

## Chapter 174, ZONING

[HISTORY: Adopted by the Board of Trustees of the Village of Hamilton 3-20-2000 by L.L. No. 1-2000.<sup>1EN</sup> Amendments noted where applicable.] JIM STOKES AMEND AS NEEDED.125

### GENERAL REFERENCES

- Excavation, grading and filling -- See Ch. 63.
- Flood damage prevention -- See Ch. 82.
- Freshwater wetlands -- See Ch. 86.
- Satellite antennas -- See Ch. 124.
- Sewers -- See Ch. 129.
- Signs -- See Ch. 133.
- Subdivision of land -- See Ch. 143.

## ARTICLE I, General Provisions

### **§ 174-1. Title.**

This chapter shall be known and cited as the "Village of Hamilton Zoning Law."

### **§ 174-2. Purpose.**

In accordance with the provisions of §§ 4-412, 7-700, 7-702 and 7-704 of the Village Law, this chapter is enacted to guide and regulate the use of land and buildings and the location and configuration of buildings and structures for the following purposes:

- A. To encourage the most appropriate use of land.
- B. To afford safety from fire, panic and other dangers.
- C. To provide adequate light and air.
- D. To establish requisite public utilities and facilities.
- E. To develop suitable vehicular and pedestrian traffic circulation.
- F. To prevent overcrowding and undue concentration of population.
- G. To conserve the value of buildings and properties.
- H. To protect and enhance the character of the Village.

### **§ 174-3. Interpretation.**

- A. The provisions of this chapter shall be held to be the minimum requirements for

<sup>1</sup> Editor's Note: This local law superseded former Ch. 174, Zoning, adopted 9-8-1981

the public health, safety and general welfare.

- B. When this chapter imposes a greater restriction on the use of buildings or land or on building heights or requires larger open spaces or makes any other greater restriction than is required by any other law, ordinance, rule or regulation or by easements, covenants or agreements, the provisions of this chapter shall govern.

#### **§ 174-4. Effect on Earlier Regulations.**

- A. The adoption of this chapter shall not affect any pending or prevent any future prosecution of or action to abate any existing violation of the 2000 Zoning Ordinance, as amended, if the violation is in violation of the provisions of this chapter. JIM STOKES AMEND AS NEEDED.
- B. Nothing herein shall be deemed to change the status of nonconforming uses heretofore created by virtue of the existing local law, if such uses remain nonconforming under the provisions of this chapter.

#### **§ 174-5. Effect on Other Laws.**

Compliance shall be required with all other applicable laws, ordinances and codes relating to properties and buildings, including but not limited to the:

- A. New York State Uniform Fire Prevention and Building Code.
- B. New York State Multiple Residence Law.
- C. New York State Environmental Conservation Law.
- D. United States Flood Disaster Protection Act.
- E. Village of Hamilton Sewer Use Ordinance.<sup>2EN</sup>
- F. Village of Hamilton Sign Law.<sup>3EN</sup>
- G. Village of Hamilton Subdivision Law.<sup>4EN</sup>

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<sup>2</sup> Editor's Note: See Ch. 129, Sewers.

<sup>3</sup> Editor's Note: See Ch. 133, Signs.

<sup>4</sup> Editor's Note: See Ch. 143, Subdivision of Land.

## Chapter 174. Zoning

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### **Article II. Definitions and Word Usage**

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#### **§174-6 Word Usage**

A. For the purposes of this chapter, certain words and terms shall have the meanings given in this section.

B. Words used in the present tense include the future tense; words used in the singular include the plural, and the plural the singular; the word "shall" is mandatory and not permissive.

C. Certain words imply and include other words as follows:

BUILDING: Structure.

LOT: Plot, parcel.

RENT: Lease

STREET: Road, highway, lane, alley.

USED: Designed, intended, arranged to be used.

#### **§ 174-7. Definitions.**

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

##### **ABANDONMENT**

The relinquishment of property, or a cessation of the use of the property, by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property. A nonconforming use not exercised for a period of 365 days may not be resumed.

##### **ACCESSORY BUILDING**

A structure detached from a principal building on the same lot and whose use is customarily incidental and subordinate to the principal building or use.

##### **ACCESSORY USE, ANCILLARY USE**

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

##### **ADDITION**

Extension or increase in area or height of a building.

##### **ADMINISTRATIVE OFFICE**

An office where no merchandise is sold or exhibited.

##### **ADULT RESIDENTIAL CARE FACILITY**

Residential facilities for adults where minimal medical care and personal hygiene are provided to residents on a twenty-four-hour basis for persons, who, by reason or limitations associated with age or physical disabilities, are unable to live independently. (See also "family care facility.") There are two types of adult residential care facilities:

A. A facility for no more than three adults. Licensing and periodic inspection may be required by Madison County.

B. A facility for four or more adults. Licensing and periodic inspection may be required by Madison County.

**ALLEY**

A public way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

**ALTERATION**

Any change, rearrangement or addition to a building, other than repairs; any modification in construction or in building equipment.

**AREA, FLOOR**

The sum of the gross horizontal area of the several floors, including basement, of a building and its accessory buildings on the same lot, and including the area of roofed porches and roofed terraces. All dimensions shall be measured from the exterior faces of exterior walls.

**ART GALLERY**

A type of retail use devoted principally to the display and sale of artistic items.

[Added 12-17-2013 by L.L. No. 5-2013]

**AUTO, WASH**

A drive-in service using power or mechanical equipment for washing vehicles.

**BANQUET HALL**

A facility principally used for public or private group events providing food and beverages to invited guests, with or without music or other forms of entertainment.

[Added 12-17-2013 by L.L. No. 5-2013]

**BAR, TAPROOM, TASTING ROOM**

A facility dedicated predominantly to the serving of alcoholic beverages.

**BAR, ACCESSORY**

A facility or portion of a facility for which the serving of alcoholic beverages is the primary or substantial use for some portion of the day.

**BASEMENT**

An area partly below grade and having at least 1/2 of its clear floor-to-ceiling height below the average grade of the adjoining ground.

**B DISTRICT**

A business district as described in Article VI.

**BA DISTRICT**

Business Aviation District as described in Article VI.

**BD DISTRICT**

Business Development District as described in Article VI..

**BH DISTRICT**

Business Hospital District as described in Article VI..

**BN DISTRICT**

Business North District as described in Article VI..

**BED-AND-BREAKFAST**

A commercial use in which overnight accommodations for transient or temporary paying guests are provided by a resident operator. Such use may include the serving of breakfast, and possibly other meals, to such guests but not to the public.

**BOARDER**

A person occupying a boarding house.

**BOARDINGHOUSE**

A dwelling unit used for temporary occupancy purposes by two or more individuals not constituting a family or functional family unit who normally pay based on a share of total expenses of the dwelling unit. The term does not include a motel, hotel, group residence, inn, bed and breakfast, or rooming house.

[Amended 3-8-2005 by L.L. No. 3-2005; 2-14-2012 by L.L. No. 1-2012]

**BUILDABLE AREA**

The area of a lot remaining after the minimum yard and open space requirements of the **Zoning** Law have been met.

**BUILDING**

A roofed structure for the shelter, housing or enclosure of persons, animals or property.

**BUILDING, ACCESSORY**

A structure detached from a principal building on the same lot and whose use is customarily incidental and subordinate to the principal building or use.

**BUILDING COVERAGE**

That percentage of the lot area covered by the building area.

**BUILDING FRONT LINE**

A line parallel to the front lot line transecting that point in the building face which is closest to the front lot line. This face includes porches but does not include steps.

**BUILDING HEIGHT**

The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of roof.

**BUILDING LINE**

A line parallel to the street line at a distance therefrom equal to the depth of the front yard required for the zoning district in which the lot is located. See "setback line." See Figure 2.11

**BUILDING, PRINCIPAL**

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

**BUILDING, TRADEMARK**

A building with design characteristics that are distinctively associated with a particular owner or occupant or trademarked to the occupant business.

**BUSINESS VEHICLE:** see Commercial Vehicle

**CAMPGROUND**

A parcel of land used or intended to be used, let or rented for occupancy by or of two or more recreational vehicles, tents or other recreational or temporary shelter or sleeping quarters of any kind.

**CANOPY**

A permanent rooflike shelter or shade attached to a building or on freestanding supports, or both.

**CATERING SERVICE**

Preparation and delivery of food and beverages for off-site consumption without provision for on-site pickup or consumption.

**CELLAR**

An area wholly or partly below grade and having less than 1/2 of its clear floor-to-ceiling height above the average grade of the adjoining ground.

**CLASSROOM**

Space within a building principally used for classes or seminars that are conducted by a school, college or university.

[Added 12-17-2013 by L.L. No. 5-2013]

**CLINIC, MEDICAL DIAGNOSTIC, OR TREATMENT CENTER**

A facility for medical or surgical diagnosis and treatment of outpatients.

**CLUB, or DANCEHALL, OR NIGHTCLUB**

A commercial facility focused primarily on performance of music associated with client dancing.

**CLUSTER DEVELOPMENT**

The subdivision of an area into lots that are smaller than would customarily be permitted by this chapter, where the density of development is no greater than would be permitted in the district by conventional development, and where residual land produced by the smaller lot size is preserved in perpetuity for open space or recreation.

**COMMUNITY ROOM**

Space within a public or private building which is made available to outside individuals and groups to hold gatherings and meetings on matters of community interest.

[Added 12-17-2013 by L.L. No. 5-2013]

**COMMERCIAL VEHICLE:**

A vehicle designed and constructed to transport goods, wares, and merchandise. Such vehicles frequently display advertising for buying and selling of commodities and services; commerce; and trade.

**CONVENIENCE MART**

A retail use, intended to serve motorists and neighbors, primarily focused on the sale of groceries, snack foods, beverages, toilet articles, sundries, magazines, newspapers and foods. Hours of operation are frequently extended to late evenings and early mornings.

**DAY-CARE FACILITY**

Day care provided on a regular basis for more than three children or adults, away from their own homes, for more than three hours and fewer than 24 hours per day.

**DIAGNOSTIC OR TREATMENT CENTER, MEDICAL**

See **CLINIC**.

**DORMITORY**

See "Residence Hall"

**DRIVE-IN SERVICE**

A facility where a product is sold or a service performed for customers while they are in or near their motor vehicles in off-street parking or service areas. The term includes drive-in banking, drive-in food service, fast-food service, gasoline station, auto wash and similar uses.

**DWELLING**

A building or portion thereof designed, suitable for, and used for human habitation.

[Amended 2-14-2012 by L.L. No. 1-2012]

**DWELLING, MULTIFAMILY**

A building or portion thereof containing three or more dwelling units or townhouses.

**DWELLING, MULTI-UNIT**

A building or portion thereof containing three or more dwelling units.

**DWELLING, ONE-FAMILY**

A building or portion thereof containing only one dwelling unit and serving as a residence for a family or a functional family unit.

**DWELLING, ONE-UNIT**

A building or portion thereof containing only one dwelling unit serving as a residence for a family, a functional family unit, a boardinghouse, or a rooming house.

**DWELLING SPACE**

Any area within a dwelling used for human habitation.

[Added 2-14-2012 by L.L. No. 1-2012]

**DWELLING, TOWNHOUSE or ROWHOUSE**

A building containing at least three dwelling units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

**DWELLING, TWO-FAMILY**

A building or portion thereof containing two dwelling units serving as residences for families or functional family units.

**DWELLING, TWO-UNIT**

A building or portion thereof containing two dwelling units.

**DWELLING UNIT**

A building or portion thereof containing cooking area(s), bathroom, dining, sleeping and related facilities necessary and/or incidental to human habitation, designed and intended as a self-contained household unit for a single individual or family.

[Amended 2-14-2012 by L.L. No. 1-2012]

**DWELLING, ZERO-LOT-LINE**

A one-family dwelling on a lot without a side yard requirement on one side of the lot or, alternatively, without a rear yard requirement.

**ENFORCEMENT OFFICIAL**

The official charged with the duty to enforce this chapter and other laws, ordinances, codes and regulations relating to buildings and property.

**FAMILY**

One person residing in a dwelling unit; two or more persons related by blood, marriage or adoption, living, sleeping, cooking, and eating in and otherwise occupying one dwelling unit as a single unit; or two or more persons not necessarily related by blood, marriage or adoption occupying a single dwelling unit as a single housekeeping unit and constituting a "functional family unit" as defined herein, which in either event shall be distinguished from two or more persons occupying a dwelling unit and simply sharing rent, utility expenses and other similar expenses of occupying the dwelling unit, and also to be distinguished from occupying a boardinghouse, rooming house, fraternity house, sorority house, or a dormitory.

**FAMILY CARE FACILITY**

Living space in a private home in which a family or individual cares, on a twenty-four-hour basis, for up to three mentally or physically disabled children or adults. (See also "adult residential care facility.")

**FARM**

A tract of land used to raise agricultural products, except for a noncommercial garden accessory to a principal residential use on the same property.

**FAST FOOD SERVICE OR QUICK SERVICE RESTAURANT**

Food service, sometimes associated with drive-through service, in which the preparation time for food serviced is relatively short, in which much of the fare is taken away and in which customer seating is minimal. Normally, payment is made prior to the consumption of the food.

**FENCE:**

An artificially constructed enclosure or barrier of any material or combination of materials, but not including a hedge or other natural growth, erected to enclose or screen areas of land. Retaining walls are not considered fences.

**FLOOR AREA RATIO**

The quotient of the total floor area on all floors of a building or buildings divided by the project land area.

**FOOD SERVICE**

A facility primarily or significantly dedicated to the processing and or serving of food and beverage.

**FRATERNITY, FRATERNITY HOUSE**

A residential hall dedicated to a Greek-letter association of students for residential and social purposes.

[Added 3-8-2005 by L.L. No. 3-2005]

### **FUNCTIONAL FAMILY UNIT**

A. A group of two or more persons not necessarily related by blood, marriage or adoption, living, sleeping, cooking and eating in and otherwise occupying one dwelling unit as a single unit and who function as a family with respect to those characteristics that are consistent with the purposes of zoning and use restrictions in residential neighborhoods, as distinguished from three or more persons occupying a boardinghouse, rooming house, or a dormitory. In determining whether or not a group of unrelated individuals living together is a functional family unit under this definition. Subsection A(1) below must be satisfied and the criteria specified in Subsection A(2)(d) or A(2)(f) must be satisfied, and a total of at least four of the eight criteria set forth in Subsection A(2) below, which may include Subsection A(2)(d) and A(2)(f), must be satisfied:

- (1) The occupants must share the entire dwelling unit. A unit in which the various occupants act as separate roomers, or individually occupy separate rooms within the unit, shall not be deemed to be occupied by a functional family unit.
- (2) The household must have stability with respect to the purposes of this chapter. Evidence of such stability shall include the existence of a majority of the following criteria:
  - (a) The presence of one or two adults residing in the unit and acting as a head of household.
  - (b) The presence of one or more minor children regularly residing in the household as dependent(s) of one or more adult occupant(s) of the household, and the enrollment of such dependent minor children in local primary and/or secondary schools.
  - (c) Proof of the payment of expenses for food, rent or ownership costs, utilities and other household expenses from a common fund, such as a checking account in the name of a head of the household.
  - (d) The different members of the household all utilize the address of the dwelling unit as their permanent residence address, and all use the same address of the dwelling unit for the purposes of:
    - 1) Voter registration; and
    - 2) Drivers' licenses; and
    - 3) Motor vehicle registration; and
    - 4) The filing of state and federal tax returns.
  - e) Common ownership of furniture, appliances and other household furnishings and supplies among the members of the household.
  - f) Employment of members of the household in the local area on more than just a temporary or seasonal basis.
  - g) A showing that all members of the household have been living together as a single housekeeping unit for a year or more, whether in the current dwelling unit or in one or more other dwelling units.
  - h) Any other factor reasonable demonstrating that the group of persons occupying the dwelling unit as a single housekeeping unit consistent with the purposes of zoning and use restrictions in residential neighborhoods.

B. A group of individuals living in the same dwelling unit shall be presumed not to be a functional family unit, as defined in this section, if such dwelling unit contains two or more unrelated college students, which shall be defined as individuals over the age of 16 years enrolled in a public or private college, university or other institution of post-secondary education authorized to confer degrees by the State of New York. For the purpose of this presumption, dependent children of any other adult member of the household shall be excluded in calculating the number of college students in the household.

C. A group of individuals living together in the same dwelling unit shall be presumed not to be a functional family unit, as herein defined, if the dwelling unit is occupied by three or more unrelated adults over the age of 18 years and is not also occupied by minor dependent children of any of the resident adults.

D. The presumptions set forth in Subsections B and C of this definition may be rebutted by sufficient evidence of the characteristics set forth in Subsection A of this definition presented to and as determined by the Code Enforcement Officer.

**GARAGE, PRIVATE**

An enclosed space for the storage of one or more vehicles, provided that no business is conducted therein, nor space for more than one car is leased to a nonresident of the premises.

**GARAGE, PUBLIC**

An enclosed space for the storage, hiring, selling, servicing and repair of vehicles.

**GARAGE, STORAGE**

An enclosed space used only for the storage of vehicles operated for profit.

**GASOLINE STATION**

A drive-in service for the sale of motor fuel, diesel motor fuel, oil and motor vehicle accessories and which may include facilities for lubricating or servicing vehicles but may not include painting or body repairs nor the sale of new or used cars. The term includes "filling station" and "service station."

