



VILLAGE OF FORT EDWARD

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BOARD OF TRUSTEES

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ZONING LAW OF THE VILLAGE OF FORT EDWARD

Adopted by the Board of Trustees

____, 2016

As Local Law __ of 2016

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF FORT EDWARD AS FOLLOWS:

ARTICLE I

General Provisions.

§100-1-1 Title.

The title of this chapter is the "Zoning Law of the Village of Fort Edward," and it shall include the text and the official Village of Fort Edward Zoning Map.

§100-1-2 Purposes.

The purposes of this chapter are to provide for orderly growth and change within the Village of Fort Edward and to provide for the health, safety and general welfare of existing and future residents. Further, this chapter is intended to implement the recommendations made in the Village of Fort Edward Master Plan, dated 2006, as amended and supplemented by further actions of the Board of Trustees and policies adopted by the Board of Trustees.

§100-1-3 Regulated activities.

- A. A land use permit shall be required for any of the following actions:
 - 1. Construction of a new building or structure 100 square feet or larger in ground coverage.
 - 2. Enlargement of an existing building or structure.
 - 3. Change in the use of a building or of land.
 - 4. The placement of signs over three square feet in area.
 - 5. Any excavating, grading, fill or construction.
- B. The following activities do not require a land use permit but must meet any other applicable requirements of this Chapter:
 - 1. The construction or enlargement of buildings or structures within applicable area limitations under this Chapter and with less than 100 square feet of ground coverage.
 - 2. The placement of signs up to and including three square feet.
 - 3. The replacement, in kind and in the same location, of porches, decks, patios and garages.
- C. The following activities are not regulated by this chapter and do not require a land use permit:
 - 1. Interior structural alterations or routine maintenance and improvement which does not expand the exterior dimensions of a structure.
 - 2. The erection of chimneys on residential structures.
 - 3. Land uses by the Village of Fort Edward.

§100-1-4 Effect on other provisions.

This Chapter shall supplement all other provisions of the Code of the Village of Fort Edward. In the event of a conflict between the provisions of this Chapter and any other Chapter of the Code of the Village of Fort Edward, the provisions of this Chapter shall control.

ARTICLE II

Definitions.

Except where specifically defined herein, all words used in this chapter shall carry their customary meaning. Doubt as to the precise meaning of a word shall be clarified by the Board of Appeals under its powers of interpretation.

ACCESSORY STRUCTURE-- A building or structure which is of secondary importance to the principal structure of the parcel and which is not used for human occupancy, including but not limited to garages, sheds and swimming pools. Where an accessory structure is attached to the main structure in a substantial manner, as by a wall or roof, such accessory structure shall be considered part of the main structure.

ACCESSORY USE-- A use customarily incidental and subordinate to the principal use, and which is located on the same parcel with such principal use.

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

ADULT BOOKSTORE or ADULT VIDEO STORE-- A commercial establishment which offers for sale or rental for any form of consideration any one or more of the following:

- a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which depict or describe specified adult activities.
- b. Instruments, devices or paraphernalia which are primarily intended, labeled, designed, advertised or promoted for use in connection with specified adult activities

ADULT CABARET-- A nightclub, bar, restaurant or similar commercial establishment which regularly features:

- a. Persons who appear in a state of nudity; or Live performances which are characterized by the exposure of specified anatomical areas or by specified adult activities; or
- b. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified adult activities or specified anatomical areas.

ADULT ENTERTAINMENT BUSINESS-- A public or private establishment, or any part thereof, which presents any of the following entertainments, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages; service or entertainment where the servers or entertainers wear pasties or G-strings or both; adult arcade; adult bookstore or adult video stores; adult arcade; adult cabarets; adult motels; adult motion-picture theaters; adult theaters; nude model studios and sexual encounter centers.

ADULT MOTEL-- A hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration, provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified adult activities or specified anatomical areas and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions.

ADULT MOTION-PICTURE THEATER-- A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified adult activities or specified anatomical areas.

ADULT THEATER -- A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified adult activities.

ADVERTISING SIGN-- A sign which is intended primarily for advertising a service or product.

AGRICULTURE-- The raising of crops, animals or animal products and the selling of products grown on premises.

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

ASSEMBLY HALL-- A center, excluding game rooms, game centers, or bars, taverns or nightclubs, as defined herein, in which people assemble, where the purposes of assembly are

amusement, entertainment, education, recreation, socialization, relaxation, association or communication, or any similar purpose or purposes. Such establishment may serve beverages or allow their consumption on the premises as accessory to the primary assembly use.

ATTACHED GARAGE-- An accessory building or structure to a residential use, which is physically attached to such residential use and is used primarily for storage of no more than three automobiles, provided that such garage may be used to shelter only one commercial vehicle, but in no event shall such commercial vehicle exceed 1 1/2 tons' capacity. A private garage never holds businesses, occupations or services for profit.

AUTO SALES-- Any area of land, including structures thereon, that is used for the retail sale of motor vehicles and accessories which may or may not include auto body/repair shop services.

AUTO SERVICE-- Any building, premises and/or land in which or upon which the primary use is a business which involves the service, maintenance or repair of automobiles, and other small vehicles under 2 1/2 tons and motors, including the repair of the body or frame of an automobile, including painting, straightening, sanding and welding, within an enclosed structure and in which the sale of materials is clearly incidental to the primary use.

BANK-- An institution which deals in money and credit, and in which money and/or other valuables may be deposited for safekeeping.

BED AND BREAKFAST-- An owner-occupied private single-family home with common dining and leisure rooms and lodging rooms for overnight accommodation, the rates for which include breakfast and lodging only, and in which no public restaurant is maintained and no other commercial services are offered. The bed-and-breakfast establishment shall have not more than 10 occupants as lodgers in at least three and not more than five rooms.

BOARD OF APPEALS-- The Village of Fort Edward Zoning Board of Appeals appointed for purposes of administering this chapter.

BUILDING-- Shelter having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or property.

BUILDING COVERAGE-- That percentage of the plot or lot area covered by the area of buildings.

BUILDING SUPPLY-- A building designed and occupied for a business that sells to third parties materials used in commercial and residential structures.

CAMPGROUND-- Any parcel of land on which are located two or more cabins, tent sites, shelters, travel trailer sites or other accommodations of a design or character suitable for seasonal or other temporary living purposes, and which is used for economic gain.

CLUB-- Any organization catering to members and their guests, or premises and buildings for recreational or athletic purposes and not open to the general public, which are not conducted primarily for economic gain. The term "club" shall include lodges, fraternal organizations, mutual benefits societies and other like organizations. A hunting lodge shall not be considered a club.

CODE ENFORCEMENT OFFICER-- The official designated to administer and enforce this chapter.

COMMERCIAL USE-- Any use involving the sale, rental or distribution of goods or services, either retail or wholesale, such as stores, offices or the provision of recreational facilities for a fee.

COMMERCIAL WASTE-- Solid waste generated by commercial and institutional processes which is not industrial, hazardous or construction and demolition debris waste.

CONSTRUCTION AND DEMOLITION DEBRIS-- Solid waste resulting from the construction, remodeling, repair and demolition of structures and roads and solid waste consisting of vegetation resulting from land clearing and grubbing, utility line maintenance and seasonal and storm related cleanup. Such waste includes but is not limited to bricks, concrete and other masonry materials, wood, wall coverings, plaster, drywall, plumbing fixtures, insulation, roofing shingles, asphaltic pavement, glass, electrical wiring and metals that are incidental to any of the above.

CONSTRUCTION COMPANY-- Businesses related to the construction trade, including but not limited to paving companies, bricklayers, septic tank cleaning companies, well drillers, installation and building companies and similar businesses where machinery, equipment, supplies and materials are stored and maintained for use or installation at another location.

DAY-CARE CENTER-- A use where professional child day-care services are offered for six or more children depending on age, for more than three hours a day but fewer than 24 hours a day, that is operated as a principal or accessory use by an individual, organization or agency as licensed or regulated by the applicable New York State agencies.

DAY-CARE HOME-- A dwelling unit use licensed by and in compliance with the New York State Department of Social Services or other applicable state regulations wherein child day-care

services are provided. Such day-care homes shall include family day-care homes and group-family day-care homes.

DETACHED GARAGE-- An accessory building or structure to a residential use, which is not physically attached to such residential use and is used primarily for storage of no more than three automobiles, provided that such garage may be used to shelter only one commercial vehicle, but in no event shall such commercial vehicle exceed 1 1/2 tons' capacity. A private garage never holds businesses, occupations or services for profit.

DIRECTIONAL SIGN-- A nonilluminated sign intended primarily for the purpose of informing the traveling public where a business is located and what products or services are available there.

DISPOSAL-- A material is disposed of if it is discharged, deposited, injected, dumped, spilled, leaked, burned, incinerated or placed into any or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into groundwater or surface water.

DISTRIBUTION FACILITIES-- A facility used to store and dispense products or articles to another location. The definition includes a freight or trucking terminal.

DUPLEX-- A building designed for, or occupied by, no more than two families living independently of one another, to include row-type attached or semiattached dwellings limited to two dwelling units and which share a common wall or portion thereof.

DWELLING-- A building or part thereof used as living quarters. For purposes of this chapter, the terms "dwelling unit," "one-family dwelling," "two-family dwelling" and "multifamily dwelling" shall not include a motel, hotel, boardinghouse or tourist home.

DWELLING UNIT-- A building or part thereof used as living quarters for one family, containing independent cooking and sleeping facilities.

ELECTRIC POWER FACILITY- A facility designed and used to generate electricity, including a stand alone Solar Energy System, but not including any operation that burns any material, in whole or in part, to generate electricity.

ESSENTIAL USE/SERVICE-- Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities which provide an essential use or service the public has a legal right to demand and receive. Cellular telephone transmission towers are not considered to be an essential use or service.

EXCAVATION-- A lot or part thereof used for the purpose of extracting stone, sand, gravel or minerals for sale, as a commercial operation.

FAMILY-- One or more persons related to each other by blood, marriage or adoption, or not more than three individuals who are not related, living together as a single housekeeping unit.

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

FOOD SERVICE-- Any establishment that prepares and serves meals for eat-in or take-out customers. The food service component must be the primary use in the building to fit this definition. For example, a supermarket that prepares meals is not a food service establishment since the primary use is grocery sales.

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

FUEL SUPPLY- A facility designed and used in whole or in part for the distribution of fuel including but not limited to propane fuel, home heating fuel, gasoline and other petroleum products.

FUNERAL HOME-- A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation, but not including facilities for cremation.

GALLERY- A facility designed and used for the display of art or historic artifacts.

HAZARDOUS CHEMICALS-- Solid, liquid or gaseous substances which pose a potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed, including but not limited to hazardous substances designated by the United States Environmental Protection Agency under Section 311 of the Clean Water Act (40 CFR 116).

HAZARDOUS WASTE-- A waste or combination of wastes, which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or contribute to an increase in mortality or an increase in irreversible or incapacitating reversible illness or may pose a present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed.

HEALTH RELATED FACILITY- A facility designed and used for medical and health care services.

HEAVY EQUIPMENT-- A lot utilized for the purposes of storage, rental, sales and service of farm and heavy equipment and machinery, including logging equipment, tractor-trailers and related farm and heavy transportation equipment such as bulldozers, backhoes, engines, compressors, trucks over 2 1/2 tons, tractors, construction equipment and other heavy machinery, vehicles or motors.

HEAVY INDUSTRY-- Manufacturing and processing operations that may involve the exterior storage of goods and materials as well as of finished products.

HEIGHT OF BUILDING-- Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between the eaves and ridge for other types of roofs. Cupolas, steeples, chimneys and television antennas are excluded in height computations.

HISTORICAL SITES AND STRUCTURES-- Any historic site or structure which is on the State or National Register of Historic Places or as is officially recognized by the Village.

HOME OCCUPATION-- An occupation conducted in a dwelling unit or garage which is clearly secondary to the property's residential use which: does not change the outside appearance of the dwelling, is not visible from the road except for one sign as permitted by this chapter, does not result in the outside storage or display of anything, does not create a hazard to persons or property, does not create any adverse impact upon neighboring properties, does not generate traffic or parking in excess of what is normal for a residential use.

INDUSTRIAL USE-- Any use involving the act of storing, preparing for treatment, manufacturing or assembling any article, substance or commodity.

