (6) The granting of authority to establish a senior housing development shall be subject to the conditions set forth below, the site plan review requirements of § 235-55 of the Village Zoning Law, and such other reasonable conditions as the Village Board, in its discretion, deems appropriate. The Village Board shall possess the authority to grant a waiver or modification from the requirements of this section.
- B. Application procedure.
  - (1) Application for the establishment of an SH District shall be made to the Village Board pursuant to the zoning amendment provisions of Article XIX of the Village Zoning Law. The application for SH District designation shall include a sketch plan showing the approximate location of proposed buildings and other structures, parking areas, pedestrian circulation, roads, open space, recreation areas and other proposed facilities. The

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Village Board may, in its sole discretion, reject an application for an SH District at any time prior to final adoption of a zoning amendment.

- (2) Within one year of the date that the Village Board adopts a zoning amendment creating an SH District, the applicant shall apply to the Planning Board for site plan approval in accordance with § 235-55 of the Village Zoning Law. The Planning Board shall grant site plan approval or site plan approval with conditions if it finds that the site plan satisfies the standards and criteria in this section and § 235-55 of the Village Zoning Law and that the site plan is substantially similar to the sketch plan approved by the Village Board. If a period of more than one year passes between Village Board approval of the SH District and submission of a site plan application, the SH designation shall lapse, and the property shall revert to its prior zoning classification unless the SH designation is extended by resolution of the Village Board.
- (3) In addition to the application requirements of Article XIX of the Village Zoning Law, applications to the Village Board must be accompanied by a completed full environmental assessment form (EAF) or a Draft Environmental Impact Statement (DEIS) pursuant to the State Environmental Quality Review Act (SEQR).
- (4) A fee of \$500 shall accompany each application under this section. In addition, in the event that an application requires the Village to incur expenses for technical assistance in the review of an application, this section shall require the applicant to pay the reasonable expenses incurred by the Village and to deposit said necessary covering funds prior to the cost being incurred. Technical assistance shall be defined as, but not limited to, those services provided by the Village's Engineer, Planner, Attorney and other professional planners, licensed engineers, licensed landscape architects, licensed attorneys, licensed land surveyors and licensed property appraisers, and any specialized consultants deemed to be necessary.
- (5) A certified copy of the corporation papers of an applicant, requesting a senior housing designation under this section, shall be supplied to the Village's Attorney for the purpose of review and comment on compliance with the purposes and intent of this section and any other relevant provision of law.
- (6) Upon the granting of a senior housing (SH) zoning designation and all other approvals from regulatory agencies, including Planning Board approval, the applicant may obtain a building permit and commence construction.
- (7) The occupancy for a senior citizen housing development shall be limited to persons who are 60 years of age or older, with the following exceptions, to be determined by the Village Board or an advisor thereto:
  - (a) A husband or wife under the age of 60 years who is residing with his or her spouse who is age 60 years or older.
  - (b) One adult under the age of 60 years per dwelling unit will be permitted as a permanent resident if it is established that the presence of such person is essential for the physical care or economic support of the eligible older occupant or occupants. Said adult must be at least 21 years of age.
  - (c) An adult 55 years of age or older will be admitted as a permanent resident if it is established that the person is disabled in a manner recognized by the federal Americans with Disabilities Act.
  - (d) Temporary residence of a minor (under 18) for no more than 30 consecutive days or 60 days in a one year period.
  - (e) Certifying documentation of the requirements of this section shall be provided in the following forms:
    - [1] A certificate of occupancy shall be required for each dwelling unit in a senior citizen housing development, and said certificate shall only permit occupancy in accordance with the requirements as stated herein.
    - [2] A certificate of compliance shall be filed for each unit occupied. It shall be the duty of the owner or his agent to file a certificate of compliance with the Village Building Inspector, indicating compliance with this section and the Village Zoning Law, as amended, as to its requirements relating to the number of occupants and the age of the occupants in each dwelling unit. The certificate shall be filed for each dwelling unit within 30 days after its initial occupancy. A new certificate shall be filed within 30 days after any change of occupancy.
    - [3] The applicant and/or owners of a development under this section shall file with the Building Inspector, before the first Monday in December of each calendar year of operation, a report on forms supplied by the Building Inspector, for compliance with all provisions of this section.

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- (f) Violations of this section are subject to the enforcement and penalty provisions of Article XVI of the Village Zoning Law.
  - (8) First preference for dwelling units in a senior citizen housing development shall be given to existing residents of the Village of South Blooming Grove, second preference to parents of homeowners in the Village of South Blooming Grove, third preference to residents of the Town of Blooming Grove, fourth preference to residents of Orange County, as permitted by law. Proof of residency, such as a driver's license or voter registration card, will be accepted to determine residency.
- C. Uses. Senior housing needs vary depending upon an individual's age and health. A common prerequisite is a comfortable, independent and supportive setting to which one can move when one's residence is no longer appropriate. Senior housing developments may provide a variety of dwelling types in accordance with Subsection C(1) of this section. In reaching its decision to approve or deny a Senior Housing Floating District, the Village Board may consider the degree to which the senior housing development provides for a variety of the enumerated dwelling types.
- (1) The following dwelling types are allowable in an SH District:
    - (a) Single-family patio homes.
    - (b) Two-family dwellings.
    - (c) Town house-style construction.
    - (d) Multiple dwellings.
    - (e) Congregate housing as defined in § 235-12.5, Section H.
    - (f) Any combination of the above.
  - (2) Certain related ancillary facilities may be permitted, either in a separate building or in combination with dwelling units. Such ancillary facilities are important to the success of a senior housing development but shall be subordinate to the residential character of the development and, to the maximum extent feasible, shall be located out of public view with no outside advertising. Approval of a site development plan for dwelling units in a senior citizen housing development does not constitute approval for installation of any type of related facility. In reaching its decision to approve or deny a Senior Housing Floating District, the Village Board may consider the degree to which the senior housing development provides for a variety of the enumerated ancillary facilities. The following facilities may be approved by the Planning Board pursuant to § 235-55 of the Village Zoning Law:
    - (a) Cafeteria or Dining Room.
    - (b) Self-service laundry.
    - (c) Lounge.
    - (d) Game room.
    - (e) Recreation room.
    - (f) Exercise or multipurpose room.
    - (g) Workshop.
    - (h) Library.
    - (i) Sauna/spa whirlpool.
    - (j) First-aid clinic. (NOTE: First-aid clinics may include an office for a part-time doctor, dentist or podiatrist to visit once or twice a week.)
    - (k) Social service office. (NOTE: Such office shall be for use by social service providers or others offering direct assistance to residents only to the extent that they meet the needs of the residents of the development).
    - (l) Twenty-four-hour security.
    - (m) Guest accommodations, limited to periods not to exceed two weeks.

- D. Design standards and bulk requirements. In considering designation of an SH District, the Village Board will be guided by the following standards:
- (1) The design of the senior housing development shall be as compatible as practical with the design or appearance of the surrounding neighborhood or area.
  - (2) The following dimensional requirements are applicable to all SH Districts created by this section; provided, however, that the Village Board may vary the requirements where appropriate (except for lot size, maximum building coverage and maximum site development) so that the senior housing development will conserve the environment, preserve or foster neighborhood character, preserve open space or provide senior housing development in a manner deemed appropriate by the Village Board:
    - (a) Minimum lot size: 10 acres.
    - (b) Maximum lot size: 20 acres.
    - (c) Minimum lot width: 400 feet.
    - (d) Minimum road frontage: 400 feet.
    - (e) Minimum front yard setback from adjoining roads:
      - [1] State: 80 feet.
      - [2] County: 60 feet.
      - [3] Village: 40 feet.
    - (f) Minimum building setbacks from adjoining properties:
      - [1] Side: 200 feet.
      - [2] Rear: 200 feet.
    - (g) Maximum building height: 35 feet.
    - (h) Maximum building coverage: 20%.
    - (i) Maximum site development coverage: 40%. (Note: This includes all buildings, structures, walks, parking areas, driveways, and roads and all other impervious surfaces.)
    - (j) Minimum distance between buildings: as determined at the time of site plan approval by the Planning Board. Consideration shall be given to fire access, solar orientation, building massing and other relevant factors in determining an appropriate distance between buildings.
    - (k) Density: Six dwelling units per gross acre.
  - (3) The maximum number of units per building shall not exceed 16 unless otherwise approved by the Village Board.
  - (4) Sites shall be located in an area determined by the Village Board to be suitable for residential purposes and shall be reasonably free of objectionable conditions, such as industrial odors, noise and dust.
  - (5) Senior housing developments shall preserve, to the greatest extent practical, mature trees, rock outcrops, slopes, wetlands and stream corridors, and are subject to all provisions of the Zoning Law relating to sensitive environmental features.
  - (6) All senior housing shall be located so that adequate resources, environmental quality and public facilities, including water supply, waste disposal and fire protection, are available.
  - (7) Senior housing sites shall provide residents with reasonable access to such conveniences and facilities as public transportation, hospital and medical services, shopping, check-cashing facilities, drugstores, religious, cultural and recreational facilities and personal services.
  - (8) Sites shall emphasize pedestrian circulation and shall provide a safe and reasonable system of drives, service access and parking conveniently accessible to all occupants. Sidewalks shall link parking lots, transit stops and buildings on site and with adjacent properties.
  - (9) Parking.



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- (a) On-site facilities for vehicle parking shall be provided in accordance with the requirements of § 235-23. However, since senior housing development parking needs may differ from other residential developments, the Planning Board is authorized to modify the requirements of § 235-23.
  - (b) Overflow parking area specifications shall be designated by the Planning Board. All other parking areas shall be curbed, striped and have direction-of-travel lanes painted over blacktop. Minimum paving specifications shall be designated by the Planning Board. Parking areas shall be separated by a planted or landscaped strip between such areas and sidewalks. No vehicles, other than passenger vehicles or vans, and no more than two vehicles per household shall be permitted to park overnight. Where garages are provided, they may offset such off-street parking area requirements and shall conform architecturally to the principal buildings.
- (10) Each parking space shall be a minimum of 10 feet wide and 20 feet deep with 24 feet of aisle space. Five percent of the total number of parking spaces shall be 12 feet wide and designated for handicapped residents. Properly located short-term parking shall be provided for residents dropping off groceries or passengers. All parking shall be placed at the side and rear of buildings.
  - (11) All exterior lighting shall be subject to approval by the Planning Board.
  - (12) Landscaping shall be provided in accordance with the site plan approved by the Planning Board. Additional requirements include planting of street trees along all streets at a maximum average spacing of 30 feet (but no closer than 15 feet to intersections) on center. Trees shall have a minimum caliper of three inches at the time of planting. When no lane of parking is provided along streets, trees shall be planted between the sidewalk and the travel lane at a minimum of 2 1/2 feet from the edge of the street. For all parking areas, landscaped areas shall comprise a minimum of 20% of the total parking lot area. Use of native species and low-maintenance plants is encouraged. Gardens where residents can participate in gardening activity are also encouraged. Plant materials at intersections of parking aisles or roadways shall be maintained to provide adequate sight distance.
  - (13) The minimum floor area for dwelling units is 715 square feet.
  - (14) No more than 40% of the dwelling units shall be two-bedroom units. No dwelling unit shall contain more than two bedrooms, except that one dwelling unit for each superintendent may contain up to three bedrooms. A minimum of 5% of the dwelling units shall be set aside for permanently handicapped persons as defined by Federal Americans with Disabilities Act and shall be designed for their occupancy.
  - (15) Exterior architectural features shall be of a quality, character, compatibility and appearance that is in harmony with the surrounding neighborhood and the Village and will not adversely affect the general welfare of the inhabitants of the Village. The Architectural Review Board shall be responsible for the review and approval of such exterior architectural features.
  - (16) Exterior areas shall be attractive and encourage outdoor activities and social interaction. Each dwelling unit shall contain a minimum of 65 square feet of outdoor common area. Seating accommodations that call for conversation shall be provided in such common areas. All outdoor tables must allow a minimum of 29 inches from the ground to the underside of the top of the table to accommodate the arms of wheelchairs. Outdoor common areas shall be well-defined by landscape plantings and shall be linked to the natural open space of the site.
  - (17) Measures shall be taken to reduce the transmission of noise, such as the use of suitable materials (i.e., carpeting and acoustic baffling) and methods of construction, the location of buildings and the arrangement of dwelling units within the buildings.
  - (18) Senior housing developments should avoid the use of numerous long corridors which can disorient residents. Color coding of walls and floors in interior common areas, graphics and plant placements are the preferred means to help residents easily distinguish one area from another.
  - (19) Additional design and construction requirements shall include the following:
    - (a) Entryways should not open directly into a bathroom or bedroom but should be directly accessible to the kitchen, living room and storage.
    - (b) Living areas should be designed to allow for a variety of furniture arrangements. Windows should be carefully placed to expand furniture options and to permit interesting views outside from reclining and

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standing positions. Living areas should be directly accessible to dining areas. Living areas should support use of canes, walkers and other health-related objects plus accommodate wheel chairs,

- (c) Dining areas should be spatially separated from the kitchen area. Each dining area should contain sufficient space to accommodate six people. Dining areas should be open to natural light and have views of the outside.
- (d) Bedrooms should be designed to afford outside views from a reclining position. Every bedroom should be designed to accommodate two beds or one double or Queen size bed, one dresser, one chair and two night stands.
- (e) Kitchens should be screened from entry and living areas. Either L- or U-shaped kitchens are preferred with a minimum width of 60 inches. Kitchen faucets should have one-handed control of water taps.
- (f) Bathroom safety is a key consideration. All bathrooms shall avoid sharp surfaces and slippery floor surfaces; shall provide backing for full grab-bar installation (but remain uninstalled unless necessary); have doors that open out; and have one-handed control of water taps. Each bathroom shall have a toilet, lavatory and a bathtub or stall shower with a built-in bench or room for a bath stool. Bathrooms should have direct access to bedrooms and direct or indirect access between the bathroom and living room. Bathroom thresholds shall be flush with the floor.
- (g) All plumbing fixtures, accessories and trim shall be selected for and provide the maximum features of design to contribute to the safety, convenience and aid to older persons.
- (h) At least 10% of the floor area of each multifamily building shall be set aside for community space, including lounges, workshops, game rooms and other facilities designed for the residents.

(20) Signs shall be permitted in accordance with Article XII of the Village Zoning Law with the following exceptions:

- (a) A maximum of two on-premises signs, identifying the senior housing development, shall be permitted. The signs can be either freestanding or attached to a structure.
- (b) The total combined area of both senior housing development signs shall not exceed 20 square feet. Such signs shall not exceed six feet in height and must be set back at least 15 feet from the edge of pavement.

(21) Each dwelling unit shall be equipped with a fire alarm system that provides an exterior light designating the unit initiating the alarm. The system shall have an exterior alarm in accordance with all applicable requirements. A fire alarm system shall also be provided for all common areas (e.g., halls, recreation areas, service areas). An external fire warning light should be on the face of the building that is visible from the street for each building.

(22) The Village Board shall have the right to require the applicant to dedicate to the Village all new water supply and wastewater systems, streets and recreational areas.

- E. Severability. If any section, subsection, paragraph, clause, phrase or provision of this section shall be judged invalid or unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this section as a whole or any part thereof other than the part or provision so judged to be invalid or unconstitutional.
- F. Exclusions. This section does not permit nursing homes, convalescent homes, private proprietary homes, homes for the aged or any other facilities regulated and licensed by the New York State Department of Health under the Public Health Law of the State of New York.
- G. Responsible party. In senior housing developments, one person shall be designated as a responsible party and shall be the informational center for the complex. The designated responsible party shall be on duty a minimum of four hours per day and shall have an emergency number posted 24 hours per day.
- H. Definitions. As used in this section, the following terms shall have the meanings indicated:

APPLICANT — Any person, corporation or other entity applying for a senior housing (SH) zoning designation.

CONGREGATE HOUSING — Housing where each resident has an individual, usually private, housing unit which contains a sitting space, kitchen and bathroom, in addition to a bedroom. A resident may share a common kitchen,

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dining room and living room with one or more residents. In "congregate housing" developments, services provided shall include but not be limited to central food service, social service and referral consultation, housekeeping assistance and central laundry.

CONVENTIONAL LAYOUT — A plan illustrating the total number of residential dwellings that could be developed on a site using the zoning requirements of the existing zoning district and excluding unbuildable areas.

DENSITY — The permitted number of dwelling units per gross acre of land to be developed.

OPEN SPACE — Any area of land or water essentially unimproved and set aside, dedicated, designated or reserved for recreation or conservation or left in its natural state.

PARKING AREA — The minimum area required for meeting the parking requirements of the senior housing development plus landscaping.

PARKING LANE — A lane, usually located on the sides of streets, designed to provide on-street parking for vehicular traffic.

PARKING SPACE — An area provided for the parking of a motor vehicle.

SIDEWALK — A paved path provided for pedestrian use.

## ARTICLE V Bulk, Density and Dimensional Requirements

### § 235-13. General bulk requirements.

The general requirements relating to the arrangement of buildings, structures and uses occupying a lot for the zoning districts established by Article III are hereby established.

### § 235-14. Bulk Table.

The accompanying table, entitled "Table of Bulk Requirements," shall be part of this chapter, is referred to herein as the "Bulk Table," and sets forth the minimum bulk requirements of this chapter: Editor's Note: The Table of Bulk Requirements is located at the end of this chapter.

- A. The Bulk Table identifies minimum and maximum standards for all uses within each zoning district. The Village Board in reviewing special permit applications and the Planning Board in reviewing site plan and conditional use applications may modify these standards if, in the review of the application, the reviewing board determines that a reduction or an increase in any one of the standards is justified and results in better site design or avoidance of an impact to natural resources.
- B. Other articles herein contain supplemental requirements applying to bulk, yard and coverage of specified uses.
- C. Building additions to the principal structure or new accessory structures on residential properties occupied by a principal residential structure on or before December 27, 2005, (at which time the Town of Blooming Grove code became effective) shall comply with the following setbacks:

Type of Structure	Required Front Yard	Required Side Yard; Total Side Yards	Required Rear Yard
Principal	45 feet	Each yard: 20 feet minimum Total side yards: 45 feet minimum	50 feet
Accessory	Not allowed	10 feet	10 feet

- D. The minimum lot size for new residential buildings on undeveloped lots existing on December 27, 2005, shall be two acres. Building setbacks for all new principal and accessory structures, or future modifications to such structures, built on undeveloped lots existing on December 27, 2005, shall be:

Type of Structure	Required Front Yard	Required Side Yard; Total Side Yards	Required Rear Yard
Principal	45 feet	Each yard: 30 feet minimum Total side yards: 80 feet minimum	50 feet
Accessory	Not allowed	10 feet	10 feet

## **ARTICLE VA**

### **District Regulations**

#### **§ 235-14.1. Rural Residential District regulations.**

A. Major subdivisions. A major subdivision is any subdivision of land that results in more than three new residential lots (excluding the parent lot from which they are subdivided).

(1) Determination of lot count. In order to determine the legally permitted number of lots on a given parcel within the Rural Residential District, an applicant may either:

- (a) Perform the site analysis process [see § 235-14.1A(2)]; or
- (b) Apply density of one unit per 10 gross acres.

(2) Site analysis process. The site analysis process consists of five steps, all of which must be completed before a base lot count can be determined and approved by the Planning Board.

(a) Step 1: Land Conservation Analysis.

[1] The applicant shall prepare a Land Conservation Analysis, consisting of inventory maps, description of the land, and an analysis of the conservation values of various site features. The Land Conservation Analysis shall show lands with conservation value on the parcel and within 100 feet of the boundaries of the parcel, including but not limited to:

[a] The following primary conservation areas:

- [i] Wetlands;
- [ii] Watercourses;
- [iii] Surface waterbodies;
- [iv] One-hundred-year floodplains;
- [v] Cemeteries;
- [vi] Designated critical environmental areas; and
- [vii] Identified habitat areas for threatened or endangered flora or fauna

[b] The following secondary conservation areas:

- [i] Areas of steep slopes;
- [ii] Overlay districts identified in § 235-5A(2);
- [iii] Farmland, park and recreation land, fragmented forest land, and historic and archaeological sites identified in the Village's Comprehensive Plan;
- [iv] Buffer areas necessary for screening new development from adjoining parcels;
- [v] Stone walls;
- [vi] Hedgerows and trees 12 inches' diameter at breast height (dbh) or larger;
- [vii] Other land exhibiting present or potential recreational, historic, ecological, agricultural, water resources, scenic or other natural resource value, as determined by the Planning Board.

[2] The Land Conservation Analysis is subject to approval by the Planning Board, which must adopt a written findings statement that identifies the lands to be preserved, areas to be avoided, and design principles for the site. Applicants for development of RR zoned properties larger than five acres shall research the approvals of adjoining and nearby developed properties to determine whether prior approvals of these properties required the preservation of open space or included

other development limitations that may affect the parcel proposed for development, and the legal states of those properties. Proceed to Step 2.

(b) Step 2: Determination of Buildable Acreage. To determine the "buildable acreage," the applicant shall subtract the acreage of all lands classified as primary conservation area from the total site acreage. At this step, a preliminary lot count can be calculated at a density of one dwelling unit per buildable acre. Proceed to Step 3.

(c) Step 3: Wastewater Treatment Analysis.

[1] If individual on-site subsurface wastewater disposal systems (also known as "septic systems") are proposed to be used, the applicant shall identify suitable areas for disposal fields and one-hundred-percent reserve area, as evidenced by soil tests performed to the satisfaction of the Village and, where required by the Planning Board or law, by the Orange County Department of Health. All such areas shall comply with all applicable regulations. The wastewater capacity lot count can be calculated as the number of lots that can be supported by individual on-site septic systems. Proceed to Step 4.

[2] If a new community wastewater collection, treatment, and disposal system is proposed to be used, said system shall be located and designed in accordance with all applicable regulations. A wastewater capacity lot count can be calculated as the number of lots that can be supported by the community wastewater system. Proceed to Step 4.

[3] If an existing community wastewater collection, treatment, and disposal system is proposed to be used, the applicant shall identify the design capacity of the treatment works, the current operating capacity and flow rates, and the permitted disposal volumes allowed under the State Pollutant Discharge Elimination System (SPDES) permit for the facility. The analysis by the applicant shall also consider the projected flow from other projects in the planning review process; those yet to be built for which a reservation of flow has been made by the Village Board; and those under construction. The analysis shall also include a projection of flow from undeveloped and underdeveloped lands within the service area. A preliminary lot count can be calculated from available capacity using New York State Department of Environmental Conservation flow rates for residential uses. This number shall be referred to as the "wastewater capacity lot count." Proceed to Step 4.

(d) Step 4: Drinking Water Supply Analysis. The applicant shall identify the location and production capacity of test wells established on the property for the purposes of determining the adequacy of water supply on the property. Production of test wells shall be documented by a qualified hydrogeologist familiar with conditions specific to Orange County, who shall submit a report (prepared pursuant to relevant New York State Department of Environmental Conservation and Orange County Department of Health standards and guidelines for drinking water supply sources and Planning Board requirements) to the Village for its review. The report shall assess the number of lots able to be supported on the site by the water availability. The report shall demonstrate that 120% of the water needed to support the lot count shall be available. This number shall be referred to as the "drinking water supply lot count." Alternatively, subject to Village Board approval, the applicant may pay some multiple of the cost of connecting to the village water system; the purpose to assist in the provision of additional water or funding as a condition of being accepted into the water district to help ensure that adequate water supply and pressure is available. The Village Board may accept some combination of water supply or funding to meet the objective. Proceed to Step 5.

(e) Step 5: Determination of Base Lot Count. The base lot count shall be the lowest of the lot counts established in Steps 2 through 4, above, following completion of the Land Conservation Analysis required in Step 1, and further provided that the gross density shall not exceed one dwelling unit per two acres.

(3) Adjusted base lot count. In order to encourage the development of affordable housing, public recreational facilities, and open space preservation, the applicant may seek to increase the base lot count to allow additional dwelling units so that public benefits are achieved. In no case shall the adjusted base lot count exceed the lower of the wastewater capacity lot count, the drinking water supply lot count, or 1.5 times the base lot count established in § 235-14.1A(2)(e), above. The base lot count may be increased by any one of,

or any combination of, the following adjustments, subject to the approval of the Planning Board:

- (a) Ten-percent increase over the base lot count for provision of 10% of the base lot count in affordable housing units to be constructed by the applicant on the project site or on another site owned or controlled by the applicant in the Village of South Blooming Grove, and appropriately zoned.
- (b) Five-percent increase over the base lot count for provision of each additional 10% (calculated from net area) of open space beyond the fifty-percent requirement [§ 235-14.1A(4)].
- (c) Ten-percent increase over the base lot count for adherence to New York State Energy Star guidelines, low-impact development guidelines, or U.S. Green Building Council Leadership in Energy and Environmental Design (LEED) standards as they may be amended from time to time, that are in excess of the minimum standards of the NYS Fire Prevention and Building Code.