**GROUP RESIDENCE**

A group of individuals occupying a single dwelling or dwelling unit as an integral component of a recognized program of physical or mental health rehabilitation, or other custodial supervision and care living arrangement operated by a nonprofit entity, with or without resident supervisory personnel. This term shall not include rooming houses, boardinghouses, nursing homes, dormitories, sorority houses, fraternity houses, or similar facilities. (See § **174-82**.) (See Village Code in effect prior to January 1, 2012, for definition of "group residence" effective prior to January 1, 2012.) [Amended 3-8-2005 by L.L. No. 3-2005; 2-14-2012 by L.L. No. 1-2012]

**HOME OCCUPATION**

A profession or vocation, full-time or part-time, conducted within a property by the inhabitants of the property. Home occupation use is secondary to the residential use of the property and should not change the character thereof substantially.

**HOSPITAL**

A facility for the medical or surgical diagnosis and treatment of inpatients and/or outpatients.

**HOTEL or INN**

A facility containing rooms rented to primarily transient guests in which guest units may have very limited cooking facilities. A hotel or inn customarily provides dining, beverage service, and group meeting facilities that are open to both guests and the public. A hotel customarily does not have guest rooms on the ground floor.

**INSTITUTIONAL HOME**

A facility that provides full-time care on a commercial basis or as a public charge for three or more babies or children or aged persons; rest home, nursing home, convalescent home and related health facilities, except hospitals or correctional institutions.

**JUNKYARD**

A facility for the storage and sale of waste or discarded materials or for the dismantling, storage or salvaging of machinery or vehicles or for the sale or storage of parts thereof, except as accessory to a principal manufacturing use on the premises.

**KENNEL**

An establishment in which more than six dogs or domesticated animals more than a year old are housed, groomed, bred, boarded, trained or sold.

**LAUNDROMAT**

A facility equipped with individual clothes washing, cleaning or drying machines for use by nonresident retail customers.

**LIVESTOCK**

Includes but is not limited to horses, cattle, hogs, fowl or furred animals.

**LODGER**

A person engaged in transient occupancy of a dwelling unit.

**LODGING**

A room, dwelling unit, building or group of buildings, whether detached or in connected units, containing individual sleeping units utilized primarily for transient occupancy. A lodging use is commercial in nature.

**LOT**

A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit. See Figure 2.

**LOT AREA**

The total area within the lot lines of a lot, excluding any street rights-of-way.

**LOT, CORNER**

A lot or parcel of land abutting upon two of more streets at their intersections, or upon two parts of the same street forming an interior angle of less than 135°. See Figure 1.

**LOT COVERAGE**

That portion of the lot that is covered by buildings and structures.

**LOT DEPTH**

The distance measured from the front lot line to the rear lot line. See Figure 1.

**LOT, DOUBLE**

See "lot, through."

**LOT, DOUBLE FRONTAGE**

An interior lot having frontage on two approximately parallel or converging streets.

**LOT FRONTAGE**

The length of the front lot line measured at the street right-of-way line. See Figure 2.

**LOT, INTERIOR**

A lot other than a corner lot. See Figure 1.

**LOT LINE**

A line of record bounding a lot, which divides one lot from another lot or from a public or private street or any other public space. See Figure 2.

**LOT LINE, FRONT**

The lot line separating a lot from a street right-of-way. See Figure 2.

**LOT LINE, REAR**

The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. See Figure 2.

**LOT LINE, SIDE**

Any lot line other than a front or rear lot line. See Figure 1.

**LOT, MINIMUM AREA OF**

The smallest lot area established by this chapter on which a use or structure may be located in a particular district.

**LOT OF RECORD**

A lot which exists as shown or described on a plat or deed in the records of the local registry of deeds.

**LOT, REVERSE**

A through lot which is not accessible from one of the parallel or nonfrontage intersecting streets upon which it fronts.

**LOT, REVERSE FRONTAGE**

A lot with the rear line abutting a street.

**LOT, THROUGH**

A lot which fronts upon two parallel streets, or which fronts upon two streets, which do not intersect at the boundaries of the lot. See Figure 1.

**LOT WIDTH**

The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line. See Figure 1.

**MC DISTRICT**

The Mixed-Use Core District as described in Article VI.

**ME DISTRICT**

The Mixed-Use Eaton District as described in Article VI.

**MG DISTRICT**

The Mixed-Use Green District as described in Article VI.

**MP DISTRICT**

The Mixed-Use Perimeter District as described in Article VI.

**MANUFACTURED HOME:** SEE Mobile Home

**MARQUEE**

A permanent roofed structure projecting from a building, usually over an entrance, attached to the building or on freestanding supports, or both.

**MOBILE HOME or MANUFACTURED HOME**

A factory-assembled structure equipped with necessary service connection, readily movable as a unit on its own running gear and designed to be used as a dwelling, with or without a permanent foundation.

**MANUFACTURED or PREFABRICATED STRUCTURE**

A structure that is erected on a permanent foundation, that is not readily movable as a unit, that has necessary service connections, and that includes components that may be manufactured or assembled off-site prior to installation on-site.

**MOTEL**

A building or group of buildings, designed primarily for the lodging of transient travelers, with on-site parking. A motel may also contain assembly areas, and normally contains guest rooms on the ground floor.

**MUNICIPAL OR PUBLIC UTILITY STRUCTURE**

A facility necessary for the installation, delivery, and/or maintenance of utility services in and for the Village of Hamilton.

**MUSEUM**

An institution, open to the public, principally devoted to the procurement, care, study, and display of objects of historic, cultural or artistic interest or value.

[Added 12-17-2013 by L.L. No. 5-2013]

**NEIGHBOR**

An abutting property or a property directly across a street.

**NEIGHBORHOOD**

Properties near to one another and subject to mutual use impacts. Neighborhoods may extend across streets and across district lines. Normally it is reasonable to consider any property within 300 feet of another property's border to be within the same neighborhood.

**NONCONFORMING BUILDING OR STRUCTURE**

A building or structure lawfully existing on the effective date of this chapter which does not conform to the district regulations for the dimensions and height of such building or structure or whose location results in nonconformity as to minimum yard dimensions or maximum lot coverage.

**NONCONFORMING LOT**

A lot of record lawfully existing on the effective date of this chapter which does not meet the district regulations for minimum area or dimensions and

where the owner of said lot does not own any adjoining unimproved property, the subdivision of which could create one or more adjoining lots.

**NONCONFORMING USE**

A use of a building, structure or land lawfully existing on the effective date of this chapter which does not conform to the district use regulations.

**NURSERY SCHOOL**

A facility for daytime care or instruction for two or more children up to seven years old, operated on a regular basis. \*\*Flag for Attorney Stokes\*

**NURSING HOME**

See "institutional home."

**OCCUPANCY, PERMANENT, YEAR-ROUND OR ONGOING**

Occupancy of a dwelling space for an open-ended period or for a period of more than a year.

**OCCUPANCY, TEMPORARY**

Occupancy of a dwelling space for a period of more than 15 days at a time (not necessarily consecutively), but not for purposes of year-round, permanent residence).

*[Added 2-14-2012 by L.L. No. 1-2012]*

**OCCUPANCY, TRANSIENT**

Occupancy of a dwelling space for a period of fewer than 15 days at a time.

*[Added 2-14-2012 by L.L. No. 1-2012]*

**OFFICIAL SUBMISSION DATE**

The date of the regular monthly meeting of the Planning Board, Board of Appeals, Village Board of Trustees or other agency to whom the application is made immediately subsequent to the submission of any complete application, plan, data or petition for action by such agency.

**OPERATOR OCCUPIED**

A land use requiring the occupancy of the property by the operator of the specified use.

**OVERLAY DISTRICT**

A mapped zoning district that imposes a set of requirements in addition to those of the underlying districts.

**OWNER**

That person or persons possessing record title to a building or land.

**OWNER OCCUPIED**

A land use requiring the occupancy of the property by the owner of the property.

**PARK, PUBLIC**

Land owned by the municipality and dedicated primarily to recreation.

**PARKING LOT**

A lot used principally for the parking of vehicles or mechanized equipment.

*[Added 3-8-2005 by L.L. No. 3-2005]*

**PARKING, ON-SITE**

Parking spaces on a lot required to support all permitted and approved ~~the~~ uses of the lot.

**PARKING, OFF-SITE**

Parking spaces required for the use of a parcel but located on a separate parcel.

**PARKING, SUPPLEMENTAL**

Parking spaces on a lot that are additional to those required for the approved uses of the lot. Only supplemental parking spaces may be rented or leased for off-site parking.

**PARKING SPACE**

An off-street space (enclosed or open) for the parking of one motor vehicle, of not less than 180 square feet (9'x 20' or 10' x 18'), exclusive of maneuvering space and driveways thereto, and accessible from a public way.

**PARTY WALL BUILDINGS**

Building that share exterior walls along the side lot lines.

**PERFORMING ARTS**

Forms of creative activities that are performed in front of an audience, such as drama, music, and dance.

[Added 12-17-2013 by L.L. No. 5-2013]

**PERFORMING ARTS CENTER**

A facility principally used for the presentation of theater, dance and music to an audience.

[Added 12-17-2013 by L.L. No. 5-2013]

**PERMIT, BUILDING**

An approval required prior to any construction, addition, alteration, relocation or demolition as governed by the laws, ordinances and codes listed under § 174-5.

**PERMIT, ZONING**

An approval required prior to any activity governed by this chapter.

**PD DISTRICT**

A planned district.

**PERSON**

A firm, partnership, trust, company, corporation, organization, institution and similar entities, as well as an individual acting as owner, lessee, agent or employee.

**PERSONAL SERVICE**

Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel or involving instruction or advice in capacities and skills. Normally personal services are distinguished from the educational services that are directly linked to a degree granting institution.

**PLANNED DISTRICT**

An area of land to be planned and developed in a single development scheme or a definitely programmed series of development operations; the plan need not correspond in lot size, bulk or type of structure, density, lot coverage and required open space to the regulations established under the provisions of this chapter.

**PLAT**

A map, drawn to scale, showing the divisions of a piece of land.

**PRIMARY STRUCTURE:** see Building, Principal

**PRINCIPAL USE**

A use that may be carried on independently of any other use and which generally characterizes the primary purpose for which land of principal buildings and structure thereon are intended and designed, including all activities not permitted in the use chart.

**PROFESSIONAL OFFICE**

An office such as of a physician, dentist, chiropractor, optometrist, lawyer, accountant, architect, landscape architect, engineer, city planner or musician.

**PUBLIC UTILITY STRUCTURE**

See "municipal or public utility structure."

**R DISTRICT**

A family residential district.

**RECREATIONAL VEHICLE**

A mobile recreational unit, such as a travel trailer, pickup camper, converted bus, tent trailer, camper trailer or similar vehicle.

**RESIDENCE HALL or DORMITORY:**

A structure, as part of a University campus or other degree-granting educational institution, housing students and normally containing a number of private or semiprivate rooms for residents, often along with common bathroom facilities and recreation areas. Normally each of the rooms or units does not include all the elements necessary for human habitation. A residence hall may include programmable spaces associated with the educational mission of a New York State degree-granting institution. A residence hall is normally owned by, or subject to oversight and/or sanction by a New York State degree-granting institution.

**RESIDENTIAL LIFE FACILITY, RETIREMENT COMMUNITY**

A complex providing residential and some combination of dining, social, and medical facilities for older adults. Given the complexity of such a facility, it should be developed within the Planned District provisions of this ordinance.

**RESIDENTIAL USE**

The use of a lot, building, or portion thereof, for human habitation on a non-transient basis.

**RESIDENT OPERATOR**

The operator of a home occupation who is a person for whom the dwelling unit is a principal residence.

**RESTAURANT**

A facility primarily dedicated to the preparation and serving of food and beverages for consumption on the premises. A restaurant may include an in-house microbrewery on the condition that the beverages produced within it are primarily consumed on the premises.

**RESTAURANT, FAST FOOD OR QUICK SERVICE** See – Fast Food Service

**RIGHT-OF-WAY, PUBLIC**

Land over which the public may travel subject to restrictions by the government with jurisdiction, whether or not said government has control of the land by ownership or easement.

**ROOMER**

A person other than a member of a family or functional family unit who resides in a family residence or a rooming house on a temporary, seasonal, or ongoing or seasonal basis.

[Amended 2-14-2012 by L.L. No. 1-2012]

**ROOMING HOUSE**

A dwelling unit in which individuals pay by the room, with or without meals, for temporary, seasonal, or ongoing occupancy. The term does not include a motel, hotel, boardinghouse or group residence.

[Amended 3-8-2005 by L.L. No. 3-2005; 2-14-2012 by L.L. No. 1-2012]

**SECONDARY STRUCTURE**, see Building, Accessory

**SERVICE STATION**

See "gasoline station."

**SETBACK**

See "yard."

**SETBACK LINE**

That line that is the required minimum distance from the street line or any other lot line that established the area within which the principal structure must be erected or placed. See "building line." See Figure 2.

**SEXUALLY ORIENTED BUSINESS**

An establishment having as a substantial or significant portion of its services, stock-in-trade or motion picture presentations any of the following: any activities, films, videos, devices, digital recordings, books, magazines and other periodicals which are distinguished by or related to human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse or sodomy, or display, fondling or other erotic touching of human genitals, pubic regions, buttocks or breasts.

**SIGN**

See the Sign Law.

**SITE PLAN**

A drawing of the site, presenting information and accompanied by documentation as specified in § **174-53**.

**SORORITY, SORORITY HOUSE**

A residential hall dedicated to a Greek-letter association of students for residential and social purposes.

[Added 3-8-2005 by L.L. No. 3-2005]

**SPECIAL PERMIT USE**

A use which is authorized subject to requirements imposed by the Planning Board to assure that the proposed use is in harmony with the law and will not adversely affect the neighborhood.

**STOCK-IN-TRADE**

Any merchandise (wares, goods, farm produce, etc.) purchased, made, or otherwise acquired for resale.

**STORY**

That part of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it. Any story with a floor four feet or more below finished grade shall be considered a full story.

**STORY, HALF**

That part of a building between a pitched roof and the uppermost full story and having a floor area at least half as large as the floor below. Space with less than five feet clear headroom shall not be considered as floor area.

**STREET**

A public thoroughfare which affords the principal means of access to abutting property.

**STREET LINE**

The edge of the street as marked by a curb or the edge of the road surface.

**STRUCTURE. See Building****STUDIO**

A workspace principally devoted to the creation of art and artifacts, which may include incidental retail sales and/or personal services.

[Added 12-17-2013 by L.L. No. 5-2013]

**SUPPLEMENTAL APARTMENT**

A dwelling unit which has a floor area not exceeding 550 square feet, which is located on the same lot as and is clearly supplemental to a one-family dwelling. Such apartment may be located in the same structure as the primary dwelling unit or in a secondary structure. Rental of any supplemental apartment for transient occupancy in excess of 15 days per year is prohibited.

**SUPPORTED USES**

Uses of a parcel or property that are permitted by right, by special permit, by special condition, by site plan review, or by virtue of the provisions of a planned district.

**SWIMMING POOL**

An artificial body of water or receptacle for water having a depth at any point greater than two feet, used for swimming or bathing and constructed or installed in or above the ground.

**TEMPORARY OCCUPANCY**

Occupancy of a dwelling space for human habitation for a period or periods of time of more than 30 days at a time (not necessarily consecutively), but not for purposes of year-round permanent resident).

[Added 2-14-2012 by L.L. No. 1-2012]

**TOURIST HOME**

A one-family dwelling with a family in residence containing rooms for paying transient guests.

**TRANSIENT OCCUPANCY**

Occupancy of a dwelling space for human habitation for a period of time measured in days or weeks, but, in any event, for not more than 30 days at a time.

[Added 2-14-2012 by L.L. No. 1-2012]

**U DISTRICT**

University District

**U1 DISTRICT**

University 1 District as describe in Article V.

**U2 DISTRICT**

University 2 District as describe in Article V.

**U3 DISTRICT**

University 3 District as describe in Article V.

**UNIVERSITY CAMPUS**

Properties owned and operated by Colgate University within the U1, U2, and U3 districts.

**USE, ACCESSORY** See Accessory Use

**USE, PRINCIPAL** See Principal Use

**VARIANCE**

Permission to depart from the literal requirements of the **Zoning** Law.

**VARIANCE, AREA**

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

**VARIANCE, USE**

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

**YARD**

An open space that lies between the principal or accessory building and the nearest lot line or street line. Such yard is unoccupied and unobstructed by structures from the ground upward except as may be specifically provided in the zoning local law. See "buildable area"; "lot line"; "yard depth"; "yard line." See Figure 2.

**YARD DEPTH**

The shortest distance between a street line and a yard line.

**YARD, FRONT**

A space extending the full width of the lot between any building and the edge of the street, and measured perpendicular to the building at the closest point to the edge of the street. Such front yard is unoccupied and unobstructed by structures from the ground upward as may be permitted elsewhere in this chapter. See Figure 2.

**YARD LINE**

A line drawn parallel to a street line at a distance therefrom equal to the depth of the required yard. See Figure 2.

**YARD, REAR**

A space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line. Such rear yard is unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in this chapter. See Figure 2.

**YARD, REQUIRED**

The open space between a lot line or street line and the building area within which no structure shall be located except as provided in the zoning local law. See Figure 2.

**YARD, SIDE**

A space extending from the front yard to the rear yard between the principal building and the side lot line measured perpendicular from the side lot line to the closest point of the principal building. Such side yard is unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in this chapter. See Figure 2.