INDUSTRIAL WASTE-- Solid waste generated by manufacturing or industrial processes.

JUNK-- The outdoor storage or deposit of any of the following:

- a. One or more junk vehicles.
- b. One or more abandoned mobile homes or travel trailers.
- c. One or more appliances, including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions.
- d. One or more pieces of junk farm equipment or construction equipment, except farm equipment stored on an active farm.

- e. One more abandoned or irreparably damaged pieces of indoor furniture, including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers.

JUNK EQUIPMENT-- Any equipment which is either abandoned, wrecked, stored, discarded, dismantled or partly dismantled, and which is not in working order, and has remained unused for more than one year.

JUNK VEHICLE-- Any motor vehicle, whether automobile, bus, trailer truck, tractor, motor home, motorcycle, all terrain vehicle, minibicycle or snowmobile or any other device originally intended for travel on public highways, which meets all the following conditions:

- a. It is unlicensed.
- b. It is either abandoned, wrecked, stored, discarded, dismantled or partly dismantled.
- c. It is not in any condition for legal use upon the public highway.
- d. It is in such condition as to cost more to repair and place in operating condition than its reasonable market value at that time before such repair.

With respect to any motor vehicle not required to be licensed or motor vehicle not usually used on public highways, the fact that such motor vehicle has remained unused for more than six months and is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk motor vehicle.

JUNKYARD-- The outdoor storage or deposit of any of the following:

- a. Five or more junk vehicles.
- b. Two or more abandoned mobile homes or travel trailers.
- c. Five or more appliances, including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions.
- d. Five or more pieces of junk farm equipment or construction equipment, except farm equipment stored on an active farm.
- e. Five or more abandoned or irreparably damaged pieces of indoor furniture, including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers.
- f. Any combination of the above that totals five items.

KENNEL-- An establishment in which more than five dogs more than six months old are housed, groomed, bred, boarded, trained or sold.

LAND USE AND DEVELOPMENT PERMIT-- A document issued by the Code Enforcement Officer authorizing the use of lots or structures in conformity with this chapter.

LARGE SHOPPING CENTER-- A parcel of land containing two or more retail or service establishments with total gross square footage exceeding 10,000 square feet.

LIBRARY-- A facility designed and used for housing of books, periodicals and related published materials, not including an Adult Bookstore.

LIGHT INDUSTRIAL USE-- Any manufacturing or assembly facility which does not include the manufacture of hazardous chemicals; the use of petroleum based products except as incidental to the main industrial use; the outdoor storage of scrap metal or junk; the creation of solid, liquid or airborne hazardous wastes; the creation of significant undesirable smoke or airborne particulate matter except as incidental to the main industrial use; or the creation of noise which would have an adverse impact upon neighboring properties. Examples of light industrial use include paper manufacturing and medical device manufacturing where the majority of the work occurs inside a structure.

LOGGING—The use of trees for use or manufacture of wood related products including timber and mulch.

LOT-- Any parcel of land which individually or as part of a subdivision of land has been recorded in the County Clerk's office.

LOT FRONTAGE-- The portion of the lot abutting upon a street or road.

LOT LINE-- Property line bounding a lot.

LOT WIDTH-- The horizontal distance between the side lot lines measured at right angles to the depth, measured at a depth equal to the greater distance of the minimum required front yard setback or the distance from the public road to the nearest side of the building.

MANUFACTURED HOME-- A structure transportable in one or more sections that, in the traveling mode, is eight feet or more in width or 40 feet or more in length or when erected on site is 320 square feet minimum, and that was built on or after June 15, 1976, on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained therein. The term "manufactured home" shall also include any structure that meets all requirements of this definition except the size requirement and with respect to which the manufacturer voluntarily files a certification required by the federal Department of Housing and Urban Development and complies with the standards established under the National Manufactured House Construction and Safety Act of 1974 as amended. The term "manufactured home" shall not include any self-propelled recreational vehicle. A label certifying compliance

with the Standard for manufactured homes, NFPA 501, ANSI A119.1 in effect at the time of manufacture is deemed acceptable. For the purpose of these provisions, a mobile home shall be considered a manufactured home. This definition of manufactured home includes all additions which are purchased and added thereto or additions made subsequent to installation. This definition of manufactured home does not include any factory manufactured modular housing placed on a standard foundation nor does it include a recreational vehicle.

MARINA-- Any waterfront facility which provides accommodation services for vessels by engaging in any of the following:

- a. The sale of marina products or services.
- b. The sale, lease, rental or charter of two or more vessels of any type.
- c. The sale, lease, rental or any other provision of storage, wharf space or mooring for two or more vessels not registered to the owner of said facility, members of the owner's immediate family or overnight guests on said property.
- d. Any campground or travel trailer park which provides boats coincidentally with the rental of camping spaces or rental of parking spaces for automobiles shall be deemed to be a marina. The term "marina" shall include quick launch facilities as defined herein. Boat repair and marina supply sales are permitted uses within marinas.

MICROBREWERY-- A facility licensed by the New York State Liquor Authority to produce or brew up to 60,000 barrels of beer annually and to conduct such other activities as are permitted under a microbrewery license and/or such additional permits and licenses as may be granted by the Liquor Authority to the holder of the microbrewery license. In addition, other activities which are ancillary and subordinate to beer brewing and production operations shall be permitted.

MOBILE HOME-- A movable or portable unit at least 32 feet in length which is designed and constructed to be towed on its own chassis, comprised of a frame, whether or not wheels are included, and designed to be used as a dwelling unit when connected to required utilities. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity as well as two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing. Modular homes or other dwelling units that are constructed in two or more main sections and transported to and permanently assembled on a site are not considered to be mobile homes.

MOBILE HOME PARK-- Any lot of record upon which two or more mobile homes occupied for dwellings or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.

MODULAR HOME-- A prefabricated dwelling unit delivered to the site in two or more structural units and permanently assembled.

MOORING-- Any anchor, chain, buoy, pennant or other object by which a vessel is secured at one point.

MOTEL-- A building or group of buildings, whether detached or in connected units, containing transient and/or permanent lodging facilities for the general public and which may contain accessory facilities such as restaurants, meeting rooms, retail business activities and related activities primarily to accommodate the occupants, but not open to the general public, including buildings designated as auto cabins, auto courts, motor lodges, tourist courts and similar terms.

MOTOR VEHICLE REPAIR SHOP-- A building, or portion thereof, arranged, intended or designed to be used for making repairs to motor vehicles, including auto body shops.

MULTIFAMILY DWELLING-- A building designed for, or occupied by, three or more families living independently of one another, to include row-type attached or semiattached dwellings which share a common wall or portion thereof.

NIGHTCLUB-- An establishment dispensing liquor and meals and in which music, dancing or entertainment is conducted.

NONCONFORMING LOT-- Any legally created lot of record which existed on the effective date of this chapter and which does not conform to the minimum requirements of this chapter.

NONCONFORMING USE-- A use of land existing at the time of enactment of this chapter which is neither a permitted use nor allowed by special use permit in the zone where it is located.

NUDE MODEL STUDIO-- Any place where a person who appears in a state of nudity or displays specified anatomical areas is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration, other than as a part of a course of instruction offered by an educational institution established pursuant to the laws of the State of New York.

NUDITY or STATE OF NUDITY-- The appearance of specified anatomical areas.

OFFICE-- (See below- Professional/Business office)

OUTDOOR RECREATION-- Any recreation use particularly oriented to and utilizing the outdoor character of an area, including children's summer camps, hunting and fishing camps, horseback riding stables, playgrounds, picnic areas, beaches or similar uses.

PARK-- A municipally owned place of public recreation or congregation.

PARKING STRUCTUR-- A structure designed and used in whole or in part to house, support or provide shelter to more than four (4) vehicles.

PERSON-- An individual, proprietorship, partnership, corporation, association or other legal entity.

PERSONAL SERVICE-- Includes barber, hairdresser, beauty parlor, shoe repair, photographic studio and businesses involving the care of a person or his or her apparel.

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

PRINCIPAL STRUCTURE-- The structure in which is conducted the principal use of the lot on which it is located.

PRODUCE STAND-- A structure designed for the sale of farm products, such as fruits, vegetables and flowers.

PROFESSIONAL OR BUSINESS OFFICE-- Offices and related spaces for use as professional services as provided by medical practitioners, attorneys, architects, surveyors, engineers, accountants and similar professions.

PUBLIC FACILITY-- Any usage by a governmental agency or other agency providing a not-for-profit public service, including but not limited to libraries; public recreation facilities; schools; not-for-profit fire, ambulance and public safety buildings; and not-for profit hospitals for the care of human beings, nursing homes, convalescent homes, homes for adults, homes for the aged as the same are defined under the Public Health Law or the Social Services Law of the State of New York, provided that they are duly licensed by the State of New York.

QUICK LAUNCH FACILITY-- A commercial facility where vessels are stored, launched and stored again individually for periods of less than one week at a time.

RECYCLING FACILITY—A facility designed in whole or in part for the re-use, separation, dismantling or compaction of used goods

REPOSSESSION BUSINESS-- An establishment primarily engaged in the recovery and short-term storage of repossessed items. This type of facility may include an office and either indoor and/or outdoor storage areas.

RESEARCH AND DEVELOPMENT-- A building in which chemical, mechanical, physical, electrical or other research, production, design or development of materials or processes is conducted. The definition includes the term "laboratory."

RETAIL STORE-- The offering, for consideration, of goods, services and merchandise to the general public, excluding restaurants, taverns, motor vehicle sales and services, boat sales, recreational vehicle sales and services, mobile and modular home sales and services.

RESTAURANT-- An establishment at which food is served to patrons on the premises, which may include the serving of alcoholic beverages, provided that the serving of drinks is clearly secondary and accessory to the serving of food.

RETAIL GASOLINE OUTLET-- Any establishment which sells gasoline to the public, to include service stations, convenience stores, car washes and any other facility which sells gasoline.

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

SELF STORAGE-- A structure or structures containing separate, individual, and private storage spaces of varying sizes leased or rented on an individual basis.

SEXUAL ENCOUNTER CENTER-- A business or commercial enterprise that, as one of its primary business purposes, offers, for any form of consideration, activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

SIDE BUILDING SETBACK-- The space on the side of a lot not occupied by a building, measured from the nearest side of a building to a side lot line and extending the full length of the lot.

SIGN-- Any material, structure or object, or part thereof, composed of lettered or pictorial matter which is located out of doors or on the exterior of a building, which is used for the purpose of bringing the subject matter thereof to the attention of others, but excluding any flag, emblem or insignia of a nation, political unit, school or religious group.

SINGLE-FAMILY DWELLING-- Detached building designed for or occupied by one family, not to include single-wide or double-wide mobile homes. No single family dwelling may be rented on a per-room basis in any District under this Chapter.

SMALL SHOPPING CENTER-- A parcel of land containing two or more retail or service establishments with total gross square footage of 10,000 square feet or less.

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

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

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

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

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

SOLID WASTE-- All materials or substances that are discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, medical and infectious waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles and offal.

SPECIAL USE PERMIT-- An authorization of a particular land use which is permitted in this chapter subject to conditions which are designed to ensure that the proposed use will not adversely affect the neighborhood if such conditions are met.

SPECIFIED ANATOMICAL AREAS-- Includes any of the following: unless completely and opaquely covered, human genitals, pubic region, buttocks or breasts below a point immediately above the top of the areola and even if completely and opaquely covered, male genitals in a discernibly turgid state.

SPECIFIED ADULT ACTIVITIES-- Includes any of the following: actual sex acts, normal or perverted, including intercourse, oral copulation or sodomy, masturbation, excretory functions, actual acts of dismemberment, mutilation or torture of humans or animals.

SPECIFIED CRIMINAL ACTIVITY-- Includes any of the following offenses: prostitution or promotion of prostitution; dissemination of obscenity; distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity relating to an adult entertainment use; sexual assault; molestation of a child; distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of this state, or other states or countries for which: (i) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is later, if the conviction is of a misdemeanor offense; or less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is later, if the conviction is of a felony offense; or less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the last conviction, whichever is later, if the convictions are of two or more misdemeanor offenses or combination of offenses occurring within any 24-month period. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

STREET LINE-- Right-of-way line of a street as dedicated by a deed or record. Where the width of a street is not established, the street line shall be considered to be 25 feet from the center line of the road pavement.