- (4) Lot layout. To determine the appropriate layout of a subdivision, the applicant shall take the following steps:
  - (a) Step 1: Land Conservation Analysis. All primary conservation areas identified in the Land Conservation Analysis [§ 235-14.1A(2)(a)] shall be permanently preserved unless the Planning Board, in its sole discretion, determines that disturbance is mitigated by other means and that disturbance is outweighed by other public benefit. Disturbance of secondary conservation areas should be avoided to the greatest extent practicable. A minimum of 50% of the total site area shall be permanently preserved as open space per the standards of § 235-14.1C, "Conservation areas." This open space may include primary or secondary conservation areas.
  - (b) Step 2: Location of House Sites. Identify potential house sites based on the Land Conservation Analysis and identified areas for wastewater disposal systems and any applicable overlay districts. Wherever possible, houses and other accessory structures should not be located closer than 100 feet to primary conservation areas.
  - (c) Step 3: Road Layout. Align proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a manner that avoids or minimizes adverse impacts on both the primary and secondary conservation areas. Street connections between adjoining parcels shall be encouraged to minimize the number of curb cuts on collector roads and minimize cul-de-sacs to be maintained by the Village.
  - (d) Step 4: Lot Line Layout. Draw individual lot lines. Lot lines should be generally drawn midway between house locations but may follow natural or cultural features such as stream center lines, hedgerows, or stone walls. In general, all lots should be drawn in such a manner as to create a lot that is substantially delineated by right angles but may include L-shaped flag lots meeting the Planning Board's standards (but see § 235-19.1). Triangular, or wedge, shaped lots shall be avoided where possible. The general arrangement of lots and houses on lots should be consistent with rural design principles or hamlet design principles, also referred to as "traditional neighborhood development."

B. Minor subdivisions. A Minor Subdivision is any subdivision of land that results in three or fewer new residential lots (excluding the parent lot from which they are subdivided).

(1) Determination of lot count.

- (a) For parcels that are greater than 12 acres in area, the three new lots shall include a total of no more than 25% of the area of the parent parcel.
- (b) For parent parcels of 12 acres or less, there shall be no limitation on the area the new lots may cover.
- (c) The number of lots shall not exceed a maximum gross density of one unit per two acres.
- (d) The minimum lot size of the newly created lots shall be determined through adequate space for septic and one-hundred-percent reserve area and separation distances to wells.
- (e) Access to the lots in a minor subdivision shall not be provided by a cul-de-sac.

(2) Lot layout.

- (a) The applicant shall submit a sketch plan identifying the proposed lot layout. For a minor subdivision, the sketch plan shall recognize natural features identified as primary and secondary conservation areas in

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§ 235-14A(2)(a), but no formal Land Conservation Analysis or Planning Board findings are required. No flag lots are permitted in minor subdivisions.

- (b) Property lines shall be, to the extent practicable, drawn along existing natural or cultural (e.g., stone walls, hedgerows) features or shall be perpendicular to a roadway and drawn in such a manner as to create a lot that is substantially delineated by right angles.

C. Conservation areas.

- (1) In major subdivisions, which require the preservation of 50% of open space, such conservation areas shall include wetlands, floodplains, steep slopes, or other open space areas having meaningful scenic, ecological, environmental and/or recreational characteristics, with such access, shape, size, and location as determined appropriate by the Planning Board to satisfy the intended purpose, but shall not include parking areas or roads.
- (2) The permanent preservation of such open space or conservation areas shall be legally ensured to the satisfaction of the Planning Board and the Village Attorney by the filing of appropriate covenants, deed restrictions, easements or other agreements, unless the Village Board agrees, in its discretion, to accept the dedication of such areas; or unless all or part of such areas is transferred to a conservation organization which is dedicated to the permanent preservation of open spaces and is approved by the Village Board. Said organization shall be required to submit satisfactory documents ensuring the preservation of open spaces.
- (3) Whenever a homeowners' or property owners' association or condominium or cooperative organization (hereinafter collectively referred to as "association") is proposed, the Village Board shall retain the right to review and approve the bylaws and charter of said association and to require whatever conditions it deems necessary to ensure that the interest and purpose of this chapter is carried out. In consideration of said approval, the Village Board shall, in part, require the subdivision and association to meet the following conditions:
  - (a) The association shall be established as an incorporated, not-for-profit organization operating under recorded land agreements through which each lot owner (and any succeeding owner) is automatically subject to a charge for a proportionate share of the expense of the organization's activities.
  - (b) Title to all common property shall be placed in the association, or definite and acceptable assurance shall be given that title automatically will be so placed within a reasonable period of time.
  - (c) Each lot owner shall have equal voting rights in the association and shall have the right to use and enjoyment of the common property.
  - (d) Once established, all responsibility for operation and maintenance of the common land and facilities shall lie with the association. However, the Village may impose covenants or requirements to ensure proper operation and maintenance.
  - (e) Dedication of all common areas shall be recorded directly on the subdivision plat and/or site plan and shall be recited in a separate document which shall be recorded in the Orange County Clerk's office. Resubdivision of such areas is prohibited. The dedication shall:
    - [1] Save the title to the common property to the association free of any cloud of implied public dedication;
    - [2] Commit the developer to convey the areas to the association at an approved time; and
    - [3] Grant easements of enjoyment over the area to the owners.
  - (f) Covenants shall be established, limiting all common lands to open space uses. No structures may be built on such common lands except as approved by the Planning Board.
  - (g) Each deed to each lot sold shall include, by reference, all recorded declarations, such as covenants, dedications and other restrictions (including assessments and the provision for liens for nonpayment for such).
  - (h) The association shall be perpetual and shall purchase insurance, pay taxes and specify in its charter and bylaws an annual homeowners' fee, provision for assessments and establish that all such charges become a lien on each property in favor of said association. The association shall have the right to



proceed in accordance with all necessary legal action for foreclosure and enforcement and enforcement of liens and it shall also have the right to commence action against any member for the collection of any unpaid assessments in any court of competent jurisdiction. In addition, the association, any member thereof and the Village shall be provided with legal authority to commence an action to enforce conditions imposed by the Planning Board or the association bylaws. However, the Village shall have no duty to enforce such condition.

- (i) The developer shall assume all responsibilities as previously outlined for the association until a majority of the dwelling sites are sold, at which time the association shall be operated by an elected Board of Directors whose members shall come from the association.
- (j) Prior to plan approval, the developer shall file with the Village Board a performance and/or maintenance surety to ensure the proper installation and/or maintenance of all recreation and park improvements shown on the plan. Surety amounts shall be determined by the Planning Board, subject to approval by the Village Board, and their form, sufficiency, and manner of execution shall be approved by the Village Attorney and the Village Board.
- (k) The association shall have the power to adjust assessments to meet changing needs.
- (l) In the event that the maintenance, preservation and/or use of the conserved land areas ceases to be in compliance with any of the above requirements or any other requirement(s) specified by the Planning Board when approving the subdivision plat or site plan, the Village shall have the right to take all necessary action to ensure such compliance and to assess against the association and/or each individual property owner within the development all costs incurred by the Village for such purposes.
- (m) Except where otherwise approved by the Planning Board, conserved land areas shall be preserved in their natural state and the use of such areas shall be limited to appropriate conservation, open space and recreation purposes as determined by the Planning Board. A portion of the conserved land areas may be designated "active recreation area" on the plat, in a location approved by the Planning Board. Such private active recreation area shall not exceed 10% of the total area of the proposed plat. Within such private area, structures and facilities for active recreational purposes may be constructed and operated for the use of property owners and their guests, subject to the approval of the Planning Board. Where determined appropriate, the Planning Board may specify a phased construction schedule for such structures and facilities.
- (n) Unless a preserved conservation area is set aside for public park or recreation purposes, as determined by the Planning Board, the applicant shall be required to pay the Village's park/recreation fee, which shall be paid prior to the Chairman's signature on the plat.

**§ 235-14.2. Rural Crossroads I and II Districts regulations.**

The Rural Crossroads (RC) I and II Districts are intended to implement the concepts of traditional development patterns in which communities that included single-family homes, apartments, workplaces, shops, restaurants, institutions, or recreational facilities were developed along the intersections of locally important roads. The goal of the RC I and RC II Districts is to create a pedestrian-oriented environment in which residents and those who work in the district can walk comfortably between different land uses. It is also the intention to bring smaller-scale commercial uses into the Village.

- A. Minimum lot sizes and open space. Minimum lot sizes in the RC I and RC II Districts shall be 3,000 square feet. All buildings and uses shall be served by public water and sewer. Single family and two family dwellings shall only be built behind commercial buildings that front on Route 208.
- B. Two-family dwellings are permitted by right on all conforming lots within the RC I and RC II Districts and minimum lot size shall be 5,000 square feet.
- C. Multifamily dwellings. The maximum density for new multifamily dwellings in the RC I and RC II Districts shall be eight units per acre with public water and sewer. Such dwellings should have the front entrances on an existing or new street, with parking behind the buildings and shielded from public view.
- D. Apartments are encouraged to be located in the upper stories of buildings that have retail, office or service use(s)

on the ground floor.

- E. Setbacks and build-to lines. The setbacks and build-to lines shall be established by the Planning Board at the time of site plan approval, in conformance with traditional rural development patterns and existing context. Wherever possible, commercial development is to be built to the existing ROW, with reduced setback requirements as may be established by the Planning Board, to further the intent of conforming to traditional rural development patterns.
- F. Wherever possible, access drives and circulation patterns shall minimize curb cuts to public roads, joint driveways for adjoining properties is encouraged. Access drives on either side of Route 208 shall be opposite one another, and shall be designed to provide for future access and circulation to the entirety of any property deriving access to the public road.
- G. The maximum footprint of any structure in the RC I and RC II Districts shall be 10,000 square feet, except that the Planning Board may permit a structure of up to 30,000 square feet if it is an institutional use or anchor use deemed essential to the crossroad's economic viability.
- H. All residential developments within the RC I and RC II Districts shall include at least 10% of the dwelling units as affordable.
- I. Any historic structure located on the project site should be preserved to the extent practicable. Adaptive reuse of historic structures is encouraged, and the Planning Board or Village Board shall have the authority to request the applicant to demonstrate why an historic site can not be reused before approving new construction. Cemeteries shall be retained, fenced in a location sufficient to provide an appropriate setting, landscaped and maintained. A plaque shall be provided including the name of the cemetery, it's period of active use, and a description of the role of the deceased in the history of the area.
- J. The portion of a property shown on the zoning map as zoned RC-1 or RC-2 is intended to establish density. The Planning Board, once it has establish density, may allow the placement of RC-1 or RC-2 uses beyond the district line where traditional rural development patterns and existing context will be strengthened.
- K. In multi-acre developments provisions shall be made for hiking or walking paths through the development, along public roads, to commercial and service businesses and to the lot lines of adjoining properties.

### **§ 235-14.3. Office Research/Light Industrial District regulations.**

The ORI District provides locations where larger-scale commercial and other nonresidential uses are permitted, as provided in the Use Table. *Editor's Note: The Use Table is included at the end of this chapter.*

- A. Special site design and operational considerations in the ORI District. The purpose of the ORI District is to allow larger-scale nonresidential uses that contribute to the Village's tax base and provide jobs, while protecting the Village's scenic and rural qualities and residential uses using open space buffers. Impervious surfaces are limited to 50% of the total project area, requiring that 50% of the site be maintained as open or undeveloped green space. This green space shall be arranged in a manner that adequately buffers buildings and parking areas from public roads and neighboring properties, while protecting wetlands, watercourses, and scenic views.
- B. All new development in the ORI District should comply with the following design standards. Where alterations to existing structures and change in use require special permit or site plan approval, they should comply with these standards to the extent practicable. The overall design goal is to maintain and enhance the landscape character of commercial road corridors. This is to be accomplished by mitigating the visual impacts of business development through landscape, layout, and architectural standards. The following standards apply in the ORI District:
  - (1) Building placement.
    - (a) Buildings should be clustered together to the extent practical, preserving existing green areas.
    - (b) Buildings should be placed in front of their parking lots to screen the parking from the road. This requirement should not apply if the entire site is screened from the road by natural vegetation and/or natural topography that is to remain undisturbed.
    - (c) Any historic structure located on the project site should be preserved to the extent practicable. Adaptive

reuse of historic structures is encouraged, and the Planning Board or Village Board shall have the authority to request the applicant to demonstrate why an historic site can not be reused before approving new construction. Cemeteries shall be retained, fenced in a location sufficient to provide an appropriate setting, landscaped and maintained. A plaque shall be provided including the name of the cemetery, it's period of active use, and a description of the role of the deceased in the history of the area.

- (2) Architecture and building design.
  - (a) Trademarked architecture that identifies a specific company by building design features shall be prohibited, unless the applicant can demonstrate that the design is compatible with the historic architecture of the region or development of the area.
  - (b) Large buildings (footprints greater than 10,000 square feet) should be designed with visually separate but physically connected smaller volumes using building proportions found in the region's traditional architecture.
  - (c) Any historic structure on the project site or adjacent to the project site shall be identified in the design process, and any new construction shall be designed in context with the historic structure.
- (3) Landscaping. Undeveloped and developed areas should be managed to maximize recharge of groundwater, protection of surface water quality, and protection of wildlife habitat. Frequent mowing of areas not used for agriculture or pedestrian access should be discouraged in favor of management as open meadows.

**§ 235-14.4. Overlay districts.**

**A. Scenic Gateways Overlay District.**

- (1) Applicability.
  - (a) For the purpose of protecting the gateway areas in the Village of South Blooming Grove, these provisions and standards shall be in addition to the use, bulk and site development regulations applicable to any use located in any district to which the Gateways District is applied.
  - (b) Boundaries. The Gateway Overlay District includes all land as shown on the Village's Zoning Overlay Map.
- (2) Site plan approval requirement. Within the Gateway Overlay District, site plan approval shall be required for the erection, construction, or significant alteration of a building or structure. Significant alteration shall be as determined by the Planning Board.
- (3) Standards. The Planning Board shall consider the following issues when reviewing an application within the Gateway Overlay District. Specific aspects of design will be examined to determine whether the proposed development meets the intent of this section.
  - (a) Site design consideration. The Planning Board shall consider how the proposed use within the Gateway Overlay District addresses the following criteria:
    - [1] The functional relationship of the site to its surroundings;
    - [2] Separation or integration of vehicular, pedestrian and bicycle traffic patterns;
    - [3] The arrangement and adequacy of off-street parking facilities and access points;
    - [4] The location of loading docks and bays;
    - [5] The illumination plans;
    - [6] The sight distance requirements of the streets and driveways;
    - [7] The coordination of the site development with planned right-of-way alignments, acquisitions, and street improvements;

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- [8] Urban design and aesthetic considerations; and
- [9] Any sensitive lands located on the property or possibly affected by the proposed development must be avoided or disturbance mitigated to the maximum extent practicable.
- (b) Site landscaping. The site landscaping should provide sound and sight buffers, and conceal or screen unsightly areas. In its review of the proposed use, the Planning Board shall:
  - [1] Evaluate the location, height, and materials of walls, fences, hedges and screen plantings;
  - [2] Evaluate plans for the maintenance of finished landscaping;
  - [3] Evaluate plans for sound and sight buffers in consideration of the preservation of views, light and air, both on the site and on adjacent property; and
  - [4] Evaluate the design and application of open spaces.
- (c) Signage. The Planning Board shall evaluate the size, location, design, color, texture, lighting, and hours of operation of all signs and advertising features.
- (d) Utilities. In its review of the proposed use, the Planning Board shall evaluate the proposal for the following criteria:
  - [1] Electrical, telephone service and cable systems shall be underground to the extent practicable;
  - [2] Transformers and pad-mount mechanical and electrical equipment shall be screened from view.
- (e) Building design considerations. In its review of the proposed use, the Planning Board shall evaluate the proposal for the following criteria:
  - [1] Building mass and its relationship to surrounding development and its proposed use;
  - [2] Proportion of any proposed building for compatibility with the proposed use and other structures within the Gateway area;
  - [3] The number, scale, and arrangement of building openings. Building openings should provide interest through the use of such features as balconies, bays, porches, covered entries, overhead structures, awnings, changes in building facade and roofline alignment; and
  - [4] Use of exterior materials and color to reduce apparent building mass and blend with the surrounding area.

**B. Scenic Viewshed Overlay District.**

(1) Intent.

- (a) It is the intent of the Village of South Blooming Grove to protect and conserve the scenic viewsheds identified herein, to ensure that the benefits found to be provided by such scenic viewsheds will not be lost for present and future generations and to protect the broader public interest.
- (b) These regulations are enacted with the intent of providing an equitable balance between the rights of the individual property owners to reasonably use private property and the rights of present and future generations of the public. This section recognizes the rights of such adjoining property owners to use their property for reasonable purposes, consistent with these and other regulations and controls, provided that such use, in the judgment of the appropriate agency or official of the Village, does not result in a significant loss or impairment to the scenic resource of the function it fulfills.

(2) Applicability.

- (a) For the purpose of protecting scenic viewsheds, the provisions and standards of this section shall be in addition to the use, bulk and site development regulations applicable to any use located in any district to which the Scenic Viewshed Overlay District is applied.
- (b) Location. The Scenic Viewshed Overlay District includes all land as shown on the Village's Zoning Overlay Map.

(3) General provisions.

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- (a) Prior to the initiation of any land disturbance or construction activity within the designated Scenic Viewshed Overlay area, the owner of such property shall apply for and obtain approval from the Planning Board. To the maximum extent practicable, all plan review, hearing and decision required under this chapter shall be coincident with other procedures and applications that may be before the Planning Board relating to the same or a similar activity.
  - (b) If the provisions of this chapter conflict with any other provisions of the Code of the Village of South Blooming Grove, the provisions that impose the more stringent requirement or standard shall apply.
  - (c) Visual assessment review requirement. Applicants shall submit a visual assessment, which shall consist of the items listed below unless waived by the Planning Board. In assessing visual impacts, it is important to cover all possible viewpoints. If this is not practicable, key viewpoints shall be selected on major routes (e.g., roads, walkways, footpaths, and hiking tracks) and at activity nodes (e.g., residential areas, important open spaces and landmarks).
    - [1] An aerial photograph at a scale appropriate to show the property for which an application has been submitted and other elements within the scenic viewshed.
    - [2] Perspective drawings, photosimulations, plans and section/elevation diagrams, and/or photographs.
    - [3] A factual description of the existing site, based on surveys conducted on site.
    - [4] A description of the proposed development.
    - [5] A description of the predicted level of impact.
    - [6] Suggestions on the scope of mitigative measures (if necessary) to ameliorate the potential impact.
    - [7] The Planning Board is authorized to require any additional information it deems necessary as part of its visual assessment review.
- (4) Standards.
- (a) Vegetation and landscaping.
    - [1] The planting of trees is encouraged to shade and enclose a building site and to define the edge of the public realm and private space. Existing specimen trees shall be maintained to the extent feasible. Species selected for planting shall be appropriate to this climate and setting.
    - [2] Minimal cutting for placement of structures is appropriate. Removal of contiguous areas of smaller trees is permitted subject to Planning Board review and approval. Clear-cutting of mature trees is subject to review and approval by the Planning Board.
    - [3] Wherever possible, if an applicant or owner seeks to open views, that should be accomplished by selective cutting of small trees and pruning lower branches of large trees, rather than by clearing large areas or removing mature trees.
  - (b) Structures.
    - [1] New development proposed should be designed to preserve distinctive features of the scenic viewshed, including tree canopy, stone walls, winding road character, cemeteries and scenic views, and to limit the visibility of new development.
    - [2] New development adjacent to or within scenic open vistas shall be designed to avoid adverse impact to scenic resources.
    - [3] For new subdivisions, building sites shall be arranged to maximize the use of existing and proposed road segments to minimize new forest clearing. Shared driveways and looped roads are encouraged.
    - [4] Buildings should be placed in small hollows or otherwise protected areas to preserve the vistas of the scenic viewshed.
    - [5] Building materials, colors, and textures should be designed to blend with the natural environment. The use of natural wood siding, stained or painted in an earth-tone color, is encouraged. Native

stone is also an ideal material for building walls and for facades. White and light colors, brightly finished metal, and glossy surface materials reflect light and are discouraged. In general, browns, greens, grays, and other earth tones are the least obtrusive.

- [6] Windows should be of low reflectivity. Any large windows shall be partially screened from direct public view by trees. Upper and high windows should be smaller to reduce visual impact.
- [7] Utilities. The utility should cross the scenic road at the shortest possible distance. The utility shall place all pipe, wire, and appurtenances underground unless permitted otherwise by the Planning Board. If aboveground structures are necessary, they shall be painted to blend into the environment to soften the visual impact. The utility shall conduct its construction activities so as to disturb a minimum amount of vegetation and soil.

(c) Landform.

- [1] Cut and fill activity shall be minimized in all disturbed areas.
- [2] Natural drainways, contours, and land forms shall be preserved.
- [3] Development along and/or projecting above ridgelines and other visually prominent locations is subject to the provisions of the Ridgeline Overlay District.
- [4] Conservation easements may be used to provide natural buffers and vegetative screening between land uses, as well as between developed areas and public roadways.

(d) Circulation systems.

- [1] Circulation systems for both vehicular and pedestrian systems should be evaluated. In general rural vehicular and pedestrian systems are curvilinear in alignment, a pattern that evolved out of historic systems following natural landforms. It is only in hamlet or crossroads areas that roads and streets should take on geometric forms reflecting the built environments they move through.
- [2] Driveway widths and alignments should be designed to be visually sensitive. Add gentle curves in driveway layout to reduce visual impact.

C. Ridgeline Overlay District.

- (1) Intent. The purpose of the Ridgeline Overlay District (RL) is to establish clear guidelines for protection of the Village's hillsides and ridgelines, which are found largely at higher elevations and steeply sloped areas and serve to:
  - (a) Retain major natural topographic features, such as drainage swales, steep slopes, watershed areas, view corridors and scenic vistas;
  - (b) Preserve and enhance the prominent landmark features, such as natural rock outcroppings, prominent trees and plants, other areas of special natural beauty, and stone walls and structures;
  - (c) Preserve and introduce plants so as to protect slopes from soil erosion and minimize the visual effects of grading and construction on hillside areas.
- (2) Applicability. For the purpose of protecting ridgelines, the provisions and standards shall be in addition to the use, bulk and site development regulations applicable to any use located in any district to which the Ridgeline Overlay District is applied. The Ridgeline Overlay District is shown on the Village's Zoning Map.
- (3) General provisions.
  - (a) The provisions of this section shall apply to all applications for land use development, including site plan, subdivision, special use and conditional use permits, zoning variances, building permits for new residential dwellings, dwelling additions exceeding 300 square feet, and accessory structures exceeding 300 square feet, on any parcel of land lying fully or partially within the Ridgeline Overlay District.
  - (b) To ensure the placement of structures outside of the exposed ridgeline area on proposed building lots, building sites, including areas of vegetation, shall be clearly designated on the applicable subdivision plat and/or site plan. The ridgeline's boundary shall be shown on plot plans.
  - (c) No land shall be developed and no building or structure erected, expanded, or developed unless the

Planning Board finds that the development proposed will be consistent with the standards of the Ridgeline Overlay District and grants approval.

- (d) Sites in the RL District, also located within the Scenic Roads, Scenic Viewshed or Scenic Gateways Overlay Districts are subject to the provisions and standards found therein.

(4) Standards.

(a) Height.

- [1] The total height of any structure or accessory element attached to any structure shall be measured from the natural ground level to the top of the structure or to the top of the uppermost accessory affixed to the structure, whichever is higher.
- [2] Restrictions on height. Within the RL District, no principal or accessory structure with a building height of greater than 25 feet shall be constructed.
- [3] Structures shall comply with other height provisions of the Zoning Law if they are more restrictive.

(b) Design requirements.

[1] Placement of structures.

- [a] To the maximum extent practicable, buildings, structures, towers or storage tanks or other improvements within any area defined as ridgeline shall not be visible above the top of the ridgeline, or above the top of vegetation located within the ridgeline area, from surrounding private property or public rights-of-way in adjoining lowlands or adjoining ridgelines by cause of excessive clearing, building or structure height, or location of any building or structure with respect to the top of the ridgeline.
- [b] Wherever practical, structures should be sited at the lowest elevation possible to be as visually inconspicuous as possible when seen from a distance and from lower elevations.
- [c] No structure shall have a footprint greater than 2,500 square feet for a two-story house or 5,000 square feet for a one-story house.