**ZERO LOT LINE**

The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

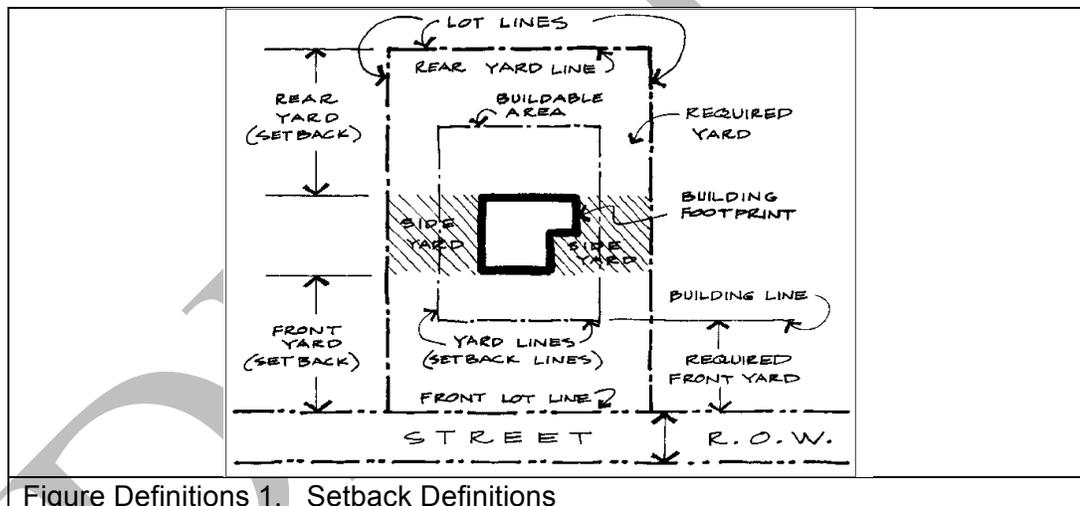
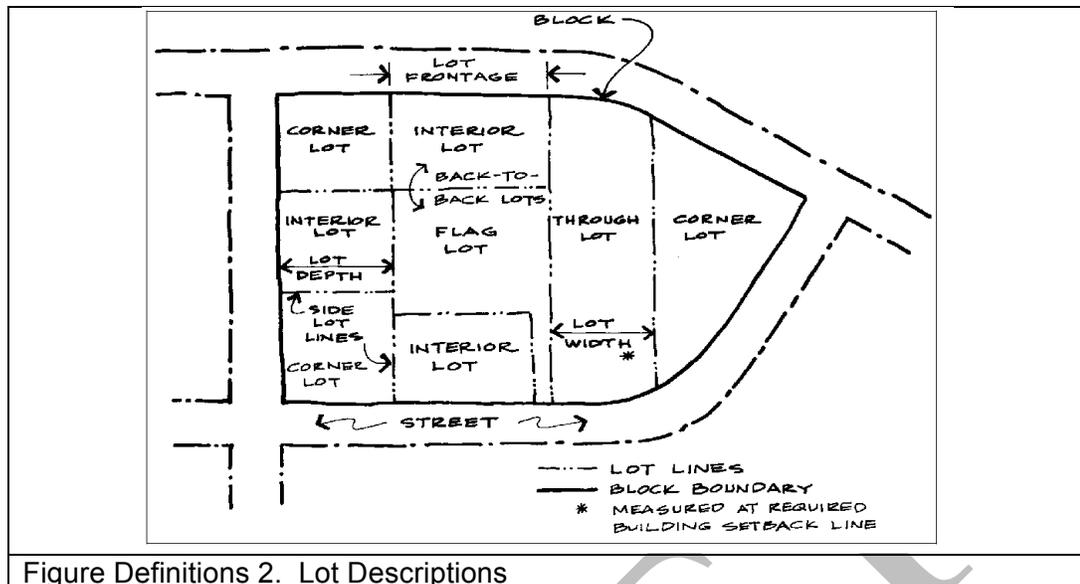


Figure Definitions 1. Setback Definitions



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## **Article III. Zoning Districts**

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Combine Article III, IV, V. Introduce Design Standards

### **§174-8 Enumeration of Districts.**

The Village of Hamilton is divided into residential, mixed-use, business, university and planned districts:

A. Residential.

The Family Residential District is described in Article IV.

B. University Districts

The three University Districts are described in Article V.

C. Mixed-Use Districts

The four Mixed-Use Districts are described in Article VI.

D. Business Districts

The four Business Districts are described in Article VI.

### **§ 174-9. Zoning Map.**

- A. The locations and boundaries of the zoning districts are shown on the Master Zoning Map entitled "Zoning Map, Village of Hamilton New York," which is a part of this chapter and which is on file in the Village Office.
- B. The Village Clerk shall be responsible for seeing that all amendments to the district boundaries of the Master Zoning Map have been delineated immediately upon the effective date of such amendment.
- C. An informational copy of the Zoning Map is included herein as Appendix B, but the Master Zoning Map in the Village Office shall be the final authority on current zoning designations.

### **§ 174-10. District Boundaries**

Where uncertainty exists concerning the locations of boundaries shown on the map, the following rules shall apply

- A. District lines are intended to follow center lines of streets, alleys, rights-of-way, watercourses or lot lines or be parallel or perpendicular thereto, unless such lines are otherwise fixed by dimensions on the map.
- B. Where boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.
- C. In unsubdivided land and where a boundary divides a lot, the location of such boundary, unless indicated by dimensions, shall be determined by use of the scale of the map.
- D. If, after the application of the foregoing rules, uncertainty exists as to the exact location of a boundary, the Zoning(?) Board of Appeals shall determine the location.

**§ 174-11. Overlay districts.**

- A. In an overlay zoning district, property is placed simultaneously in two districts and the requirements of both districts apply.
- B. The requirements for the overlay zone modify those of the basic district.

**§ 174-12. Annexed areas.** [Amended 3-8-2006 by L.L. No. 3-2005]

- A. Annexation petitions are to be given to the Village Administrator, who will present it at the next regularly scheduled Board of Trustee meeting for preliminary consideration.
- B. The Village Board of Trustees will normally refer the petition to the Planning Board for advice and recommendation.
- C. The time table for action on an annexation petition, including the specification of appropriate zoning, shall be developed with reference to Article 17 of the General Municipal Code.
- D. Not less than 15 days prior to any public hearing held by the Board of Trustees pursuant to this section of the Code, a notice of the public hearing shall be sent by regular U.S. Mail to all owners of property, as identified on the then-current assessment roll, within 500 feet of the boundary of the property being annexed.
- E. Failure to mail such notice of public hearing to any or all such property owners in accordance with the requirements of this section, or an owner's failure to receive such notice of public hearing, shall not affect the validity of any zoning amendment adopted by the Board of Trustees.

**§ 174-13. Permitted Uses.**

- A. Permitted buildings and land uses are as set forth in Appendix A, Schedule I, and any amendments thereto, which is hereby adopted and made part of this chapter.
- B. Permitted uses include those permitted by right (P), those permitted but subject to special conditions (SC; see 174.83); and those subject to special permit (SP; see 174.82).
- C. Within properties or structures with multiple or mixed uses, each use is subject independently to the restrictions, conditions and licensing set forth in this Chapter.
- D. The identification and determination of acceptable accessory uses associated with any particular land use is at the discretion of the Planning Board.

**§ 174-14. Prohibited Uses.**

- A. In all districts, uses are prohibited which would be injurious to the safety or welfare of the neighborhood because of health, noise, vibration, glare, dirt, odor, smoke, toxicity or danger of fire or explosion. In addition, the following land uses are specifically prohibited:
  - (1) Manufacture or bulk storage of acetylene gas, ammonia, bleaching powder, chlorine, asphalt, plastics, fertilizer, fireworks or explosives.

- (2) Refining of petroleum, gasoline, naphtha and similar distillates.
  - (3) Domestic storage of vehicular fuels, (not in a vehicle's standard fuel tank), in quantity larger than five gallons.
  - (4) Rubber reclamation, smelters, blast furnaces or coke ovens.
  - (5) Storage, curing or tanning of rawhides or skins.
  - (6) Junkyards and automobile salvage.
  - (7) Private Shooting ranges or amusement parks.
  - (8) New Livestock and dairy farms.
  - (9) Riding stables.
  - (10) Outdoor drive-in theaters.
  - (11) Campgrounds.
  - (12) Commercial excavation, except where incidental to the construction of a building on the same lot.
  - (13) Mining for mineral or gaseous substances.
  - (14) Windmills or wind turbines, except for educational uses.
    - (a) No windmills or wind turbines over 50' may be built within 500' of a residential property.
- B. No recreational vehicle shall be occupied or used as a permanent residence or dwelling, but owners of such a vehicle may use it as a temporary dwelling while visiting residents of the property on which it is parked, for a maximum of fourteen (15) days per calendar year.
- C. Mobile or manufactured homes are prohibited except in PD Districts.
- D. Residential use of ground floor areas in MC, ME, BN Districts is prohibited, except in the case of a motel in the BN.

### **§ 174-15. Keeping of Animals.**

- A. The raising or harboring of livestock is prohibited in all districts, except at livestock farms, dairy farms and riding stables now in existence.
- B. Common household pets are excepted from this provision, provided that there are not more than four cats and/or dogs over six months old on the property.

### **§ 174-16. Fill.**

- A. In all districts, the dumping of refuse and waste material for landfill is prohibited. Fill material shall be as approved by the Village Code Enforcement Officer for the conditions required and for proper compaction to grades

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## ARTICLE IV: FAMILY RESIDENTIAL DISTRICT

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### **§174-17 Purpose and Description**

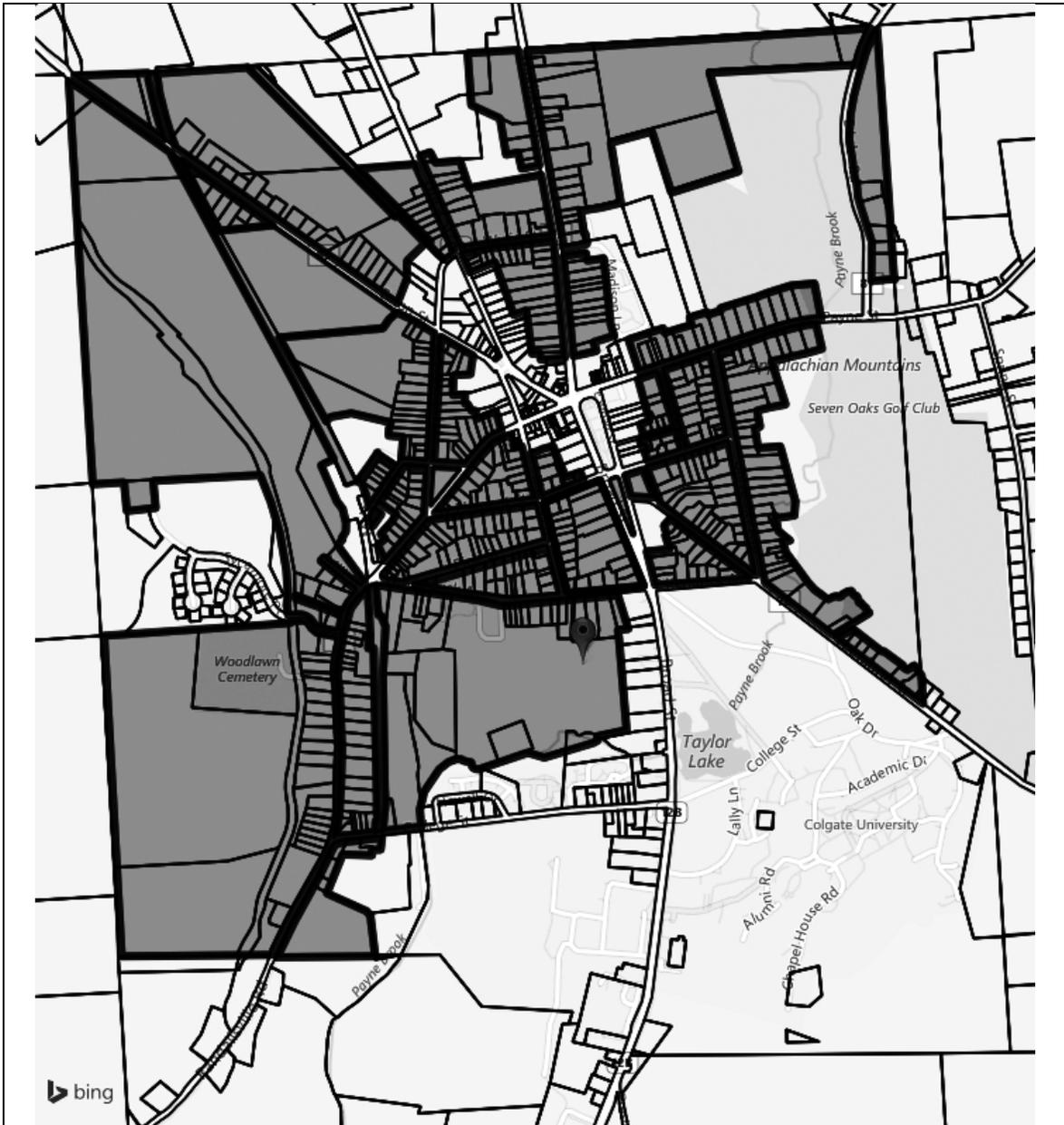
A. The purpose of this district is to:

- (1) Designate those areas where predominantly residential development has occurred or is likely to occur in accordance with the Village Master Plan.
- (2) Improve the character of family residential areas by requiring standards of land use, lot size and building size, which reflect existing and desirable development.
- (3) Protect the integrity of family residential areas by prohibiting the intermixture of commercial and other incompatible uses.

B. Description

(1) The Family Residential District supports family residential uses within traditionally compact and relatively stable Village neighborhoods. The feeling of neighborhood cohesiveness is expected to be strong. Business uses of properties in the district are to be restricted to home occupations that are not disruptive to the character of the neighborhoods.

(a) The Family Residential District includes many or most of the properties on Lebanon St. west of Maple Ave.; on Milford St.; on Montgomery St.; on Enos Ave.; on Mill St.; on Pine St.; on Maple Ave.; on East and West Pleasant Sts.; on Charles St.; on John St.; on Dewey Ave.; on University Ave.; on Madison St.; on Wylie St.; on West Kendrick Ave. and the east side of East Kendrick Ave.; on Hamilton St.; on East Lake Road; and on Utica Street north of Wylie St. For the precise properties within the district see the Village Zoning Map.



**Figure 174-17.B (1) Family Residential District**

### **§174-18 Regulations and Controls**

A. In the Family Residential district, regulations and controls for permitted land use or activities, or uses or activities having special conditions applied thereto, or requiring a special permit are set forth in Appendix A, Schedule I, of this chapter. Editor's Note: Appendix A, Schedule I, is included at the end of this chapter.

B. In the Family Residential district, regulations for lot size, yards, lot coverage, building height and similar area or dimensional requirements are set forth in Appendix A, Schedule II, of this chapter. Editor's Note: Appendix A, Schedule II, is included at the end of this chapter.

- C. Accessory Structures are subject to lot size, yards, lot coverage, building height and similar area or dimensional requirements set forth in Appendix A, Schedule II, of this chapter. Editor's Note: Appendix A, Schedule II, is included at the end of this chapter.
- D. An outline of supported and prohibited uses in the Family Residential District.
- (1) Uses supported by right (P) in the Family Residential District include, but are not limited to:
    - (a) Permanent and temporary residential use of 1 and 2 family dwellings by families and functional families.
  - (2) Uses supported with special conditions (SC; 174-83) in the Family Residential District include, but are not limited to:
    - (a) Most home occupational uses within the principal structure.
    - (b) Rental for transient residential use up to 15 days per year.
    - (c) Occupancy of a supplemental apartment in an accessory structure by members of the family occupying the principal structure.
  - (3) Uses supported in the Family Residential District through special permit (SP; 174-82) and/or siteplan review include, but are not limited to:
    - (a) Conversion of existing structures to a maximum of three family dwelling units.
    - (b) Home occupational use of accessory structures.
    - (c) Group Residence.
    - (d) Up to two rooms devoted to temporary or ongoing occupancy by a non-family roomer.
    - (e) Home occupational operation of up to two bedrooms/suites as a bed and breakfast.
    - (f) Townhouse.
    - (g) Existing Boarding House
  - (4) Uses that are prohibited include, but are not limited to:
    - (a) The use of a dwelling for transient occupancy for more than 15 days per year is prohibited in the family residential district.
    - (b) Residence hall, rooming house, boardinghouse, fraternity or sorority house, motel, hotel, inn.
    - (c) The simultaneous operation of a supplemental apartment and a bed and breakfast as a home occupation.
    - (d) Commercial, Business and Manufacturing uses other than home occupations approved by special permit.
    - (e) Educational uses associated with degree-awarding institutions.
    - Institutional Uses except for Churches
    - (f) Social Centers
    - (g) Storage of commercial materials for use on remote sites.
    - (h) New multi-unit dwellings.
    - (i) Supplemental Parking
- E. A cluster development plan shall be developed for all subdivisions on environmentally sensitive lots such as those with steep slopes or contiguous to wetlands.

**§ 174-19. Uses of Accessory Structures in the Residential District**

A. Occupancy of an accessory structure.

(1) Occupancy of a supplemental apartment by members of the family occupying the principal structure may be permitted by special permit. 174-82.E (16)

(2) Temporary or ongoing occupancy of a supplemental apartment in an accessory structure by someone other than member(s) of the family occupying the principal structure may be allowed by special permit and site plan review. 174-82. E (16).

(3) Rental of a supplemental apartment in an accessory structure for transient occupancy is limited to 15 days per year.