STRUCTURE-- Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including garages, swimming pools, satellite dishes and outbuildings.

TAVERN-- An establishment used primarily for the serving of alcoholic beverages to the general public where food may be served as an accessory to the primary use.

TELECOMMUNICATIONS TOWER-- Means a structure or location designed, or intended to be used, or used to support Antennas. It includes without limit, free standing Towers, guyed Towers, monopoles, and similar structures that employ camouflage technology, including, but not limited to structures such as a church steeple, silo, water tower, sign or other similar structures intended to mitigate the visual impact of an antenna or the functional equivalent of such. It is a structure intended for transmitting and/or receiving radio, television, cellular, paging, personal Telecommunications services, or microwave Telecommunications, but excluding those used exclusively for fire, police or other dispatch Telecommunications, or exclusively for private radio or television reception or exclusively for private citizen's bands, amateur radio or other similar Telecommunications.

TEMPORARY SIGN-- Any "for sale" or "for rent" sign, political sign or any sign announcing a community event or event conducted by a not-for-profit organization which is temporary in nature and is intended to be removed at the completion of the sale, rental, election or event.

TRAVEL TRAILERS- Any portable vehicle, including a tent camper, pop-up camper, or motor home, which is designed to be transported on its own wheels, which is designed and intended to be used for temporary living quarters for travel, recreational or vacation purposes and which may or may not include one or all of the accommodations and facilities customarily included in a mobile home.

TRUCK DEPOT-- The place for the division of bulk or storage and transfer of cargo from and to trucks of one or more companies which may include vehicle and ancillary storage and vehicle repair shops as well as associated dispatch and general offices.

WAREHOUSE-- A building used primarily for the temporary storage of goods and material associated with retail, commercial, or industrial uses. Warehouses may be classified as either principal or accessory structures depending on the classification and context of the use.

WHOLESALE FACILITY-- A use in which goods are sold to members of a trade or organization, but not to the general public.

ARTICLE III

Land Use Districts and Map

§100-3-1 Establishment of districts.

For the purpose of this chapter, the Village of Fort Edward is hereby divided into the following land use districts:

- A. Education District

1. Uses. See Figure 1, Zoning Uses Table.
 2. Area and Dimensions. See Figure 2, Dimensional Limits.
- B. R1 Residential District
1. Uses. See Figure 1, Zoning Uses Table.
 2. Area and Dimensions. See Figure 2, Dimensional Limits.
- C. R2 Residential District
1. Uses. See Figure 1, Zoning Uses Table.
 2. Area and Dimensions. See Figure 2, Dimensional Limits.
- D. C1 Commercial District
1. Uses. See Figure 1, Zoning Uses Table.
 2. Area and Dimensions. See Figure 2, Dimensional Limits.
 3. See Article X.
- E. Historic Commercial District
1. Uses. See Figure 1, Zoning Uses Table.
 2. Area and Dimensions. See Figure 2, Dimensional Limits.
 3. See Article X.
- F. Marina Commercial District
1. Uses. See Figure 1, Zoning Uses Table.
 2. Area and Dimensions. See Figure 2, Dimensional Limits.
- G. Depot District
1. Uses. See Figure 1, Zoning Uses Table.
 2. Area and Dimensions. See Figure 2, Dimensional Limits.
- H. Parkland Recreation District
1. Uses. See Figure 1, Zoning Uses Table.
 2. Area and Dimensions. See Figure 2, Dimensional Limits.
- I. Downtown Industrial
1. Uses. See Figure 1, Zoning Uses Table.
 2. Area and Dimensions. See Figure 2, Dimensional Limits.
- J. Industrial District
1. Uses. See Figure 1, Zoning Uses Table.
 2. Area and Dimensions. See Figure 2, Dimensional Limits.

§100-3-2 Land Use District Map.

Said districts are bounded as shown on the Village of Fort Edward Zoning Map, which, with all explanatory matter, is hereby made part of this chapter.

§100-3-3 Interpretation of district boundary lines.

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

1. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, highway right-of-way lines or lot lines, such street lines, highway right-of-way lines or lot lines shall be construed to be such boundaries.
 2. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale on said Zoning Map.
 3. Where district boundaries are indicated as following tax map parcel lines, the tax map parcel lines shall be construed to be such boundaries.
- B. If, after the application for the foregoing rules, uncertainty still exists as the exact location of a district boundary, the Board of Appeals shall determine the location of said line.

§100-3-4 Lots in two or more districts.

If a lot is located in two or more land use districts, each portion of the lot shall be governed by the regulations of the district in which it lies.

ARTICLE IV

Land Use District Regulations.

§100-4-1 Interpretation of Uses in Land Use Districts/Zones.

A use shall be deemed prohibited within a land use district unless it is listed as a permitted use or as use allowed by special use permit within that district.

§100-4-2 Limitations applicable in all Land Use Districts/Zones.

- A. The following apply to all districts:
1. Where a lot has frontage on two or more streets, the all boundaries of said lot fronting on a street shall be considered front yards for purposes of setbacks and location of structures or accessory structures.
 2. When establishing measurements to meet required setbacks, measurements shall be taken from the street right-of-way or lot line to the furthestmost protruding part of the use or structure. This shall include such projecting facilities as porches, carports and attached garages.
 3. "In line with neighboring structures" shall mean that a building is located at the average setback of buildings on any adjoining lots on either side. Lots located across a street shall not be considered to be adjoining lots for purpose of this determination.
 4. The height limitations of the Chapter shall apply to all structures except church steeples, residential chimneys, antennas, flagpoles and transmission poles and cables.

5. No building shall be erected, altered, extended, constructed or reconstructed which is intended, designed or arranged to be used in whole or in part except for one or more of the purposes, and no land shall be used except for one of the purposes set forth for the particular district on Table 1 attached hereto and made a part hereof.
6. No improvement shall be constructed, enlarged, replaced or modified except in conformance with the dimensional limits set forth in Table 2 attached hereto and made a part hereof.
7. No single family residence shall be used for the rental of rooms to independent and unrelated persons.

§100-4-3 R-1 Residential District Supplemental Regulations.

In the R-1 district, the following supplemental regulations shall apply.

- A. In the R-1 district, the following accessory uses shall be permitted provided that they are used only as a secondary use to a primary permitted use provided for in §100-4-2(A) above:
 1. 1 story attached or detached garage. If detached, the garage shall be located behind the front of the house measured by a line parallel to the immediate front of the house and extending to both side lines of the lot on which the house is located.
 2. Pools, provided that pools may only be located behind a house measured by a line parallel to the back of the house and extending to both side lines of the lot on which the house is located.
- B. Any single family residence, with or without an office discussed in this section constructed on or after the effective date hereof shall include in the case of single family residences, adequate off-street parking for two (2) automobiles, and in the case of offices, adequate off-street parking for such spaces as may be determined necessary by the Planning Board, but in no event shall it be less than two (2).

§100-4-4 R-2 Residential District Supplemental Regulations.

In the R-2 district, the following supplemental regulations shall apply.

- A. One-family manufactured homes are permitted with the following restrictions:
 1. Current regulations for new lots and setbacks will apply.
 2. There will be a minimum of 960 square feet of living space, and the minimum width of the home will be 24 feet.
 3. Must be positioned to have the front of the home facing the street.
 4. Must have minimum 3/12 roof pitch with type of shingle commonly used in standard residential construction and shall have a minimum rating of 30 psf snow load.
 5. Exterior siding must be similar to siding commonly used in standard residential construction.
 6. All towing devices, wheels, axle springs and hitches must be removed within 60 days of arrival on lot.

7. Home must be fastened to a foundation or slab. There shall be a weatherproof access opening to the crawl space and the walls must be constructed of a masonry product (no vinyl skirting) extending from the foundation or slab to the bottom of the unit.
8. Must be installed in accordance with ANSI Standard 225.1 regarding manufactured home installation.
9. Must meet or exceed New York State building codes regarding manufactured homes and Department of Housing and Urban Development standards.
10. All placement and installation of manufactured homes shall be approved by the Building Inspector.

§100-4-6 C-1 Commercial District Supplemental Regulations.

In the C-1 district, the following supplemental regulations shall apply.

- A. Supplemental Regulations in the C-1 district.
 1. Reserved.

§100-4-7 HC Historic Commercial District Supplemental Regulations.

In the HC district, the following supplemental regulations shall apply.

- A. Supplemental Regulations in the HC district.
 1. Reserved.

§100-4-8 MC Marina Commercial District Supplemental Regulations.

In the MC district, the following supplemental regulations shall apply.

- A. Supplemental Regulations in the MC district.
 1. No marina shall be used for the importation, transportation or storage of garbage, waste products, junk or hazardous waste into the Village, excepting that refuse produced at the marina in the normal course of business.
 2. Prior to construction in the Marina Zone, the owners shall prepare a study, which shall review and address the potential impacts upon the historical and archeological value of the land. The New York State Department of Parks, Recreation and Historic Preservation shall be named as an interested agency in the process of reviewing the study.

§100-4-9 DD Depot District Supplemental Regulations.

In the DD district, the following supplemental regulations shall apply.

- A. Supplemental Regulations in the DD district.
 1. Reserved.

§100-4-10 DI Downtown Industrial District.

In the DI district, the following supplemental regulations shall apply.

- A. Supplemental Regulations in the DI District.

1. Reserved.

§100-4-11 IP Industrial Park District.

In the IP district, the following supplemental regulations shall apply.

- A. Supplemental Regulations in the IP District.
 1. Reserved.

ARTICLE V

Supplemental Regulations.

The following supplemental regulations apply in all districts, in addition to any regulations that may be included in such districts.

§100-5-1 Solar energy systems.

- A. Applicability.
 1. The requirements of this section shall apply to all solar energy system installations modified or installed after the effective date of this section.
 2. Solar energy system installations for which a valid building permit has been properly issued, or for which installation has commenced before the effective date of this section, shall not be required to meet the requirements of this section, provided that any replacement of such system on or after the effective date of this section will require compliance with this section.
 3. All applications for the installation of solar energy systems shall be designed by a licensed engineer and contain site specific building plans which bear the seal and signature of a licensed engineer and satisfy the permitting requirements contained in this section.
 4. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Fire Code, Building Code and other applicable standards, as well as all other provisions of the Village Code.
- B. Permitting.
 1. To the extent practicable, and in accordance with the Code of the Village of Fort Edward, the accommodation of solar access to sunlight for such equipment and the protection of access to sunlight for such equipment shall be encouraged in the application of the various review and approval provisions of the Code of the Village of Fort Edward.
 2. Rooftop solar system. Rooftop solar systems are permitted in all zoning districts subject to the following conditions:
 - a. Building permits shall be required for installation of all rooftop solar systems.
 - b. Height limitations contained in this Chapter shall apply.

- c. Rooftop solar systems must have a one foot setback on all four sides of the roof.
 - d. Rooftop solar systems must be properly engineered to support solar collectors.
 - e. Any rooftop solar system that is mounted other than at the same pitch as the roof to which it is to be attached shall require site plan approval under this Chapter.
- 3. Building-integrated photovoltaic (BIPV) systems. BIPV systems are not permitted in any zoning districts.
- 4. Ground-mounted racks and freestanding solar collectors. Ground-mounted and freestanding solar collectors mounted on a pole are permitted as accessory structures in all zoning districts of the Village of Fort Edward, subject to the following conditions:
 - a. A special use permit is required for all ground-mounted and freestanding solar collectors.
 - b. The location of the solar collectors must meet all applicable minimum yard size requirements for principal structures in the applicable zoning district.
 - c. The unit should be installed in a side or rear yard. No unit may be installed in the front yard. Corner lots shall be considered to have two front yards for purposes of this section.
 - d. Units shall not exceed 20 feet in total height from the existing grade.
 - e. Installations that would employ landscape screening and other methods of enhancing the appeal of the ground-mounted and freestanding solar collector such as the use of architectural features, earth berms, or other screening which will harmonize with the character of the property and surrounding area are encouraged.
 - f. Solar collectors shall be located in a manner that reasonably minimizes shading of adjoining property while still providing adequate solar access for collectors.
 - g. Ground-mounted racks and freestanding solar collectors are only permitted as an accessory to a lawfully existing and permitted primary structure on the same lot to be serviced by the solar energy system.
 - h. The solar collectors shall not exceed forty percent (40%) of the total lot coverage.
- 5. Safety.
 - a. Prior to operation, electrical connections must be inspected by the Code Enforcement Officer/Building Inspector and by an electrical inspection person or agency in conformance with New York State Building Code.
 - b. Any connection to the public utility grid must be inspected by the appropriate public utility.
 - c. Solar energy systems shall be maintained in good working order and shall be removed if not in use for more than 12 months by removal of such system and mounting hardware within 90 days after the 12th month.