- [2] Materials and colors. Structures should blend in with natural surroundings through preferred materials such as stone and/or natural wood siding. Reflective materials and bright colors that contrast dramatically with the colors of the land and vegetation around them should not be used as predominate colors on any wall or roof surface.

- (c) Visibility. All structures should be sited to avoid, to the greatest extent practical, occupying or obstructing public views of land within the Ridgeline Overlay District. Public views should be considered to be from any location listed on the SEQR visual environmental assessment form addendum (V-EAF) or as otherwise required by the Planning Board.

- (d) Lighting. The location, height, design, arrangement and intensity of outside lighting should minimize glare and should be directed and shaded such that light should not be directed off-site. Exterior lighting in the Ridgeline Overlay District shall be controlled in both height and intensity and shall be in conformance with the requirements established herein. Under no circumstances shall the light level at any lot line exceed 0.2 footcandle, measured at ground level. Floodlights shall not be used to light any portion of a principal or accessory structure facade, and all outdoor light sources mounted on poles or buildings or trees to illuminate driveways, sidewalks, walkways, parking lots, or other outdoor areas shall use fully shielded light fixtures. For purposes of this section, a "full cutoff light fixture" is one in which no more than 2.5% of the total output is emitted at 90° from the vertical pole or building wall on which it is mounted. All such fixtures shall be installed or shielded so that part of the light bulb or light source is not visible beyond the property boundaries.

- (e) Vegetation. Existing vegetation within ridgeline areas shall be preserved to the maximum extent practicable. Every attempt shall be made to limit cutting necessary for either construction or the opening of views from the subject site so as to maintain native vegetation as a screen for structures, as seen from public roads or parks or other public views. Clear-cutting of all trees in a single contiguous area shall be prohibited unless expressly permitted by the Planning Board as part of an approval for a site plan or subdivision application.

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- (f) Preservation of scenic features. In any application subject to this section, features that provide scenic importance to the ridgeline area should be preserved to a reasonable extent. These features include but are not limited to individual healthy trees within open fields, historic structures, hedgerows, public or private unpaved country roads, and stone walls.
- (g) Signs. No signs are permitted that will be visible above the tree canopy.

D. Scenic Roads Overlay District.

(1) Applicability.

- (a) For the purpose of protecting scenic roadways, the provisions and standards shall be in addition to the use, bulk and site development regulations applicable to any use located in any district to which the Scenic Roads Overlay District is applied.
- (b) Boundaries. The Scenic Roads Overlay District includes all land as indicated on the Village's Zoning Overlay Map. This section is intended to apply to those sections of road corridors that substantially retain their scenic character and have not been subject to significant commercial or intensive residential development.

(2) General provisions.

- (a) Prior to the initiation of the following activities within the designated buffer area on land adjoining a scenic road, the owner of such property shall apply for and obtain approval from the Planning Board:
  - [1] Construction of any structure or any addition to a structure greater than 500 square feet in footprint area or 4,500 cubic feet, including residential structures.
  - [2] Clear-cutting of more than 5,000 square feet of vegetation on any parcel.
  - [3] Grading or other alteration of more than 5,000 square feet of the natural landscape.
- (b) If the provisions of this chapter conflict with any other provisions of the Code in the Village of South Blooming Grove, the provisions that impose the more stringent requirement or standard shall apply.

(3) Visual assessment review requirement. Applicants shall submit a visual assessment, which shall consist of the items listed below unless waived by the Planning Board. In assessing visual impacts, it is important to cover all possible viewpoints. If this is not practicable, key viewpoints shall be selected on major routes, e.g., roads, walkways, footpaths, and hiking tracks, and at activity nodes, e.g., residential areas, important open spaces and landmarks.

- (a) An aerial photograph showing the subject property and adjoining areas.
- (b) Perspective drawings, plans and section/elevation diagrams, and/or photographs of proposed improvements.
- (c) A factual description of the existing site, based on surveys conducted on site.
- (d) A description of the proposed development.
- (e) A description of the predicted level of impact.
- (f) Suggestions on the scope of mitigative measures (if necessary) to ameliorate the potential impact.

(4) Standards.

- (a) A continuous vegetated buffer, agricultural use, or open field, at least 100 feet deep, shall be maintained on all scenic roads. Within such area there shall be no significant disturbance such as buildings, grading, or clearing, with the exception of access corridors to and from the property when approved by the Planning Board.
- (b) The buffer shall closely resemble the natural appearance of the undeveloped land.
- (c) The provisions of this section shall not apply to currently developed property in such designated areas, provided that the character of what would be the one-hundred-foot vegetative buffer is maintained in its current state.
- (d) Vegetation. Any planting along designated scenic roads should be for revegetative purposes or to



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enhance unattractive roadside conditions. All plant material used for these purposes should be similar plant material indigenous to the area.

- (e) Utilities. The utility should cross the scenic road at the shortest possible distance. The utility shall place all pipe, wire, etc., underground if possible. If aboveground structures are necessary, they should be painted to blend into the environment to soften the visual impact. The utility shall conduct its construction activities so as to disturb a minimum amount of vegetation and soil.
- (f) Fences. Chain link fences and stockade or other fence designs that block visual access to land in the corridor shall be prohibited, unless such fences are necessary to screen a preexisting use that does not conform to the requirements of this section.
- (g) Design. New development proposed adjacent to scenic roads shall be designed to preserve distinctive features of the scenic road, including tree canopy, stone walls, winding road character, and scenic views, and to limit the visibility of new development. New development adjacent to or within scenic open vistas shall be designed to avoid adverse impact to scenic resources.

E. Surface Water Overlay District.

(1) Applicability.

- (a) A one-hundred-foot buffer strip shall be maintained along the edge of any stream, lake, pond, or other water body, including wetlands and any associated one-hundred-year floodplain boundary. This setback shall apply to all uses. Setbacks shall be measured horizontally from the mean high water line of the watercourse.
- (b) For the purpose of protecting surface waters and providing flood protection in the Village of South Blooming Grove, the provisions and standards shall be in addition to the use, bulk and site development regulations applicable to any use located in any district to which the Surface Water Overlay District is applied.

(2) Use regulations.

- (a) Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirement set forth herein.
- (b) The following uses shall be specifically prohibited within the Surface Water Overlay District: motor vehicle service stations.

(3) Site plan approval requirement.

- (a) Within the Surface Water Overlay District, applications for building permit, site plan approval, area variance, use variance, or other land development proposal, including the subdivision of land, occurring wholly or partly in the Surface Water Overlay District shall be submitted to the Planning Board. This shall be required for the following:
  - [1] Construction of any structure greater than 500 square feet in footprint area or 4,500 cubic feet.
  - [2] Within any one-year period:
    - [a] Filling or excavation of an area in excess of 5,000 square feet.
    - [b] Clear-cutting of more than 5,000 square feet of vegetation on any parcel.
    - [c] Grading or other alteration of more than 10,000 square feet of the natural landscape.
- (b) Within the Surface Water Overlay area, the site plan approval requirement shall not apply to:
  - [1] The repair and maintenance of existing structures.
  - [2] Activities carried out pursuant to a previously approved site plan or special use permit application.
- (c) Applications for development within the Surface Water Overlay District will be evaluated by the Planning Board to ensure that:
  - [1] The proposed development will not result in degradation of scenic character and will be

aesthetically compatible with its surroundings.

- [2] The proposed development prevents non-point source pollution to the maximum extent possible, by taking into account site conditions such as slope, soil type and erosivity, and vegetative cover.
- [3] The proposed development will not result in any modifications to the floodplain area or floodway so as to cause any increased flooding on any other properties within the Village.
- [4] Grading and removal of vegetation at a development site is minimized and erosion and sediment control measures are in place and properly installed.
- [5] The Planning Board may require that no application of chemicals, vegetation removal, and/or mowing be permitted in the one-hundred-foot stream buffer.

- (4) Erosion and stormwater control plan requirement. For any special permit, site plan, or subdivision application in which land to be disturbed lies partially within the Surface Water Overlay area, an erosion and sediment control plan, prepared pursuant to New York State Department of Environmental Conservation standards, shall be required if the total disturbed area (including portions outside the Surface Water Overlay area) exceeds 10,000 square feet.

F. Significant Biological (SB) Overlay District

(1) Intent of the Biological Significance (BS) Overlay District

- (a) The purpose is to protect and preserve threatened and endangered species of flora and fauna that may utilize identified areas for residence, food gathering, nesting, or migrating, as well as recognizing the community of species necessary to support their presence and survival.
- (b) These regulations are enacted with the intent of providing an equitable balance between the rights of individual property owners to reasonably use private property and the recognized public goal of protecting wildlife and natural communities. This section recognizes the right of property owners to use their property for reasonable purposes, consistent with these and other regulations and controls, provided that such use, in the judgment of the appropriate agency or official of the Village, does not result in a significant loss or impairment to the wildlife and natural community that is intended to be protected.
- (c) These regulations also recognize that wildlife and natural communities sometimes require travel corridors, seasonal occupancies and other non-fixed characteristics that must be accommodated to assist in their survival.

(2) Applicability

- (a) For the purposes of this section, the provisions and standards shall be in addition to the use, bulk and site development regulations applicable to any use located in any district to which the Significant Biological Overlay District is applied.
- (b) Location. The Significant Biological Overlay District includes all lands within the Surface Water Overlay District and the Ridgeline Overlay District as shown on the Village Zoning Overlay Map and such additional areas as may be necessary to protect these elements identified in Section (1)(c) above.

(3) General Provisions.

- (a) Prior to the initiation of any land disturbance or construction activity within the Significant Biological Overlay District, the owner of such property shall apply for and obtain approval from the Planning Board. To the maximum extent practicable, all plan review, hearing and decisions required under this chapter shall be coincident with other procedures and applications that may be before the Planning Board relating to the same or similar activity.
- (b) If the provisions of this chapter conflict with any other provisions of the Code of the Village of South Blooming Grove, the provisions that impose the more stringent requirement or standard shall apply.

- (c) Biodiversity analysis requirement. Applicants shall submit a biodiversity analysis, which shall initially consist of the items listed below unless waived or modified by the Planning Board.
- [1] An aerial photograph at a scale appropriate to show the property for which an application has been submitted and other properties within a one-half mile radius.
  - [2] A combination of maps, photographs, and narrative material showing the location of various natural communities; threatened or endangered flora; travel paths, nesting or resting areas, food gathering or breeding areas, migratory pathways; location at which evidence of threatened or endangered fauna or species of biological significance were found; identification of areas or locations with characteristics favored by natural communities.
  - [3] A narrative and graphic description of the proposed development.
  - [4] A description of the predicted level of impact
  - [5] Suggestions on the scope of mitigative measures (if necessary) to ameliorate the potential impact.
  - [6] The Planning Board is authorized to require any additional information it deems necessary as part of its biodiversity review, or to require field surveys to be undertaken at appropriate seasonal times.
- (4) Design requirements. To the maximum extent possible the development plan shall avoid areas of biological significance as identified in the biodiversity analysis. Where avoidance is not possible, as determined by the Planning Board, mitigation measures are to be employed.

## ARTICLE VI Supplementary Yard Requirements

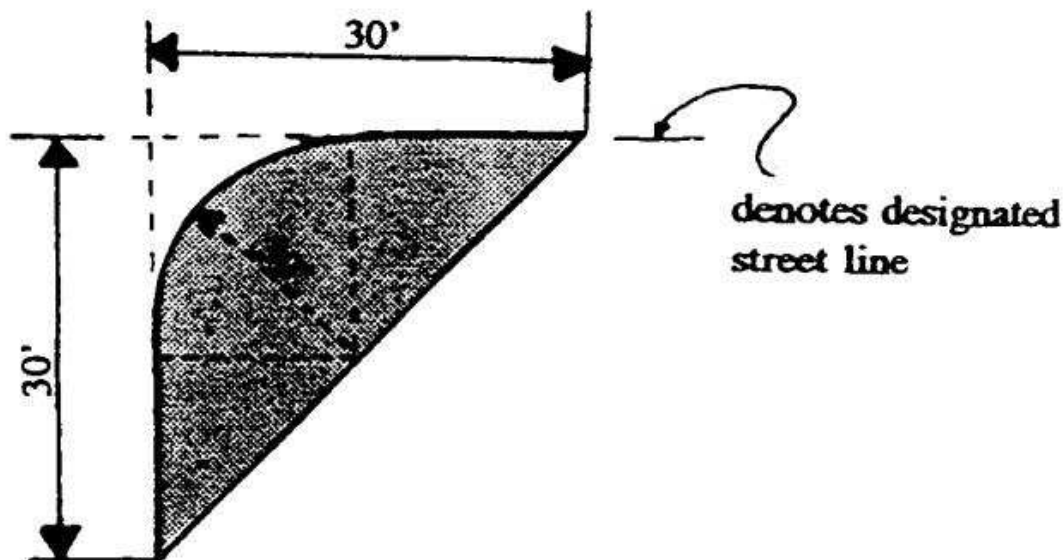
### § 235-15. General requirements.

No principal structure shall be located any closer to any street or property line than the required minimum yard in § 235-13, Bulk Table. *Editor's Note: The Table of Bulk Requirements is located at the end of this chapter.* Accessory structures and uses are not permitted within any front yard except as specifically authorized herein. In all other instances, accessory structures and uses are not permitted closer than 10 feet to any lot line.

### § 235-16. Front yard exceptions.

- A. The Board of Appeals, or the Planning Board as part of site plan review, upon application by the property owner, may permit the following accessory structures within a required front yard:
- (1) Gatehouse.
  - (2) Watchman's post.
- B. No shrubbery, hedge or other natural growth, fence or wall over three feet higher than the apex at the center line of the street shall be located within the triangular area shown shaded in Sketch A below at the intersection of two streets, nor shall the limbs or foliage on any tree obstruct vision or be permitted to grow nearer to the ground than eight feet where such limbs or foliage overhang or are over land within the triangular area as shown in Sketch A.

### SKETCH A



**§ 235-17. Side and rear yard exceptions.**

- A. An unroofed terrace or patio which is no more than one foot above ground level or an arbor, open trellis or flagpole is permitted in a required yard. An open fire escape, deck or unroofed porch or terrace which is more than one foot above ground level may project into a required rear yard no closer than 10 feet to the lot line.
- B. An awning or movable canopy may project no more than 10 feet into a required yard; cornices or eaves may project no more than 24 inches into a required yard.
- C. A fence or wall no more than six feet in height is permitted along any lot line except in the case of where specific fencing requirements may be established by the Village Planning Board or Board of Appeals. A fence which is installed along a lot line shall have a comparable quality and appearance on both sides; in the case of stockade fence or one of comparable appearance, the finished side shall face the adjoining property.

**§ 235-18. Measurement of front yards.**

All required front yard depths shall be measured from the designated street line, front lot line or existing street line, whichever is a greater distance from the center line of the public street abutting the lot in question. Where lots are subdivided on other than a public street, the designated street line, for purposes of front yard measurement, shall be parallel to and 25 feet distant from the center line of any access easement or right-of-way.

**§ 235-19. Corner lots.**

A front yard shall be required on a corner lot from each street line. There shall be designated on the site plan or subdivision plan which of the remaining yards shall be the side and rear yard, respectively.

**§ 235-19.1. Flag lots.**

Residential properties in existence on or before December 27, 2005, shall not be subdivided or resubdivided to create a "flag lot."

## **ARTICLE VII**

### **Supplementary Requirements for Buildings and Structures**

#### **§ 235-20. Permitted height exceptions.**

The height limitations of this chapter shall not apply to:

- A. Rooftop bulkheads, elevator penthouses, steeples and similar features serving houses of worship, water towers, fire towers, hose towers, cooling towers or air-conditioning or heating equipment, provided that such features shall not occupy, in the aggregate, more than 10% of the area of the roof of a building and are set back from the edge of the roof at least one foot for each one foot by which such features exceed the maximum height otherwise specified for the district in which they are located. In no case shall such features exceed 10 additional feet in height. All such mechanical equipment located on the tops of buildings shall be visually screened from adjoining properties, public streets, locations in ridgeline or scenic overlay districts..
- B. Parapet walls or cornices which do not exceed the maximum height requirement for the district in which they are located by more than four feet.
- C. Solar or wind energy systems, provided that such systems shall be erected only to the height necessary to accomplish the purposes they are intended to serve. The removal of trees to accommodate such systems shall be subject to review and approval by the Planning Board.

#### **§ 235-21. Courts.**

- A. An outer court shall be at least 20 feet wide, as wide as its depth or as wide as the height of the highest wall adjoining said court, whichever is the greatest.
- B. An inner court shall be at least 50 feet in its least horizontal dimension. Two open and unobstructed passageways, each at least 14 feet high and 12 feet wide, to permit access by fire-fighting equipment, shall be provided at ground level to an inner court.

#### **§ 235-22. Spacing.**

- A. The distance between two principal buildings on the same lot shall be no less than the height of the taller building.
- B. The distance between a principal building and an accessory building shall be no less than the height of the accessory building, but in no event less than 15 feet.

#### **§ 235-22.1. (Reserved)**

#### **§ 235-22.2. (Reserved)**

#### **§ 235-22.3. (Reserved)**

#### **§ 235-22.4. (Reserved)**

#### **§ 235-22.5. Cemeteries and burial grounds.**

- A. No building, structure or water well shall be erected, constructed and/or located within 100 feet of a cemetery or burial ground.
- B. The Planning Board, in its sole discretion, as part of any subdivision, site plan or conditional use permit approval, may require the applicant/owner to erect fencing and/or install plantings as a physical and/or visual barrier between

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a cemetery or burial ground and the developable areas of land that are adjacent to the cemetery or burial ground.

- C. No building permit or water well permit shall be issued to authorize location of a building, structure or water well within 650 feet from any cemetery or burial ground until the Planning Board has first rendered a decision pursuant to the provisions above.
- D. A map showing the general location of cemeteries and burial grounds located within the Village shall be filed in the Village Clerk's office. Said map is for general information purposes and shall not be deemed complete and exhaustive. The above requirements are intended to protect all cemeteries and burial grounds, including those not shown on the map. (Editors Note: See also Chapter 65: Cemeteries)

## ARTICLE VIII Accessory Parking and Loading Requirements

### § 235-23. Minimum number of off-street parking spaces.

The minimum number of accessory off-street parking spaces shall conform to the requirements in Subsection C below, except that:

- A. The Planning Board, in conjunction with site development plan approval, may permit a reduction in the number of developed parking spaces where adequate accessible reserve areas in locations conforming to code requirements are available and designated on the plan as areas for overflow parking.
- B. The Planning Board may reduce the required number of parking spaces upon demonstration by the applicant that the number exceeds the design-hour requirement and a demonstration that such reduction would not induce parking on public ways or result in hazardous conditions for vehicles and pedestrians within or proximate to the site. This reduction by the Planning Board may not exceed 25% of the normally required amount.
- C. Off-street parking requirements.

**Use**

**Principal Uses**

**Minimum Off-Street Parking**

Residential single-family detached	2 spaces per dwelling unit
Residential multifamily	1 space per dwelling unit plus 1/2 space per bedroom in each dwelling unit
Mixed-use building (retail/office/residential)	1 space per dwelling unit plus 1/2 space per bedroom in each dwelling unit plus 1 space per 300 square feet of gross floor area for office and/or retail use
Retail (under 2,000 sq. ft. footprint)	1 space per employee plus 1 space per 500 square feet of gross floor area
Retail (over 2,000 sq. ft. footprint)	1 space per 300 square feet of gross floor area (a)
Office (under 1,000 sq. ft. footprint)	1 space per employee plus one visitor space per establishment (b)
Office (over 1,000 sq. ft. footprint)	1 space per 300 square feet of gross floor area
Personal service	1 space per 150 square feet of gross floor area
Bed-and-breakfast	2 spaces plus 1 space per guest room
Restaurant	1 space per 3 seats
Entertainment complexes, theater	1 space per 3 seats or 1 space per 150 square feet of gross floor area accessible to the public up to 2,000 square feet, plus 1 space for each 200 square feet over 2,000 square feet, whichever is greater, plus 1 space per employee on the peak employee shift
Golf course/country club	1 space per each 3 members, or each 1/4 hole of golf and 1/4 court, whichever is greater, plus one space per employee
Hotel/conference center/corporate training center	1 space per guest unit plus 1 space for each 400 square feet of public meeting area or restaurant use
Non-nuisance industry	1 space per employee plus 5 visitor spaces per establishment (b)(c)
Passive adult uses	See "Retail"
Research institute or laboratory	1 space per 300 square feet of floor area in such uses, plus 1 space per each 600 square feet of floor area in accessory use
Warehouse; distribution	1 space per 300 square feet of floor area in such uses, plus 1 per each



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Unlisted uses	600 square feet of floor area in accessory uses Determined by Planning Board review
<b>Accessory Uses</b>	
Home occupation	1 space per employee plus one visitor space per establishment (a)
Accessory apartment to single-family house	1 space per dwelling unit plus 1/2 space per bedroom in each dwelling unit
Accessory apartment to retail/office building	1 space per dwelling unit plus 1/2 space per bedroom in each dwelling unit

Notes:

(a) Calculation of retail parking for uses greater than 2,000 square feet does not require a separate calculation for the first 2,000 square feet of the use.

(b) The Building Inspector shall determine if existing parking spaces are sufficient for each change of use application and may require additional spaces to be provided, subject to review of an amended site plan application by the Planning Board.

(c) Total number of spaces not to exceed 3.3 spaces per 1,000 square feet.

**§ 235-24. Areas computed as parking spaces.**

- A. Location. Areas which may be considered as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than a street, entrance and exit lanes or fire lanes.
- B. Size of spaces. Minimum parking stall spaces shall be nine feet wide by 18 feet long.

**§ 235-25. General requirements for nonresidential uses in all districts.**

- A. Access. Unobstructed access to and from a street shall be provided for nonresidential uses in all districts. Such access shall consist of at least one twelve-foot lane for parking areas with 20 or fewer spaces and at least two twelve-foot lanes for parking areas with over 20 spaces. Access to roads shall include an adequate turnaround area to preclude the need for backing out onto the road right-of-way. Clear pedestrian access shall be provided from parking areas to buildings on a site. Access ways within parking areas shall be at least 22 feet wide.
- B. Drainage and surfacing. All open parking areas shall be properly drained, and all such areas shall be provided with a dustless surface.
- C. Joint facilities. Required parking spaces, open or enclosed, may be provided in spaces designated to serve jointly two or more uses or owners, whether or not located on the same lot, provided that the number of required spaces in such joint facilities shall not be less than the total required for all such uses.
- D. Combined uses. Where any lot contains two or more uses having different parking requirements, the parking requirements for each use shall apply to the extent of that use. Where one or more such uses will be generating a demand for parking spaces primarily during periods when the other use or uses is not or are not in operation, the Planning Board may reduce the total parking spaces required by not more than 50% of the parking spaces required for that use with the least requirement.
- E. Location and ownership. Required accessory parking spaces shall be provided upon the same lot as the use to which they are accessory or on a nearby lot, provided that all spaces on the second lot are located within 400 feet walking distance of the original lot along the existing road network. Parking spaces shall conform to all the requirements of the district in which the parking spaces are located. In no event shall such parking spaces be located in any residence district unless the use to which the spaces are accessory is permitted in such residence district. Such spaces shall be in the same ownership as the use to which they are accessory and shall be subject to deed restriction, in a form approved by the Village Attorney, binding the owner and his heirs and assigns to maintain the required number of spaces available either throughout the existence of the use to which they are accessory or until such spaces are provided elsewhere.

- F. Lots divided by district boundaries. When a parking lot is located partly in one district and partly in another district, the regulations for the district requiring the greatest number of parking spaces shall apply to the entire lot. Parking spaces on such lot may be located without regard to district lines, provided that such parking spaces shall not be located in any residence district unless the use to which they are accessory is permitted in such district.

**§ 235-26. Parking spaces adjacent to lots in residence districts.**

Wherever a parking area for a nonresidential use of over five spaces abuts or is within 25 feet of a lot in any residence district, it shall be screened from such residential lot by a substantial wall, fence or thick hedge, approved by the Planning Board.

**§ 235-27. Driveways in nonresidential districts.**

No driveway shall provide access to a lot located in a nonresidential district across land in a residential district.