(a) Transient occupancy of both accessory building and the principal structure are combined to calculate the 15 days of permitted transient occupancy permitted per property.

(4) No dwelling area within a secondary structure may be more than 550 square feet.

(5) No accessory building may be devoted wholly to occupancy, be it temporary, transient or ongoing.

(6) No occupancy of an accessory structure is permitted if the principal structure of the lot serves as a two-family or multi-family dwelling.

B. Home occupational use of an accessory building.

(1) Home occupational use of an accessory building by a member of the family occupying the principal structure may be allowed by Special Permit and Site Plan Review. 174-82.E(16) 2

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## Article V. University Districts

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### **174-21 Purpose and Description**

A. The purpose of the University Districts is to:

- (1) Provide a means of continuing the unique character of the university community within the spirit and intent of the law;
- (2) Designate areas devoted primarily to educational, residential or other institutional use by Colgate University.
- (3) Support the use of College street west of Broad Street as a neighborhood focused on off-campus housing.
- (4) Protect the integrity of abutting residential districts.

B. Description:

(1) The three University districts support post-secondary educational uses, including student residences, classroom, research, athletic and social uses. Commercial development within the district is prohibited except as ancillary to educational uses.

(a) The University 1 (U1) district supports academic, administrative, and co-curricular uses.

1) The University 1 district covers the historic core of Colgate University bounded on the west by Broad St., on the north by East Kendrick, and on the east by Hamilton St. It borders the R district on its Kendrick Ave. and Hamilton Street sides and the U2 and U3 districts to the west. For the precise properties within the district see the Village Zoning Map.

(b) The University 2 (U2) supports student residential and social uses and limited classroom and office use.

1) The U2 district covers the west side of Broad St. south of Kendrick Ave., the properties south of the BH district on the west side of Route 12 B, and properties on College Street from Broad to Payne Creek. It borders the Family Residential District to the west, the U1 to the east, and the U3 district to the southwest. For the precise properties within the district see the Village Zoning Map.

(c) The University 3 (U3) district supports post-secondary educational uses associated primarily with athletic, administrative and maintenance facilities, as well as educational or service uses ancillary to those primary uses.

1) The U3 district covers the athletic and a maintenance/grounds facilities west of Broad St., south of College St., east of Payne Creek, north of Community Memorial Hospital. It also covers Seven Oaks Golf Course. The Seven Oaks portion borders the R district primarily, while the portion between Broad and College Streets borders the U2 to the

northeast, a MP district to the west and the BH district to the south. For the precise properties within the district see the Village Zoning Map.

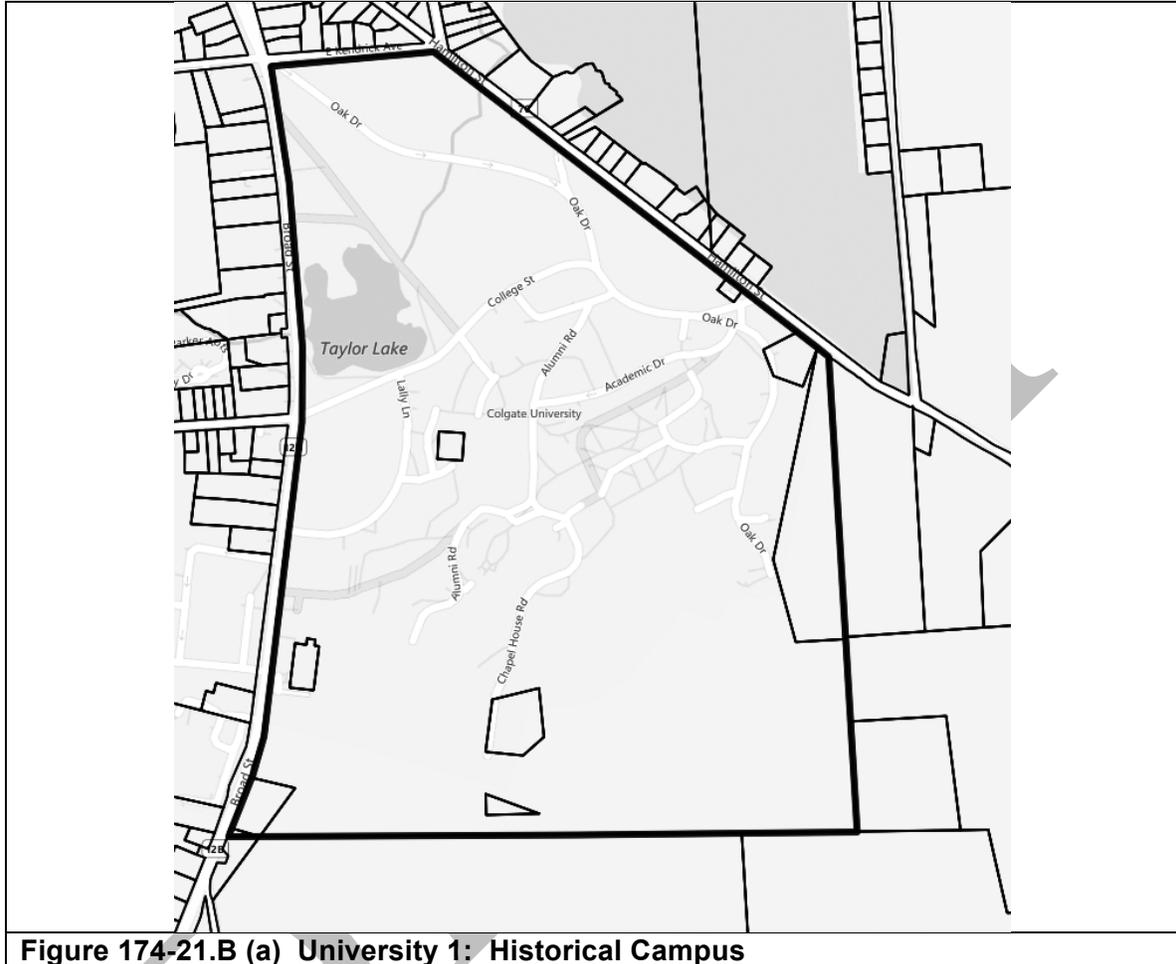


Figure 174-21.B (a) University 1: Historical Campus



Figure 174-21.B (b) University 2: Residential and Social



Figure 174-21.B (c) University 3: Golf Course; Athletic, Facilities, Infirmary

## **174-21 Regulations and Controls**

A. In the University Districts, regulations and controls for permitted land use or activities, or uses or activities having special conditions applied thereto, or requiring a special permit are set forth in Appendix A, Schedule I, of this chapter. Editor's Note: Appendix A, Schedule I, is included at the end of this chapter.

B. In the University Districts, regulations for lot size, yards, lot coverage, building height and similar area or dimensional requirements are set forth in Appendix A, Schedule II, of this chapter. Editor's Note: Appendix A, Schedule II, is included at the end of this chapter.

C. An outline of supported and prohibited uses in the University Districts.

(1) Uses supported (P, SC, or SP) in the University 1 District include but are not limited to:

(a) Educational operations of Colgate University and uses that are ancillary to that educational operation.

(b) Such uses are subject to special permit review if within 300 feet of the R district.

(c) Such uses are subject to site plan review if within 300 feet of Hamilton St., East Kendrick Ave., or Broad St.

2. Uses supported (P, SC, SP) in the University 2 district include but are not limited to:

(a) Residential and student social uses of Colgate University including residence halls and fraternity and sorority houses.

(b) Bed and Breakfast

(c) Boarding House or Rooming House

(d) Family residential use.

(e) Such uses are subject to special permit review if within 300 feet of the R district.

(f) Such uses are subject to site plan review if within 300 feet of College St. west of Broad St., West Kendrick Ave., or Broad St./Route 12B.

3. Uses supported (P, SC, SP) in the University 3 district include but are not limited to:

(a) Athletic, Public Assembly, Maintenance, Administrative and related support operations of Colgate University.

(b) All uses are subject to special permit review when within 300 feet of a residential district.

(c) New construction and significant renovations are subject to site plan review throughout the district.

1. New construction and renovations involving permanent or temporary modification to building footprints or modification of pedestrian and vehicular circulation or modifications to exterior lights and sound systems are subject to site plan review and special permit review as outlined in this section.

4. Uses prohibited (N) in in all University Districts include but are not limited to:
  - (a) Industrial, retail, and commercial uses not ancillary to Colgate University's educational operation.

**§ 174-23. (Reserved)**

DRAFT

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## ARTICLE VI, MIXED USE & BUSINESS DISTRICTS

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### **§ 174-24. Purpose and Description.**

A. The purpose of the Mixed Use Districts is to:

(1) Designate areas where a mix of retail stores, commercial facilities, personal services, offices, municipal uses, family and non-family residential uses, cultural and recreational or entertainment facilities, are supported.

B. Description of the Mixed Use Districts

(1) The Mixed Use Core (MC) District supports retail, commercial, food service, office, personal service, entertainment and cultural uses. In addition it supports residential use on upper floors.

(a) The MC district occupies the historical center of the Village. It includes properties on Broad St., Payne St., Madison St., Lebanon St. Utica St., Eaton St., and Maple Ave in the vicinities of the Payne St./Broad St./Utica St./Lebanon St. intersection and the Maple Ave./Eaton St./Lebanon St. intersection. The MC district is bordered to the northwest by the ME district, on the east by the MG district, and on the south, west and north by the R district. For the precise properties within the district see the Village Zoning Map.

(2) Mixed-Use Green (MG) supports personal service, professional, cultural and residential uses, while encompassing municipal offices, religious and community facilities and functions. Parking opportunities in the MG district tend to be very limited. in many properties are limited.

(a) The MG Ddistrict frames most of the Village Green north of Pleasant Street. It includes properties on Payne St., East Broad St., and Broad St. The MG district is bordered on the northwest by the MC district and on the south, east and west by the R district. For the precise properties within the district see the Village Zoning Map.

(3) Mixed-Use Eaton (ME) District supports commercial, retail, and personal services on the ground floors. Residential and office uses of upper floors are supported. Many of the properties are large enough to support vehicular access and parking.

(a) The ME district includes properties on the west side of Eaton St. and the east side of Utica St. in the vicinity of the Utica St./ Eaton St. intersection. The ME district is bordered by the MC district to the southeast, by the R district to the south, west, and northeast, and the MP district to the north. For the precise properties within the district see the Village Zoning Map.

(4) Mixed-Use Perimeter (MP) districts support a mix of offices, personal services, medical services and residential use. New retail uses and food services are not supported. Parking as a primary use is permitted and supplemental parking is supported.

(a) The MP district the properties on both sides of Utica Street between Eaton and Montgomery/Wylie, the properties on the east side of Eaton between Utica and Montgomery, the properties between Utica and Eaton on Montgomery, as well as some properties on the south side of College Street west of Payne Creek, and the northwest end of Milford Street. In most instances the MP districts borders the R district. For the precise properties within the district see the Village Zoning Map.

C. The purpose of the Business Districts is to:

(1) Designate areas where retail, commercial, personal service, offices, transportation, entertainment facilities are primary, with residential a secondary use.

D. Description of Business Districts

(1) Business North (BN) District supports retail, commercial, personal service, food services and is a district that supports uses that rely strongly on vehicular access.

(a) The BN district stretches along 12B for the northern reaches of the Village. It is bordered by R district to the south, BD to the northwest, and BA to the west.

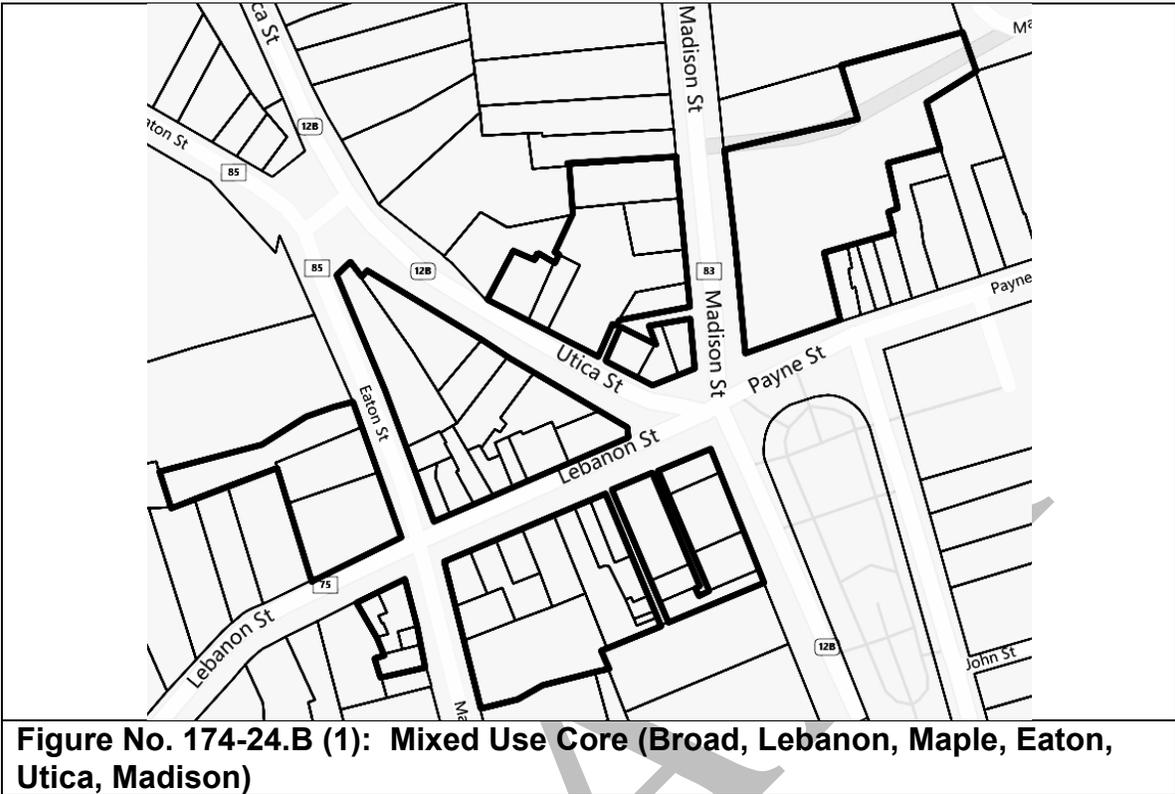
(2) Business Development (BD) supports light industrial, commercial and business uses. I

(a) The BD district is on the eastern and southern sides side of Wings Way. It is bordered to the west by the BA district and to the south by the BN.

(3) The Business Aviation (BA) district supports aviation uses and commercial uses associated specifically with aviation use of the Hamilton Municipal Airport.

(a) The BA district is on the west side west side of Wings Way and borders the BD and BN districts to the east as well as the R district to the south.

(4) Business Hospital (BH) district supports the operation of the Community Memorial Hospital. adjacent to the west side of Route 12B. It borders the U2 district to the north and south, the U3 to the west, and the U1 to the east.



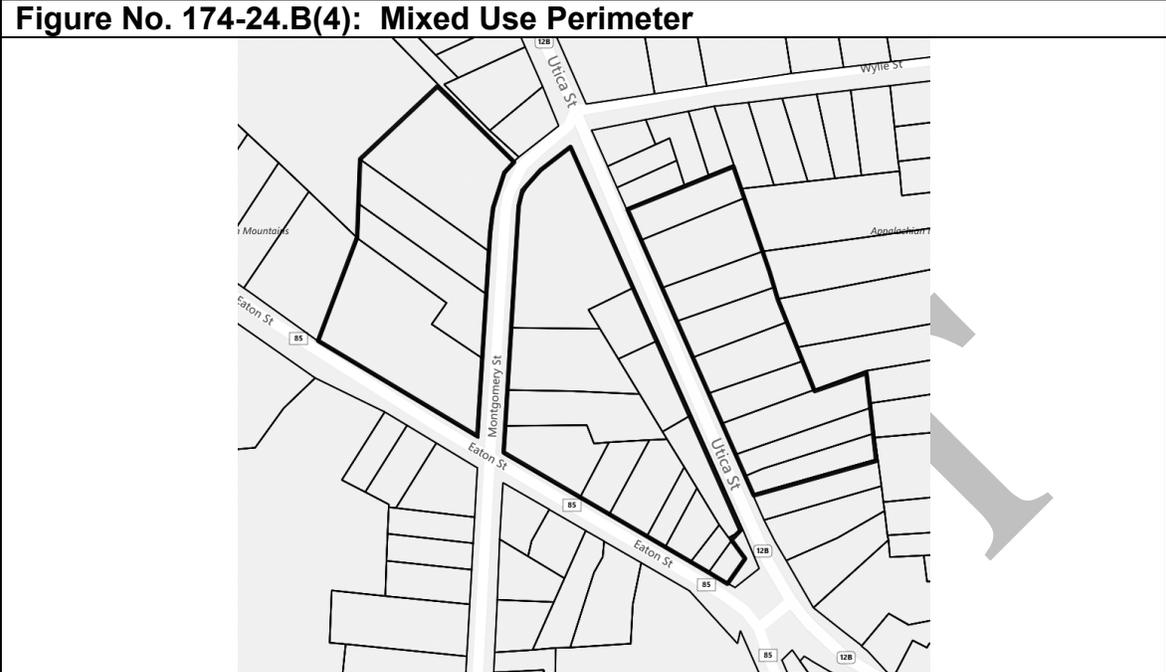


**Figure No. 174-24.B(2): Mixed Use Green**



**Figure 174-24.B (3). Mixed-Use Eaton**

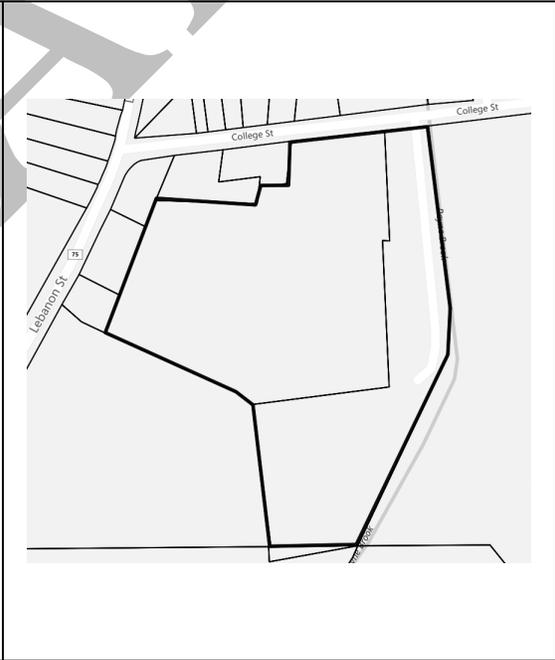
**Figure No. 174-24.B(4): Mixed Use Perimeter**



(Utica, Montgomery, Eaton)



(Milford, Lebanon)



(College St.)