- d. If any type of storage batteries are included as part of the solar energy system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use. When they are no longer in use, they shall be disposed of in accordance with the laws of New York and Code and Code of the Village of Fort Edward and any other applicable laws or regulations.

§100-5-1 Number of residential structures permitted.

There shall be only one residential structure per lot; except that two, but not more than two, residential structures may be placed upon a single lot, provided that all structures are situated such that future division into two lots shall meet all requirements of this chapter and a variance shall be required from the Zoning Board of Appeals.

§100-5-2 Corner lots.

On corner lots, the sides facing both streets shall be considered front yards. On the other sides, one shall be considered a rear yard and the other a side yard at the owner's option.

§100-5-3 Frontage.

Each new building lot shall front upon a public street by either minimum street frontage of at least 15 feet or a right-of-way easement at least 15 feet wide.

§100-5-4 Temporary placement of mobile homes.

A permit for the temporary placement of a mobile home may be granted by the Board of Appeals for a maximum period of six months, provided that the mobile home is used only for construction purposes, scientific purposes or educational purposes and does not interfere with or is not a danger to the health, safety, welfare or well-being of the surrounding property owners or the community.

§100-5-5 Travel trailers.

No travel trailer, motorized mobile home or camping trailer shall be inhabited or used for living or sleeping quarters within the Village for more than 7 consecutive days per year per lot unless the same shall be located in an approved mobile home or travel trailer park.

§100-5-6 Off-street parking.

- A. To the extent practicably, all uses shall be provided with sufficient off-road parking to accommodate all vehicles for customers, employees and occupants of buildings or structures during peak use periods. The Planning Board shall be empowered to review parking plans in accordance with a proposed project subject to site plan review under this Chapter. The Planning Board shall weight the requested parking needs of the proposed uses of the property subject to the site plan against the impacts of the parking area.

- B. Parking areas should not front on main public streets and roads.
- C. All off-road parking space shall not be less than nine feet by 20 feet. Driveway area may be used to supply such space in the case of residential uses. Other uses shall provide such space in addition to the driveway area.
- D. No nonresidential parking space shall be located within three feet of a side lot line.
- E. With the exception of one- and two-family residences, all off-street parking spaces shall be designed to eliminate the need to back vehicles out onto a public street.
- F. In commercial, industrial or mixed-use districts, off-street parking may be supplied on a different lot with parking spaces that are located within 400 feet of the use and if the owner of the use either owns or leases the property upon which the parking space is located. In no case shall off-street parking for a nonresidential use be located in a residential land use district.
- G. The Planning Board shall be empowered to vary the foregoing requirements in the event the Planning Board finds during site plan review that any of the foregoing limitations are not feasible. The Planning Board shall state the reasons why and the project shall incorporate mitigation such as vegetative screening and fencing and such other conditions as the Planning Board may impose.

§100-5-7 Off-street loading.

Except in the Commercial 1 (C1) land use district, business uses shall provide sufficient off-road loading spaces on the site for the loading and unloading of any trucks which are anticipated to use the site. Each loading space shall be at least 12 feet by 35 feet. No loading space shall be located within front, side or rear building setbacks.

§100-5-8 Signs.

- A. The following are prohibited in all land use districts:
 - 1. Moving, flashing, blinking or animated signs.
 - 2. The use of banners, pennants, ribbons or streamers intended to attract attention or for advertising, except that said items can be used temporarily, provided that said use does not exceed three days within a month with any part of a day counting as one day.
 - 3. Off-premises advertising signs [as distinguished from directional signs; see Subsection 4 below].
 - 4. Any sign not specifically permitted in Subsection B below.
- B. Permitted Signs.
 - 1. Temporary signs, including "for sale" or "for rent" signs, political signs and signs announcing a community event or event conducted by a not-for-profit organization are permitted. However, said signs must be removed within seven days after the date of said sale, lease, election or event.

2. Each home occupation is permitted one sign not to exceed 12 square feet in area, and the top of the sign shall not exceed eight feet from the grade measured from the highest point of mounting the sign.
3. Each business is permitted signs as follows:
 - a. In C1, HC and MC districts: one wall sign on each side of a building not to exceed one square foot in area per each linear foot of business unit building frontage on that side and one projecting sign not to exceed 12 square feet in area. Maximum height of signs shall be 15 feet.
 - b. In the DI and I districts: one wall sign on each side of a building not to exceed one square foot in area per each linear foot of business unit building frontage on that side, one pole sign not to exceed 36 square feet in area and one projecting sign not to exceed 20 square feet in area. Maximum height of signs shall be 20 feet.
 - c. A "wall sign" is one which is affixed flat to the side of a building or one which is painted upon the side of a building. A "freestanding sign" is one attached to the ground by poles, or other sign which is not affixed to a building. A "projecting sign" is one which is attached to a building such that it projects out perpendicular to the building.
 - d. Each shopping center or other property containing more than one establishment on a lot is permitted, in addition one suspended sign not exceeding eight square feet in size for each business establishment is permitted. Such signs shall be suspended from the freestanding sign.
 - e. Off-premises directional signs under four square feet in area are permitted.
- C. In residential land use districts (R-1 and R-3), all signs shall be constructed of wood or metal material, and illumination shall be by means of indirect lighting only. Backlighted signs, i.e., signs using internal lighting, are not permitted.
- D. Placement of signs. No sign shall obscure a line of sight for traffic or otherwise constitute a traffic hazard. All freestanding signs shall be placed at least 20 feet from any side lot line and five feet from the highway right-of-way. No freestanding sign shall be placed between three and 10 feet above ground level. Wall signs shall not extend beyond the edge of the building upon which they are placed. Projecting signs shall not extend beyond five feet from the building to which they are attached.
- E. The area of a sign shall be computed as including the entire surface within the frame of a sign. For a sign consisting of letters painted on or attached onto a building, the sign area shall be calculated by multiplying the average height of the letters by the distance between the first and last letters. In the case of a freestanding sign with lettering on both the front and the back, the areas of both sides of the sign shall not be added together for purposes of computing the total area of the sign.

§100-5-9 Junk.

No junk, as defined herein, shall be kept out of doors.

§100-5-10 Animals.

Fowl, hogs, cows, horses, goats or other farm animals shall not be kept within 500 feet of an adjoining property line.

§100-5-11 Traffic hazards; sight lines.

Structures, vehicles, fences, hedges, trees, shrubbery and other material shall not constitute a traffic hazard nor obscure the line-of-sight of traffic.

§100-5-12 Satellite dishes.

Satellite television antennas (dishes) two feet in diameter or more shall be located in the rear yard of all lots and shall comply with all rear and side yard building setback requirements. Satellite television antennas two feet in diameter or less shall be allowed in the front yard of a lot; however the same must be physically attached to the residence and must comply with all applicable setback requirements.

§100-5-13 Corner visibility.

No structures, vehicles, trees, fences, hedges, shrubbery, snow, debris or other material shall be maintained on any corner lot within a triangular area formed by the lot lines along the streets to the points on such lines a distance of 20 feet from their intersection and a line connecting such points.

§100-5-14 Fences and hedges.

- A. No person, company or corporation shall use barbed wire, buchhorn wire, razor wire, electric wire or any other type of wire that may be a part of a fence that may be a conductor of electricity in the construction or the erection of any fence, either on their property or as a division line fence or for any other purpose in the Village of Fort Edward, but does not include chain link or cyclone type of fences with barbed wire string at the top and used as a security fence for commercial or industrial properties.
- B. No fence or hedge at any point nearer to the street than the rear line of the main building applicable thereto shall exceed a height of four (4) feet above the sidewalk level existing on such street at the premises on which the fence is built.
- C. A fence shall not be installed in excess of six feet six inches (6'6") in height in the rear yard.
- D. All fences and hedges shall be located a minimum of two (2) feet from the bounds of any sidewalk or Village right of way in the front yard. Where no sidewalk exists, the sidewalk line or right of way will be established by the Department of Public Works Supervisor or his representative.
- E. On a corner lot, any fence in excess of four (4) feet but not in excess of six (6) feet shall not be installed in width greater than the distance from the building side line to the

opposite side line of the lot. The building side line shall be established by the side yard selected by the owner. In no case shall the width from the building side line and the opposite side line of the lot be required to be less than thirty-five (35) feet.

- F. All fences of man-made structures shall have supporting posts or projections on the property owner's side of the fence.
- G. Chain link or cyclone type fence used for security purposes by commercial and industrial establishments shall not exceed eight (8) feet in height, provided, however, that fences fronting on streets .

§100-5-15 Storage containers.

- A. The use of all truck boxes and shipping containers, with or without wheels attached, for the storage of goods and materials is prohibited, except that the use of truck boxes and containers shall be allowed for temporary use for new home construction or renovations of a home for no longer than six months.
- B. The use of a truck box or container with or without wheels attached, for storage at a lawfully established commercial/industrial site shall be allowed, provided a special use permit is granted.

§100-5-16 Junkyards.

There shall be no new junkyards allowed in the Village. Any pre-existing junkyards will conform to the following restrictions.

- A. Expansion. Procurement of land to extend the present boundaries of existing junkyards is expressly prohibited.
- B. Fence. A fence boundary shall be constructed to confine the existing junkyard.
 - 1. Height: a minimum of eight (8) feet and maximum of ten (10) feet, the fence shall be a consistent height.
 - 2. Maintenance: the fence shall be maintained to original specifications as to restrict entrance and view.
 - 3. Fence setback line: twenty (20) feet from adjacent property lines, roadway or highway.
 - 4. Purpose: to enhance safety, restrict entrance and restrict visibility.
 - 5. Nothing in the subsection shall be interpreted to regulate the operation of junkyards.

§100-5-17 Manufacture of hazardous chemicals.

The manufacture of hazardous chemicals is prohibited in all land use districts except for the manufacture of hazardous chemicals used on-site as part of the heavy industrial or light industrial use, the hazardous chemicals may not be sold or distributed except for consumer related products.

§100-5-18 Sidewalks.

For any construction, new construction, development or redevelopment of any parcel upon which there is not at the time of application for such construction, new construction, development or redevelopment, sidewalks along any portion of the lot facing any street, the owner or applicant shall include provision for sidewalks at least five (5) feet in width running along the entirety of said lot facing any street or streets.

ARTICLE VI

Special Uses.

§100-6-1 Applicability.

All special uses shall require review and approval of a special use permit by the Planning Board before a land use and development permit may be issued. A special use is considered to be an allowable use in a district, provided that sufficient conditions and safeguards are established to protect the health, safety and welfare of the public in general and the residents of the surrounding area in particular. In its review, the Planning Board shall have the authority to attach such conditions and safeguards as it deems appropriate in order for the proposed use to comply with the following general and specific standards. No special use shall be approved unless the standards contained in this Article are met.

§100-6-2 Authorization.

The Planning Board of the Village of Fort Edward is hereby authorized to review and approve, approve with modifications or disapprove proposed special uses in accordance with the standards set forth in Article V herein.

§100-6-3 Site plan approval.

As part of its review and approval of a special use, the Planning Board shall review and approve a site plan for the proposed use in accordance with the Site Plan Review provisions of this Chapter.

§100-6-4 Application for special use approval.

All applications for special use approval shall consist of the following:

- A. Site plan map.
 - 1. Three copies of a site plan map (one to be retained for Village records, one to be returned to the applicant and one for referral to county if necessary), drawn to scale, to include as applicable:
 - a. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
 - b. North arrow, scale and date.
 - c. Boundaries of the property plotted to scale.