**§ 235-28. Commercial vehicles and trailers.**

- A. Only one commercial vehicle not exceeding 25 feet in length may be parked overnight on an occupied lot in any residence district, but not within the required yards of such lot, except that one commercial vehicle not exceeding 25 feet in length may be parked overnight on a driveway in the front of a house or a driveway in the front yard. No commercial vehicle exceeding 25 feet in length or more than 9 feet in height may be parked overnight in any residence district. For purposes of this section, pickup trucks, panel vans, sport utility vehicles or vans not exceeding 10,000 pounds shall not be deemed commercial vehicles.
- B. No commercial vehicle of any kind or parts thereof shall be parked or stored on any unimproved lot in any district or on any lot in a residential district except those authorized by the provisions of § 235-28.A.
- C. Commercial farm vehicles are permitted as accessory to a commercial farm use in any residence district, in accordance with the provisions of the Agriculture and Markets Law.
- D. No commercial trailer may be parked overnight in a residential zone. Commercial trailers parked overnight as of the date of adoption of this amendment to the zoning code must be removed within six months of said adoption.

**§ 235-29. Recreational Trailers, recreational vehicles and boats in residential districts.**

One recreational trailer, horse trailer, recreational vehicle or boat (and trailer) may be parked or stored outside on any developed residential lot, provided that it is not in any required yard and is screened, to the maximum extent practicable, from public view. All other outside parking, storage or use of such vehicles or trailers is prohibited. The use of such vehicles or trailers for dwelling purposes or for storage purposes is prohibited.

**§ 235-30. Off-street loading areas.**

- A. Off-street loading areas are required for all nonresidential uses. Nonresidential uses permitted in residential districts shall provide an off-street loading area such that all loading and unloading activities are not visible from any adjoining residentially zoned properties. Loading areas shall be located a minimum of 100 feet from any adjoining residentially zoned property. In the RC-I and RC-II Districts, nonresidential uses shall provide off-street loading areas located in a manner that will not obstruct clear ingress and egress from the property. Where possible in the RC-I and RC-II Districts, off-street loading areas shall be located to the rear of buildings; however, an on-street loading area other than on a State or county road may be used for customary deliveries taking less than 15 minutes. In ORI Districts, there shall be one loading area with minimum dimensions of 10 feet by 50 feet with a clear height of 15 feet for the first 20,000 square feet of gross floor area and one additional area for each additional 40,000 square feet of gross floor area or major portion thereof. The Planning Board may modify the minimum requirements where necessary to ensure proper circulation and traffic safety or where such change would not

create future difficulties in the event that the structures or uses are changed to any other use permitted by right in the district.

- B. Location and access. Unobstructed access, at least 12 feet wide, to and from a street shall be provided to off-street loading berths. Such access may be combined with access to parking areas. No off-street loading berth shall be located between the street line and principal building. A loading berth shall not be located in any required yard and shall be screened where visible from any residential district boundary.
- C. Joint facilities. Loading berths may be provided in spaces designed to serve jointly two or more adjacent establishments, provided that the number of required berths in such joint facilities shall be not less than the aggregate of all such requirements; and further provided that adequate legal documentation of such joint use is approved by the Village.
- D. On lots divided by district boundaries. When a lot is located partly in one district and partly in another district, the regulations for the district requiring the greater number of loading berths shall apply to the entire lot. Loading berths on such lot may not be located in any residence district unless the use to which they are accessory is permitted in such district.

**§ 235-31. Additional requirements for parking areas.**

- A. Access near street intersections. No entrance or exit for any accessory off-street parking area with more than four parking spaces nor for any loading berth shall be located closer than 75 feet from the intersection of any two designated street lines. This distance shall be 100 feet for any signalized intersection or an intersection providing for a designated left-turn storage lane on the same intersection leg as the proposed access drive.
- B. Screening. Parking areas for nonresidential uses with more than four spaces in a residential district shall be screened from all property lines, including any roads and bordering the property. Such screening shall not obstruct sight distance. The Planning Board may require landscaping between nonresidential use parking areas to prevent massing of such areas and to protect the character and compatibility of adjacent uses.
- C. Requirements for lighting. The Planning Board is empowered, subject to § 235-103, to adopt rules and regulations pertaining to lighting systems in parking and loading areas.
- D. Regulations for parking spaces. The Planning Board is empowered, subject to § 235-103, to adopt rules and regulations providing for standard design of parking areas, including striping of stalls, provision of vehicle stops, control of traffic movements, parking for the handicapped and specifications for surfacing of required parking spaces.

## **ARTICLE IX**

### **Conditional and Special Permit Uses**

#### **§ 235-32. General.**

This article contains the general and specific standards for the conditional and special permit uses listed in the Use Table. The procedures for the review of conditional use applications by the Planning Board are included in Article XI; the procedures for review of special permit use applications by the Village Board are included in Article XVIII.

#### **§ 235-33. Conditional and special use general standards.**

The following provisions for conditional use and special permit use approval shall be the minimum conditions for such uses:

- A. The proposed use shall be of such location, size, and character that it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and shall not be detrimental to the site or adjacent properties in accordance with the zoning classification of such properties. The Village Board or Planning Board, as appropriate, must determine that the proposed use meets the intent of this chapter and the intent of the zoning district in which the use is proposed. In this regard, the Board may consider, without limitation, lighting, noise, outdoor storage, visual character, site design, and architectural character.
- B. The location and size of such use, the nature and the intensity of the operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous.
- C. The location and height of the buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the development and use of adjacent land and buildings.
- D. The proposed use will not require such additional public facilities or services or create fiscal burdens upon the Village greater than those which characterize uses permitted by right and will not require such facilities or services that are greater than current or anticipated levels.
- E. As a condition of all special permit and conditional use permits, right of entry for inspection with reasonable notice shall be provided to determine compliance with the conditions of said permit.
- F. All conditional and special permit authorizations shall expire and be void unless a building permit or certificate of occupancy is issued within 180 days of the Village Board's or Planning Board's, as appropriate, authorization of the use; provided, however, that, upon the request of the applicant prior to said expiration, two ninety-day extensions of time may be granted by the Board.
- G. In addition to the general standards for conditional uses and special permits as set forth above, the approving board may, as a condition of approval of any such uses, establish any other additional standards, conditions, and requirements, including a limitation on hours of operation, as it may deem necessary or appropriate to promote the public health, safety, and welfare and to otherwise implement the intent of this chapter.

#### **§ 235-34. Utilities.**

Public utility buildings, water supply reservoirs and standpipes, community wells, sewage treatment plants, water treatment facilities and transmission lines and towers for electric power, telephone and gas are subject to the following supplementary requirements:

- A. These uses shall be subject to a finding by the Village Board and any other agency, such as the State Public Service Commission, with jurisdiction, in addition to the standards of § 235-33, that a public necessity exists for such use and that use of the particular site for which application is made is necessary from the public standpoint.
- B. The Village Board may require that such use be enclosed by protective fencing with a gate, which shall be closed

and locked except when necessary to obtain access thereto; and/or a sign be posted with a telephone number to be used in case of emergencies.

- C. The installation shall be designed, enclosed, painted and screened with evergreens so that it will be harmonious with the area in which it is located. The entire property shall be suitably landscaped and maintained in reasonable conformity with the standards of property maintenance of the surrounding neighborhood; such landscaping shall be installed before a certificate of occupancy is issued.
- D. Adequate off-street parking areas shall exist or be provided for maintenance, service or other vehicles.
- E. In appropriate cases, satisfactory evidence shall be submitted establishing that there will be no interference with radio and television reception on adjoining property in the neighborhood.

**§ 235-35. Golf and country clubs.**

Golf or country clubs are subject to compliance with the following supplementary requirements:

- A. Bulk controls. Notwithstanding any inconsistent provision herein, the following supplementary requirements shall apply:
  - (1) Minimum lot size: 100 acres.
  - (2) Minimum number of holes for golf course: nine.
  - (3) Minimum distance to external property lines:
    - (a) Buildings: 100 feet (except guard houses and entrance shelters).
    - (b) Parking lots: 50 feet (may be reduced to 25 feet if adjacent to nonresidential zoning district).
    - (c) Center lines of any golf tee, fairway or green: 100 feet.
    - (d) Other recreational uses: 100 feet.
  - (4) Maximum impervious surface: 15%.
  - (5) Maximum gross floor area of all buildings: 200,000 square feet.
  - (6) Maximum height of buildings: 2 1/2 stories or 35 feet.
- B. Site requirements. In addition to any other site requirements of this chapter or as may be required by the Planning Board, the Board shall be satisfied that the application achieves the following:
  - (1) The integration of the proposed golf or country club with the existing development and land uses adjacent to the site, including safe locations for golf holes (tees, holes and greens) and practice areas, as related to adjacent roads, development and other neighboring site improvements.
  - (2) Where a golf course is adjacent to, contains or is within floodplains, open water, waterway corridors, hiking trails, flyways and associated buffers, linkages and conservation areas, the applicant may be required to provide and maintain an adequately designed walking/trail easement within the property open to the public in furtherance of the Village's goal of preserving open spaces for public use and benefit. Such easement shall be located such that it does not interfere with play and shall be appropriately isolated from the general operation of the golf course. In the site plan approval process, consideration shall be given to providing access to any walking/trail easements.
  - (3) Assurances that the necessary infrastructure and utilities, including sanitary disposal system, potable water, and irrigation water, are available. The provision of infrastructure and utilities shall not have a detrimental effect on groundwater or surface water resources, or adversely effect existing wells on neighboring properties.
  - (4) The golf or country club shall have two safe and adequate access points from one or more public roads. One of the two accesses may be provided only for emergency access. The two means of access shall be connected internally and may be achieved by use of a stabilized surface sufficient to allow passage by emergency vehicles.
  - (5) Adequate provisions shall be made for solid waste collection and storage. All solid waste storage facilities

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shall be adequately screened and buffered.

- (6) All lighting shall be designed to be directed downward and to avoid glare and spill over on adjacent properties. The maximum height of lighting stanchions shall not exceed 20 feet.
  - (7) One identification sign not exceeding 40 square feet shall be permitted at the entrance to the golf course. All other signs shall be directional signs and shall not exceed 4 square feet. All signs, including size, location, materials and design, are subject to approval as part of site plan approval.
  - (8) Amplifier systems shall be designed and used such that no more sound shall carry beyond the property lines than would be inherent in the ordinary residential use of the property.
- C. Parking requirements. The number of parking spaces shall be as required for the golf and country club and for accessory uses. The Planning Board may reduce the parking requirements, provided that the club facilities are so laid out that there are lawn areas available to accommodate temporary overflow parking.
- D. Buffers.
- (1) A minimum buffer of thirty-five-foot width, consisting of planted materials, trees, berms, fences or combinations of the above, shall be located between buildings, parking, recreation facilities and the exterior property line to shield and block such buildings, parking and recreational uses.
  - (2) A vegetative buffer area shall be maintained between any turf area which is to be chemically treated and any nonintermittent stream. The buffer area shall be of sufficient size and design to protect the stream from chemicals carried by stormwater runoff.
- E. Existing buildings. The Planning Board may permit the use of any existing building which meets the yard requirements of this chapter for club purposes, provided that the club meets all other standards and requirements of this chapter.
- F. Nuisance. No club shall be operated so as to create a nuisance to surrounding properties. The Planning Board may require such facilities as are necessary to protect neighbors from any nuisances or hazards which would be inherent in or may be caused by operation of the club.
- G. Clearance of woodlands. The course shall be designed, to the extent possible, to preserve existing woodlands and wooded corridors. Clearance of mature woods shall not exceed 50% of the total acreage of land within the tract.
- H. Turf management and water quality assurances.
- (1) As part of the application for site plan approval, the applicant shall submit an integrated turf management plan and an integrated pesticide and pest management plan specific to the operation and maintenance of the proposed golf course. These plans shall be prepared in accordance with guidelines established by federal or state agencies and shall also take into account guidelines promulgated by the United States Golf Association. These plans shall include best management practices (BMP's) to prevent or minimize any adverse impacts of chemical applications on the groundwater and surface water resources.
  - (2) Assurances shall be provided that any adverse impacts on groundwater or surface water quality resulting from the golf course will be mitigated by the owner. The applicant shall provide for the monitoring of water quality of the groundwater and surface water resources. The monitoring program, including the timing and frequency of testing and the identification of chemical parameters to be tested, shall be established at the time the integrated turf management plan and integrated pesticide and pest management plan are approved as part of the conditional use application. The monitoring program shall be consistent with the guidelines established for monitoring plans by federal or state agencies. The results and findings of any water quality monitoring shall be submitted by the owner to the Village for information purposes. The Village may require the owner to post a performance/maintenance guaranty to assure proper testing, monitoring, control and remediation.
- I. Special events. Special events, such as tournaments, are subject to approval by the Village Board. There shall be written assurances by the property owner and event sponsor/organizer that adequate provisions will be made by the golf course to handle the crowd generated by such an event and to satisfactorily mitigate off-site impacts, including traffic management, transportation services, parking, trash removal and waste disposal, security and safety and sanitary effluent treatment. The golf course may be required to post a performance guaranty for these purposes. All local applications and permits for events or assemblies shall be made and obtained prior to the event.

- J. Permitted accessory uses. The following uses shall be permitted as accessory uses to a golf course or country club: clubhouses (including dining rooms, common rooms, pro shops, social rooms, kitchen and locker rooms), snack bar/refreshment stands, restaurants, residences for employees engaged in the maintenance and operation of the golf club facility, putting greens, practice range, cart paths, parking lots, maintenance facility/garage, cart storage facility, water supply impoundments/hazards, tennis and other game courts, swimming pools, conference centers, banquet facilities, hotels, inns, and bed-and-breakfasts.

**§ 235-36. Membership clubs.**

Membership clubs are subject to the following supplementary regulations:

- A. The privileges of any club shall be limited to bona fide regularly enrolled members and their guests. The club shall be operated solely for recreational, social or athletic purposes and not for pecuniary gain.
- B. The Planning Board may reduce the parking requirements, provided that the club facilities are so laid out that there are lawn areas that could accommodate temporary overflow parking.
- C. The Planning Board may permit the use of any existing building meeting the yard requirements of this chapter for club purposes, provided that the club meets all other standards and requirements of this chapter.
- D. The Planning Board may permit the use of outdoor public address systems, provided that no more sound shall carry beyond the limits of the club site than would be inherent in the ordinary residential use of the property.
- E. No club shall be operated so as to create a nuisance to surrounding properties. The Planning Board may require such facilities as are required to protect neighbors from any nuisances or hazards which would be inherent in the operation of the club.
- F. A conditional use approval shall be issued to a qualified organization for a specific use or purpose and for a maximum number of members or seating capacity, and a new approval shall be required for any change of organization, use or purpose or increase in maximum membership or seating capacity.

**§ 235-37. Hotels.**

Hotels are subject to the following supplementary regulations:

- A. Hotel units shall not contain kitchen facilities of any nature, shall not be used as apartments for nontransient tenants, shall not contain more than two rooms and shall not be connected by interior doors in groups of more than two. There shall be no more than one hotel unit for each 3,000 square feet of site area, exclusive of required yards. The minimum lot size for a hotel shall be two acres.
- B. Each hotel unit shall have an area of at least 300 square feet. Each hotel unit shall have a bath facility with a shower and/or bath, one toilet facility and sink. No hotel building shall exceed the height of 35 feet.
- C. The following accessory uses shall be permitted:
  - (1) One apartment for the use of the manager or caretaker and his/her family.
  - (2) Amusement and sports facilities for the use of the hotel guests, including:
    - (a) Swimming pools.
    - (b) Children's playgrounds.
    - (c) Tennis and other game courts.
    - (d) Game or recreation rooms.
    - (e) Other facilities approved by the Village Board.
  - (3) Offices and lobbies, provision of which shall be mandatory for each hotel.
  - (4) Meeting and/or conference rooms and banquet facilities.
  - (5) Restaurant.

D. All hotels shall be equipped with sprinkler and fire alarm systems.

**§ 235-38. Animal kennels and hospitals.**

Animal kennels and animal hospitals are subject to the following supplementary requirements:

- A. In issuing a conditional use permit for animal kennels and animal hospitals, the Planning Board shall make findings to determine the maximum number and type of animals to be boarded.
- B. The Planning Board shall consider the number, size, breed and temperament of animals to be sheltered and impose reasonable conditions to protect neighbors, aesthetic impact and animal safety in order to ensure the health, safety and general welfare of the community.
- C. No run shall be less than 100 feet from any lot line; no animals shall be permitted in runs before 8:00 a.m. or after dark.

**§ 235-39. Motor vehicle service stations.**

Motor vehicle service stations are subject to the following supplementary requirements:

- A. No stations shall be located closer than 200 feet from a school, public recreation area, church or hospital, measured to the lot lines thereof.
- B. Access points shall be located a minimum of 100 feet from the intersection of designated street lines.
- C. Pumps, pump islands and canopies are structures and shall not be located in any required yards. No outdoor display of products not associated with the service station use shall be permitted.
- D. Screening. A ten-foot wide landscaped area shall be provided along all motor vehicle service station property lines, excluding the front line, property lines adjacent to existing commercial uses and access points.
- E. Maintenance and operation. Due to the extent of land use impacts which are a product of exterior operations from such stations, the following requirements shall be made and noted on the site development plan:
  - (1) All vehicles, except one tow truck, shall be stored within a building when the facilities are not open for business. However, licensed vehicles parked for minor repairs may be left outside for a period not to exceed 72 hours. At no time shall any unlicensed or dismantled vehicles be outside of a building. No car, truck or trailer sales shall be permitted.
  - (2) There shall be no outside storage or display of accessories or portable signs when the facility is not open for business.
  - (3) Waste materials may be temporarily stored in a completely fenced-in opaque enclosure adjacent to the facility. The area of such enclosure shall not exceed 200 square feet.
  - (4) No repair work may be performed out of doors, with the exception of simple repairs normally performed in conjunction with the sale of gasoline, such as adding oil.

**§ 235-40. Roadside stands.**

Roadside stands are subject to the following supplementary requirements:

- A. Roadside stands may be no closer than 15 feet of any street line or lot line.
- B. Roadside stands may be permitted on a temporary basis for a period not to exceed six months.

**§ 235-41. Satellite dish antennas.**

Satellite dish antennas (earth receiving stations) are subject to the following supplementary requirements:

- A. Satellite dish antennas may be permitted accessory to a residential or nonresidential use, provided that they have



a maximum radius of four feet; provided, however, that this section shall not apply to dishes less than one meter in diameter in a residential district or less than two meters in diameter in a commercial or industrial district where such dish is a necessary component of the business which is conducted on the property.

- B. The installation of a satellite dish antenna shall require the issuance of a building permit.
- C. The satellite dish antenna shall be located on the ground and must be screened from the streets and adjoining property owners with foliage of such height and density so as to screen said antenna during the entire year.
- D. The satellite dish antenna shall not be located on any trailer or portable device.
- E. The satellite dish antenna shall be located in the side or rear portions of a lot only and shall be an accessory structure requiring compliance with all minimum yard dimensions stated in the Bulk Table. *Editor's Note: The Table of Bulk Requirements is located at the end of this chapter.*
- F. The satellite dish antenna shall not be connected to or placed upon any roof and shall not at any point be elevated to or reach a height of more than 15 feet above the natural grade of the subject lot. In no event shall the natural grade be changed by any means in order to increase the elevation of the dish.

**§ 235-42. Riding academies, boarding stables and breeding farms.**

Riding academies, boarding stables and breeding farms are subject to the following supplementary requirements:

- A. Any building housing horses or any stockpiling of manure shall not be within 75 feet of any lot line or 100 feet of any neighboring residence.
- B. If outdoor lighting is provided, the source of illumination shall not be directed at any adjoining property.
- C. Proper fencing shall be required between riding academies, boarding stables and breeding farms and any other adjacent use. Fences or walls shall be at least four feet high and shall be no closer than five feet from any property line.
- D. The use of outdoor public-address systems may be permitted, provided that no sounds shall carry beyond the limits of the site than would be inherent in the ordinary residential use of the property.
- E. The property owner or caretaker shall reside on the property.
- F. No more than two horses over six months old may be permitted for the first five acres of a site, and one horse over six months old may be permitted per 1/2 acre in excess of five acres.
- G. At least 30,000 contiguous square feet of fenced exercise and pasture lands shall be provided on site, which area shall be considered part of the total site area.
- H. Plans shall be made for the removal or handling of manure in such a manner that does not pollute ground, surface or potable water or create a public nuisance with flies and odor. Failure to adhere to such plans shall constitute a violation of this chapter.
- I. Public events, demonstrations, horse shows, rodeos or competitive events held in connection with riding academies or stables shall be by separate special permit of the Village Board.

**§ 235-43. Residential farming.**

Residential farming as a principal or accessory use is subject to the following supplementary requirements:

- A. Any building housing horses or any stockpiling of manure shall not be within a distance of 50 feet of any lot line or 100 feet of any neighboring residence.
- B. If outdoor lighting is provided, the source of illumination shall not be directed at any adjoining property.
- C. Proper fencing shall be required between residential farming sites and any other use.
- D. Fences of a minimum height of four feet shall be required in locations where they are needed to prevent horses from straying onto adjoining properties and shall be no closer than five feet from any property line where provided.
- E. Two horses over six months old may be permitted for the first two acres of a site, and one horse over six months

old may be permitted per acre in excess of two acres.

- F. At least 15,000 contiguous square feet of fenced exercise and pasture lands shall be provided on site, which area shall be considered part of the total site area.
- G. Plans shall be made for the removal or handling of manure in such a manner that does not pollute ground- or surface water or create a public nuisance with flies and odor. Failure to adhere to such plans shall constitute a violation of this chapter.
- H. The property owner shall reside on the property.

**§ 235-44. Bed-and-breakfast establishments.**

- A. Bed-and-breakfast establishments shall be permitted in existing buildings only, and there shall be no change in the exterior appearance of the building, except for additional means of egress and fire escapes on the side or rear, where required by law.
- B. No more than six guest rooms shall be permitted per establishment.
- C. One parking space shall be required for each guest room that is available for rent.
- D. One identification sign, no more than four square feet, the top of which shall be no more than six feet above street level, and located at least 10 feet from any road right-of-way, shall be permitted per establishment.
- E. The owner shall demonstrate that the sewage disposal system and water supply is adequate to handle such use.

**§ 235-45. Passive adult uses.**

Passive adult uses are subject to compliance with the following supplementary requirements:

- A. Location.
  - (1) Passive adult uses shall comply with the following requirements as to location:
    - (a) No lot or parcel containing a passive adult use shall be located within 750 feet of any residential zoning district boundary or of any lot or parcel on which is located a residence or for which an application for land use or building permit approval of a residence was filed prior to the date of filing of a conditional use permit application for the adult use.
    - (b) No lot or parcel containing a passive adult use shall be located within 750 feet of any lot or parcel on which is located a sensitive use.
    - (c) No lot or parcel containing a passive adult use shall be located within 750 feet of any lot or parcel on which is located an adult use.
  - (2) In determining location requirements pursuant to this subsection, all required distances shall be measured from the nearest lot line of the lots or parcels containing any of the uses in Subsection A(1)(a), (b) or (c) to the nearest lot line of the lots or parcels on which the adult use is proposed to be located.
- B. The use shall be one which is specifically authorized as a conditional use in the district within which such particular site is located.
- C. The total floor area devoted to the adult use shall not exceed 2,500 square feet, exclusive of cellar space used for enclosure of mechanical, heating and similar building equipment.
- D. No more than one passive adult use shall be located on any lot.
- E. The passive adult use shall comply with all applicable lot dimension, setback, parking and other requirements set forth in this chapter, including site development plan requirements of § 235-55, in addition to the requirements herein, unless a variance with respect to such dimensional requirements has been duly issued by the Zoning Board of Appeals. Nothing herein shall be deemed to prevent an applicant from electing to concurrently proceed with a conditional use application before the Planning Board and a variance application before the Zoning Board of Appeals. Compliance with the minimum distance requirements set forth in Subsection A above with respect to separation from other uses is a condition precedent to the classification of passive adult use as a conditional use

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within zoning districts of the Village, and if any reduction in such minimum distance is proposed, such variance shall be considered as a use variance.