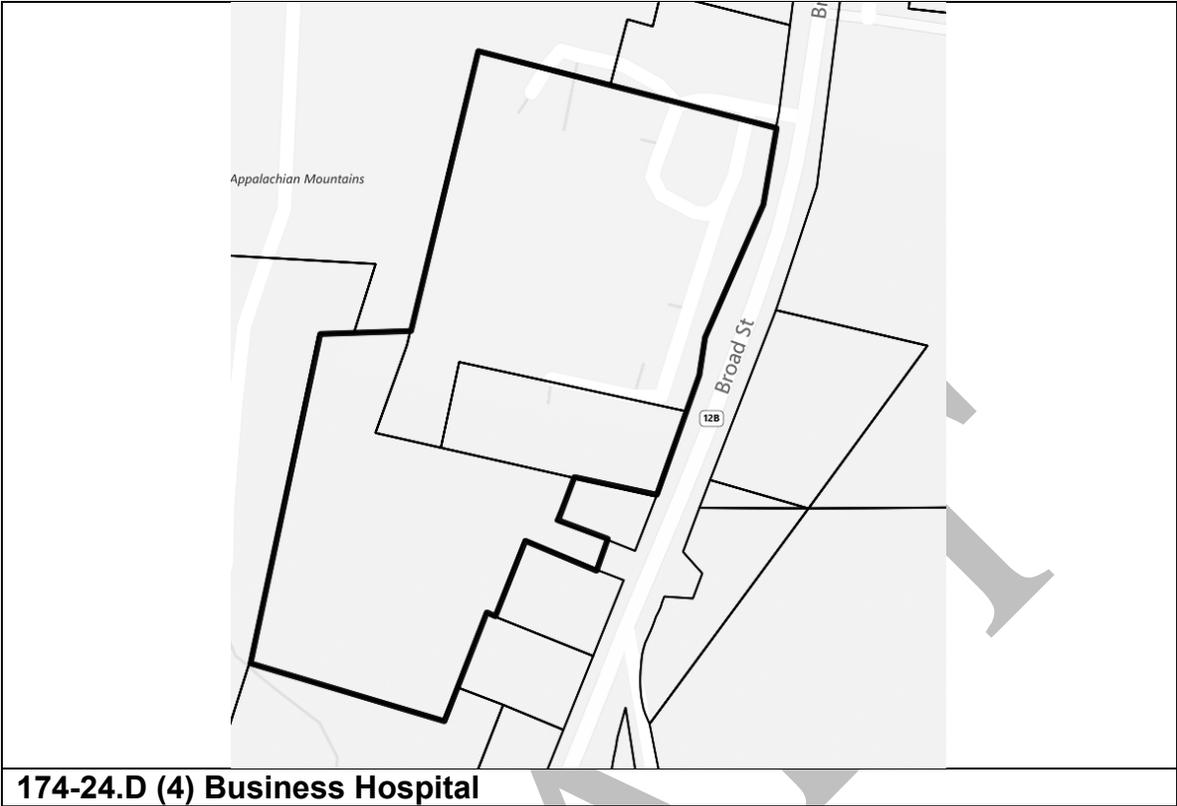
**174-24.D (1) Business North**



**174-24.D (2) Business Development**



**174-24.D (3) Business Aviation**



**174-24.D (4) Business Hospital**

## **§ 174-25. Regulations and Controls.**

A. In any Mixed Use or Business Use District, regulations and controls for permitted land uses or activities having special conditions applied thereto, or requiring a special permit, are set forth in Appendix A, Schedule I, of this chapter.

B. In any mixed-use or business district, regulations for lot size, yards, lot coverage, building height and similar area or dimensional requirements are set forth in Appendix A, Schedule II, of this chapter.

C. An outline of supported and prohibited uses in the Mixed-Use Districts.

(1) Mixed Use Core District

(a) Uses supported (P, SC, or SP) in the MC District include, but are not limited to, most retail, personal service, professional or administrative offices, restaurant and food service including catering, facilities for serving alcohol, museum, performing arts center, clinic or medical center, residential, boardinghouse, rooming house, bed and breakfast, multi-unit residence.

(b) Use prohibited in the MC District include, but are not limited to, drive in services; motels; educational uses by degree granting institutions; University related off campus activities; banqueting facilities; playground; automotive sales; auto wash; gasoline station, sexually oriented business; industrial uses; residential on the ground floor.

(2) ME District

(a) Uses supported (P, SC, or SP) in the ME District include, but are not limited to, most retail, personal service, professional or administrative offices, restaurant and food service including catering, facilities for serving alcohol, supplemental parking, museum, performing arts center, clinic or medical center, residential, boardinghouse, rooming house, bed and breakfast, multi-unit residence.

(b) Uses prohibited in the ME District include, but are not limited to, drive in services; motels; educational uses by degree granting institutions; University related off campus activities; playground; automotive sales; auto wash; gasoline station, sexually oriented business; industrial uses; residential on the ground floor.

(3) MG District

(a) Uses supported (P, SC, SP) in the MG District include, but are not limited to, municipal, library, institutional, residential, bed and breakfast, office, personal service.

(b) Uses prohibited in the MG District include, but are not limited to, retail, post-secondary educational, industrial.

(4) MP District

(a) Uses supported (P, SC, or SP) in the MP District include but are not limited to residential, office; supplemental parking; personal service; studio; social center; existing light manufacturing, printing,

processing, or industrial uses; catering; clinic and diagnostic center; day care center or nursery school; museum; parking lot; group residence; boardinghouse; bed and breakfast

(b) Uses prohibited in the MP District include, but are not limited to, new light industrial; retail; post-secondary educational; auto sales; new gasoline station; junkyard; new auto repair;

D. Outline of supported and prohibited uses in the Business districts

(1) BN District

(a) Uses supported (P, SC, or SP) in the BN District include, but are not limited to, retail; personal service; office; entertainment; restaurant; bar or facility to service alcoholic beverages; banqueting facility; clinic or diagnostic center; gasoline station; vehicle repair; parking lot; museum; performing arts; nursing home.

(b) Uses prohibited in the BN District include but are not limited to nursery school; farm or livestock; light manufacturing; residential on the first floor.

(2) BD District

(a) Uses supported with special conditions (SP) in the BD District include but are not limited to clinic or diagnostic center; light manufacturing, industry, or processing, administrative, office, wholesale storage, warehouse or distribution center, farm brewery, research and testing facility, municipal facility.

(b) Uses prohibited in the BD District include but are not limited to residential; Retail; Personal service other than clinic and diagnostic; educational; banqueting or restaurant (except for farm brewery); museum; performing arts; library

(3) BA District

(a) Uses supported (P, SC, SP) in the BA District include but are not limited to aviation related service, recreational, and commercial uses; parks; and agricultural uses.

(b) Uses prohibited in the BA District include but are not limited to non-aviation-dependent or retail, commercial, industrial, educational or residential uses.

(4) BH District

(a) Uses supported by right (P, SC, or SP) in the BH District include but are not limited to medical services, especially those provided by Community Memorial Hospital.

(b) Uses prohibited in the BH District include, but are not limited to, retail, industrial, personal service, educational, commercial, retail.

D. Design Standards for Mixed Use and Business Districts

(1) Purpose: to apply design standards in commercial and mixed use portions of the Village.

(2) Procedure and controls.

(a) Compliance with Design Standards will be a necessary component

of all building permits within the Mixed Use and Business Districts.

(b) The Code Enforcement Officer may not issue a Building Permit before determining compliance with Design Standards.

1. The Code Enforcement Officer may solicit the advice of the Planning Board before determining compliance or non-compliance to design standards within renovation projects that alter the exterior of the buildings on facades with street frontage or facades within 50 feet of the family residential district.

2. For new commercial and mixed-use construction, determination of compliance will be part of the site plan review.

3. The integration and balance of the multiple provisions of these Design Standards within individual projects is the responsibility of the Planning Board and will be part of the site plan review process.

(3) Standards applicable to all commercial and mixed use structures in the Business and Mixed Use Districts

(a) Building Materials in MC, MG, ME, MP, BN, BH districts

1. Preferred building materials are brick, stone, and wood. Limited use of concrete and concrete block is acceptable if detailed and finished to be compatible with surrounding buildings.

2. The use of exposed corrugated concrete and "cinder block" is prohibited.

3. Tile, stucco, and metal wall surfaces are not typical building materials in the Hamilton area, but may be acceptable in limited applications.

4. Siding.

a. Artificial siding should be detailed to be consistent with traditional wood construction. Asphalt and asbestos wall surfaces are prohibited.

b. Newer types of building materials, if compatible in appearance with surrounding buildings, may be acceptable. Such materials should be able to be maintained so that they do not deteriorate with age.

(b) Building Materials and Design Standards in the BD and BA districts should be appropriate to the use.

(4) Design Standards for the Mixed-Use Core (MC)

(a) Relationship of Buildings to the Street and to Each Other

1. Where party wall buildings currently exist, or where new ones are constructed, the buildings should generally be connected to form a wall along the street. This wall encloses public space and makes the street space feel like an "outdoor room."

2. Party wall buildings should be related in height, with storefront windows, doors at street level, and simple roof

shapes.

3. Downtown buildings have traditionally maintained a continuous wall at the building line. Therefore, new buildings and additions to existing buildings should maintain the street wall. The building line is generally the front property line or the line of the sidewalk, and a minimum of 60% of the building's front face should sit on that line.

a. Setbacks for up to 40% of the building front may be appropriate, but only if the area between the setback and the sidewalk is developed as a plaza accessible to the public. (Figure VI. 1) This area shall not be used for parking.

b. Buildings on corner lots should hold the corner by meeting (a) on both street frontages. Parking lots on corners are not allowed.

c. Parking lots in front of buildings are not allowed.

4. For party wall construction, a zero foot side setback is best. Side setbacks of between zero and six feet and over 15 feet are prohibited. Narrow gaps are likely to be dark and dangerous, and do not make good pedestrian spaces. Gaps of more than 15 feet between buildings disrupt the continuity of the street wall and should not be allowed, except to create outdoor public or semipublic spaces or where parking is required and cannot be placed behind the building. Side yards of more than 10 feet should be landscaped, and may be used as driveways, pedestrian pathways, or semipublic spaces such as restaurant patios.

5. In order to define the edge of public space on the street and encourage mixed use buildings, all new buildings and major additions must be between two and four stories tall, with a maximum elevation of 45 feet.

6. Upper-level apartments and offices are encouraged and should be accessible from entries on the sidewalk. Secondary entrances located on rear alleys or parking lots are also acceptable.

7. Small, separated one-story buildings set back from the street are not permitted.

(b) Architectural Features and Character of Buildings.

1. Facade Treatments:

a. Party wall buildings create continuity in the street wall, which should not be interrupted by complicated or dominating roof designs visible from the street.

b. Parapets, projecting cornices, or decorative roof overhangs are encouraged, since they reinforce the line of the building wall. Flat roofs without cornices are prohibited. (Figure VI. 2)

- c. Buildings should have many windows and doors at street level to encourage pedestrian traffic and commercial activity. Frequent entries contribute to a lively pedestrian space. Entries onto the sidewalk should occur at least every 40 feet. (Figs. VI. 3 & 4)
- d. Blank, windowless walls are unacceptable; no building may have more than 15 horizontal feet of wall without a window or door.
- e. First-floor facades should include a minimum of 50% glass, while upper floors should have between 15% and 40% glass.
- f. Every building should have operable windows on the upper floors. Individual windows should be vertically proportioned between 1:2 and 3:5. Individual windows may be grouped, but continuous strip windows without major vertical divisions are prohibited, as are heavily tinted or reflective glass.
- g. Large storefront windows are required on ground floors and do not need to be operable.
- h. Balconies and bay windows are appropriate on upper floors, and may encroach beyond the building line by no more than four feet.
- i. Awnings and overhangs which provide shade and shelter for pedestrians are encouraged; they may encroach beyond the building line. Arcades should encroach on the sidewalk.
- j. Heating, ventilation, and air-conditioning equipment on the roof shall not be visible from the street.
- k. Heating, ventilation, and air-conditioning ducts and equipment located in alleyways within 20 feet of the streets shall be screened from views from the street.
- l. Trademark buildings, which identify the owner or occupant by a trademarked architectural style or by prominent advertising icon images shall be adapted to harmonize with the architectural character of the MC district as specified in these standards.

(5) Design Standard for Mixed Use Eaton

(a) Design Standards for all new construction or substantial exterior renovations on properties in the ME district

1. Buildings on corner lots shall follow these guidelines on both street frontages.
2. Parking lots in front of buildings are not allowed.
3. Upper floors should be accessible from well-lit entries on the front or side facades. Secondary entrances located on rear alleys or parking lots are also acceptable.
4. Small, separated one-story buildings set more than 20 feet

back from the sidewalk of street frontage incompatible with the character of the ME district.

5. A substantial exterior renovation constitutes a modification of over 40% of the street facade.

6. Trademark buildings, which identify the owner or occupant by a trademarked architectural style, must conform to the design standards of this chapter. Franchise operations shall be designed to harmonize with downtown mixed-use areas.

7. Exterior fire escape construction may not be on the front facade nor within 25 of the property line or sidewalk.

(a) Mixed Use Eaton District Design Overlay 1. Those properties that front Eaton Street within the ME district shall be considered as occupying ME Design Overlay 1. The design standards reflect the standards of the MC district with accommodation of the onsite parking appropriate to the ME district.

1. Relation of Buildings to Street and to Each Other in the ME Design Overlay 1.

a. The ME Design Overlay 1 anticipates the extension of the downtown character of the MC without the focus on party wall construction. Therefore, new buildings and additions to existing buildings should maintain a strong sense of street enclosure. The building line is generally within a minimal setback.

2. Architectural Features of ME Design Overlay 1

a. Parapets, projecting cornices, or decorative roof overhangs are encouraged. Flat roofs without cornices are prohibited.

b. Buildings should have many windows and doors at street level to encourage pedestrian traffic and commercial activity.

c. Blank, windowless walls are unacceptable; no building may have more than 20 horizontal feet of wall without a window or door.

d. First-floor facades should include a minimum of 40% glass, while upper floors should have between 15% and 40% glass.

e. Every building should have operable windows on the upper floors. Individual windows should be vertically proportioned between 1:2 and 3:5. Individual windows may be grouped, but continuous strip windows without major vertical divisions are discouraged, as are heavily tinted or reflective glass.

f. Large storefront windows are required on ground floors and do not need to be operable.

g. Balconies and bay windows are appropriate on upper floors, and may encroach beyond the front building line

by no more than four feet.

h. Awnings and overhangs, which provide shade and shelter for pedestrians are encouraged; they may extend beyond the building line.

i. Heating, ventilation, and air-conditioning equipment on the roof shall not be visible from the street.

j. Heating, ventilation, and air-conditioning ducts and equipment located in alleyways within 20 feet of the streets shall be screened from views from the street.

3. Balconies are not permitted on street facades or on building facades that are direct toward a family residential district.

(b) Mixed Use Eaton District Design Overlay 2. Those properties that front Utica Street within the ME district shall be considered as occupying ME Design Overlay 2. The ME District Design Overlay 2 reflects a section of the Village that transitions from the design character of the MC district to that of the MP district.

1. A build-to line is set by the average of the structures (excluding parking lots) on the three properties on either side of the property.

(6) Design Standards for the Mixed Use Perimeter (MP) District and the Mixed Use Green (MG)

(a) The MP and MG districts primarily support independent structures of domestic character. While the uses of traditionally residential properties in these areas may change gradually, their general appearances should not change significantly. New uses should adapt to the character of the existing domestic buildings and should respect the traditional relationships between the buildings, the street, and adjoining buildings.

(b) The norm for new construction and renovation of old construction in the MP and MG districts will be detached buildings with domestic characteristics as outlined by these design standards.

(c) Minimal design standards for the new construction and exterior renovations of any structure in the MP and MG districts.

1. Building faces should be parallel to the street, with major roof ridges either parallel or perpendicular to the street.

a. On narrower lots (60 feet or less), the roof ridge should generally be perpendicular to the street.

2. An entry is required on the front façade.

3. Roof overhangs of 6 inches to 18 inches, exclusive of gutters, are required.

4. Windows and doors should be balanced in their placement on building facades. Though literal symmetry is not necessary, a general balance is required.