- d. Existing watercourses and bodies of water.
 - e. Proposed grading and drainage.
 - f. Location, proposed use and height of all buildings and site improvements, including culverts, drains, retaining walls and fences.
 - g. Location, design and construction materials of all parking and truck loading areas, showing points of entry and exit from the site.
 - h. Location of outdoor storage, if any.
 - i. Description of the method of sewage disposal and location of facilities.
 - j. Identification of water source, if applicable.
 - k. Location, size and design and construction materials of all proposed signs.
 - l. Location and proposed development of all buffer areas.
 - m. Location and design of outdoor lighting facilities.
- 2. The Board of Appeals may, at its discretion, require that such site plan be prepared by a licensed engineer or architect.
- B. Accompanying data, to include the following as applicable:
- 1. Application form and fee.
 - 2. Name and address of applicant and any professional advisors.
 - 3. Authorization of owner if applicant is not the owner of the property in question.
 - 4. Short environmental assessment form.
 - 5. Any additional endorsements, certifications or approvals required by the Board of Appeals.
 - 6. Other information as the Board of Appeals may reasonably require to assess the proposed project.

§100-6-5 Waiver of submission requirements.

The Planning Board may waive one or more submission requirements in the case of minor projects of an uncomplicated nature.

§100-6-6 Review procedure.

The Planning Board shall review the application in accordance with the procedures specified in this Chapter herein and shall render a decision to approve, disapprove or approve with modifications.

- A. Acceptance of Application. The Planning Board shall, within forty-five (45) days of the filing of a special use permit application, or at its next regular meeting after such filing, whichever is sooner, decide whether to accept the application as complete and begin the review process, or to reject the application as incomplete. If the Planning Board deems the application incomplete, rather than rejecting the application, the Planning Board may request such additional information that it deems necessary to complete the application, and provide for such time as it deems sufficient for the applicant to submit such additional information. If the Planning Board requires a Draft Environmental Impact Statement (DEIS) or if one is filed by the applicant(s), then the application shall not be deemed complete until the DEIS is filed and accepted by the Planning Board. If the

Planning Board deems an application incomplete, it shall then notify the applicant(s) in writing of the deficiencies. The Planning Board may coordinate site plan review with the special use permit review.

- B. Segmentation. The special use permit applications and associated maps shall include all proposed phases of development. Special use permit approval shall be based on the total planned project in order to facilitate the assessment of all potential development impacts. The Planning Board shall consider applications incomplete where there is reason to believe the application applies to only a segment of the total planned development. In such situations, the Planning Board shall return such application to the applicant together with a letter stating the basis for its determination.
- C. Referral to Other Agencies and Boards. After determining an application complete the Planning Board, if required by Section 239m of General Municipal Law, shall refer the special use permit application to the Washington County Planning Board. If a public hearing is required or deemed necessary by the Planning Board then notice of the proposed action accompanied with a full statement must be sent to the Washington County Planning Board at least 10 days before public hearing. The Planning Board may also coordinate its review (if not otherwise required by state law) or consult with federal, state and local agencies and boards. The Planning Board will also comply with any other requirements of any applicable laws or regulations.
- D. Public Hearing. The Planning Board shall conduct a public hearing on the special use permit applications within sixty-two (62) days after it has determined an application to be complete. It shall then advertise such hearing at least ten (10) days in advance of the public hearing in a local newspaper of general circulation. The Planning Board shall also mail a notice of the hearing to the applicant(s) and adjoining landowners at least ten (10) days before the hearing and the costs of such mailing shall be borne by the applicant(s).
- E. Decision. Within sixty-two (62) days of the close of the public hearing or acceptance of the application, the Planning Board shall render a decision to approve, approve with conditions or modifications, or disapprove the special use permit application.
 - 1. Approval. Upon approval of the special use permit application and payment by the applicant(s) of all fees and reimbursable costs due to the Village, the Planning Board shall endorse its approval on a copy of the special use permit plans and immediately file a copy of the special use permit application with a written statement of approval with the Village Clerk. A copy of the written statement of approval shall be mailed to the applicant(s) by mail.
 - 2. Approval with modifications. The Planning Board may approve the special use permit and require specific modifications be made. A copy of the written statement shall be mailed to the applicant(s) by mail. The Planning Board shall endorse its approval on a copy of the special use permit plan containing the required modifications and immediately file the special use permit plan and a written statement of approval with the Village Clerk.
 - 3. Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall be immediately filed with the Village Clerk and a copy thereof mailed to the applicant(s) with a letter stating the Planning Board's reason(s) for disapproval.
- F. Extension of Time to Render Decision. Any time limitation in this article may be extended by mutual consent of the applicant(s) and the Planning Board.
- G. Reimbursable Costs. The Planning Board may engage its own consultants in the review

of a special use permit application and ask the applicant(s) to pay its reasonable and actual costs of doing so. Such costs shall not exceed three thousand five hundred (\$3,500.00) dollars without notification to the applicant.

§100-6-7 Conditions.

In its review of a proposed special use the Planning Board may impose any conditions it deems necessary to serve the interests of the public health, safety and general welfare and to improve compatibility with surrounding properties. Such conditions may include but shall not be limited to:

- A. Requiring landscaping or vegetative screening.
- B. Increasing building setback.
- C. Limiting the size of buildings, parking areas or facilities.
- D. Specifying the location and design of entrances, exits and off-street parking space.
- E. Requiring that materials be stored indoors or certain activities be conducted indoors.
- F. Requiring noise barriers.
- G. Requiring stormwater retention ponds or other drainage and pollution control devices.
- H. Setting forth an expiration date for such special use permit which may be 1, 3 or 5 years.

§100-6-8 General standards for all special uses.

- A. Impact upon surrounding properties. The proposed use shall not cause a significant adverse impact upon nearby properties by reason of traffic, noise, fumes, odors, vibration, flashing lights, litter, surface water or groundwater contamination, air pollution, drainage, visual impact, excessive nighttime lighting, creation of a safety hazard, risk of fire or explosion or other adverse condition; nor shall the proposed use significantly impair the future development of surrounding properties.
- B. Vehicular access. Proposed vehicular access points shall be adequate in width, grade, alignment and visibility; shall not be located too near road intersections or places of public assembly; and shall meet similar safety considerations.
- C. Emergency vehicle access. All proposed buildings, structures, equipment and materials shall be readily accessible for fire and police protection.
- D. Screening. Parking and loading areas which, in the judgment of the Planning Board, may have an adverse visual impact upon neighboring residential properties shall be reasonably screened by vegetation or by fencing at all seasons of the year from the view of such properties.
- E. Drainage and erosion control. Adequate provision shall be made for drainage of the site and to ensure that stormwater runoff does not create an adverse impact upon nearby lands or waterways.
- F. Lighting. Exterior lighting shall not be directed so that it shines onto adjoining residential properties or onto public roads. High-intensity lighting shall be minimized.

- G. Utilities and municipal services. Adequate provision shall be made for water supply and sewerage disposal, electrical service and solid waste disposal. The proposed use shall not create a burden on municipal or county services.
- H. Water quality. The proposed use shall not have an adverse impact upon the water quality of any water course.

§100-6-9 Additional Special Use Permit Criteria for Specific Uses

A. Kennels.

- 1. Fence. Each kennel shall have a fence surrounding said kennel with the following requirements:
 - a. Each fence will be a minimum of six (6) feet in height and a maximum of eight (8) feet in height, and it is to be of consistent height.
 - b. Each fence shall be set back at least five (5) feet from adjoining property lines, roads, sidewalks or highways.
- 2. Buildings. Buildings shall be of double wall construction with sound proofing.
- 3. Waste collection. Provision shall be made for waste collection acceptable to the Planning Board.

B. Adult Entertainment Business.

- 1. In addition to the Special Use Permit Application, an applicant for an Adult Entertainment Use license shall file the following information:
 - a. Current business address of the applicant.
 - b. Current mailing address of the applicant if different than mailing address.
 - c. The legal name, proposed location, legal description, phone number, and mailing address of the proposed Adult Entertainment Business.
 - d. Written proof of age of the applicant in the form of a copy of the birth certificate and current driver's license or a duly issued passport issued by a governmental agency.
 - e. The name and address of the statutory agent or other agent duly appointed to accept service of process on behalf of the applicant.
 - f. A detailed floor plan including the square footage of the building proposed to house such use, and including all details of such building including public rooms, storage rooms, bathrooms, etc. The sketch need not be professionally prepared but shall be submitted on graph paper and be drawn to scale with all dimensions on the interior of the premises marked to an accuracy of plus or minus six (6) inches.
 - g. If a person who wishes to operate an Adult Entertainment Business is an individual, he or she shall sign the application for a license as applicant. If a person who wishes to operate an Adult Entertainment Business is a corporation or other business entity authorized and recognized to do business in the State of New York, each officer, director, general partner or other person who shall participate

directly in the decisions related to the Adult Entertainment Business shall sign the application as applicant.

- h. A statement by the Code Enforcement Officer that the proposed location meets with any other applicable Zoning Law.
 2. A non-refundable initial license fee shall be collected at the time of application in the amount of \$250. The renewal fee for a license hereunder shall be \$125.
 3. Additional Review Criteria:
 - a. No Adult Entertainment Business, except for an adult motel, may remain open at any time between the hours of Midnight and eight o'clock (8:00) A.M. on weekdays and Saturdays, and Midnight and noon (12:00) P.M. on Sundays.
 4. Each Special Use Permit for an Adult Entertainment Business shall expire one year from the date of issuance and may be renewed only by making an application for renewal to the Planning Board. Application for renewal shall be made at least sixty (60) days before the expiration date, and when made less than sixty (60) days before the expiration date, the expiration of the license will not be affected. If an application for renewal is denied by the Planning Board, the applicant shall not be issued a license for one year from the date of denial.
- C. Fuel Service.
1. Gasoline and/or fuel pumps shall not be located closer to any side or rear lot line than the minimum setbacks for buildings as specified in this Chapter.
 2. Adequate space shall be provided for safe pull-off, parking, waiting lines and service, so as to prevent any interference with the roadway or shoulder. Gasoline pumps shall be located at least 15 feet from the street line (front property line).

§100-6-10 Visual compatibility in C1 District.

The purpose of this section is to maintain the existing visual character along Broadway and within the downtown commercial district. Within the C1 district, all special uses shall be in general visual harmony with the surrounding properties. Building design, color, signage and landscaping shall be keeping with the neighborhood.

§100-6-11 Storage of junk vehicles.

- A. All junk waste as a result of servicing motor vehicles, such as discarded parts, shall be stored in an enclosed structure or fenced area so as not to be visible from the street or adjacent lots.
- B. Junk vehicles and parts therefrom shall not be offered for sale from the premises.

100-6-12 Marinas.

- A. All marinas shall provide and maintain at their own expense a parking lot of sufficient size to provide for 1 1/2 spaces per each boat docking or mooring space.

- B. All marinas shall provide and maintain at their own expense adequate fire lanes allowing access by appropriate fire-fighting apparatus to all areas of the marina, including but not limited to parking lots and boat docking and mooring slips. Parking lot roads designated as fire lanes shall be maintained free of obstructions at all times.

ARTICLE VII

Variances and Appeals.

§100-7-1 Board of Appeals.

The Board of Appeals (ZBA) shall have the authority to review and approve requests for variances, to hear appeals from a decision of the Code Enforcement Officer and to decide any question involving the interpretation of a provision or definition contained in this chapter.

§100-7-2 Application.

A property owner(s) or his agent(s) may initiate a request for a variance by filing an application with the Board of Appeals using forms supplied by the Board. The application shall include a copy of the tax map which shows the property and neighboring uses of property and a map drawn to scale showing all existing and proposed structures, driveways, property lines, neighboring buildings, if applicable, and natural features of the site, including wetlands and drainageways. Neighbors immediately adjoining the site shall be notified by mail of any application for a variance at said site. Application and all supporting documentation should be in by 4:00 pm on the first (1st) business day of the month. All application fees shall be set as outlined in section 100-7-10 of this chapter.

§100-7-3 Requirements for area variances.

- A. Area variances may be granted where the dimensional or physical requirements of this chapter cannot be reasonably met, including but not limited to: minimum lot size, minimum lot width, minimum road frontage, minimum side and rear yards, minimum green space buffer, maximum lot coverage by buildings, maximum height of buildings and size or height of signs.
- B. In making its determination the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community. In making such determination the Board shall also consider:
 - 1. Whether an undesirable change in the character of the neighborhood will be produced or a detriment to nearby properties will be created by the granting of the area variance.
 - 2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
 - 3. Whether the requested variance is substantial.