- F. In considering landscaping and screening pursuant to § 235-55B(3), the Planning Board may require a protective planting strip along every side and rear lot line abutting an existing building, use or land zoned for residential purposes. Such planting strip shall be not less than six feet wide, situated within any required side or rear yard and designed and laid out with suitable plant material which will attain and shall be maintained at a height to be stipulated by the Planning Board, which height shall not be less than six feet nor more than 10 feet, so as to provide an effective natural screen.
- G. In considering compatibility of the proposed use with existing uses pursuant to § 235-55B(4), the Planning Board shall require that adequate site lighting be provided while minimizing or avoiding adverse impacts of lighting on adjoining properties. The Board may require a lighting plan that demonstrates where the installation of outdoor or spot lighting is proposed or required and may require that such lighting shall not shine directly upon any abutting property.
- H. Any proposed signs, displays, architectural design or lighting visible from any public street or right-of-way or from surrounding properties shall be designed and constructed so as to conform to the requirements of the Village Code and to avoid or mitigate to the maximum extent practicable any reasonably foreseeable adverse effect of the proposed use upon minor children passing by. Signs or displays shall not include images containing nudity or seminudity.
- I. In considering the impact of the proposed plan on the development of adjoining properties, pursuant to § 235-55B(5), the Planning Board shall consider only the secondary impacts of the proposed passive adult use and make specific findings with respect to such impacts. In doing so, the Board shall ensure that the proposed use avoids, minimizes or mitigates any reasonably foreseeable cumulative effect on the nature of the community and adjoining properties, taking into consideration the proposed hours of operation, other existing or proposed adult uses and similar uses with the potential for deleterious effects on the community, including but not limited to pool halls, bars, arcades or pawnshops.
- J. The duration of a conditional use permit issued by the Board for a passive adult use shall conform to the following requirements:
  - (1) A conditional use permit issued pursuant to this section shall initially be valid for one year.
  - (2) Prior to expiration of the permit, the permit may be renewed upon application by the permit holder, payment of permit and any other applicable fees and demonstration by the applicant of continued compliance with all applicable permit conditions and requirements of this chapter.
  - (3) The duration of such renewal may be established by the Planning Board, in its sole discretion, but shall not exceed three years.

**§ 235-45.1. (Reserved)**

**§ 235-45.2. Entertainment complexes.**

Entertainment complexes are subject to compliance with the following supplementary requirements:

- A. No building, except entrance shelters or guard houses, shall be located within 100 feet of any property line.
- B. No building shall be located within 150 feet of a residential zoning district. No parking shall be provided within 75 feet of a residential zoning district. Unenclosed facilities or uses shall be located at least 200 feet from any residential zoning district, except where a greater distance is necessary due to the characteristics of the facility or use, as determined by the Planning Board.
- C. At least two access drives shall be provided. The access drives shall be internally connected. Access drives shall be located at least 100 feet from any residential zoning district.
- D. Noise from a public address system or other amplified source shall not be heard beyond the property line, unless permitted on a case-by-case basis by the Village Board.
- E. A minimum buffer of thirty-five-foot width, consisting of planting materials, trees, berms, fences, or combination

thereof, shall be located between buildings and parking areas and the property line.

**§ 235-45.3. Warehouses.**

Warehouses are subject to compliance with the following supplementary requirements:

- A. Outside storage shall be prohibited.
- B. Truck-loading bays shall be located at the rear or side of the building, as determined by the Planning Board, and shall be appropriately screened from any public roadway and neighboring properties.
- C. Access drives shall be a minimum width of 20 feet. At least two access drives shall be provided. Access drives shall be located at least 100 feet from any residential zoning district.
- D. Storage of gasoline or other volatile petroleum products, radioactive materials, explosives or flammable or hazardous chemicals shall be prohibited.
- E. A minimum buffer of thirty-five-foot width, consisting of planting materials, trees, berms, fences or combination thereof, shall be located between buildings and parking areas and the property line.

**§ 235-45.4. Trade or vocational schools.**

Trade or vocational schools are subject to compliance with the following supplementary requirements:

- A. The minimum lot area shall be 160,000 square feet, plus one acre per each 100 pupils or portion thereof over 100 pupils.

**§ 235-45.5. Wireless communications facilities.** *Editor's Note: These provisions shall supersede other provisions of this chapter which regulate public utilities.*

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

**ADEQUATE COVERAGE** — Coverage is considered to be adequate within the service area of the Village of South Blooming Grove if the minimum standards set forth by the Federal Communications Commission to permit the applicant to operate personal wireless communications services within the area are met.

**ALTERNATIVE TOWER STRUCTURE** — Existing water towers, trees, clock towers, bell steeples, light poles and similar existing structures or structures which suitably camouflage or conceal the presence of antennas and towers.

**ANTENNA** — A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, wireless and microwave communications.

**COLLOCATION** — The siting and/or mounting of multiple communications facilities used by the same provider, or by two or more competing providers, on the same property and/or antenna support structure or communications tower.

**MAJOR WIRELESS COMMUNICATIONS FACILITY** — Any wireless communications facility that is not a minor wireless communications facility. A major wireless communications facility includes all related and appurtenant buildings, structures and equipment, including a communications tower.

**MINOR WIRELESS COMMUNICATIONS FACILITY** — Any wireless communications facility situated on or in an existing building or other structure where such equipment consists of a combination of antennas or other receiving devices necessary in number to facilitate the provision of wireless communications services from such location, provided that such minor installation:

- (1) Is comprised of antennas or transmitting or receiving devices which are no more than six feet in height, including supports, and which are mounted on supports affixed to an existing structure; and
- (2) May include, if necessary, a new, small (10 feet by 20 feet and 10 feet high) building to house necessary equipment.

**WIRELESS COMMUNICATIONS SERVICES** — The provision of personal wireless communications services, including, but not limited to, those more commonly referred to as "cellular telephone service," which services are regulated by the Federal Communications Commission in accordance with the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332 (c)(7)(C), or as hereafter amended.

**WIRELESS COMMUNICATIONS FACILITY** — Any site containing equipment used in connection with the commercial operation of wireless communications services, as defined herein, and as the term "personal wireless services facility" is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332 (c)(7)(C), or as hereafter amended to transmit and/or receive frequencies, including, but not limited to, antennas, monopoles, equipment, appurtenances and structures.

**WIRELESS COMMUNICATIONS TOWER** — Any freestanding structure, including a lattice structure or framework and freestanding self-supported vertical pole (commonly known as a "monopole") on which any equipment is located in connection with the provision of wireless communications services.

- B. Compliance with State Environmental Quality Review Act. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law) and its implementing regulations. An application for approval of a wireless communications facility proposed to be located in a residential zoning district shall constitute a Type 1 action.
- C. Restrictions on use.
- (1) No wireless communications facility, except one approved by all authorities having jurisdiction prior to the effective date of this section, shall be used, located, constructed or maintained on any lot, structure or land area unless in conformity with this section. No wireless communications facility may hereafter be erected, moved, reconstructed, changed or altered unless in conformity with this section. No existing structure shall be modified to serve as a wireless communications facility unless in conformity with these regulations.
  - (2) No wireless communications facility shall be used, located, constructed or maintained on any structure, unless such structure was lawfully approved by all jurisdictions having authority and was lawfully constructed.
  - (3) All wireless communications facilities shall at all times be in conformance with the rules and regulations of any governmental entity having jurisdiction over such communications facilities and uses, antenna and/or supporting structures and towers, including, without limitation, the FCC and FAA.
  - (4) A wireless communications facility shall be operated and maintained by an FCC licensee only.
  - (5) The applicant of a wireless communications facility shall show that the facility is necessary to provide adequate coverage to an area of the Village which at that time is proven to have inadequate coverage and shall show that any proposed communications tower or antenna is the minimum height and aesthetic intrusion necessary to provide adequate coverage. The applicant seeking to locate a wireless communications facility in the Village shall demonstrate the need for a new or additional antenna or tower; that the primary purpose of the facility is to provide adequate coverage within the Village; and that the coverage area of the facility lies predominantly within the Village.
  - (6) All wireless communications facilities shall be constructed and maintained in conformance with all building, electrical, fire prevention and other applicable codes.
- D. Major wireless communications facilities.
- (1) Approved zoning districts or other locations.
    - (a) Major wireless communications facilities, if located on an alternative tower structure or existing tower, are permitted as a conditional use in the ORI Zoning District. Location of a major wireless communications facility on a proposed new tower is not permitted pursuant to this provision.
    - (b) If the applicant demonstrates that there is no site as provided in Subsection D(1)(a) above which would provide adequate coverage consistent with federal regulations, the Planning Board may determine that a major wireless communications facility, including a new tower, may be permitted as a conditional use in the ORI Zoning District.
    - (c) If the applicant demonstrates that there is no site as provided in Subsection (a) or (b) above which would provide adequate coverage consistent with federal regulations, the Planning Board may determine that a major wireless communications facility, including a new tower, may be permitted as a conditional use in the ORI Zoning District located in South Blooming Grove .

- (d) If the applicant demonstrates that there is no site as provided in Subsection (a), (b) or (c) above which would provide adequate coverage consistent with federal regulations, the Planning Board may determine that a major wireless communications facility, including a new tower, may be permitted as a conditional use in any RC-1 Zoning District.
- (2) Conditions precedent to granting site plan or conditional use approval.
- (a) Service coverage map and report. The applicant shall submit a service coverage map which shows and describes all existing and proposed areas of service coverage relating to the proposed communications facility. The service coverage map shall show the location and identify all existing sites in the Village and in bordering municipalities which contain communications towers, antennas, or related facilities. A detailed report shall accompany the service coverage map and shall show why the proposed communications tower, equipment and facility are necessary. The report shall identify locations within the proposed project site service coverage area which are not, and could not be, served by existing facilities, collocation, utilization of alternative technology or an alternative tower or other structure.
  - (b) Long-range communications facilities plan. The applicant shall submit a facilities plan which shows that the proposed location of the communications facility and related buildings and equipment has been planned to result in the fewest number of communications transmission tower sites within the Village. The plan shall indicate how the applicant intends to provide service throughout the Village and how the applicant plans to coordinate with all other providers of wireless communications services in the Village. The plan shall address the applicant's planned and possible location of additional tower sites, additional antennas, related or other service area coverage and alternative long-range plan scenarios that illustrate the potential effects of multiple towers and of tower(s) height, community intrusion impacts and visual and aesthetic impacts.
  - (c) Community impacts. The applicant shall submit documentation which demonstrates that the proposed communications tower height and bulk is the minimum height and bulk necessary to provide licensed communications services to locations within the Village which the applicant is not able to serve with existing facilities. Such documentation shall include evidence that visual, aesthetic and community character impacts have been minimized to the greatest extent practicable.
  - (d) Demonstration that shared use is impracticable. A conditional use permit may be authorized for a major wireless communications facility only if the applicant demonstrates that shared use of existing structures or sites is impractical. An applicant shall be required to present a report inventorying all existing structures within one-half mile of the proposed site which are at an elevation suitable as 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 reasons why shared usage is not feasible or practical in each case. The applicant's written request for shared use and the property owners' written responses 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 Village Board an irrevocable letter of intent committing the owner of the proposed new tower and its successors in interest to permit future shared use of the proposed tower by other telecommunications providers. 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 conditional use permit following a hearing and opportunity to be heard. The letter shall commit the new tower owner and its successors in interest to the following:
    - [1] To respond within 90 days to a request for information from a potential shared-use applicant.
    - [2] To use best efforts and negotiate in good faith concerning future requests for shared use of the tower by other telecommunications providers.
    - [3] To allow shared use of the tower if another telecommunications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity and depreciation and all of the costs of adapting the tower

and/or equipment to accommodate a shared user without causing electromagnetic interference.

- (f) NIER certification. A written certification shall be submitted, prepared by a qualified engineer and/or health physicist, which calculates the maximum amount of nonionizing electromagnetic radiation (NIER) which will be emitted from the proposed wireless communications facility and demonstrates that any such emissions from the facility will be within the threshold levels adopted by the Federal Communications Commission as of the day of application. The certification shall include a statement or explanation of how compliance was determined; an explanation as to what, if any, restrictions on access will be maintained to ensure compliance; and a statement as to whether other significant transmitting sources are located at or near the transmitting site and, if so, whether those emissions were considered in determining compliance and the reasons why those emissions were or were not considered.
- (g) The applicant shall comply with all other requirements, standards and conditions set forth in the Zoning Code governing conditional use and site plan applications.

E. Other requirements.

(1) Design.

- (a) Visual impact assessment. Visual, aesthetic and community character impacts shall be minimized to the greatest extent practicable. The applicant shall submit the following:
  - [1] A view shed analysis in order to determine locations where the tower and appurtenant facilities may be visible.
  - [2] Graphic representations of "before" and "after" views from key viewpoints located inside and outside of the Village, 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 any other location where the site is visible to a large number of residents, visitors or travelers.
  - [3] Assessment of alternative tower designs and color schemes, as set forth in Subsection (b) below.
  - [4] Assessment of the visual impact of the tower base, guy wires, accessory buildings and structures and overhead utility lines on abutting properties and streets.
  - [5] Where the applicant proposes construction of a new tower, the applicant shall, prior to the close of the public hearing on the application, hold a "balloon test." The public shall be given due notice of such test in a manner required by the Planning Board.
- (b) Tower design. The applicant shall submit a report describing 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 tower and potential alternatives. All designs to be considered shall be required to include, at a minimum, the following characteristics:
  - [1] Towers shall be designed to accommodate future shared use by other wireless communications providers.
  - [2] Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.
  - [3] 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.
  - [4] Any new tower shall be securely mounted to withstand the wind and ice loads and earthquake damage for the place of installation in accordance with New York State Uniform Fire Prevention and Building Code.
  - [5] 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 adequate coverage of the service area.
- (c) Fully engineered site plan. The applicant shall submit a site plan in accordance with § 235-55 and

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showing, at a minimum, all existing and proposed roads, buildings, tower(s), guy wire and anchors, antennas, parking and landscaping, and shall include grading plans for new facilities and roads.

(d) Engineer's report.

[1] The applicant shall submit a report prepared by a New-York-State-licensed professional engineer specializing in electrical engineering with expertise in communications facilities. If a monopole or tower is required and/or the electrical engineer is not qualified to certify the structural soundness of the installation, then an additional report shall be submitted by a New-York-State-licensed professional engineer specializing in structural engineering. The report(s) shall contain the following information:

- [a] Name(s) and address(es) of person(s) preparing the report.
- [b] Name(s) and address(es) 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] Size of the property and the location of all lot lines.
- [f] Location of nearest residential structure.
- [g] Location of nearest occupied structure.
- [h] Location of nearest day care center, school, camp or recreational area.
- [i] Location of all structures on the property.
- [j] Location, size and height of all proposed and existing antennas and all appurtenant structures.
- [k] Type, size and location of all proposed and existing landscaping.
- [l] Number, type and design of antenna(s) proposed and the basis for the calculations of capacity.
- [m] Make, model and manufacturer of the antenna(s).
- [n] Description of the proposed antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above grade, materials, color and lighting.
- [o] Frequency, modulation and class of service of radio equipment.
- [p] Transmission and maximum effective radiated power of the antenna(s).
- [q] Certification that the proposed antenna(s) will not cause interference with existing communications devices.
- [r] Elevation drawings depicting the front, side and rear of the property, illustrating the proposed antenna(s), mounting device and structure, if any, on which the antenna(s) is mounted.
- [s] A map depicting and listing all existing sites in the Village and bordering municipalities containing transmitting antenna(s) used by the operator, owner or applicant.
- [t] All applications, communications, permits and licenses submitted to or issued by the Federal Aviation Administration and Federal Communications Commission.

[2] The Planning Board may, in a proper case, waive one or more of the requirements of this Subsection (d) and may require additional reports or evidence that it deems necessary to ensure that the health, safety and welfare of the community is adequately protected.

(e) Intermunicipal notification. In order to keep neighboring municipalities informed, to facilitate the consideration of shared use of existing tall structures in a neighboring municipality and to assist the continued development of communications for emergency services, the applicant shall provide the following additional notice of the application:

[1] Notification in writing to the Village Clerk of any adjoining municipality within one mile of a



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proposed site, or a greater distance if determined by the Board, to be impacted by a proposed new telecommunications tower.

- [2] Notification, in writing, by certified mail, of all landowners within 1,000 feet of the property line of the parcel on which a new tower is proposed.
- (2) Location, lot size and setbacks. Any proposed wireless communications tower and its accessory structures shall be located on a single parcel and shall comply with setback requirements as identified below:
- (a) In order to protect the health, safety and welfare of children who may be injured by falling ice or debris, all wireless communications towers shall be a distance of not less than 350 feet from the nearest property line of a school, day-care center, camp, public park, playground, recreation area or other area where children congregate.
  - (b) Wireless communications towers shall be located with a minimum setback from any property line equal to the height of the tower or the required setback in the zoning district, whichever is greater. Accessory structures shall comply with the minimum setback requirements in the zoning district.
  - (c) The 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.
  - (d) Additional setbacks may be required by the Planning Board to contain on site all ice fall or debris from tower failure and preserve the privacy of any adjoining residential and public properties.
- (3) Vegetative screening, fencing, coloring, signs.
- (a) Landscaping. All facilities shall provide landscaping as follows:
    - [1] All towers shall be located and designed to have the least possible adverse visual and aesthetic effect on the environment.
    - [2] 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 buffering. The Board may determine that an existing natural vegetative buffer which meets or exceeds the above requirements is sufficient.
    - [3] Landscaping shall include trees of a height and density established by the Planning Board that will, over time, further screen the site, buffer neighboring properties and reduce visual impacts resulting from the installation of said facility.
    - [4] The outside of security fencing shall be screened with evergreen shrubs, trees or climbing evergreen material.
    - [5] The base of any communications 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 plantings shall be required, as necessary, to screen and buffer all structures from nearby properties or important view sheds of scenic areas. All landscaping shall be properly maintained to ensure continued screening and buffering.
  - (b) Security and safety fencing. Security and safety fencing shall be located around all communications towers, equipment and related facilities to prevent unauthorized access. Access to all structures shall be through a locked gate or locked 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:
    - [1] All communications towers, antenna towers, monopoles and other supporting structures shall be made inaccessible to unauthorized persons, particularly children, and shall be constructed or shielded in such a manner that they cannot be climbed.
    - [2] All transmitter controls shall be designed and installed in such a manner that they are accessible only to persons authorized by the licensee to operate or service them.

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- [3] All transmitters used with in-building radiation systems shall be designed in such a manner that, in the event that 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.
  - [4] 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 activated to cause the transmitter to radiate.
  - [5] All transmitters shall be designed in such a manner that they can be turned off independently of any remote control circuits.
- (c) Coloring and marking. Unless otherwise required by the FAA or FCC, all communications facilities, including antenna and communications towers, shall be colored, camouflaged and/or shielded to blend with surrounding areas, provided that such coloring, camouflage and/or shielding does 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 appurtenances 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.
- (d) Signals and lights. No antenna or tower shall include any signals, lights or illumination unless required by the FAA or other applicable authority. The applicant shall provide to the Board any legal authority which requires lighting. If lighting is required, the lighting shall be such as to cause the least disturbance to surrounding properties and views. Any lighting necessary for accessory structures or buildings shall be the minimum necessary and shall be properly shielded to prevent light emission and glare onto adjacent properties.
- (e) Signage. No signs, including advertising signs, shall be permitted on any antenna, communications tower, antenna tower or monopole, or antenna support structure, except as follows:
- [1] Signs specifically required by a federal, state or local agency.
  - [2] Each site shall include a sign containing the name and emergency phone number of the owner and operator of all antennas. Any door having access to a roof-mounted antenna and all entrances to the fenced enclosure shall be similarly posted.
  - [3] All signage shall comply with the sign regulations of the Zoning Code.
  - [4] Any graffiti on a structure shall be removed within 48 hours of notification.
- (4) 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.
- (5) Access and parking.
- (a) 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 toe of fill, the top of cuts or no more than 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.
  - (b) 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.
- (6) The Board may waive any of the requirements of this Subsection E if demonstrated by the applicant that any such requirement is inapplicable or unnecessary to the particular application. The Board shall specify, in writing, with supporting reasons, any requirement so waived.
- F. Minor wireless communications facilities. At all times, shared use within or on existing tall structures and on existing approved towers shall be preferred to the construction of major wireless communications facilities.
- (1) Minor wireless communications facilities are a permitted use in all zoning districts, subject to site plan review

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by the Planning Board. The Planning Board may require the applicant to submit any of the items set forth in Subsection D(2) and E herein as part of the site plan review process.

(2) Application.

(a) An application for site plan approval of a minor wireless communications facility shall include the following:

[1] Consent from the owner of the existing facility to allow shared use.

[2] Site plan showing all existing and proposed structures and improvements, including antennas, roads, buildings, guy wires and anchors, parking, landscaping, grading plans, any methods used to conceal the modification to the existing facility and all other items required by the Zoning Code for site plans.

[3] Engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure and will not hamper existing emergency networks and explaining what modifications, if any, will be required in order to certify the above.

[4] Copy of the applicant's Federal Communications Commission (FCC) license.

(b) 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. The reason(s) for any such waiver shall be stated in writing.

(c) The Planning Board may require any other documentation, reports or evidence that it deems necessary to ensure that the health, safety and welfare of the community is adequately protected.

G. Required conditions of all approvals.

(1) Removal.

(a) Any antenna, communications facility, communications tower, antenna tower or monopole, including any supporting structure and related appurtenances, and any accessory building, structure or facilities, or part thereof, which is not used for six months, including a noncontinuous but cumulative period of six months, in any twelve-month period shall be removed by the property owner or the operator of said facility and the property restored, at their sole cost and expense.

(b) An extension of an additional six months may be granted by the Planning Board upon submittal of a written request for said extension, including proof as determined reasonable by the Planning Board that the owner is actively engaged in the marketing of the property for sale or rent.

(c) In the event that the communications facility, tower, antenna(s) and/or related facilities are not removed as herein required, the Village, after notice and opportunity for the owner and operator to be heard, may cause any or all such facilities to be removed and the property restored. The total cost of such removal and restoration, including but not limited to removal and disposal costs and engineering, attorney and employee expenses, if not paid, shall be assessed against the property and collected in the same manner as real property taxes.

(2) Operational certification. Within 45 days of initial operation or modification of a wireless communications facility, the owner or operator shall submit to the Building Inspector a written certification by a professional engineer that the operation is in compliance with the application submitted, all conditions imposed, and all other provisions of this section. Such certification shall be a condition of lawfully operating past this forty-five-day period. The Village may confirm and periodically reconfirm compliance as necessary to ensure compliance with all provisions of law, including NIER levels as set forth by the FCC. The owner/operator of the facility shall supply all necessary documentation to permit the Village to make such a determination regarding compliance. If found to be not in compliance, the facility shall cease operation until compliance is restored.

(3) Liability insurance. Prior to commencement of any work, including site work, related to construction or installation of any wireless communications facility, the permittee shall secure and shall at all times maintain public liability insurance coverage for personal injuries, death and property damage and, as necessary, umbrella insurance coverage in the amounts, at minimum, of \$1,000,000 per occurrence/\$2,000,000 aggregate. Said insurance shall name the Village as an additional insured. The permittee shall deliver to the

Village Clerk its certificate of insurance demonstrating the required coverages.

- (4) Existing installations.
  - (a) The current operator of any communications facility or communications tower, antenna or monopole in lawful existence at the time of adoption of this section shall be permitted to remain in operation, provided that the operator submits proof within six months of said adoption that a valid building permit(s) was issued for the facility, that the facility complies with current emission standards as promulgated or recommended by the FCC and that the facility meets the security requirements of this section.
  - (b) Any lawful nonconforming communications facility or communications tower shall be permitted to remain until such time as the use, facility or structure is altered, at which time compliance with this section shall be required.
  - (c) Any facility for which emission and security compliance documentation is not received shall cease operation within six months of adoption of this section and shall be immediately removed thereafter. If the facility is not removed, then the Village may cause removal in the manner set forth in Subsection G(1) above.

H. Review and compliance costs.

- (1) The applicant and operator, respectively, of a facility are responsible for the payment of all of the Village's costs to review an application and to determine continued compliance after commencement of operation. Any reviewing board of the Village may utilize the Village's consultants and/or hire independent consultants to assist the board's review. The reasonable costs of all such consultants shall be paid by the applicant and/or operator of the facility. Payment of all such costs within 30 days of billing shall be a condition of approval and of continued operation. No building permit shall be issued until application review costs are paid.
- (2) The Board is authorized and shall require the applicant to post funds in escrow in an amount determined by the Board to pay for the Board's review costs. Such escrowed amount shall be replenished by the applicant, as directed by the Board, such that sufficient funds are available at all times.
- (3) As a condition of approval, the applicant shall be required to post funds in escrow in an amount determined by the Board to pay for the Village's cost of inspection and determining continued compliance with the conditions of approval, this section, and all other applicable requirements. Such escrowed amount shall be replenished by the operator, as directed by the Village Board, such that sufficient funds are available at all times.