5. Glass areas per floor should be greater at ground floors than at upper level floors.

6. Windows should be vertical within the primary floors of the

building.

7. Shaped windows are acceptable within the triangle created by converging roof planes, at decorative entries, in half-stories, and in decorative configurations in all floors.

8. Windows and doors should include trim of no less than 1"

9. No façade may be blank, except for facades of secondary structures within 10 feet of the property line.

10. A minimum of 1/3 of the building square footage (excluding basements) must be on the second floor.

11. Trademark buildings, which identify the owner or occupant by a trademarked architectural style or by prominent advertising icon images shall be adapted to harmonize with the architectural character of the mixed use or business district.

(d) Frontages and Screening

1. A build-to line is set by the average of the structures (excluding parking lots) on the three properties on either side of the property.

2. Fences and landscape screens of an appropriate nature (see illustration and 174. 46) are encouraged along front property lines, especially where the continuity of buildings is interrupted by a vacant lot, a parking lot, or a building set back farther than the build-to line. Landscape screens should be set back no less than three feet from the sidewalk to avoid encroachment when the vegetation matures.

3. Fences, low walls, and hedges define walkways, can give pedestrian scale to the street, and maintain the historic character of the Village. They create a transition between public and private spaces and screen and separate potentially incompatible uses. Chain-link fences and tall walls or hedges create unfriendly barriers and block important public visual or pedestrian access.

(6) Design Standards for Business North

(a) Architectural Features and Character for new construction.

1. Facade Treatments:

a. First-floor facades should include a minimum of 40% glass, while upper floors should have between 15% and 40% glass.

b. Heating, ventilation, and air-conditioning equipment on the roof shall not be visible from the street.

c. Heating, ventilation, and air-conditioning ducts and equipment located in alleyways within 20 feet of the streets shall be screened from views from the street.

d. Where residential uses and commercial uses are integrated, pitched roofs and domestically scaled windows as per MP districts are strongly encouraged.

2. Where a flat roof is employed, architectural elaborations or parapets are required.
3. Trademark buildings, which identify the owner or occupant by a trademarked architectural style or by prominent advertising icon images shall be adapted to harmonize with the architectural character of the district as specified by these standards.

(7) Design Standards for Business Development (BD) and Business Aviation (BA).

- (A) The design of structures in the BD and BA should be appropriate to their use.

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### Figures to Support Village Design Standards

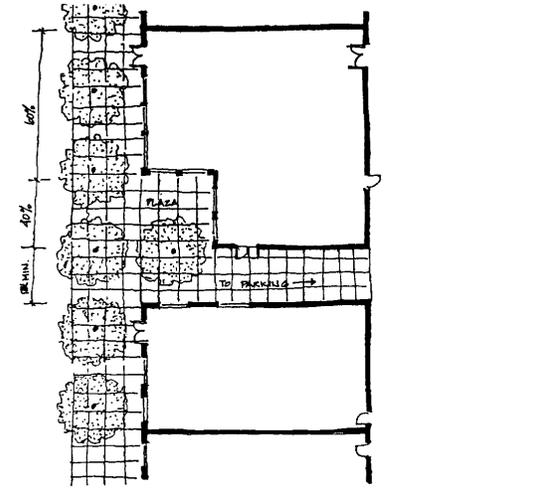


Figure VI. 1. Party Wall Frontage



Figure VI. 2. Appropriate Cornice Treats for MC District.



Figure VI. 3. Entry. Cornice, treatment in MC

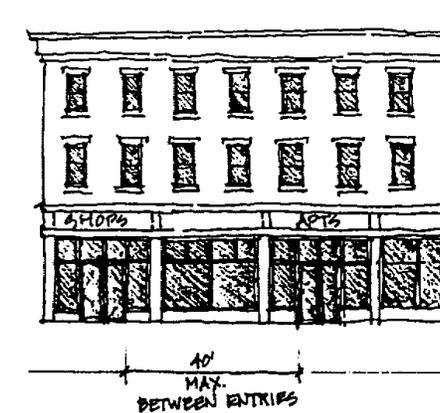


Figure VI. 4. Distance between entries in MC district.

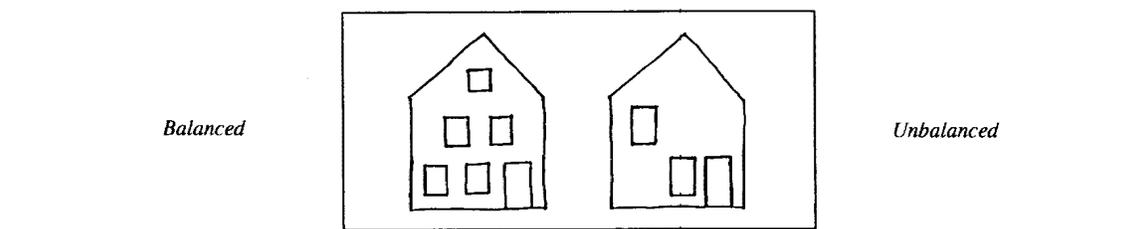
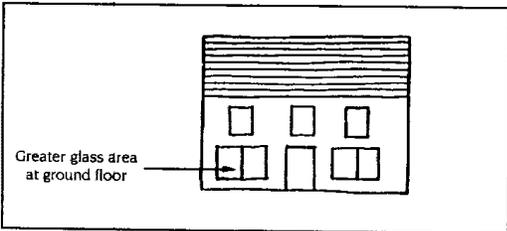
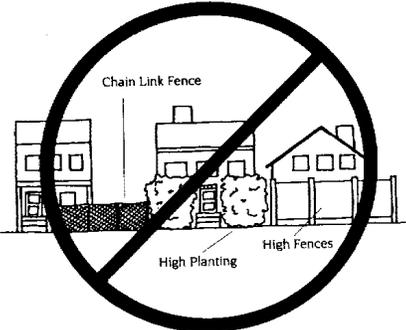
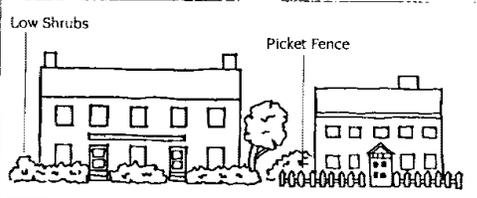


Figure VI. 5. Appropriate balance for architectural features

	
<p>Figure VI. 6. Inappropriate distribution of windows and glass.</p>	<p>Fig. VI. 7. Appropriate distribution of glass across lower and upper floors.</p>
 <p><i>Discouraged</i></p>	 <p><i>Appropriate Street-lining Elements</i></p>
<p>Fig. VI. 8. Inappropriate front yard fencing and hedges</p>	<p>Fig. VI. 9. Appropriate front yard fencing and hedges.</p>

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## **ARTICLE VII - Planned Development Districts**

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### **§ 174-28. Purpose.**

The purpose of these districts is to provide a means for developing land areas for residential or business uses or a satisfactory combination of multiple uses in an economic and compatible manner, but without departing from the spirit and intent of this chapter.

### **§ 174-29. Classifications.**

The classification Planned Development District is intended to designate an area of land that will be held for development for residential or business purposes or a combination of these uses, in accordance with the procedures and standards set forth in Article VII.

### **§ 174-30. General Procedure.**

Establishment of a planned development district project shall require two steps:

- A. Approval of a preliminary development plan and amendment of the Zoning District Map by the Village Board of Trustees to establish a Planned Development District; and
- B. Authorization to proceed with the project in a Planned Development District.

### **§ 174-31. Amendment of Zoning Map to Planned Development District.**

- A. Application for amendment of the Zoning Map for a Planned Development District shall be made to the Village Administrator for transmittal to the Village Board of Trustees for consideration at its next regularly scheduled meeting.
- B. The applicant shall submit a preliminary development plan, in an appropriate scale, illustrating the type, uses and design of the proposed development, including any or all of the following as required by the Village Board of Trustees:
  - (1) Boundaries of the proposed district.
  - (2) Topography, soil conditions, drainage, storm water management.
  - (3) Land uses and building locations.
  - (4) Roads, parking areas, walks.
  - (5) Common open spaces.
  - (6) Landscaping, fencing, screening.
  - (7) Lighting.
  - (8) Construction sequence by phases.
  - (9) Feasibility studies of utility, traffic and other similar potential issues arising from the proposed project.
  - (10) SEQRA EAF long form.
- C. If the Village Board of Trustees deems the application worthy of further consideration, it shall refer the complete application to the Planning Board

for review and recommendation(s). If the Village Board rejects the application, no further review shall occur.

- D. The Planning Board shall review the application to determine whether it is complete and may request clarification and additional information from the applicant regarding any aspect of the application. The Planning Board and the applicant may negotiate refinements or modifications in the preliminary development plan proposal or other components of the application. The negotiating process is intended to permit changes to the original application document that shall allow the project to meet the objectives of these regulations. The applicant may terminate negotiations at anytime by asking the Planning Board to proceed without further negotiation with its review procedures at its next regular meeting.
- E. The Planning Board, in consultation with the Village Administrator and the Code Enforcement Official, shall review the application and evaluate the proposal to consider of the following:
  - (1) Consistency with the stated purpose(s) of a Planned Development District.
  - (2) Extent of departure from the requirements and standards of the Chapter otherwise applicable to the property and the advantages and amenities resulting from such departure.
  - (3) Location of the site in relation to all abutting properties and streets, showing existing property lines, rights of way and easements.
  - (4) Location, bulk and height of buildings and uses in relation to one another and to other structures and uses in the vicinity.
  - (5) Vehicular and pedestrian traffic circulation, its relation to existing traffic facilities and patterns and the probable amount of traffic to be generated.
  - (6) Adequacy of existing and proposed utilities, fire protection and other services.
  - (7) Protection of the environment.
    - a. Review of the plan by the Planning Board for SEQRA compliance
  - (8) Purpose, location and amount of common open spaces.
  - (9) Architectural and landscaping design.
  - (10) Sufficiency of terms and conditions for protection of the integrity, conservation and maintenance of the plans.
  - (11) A logical projection of construction phases.
- F. Within 60 days of official submission to the Planning Board, that Board will recommend approval, approval with modifications, or disapproval to the Board of Trustees, giving reasons therefore.
  - (1) The Planning Board shall recommend conditions for the district that shall address the ongoing development of the Planned Development District to assure its harmony with the intentions of the submitted plan.
  - (2) The time period for Planning Board recommendation may be extended by mutual consent of the applicant and the Planning Board.
- G. Prior to acting on the application the Village Board of Trustees shall hold a public hearing and shall consider the report and recommendations of the

Planning Board and all other comments, reviews and statements pertaining thereto. The Village Board of Trustees may act to amend the Zoning Map to establish and define the type and boundaries of the planned development district and, in order to protect the health, safety and general welfare of the community, may establish additional requirements and specific conditions restricting the nature, density, or design of proposed land use and development and may request that the applicant submit an amended preliminary development plan conforming with such requirements and conditions prior to final action by the Board to establish a district.

(1) Not less than 15 days prior to any public hearing held by the Board of Trustees pursuant to this section, a notice of the public hearing shall be sent by United States Postal Service mail to all owners of property, as identified on the then-current assessment roll, within 500 feet of the boundary of the property proposed to be rezoned.

(2) Failure to mail such notice of public hearing to any or all such property owners in accordance with the requirements of this section, or an owner's failure to receive such notice of public hearing, shall not affect the validity of any zoning amendment adopted by the Board of Trustees.

H. Before taking final action on amending the Zoning Map, the Village Board of Trustees shall refer such matters to the Madison County Planning Agency in accordance with the provisions of § 174-91 and of General Municipal Law. (See § 174-91).

I. Upon approval by the Village Board of Trustees of a preliminary development plan and establishment of a planned development district, the plan shall be filed by the Village Administrator and shall serve as a permanent record to guide future action.

(1) The preliminary development plan and conditions associated with the Planned Development District shall become part Appendix C of the Village Zoning Law.

(2) Description and Location of Planned Districts.

a. Planned District for Shopping Plaza. This district encompasses land at the northern edge of the Village to the East of 12B. It was created in the 1980s to assure coherent development of the first big-box stores in the community.

b. Planned District for Madison Lane Senior Housing. This district encompassed several parcels in the northeastern sector of the Village between Madison St., Payne St., and the Colgate Golf Course. It was created in the 1970s? to assure coherent development of Madison Lane Senior Community.

c. Planned District for Community Bank. This district encompasses land between Hamilton St. and East Broad Street, east of the lower park. It was created in the 1970s? to permit the location of a bank on the old Hamilton School District property without opening the area up to further commercial or retail development.

d. Planned District for Five Trees. This district encompasses land to the west of the feeder canal along Sycamore Place, Hickory Court, and Tamarack

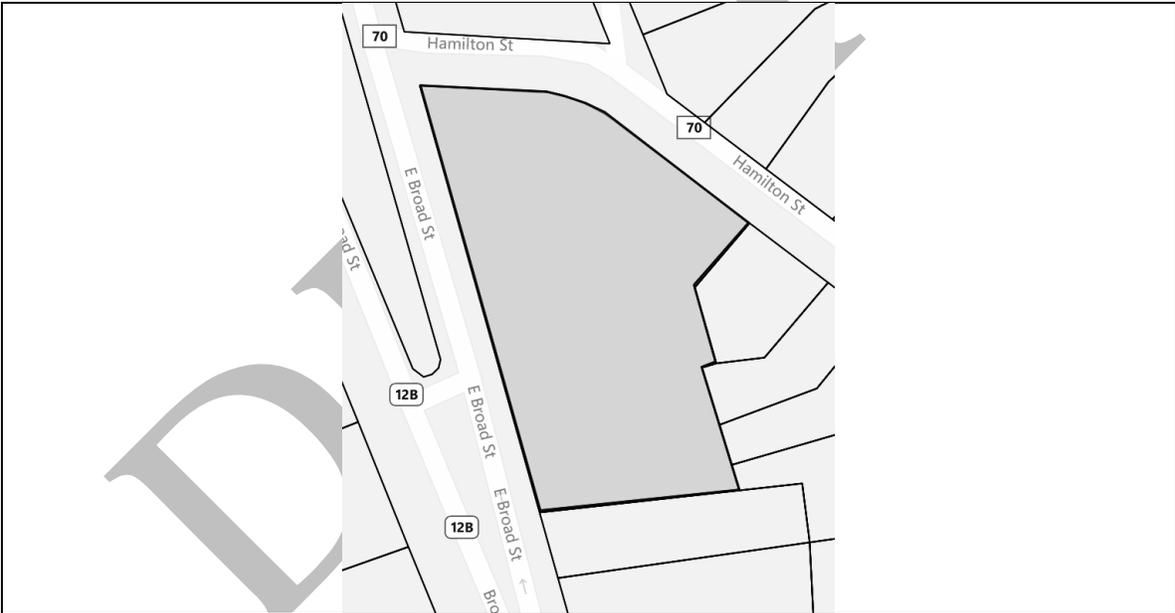
Terrace. It was created in the 2000s to facilitate the residential development with a cluster development strategy.

e. Planned District for Good Nature Brewing. This district occupies a lot at the southern limit of the Village on the west side of 12B. It was created in 2016 to support the development of Good Nature farm brewery.

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**Figure No. 174-31.I(2)a and b: Planned District Shopping Plaza and Madison Lane Senior Housing**



**Figure No. 174-31.I(2)c: Planned District for Community Bank**



Village Board of Trustees, if any, and such further plans and specifications and supporting documents required for a building permit. The final development plans shall include the approved preliminary plan and any or all of the following as required by the Planning Board:

- (1) Property survey, showing existing contours/topography, buildings, structures, trees over four inches' caliper, streets, easements and rights-of-way.
- (2) Site plans with proposed building locations, streets, parking areas, walks, signs, exterior lighting, grading and landscape design.
- (3) Preliminary drawings for buildings to be constructed in the current phase, including plans, exterior elevations and sections.
- (4) Preliminary engineering plans, including street design, drainage systems and public utilities.
- (5) Construction time schedule.
- (6) Maximum safety for vehicular access to and egress from the site to existing or proposed streets and effectiveness of on-site traffic and pedestrian circulation.
- (7) Adequacy of landscaping and setbacks as a way of mitigating adverse environmental impacts and achieving compatibility with adjacent properties.

C. If the applicant has previously indicated that development of the district will be phased, the application for a building permit may be limited to approved phases. It is the intent of these regulations that any individual phases of a planned development project proceed logically and have an integrity of use in their own right so that if for any reason the entire planned development is not completed, the developed portions will be an asset to the community by themselves and can eventually be extended and completed without land areas becoming isolated and inaccessible. Phasing plans shall consider this objective.

- (1) Modification to the Final Development Plan may take place only after approval by the Planning Board and only if such modification remains within the regulations of the Planned Development District as set by the Village Board of Trustees.
- (2) Any departure from the regulations of the Planned Development district requires amendment by the Village Board of Trustees.

D. No building permit shall be issued until the Planning Board has undertaken its normal reviews required by these regulations and has determined that the final development plan has been made to conform to all prior conditions and restrictions, if any, and has approved the plan, and until the Planning Board has forwarded a copy of the approved plan to the Village Board of Trustees.

E. If development of a planned development district has not commenced within one year after the date of the Planning Board approval of a final development plan and issuance of a building permit, the permit shall become null and void, and the plan approval shall be deemed revoked and vacated, except that such time period may be extended upon application to and authorization by the Planning Board.