4. Whether the proposed variance will have an adverse impact on the physical or environmental conditions in the neighborhood.
 5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the Board of Appeals but shall not necessarily preclude the granting of the area variance.
- C. The ZBA shall only grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

§100-7-4 Requirements for use variances.

- A. A use variance may be granted to allow land to be used for a purpose which is otherwise not permitted by this chapter.
- B. No such use variance shall be granted by the Board of Appeals without a showing by the applicant that the zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals all of the following:
1. That for each and every permitted use or special permitted use within the zone where the property is located the applicant cannot realize a reasonable return, provided that lack of return is substantial and is established by competent financial evidence.
 2. That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
 3. That the requested use variance, if granted, will not alter the essential character of the neighborhood.
 4. That the alleged hardship has not been self-created.
- C. The ZBA shall only grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

§100-7-5 Approval of variances with conditions.

In the granting of variances the Board of Appeals shall have the authority to impose such reasonable conditions as are related to the use of the property and/or the period of time the variance shall be in effect. Such conditions shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

§100-7-6 Appeals.

Any appeal from a decision of the Code Enforcement Officer shall be made within 60 days after the Code Enforcement Officer makes and files said decision.

§100-7-7 Stay upon appeal.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Code Enforcement Officer certifies to the Board of Appeals that, by reason in the facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings may not be stayed otherwise than by restraining order which may be granted by the Board of Appeals or by a court of record.

§100-7-8 Procedural steps.

Applications to the Board of Appeals shall be processed in the following steps. The Board of Appeals shall comply with all of the requirements of §§ 7-712-a and 7-712-b of the Village Law.

A. Review.

1. The Board of Appeals shall undertake a preliminary review of an application at its first regularly scheduled monthly meeting after the application is submitted. At the preliminary review the Board shall determine whether the application is complete. If the application is deemed to be incomplete, then the applicant shall be notified, in writing, of what further information is required. If the application is considered to be complete, then the Board shall precede to schedule a public hearing.
2. The Board of Appeals shall follow the application requirements of the New York State Environmental Quality Review Act (SEQRA).
3. The Board shall schedule a public hearing within 62 days of receipt of a complete application and shall provide notice of such hearing by publication in a newspaper of general circulation in the Village at least five days prior to the date thereof.
4. As required by state law, certain applications shall be forwarded to the Washington County Planning Board.
5. The Board of Appeals shall conduct a public hearing on the matter. Within 62 days of the final public hearing the Board shall render a decision to approve, disapprove or approve with modifications or conditions. Said time period may be extended by mutual consent of the applicant and the Board. All decisions shall be in writing, shall be filed with the Village Clerk within five business days of the decision and a copy thereof shall be provided to the applicant.

§100-7-9 ZBA Meeting procedures.

- A. Meetings shall be held at such times as the Board may determine or at the call of the Chairman.
- B. A quorum shall consist of three members, but in order to approve a special use or a variance, or reverse a decision of the Code Enforcement Officer, an affirmative vote of at least three members shall be required.
- C. The Board shall keep minutes of its proceedings showing the vote of each member upon each question.
- D. All meetings and hearings of the Board shall be public.

- E. Every decision of determination of the Board of Appeals shall be in writing and shall be filed in the office of the Village Clerk within five business days and shall be public record.

§100-7-10 Costs.

Costs required are to be paid by the applicant for the Board of Appeals process and shall be established by resolution of the Village Board of Trustees.

§100-7-11 Appeals.

Any appeals of a decision of the Zoning Board of Appeals must be brought in the applicable court and within the time frames contained in the Village Law of the State of New York.

ARTICLE VIII

Nonconforming Lots, Uses and Structures.

§100-8-1 Applicability.

This article shall apply to those land uses, structures and lots of record which legally existed at the time of enactment, but which are not in compliance with the regulations or standards herein. When examining the origination date of a pre-existing use, the Code Enforcement Officer shall refer to the Master Plan to determine the date the use came into existence. The burden shall be upon the applicant to rebut any presumption relative to the origination date.

§100-8-2 Intent.

The intent of this article is to provide for limited development upon existing undersized lots and to allow nonconforming uses to continue but not to encourage their expansion.

§100-8-3 Existing undersized lots of record.

- A. A single-family dwelling may be constructed on any recorded lot held in single and separate ownership prior to adoption of these regulations without regard to the minimum lot area, minimum lot width and minimum river frontage required by Article III of this chapter, provided that such lot does not adjoin any other lot or lots held by the same owner such that the owner might combine two or more lots in order to meet minimum requirements. Minimum front, side and rear building setbacks for new structures shall be 1/2 the minimum requirements specified in this chapter. The establishment of a use other than a single-family dwelling on such lots shall require a variance.
- B. Existing buildings located on undersized lots of record may be reconstructed to occupy the same ground area as the original structure, provided that a variance is obtained from the Zoning Board of Appeals.

- C. Existing buildings located upon undersized lots of record may be expanded without the issuance of a variance, provided that minimum front, side and rear building setbacks are met.

§100-8-4 Nonconforming building setbacks.

Existing buildings which are placed closer to front, side or rear lot lines than permitted by this Chapter shall not be expanded so as to encroach farther into the required setback without the issuance of a variance. Expansions within front, side or building setbacks are permitted without issuance of a variance if they are in line with the existing building, as illustrated below. It shall be presumed that any expansion into the front setback on Broadway, will be detrimental to the health, safety and welfare of the community.

§100-8-5 Nonconforming uses.

Uses of land or structures which lawfully existed at the time these regulations were enacted, and which would be prohibited or restricted by these regulations, may be continued subject to the following conditions:

- A. Enlargement of buildings. Buildings containing a nonconforming use may be enlarged by an amount not to exceed 1/4 the size of the building without issuance of a variance by the Board of Appeals, provided that the minimum building setbacks and maximum lot coverage requirements are met. If only a portion of a building contains a nonconforming use, then that square footage may be increased by 1/4 by using additional space within the structure, but not by constructing an addition to the structure.
- B. Expansion of area. The area of a lot occupied by a nonconforming use which does not involve a building, such as a nonconforming automobile sales lot or an equipment storage area, may be expanded by 25%, provided that all dimensional and screening requirements stated in this chapter for such use are satisfied.
- C. Unsafe structures. Any structure or portion thereof declared unsafe by proper authority may be restored to a safe condition.
- D. Restoration. If a building is destroyed by fire, flood or other act of God, then it may be rebuilt or restored to house the specific use that existed at the time of its destruction, but it shall not be rebuilt for any other nonconforming use. It may be enlarged by the amount permitted in Subsection A above.
- E. Discontinuance. Whenever a nonconforming use has been discontinued for a period of one year, the use shall not thereafter be reestablished, and all future uses shall be in conformity with these regulations.
- F. Changes. Once changed to a conforming use, no structure or land so changed shall be permitted to revert to a nonconforming use.
- G. Ownership. Any nonconforming use on a parcel of property which is conveyed to another party may be continued, provided that such use is reestablished within one year of the sale pursuant to Subsection E above.

ARTICLE IX
Site Plan Review.

§100-9-1 Introduction.

This section is enacted and to be construed in accordance with Section 7-725-A of the Village Law.

- A. Intent and Purpose. The overall purpose of the site plan review is to plan for the design of commercial, residential and industrial development when it occurs on a single parcel of land and to assess the suitability of the proposed development to the natural conditions of the site and compatibility with surrounding uses. Through site plan review, it is the intent of this local law to promote the health, safety and general welfare of the inhabitants of the Village. It is also the intent of this law to ensure the conservation, protection, preservation, development and use of the natural and manmade resources of the Village through the review and approval of site plans. Toward that end, this law provides a means for the Village to:
1. Conserve its resources and promote the Village's economy;
 2. Preserve water and air quality;
 3. Minimize traffic congestion and intrusive development impacts on nearby properties;
 4. Ensure access for emergency vehicles (police, fire protection and ambulance service);
 5. Provide adequate water supply and sanitary means for sewage and solid waste disposal;
 6. Support positive economic development from the proposed use without any undue or adverse impact effect on the Village, its inhabitants and the economic resources of the Village;
 7. Ensure the protection of open space, natural resources and preserve historic characteristics of the Village; and
 8. Ensure overall conservation, protection, development and use of the unique scenic, aesthetic, wildlife, recreational, historic, architectural, ecological and natural resources of the Village.
- B. Applicability. Land Uses Subject to Site Plan Approval.
1. Site plan approval shall be required for those uses designated in this Chapter, and to any alteration, expansion, or modification of any previously approved site plan application, and to any alteration, expansion, or modification of any use requiring site plan approval as set forth in this Chapter

§100-9-2 Site Plan Review Procedures.

- A. General. Before commencing any land use activity requiring site plan review as set forth in this Chapter, the owner of the property where the activity is proposed to take place or where a person authorized in writing to act for such owner, shall, in accordance with the provisions stated herein, submit a site plan application together with appropriate supporting data to the Planning Board for review.
- B. Site Plan. A sketch plan conference shall be held between the Planning Board and the

applicant prior to the preparation and filing of a formal site plan with the Planning Board. The purposes of such a conference are 1) to enable the applicant to inform the Planning Board of a proposal prior to the preparation of a detailed site plan and 2) for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and 3) to generally determine the information to be required on the site plan and for a complete application. In order to accomplish these objectives, the applicant shall provide the following:

1. A statement and rough sketch map based on a tax map or other survey map showing the locations and dimensions of principal and accessory structures, parking areas, access signs, existing and proposed vegetation and other proposed features, anticipated changes in the existing topography and natural features;
 2. A site location map showing the parcel that is the subject of the application for site plan review and surrounding properties, subdivisions, public and private roads, streets, right-of-way, easements and other pertinent features, e.g.: Washington County highway map; and
 3. A topographic or contour map to show site topography from a United States Geological Survey (USGS) sheet or map.
- C. Application for Site Plan Approval. To apply for site plan approval, an applicant shall complete a site plan application form. The application shall be submitted to the Village Clerk at least fifteen (15) days prior to the regularly scheduled meeting and shall be accompanied by all fees and data required by the applicable schedule of Village of Fort Edward fees. Application, payment and all supporting documentation are to be submitted by the 4:00 pm on the first business day of the month.
- D. Site Plan Submission Requirements. The site plan submitted for approval and supporting documentation shall include, at a minimum, all of the following information:
1. Site Map. The plat to be filed with the Village Clerk. The size of the sheets shall be 11 inches by 17 inches or larger, including a margin for binding of two inches, outside of the border, along the left side and a margin of one inch outside of the border along the remaining sides. It is the preference that such plans be 11 inches by 17 inches, provided that if the applicant or the Planning Board determine that the project cannot be adequately reviewed due to the size of such plans, such larger plans as the applicant or the Planning Board may request or require shall be submitted. This shall be drawn at a scale of one-inch to equal fifty (50) feet or larger and shall show existing topography at contour intervals of not more than five (5) feet. This map shall show the site area and any pertinent natural features that may affect the proposed use such as watercourses, wetlands, wooded areas, areas subject to flooding, flood zones etc. The plat shall show:
 - a. The title of the site plan, including name and address of applicant and person responsible for preparing such drawing.
 - b. North arrow, scale and date.
 - c. Boundaries of property plotted to scale.
 - d. Location, size and existing use of buildings and other structures on premises.
 - e. Location and ownership identification of all adjacent lands including across roadways and waterways.
 - f. Location, name and width of existing adjacent roads.
 - g. Location, width and identification of all existing and proposed rights-of-way,

easements, setbacks, reservations and areas dedicated to public use on site or on an adjoining the property.