**§ 235-45.6. Accessory apartment units.**

Accessory apartment units in single-family dwellings. One accessory apartment unit per single-family dwelling may

A. be permitted subject to the following requirements:

- (1) The owner of the property shall occupy one of the two dwelling units on any lot with an accessory apartment. One accessory apartment unit only is permitted per lot.
- (2) An accessory apartment unit may be located in the principal dwelling, provided that such dwelling contains a minimum of 1,500 square feet of habitable space and conforms with all other requirements of this chapter. No variance or modification of this requirement is permitted.
- (3) The minimum floor area for an accessory apartment unit shall be 300 square feet. The maximum floor area shall not exceed 25% of the habitable area of the primary dwelling unit or 750 square feet, whichever is less, unless, in the opinion of the Planning Board, a greater or lesser amount of floor area is warranted by the specific circumstances of the particular dwelling.
- (4) The applicant must demonstrate that the water supply and sewage disposal facilities, as existing or improved pursuant to plans prepared by a licensed professional engineer, are adequate and safe.
- (5) The entry to such apartment and its design shall be such that, to the degree reasonably feasible, the appearance of the dwelling will remain as a single-family residence.
- (6) No accessory apartment unit shall be located in a cellar.

- (7) In addition to the parking requirements for a single-family dwelling, at least one off-street parking space shall be provided for the accessory apartment unit. Such parking space may be located within a driveway.
- (8) The accessory apartment unit and the structure in which it is situated shall be equipped with smoke detectors installed at the top of stairways and in bedroom entrances, or as required by applicable Building Code provisions.
- (9) Occupancy of the accessory apartment shall be limited to parent(s) or grandparent(s) of an owner-occupant of the principal dwelling unit and shall be limited to no more than three individuals.
- (10) A special permit for an accessory apartment shall be renewed on an annual basis by application to, and approval by, the Planning Board.

**B. Accessory apartment units in nonresidential buildings located in the Rural Residential Zoning District.**

- (1) The minimum floor area for an accessory apartment unit shall be 300 square feet. The maximum floor area shall not exceed 25% of the footprint of the building or 750 square feet.
- (2) The applicant must demonstrate that the water supply and sewage disposal facilities, as existing or improved pursuant to plans prepared by a licensed professional engineer, are adequate and safe.
- (3) The entry to such apartment and its design shall be such that, to the degree reasonably feasible, the appearance of the building will not be substantially altered from its primary use.
- (4) No accessory apartment unit shall be located in a cellar.
- (5) In addition to the parking requirements for other uses on site, at least one off-street parking space shall be provided for each accessory apartment unit.
- (6) The accessory apartment unit and the structure in which it is situated shall be equipped with smoke detectors installed at the top of stairways and in bedroom entrances, or as required by applicable Building Code provisions.
- (7) Occupancy of the accessory apartment shall be limited to parent(s) or grandparent(s) of an owner-occupant of the principal dwelling unit and shall be limited to no more than three individuals.
- (8) A conditional use permit for an accessory apartment shall be renewed on an annual basis by application to, and approval by, the Planning Board.

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**ARTICLE X  
(Reserved)**

**§ 235-46. (Reserved)**

**§ 235-47. (Reserved)**

**§ 235-48. (Reserved)**

**§ 235-49. (Reserved)**

**§ 235-50. (Reserved)**

**§ 235-51. (Reserved)**

**§ 235-52. (Reserved)**

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**ARTICLE XI**  
**Planning Board**

**§ 235-53. Authorization.**

The Planning Board is hereby authorized to review and approve, approve with modification or deny applications for conditional uses and to review and approve, approve with conditions and deny site development plan (also referred to as "site plan") applications.

**§ 235-54. Conditional use approval by Planning Board.**

- A. The uses listed in the Use Table, Column C, are conditional uses permitted only upon approval by the Planning Board in accordance with the procedures and standards herein. *Editor's Note: The Table of General Use Requirements is located at the end of this chapter.* General and special standards and conditions are set forth in Article IX. Any such use, if approved by the Planning Board, shall be deemed a permitted use for that particular lot or parcel of land, subject to any conditions of approval.

- B. Planning Board review and decision. On application by the property owner or designated agent, and after public notice and hearing, the Planning Board may approve the issuance by the Building Inspector of permit(s) for any of the conditional uses authorized by this chapter. Written notice of the public hearing shall be published in the official newspaper and posted at Village Hall, and sent by the applicant, at his expense, by certified mail, return receipt requested, to the owners of all property located within 500 feet of each boundary of the subject property at least ten days before the date of the hearing. The public hearing shall be held within 62 days after the Board's first regular meeting following receipt of a complete application, and the Board shall make a decision within 62 days after close of the public hearing unless the Board and applicant agree upon an extension of time. Prior to approving any conditional use, the Planning Board shall determine that the proposed use and development conforms with the general and specific conditions and standards set forth in Article IX and the conditions and standards relating to site development plan review. Site development plan approval is required for all conditional uses.

**§ 235-55. Site development plan process.**

- A. No building permit or certificate of occupancy for any building, structure or use, other than a one- or two-family dwelling or permitted buildings, structures or uses customarily accessory thereto, shall be issued unless the Planning Board has first approved a site plan pursuant to this section. Continued compliance with the approved final site plan shall be a requirement of the continued validity of any building permit and certificate of occupancy issued pursuant thereto.
- B. Objectives. In considering and acting upon site development plans, the Planning Board shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general and of the prospective occupants of the proposed development and of the immediate neighborhood in particular and may prescribe such appropriate conditions and safeguards as may be required in order to further the expressed intent of this chapter and to accomplish the following objectives in particular:
- (1) Traffic access. All proposed traffic access will be adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other major access points; and located on a roadway capable of adequately and safely handling the additional traffic; and will provide for other similar safety considerations.
  - (2) Circulation and parking. Adequate off-street parking and loading spaces are provided to prevent parking of vehicles on public streets. The interior circulation system will be adequate to provide safe accessibility to all required off-street parking.
  - (3) Landscaping and screening. All recreation areas, parking and service areas will be reasonably screened from the view of adjacent residential lots and streets at all seasons of the year. The Planning Board must approve all screening and landscaping, and the Board may require the posting of a performance bond to assure that the screening and landscaping plan is properly implemented.
  - (4) Compatibility. Signs and lights will be compatible and in scale with building elements and will not represent significant impact on the environment or result in a waste of the land and other natural resources of the Village. To the greatest possible extent, development will be in harmony with the natural and scenic environment, and adequate compensatory devices will be prescribed to offset potential significant deterioration resulting from the project. Signs shall conform to size, shape, color, materials and location as called for by the Planning Board and/or Building Department.
  - (5) Development. The site development plan elements, including buildings, parking, drainage, circulation, signs and lighting, cannot adversely affect the potential of adjacent properties from being put to their highest and best use.
  - (6) Tree preservation. The site development plan elements, including buildings, parking, drainage, circulation, signs, and lighting, should not remove more trees than necessary for the safe use of the site.
- C. Site plan contents. Site plans shall be prepared by a qualified professional licensed in the State of New York.
- (1) A site plan shall contain the following information:
    - (a) A detailed development plan showing the applicant's entire property, lot area, adjacent properties and owners thereof and streets, at a convenient scale;

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- (b) Zoning District, Bulk Table, Parking Tabulations;
  - (c) Location, width and purpose of all existing and proposed easements, restrictions, covenants, reservations and setbacks;
  - (d) Documentation of ownership of land or permission to act in the owner's behalf;
  - (e) The proposed location, use and exterior design of all buildings and structures, together with relevant floor areas and elevations;
  - (f) Dimensions and areas of proposed lots;
  - (g) Any proposed division of buildings or structures into units of separate occupancies;
  - (h) Identification of all school and special districts serving the property;
  - (i) Existing topography and proposed grade elevations, watercourses, marshes, areas subject to flooding, designated wetlands, wooded areas, large trees, rock outcrops and any other existing natural site features;
  - (j) For plans containing residential units, the proposed location of land for park, playground or other recreational purposes;
  - (k) Building Setback Lines dashed and dimensioned;
  - (l) Number, location and nature of all parking and truck loading areas with access and egress drives and curb cuts, together with appropriate profiles;
  - (m) Location of outdoor storage areas, if any; including snow storage.
  - (n) Location of all existing and proposed site improvements, including drains, culverts, retaining walls, fences and sidewalks;
  - (o) Description of the method of sewage disposal and water supply, location of such facilities and impact on community sewage and water systems;
  - (p) Location, size and illumination of signs;
  - (q) Location and design of lighting facilities;
  - (r) Location and proposed development of landscaping, screening and buffer areas;
  - (s) Tree preservation plans to ensure that land stripping techniques are not used to develop the site;
  - (t) Survey reference map note;
  - (u) Erosion control plans; and stormwater management plans
  - (v) Name, Address, Telephone number and seal of the licensed design professional preparing the plans;
  - (w) If the site plan shows only a first stage of development, a supplementary plan shall indicate ultimate development; and
  - (x) Location map at a minimum scale of 1 inch = 1,000 feet, showing relationship to existing highway system, adjoining zoning districts, school and special districts, municipal properties and boundaries, parks and other public places; and
  - (y) Any item from the initial CDRC meeting checklist not provided at the time; and
  - (z) Any other pertinent information deemed necessary by the Planning Board to determine conformity of the site plan with the intentions of this chapter.
- (2) Specific requirements of this subsection may be waived by resolution of the Planning Board. In waiving any requirement, the Planning Board shall set forth the reason for said waiver. A copy of said resolution shall be forwarded to the Village Board for its information.

**D. Procedure.**

- (1) Community Design Review Committee. There is hereby established a Community Design Review



Committee (CDRC) to act as a referral and technical advisory panel to the Planning Board and the Village Board. The CDRC shall be composed of the Chairperson of the Planning Board, a second Planning Board Member, a member of the Village Board, the Village Engineer, the Village Planner or their designees and others as appropriate such as the Village Attorney or Building Inspector. The CDRC shall have those powers and duties as are set forth in the Village regulations or as may be delegated from time to time by the Planning Board or Village Board, provided, however, that in no case may the CDRC be empowered to approve or disapprove, on behalf of the Planning Board or Village Board, any application for relief or approvals. It is anticipated that the CDRC will review applications prior to each applicant's appearance at a Planning Board meeting. All fees established by the Village, including appearance fees and escrow for consultants shall be paid in advance of each appearance. Minutes will be kept of each applicant's appearance before the CDRC and will be distributed to the applicant and Planning Board members. Where a prospective applicant has retained a design professional; the design professional must appear at each CDRC meeting at which an application is scheduled. *Editor's Note: The Standard Schedule of Fees on file in the Villages offices.*

- (2) Any application for site plan approval shall be made within six months following the CDRC directly to the Secretary of the Planning Board, and in the form required by the Board. Said application shall also include the site plan, environmental assessment form and application fee, which fee shall be in accordance with the Standard Schedule of fees for the Village. *Editor's Note: The Standard Schedule of Fees is on file in the Village offices.*
  - (3) No decision by the Planning Board to approve or deny a site plan application shall be made until after a public hearing. Written notice of said hearing shall be published in the official newspaper and posted at Village Hall, and sent by the applicant, at his expense, by certified mail, return receipt requested, to all known owners of property located within 500 feet of each boundary of the subject property at least ten days prior to the date of the hearing. Such other notice as required by Article 12-B of the General Municipal Law, Article 8 of the Environmental Conservation Law and other applicable laws shall also be given. The written notice of hearing shall be mailed to the applicant at least 10 days prior to the hearing date. The public hearing shall be held within 62 days after the Board's first regular meeting following receipt of a complete application, and the Board shall make a decision within 62 days after close of the public hearing, unless the Board and applicant agree upon an extension of time.
- E. Other required considerations. In considering and acting upon any site plan, the Planning Board shall consider, in addition to the elements and items set forth in Subsections B and C, the site layout and overall appearance of all buildings in the proposed site to ensure a harmonious relationship with the existing or permitted development of contiguous land and adjacent neighborhoods, to ensure that the value of adjacent land and buildings will be conserved, to encourage the most appropriate use of land and to protect the public interest and the integrity of the community and this chapter.
  - F. Protective plantings. The site plan for any nonresidential building or use which abuts a residential district shall include a protective planting strip not less than six feet wide, situated within the required side or rear yard, designed and laid out with suitable evergreen plant material which will attain and shall be maintained at a height of not less than eight feet, so as to provide an effective and natural screen between the nonresidential and residential districts and residential districts along side and rear lot lines. Where deemed necessary by the Planning Board, similar natural screening shall be included along the front lot line where such screening will not adversely affect public safety.
  - G. Public improvement requirement. Prior to the granting of site plan approval, the applicant may be required by the Planning Board to file with the Village a letter of credit or cash bond sufficient to cover the full cost of all public improvements and land reclamation including site or building restoration in the event of project abandonment or non-performance required by development of the site. The amount of such letter or credit or cash bond shall be recommended by the Village Engineer and approved by the Village Planning Board.
  - H. Imposition of conditions authorized. Every site plan approval granted by the Planning Board may be subject to and conditioned upon conditions and safeguards which the Board deems applicable to the particular plan. Such conditions and safeguards are deemed an integral component of the site plan approval, and any violation of such conditions or safeguards shall be deemed a violation of the site plan approval and of this chapter and is punishable under the provisions of Article XVI.
  - I. Certificate of occupancy. No certificate of occupancy shall be issued for any development which has not been constructed in strict conformity with the approved site plan or until all necessary easements and property

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interests have been granted or dedicated to the Village or other governmental agencies.

- J. Signing and referral of plan. Upon submission of the final site development plan with modifications required by the Planning Board in its final approval and upon satisfaction of any conditions imposed by such approval, the Chairperson of the Planning Board shall sign the approved site development plan and file one copy with the Building Inspector, who may thereafter issue a building permit or certificate of occupancy in reliance thereon, in accordance with Article XVI.
- K. Expiration of site plan approval. Site plan approval shall be valid for 180 days commencing with the date the Planning Board adopts a resolution granting such site plan approval. The applicant may petition the Planning Board before such approval expires for two extension(s) of 90 days each, which extension(s) may be granted or denied at the discretion of the Planning Board. Failure to obtain a building permit within this three-hundred-sixty-day period shall cause the approval to expire and be deemed null and void.
- L. Amendment of plan. An application for an amendment of any approved site development plan for a site which has received prior final site development plan approval shall be processed in accordance with the preceding provisions. Fees for an amended site development plan approval shall be in accordance with the Standard Schedule of Fees of the Village of South Blooming Grove. *Editor's Note: The Standard Schedule of Fees is on file in the Village Office.* The approved amendment of a site plan shall not toll the time period for expiration of a site plan contained in Subsection K above, unless the Planning Board expressly determines that an additional extension of time is warranted in view of all the facts and circumstances.

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## ARTICLE XII Signs

### § 235-56. Requirements and procedures.

A. General. Prior to displaying any sign, a property owner or his duly authorized agent shall submit a written application to the Building Inspector for a sign license. The sign license fee shall be the same fee as applied to a building permit. Upon payment of the established license fee and receipt of the license, the sign may be displayed.

B. Types and sizes of signs permitted. In all districts, maximum permitted overall size of signs of each listed type shall be in accordance with the following schedule.

#### Business Signs

District	Wall Sign	Freestanding Sign	Billboards
RR	4 sq. ft.	See § 235-56C(8)	Prohibited
ORI	"	"	"
RC 1	"	"	"
RC 2	"	"	"
SH Overlay	"	"	"

Notes:

\*One wall sign per business, provided that such wall sign shall not exceed a maximum horizontal dimension or length of 20% of the building front or face wall (for the purpose of this section, the building front or face wall shall be measured as the horizontal and vertical dimension of the exterior wall of the occupied space for a given business use) upon which sign is attached; such maximum horizontal dimension or length shall not exceed 10 feet; and such wall sign shall not exceed a maximum vertical dimension of 10% of the building front or face wall upon which the sign is attached; such maximum vertical dimension shall not exceed two feet. Notwithstanding the above, a minimum area of 18 square feet shall be permitted.

C. Supplemental sign regulations.

- (1) A wall sign no greater than four square feet for a home professional office or home occupation may be located on the building wall or in the required front yard, provided that such sign is set back at least 10 feet from all property lines and is not more than six feet above the natural ground level at that point.
- (2) A church or other place of worship may have one wall sign or one freestanding sign, not over 12 square feet in area, on each principal street frontage of its property, either fixed on the main wall of the building or located in the required front yard, provided that it is set back at least 10 feet from the front property line and at least 25 feet from all other property lines.
- (3) A parish house, club, school, or public or semipublic building may have one name or announcement sign, not over six square feet in area, on each principal street frontage of its property, fixed on the main wall of its building.
- (4) A business sign shall not project more than 12 inches from the building wall to which it is attached.
- (5) A business sign which is a part of or is supported by a building shall not be erected upon the roof, nor shall it extend above the height of the building.

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- (6) A freestanding business sign (one which is not part of or supported by a building) may have a maximum height of 12 feet above the average ground level at its base.
- (7) A freestanding business sign shall have at least three feet of clear space between the signboard and the ground, provided that necessary supports may extend through such clear space.
- (8) The maximum size of freestanding business signs shall be based on the speed limit of the roads on which the parcels front, as follows:

<b>Speed Limit on Nearest Street (MPH)</b>	<b>Total Maximum Sign Area (square feet)</b>
Under 35	16
35 to 45	24
Greater than 45	40

- (a) If the business is set back 50 feet or less from the roadway, either one wall sign (as set forth in § 235-56B) or one freestanding sign is permitted. Any freestanding sign shall not exceed four square feet.
- (b) If the business is set back more than 50 feet from the roadway, one freestanding sign is permitted, not to exceed four square feet, in addition to a wall sign as set forth in § 235-56B.
- (c) Where two or more businesses are located together in a single building, shopping center, or business park and such businesses are set back 100 feet or more from the roadway, one common freestanding sign shall be permitted with a maximum area as indicated above in addition to wall signs as set forth in § 235-56B. No additional freestanding signs are permitted.
- (9) There shall be only one freestanding business sign permitted on a lot.
- (10) Business signs may be illuminated by nonflashing sources, not visible from beyond the boundaries of the business property. Such illumination shall be limited to the hours of business operation, but may continue until 10:00 p.m.
- (11) Business signs shall be structures, a part of a structure or attached to or displayed on a structure.
- (12) A real estate "for sale" or "for rent" sign, or a construction sign, not exceeding 12 square feet, shall apply only to the property upon which it is placed. It may be located on the building wall or in the required front yard, provided that such sign is set back at least 10 feet from all property lines and is not more than six feet above the natural ground level at that point. One such sign may be erected on each principal frontage of the property.
- (13) An approved land subdivision of 10 or more lots may have one real estate sign, not over 40 square feet in area, located on each principal street frontage of the property during the period of active selling, provided that such sign be set back at least 20 feet from the front property line and at least 25 feet from all other property lines.
- (14) A temporary sign of not more than 24 square feet may be erected for a period of not more than two weeks upon payment of the license fee and receipt of the license. Such sign shall provide for unusual conditions, such as barn sales, auctions, and bazaars, but not including private yard sales. No business may obtain more than two licenses for temporary signs per calendar year.
- (15) Temporary or permanent signs on or attached to vehicles shall not be used in such a way as to circumvent the provisions of this article.
- (16) Signs with moving parts shall be prohibited.
- (17) Off-premises signs shall be prohibited except for houses of worship and cultural facilities.

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- (18) Window signs, posters, placards, flags (except those of any nation) or other similar devices identifying products for sale on the premises or special promotions are prohibited. One window sign, not to exceed four square feet, indicating whether a store is open or closed and/or the hours of business is permitted per business.
- (19) No signs shall be permitted in any public right-of-way except as provided for in Subsection C(17) above.
- (20) Signs that display variable messages through electronic means are permitted by special permit by the Village Board, which shall determine whether the variable message display serves a public purpose and is not merely intended to attract attention to the business.
- (21) All signs shall be kept in a state of good repair. Signs that are in disrepair may be issued a violation by the Code Enforcement Officer.

D. Nonconforming signs.

- (1) Any sign lawfully established prior to the effective date of this chapter shall be deemed a nonconforming sign if it does not conform to the provisions of this article.
- (2) Sign depreciation schedule.
  - (a) All nonconforming signs shall be terminated or brought into compliance within the time periods set forth in the sign depreciation schedule, as follows:

<b>Value of Sign</b>	<b>Continuance</b>
\$1 to \$1,500	1 year
\$1,501 to \$3,000	2 years
\$3,001 to \$6,000	3 years
over \$6,001	3 years, plus 1 additional year for every \$3,000 or fraction thereof in excess of \$6,001, up to a maximum of 5 years

- (b) An owner of property on which a nonconforming sign is located shall have the right to make application to the Zoning Board of Appeals for an extension of the sign depreciation schedule. An extension may be granted if the owner establishes that the depreciation schedule set forth above is unreasonable. The Zoning Board of Appeals shall have the power to grant a reasonable extension long enough to provide the owner with an opportunity to recoup his/her investment, although the extension need not be long enough to enable to owner to recover 100% of his/her investment, especially with respect to soft or incidental costs. The owner shall bear the burden of proof.
- (3) Value of sign.
  - (a) The owner of any nonconforming sign shall file a request with the Planning Board for a determination of value.
  - (b) The "value" of sign shall be considered to be the mean replacement cost.
  - (c) The cost of maintenance and repair shall not be considered in determining value.
  - (d) Signs for which no application for a determination of value have been applied for within a year from the effective date of this article shall be presumed to have a value not in excess of \$1,500.
  - (e) All determinations of the Planning Board shall be made within 60 days from the date of filing of any application. In the event that no determination is made by the Planning Board, the value set forth on the application shall be deemed final and conclusive.

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- E. Illegal signs. Any sign which has been erected or altered and for which a valid permit has not been issued and which does not conform to the provisions of this article is hereby deemed an illegal sign and is subject to removal and to other penalties as provided by law.

## **ARTICLE XIII**

### **Architectural Review Board**

#### **§ 235-57. Objectives.**

The Village Board hereby finds that excessive uniformity, dissimilarity, inappropriate or poor quality of design in the exterior appearance of buildings or other structures erected or altered can adversely affect the desirability of the immediate and neighboring areas and, by doing so, impair the benefits of occupancy of existing property in such areas, impair the stability in value of both improved and unimproved properties in such areas, prevent the most appropriate development and use of such areas, produce degeneration of property in such areas with attendant deterioration of conditions affecting the health, safety and general welfare of the inhabitants thereof and contribute to the diminution of the taxable value of real property in such areas and their ability to support municipal services provided therefor. It is the purpose of this article to prevent these and other potentially harmful effects resulting from such unattractive exterior appearance of buildings and other structures erected or altered and thus to promote the public health, safety and welfare, to conserve the value of buildings, to encourage the most appropriate use of land and to improve the physical and visual appearance of the Village .

#### **§ 235-58. Organization.**

The Planning Board is hereby designated as the Architectural Review Board, and its members are hereby appointed as members of the Architectural Review Board. Planning Board and Architectural Review Board terms of office shall run concurrently.

#### **§ 235-59. Powers and duties.**

In addition to its powers to review and approve or disapprove conditional uses and site plans, the Planning Board shall have the power, acting as the Architectural Review Board, to review and approve or disapprove the following:

- A. Construction or installation of all municipal structures and uses;
- B. All works of art or other objects to be used in a decorative manner to be erected on the property owned, leased or otherwise occupied by the Village
- C. The construction, reconstruction or exterior modification of any commercial or mixed-use building or structure located in the Village;
- D. The construction, reconstruction or alteration of a sign; and
- E. New single-family, town house or other attached, or multifamily dwellings in all new residential subdivisions.
- F. New dwellings or residential structures or accessory buildings to be located in the SB Overlay District.

#### **§ 235-60. Standards.**

In examining plans or proposals, the Architectural Review Board shall recommend disapproval of any installation or construction which would cause or contribute to one or more of the following harmful effects:

- A. Excessive dissimilarity or inappropriateness in relation to any other structure, existing or for which a permit has been issued, in respect to one or more of the following features: cubical content, gross floor area, building area or height of roof or other significant design features, such as materials or style of architectural design.

- B. Excessive similarity to any other structure existing, or for which a permit has been issued, in respect to one or more of the following features of exterior design and appearance: apparently identical front, side or other elevations visible from the street, substantially identical size and arrangement of either doors, windows, porticoes or other openings or breaks in the elevation facing the street, including reverse arrangement; or other significant identical features of design, such as, but not limited to, material, roof line, height or other design elements.

**§ 235-61. Limitations.**

- A. The Board shall restrict its considerations to a reasonable and professional review of the proposal and plans, leaving full responsibility for the design and development to the applicant. The Board shall not design or assist in the design of any buildings or structures submitted for recommendations.
- B. The Board's recommendation shall not reflect undue restrictions on new or innovative building types, materials or methods; individual initiative and experimentation are to be encouraged.