F. If construction in a planned development district has not commenced within the period described above, the Village Board of Trustees may elect to conduct a

public hearing and otherwise consider and act upon amendment of zoning of the land from planned development district to its former district status.

**§ 174-33. Conditions to be Conveyed with Land.**

All conditions required by the Village Board of Trustees in establishing the Planned Development District and in approval of plans by the Planning Board, including any whose performance may be precedent to the issuance of any permit, shall be conveyed with the land and shall not lapse or be waived because of ownership or tenancy change in any or all of the designated district.

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## ARTICLE VIII: Overlay Districts and Design Standards

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### **§174-34 Airport Overlay Districts** (To be reviewed by McFarland Johnson and the Airport Airpark Commission)

A. Purpose: to apply special height and land development standards that will provide for the orderly growth of Hamilton Municipal Airport and the area surrounding the airport within the Village of Hamilton and will safeguard the health, safety, and general welfare of the inhabitants within the vicinity of the airport, the flying public, and the public in general.

B. It is hereby determined that an airport hazard endangers the lives and property of users of airports, and the health, safety, and welfare of property or occupants of land in its vicinity, and also, if of the obstruction type or of the incompatible use type, in effect reduces the size of the area available for landing, take off and maneuvering of aircraft, thus tending to destroy or impair the utility of airports and the public investment therein. Accordingly, it is hereby declared that:

- (1) The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the airport;
- (2) It is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented; and
- (3) The prevention of these hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

C. Airport Noise Overlay Zone.

- (1) The Airport Noise Overlay Zone is effective as shown on the Airport Zoning Map on file in the Hamilton Village office.
- (2) Within the Airport Noise Overlay Zone, the following uses are restricted:
  - (a) Residential use.
  - (b) Commercial uses, except those constructed with air circulation systems and at least 35 dB of noise level reduction (NLR).
  - (c) Institutional uses such as schools, hospitals, churches, and rest homes.
  - (d) Hotels and motels, except those constructed with air circulation systems and at least 35 dB of noise level reduction (NLR) in sleeping areas.
  - (e) Outdoor recreational uses, except golf courses, riding stables and water recreation and then only when 30 dB of noise level reduction is achieved in indoor areas where the public is received.

D. Airport obstruction zones. Airport obstruction zones are effective as shown on the Airport Zoning Map on file in the Hamilton Village office. No structure or tree shall be erected, altered, allowed to grow, or be maintained in any Airport Overlay Zone to a height in excess of the specified height limitation.

(1) Primary surface: a surface longitudinally centered on the runway center line and extending 200 feet beyond the end of the runway with the same elevation as the nearest point on the runway center line.

(a) The width of the primary surface is 500 feet.

(b) The height limitation of the primary surface is equal to the nearest point on the runway center line.

(2) Approach zone (AZ): a two-hundred-fifty-foot zone running on both sides of the runway center line and expanding outward uniformly to a width of 2,000 feet at a distance of 5,000 feet from the ends of the primary surface. The height limitation in the AZ slopes upward one foot vertically for each 20 feet horizontally, beginning at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway center line.

(3) Transitional zone (TZ): a surface of inclined planes parallel to the runway center line, beginning at the edges of the primary surface. The inclined planes extend upward and outward from the sides of the primary surface to the horizontal surface 150 feet above the airport elevation and from the sides of the approach surface at a 7:1 slope (for every seven feet in a horizontal direction, the rise is one foot). Within the transitional zone, no object may extend above the surface of the transitional plane as described above.

(4) Horizontal zone (HZ): an area, the perimeter of which is constructed by swinging arcs of specified radii from a point on the center line and 200 feet beyond each end of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is five thousand feet. The horizontal zone does not include the approach and transitional zones. The height limitation within the horizontal zone is 1,282 feet (150 feet above the primary surface.)

### **§ 174-35 OC Conservation Overlay.**

- A. Purpose: to apply special standards on areas in which backup water resources of the Village are located.
- B. Description: The Conservation Overlay District includes all land within the Village that is within 100 feet of Woodman Pond.
- C. Jurisdiction. The conservation area shall be an overlay zone as per § 174-11.
- D. Procedures and controls. The only uses permitted within the Conservation Zone are public park or recreation; nature trails, as well as Village structures, police shooting range, and storage.

### **§174-36 Reserved for the Historic District Overlay**

#### A. Purpose

(1) To assure that the cultural and architectural legacy of the Village of Hamilton is respected in any development of properties and structures with historical significance.

(2) To recognize that the rich architectural and cultural history of the Village of Hamilton is an asset to the community at large.

(3) To be proposed following the redefinition of the Hamilton Historical District.

**§ 174-37. (OF) Overlay Flood Area District.**

- A. Purpose: to designate those areas where construction controls may be imposed because of varying degrees of flood hazard.
- B. Jurisdiction. The flood areas shall be an overlay zone per § 174-11 and as shown on the FEMA Flood Hazard Boundary Map.
- C. Procedure and controls. Buildings and uses shall be in conformance with Chapter 82, Flood Damage Prevention, of the Village of Hamilton Code.

**§ 174-38. (OW) Overlay Wetlands Area District.**

- A. Purpose: to designate those areas where construction controls may be imposed because of varying degrees of drainage and conservation requirements.
- B. Jurisdiction. The wetlands shall be overlay zones per § 174-11 and as prescribed by the New York State Department of Environmental Conservation.
- C. Procedure and controls. Buildings and uses shall be in conformance with Article 24 (Freshwater Wetlands) of the New York State Environmental Conservation Law and Chapter 86, Freshwater Wetlands, of the Village of Hamilton Code.

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## **Article IX: Supplementary Regulations**

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### **§ 174-39. Zoning Schedules.**

- A. Regulations governing permitted land uses or activities, or uses or activities requiring a special permit, or having special conditions attached, or requiring site plan review, are set forth in Appendix A, Schedule I, of this chapter.
- B. Regulations governing lot area and width, front, side and rear yards, building coverage and height, and similar area and dimensional requirements shall be as specified in Appendix A, Schedule II, of this chapter, unless otherwise set forth in the requirements of this Article IX.
- C. Both Schedule I and Schedule II, and any amendments thereto, are hereby adopted and made part of this chapter.

### **§ 174-40. Lots in More Than One District.**

Where a district line divides a lot held in one ownership at the time of adoption of said line, the regulations for the less restricted portion of such lot shall extend not more than 50 feet into a more restricted portion, provided that the lot has frontage on a street in the less restricted district.

### **§ 174-43. Frontage on Public Streets.**

- A. All dwellings hereinafter constructed shall have access via a street as shown on at least one of the following:
- (1) The official map or plan;
  - (2) An existing state, county, town, or Village highway;
  - (3) A street shown on a plat approved by the Planning Board; or
  - (4) A street already filed in the County Clerk's office.

### **§ 174-44. Average Front Yard Setbacks.**

The front yard of all buildings and structures hereafter constructed within the R, MG, MP and U2s district shall be not less than the average front yard of all buildings for a distance of 300 feet on each side of such building in the same block. A vacant lot within said distance shall be considered as having the minimum front yard required in the district for the purpose of computing such average front yard.

### **§ 174-45. Yards Abutting District Boundaries.**

- A. Where two districts abut on the same street between two intersecting streets, there shall be provided for buildings hereafter constructed or structurally altered, within a distance of 50 feet from the district line in the less restricted district, a front yard equal in depth to 1/2 the required depth for the front yard in the more restricted district.
- B. Where the side or rear yard of a lot abuts a side or rear yard of a lot in a more restrictive district, there shall be provided along such abutting line or lines a side or

rear yard equal in depth to that required in the more restrictive district.

### **§ 174-46. Walls, Fences and Hedges.**

A. Yard requirements shall not prohibit any necessary retaining wall provided that such wall shall be no closer than two feet to any public right-of-way, with the exception of restrictions set forth in § 174-47B.

B. On corner lots, except in districts where no front yard is required, no fence, wall, hedge or other structure or planting more than three feet high above street grade shall be erected or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting public right-of-way lines and a straight line joining said lines at points 20 feet distant from the point of intersection, measured along said lines.

C. Fences in all districts may be no higher than six feet, with the exception of fences for commercial uses approved by the Planning Board through site plan review.

(1) No fence or hedge (grown out) may be closer than 2 feet from any sidewalk or public right of way.

(2) No front yard fence or hedge may be above three feet.

(3) No fence or hedge (grown out) may be closer than three feet from a driveway.

(4) The maintenance of hedges so that they meet the standards above and do not impede pedestrian movement is the responsibility of the landowner.

### **§ 174-47. Screening and Landscaping.**

A. Parking Lots and Parking Areas

(1) Any multi-unit residence, boarding house, business, drive-in service, vehicular sales, parking area, public utility storage yard or similar use abutting an R District or a residential property in an R District shall provide and maintain a buffer strip of turf at least six feet wide, with a continuous compact evergreen hedge not less than four feet high at planting or a fence six feet high, as approved by the Planning Board. There shall be no storage, except that of snow, in the buffer strip.

(2) Any parking lot or parking area in MC, ME, MP, BN must provide a buffer strip of no less than three feet between the lot and any sidewalk along the lot frontage. Plantings must be maintained in that buffer strip to provide screening between and three to four feet high. There shall be no storage, except that of snow, in the buffer strip.

(3) Screening along the frontage of a parking lot or parking area should be maintained to prevent headlights of parking cars from blinding motorists on the road while at the same time not creating a safety concerns by obscuring the wash of streetlight into the parking lot or area.

B. Outdoor swimming pools, hotel-motel outdoor recreation areas, outdoor cafes, public utility structures, and similar uses shall provide screen planting or fencing at

adjacent residential areas as appropriate to the particular conditions and as approved by the Planning Board.

### **§ 174-48. Maintenance of Plantings.**

Any screening required as part of a site plan review or special permit must be maintained by the property owner.

### **§ 174-49. Encroachment of Architectural Features.**

- A. The space in any required yard shall be open and unobstructed, except for the projections of window sills, belt courses, cornices, eaves, chimneys and other architectural features, provided that these shall not project more than two feet into any required yard or across a rear or side boundary line.
- B. A paved terrace shall not be considered part of a building in the determination of yard sizes or lot coverage, provided that such terrace is unroofed and without walls, parapets or other form of enclosure exceeding six feet in height.
- C. In determining the percentage of building coverage or the size of yards, enclosed porches or porches open at the side but roofed shall be considered a part of the building.
- D. An open fire escape may extend into any required yard not more than six feet, provided that such fire escape shall not be closer than four feet at any point to any lot line.
- E. Unenclosed entrance steps or stairways providing access to the first story of a building may extend into any required yard not more than six feet.

### **§ 174-50. Domestic fuel tanks.**

Aboveground domestic fuel tanks shall be in side or rear yards.

### **§ 174-51. Residential Ground Floor Areas. [Amended 3-8-2005 by L.L. No. 3-2005]**

- A. Minimum residential ground floor areas, measured from the exterior faces of exterior walls, exclusive of garage and open porches, shall be as follows:

<i>Number of Stories</i>	<i>District</i>	<i>Minimum Area (sq. ft.)</i>
Fewer than 2	R, MP, MG, U1	1000
Fewer than 2	MC, ME, BN	800
Fewer than 2	U2	800
More than 2	R, MP, MG, U1	800
More than 2	MC, ME, BN	800
More than 2	U2	800

### **§ 174-52. Dwelling Unit Areas**

- A. The minimums areas of dwelling units are:
- |   |             |
|---|-------------|
| Number of Bedrooms/Minimum Floor Area (square feet) |             |
| 0 (Efficiency)                                      | 425 sq. ft. |

1 Bedroom	525 sq. ft.
2 Bedroom	650 sq. ft.
3 Bedroom	775 sq. ft.

B. No dwelling unit in a secondary structure in the residential zone may be more than 550 sq. ft. in area.

(1) Stairways outside the secondary apartment are not calculated within the total floor area.

C. No dwelling unit in a secondary structure in the residential zone may occupy two floors.

### **§ 174-53 Site Plan Review**

A. **Intent.** The intent of this section is to provide for the review of site plans for certain land use activities in the Village of Hamilton for the purposes of preserving and enhancing the character of the neighborhood, increasing compatibility with adjacent development, mitigating potentially negative impacts on traffic, parking, drainage and similar environmental concerns, and improving the overall visual and aesthetic quality of the Village.

B. **Applicability.** Any land use activity requiring site plan review, as specified in Appendix A, Schedule 1, of this chapter, [1] shall comply with the provisions of this 174.53. No zoning or building permit shall be issued by the Code Enforcement Officer until site plan approval, including such conditions as may be imposed by the Planning Board, has been given by the Planning Board.  
[Amended 8-21-2012 by L.L. No. 4-2012]

C. **Objectives** of site plan review. In reviewing an application for site plan approval, the Planning Board shall be guided by the following objectives:

- (1) A harmonious relationship between such land use activity and uses located on adjacent parcels in the neighborhood.
- (2) Maximum safety of vehicular access to, and egress from, the site to existing or proposed streets.
- (3) Maximum effectiveness of on-site circulation and parking facilities with particular attention to pedestrian and vehicular safety.
- (4) An adequate solution to surface water drainage and the provision of water and sewer services.
- (5) An adequate solution to the provision of any signs and site lighting.
- (6) The adequacy of landscaping and setbacks as a way of mitigating adverse environmental impacts and achieving compatibility with adjacent properties.

D. Submission requirements.

- (1) Preliminary Site Plan. The site plan review process begins with the submission of a preliminary plan to the Code Enforcement Officer at least a week prior to the meeting of the Planning Board. The preliminary plan

includes the following information as applicable:

- (a) Name and address of the owner, the applicant (if different from the owner), and name of the designer and engineer of the proposed development, if any.
  - (b) Identification map drawn to scale, showing the location of the site.
    - 1. Scale, North arrow, date and present zoning of the site with setback requirements.
  - (c) Location of the site in relation to all abutting properties and streets, as well as approximate easements and rights-of-way.
  - (d) Location and size of existing and proposed buildings and listing of existing and proposed land uses.
  - (e) The location of any floodable land or wetlands as defined in Article VIII of this chapter.
  - (f) Proposed parking, driveways, streets, and sidewalks.
  - (g) Sketch of the building elevations with approximate location of signage.
- (2) The preliminary plan is presented to, and discussed with, the Planning Board, which will stipulate those elements required for the Final Site Plan from those listed in the following section.
- (a) Normally the applicant will bring a Final Site Plan for consideration at a subsequent Planning Board Meeting.
    - 1. The Planning Board may, at its discretion, accept the preliminary site plan as the final site if the Board judges that it contains sufficient information to meet the standards of the Final Site Plan.
- (3) Final Site Plan
- (a) The following materials may be required for the Final Site Plan review.
    - 1. Name and address of the owner, the applicant (if different from the owner), and name of the designer and engineer of the proposed development, if any.
    - 2. Identification map drawn to scale, showing the location of the site.
      - a. Scale, North arrow, date and present zoning of the site with setback requirements.
    - 3. Location of the site in relation to all abutting properties and streets, as well as easements and rights-of-way.
    - 4. Location and size of existing and proposed buildings and listing of existing and proposed land uses.
    - 5. The location of any floodable land or wetlands as defined in Article VIII of this chapter.
    - 6. Proposed Parking, driveways, streets, sidewalks, and dumpster locations.
    - 7. Sketch elevations of existing buildings and elevations of proposed buildings and signage.
      - a. Drawings or sketches that illustrate the height, bulk

and design characteristics of any proposed buildings and indicate exterior color and materials to be used.

8. Sketch of proposed drainage system
9. Any engineering drawings or documentation that may be required for utility hookups and public improvements.
10. Signage locations and dimensions.
11. Existing and proposed landscaping, especially along property lines.
12. Exterior lighting and external sound systems
13. Narrative description of how the proposed building, land use or site design will be compatible with the surrounding neighborhood.
14. SEQRA Short-form environmental assessment.
  - a. The Planning Board may, based on the discussion of the Preliminary Site Plan, require a SEQRA Long-Form.
15. Other information that may be required by the Planning Board to assure thorough and adequate review of the proposal.
  - a. Any of the above requirements may be waived or modified by Planning Board, upon request, when conditions warrant.

E. Public hearing and decision.

(1) Before a decision is made to approve, approve with modification, or disapprove any application for site plan approval, the Planning Board may hold a duly advertised public hearing on the proposal. Such hearing shall be held within 62 days from the day a complete Final Site Plan is filed. Decision by the Planning Board shall be made within 62 days from the date of a public hearing or, if no hearing is held, within 62 days from the date a Final Site Plan was filed.

F. Referral to County Planning. Before taking final action on certain site plan approval applications, the Planning Board shall refer such matters to the Madison County Planning Agency in accordance with the provisions of § 174-91 and of General Municipal Law. (See § 174-91.)

## **174- 54 Principal Building**

Except for the U1, U3, and BA there shall be not more than one principal building on each lot.

## **174.55. Accessory Buildings**

A. There shall be not more than three accessory buildings, including a garage, on

each lot intended or used for residential purposes.

(1) Structures of less than 50 sq. ft. are not numbered among the accessory buildings.

B. In the R, MC, MG, ME, MP, BN, and U2 districts, accessory buildings shall not exceed 1 1/2 stories or 24 feet in height. In the BD district, accessory structures shall be in compliance with the restrictions applicable to principal buildings. [Amended 3-8-2005 by L.L. No. 3-2005]

C. Accessory buildings not attached to a principal building may be erected within one of the side yards or within the rear yard, in accordance with the following setbacks:

- (1) Side yard (interior lot): five feet.
- (2) Side yard (corner lot): same as for principal building.
- (3) Rear yard: 10 feet
- (4) Not closer to a principal building than 10 feet.