- h. Location of steep slopes, wetlands, flood and erosion-prone areas, watercourses and natural drainage patterns.
- i. Location of significant trees, shrubs and/or edge of wooded areas.
- j. Location of all structures, significant environmental features and utilities within 100 feet of the property line.
- k. Development Plan Map. This is a detailed plan for the proposed development, drawn to scale of one-inch to equal fifty (50) feet or larger and may be on one or more sheets. The site development plan illustrates the location of all existing or proposed site improvements including drains, culverts, retaining walls and fences; provides a description or shows the location of proposed buffer areas; the design of lighting facilities and signs; all automobile parking and all parking for commercial vehicles while loading and unloading; and the location and width of all driveways, exits and entrances. In addition, the site development plan shall set forth the following:
 - (i) Grading and drainage plan, showing existing and proposed contours and watercourses if a change in topography is proposed.
 - (ii) Locations, type of construction and exterior dimensions of all buildings and other structures.
 - (iii) Identification of the amount of gross floor area (GFA) proposed for retail sales and services, offices and other commercial or industrial facilities.
 - (iv) Location, type of construction and area of all parking and truck loading areas, showing access and egress points to the site.
 - (v) Provision for pedestrian access and circulation, including public and private sidewalks, if applicable.
 - (vi) Location and intended use of outdoor storage, if any.
 - (vii) Location and construction materials of all existing or proposed site improvements including drains, culverts, berms, retaining walls, fences, patios, paved areas and decks.
 - (viii) Description of the method of sewage disposal and the location of such facilities.
 - (ix) Location of waste storage containers, including proposed solid waste and hazardous waste collection, storage and staging areas.
 - (x) Description of the method of securing water, location of such facilities and approximate quantity of water required.
 - (xi) Location of fire lanes and other emergency zones, including the location of fire hydrants, if required.
 - (xii) Location, design and construction materials of all energy generation and distribution facilities, including electrical, gas, hydro, solar and wind energy.
 - (xiii) Location, size, design and type of all proposed temporary and permanent signs.
 - (xiv) Location and development of all proposed buffer areas, including indication of existing and proposed vegetative cover.
 - (xv) Location and design of existing and proposed outdoor lighting, including height, type, bulb type/style and hours of operation.

- (xvi) Proposed planting plan including screening and buffer areas with the planting and general landscaping schedule.
 - (xvii) Record of applications and approval status of all necessary permits from federal, state, county and local offices and agencies.
 - (xviii) Estimated project construction schedule.
 - (xix) Other elements integral to the proposed development as may be specified by the Planning Board at the sketch plan conference, such as contour intervals or licensed survey, etc.
 - (xx) Elevations or cross-sections of proposed buildings.
- l. Elevations and/or cross-sections, illustrating front, rear and side profiles drawn to the scale of one eighth inch equals one-foot, may be required by the Planning Board. The elevations and/or cross sections shall clearly delineate dimensions of all buildings, building materials and other permanent structures included in the proposal, including the dimensions and height of lighting facilities and signs.
 - m. The Planning Board shall require, as appropriate, engineering plans prepared by a licensed professional to illustrate and describe such development aspects as: road improvements, drainage systems, grading plan, public or private utility systems, sewer and water facilities and such other supporting data as may be necessary.
 - n. The Planning Board shall have the authority to require such additional information as it may deem reasonably necessary to adequately and properly review the site plan application.
 - o. SEQRA Compliance. In addition to the above list, the applicant shall prepare and file with the site plan application, the New York State Environmental Assessment Form (EAF) to allow the Planning Board to determine the applicability of the State Environmental Quality Review Act. (SEQRA). The Planning Board shall determine compliance and comply with SEQRA prior to site plan approval.
 - p. Verification of Ownership. If the person filing the site plan application is the owner of the property on which the land use activity is proposed, a notarized statement to that effect shall be filed, giving the name(s) of the owner(s) of the property.
 - q. Designated Agent. For non-owner applicants, a notarized written permission of the owner(s) that references the proposed land use shall be filed with the Planning Board.
2. Acceptance of Application. The Planning Board shall, within forty-five (45) days of the filing of a site plan application, or at its next regular meeting after such filing, whichever is sooner, decide whether to accept the application as complete and begin the review process, or to reject the application as incomplete. If the Planning Board deems the application incomplete, rather than rejecting the application, the Planning Board may request such additional information that it deems necessary to complete the application, and provide for such time as it deems sufficient for the applicant to submit such additional information. If the Planning Board requires a Draft Environmental Impact Statement (DEIS) or if one is filed by the applicant(s), then the application shall not be deemed complete until the DEIS is filed and accepted by the Planning Board. If the Planning Board deems an application incomplete, it shall then notify the applicant(s) in writing of the deficiencies.
 3. Segmentation. The site plan applications and associated maps shall include all proposed phases of development. Site plan approval shall be based on the total

- planned project in order to facilitate the assessment of all potential development impacts. The Planning Board shall consider applications incomplete where there is reason to believe the application applies to only a segment of the total planned development. In such situations, the Planning Board shall return such application to the applicant together with a letter stating the basis for its determination.
4. Referral to Other Agencies and Boards. After determining an application complete the Planning Board, if required by Section 239m of General Municipal Law, shall refer the site plan application to the Washington County Planning Board. If a public hearing is required or deemed necessary by the Planning Board then notice of the proposed action accompanied with a full statement must be sent to the Washington County Planning Board at least 10 days before public hearing. The Planning Board may also coordinate its review (if not otherwise required by state law) or consult with federal, state and local agencies and boards. The Planning Board will also comply with any other requirements of General Municipal Law Sections 239-n, and 239-nn, as applicable.
 5. Public Hearing. The Planning Board shall conduct a public hearing on site plan applications within sixty-two (62) days after it has determined an application to be complete. It shall then advertise such hearing at least ten (10) days in advance of the public hearing in a local newspaper of general circulation. The Planning Board shall also mail a notice of the hearing to the applicant(s) and adjoining landowners at least ten (10) days before the hearing and the costs of such mailing shall be borne by the applicant(s).
 6. Decision. Within sixty-two (62) days of the close of the public hearing or acceptance of the application, the Planning Board shall render a decision to approve, approve with conditions or modifications, or disapprove the site plan application.
 - a. Approval. Upon approval of the site plan and payment by the applicant(s) of all fees and reimbursable costs due to the Village, the Planning Board shall endorse its approval on a copy of the site plan and immediately file a copy of the site plan with a written statement of approval with the Village Clerk. A copy of the written statement of approval shall be mailed to the applicant(s) by mail.
 - b. Approval with modifications. The Planning Board may approve the site plan and require specific modifications be made. A copy of the written statement shall be mailed to the applicant(s) by mail. The Planning Board shall endorse its approval on a copy of the site plan containing the required modifications and immediately file the site plan and a written statement of approval with the Village Clerk.
 - c. Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall be immediately filed with the Village Clerk and a copy thereof mailed to the applicant(s) with a letter stating the Planning Board's reason(s) for disapproval.
 7. Extension of Time to Render Decision. Any time limitation in this article may be extended by mutual consent of the applicant(s) and the Planning Board.
 8. Less Intensive Review. The Planning Board may conduct a less intensive review for projects that do not have significant potential adverse impact on neighboring properties and uses. The Planning Board may waive certain requirements of this section C above for such projects. The Planning Board; however, must state the application requirements being waived, its grounds for waiving such application

requirements and file such statement along with the site plan application and supporting documents.

9. Reimbursable Costs. The Planning Board may engage its own consultants in the review of a site plan application and ask the applicant(s) to pay its reasonable and actual costs of doing so. Such costs shall not exceed three thousand five hundred (\$3,500.00) dollars without notification to the applicant.
10. All application fees shall be set as outlined in section 100-7-10 of this chapter.

§100-9-3 Design Objectives.

- A. General Objectives. Sites to be developed shall be of such character that they can be safely used for building purposes without danger to the public health or safety, or peril from fire, flood, or other causes. New development shall be compatible with the rural, small Village character of the community.
 1. Location, arrangement, size, construction materials and overall design of the project including but not limited to structures, lighting, signs, fences and all landscaping must be compatible with the natural surroundings and existing structures.
 2. Consideration of aesthetics in the project design.
 3. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
 4. Location, arrangement, appearance and sufficiency of off-street parking; and loading for commercial facilities.
 5. Adequacy of snow storage, storm water and drainage facilities.
 6. Adequacy of water supply and sewage disposal facilities.
 7. Adequacy of site design for fire protection with particular attention to access for emergency vehicles.
 8. Adequacy and arrangement of pedestrian access and circulation.
 9. Compatibility with and protection of adjacent uses, particularly residential uses, through landscaping, vegetative and other screening, buffering, planting and buffer zones, procedures used during construction and restrictions on outside activities.
 10. Proposed fences shall be of sufficient height to screen visually from adjacent uses, but shall not be of such a height or placed in such a manner as to interfere with sight distance related to traffic and well as access to any thoroughfare.
 11. Buffering, screening and fencing materials shall be of such a character and be placed so as to be in character with the surrounding areas.
 12. Protection of environmentally sensitive areas.
 13. Mitigation of the adverse effects of smoke, noise, glare, vibration, odors emissions or noxious and offensive uses. No land use shall generate excessive audible sound at the lot line, taking into consideration the surrounding land use.
 14. Absence of dangerous or hazardous activities and materials.
 15. Natural Resource Considerations. In general, sites to be developed should avoid areas where the following conditions are present:
 - a. Slopes greater than fifteen percent (15%).
 - b. Bedrock less than five (5) feet from the surface and areas of frequent rock outcrops.

- c. Areas of high groundwater (seasonal or permanent).
 - d. Soils with excessively slow or fast percolation.
 - e. Flood hazard areas.
 - f. Regulated freshwater wetlands (New York State Department of Environmental Conservation & Army Corps of Engineers).
 - g. Shores of waterbodies, banks of watercourses or the headwaters of a watershed.
16. Village Design Guidelines. To help insure that new development is compatible with the character of the Village, the Planning Board shall apply the following design guidelines to its review of site plans:
- a. Whenever feasible, retain and re-use streets and driveways instead of constructing new roads and driveways.
 - b. Whenever feasible, new buildings should be placed on the lot in similar locations to buildings located on adjacent parcels.
 - c. Color schemes should be such that they will compliment the neighborhood and adjoining land uses and building materials should be similar to and compliment those in the neighborhood where the use is to be located or modified.
 - d. Minimize clearing of vegetation.
 - e. Whenever feasible, situate parking lots to the side and rear of buildings and parking lots should contain islands or other planting schemes acceptable to the Planning Board to prevent large expanses of pavement;
 - f. Lighting should be designed and arranged so as to minimize glare on adjacent properties and onto public places.
17. Site Access Standards. Site plan approval should be conditional upon the applicant(s) obtaining any necessary curb-cut permits. In addition, site plans should comply (if applicable) with the following site access guidelines:
- a. Access drives shall be constructed and maintained so as to provide for year-round access.
 - b. In cases where sites have frontage on more than one (1) street, the principal point of access shall be from the secondary street (whenever feasible).
 - c. Driveways shall be combined (whenever feasible) to minimize the number of access points onto streets.
 - d. There shall be a maximum of one (1) driveway entrance per developed lot;
 - e. Driveway grade and width shall be such that adequate and safe access is provided for emergency and service vehicles during all seasons.

§100-9-4 Required Improvements.

- A. Performance Guarantees. A certificate of occupancy shall only be issued when all improvements shown on the site plan are installed in accordance with site plan approval, or a performance guarantee has been provided by the applicant(s) for uncompleted improvements. Such guarantees may include one or a combination of the following:

1. A bond executed by a surety company equal to the cost of such improvements. Any such bond shall require the approval of the Village Board in consultation with the Attorney for the Village as to form, sufficiency, manner of execution and surety;
2. A certified check in a sufficient amount up to the cost of the improvements. The certified check shall be placed in an escrow account established by the Village for this purpose;
3. A letter of credit that is of sufficient amount to cover one hundred and ten percent (110%) of the costs of the improvements. Letters of credit shall require the approval of the Village Board in consultation with the Attorney for the Village as to form, sufficiency and manner of execution and shall be duly notarized;
4. A waiver under appropriate certain circumstances.

§100-9-5 Schedule and Approval of Improvements.

The Planning Board shall specify the time frame for completion of improvements in its decision on the application. When a certified check or performance bond is issued, the Village and the applicant(s) shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation. Each cost as listed shall be repaid to the applicant(s) upon completion and approval after inspection by the Village of the improvement. The Planning Board shall send a letter to the applicant(s) that provides sufficient evidence for the release by the Village of the portion of the performance bond or certified check as designated in the contract to cover the cost of the completed improvement.

ARTICLE X

Downtown Preservation.

§100-10-1 Purpose.