**§ 235-62. Procedure.**

- A. No decision by the Architectural Review Board to approve or deny an application shall be made until after a public hearing. Written notice of said hearing shall be published in the official newspaper and posted at Village Hall, and sent by the applicant, at his expense, by certified mail, return receipt requested, to all known owners of property located within 500 feet of each boundary of the subject property at least five days prior to the date of the hearing. Where Architectural Board approval is required in relation to a new project which also requires site approval, review by the Architectural Review Board can take place simultaneously with the Planning Board's site plan review process or by separate procedure after site plan approval has been obtained.
- B. No building permit shall be issued for any of the buildings or structures listed in § 235-59 until the Architectural Review Board has acted on an application submitted by the property owner or his agent, and no certificate of occupancy shall be issued until the Architectural Review Board has inspected the site and advised the Building Inspector that construction has occurred in conformance with the approved plan.



**ARTICLE XIV**  
**Landscaping and Environmental Requirements; Performance Standards**

**§ 235-63. Planning Board authorized to adopt rules and regulations.**

Pursuant to the provisions of § 235-103 of this chapter, the Planning Board is authorized to adopt rules and regulations pertaining to the incorporation of landscape materials in any project requiring site development plan approval and for the environmental control of such projects.

**§ 235-64. Landscape requirements and erosion and sediment controls.**

The minimum landscape requirements and erosion and sedimentation controls for any use requiring site development plan approval are a general guide only and may be waived or varied by the Planning Board where, due to special characteristics of the project site, the proposed use, surrounding area or buildings and structures, such changes are necessary to ensure compatibility and conformance with other standards or criteria of this chapter.

**§ 235-65. Environmental quality review.**

The provisions of the State Environmental Quality Review Act (SEQRA) shall be complied with as appropriate. Fees for SEQRA processing are in addition to other fees required by this chapter as set forth in the Standard Schedule of Fees of the Village of South Blooming Grove. *Editor's Note: The Standard Schedule of Fees is on file in the Village offices.*

**§ 235-66. Performance standards.**

A. Conformance required. No use shall hereafter be established, altered, moved or expanded unless it complies with the performance standards set forth in this section. Continued conformance with such standards shall be a requirement for the continuance of any certificate of occupancy.

B. Standards.

(1) Noise.

- (a) Method of measurement. For the purpose of measuring the intensity and frequencies of sound, sound-level meters and octave-band filters shall be employed. Octave-band analyzers calibrated with pre-1960 octave bands (American Standards Association Z24.10-1953, Octave Band Filter Set) shall be used. Sounds of short duration, which cannot be measured accurately with the sound-level meter, shall be measured with an impact noise filter in order to determine the peak value of the impact.
- (b) Maximum permitted sound-pressure level. The decibels resulting from any activity, whether open or enclosed, shall not exceed at any point on or beyond any lot line the maximum decibel level for the designated octave band as set forth in the following table, except that where the lot lies within 200 feet of a residence district, whether within or without the Village, the maximum permitted decibel level at any point on or beyond the district boundary shall be reduced by six decibels from the maximum permitted level set forth in the table, and further, except that such reduction shall also apply to any sound emitted between the hours of 9:00 p.m. and 7:00 a.m. and all day Sunday.

**Octave Band  
(cycles per second)**

0 to 74

**Octave Band  
(cycles per second)**

**Sound Pressure Level  
(decibels)**

66

**Sound Pressure Level  
(decibels)**

Zoning Code - Village of South Blooming Grove, NY

5 to 149	58
150 to 299	55
300 to 599	50
600 to 1,199	45
1,200 to 2,399	42
2,400 to 4,799	38
4,800 to 20,000	35

(c) Exemptions. The following uses and activities shall be exempt from the noise level regulations:

- [1] Noises not directly under the control of the property user or owner.
- [2] Noises emanating from construction and maintenance activities between 7:00 a.m. and sunset, except that no such activity shall take place on Sundays or holidays.
- [3] The noises of safety signals, warning devices, emergency pressure relief valves or other emergency warning signals.
- [4] Transient noises of moving sources, such as automobiles, trucks, airplanes and railroads.
- [5] Noises from agricultural equipment operated on land used for a permitted agricultural use.

(2) Vibration.

- (a) Method of measurement. For the purposes of measuring vibration, a measuring system approved by the Planning Board shall be employed.
- (b) Maximum permitted steady state and impact vibration displacement. No activity shall cause or create a steady state or impact vibration on any lot line with a vibration displacement by frequency bands in excess of that indicated in the following table:

Frequency	Vibration Displacement (inches)	
	Steady State (cycles per second)	Impact
Under 10	.0005	.0010
10 to 19	.0004	.0008
20 to 29	.0003	.0006
30 to 39	.0002	.0004
40 and over	.0001	.0002

(3) Smoke, dust and other atmospheric pollutants.

- (a) General control. The emission of smoke and other particulate matter shall not be permitted, regardless of quantity, if it will be in any way detrimental to the public health, safety, welfare or

comfort or a source of damage to the property.

- (b) Method of measurement of smoke. For the purpose of grading the density of smoke, the Ringelmann Smoke Chart shall be used to determine the total smoke units emitted. A reading shall be taken every minute for an hour or, if less than an hour, until the total smoke units emitted exceed the number allowed by these regulations. Each reading shall be multiplied by the number of minutes during which it was observed and the product added.
  - (c) Maximum permitted emission of smoke. There shall be no measurable emission of smoke, gas or other atmospheric pollutants. The emission of one smoke unit per hour and smoke with discernible density of No. 1 on the Ringelmann Smoke Chart shall be prohibited.
  - (d) Maximum permitted emission of dust. The emission of dust related to combustion for indirect heating from any source shall not exceed 0.30 pounds of dust per 1,000 pounds of flue gas adjusted to 50% excess air for combustion. There shall be no measurable emission of dust or other particulate matter not related to combustion for indirect heating. All properties shall be suitably improved and maintained with appropriate landscaping and paving or other type of improvement, so that there will be no measurable windblown dust or other similar types of air pollution created.
- (4) Odorous matter. No land use shall be permitted which emits any discernible odor outside the premises in which the use is conducted.
- (5) Toxic or noxious matter. No use shall be permitted which will cause any dissemination whatsoever of toxic or noxious matter outside the building in which the use is conducted.
- (6) Radiation and electromagnetic interference.
- (a) Radiation. The handling, storage or disposal of radioactive materials or waste by-products shall be prohibited, except when used at a health-related facility in the treatment of patients.
  - (b) Electromagnetic interference. No operation shall be permitted which produces any perceptible electromagnetic interference with normal radio or television reception in any area within or without the Village .
- (7) Fire, explosive hazard and heat.
- (a) Fire and explosive hazard. No commercial storage or manufacture of explosives or solid materials or solid products which burn actively or which have a low ignition temperature or a high rate of burning or create great heat, under ordinary temperature conditions, shall be permitted.
  - (b) Heat. There shall be no emission of heat which would cause a temperature increase in excess of 1° F. along any adjoining lot line, whether such change be in the air, in the ground or in any watercourse or water body.
- (8) Liquid or solid wastes. The discharge of any or all wastes shall be permitted only if in complete accordance with all standards, laws and regulations of the Orange County Department of Health, New York State Department of Environmental Conservation or any other regulatory agency having jurisdiction. Facilities for the storage of solid waste shall be so located and designed as to be screened from the street or from any adjoining property and so as to discourage the breeding of rodents or insects.
- (9) Vehicular traffic. No business or industrial use shall be permitted where it is determined by the Planning Board that the type and number of vehicle trips it is estimated to generate would be expected to produce unusual traffic hazards or congestion or cause or induce emissions which may be expected to interfere with the maintenance of air quality standards established by the United States Environmental Protection Agency, the New York State Department of Environmental Conservation or other regulatory agency having jurisdiction, due to the design or capacity of the state or highway system, the relationship of such proposed use to surrounding or nearby industrial, commercial or residential uses or

other factors affecting air pollution arising from mobile-source activity.

(10) Lighting. Any outdoor lighting in any zoning district (residential or commercial) shall be arranged in such a way that no direct glare is cast toward any highway or adjacent property, and luminary devices shall be hooded and/or arranged so that the source of the illumination is not visible from such public rights-of-way or other properties.

(a) Site lighting shall be reduced to a minimum level to maintain site security at the close of business and shall be controlled by motion detectors to minimize light pollution.

(b) Lighting plan.

[1] An outdoor lighting plan, including all exterior building-mounted lights, all pole-mounted lights, all sign lights, and all ground-mounted lights, shall be submitted to the Planning Board as part of site plan review. Any modification to an approved lighting plan, whether or not other modifications to the approved site plan are being considered, requires review and approval by the Planning Board.

[2] The lighting plan shall include, at a minimum:

[a] Safety or functional justification for all proposed outdoor lighting fixtures, whether on buildings, poles, or any other structure.

[b] How the proposed fixtures will minimize off-site light spillage.

[c] Hours of operation of individual lighting fixtures or systems.

[d] Analysis of light spillage viewsheds from all surrounding developed and undeveloped property.

[e] Specifications of all proposed fixtures, including light intensity ratings and coverage ratings.

[f] Illuminance values for all developed portions of the site in footcandles (Fc), including the following calculated values: average, maximum, minimum, average:minimum ratio, maximum:minimum ratio. Average illuminance values shall only be calculated for developed portions of the property. Any portion of the property to remain undeveloped shall not be illuminated,

[g] An estimate of annual energy savings in kilowatt-hours (kWh) and dollars resulting from the use of timing systems and lower-intensity fixtures.

[3] Lighting plans shall be prepared in accordance with the guidelines established in the most recent edition of the Illuminating Engineering Society of North America (IESNA) Lighting Handbook.

[4] The lighting plan shall account for all off-site lighting (e.g., adjacent properties, street lighting) that may increase minimum, maximum, or average values.

[5] The lighting plan shall be prepared in coordination with the site plan and landscaping plan to take into account any structures or landscaping that may affect light distribution across the site.

#### **§ 235-66.1. Low Impact Design Techniques.**

A. Low Impact Design Techniques refers to the incorporation of non-structural and natural approaches to development and redevelopment projects to reduce stormwater runoff by conserving natural areas, reducing impervious cover and integrating stormwater treatment into the landscaping elements of a proposed plan.

- B. Village agencies shall encourage and require the use of Low Impact Design Techniques when reviewing plans, recognizing that a balance is needed between this objective and requirements of other agencies.
- C. Low Impact Design Techniques include, but are not limited to: preservation of undisturbed areas, preservation of buffers, reduction of clearing and grading, locating sites in less sensitive areas, open space design, roadway width and length reduction, sidewalk width reduction, driveway width and length reduction, cul-de-sac reduction, building footprint reduction, parking reduction, vegetated buffer/filler strips, open vegetated channels, bioretention and raingardens, infiltration, rooftop runoff reduction, stream daylighting for redevelopment projects, tree planting.

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**ARTICLE XV**  
**Nonconforming Uses and Noncomplying Bulk**

**§ 235-67. Applicability.**

This article applies to lots, buildings, structures and nonbuilding uses in existence on the effective date of this chapter. The lawful use of any such premises or uses existing on the effective date of this chapter may be continued although neither such use nor the bulk of the same conforms and/or complies with the requirements, except as hereinafter provided. No change of title, possession or right of possession shall be deemed to affect the right to continue a nonconforming use, building or other structure.

**§ 235-68. Buildings, structures or lots with noncomplying bulk.**

A. Normal maintenance and repair, structural alteration, reconstruction or enlargement of a building or structure with noncomplying bulk is permitted if the same does not increase the degree of or create any new noncomplying bulk in such building or structure.

B. Noncomplying lots.

(1) Except as set forth in Subsection B(3) below:

(a) Where there are two or more adjoining noncomplying lots in a subdivision approved by the Planning Board or filed in the office of the County Clerk more than three years prior to December 27, 2005, and which are held in the same ownership on December 27, 2005, said lots shall be deemed merged to create a single building lot.

(b) Where there are two or more adjoining noncomplying lots in a subdivision approved by the Planning Board and filed in the office of the County Clerk prior to December 27, 2005, but less than three years prior to December 27, 2005, and which are held in the same ownership on the effective date of this chapter, said lots shall be exempt from the lot size and other dimensional requirements of this chapter for a period of three years from the date of filing in the office of the County Clerk, but said lots shall be deemed merged to create a single building lot at the end of said three-year period.

(c) Where there are two or more adjoining noncomplying lots in a subdivision approved by the Planning Board and filed in the office of the County Clerk after December 27, 2005, but which are made noncomplying as to lot size or other dimensional requirement by any amendment of this chapter and which are held in the same ownership on the effective date of such amendments, said lots shall be exempt from the requirements of such amendment for a period of three years from the date of filing in the office of the County Clerk, but said lots shall be deemed merged to create a single building lot at the end of said three-year period.

(2) Where the Zoning Board of Appeals grants variances to all such merged lots so as to authorize such lots as valid building lots, the owner is not required to apply to the Planning Board to obtain subdivision approval of said merged lots.

(3) The provisions of Subsection B(1) above shall not apply to a subdivision which consists of three or fewer lots, one of which lots contains the existing residence of the subdivider.

C. A lot shall not be considered noncomplying with respect to the front yard requirement of this chapter if said condition is the result of a street right-of-way widening reservation or dedication, whether in fee or easement, required by the Planning Board at the time of subdivision or site development plan approval.

C. Where an existing residence or a proposed addition thereto does not comply with the side yard requirements of this chapter, the addition may be constructed without a variance, notwithstanding such noncompliance, provided that each side yard is at least 20 feet and the combined side yards dimension is at least 45 feet.

**§ 235-69. Additional considerations.**

*Zoning Code - Village of South Blooming Grove, NY*

- A. Repair and alterations. Normal maintenance and repair of a building or structure is permitted if it does not extend or enlarge the nonconforming use. No extension, alteration or enlargement shall be made in a building or structure occupied by a nonconforming use, nor in a nonconforming nonbuilding use, except:
- (1) When required pursuant to an order of a court of competent jurisdiction.
  - (2) To adapt the building or structure to a conforming use.
  - (3) In a building or structure occupied by a nonconforming use or in a nonconforming, nonbuilding use permitted to extend under Subsection D.
- B. Change of use. Any nonconforming use may be changed to any conforming use or, on application to and with the approval of the Board of Appeals, to any use which the Board of Appeals deems to be more similar in character with the uses permitted in the district in which said change of use is proposed. Any nonconforming use may be changed to a conforming use, even if the building or structure occupied by said use is noncomplying as to bulk; provided, however, that said change must be approved by the Zoning Board of Appeals and is subject to all other applicable requirements including site plan approval. No nonconforming uses, buildings or other structures, if once changed to conform with this chapter, shall thereafter be changed so as to be made nonconforming.
- C. Cessation of use. If active and continuous operations are not carried on in a nonconforming use during a continuous period of one year, the building or land where such nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operations shall not affect the foregoing. The time period set forth herein shall be tolled for any cessation of use caused by and pursuant to a court order.
- D. "Permitted extension or enlargement" shall mean:
- (1) In the case of a nonconforming use in a building, the enlargement or extension of such use within any existing building to any portion of the floor area therein not formerly used for such nonconforming use, but only where such additional floor area was manifestly designed for such use at the time such use became nonconforming.
  - (2) In the case of a nonconforming nonbuilding use, the use of any additional land on which no substantial operations were previously conducted, provided that any such extension or enlargement is on the same lot occupied by the nonconforming use on the effective date of this chapter; and, further, provided that such extension or enlargement is granted site development plan approval.
- E. Damage and destruction.
- (1) A building or structure occupied by a nonconforming use damaged by fire or other causes to the extent of at least 75% of last full value as shown in the records located in the Town Assessor's office, excluding the assessed valuation of the land thereof, shall not be repaired or rebuilt except in conformity with the requirements of this chapter. Any building, structure or any part thereof occupied by a nonconforming use which is damaged to an extent less than 75% of last full value as shown in the records located in the Town Assessor's office, excluding the assessed valuation of the land, may be repaired, provided that a building permit is obtained within one year after such damage; otherwise such building, structure or part thereof shall thereafter be occupied only by a conforming use and shall comply with the bulk requirements of this chapter.
  - (2) A noncomplying building or structure which is not used by a nonconforming or illegal use and which is damaged or destroyed may be reconstructed or repaired, provided that the reconstructed or repaired building or structure complies with all requirements of this chapter; or is no greater in size than the former building or structure and any deviations from the requirements of this chapter are varied by the Zoning Board of Appeals.
- F. Abandonment, neglect and dysfunctional use and/or original construction.
- (1) A building or structure occupied by a nonconforming use or having noncomplying bulk that has been allowed by abandonment or neglect or by nature of dysfunctional use and/or original construction that is

damaged to an extent less than 50% of last full value as shown in the records of the Town Assessor's office, or in the opinion of the Building Inspector has been damaged to an extent less than 50% of its replacement value based on current construction costs, may be repaired, subject to the following:

- (a) Adequate water and sewage disposal facilities conforming to current Orange County Health Department and Village of South Blooming Grove requirements shall be met;
  - (b) Vehicular access and circulation for residents, maintenance and emergency service vehicles shall be provided in accordance with Village standards;
  - (c) All bulk and use requirements of this chapter shall apply as determined by the Planning Board;
  - (d) All dwelling units shall be repaired in a manner meeting year round construction standards and in accordance with the NYS Fire Prevention and Building Code and occupancy requirements;
  - (e) In the event of future development or redevelopment of the property each repaired dwelling unit shall be considered a dwelling unit for purposes of establishing lot count for the entire property under consideration;
  - (f) Municipal fees related to year round occupancy shall be paid.
- (2) A building or structure occupied by a nonconforming use or having noncomplying bulk that has been allowed by abandonment or neglect or by nature of dysfunctional use and/or original construction that is damaged to an extent more than 50% of last full value as shown in the records of the Town Assessor's office, or in the opinion of the Building Inspector has been damaged to an extent more than 50% of its replacement value based on current construction costs, shall not be repaired. Any such building or structure shall be removed within six months of the effective date of this chapter or subsequent amendments thereto.

**§ 235-70. Unlawful uses.**

- A. No unlawful building or structure or unlawful use of a building or structure, lot or land existing at the effective date of this chapter shall be deemed to be a nonconforming building, structure or use.
- B. All buildings or structures or use of a building or structure, lot or land lawfully existing prior to the effective date of this chapter or subsequent amendments thereto which do not conform to the provisions of this chapter shall be the subject of an application filed within six months in the office of the Building Inspector so that their status as legal nonconforming uses may be established.

**§ 235-71. Nonconforming adult uses.**

Any adult use in lawful existence as of December 27, 2005 shall, within one year of such effective date, be either terminated or caused to comply with all provisions of this chapter. The owner of property containing such an adult use may apply to the Zoning Board of Appeals for an extension of said one-year amortization period for such additional time deemed necessary by the Zoning Board of Appeals for the adult use to recoup its expenditures. Failure to make such application to the Zoning Board of Appeals prior to expiration of the one-year period shall be deemed a waiver of this opportunity to seek an extension of the amortization period.

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**ARTICLE XVI**  
**Administration and Enforcement**

**§ 235-72. Designation of enforcement officials; powers and duties.**



This chapter shall be enforced by a Building Inspector, who shall be the Zoning Enforcement Officer, unless otherwise designated by the Village Board, and his/their duly designated agents (hereinafter collectively referred to as the "Building Inspector"). The Building Inspector is hereby empowered and authorized to:

- A. Act pursuant to and in accordance with all powers provided in Article 7 of the Village Law, and inspect any building, structure, lot or land to determine whether any violation of this chapter; Chapter 70, Building Code Administration and Fire Prevention, of this Code; the New York State Fire Prevention and Building Code; or any other state or local laws, rules or regulations within his jurisdiction has been committed or exists.
- B. Issue such permits and certificates in conformity with the laws, rules and regulations of the State of New York and of this chapter and refuse to issue the same in the event of noncompliance, which reason therefor shall be endorsed on the application and notice thereof given to the applicant, as is provided in this chapter.
- C. Keep the Village Board advised of all matters, as the Village Board shall determine, relating to the enforcement of this chapter and the appropriate laws, rules and regulations; make and keep all records necessary and appropriate to the office, including the issuance and denial of building permits, certificates of occupancy, formal complaints of violation and the action taken on same; and keep a record of all permits and certificates of occupancy issued that shall be available for public inspection.
- D. Issue and post notices of violation, stop orders and orders directing the remedying of any condition or omission that is or creates a violation of this chapter or other applicable laws, rules and regulations and revoke building permits, certificates or occupancy and certificates. \
- E. Make such inspections and reports as shall be required by the Village Board for the enforcement, amendment or addition to this chapter or rules and regulations thereunder.
- F. Apply to the Village Board for authorization to perform such other actions or duties as may be necessary or required to enforce any authority or to invoke any penalty for the violation of this chapter and its rules and regulations.
- G. Have the power, right and authority to issue an appearance ticket, as the same is defined in Article 150 of the Criminal Procedure Law of the State of New York, for the violation of any section of this chapter or of any order of the Building Inspector.

**§ 235-73. Granting of building permits and certificates of occupancy.**

No building permit or certificate of occupancy shall be issued unless the proposed construction or use is in conformance with all the provisions of this chapter and other applicable laws.

**§ 235-74. Violations of orders.**

Any person who shall violate any order of the Building Inspector, issued under this chapter, shall be deemed to have violated this chapter.

**§ 235-75. Building permit required.**

Prior issuance of a building permit is required for:

- A. Construction, reconstruction, erection, moving, demolition or structural alteration of any building or structure.
- B. Any change in the bulk of a building, structure or nonbuilding use, but not including ordinary repairs which are not structural in nature.

**§ 235-76. Application procedure.**

A. Application for a building permit shall be made to the Building Inspector, on forms provided by him/her, and shall contain the following information and shall be accompanied with the following documents and material as may be required by the Building Inspector.

Zoning Code - Village of South Blooming Grove, NY

- (1) Each application shall contain the following information:
    - (a) A description, agreeing with the Tax Map of the Village of South Blooming Grove, of the land on which the proposed work is to be done.
    - (b) A statement of the use or occupancy of all parts of the land and of the building or structure.
    - (c) The valuation of the proposed work.
    - (d) The full name and address of the owner and of the applicant, including the names and addresses of each officer and director of any corporation as is deemed necessary.
    - (e) A brief description of the nature of the proposed work.
  - (2) Each application for a building permit shall be accompanied by plans and specifications, including plot plans as required, drawn to scale, showing the location and size of all proposed new construction and all existing structures on the site; the nature and character of the work to be performed and the materials to be incorporated; distance from plot lines; widths and grades of adjoining streets; walks and alleys and, where required by the Building Inspector, details of structural, mechanical and electrical work, including computations, stress diagrams and other technical data. Plans and specifications shall bear the signature of the person responsible for the design and drawings and, if construction is over \$10,000 in value, the architect's or engineer's original signature and New York State license number.
  - (3) Application shall be made by the owner or lessee, or agent of either, or by the architect, engineer or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner or applicant that the proposed work is authorized by the owner, and that the applicant is authorized to make such application.
  - (4) Any amendment to the application or to the plans and specifications accompanying the same must be filed and approved by the Building Inspector prior to the completion of the work, and such amendments shall comply with the provisions of this chapter. The refusal of such an amendment by the Building Inspector shall be in writing.
  - (5) Every application for a building permit pursuant to this chapter shall be accompanied by payment of a fee in accordance with the Standard Schedule of Fees. *Editor's Note: The Standard Schedule of Fees is on file in the Village offices.*
- B. The Building Inspector shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. He/she may obtain a determination from the Codes Division of any and all applications requiring the same. He/she shall approve or disapprove of the application within one week from the receipt of the completed application accompanied by all appropriate documents and fees or within one week from the receipt of a determination from the Codes Division.
- (1) Upon approval of the application, the Building Inspector shall issue a permit upon the form prescribed by him/her and shall affix his/her signature or cause his/her signature to be affixed thereto and endorse the plans and specifications to show approval.
  - (2) If the application is disapproved by the Building Inspector, he/she shall state the reasons, in writing, and return by certified mail, return receipt requested, the plans and specifications with the written reasons to the applicant and otherwise comply with Subsection A(4) and file each disapproval in the office of the Building Inspector.
- D. One set of such approved plans and specifications shall be retained in the files of the Building Inspector for such time as shall be mandated by state law, but not less than two years. The applicant shall, at all times, keep one set of the approved plans and specifications, together with the building permit, at the building site and open to inspection by the Building Inspector at all reasonable times.