- A. There exist within the Village, particularly in the C-1 and HC Districts, places, sites, structures and buildings of historic or architectural significance, antiquity, uniqueness of exterior design or construction, which should be conserved, protected and preserved to maintain the architectural character of the Village, to contribute to the aesthetic value of the Village and to promote the general good, welfare, health and safety of the Village and its residents. The provisions of this Article X shall apply to all buildings in the C-1 and HC Districts and any other buildings designated on any State or Federal Historic Register.
- B. The purpose of this Article X is to promote the general welfare by providing for the protection, enhancement, perpetuation, and use of buildings, structures, signs, features, improvements, sites, and areas within the C-1 and HC Districts that reflect special elements of the Village's historical, architectural, cultural, economic or aesthetic heritage for the following reasons:

1. To foster public knowledge, understanding, and appreciation in the beauty and character of the Village and in the accomplishments of its past;
 2. To ensure the harmonious, orderly, and efficient growth and development of the Village;
 3. To enhance the visual character of the city by encouraging new design and construction that complements the Village's historic buildings;
 4. To protect and promote the economic benefits of historic preservation to the Village, its inhabitants and visitors;
 5. To protect property values in the Village;
 6. To promote and encourage continued private ownership and stewardship of historic structures;
 7. To identify as early as possible and resolve conflicts between the preservation of historic landmarks/districts and alternative land uses; and
 8. To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.
- C. Enabling Authority. Pursuant to Article 5, § 96-a; Article 5-G, Article 5-J and Article 5-K, § 119-dd of the General Municipal Law; Article 14 of the Parks, Recreation and Historic Preservation Law; and § 10 of the Municipal Home Rule Law; it is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts are necessary to promote the cultural, economic and general welfare of the public.

§100-10-2 Demolition, Removal, or Relocation of Buildings in the C-1 and HC Districts, or other Historic Buildings.

- A. Demolition of a structure located in and contributing to the significance of the C-1 and HC Districts shall be allowed only in case of economic hardship, unless the Code Enforcement Officer, upon due deliberation has made an express written finding that the structure presents an imminent threat to the public health, safety and welfare.
- B. Any person desiring to demolish a building shall first file an application for a building demolition permit with the building department and an application for a certificate of appropriateness of demolition with the Zoning Board of Appeals. An applicant must submit the following items:
 1. Current level of economic return;
 2. Amount paid for the property, date of purchase, party from whom purchased, and relationship between the owner of record, the applicant, and person from whom property was purchased;
 3. Annual gross and net income from the property for the previous three years;
 4. Itemized operating and maintenance expenses for the previous three years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period;
 5. Remaining balance on the mortgage or other financing secured by the property and annual debt-service, if any, during the prior three years;

6. Real estate taxes for the previous four years and assessed value of the property according to the two most recent assessed valuations;
 7. All appraisals obtained within the last two years by the owner or applicant in connection with the purchase, financing, or ownership of the property;
 8. Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other;
 9. Any state or federal income tax returns relating to the property for the last two years;
 10. Any listing of property for sale or rent, price asked, and offers received, if any, within the previous two years, including testimony and relevant documents regarding: (a) any real estate broker or firm engaged to sell or lease the property, (b) reasonableness of price or rent sought by the applicant, or (c) any advertisements placed for the sale or rent of the property;
 11. Feasibility of alternative uses for the property that could earn a reasonable economic return;
 12. Report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any buildings on the property and their suitability for rehabilitation;
 13. Cost estimates for the proposed construction, alteration, demolition, or removal, and an estimate of any additional cost that would be incurred to comply with the requirements for a certificate of appropriateness;
 14. Estimated market value of the property: (a) in its current condition; (b) after completion of the proposed alteration or demolition; and (c) after renovation of the existing property for continued use;
 15. Expert testimony or opinion on the feasibility of rehabilitation or reuse of the existing structure by an architect, developer, real estate consultant, appraiser, and/or other real estate professional experienced in historic properties and rehabilitation;
 16. Any evidence of self-created hardship through deliberate neglect or inadequate maintenance of the property; and
 17. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
 18. Applicable SEQRA forms.
- C. Demolition of any such building may be approved only in connection with approval of a replacement project.
- D. The Zoning Board of Appeals shall hold a public hearing and shall take one of the following actions:
1. Approve the demolition permit in conformance with the provisions of §100-10-2 of this Chapter;
 2. Approve the demolition hardship permit subject to a waiting period of up to one hundred twenty days to consider relocation/documentation;
 3. Deny the permit. If denied, the ZBA shall set forth the reasons for such denial.
- E. During the continuance period, the Zoning Board of Appeals may investigate relocation of the building (on site) or modification of the building for future uses in a way which preserves the architectural and historical integrity of the building.

§100-10-3 Demolition, Removal or Relocation Hardship Criteria

- A. Application for demolition, removal or relocation. An applicant may apply to the Zoning Board of Appeals for a certificate of appropriateness for demolition of a proposed demolition, removal or relocation of a building in the C-1 or HC districts, or any other buildings designated on any State or Federal Historic Register. In order to prove the existence of economic hardship sufficient to justify demolition, removal, or relocation, the applicant shall establish that a denial of such application will prevent the property owner from earning a reasonable return on investment, regardless of whether that return represents the most profitable return possible.
 - 1. Certificate of Appropriateness for demolition. The applicant for a certificate of appropriateness for demolition must establish to the Zoning Board of Appeals' satisfaction, an imminent plan of reuse or redevelopment of the affected property. The applicant shall establish that:
 - a. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - b. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return;
 - c. Efforts to find a purchaser interested in acquiring the property and preserving it have failed;
 - d. The inability to adapt or re-use the property or to find a reasonable purchaser has not been caused by the owner's failure to maintain the property in usable condition; and
 - e. The applicant has submitted a proposed plan for the documentation of the building to document the characteristics, use and history of the building and the agency, museum or group where such documentation will be donated and kept.
 - 2. In deciding upon such application for removal, relocation or demolition, the Zoning Board of Appeals may consider whether the owner has created his own hardship through waste and neglect, thereby permitting the property to fall into a serious state of disrepair.
- B. Before approving the removal, relocation or demolition of an individual landmark or structure within a historic district, the Zoning Board of Appeals may suspend the application for up to one hundred and eighty (180) days to allow the applicant to consult in good faith with the local preservation groups and the public in a diligent effort to seek a less intrusive alternative to demolition. In the event the Zoning Board of Appeals does not suspend such application, the Zoning Board of Appeals shall hold a public hearing on the application within sixty (60) days of the application being deemed complete.

**ARTICLE XI
Administration and Enforcement.**

§100-11-1 Land use and development permits.

- A. Except for exempt actions listed in in this chapter, no building or structure shall be erected, altered or moved or use instituted until a land use and development permit has been issued.
- B. Parking lots for places of public assembly and commercial or business uses shall require a land use and development permit for placement.
- C. When establishing measurements to meet required setbacks, measurements shall be taken from the road right-of-way or lot line to the furthestmost protruding part of the use or structure. This shall include such projecting facilities as porches, carports and attached garages.
- D. A land use and development permit issued under this chapter shall expire one year from the date of issue if construction is not substantially begun.
- E. Any use that has been discontinued for a period of 12 months or longer shall be considered abandoned and may not be reinstated without applying for a new land use and development permit.
- F. Applications for land use and development permits shall be submitted to the Code Enforcement Officer or Village Clerk and shall include three copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be used, the size and location on the lot of existing and proposed structures and accessory structures, the distance from the building line to all lot lines, road lines, waterfront property lines and streams and such other information as may be necessary for the enforcement of this chapter. This information, and other relevant application data, shall be provided on forms issued by the Village Clerk or Code Enforcement Officer.
- G. Permit fees shall be established by resolution of the Village Board.
- H. Temporary permits may be issued by the Code Enforcement Officer, upon approval by the Board of Appeals, for a period not exceeding one year. Such temporary permits are conditioned upon agreement by the owner or operator to remove any nonconforming structures or equipment upon expiration of the temporary permit or to bring the use into compliance by a specific time. Such permits may be renewed.

§100-11-2 Certificate of occupancy.

No land shall be occupied or used and no building or structure hereafter used or changes made in the use until a certificate of occupancy has been issued by the Code Enforcement Officer stating that the building, structure or proposed use thereof complies with the provisions of this chapter.

§100-11-3 Code Enforcement Officer; duties.

- A. This chapter shall be enforced by the Code Enforcement Officer, who shall be appointed by the Village Board, and who shall be the Zoning Administrator for purposes of interpretation of and enforcement of this Chapter.
- B. The duties of the Code Enforcement Officer/Zoning Administrator shall be to:

1. Approve and/or deny land use and development permits.
2. Scale and interpret zone boundaries on the Land Use District Map.
3. Approve and/or deny certificates of occupancy.
4. Refer appropriate matters to the Board of Appeals.
5. Revoke land use and development permits where there is false, misleading or insufficient information.
6. Revoke land use and development permits and/or certificates of occupancy where the applicant has varied from the terms of the application.
7. Investigate violations, issue stop-work orders and refer violations to the Village Board.
8. Report at regular Village Board meetings the number of land use and development permits and certificates of occupancy issued and fees collected.

§100-11-4 Board of Appeals.

- A. Creation. A Board of Appeals is hereby created. Said Board shall consist of five members. The Village Board shall appoint the members of the Board of Appeals on a staggered term basis in conformance with Village Law and shall appoint a Chairman and Vice Chairman. The Board of Appeals shall select a Secretary and may prescribe rules for the conduct of its affairs.
- B. Powers and duties. The Board of Appeals shall have all the powers as granted by Article 7 of the Village Law and the following powers and duties with respect to this chapter:
 1. Review and approval of special use permits.
 2. Review and approval of variances.
 3. Review of appeals from a decision of the Code Enforcement Officer.
 4. To decide any question involving the interpretation of a provision or definition contained in this chapter.
 5. Submittal of advisory opinion to the Village Board for any proposed amendment to this chapter.
- C. Compensation of the Board. The Board of Appeals members shall be compensated at a rate as determined, annually, by the Village Board of Trustees.

§100-11-5 Enforcement; penalties for offenses; appeals.

- A. Penalties. Any person owning, controlling or managing any such building, structure, land or premises wherein or whereon there shall be placed on or there exists or is practiced or maintained anything or any use in violation of any of the provisions of this chapter shall be guilty of a violation pursuant to the Penal Law of the State of New York and punishable by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days or by both such fine and imprisonment. For each twenty-four-hour period such violation continues, every such person shall be deemed guilty of a separate offense.

Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agency or manager may be considered to be the "person" for the purpose of this section.

- B. Alternative remedy. In the case of any violation or threatened violation of any of the provisions of this chapter or conditions imposed by a land use and development permit, in addition to other remedies herein provided, the Village may institute any appropriate action or proceedings to prevent such unlawful erection, structural alteration, reconstruction, occupancy, moving and/or use to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises and to collect a penalty or fine assessed hereunder.
- C. Stop-work order.
 - 1. The Village Board for the Village of Fort Edward herein grants the Code Enforcement Officer the administrative responsibility of determining in the first instance whether a violation has occurred and immediately terminating said violation by posting a stop-work order on the premises wherein the violation has occurred.
 - 2. The stop-work order shall serve notice to the owner, builder, developer, agent and/or any other individual or business on the premises that all such actions specified on the stop-work order must be terminated immediately.
- D. Appeal. Any person found to be in violation as described above may appeal the notice of violation to the Board of Appeals. Such appeal must be in writing and may be made no later than 60 days from the date of the notice. An appeal to the Board of Appeals shall stay enforcement, including the accumulation of fines and penalties, from the date such appeal is filed in the office of the Board of Appeals to the date of a determination by the Board of Appeals.
- E. Misrepresentation. Any permit or approval granted under this chapter which is based upon or is granted in reliance upon any material misrepresentation or failure to make a material fact or circumstances known, by or on behalf of an applicant, shall be void. This subsection shall not be construed to affect the remedies available to the Village pursuant to this Chapter.
- F. While there is a pending violation of this Chapter for any property, neither the Planning Board nor the Board of Appeals may take further action on any application for any approvals required under this Chapter until such violation is abated.

ARTICLE XII

Miscellaneous.

§100-12-1 Amendments.

The Village Board may amend, supplement or repeal the regulations and provisions of this chapter after public notice and public hearing.

§100-12-2 Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this Local Law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this Local Law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§100-12-3 Effective Date.

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.