**§ 235-77. Expiration of permits.**

- A. Every building permit shall expire at the end of one year from the date of its issuance and shall be void and of no effect, subject to the extension provision of Subsections B and C of this section.
- B. If construction has been commenced within one year from the issuance of the building permit, but has not been completed, the permit holder may apply to the Building Inspector for one extension not to exceed one year measured from the expiration date of the permit, which extension shall be granted by the Building Inspector upon payment of 1/2 of the building permit fee initially required and provided that construction to date conforms to the approved plans and specifications. No more than one extension shall be permitted.
- C. If construction has not commenced prior to the expiration date of the permit, the permit holder may apply to the Zoning Board of Appeals for one extension not to exceed one year measured from the expiration of the permit upon payment of 1/2 of the building permit fee initially required, plus such other fee or fees as required for application to the Zoning Board of Appeals. A total of no more than one extension by the Building Inspector and the Zoning Board of Appeals shall be permitted.
- E. If a permit has become void, a new building permit application must be completed and filed with the Building Inspector pursuant to the provisions in § 235-76 before a new permit may be issued to allow commencement or continuance of any work.

**§ 235-78. Revocation of permits.**

The Building Inspector may revoke a building permit in any of the following circumstances, subject to the procedures set forth in § 235-83:

- A. That there has been a false statement or misrepresentation as to a material fact in the application, plans, specifications or other accompanying documents upon which the building permit was based.
- B. That the building permit was issued in error and should not have been issued in accordance with the applicable laws.
- C. That the holder or the applicant has failed to meet the requirements of an approved site development plan or subdivision plat or requirements of a special permit granted by the Village Board or Board of Appeals or the requirements of a conditional use approved by the Planning Board.
- D. That the work being performed under the permit is not in accordance with the provision of the application, the permit, the plans or specifications.
- E. That the holder of the permit has failed or refused to comply with a stop order issued by the Building Inspector under § 235-79.

**§ 235-79. Stop-work orders.**

The Building Inspector may issue a stop-work order, subject to the procedures set forth in § 235-83, under the following circumstances:

- A. Whenever the Building Inspector shall determine that work on any building or structure is being or has been conducted in violation of any of the provisions of the New York State Fire Prevention and Building Code, State, Federal, County or Village laws, rules and regulations or has failed to meet or violates any requirement of any approved site plan, subdivision plan, special permit, conditional use permit or any permit granted pursuant to a variance, including, but not limited to, the required drainage, grade or elevation plans, sewer and septic plans, approved road profile plans and such other plans or specifications upon which a building permit was issued or that any work is being conducted in a dangerous or unsafe manner, then the Building Inspector shall notify the owner of the property or the owner's agent or the person performing the work to suspend and halt work.

- B. Such direction by the Building Inspector (a stop-work order) shall be in writing and delivered to the owner or the owner's agent or the person performing the work or affixed to any part of said structure.
- C. Such stop-work order shall state the reasons therefor and the conditions under which the work may be resumed.
- D. Should work continue in violation of the stop-work order, the Building Inspector may, without further notice, revoke the building permit and, if there is a certificate of occupancy, revoke the same.

**§ 235-80. Certificates of occupancy.**

- A. No building or structure shall be used or occupied, in whole or in part, unless or until a certificate of occupancy is issued by the Building Inspector and then only in conformity with said certificate.
- B. Temporary certificate of occupancy. A temporary certificate of occupancy may be issued for a period of 90 days, and extended, upon request, for not more than three additional ninety-day periods, for a building, structure or part thereof where the entire work is not completed; provided, however, that such portion or portions of the building or structure for which the certificate is issued may be occupied safely; and, further, provided that the property owner agrees to post a cash deposit with the Village in an amount recommended by the Planning Board and approved by the Village Board to secure the timely completion of the uncompleted work.
- C. No change shall be made in the use or occupancy of a building or structure unless a certificate of occupancy authorizing the change of use shall have been issued. A change in use or occupancy shall include, but not be limited to, a change in or of the type, class, nature or scope of the goods, services or operation. No certificate of occupancy authorizing a change in use of any building or structure other than a single- or two-family dwelling or permitted use accessory thereto may be issued until after the Planning Board has granted site plan approval.

**§ 235-81. Issuance of certificates of occupancy.**

- A. A certificate of occupancy shall be deemed to authorize and is required for both initial and continued occupancy and use of the building or land to which it applies, for the purposes therein stated.
- B. Before issuing a certificate:
  - (1) The owner or his/her agent shall make application for a certificate of occupancy. Accompanying this application, and before the issuance of a certificate of occupancy, there shall be filed with the Building Inspector an affidavit of the owner or the registered architect or licensed professional engineer who filed the original plans or of the registered architect or licensed professional engineer who supervised the construction of the work or of the superintendent of construction who supervised the work and who, by reason of his/her experience, is qualified to superintend the work for which the certificate of occupancy is sought. This affidavit shall state that the deponent has examined the approved plans of the structure for which a certificate of occupancy is sought and that the structure has been erected in accordance with approved plans and, as erected, complies with this chapter and these regulations and the requirements of any approved subdivision, plat or site plan, except insofar as variations therefrom have been legally authorized. Such variations shall be specified in the affidavit.
  - (2) The Building Inspector shall examine or cause to be examined all buildings, structures and sites for which the application has been filed.
- C. If the Building Inspector shall determine that the improvement, construction, etc., was made in conformity with the building permit, he/she shall issue a certificate of occupancy as the case may be.

**§ 235-82. Revocation of certificates of occupancy.**

If, after the issuance of a certificate of occupancy, the Building Inspector shall determine that there has been a violation of § 235-81 or that there has been a violation or set of circumstances which would authorize the revocation of a building permit pursuant to § 235-78 or 235-79, the Building Inspector may revoke the certificate of occupancy that had been issued.

**§ 235-83. Due process hearing.**

- A. No order of the Building Inspector, except as otherwise set forth in Subsection B, to revoke a permit or certificate of occupancy or to stop work shall become final until the property owner has been provided notice and an opportunity for a hearing before the Village Board. The property owner shall be provided written notice of the violation(s) or other circumstance(s) which give rise to a permit or certificate revocation or stop-work order. Said notice shall provide the property owner with the opportunity to be heard, with or without an attorney or other representative, before the Village Board to provide facts, information and reasons that a final order to revoke a permit or certificate or to stop work should not be made. The Village Board shall either affirm, affirm with modifications, or reverse the Building Inspector's order.
- B. If, in the Building Inspector's opinion, an order to revoke a permit or certificate or to stop work must become final immediately or at a time prior to the Village Board hearing in order to safeguard the public health, safety or welfare, then the Building Inspector shall provide reasons in writing for his/her opinion and the order shall become final on the date set forth in the notice provided to the permit holder. A hearing to review said final order shall be held by the Village Board as soon as possible after the order is made as provided herein.
- C. All notices provided pursuant to this section shall be delivered to a responsible person at the property or affixed to the property, and mailed by certified mail, return receipt requested, to the last known address of the permit holder.

**§ 235-84. Penalties for offenses.**

- A. Any person who shall violate any provision of this chapter or who shall build or alter any structure or use of land in violation of any statement or plan submitted and approved hereunder or who shall knowingly assist therein shall be punishable by a fine not to exceed \$350 or imprisonment for a period not to exceed 15 days, or both, for a conviction of a first offense; for a conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed 15 days, or both; and upon conviction of a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate additional violation. In addition to the foregoing provisions, the Village shall have such other remedies for any violation or threatened violation of this chapter as is now or may hereafter be provided by law.
- B. Civil penalties.
  - (1) In addition to and not in lieu of the above, any person who violates any provision of this chapter or who builds or alters any structure or use of land in violation of any statement or plan submitted and approved hereunder or who assists therein shall be liable to the Village for a civil penalty in an amount not to exceed \$350 for a first violation; in an amount not less than \$350 nor more than \$700 for a second violation committed within a period of five years of the first violation; and in an amount of not less than \$700 nor more than \$1,000 for a third and each subsequent violation committed within a period of five years of the first violation. Each week's continued violation shall constitute a separate additional violation.
  - (2) Civil penalties may be ordered in any action or proceeding by any court of competent jurisdiction, including but not limited to state and federal courts. All penalties shall be paid to the Village.
  - (3) The judgment amount of any civil penalty ordered pursuant to this section, if not paid, may be assessed and levied against the real property which is the subject of the penalty and collected in the same manner

as a real property tax.

C. In addition to and not in lieu of the remedies authorized above, the Village Board or the Enforcement Officer may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation or threatened violation of this chapter or to enforce any provision of this chapter.

**§ 235-85. Prosecution under statutory provisions.**

Nothing contained herein shall be deemed to limit or prevent prosecution pursuant to the Multiple Residence Law or the Executive Law of the State of New York.

**§ 235-86. Appeals from decisions of Building Inspector.**

Whenever the Building Inspector, in his/her capacity as Zoning Enforcement Officer, shall approve or disapprove, act or fail to act or otherwise perform any of his duties and render a decision thereon, such decision shall be reviewable by appeal to the Zoning Board of Appeals. Such appeal shall be taken not more than 60 days after the filing of the decision of the Building Inspector. No appeals shall be heard by the Board of Appeals if not applied for within 60 days after the mailing to the applicant of the Building Inspector's decision, and any appeal or challenge to the Building Inspector's determination is precluded.

**§ 235-87. Approval of site development plans prior to issuance of building permit.**

Where a site development plan is required by this chapter, no building permits shall be issued for any buildings or structures on the site until the site development plan has been approved in accordance with Article XI of this chapter.

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**ARTICLE XVII**  
**Zoning Board of Appeals**

**§ 235-88. Creation, appointment and organization.**

A Board of Appeals of five members is hereby established. The first appointments shall be for terms so fixed that one shall expire annually and succeeding appointments shall be for five-year terms. The Village Board shall designate the Chairman from the membership of the Board of Appeals.

**§ 235-89. Powers and duties.**

The Zoning Board of Appeals (hereinafter called "Board of Appeals") shall have all the powers and duties prescribed by statute and by this chapter, which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of the Board that is conferred by law:

- A. Appeals. The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination of the Building Inspector, when acting in his/her capacity as Zoning Enforcement Officer, or such other official charged with enforcement of this chapter. The Board of Appeals may not waive the requirements for site development plan application as required in any part of this chapter.
- B. Interpretation. On an appeal from an order, requirement, decision or determination made by an administrative official or by the Building Inspector, the Board of Appeals may decide any of the following questions:
  - (1) Determination of the meaning of any portion of the text of this chapter or of any condition or requirement specified or made under the provisions of this chapter.
  - (2) Determination of the exact location of any district boundary shown on the Zoning Map.
- C. Variances. On appeal from an order, requirement, decision, interpretation or determination made by the Building Inspector, acting in his/her capacity as Zoning Enforcement Officer, or on referral of an applicant to the Board of Appeals by an approving agency acting pursuant to this chapter, the Board of Appeals is authorized, after public notice and hearing, to vary or modify the strict letter of this chapter, where its literal interpretation would cause practical difficulties or unnecessary hardships, as defined in this section, in such manner as to observe the spirit of this chapter, secure public safety and welfare and to do substantial justice. Variances, once granted, shall be construed to run with the particular site or lot and not with the applicant. Any such appeal shall be taken within 60 days after the date of the filing of the order, requirement, decision, interpretation or determination of the Building Inspector by filing an application in the office of the Zoning Board of Appeals and with the Building Inspector.
  - (1) Bulk variances. Where, because of practical difficulty, an applicant requests a variance of the bulk requirements of this chapter, the Board of Appeals may grant a variance in the application of the provisions of this chapter in the specific case, provided that, as a condition to the grant of any such variance, the Board of Appeals shall make a specific finding that the application of the requirements of this chapter to the land in question creates such practical difficulty. In making this determination, the Board of Appeals shall make the following findings:
    - (a) That the variance is not substantial in relation to the requirement and to other factors set forth below.
    - (b) That the effect of any increased population density which may thus be produced upon available services and facilities is not significant.
    - (c) That a substantial change in the character of the neighborhood or a substantial detriment to adjoining properties will not be created.
    - (d) That the difficulty cannot be alleviated by some method feasible for the applicant to pursue other than a variance or that a lesser variance cannot alleviate the difficulty.
    - (e) That, in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance.
    - (f) That the variance would not cause adverse aesthetic, environmental or ecological impacts on the property or on surrounding areas and would not harm the general health, safety or welfare.
    - (g) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the bulk variance.

- (2) Use variances. To alleviate unnecessary hardship as hereafter described, the Board of Appeals may grant a variance of the application of the provisions of this chapter in a specific case to allow a use otherwise prohibited in the zoning district in which the property is located, provided that, as a condition to the grant of any such variance, the Board of Appeals shall make the following findings:
- (a) After considering all permitted uses, specially permitted uses and conditional uses allowed in the zoning district and based on documented dollars-and-cents evidence submitted in the record by the applicant that the property in question cannot reasonably be used or yield a reasonable return if used only for a purpose allowed in that district.
  - (b) That the plight of the owner is due to unique circumstances affecting the property which is the subject of the application and not to general conditions in the neighborhood or to personal hardship, plight or desires of the property owners.
  - (c) That the use to be authorized by the variance will not alter the essential character of the locality.
  - (d) That the use to be authorized by the variance is in reasonable harmony with the intent of this chapter.
  - (e) That the unnecessary hardship claimed as a ground for the variance has not been created by the owner or by a predecessor in title; purchase of the lands subject to the restriction sought to be varied may constitute a self-created hardship.
  - (f) That within the intent and purpose of this chapter, the variance, if granted, is the minimum variance necessary to afford relief. To this end, the Board of Appeals may permit a lesser variance than that applied for.
- (3) Burden of proof. The applicant shall prove that strict application of the zoning law creates practical difficulty or unnecessary hardship. In the event that said practical difficulty or unnecessary hardship is proven, the Board of Appeals shall show that the subject zoning provision serves a legitimate public purpose. The burden shall then shift to the applicant to demonstrate that granting the variance will not adversely affect the public health, safety or welfare.

D. Extensions across district boundaries. In appropriate cases where a lot lies within two districts, the Board of Appeals may permit the extension of existing or proposed permitted accessory off-street parking spaces across a district boundary, under such conditions as will safeguard the character of the district into which such use is extended. However, no such extension shall exceed 75 feet, measured at right angles to such district boundary. The power under this subsection shall not permit the moving of the zoning district line but only the extension of the accessory off-street parking space.

E. (Reserved)

F. The Board of Appeals shall hear and decide any other permit application as authorized by local law.

G. The Board of Appeals, after a public hearing, shall have the power to direct the Building Inspector to issue a building permit or certificate of occupancy, as the case may be, subject to the other applicable laws, codes, rules and regulations.

### **§ 235-90. Rules of procedure.**

- A. The Board of Appeals may adopt rules and regulations with respect to procedure before it and with respect to any subject matter over which it has jurisdiction. Such regulations shall include provisions for conduct of meetings, notification of parties, form of applications and filing of decisions.
- B. Every decision of the Board of Appeals shall be recorded in accordance with a standard format adopted by such Board, shall fully set forth the circumstances of the case and shall contain a record of the finding on which the decision is based. Every decision of said Board of Appeals shall be by resolution, and each such resolution shall be filed in the offices of the Village Clerk and Building Inspector by case number.



- C. All appeals and applications made to the Board of Appeals shall be in writing and shall be accompanied by a fee as determined in the Standard Schedule of Fees, as may be adopted from time to time by resolution of the Village Board. *Editor's Note: The Standard Schedule of Fees is on file in the Village offices.*
- D. No decision by the Board of Appeals shall be made until after a public hearing. Written notice of said hearing shall be published in the official newspaper and posted at Village Hall, and sent by the applicant, at his expense by certified mail, return receipt requested, to all known owners of property located within 500 feet of each boundary of the subject property at least five days prior to the date of the hearing. Such other notice as required by Article 12-B of the General Municipal Law, Article 8 of the Environmental Conservation Law and other applicable laws shall also be given. The public hearing shall be held within 62 days after the Board's first regular meeting following receipt of the application, and the Board shall make a decision within 62 days after close of the public hearing.

**§ 235-91. Expiration of variance or permit approvals.**

Any approval of a variance or permit granted by the Board of Appeals shall expire if application for a building permit or certificate of occupancy pursuant to such approval is not made within six months of the date of approval or if construction or occupancy pursuant thereto is not completed within 18 months of the date of the approval. The date of approval shall be the date that the Zoning Board's decision is filed in the Village Clerk's office. Compliance with conditions attached to an approval shall not affect the date of approval. Extensions of such time periods may be granted by the Zoning Board of Appeals upon application of the property owner prior to the date of expiration. Any approval which has not been so acted upon or extended shall be void.

**§ 235-92. Review of Board of Appeals determinations.**

Any person aggrieved by any decision of the Board of Appeals hereunder may, within 30 days of the filing of the decision with the office of the Village Clerk, seek judicial review pursuant to Article 78 of the Civil Practice Law and Rules.

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## **ARTICLE XVIII**

### **Village Board Special Permits**

**§ 235-93. General provisions.**

- A. Pursuant to the provisions of the Municipal Home Rule Law, the Village Board reserves the approval authority for special permits for uses identified as such in the Use Table and for any other use not specifically prohibited by this chapter. Such uses represent such diverse benefits and impacts on local land uses as to preclude specific descriptions and standards for their approval. The Village Board, in considering any application for a special permit hereunder, shall exercise such discretion reserved for legislative matters so as to ensure that the public health, welfare and safety are protected and the environmental and land use resources of the Village are most efficiently utilized. *Editor's Note: The Table of General Use Requirements is located at the end of this chapter.*
- B. Applications for special permits pursuant to this article shall be upon forms prescribed by the Village Board

and shall contain the information required in the rules and regulations adopted pursuant to this chapter.

- C. Fees for special permit applications and for appeals before the Village Board shall be in accordance with the Standard Schedule of Fees of the Village. *Editor's Note: The Standard Schedule of Fees is on file in the Village offices.*

**§ 235-94. Application procedure.**

- A. An applicant for a special permit shall, simultaneously with the filing of an application with the Village Board, file an application for site development plan approval with the Planning Board, together with appropriate plans, drawings and fee for site development plan review. Thereafter, and before the Village Board shall give any consideration to or review the application for such special permit, the Planning Board shall review the application for the purpose of site development plan review in light of the general considerations and specific standards herein for special permits. Thereafter, the Planning Board shall transmit its recommendations to the Village Board within 60 days after the date of the first regular Planning Board meeting following receipt of the application for the site development plan. The application filed with the Village Board shall not be deemed complete until the Village Board receives the Planning Board's report.
- B. The Village Board, within 62 days after receipt of the Planning Board's report, shall conduct a public hearing on the application. Written notice of said hearing shall be published in the official newspaper and posted at Village Hall, and sent by the applicant, at his expense by certified mail, return receipt requested, to all known owners of property located within 500 feet of each boundary of the subject property at least five days prior to the date of the hearing. Such other notice as required by Article 12-B of the General Municipal Law, Article 8 of the Environmental Conservation Law and other applicable laws shall also be given.
- C. The Village Board, in approving any special permit hereunder, shall require conformance to any supplementary requirements applying to such uses generally and may establish such other conditions or limitations upon the use, or characteristics of the use, which are reasonably related to the public health, safety and general welfare and as may be necessary to carry out the intent of this chapter. The decision of the Village Board shall be made within 62 days after the close of the public hearing and filed in the office of the Village Clerk, and a copy thereof mailed to the applicant. Thereafter, the applicant will proceed with site development plan approval before the Planning Board.
- D. Unless specifically authorized in the decision of the Village Board, no requirement or conditions of such special permit shall be subject to appeal before the Board of Appeals.
- E. Requirements or conditions imposed by this chapter for any special permit use shall not be waived or reduced by the Village Board and shall be considered to be the minimum requirements for any authorization hereunder, except that the Village Board may authorize further application and action by the Board of Appeals. Special permits shall be deemed to be indefinite authorization unless otherwise specified in the approval thereof, but in any case shall expire within 18 months of the date of approval, unless a building permit has been issued for the special permit use. Such period may be extended on separate application to the Village Board.
- F. The grant of special permits for the uses indicated may be conditioned on periodic renewal, which renewal shall be granted following application, public notice and hearing and may be withheld upon determination that conditions as may have been identified in the original grant requiring that the use be of temporary duration now necessitate cessation of such use; or imposition of additional or supplemental safeguards or conditions; or that the original conditions as may have been prescribed for such special permit have not been or are not being complied with, wholly or in part. Notice(s) of violation shall be a prima facie evidence of lack of conformity to such standards or conditions.

**§ 235-95. Appeals of Village Board determinations.**

Any person aggrieved by any decision of the Village Board hereunder may, within 30 days of the filing of the decision in the office of the Village Clerk, seek judicial review.

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## **ARTICLE XIX**

### **Amendments**

#### **§ 235-96. Referral to Village Planning Board.**

This chapter or any part thereof may be amended, supplemented or repealed from time to time by the Village Board, on its own motion or upon recommendation by the Planning Board or by petition. Prior to a public hearing, every such proposed amendment shall be referred by the Village Board to the Village Planning Board for a report, unless the proposed amendment was initiated by the Village Planning Board. The Village Board shall not take action on any such amendment without such report from the Village Planning Board unless the Planning Board fails for any reason to render such report within 60 days following the date of the first regular Planning Board meeting following such referral. The Village Board may, on request of the Planning Board, extend the time to respond to allow time for supporting material to be provided and reviewed.

#### **§ 235-97. Amendments on petitions.**

Petitions to amend this chapter shall be in writing and shall contain a description of the property affected, together with such other information as the Village Board shall require. Such petitions shall include the names and addresses of all owners of real property within 500 feet of the property affected or any other contiguous property of a petitioner in the same ownership. All petitions for amendment of this chapter, excepting those submitted by the Planning Board or on motion of the Village Board, shall be accompanied by a fee in accordance with the Standard Schedule of Fees of the Village. *Editor's Note: The Standard Schedule of Fees is on file in the Village offices.*

**§ 235-98. Public hearing; notice of hearing.**

The Village Board shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given as provided by law.

**§ 235-99. Notification.**

If any proposed amendment consists of or includes either of the following conditions, the Village Clerk shall transmit to the appropriate municipal office or official a copy of the official notice of the hearing not later than 10 days prior to the date of hearing:

- A. Any change in the boundaries of any district, which change would occur within a distance of 500 feet of the boundary of any Village or Town or a State or County road.
- B. Any change in the regulations prescribed for any district, any portion of which is located within 500 feet of the boundary of any Village or Town or a State or County road.

**§ 235-100. Referral to County Planning Department.**

If any proposed amendment consists of or includes any of the following conditions, the Village Clerk shall, prior to final action, refer the proposed amendment to the Orange County Department of Planning.

- A. Any change in the district classification of or the requirements applying to real property within 500 feet of:
  - (1) The boundary of any Village or Town..
  - (2) The boundary of any State or County park or other recreation area.
  - (3) The right-of-way of any State parkway, thruway, road or other controlled access highway or County road or parkway.
  - (4) The right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines.
  - (5) The boundary of any County- or State-owned land on which a public building or institution is located.

**§ 235-101. Procedure in event of protest.**

In the case of a protest against any amendment, such amendment shall not become effective except in accordance with the appropriate provisions of the Village Law.

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**ARTICLE XX**  
**Interpretation; Rules and Regulations**

**§ 235-102. Construal of provisions.**

In their interpretation and application, the provisions of this chapter shall be held to be the minimum adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except where specifically provided to the contrary, it is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of buildings, structures, shelter or premises. Nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of a building or premises or requires larger open space than are imposed or required by any other statute, local law, rule, regulation or permit or by any easement or agreement, the provisions of this chapter shall control.

**§ 235-103. Establishment of rules and regulations.**

*Zoning Code - Village of South Blooming Grove, NY*

- A. Establishment. The Village Board, Planning Board, Board of Appeals, Architectural Review Board and any other agency or board affected by this chapter shall have the power to adopt rules and regulations subject to the provisions hereinbefore contained.
- B. Any board may promulgate or propose rules and regulations either in the conduct of its affairs or as supplementary to this chapter.
- C. Adoption. The rules or regulations intended to be adopted shall first be promulgated by the board or commission. Upon approval of a majority of its members, the same shall be transmitted by the Village Clerk, who shall include the same on a Village Board agenda within 60 days after receipt.
- D. The Village Board shall, in its regular public session, approve, disapprove, modify or alter such or any portion of the proposed regulation, and, when adopted by resolution of the Village Board after public hearing, the same shall constitute a regulation of the promulgating board.
- E. Amendments to any rule or regulation promulgated by a board and adopted by resolution of the Village Board may be amended or rescinded by resolution of the Village Board, with or without the concurrence of the promulgating board.
- F. Violations. Violation of the requirement of any rule or regulation shall be a violation of this article, and such violation shall constitute a violation of this chapter.