D. An accessory building, when attached by roof and/or walls to the principal building, shall become part of the principal building for purposes of zoning compliance.

E. Commercial and residential use of accessory buildings in the R district.

(1) Commercial and Residential use of accessory structures in the R district is outlined in 174.19.

### **§ 174-56. Building Heights on Double-Frontage Lots.**

On double-frontage lots, building height may be measured from the grade of either street; on double-frontage lots more than 120 feet deep, the height regulations and basis of height measurement for the street permitting the greater height shall apply to a depth of not more than 120 feet from that street.

### **§ 174-57. Exceptions to Height Limitations.**

Height limitations shall not apply to belfries, church spires, cupolas, and domes not used for human occupancy or to chimneys, ventilators, skylights, antennas, tanks and necessary mechanical appurtenances usually carried above the roof; such features, however, shall be erected only to the height necessary for the intended purpose.

### **§ 174-58. Outdoor Lighting.**

No outdoor lighting shall be directed upon a sidewalk, street or public place or upon adjacent premises which shall cause glare or reflection constituting a nuisance or traffic hazard.

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## **ARTICLE X: OFF-STREET PARKING**

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### **§174-60: General Off-Street Parking Requirements**

- A. For uses not specified in § 174-62 the Planning Board shall establish parking requirements.
- B. For any property or building having more than one use, parking spaces shall be required for each use.
- C. There must be safe pedestrian access and egress to and from all parking areas
- D. For the purpose of computing parking requirements, floor areas shall be the sum of the horizontal areas within exterior walls of the several floors of a building, excluding basement, attic, and cellar areas used primarily for storage or service.
- E. In all districts except the Mixed-Use Core (MC) and the Mixed-Use Green (MG), required parking spaces will be on-site.
- (1) Off-site parking in use at the time of the passage of this law may be continued unless interrupted for 365 consecutive days.
  - (2) In the MC district, parking required for museums in excess of 2,000 sq. ft. and Hotels/Inns will be on-site.
- F. Spaces on streets and in municipal lots may not be counted as part of the required parking for private uses.
- G. No designated bus parking spaces in any district may be on a street.
- H. Screening and hedges shall be in accordance with §§ 174-46, 174-47 and 174-48.
- I. Storage or sale of materials in required parking areas.
- (1) Temporary use of required parking areas for sales is restricted to 20 days per year and may not cover more than 20% of required parking spaces.
  - (2) Outdoor seasonal vending or sales within required parking areas may cover no more than 20% of such required spaces.
- J. Accessibility Parking Requirements
- (1) Federal ADA accessible parking spaces must be provided in addition to the required parking spaces in 174.62 when fewer than three on-site spaces are required for the residential, commercial or institutional use.
  - (2) Required accessibility parking spaces will be counted toward the required on-site parking total if the latter is more than two.
  - (3) Accessibility Parking requirements must be in compliance with ADA standards when new construction or substantial modifications take place to structures or the surfacing of the parking area.

K. All Parking Lots and required parking areas or supplemental parking areas are subject to screening requirements as specified in 174-46 & 174-47.

L. In the Family Residential district there shall be no overnight parking of commercial trash or garbage handling vehicles, not counting dumpsters on site for temporary projects.

M. Overnight parking of commercial trash or garbage hauling vehicles, not counting dumpsters on site for temporary projects, within 500 feet of a residence is not permitted in any district.

## **§174.61 Applicability of Requirements**

A. Off-street parking and loading requirements as specified in §§ 174-62 and 174-63 shall apply as follows:

(1) Mixed-Use Core (MC) District:

(a) Museums and Hotels/Inns are subject to requirements as specified in 174-62 and 174-63.

(b) All required parking is subject to setback and screening standards as found in 174-46 and 174-47.

(2) Mixed-Use Green (MG) District:

(a) On-site parking is required for bed and breakfasts, for residential and for home occupation uses.

(b) On-site parking requirements for other commercial, service, professional, community and office uses are waived.

(c) All required parking is subject to setback and screening standards as found in 174-46 and 174-47.

(3) Mixed Use Eaton (ME) and Mixed-Use Perimeter (MP), Business North (BN), Business Development (BD), Business Aviation (BA)

(a) All required parking is subject to setback and screening standards as found in 174-46 and 174-47.

(b) Supplemental parking is permitted in the ME and MP Districts so long as it is in addition to required on-site parking.

Supplemental parking will be subject to setback and screening standards as found in 174-46 and 174-47.

(c) All residential and commercial, retail, service, professional, community, and office uses must provide on-site parking as specified in 174-62 and 174-63.

(d) In the MP, no new parking spaces may be introduced in front yards.

(4) Business Hospital

(a) All medical, service, professional and office uses must provide on-site parking as specified in 174-62 and 174-63.

(b) All required parking is subject to setback and screening standards as found in 174-46 and 174-47.

(5) University Districts

(a) Colgate University will file a comprehensive inventory of campus

parking spaces with the village.

1. Updates to the comprehensive inventory should be filed with the CEO following significant construction in any University District.

(b) The comprehensive parking inventory on file will be submitted as part of any special permit application associated with University Properties in University Districts and parking requirements within such special permit applications may be addressed in the contexts of proximate needs and the comprehensive parking inventory.

(c) On-site parking plans must be part of any special permit application by a private, non-University applicant in the U2 district.

(d) All required parking is subject to setback and screening standards as found in 174-46 and 174-47.

6. Family Residential District

(a) In the family residential districts, parking areas or spaces shall not be located in a front yard, except on an access drive not more than two eight-foot wide lanes.

1. Parking spaces may not impede pedestrian movement or be closer than three feet from a sidewalk.

(b) In the family residential district, access to all onsite parking shall be through a single curb-cut and driveway.

**§174.62 Minimum Required off-street parking spaces.**

- A. Where uses on a lot overlap multiple categories, the determination of minimum requirements will be made by the Planning Board taking into account all uses of the property. See 174.60.B

Use	Minimum Required Off-Street Parking
<b>Residential Uses</b>	
Family	1 per family
Supplemental apartment	1 per supplemental apartment
Boarding House,; Rooming House	1.20 per resident, rounded down
Multi-Unit Dwelling	Sum of requirements for all units on the lot
Institutional Home; Group Residence	1 per 2.5 beds rounded down
Home Occupation	1 per non-resident employee plus spaces required for the residential use
<b>Commercial or Institutional</b>	
New commercial construction	1 per 200 g.s.f.
Retail; Personal Service; Automotive and machine service	1 per 200 g.s.f.
Office; clerical, professional or administrative	1 per 250 g.s.f.
Medical Facility; e.g., clinic, office, allied medical service, hospital	1 per 175 g.s.f.
Bank	1 per 200 g.s.f.
Public Assembly; New Place of Worship; Performing Arts Center; Theater	1 per ten seats or 1 per 100 g.s.f., whichever is greater.
Place of Worship, existing	No requirement
Library	Community Room treated as Public Assembly Reading and clerical areas at 1 per 300 g.s.f.
School	1 per 10 auditorium seats or 1 per 15 classroom seats
Bed and Breakfast	1 per operator plus 1.25 per room, rounded down.
Motel	1 per guest room plus 1 per 100 sq. feet of assembly area.
Hotel; Inn	1 per guest room + w per 100 square feet of assembly area
Museum (over 2000 sq. ft.)	1 per 800 g.s.f.
Restaurant; Bar; Tasting Room; club	1 per 100 g.s.f.
Restaurant – Fast food	1 per 50 g.s.f.
Banquet Facility	1 per 50 g.s.f.
Gasoline Station	Retail Space will be treated as a convenience store or fast-food restaurant as is appropriate. All parking will be clear of lanes to access pumps
Convenience Store	1 per 50 g.s.f.
Warehouse; Storage facility	1 per 1200 g.s.f.
Funeral Home	2 plus 1 per 100 sq. ft. of assembly area.

**§ 174-63. Minimum Required Off-Street Loading Spaces.**

- A. At least one off-street loading facility shall be provided for each business establishment hereafter erected or altered in such a manner which would create a gross floor area in excess of 5,000 square feet, computed per § 174-60.
- B. Each berth shall be not less than 12 feet wide, 35 feet long and 14 feet in height when covered.
- C. Space for such berth may occupy any part of any required side or rear yard, except that no such berth shall be located closer than 50 feet to any lot in any R District or to any residence unless wholly within a completely enclosed building. Not possible in BC.
- D. Off-street loading facilities shall be in addition to required off-street parking spaces

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## **ARTICLE XI, Nonconforming Uses and Structures**

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### **§ 174-64. Continuation.**

Any nonconforming use, building or structure which existed lawfully on the effective date of this chapter may be continued, subject to the regulations which follow in this section.

### **§ 174-65. Registry.**

The Enforcement Official, in consultation with the Planning Board, shall compile a registry of all nonconforming uses, buildings or structures within six months of the effective date of this chapter and shall thereafter keep the same current.

### **§ 174-66. Discontinuance of Use.**

- A. A nonconforming use which is discontinued for a total of 365 days within any twelve-month period shall not be reestablished, and any subsequent use shall conform to the use regulations of this chapter.
- B. A nonconforming use of a building or lot shall be considered discontinued when there occurs a cessation of any nonconforming land use activity by the owner or tenant thereof.

### **§ 174-67. Removal.**

If any nonconforming building is hereafter removed, it shall have lost its nonconforming status, and any subsequent building shall conform to the district regulations.

### **§ 174-68. Change of Use; Change of Ownership.**

- A. A nonconforming use of a building or land may not be changed except to a conforming use; when so changed, the nonconforming use may not be resumed.
- B. A nonconforming use of a building or land may continue with change of ownership.

### **§ 174-69. Extensions or Enlargements.**

- A. A nonconforming use of land shall not be enlarged or extended beyond the area occupied by such use on the effective date of this chapter.
- B. A nonconforming use may be extended throughout any part of a building designed for such use if, on the effective date of this chapter, at least 51% of the gross floor area of the building was used for such nonconforming use.
- C. A nonconforming building, which is nonconforming as to bulk or all or substantially all of which is designed for a use not permitted in the district in which it is located, shall not be enlarged, unless such nonconforming building and the use thereof is made to conform to the district regulations.

**§ 174-70. Reserved**

**§ 174-71. Construction previously started.**

Any building for which a permit has been lawfully granted and on which construction has been started and continued before the effective date of this chapter may be completed.

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## **ARTICLE XII, Administration and Enforcement**

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### **§ 174-72. Enforcement officer designated.**

There is hereby designated in the Village of Hamilton a public official to be known as the "Code Enforcement Officer" or "Enforcement Official," who shall be appointed by the Mayor with the approval of the Village Board of Trustees at the compensation to be fixed by the Board. The Code Enforcement Officer of the Village of Hamilton is hereby designated to administer and enforce this chapter.

### **§ 174-73. Compliance Required.**

- A. No activity shall be allowed in violation of this chapter.
- B. No zoning permit, building permit, group residence license, or certificate of occupancy shall be approved by the Enforcement Official except in compliance with the provisions of this chapter, and other applicable laws, or as directed by the Board of Appeals under the provisions of Article XIV.

### **§ 174-74. Building Permits.**

- A. No building shall be erected, moved, altered, added to, enlarged or demolished, and no excavation for any building shall be begun, unless and until a building permit for such work has been obtained.
- B. Applications for permits shall be submitted on forms provided by the Village Code Enforcement Officer. Each application shall set forth the purpose for which the building is intended to be used and shall be accompanied by a plot plan showing the dimensions of required yards. The Enforcement Official may require such additional information as may be needed for him to determine if the proposed building, its use and the use of the land are in conformity with the provisions of this chapter.
- C. Upon written request of the Enforcement Official, additional information (such as drawings, data, computations) necessary to ensure compliance with the New York State Uniform Fire Prevention and Building Code shall be provided by the applicant, his agent or consultant at no cost to the Village.
- D. (Reserved)
- E. A permit shall be issued or denied within 60 days of receipt of a complete application, unless subject to design review.
- F. If construction authorized by a permit has not been started and continued within one year, said permit shall be null and void.
- G. The Code Enforcement Officer shall have authority to deny issuance of any permits pursuant to this chapter in the event that the applicant refuses the

Officer reasonable opportunities to make necessary inspections of the premises or if the applicant refuses to provide necessary information reasonably requested by the Officer.

- H. All construction must be strictly in accordance with the plans, specifications and other information upon which any permit is issued. Any changes in such information must be approved in advance of construction by the Code Enforcement Officer.

### **§ 174-75. Certificates of Occupancy/Certificates of Compliance.**

- A. A certificate of occupancy or certificate of compliance shall be required for any of the following:
- (1) Occupancy and use of a building hereafter erected, altered, moved or extended.
  - (2) Change in the use of an existing building or land from one type of use to another.
  - (3) Occupancy and use of vacant land, except for any use primarily agricultural.
- B. A certificate of occupancy shall be issued only if the proposed use of building or land conforms to the provisions of this chapter, the New York State Uniform Fire Prevention and Building Code and all other applicable laws, codes and regulations.
- C. Application for a certificate of occupancy shall be made to the Enforcement Official who shall, after inspection of the premises, issue a certificate or deny the application.

### **§ 174-76. Penalties for Offenses.**

- A. Any person or corporation, whether as owner, lessee, architect or builder, or the agent or employee of any of them, who violates or is accessory to the violation of any provision of this chapter or who shall erect, construct, alter, enlarge or move any building or structure without a building permit or in violation of any statement or plan submitted and approved under the provisions of this chapter, or who shall use any building, structure or land in violation of this chapter or in violation of the provisions of any building permit, special permit, variance or certificate of occupancy, or without any such permits or certificates where one is required by this chapter, shall be liable to a penalty not exceeding the following:
- (1) For conviction of a first offense: a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both.
  - (2) For conviction of a second offense, both of which were committed within a period of five years: a fine not exceeding \$700 or imprisonment for a period not to exceed six months, or both.
  - (3) For a third or subsequent offense, all of which were committed within a period of five years: a fine not exceeding \$1,000 or imprisonment for a period not to exceed six months, or both.

- B. Each week's continued violation shall constitute a separate additional violation.

### **§ 174-77. Other Remedies.**

An action or proceeding in the name of the Village of Hamilton, New York, may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this chapter or any rule or regulation adopted pursuant to this chapter or any order issued pursuant to this chapter. Such remedy shall be in addition to penalties otherwise prescribed by law.

### **§ 174-78. Stop-Work Orders.**

- A. Whenever the Code Enforcement Officer has reasonable grounds to believe that work on any building, structure or property is proceeding without permit or is otherwise in violation of the provisions of any applicable law, code, ordinance, local law or regulation or is not in conformity with any of the provisions of the application, plans or specifications on the basis of which a zoning and building permit was issued, he shall notify either the owner of the property or the owner's agent or the person, firm or corporation performing the work to immediately suspend all work. In such instance, any and all persons shall immediately suspend all related activities until the stop-work order has been duly rescinded.
- B. Such stop-work order shall be in writing on a form prescribed by the Code Enforcement Officer and shall state the reasons for the stop-work order, together with a date of issuance. The stop-work order shall bear the signature of the Code Enforcement Officer or that of a duly authorized designee and shall be prominently posed at the work site.

### **§ 174-79. Appearance Tickets.**

The Code Enforcement Officer of the Village of Hamilton shall have authority pursuant to Article 150 of the New York Criminal Procedure Law to issue appearance tickets as defined therein for the purpose of enforcing this chapter.

### **§ 174-80. Fees.**

- A. Fees will be charged for the issuance of building permits and related applications and reviews in accordance with a fee schedule approved by the Village Board of Trustees.
- B. The Village Board of Trustees of the Village of Hamilton is hereby authorized to modify the fee schedule and regular inspection hours from time to time by resolution of the Board.

## **Chapter 174. Zoning**

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### **Article XIII. Special Permits and Special Conditions**

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#### **§ 174-81. Applicability.**

No building or other permit shall be issued for any land use or activity listed in Appendix A, **Schedule I**,<sup>[1]</sup> as requiring a special permit (SP), or having special conditions applied thereto (SC), until the Enforcement Official is satisfied that the regulations set forth in this chapter, including this Article **XIII**, have been complied with.

[1]

*Editor's Note: Appendix A, **Schedule I**, is included at the end of this chapter.*

#### **§ 174-82. Special Permits.**

##### A. Authorization; conditions.

(1) The Planning Board may grant a special permit for uses listed in appendix A, **Schedule I**, as requiring a special permit (SP) if the proposed use meets the general and specific standards and conditions, as applicable, of this § **174-82**.

(2) The Planning Board may grant a special permit for uses as listed in Articles **IV**, **V** and **VI** if the proposed use meets the standards and conditions listed in this section.

(3) Planning Board approval shall be obtained for any addition or alteration to uses and buildings authorized by special permit.

(4) The Planning Board may impose conditions when issuing a special permit for the purpose of adhering to the standards pertaining to special permits.

(5) The Planning Board may impose a combination of conditions suggested by the standards listed in this section if the project integrates or combines multiple uses.

(a) The identification of one use listed in appendix A, Schedule I, as relevant to the project does not preclude the identification of other uses as also pertinent. Any special permit issued must accommodate and integrate all identified uses as specified by the Planning Board.

##### B. Application procedure.

(1) Prior to any application for special permit, the applicant shall submit to the Code Enforcement Officer two copies of preliminary data and drawings, on forms provided by the Village Administrator, as necessary to describe and illustrate the proposed use. The Code Enforcement Officer shall transmit the materials to the Planning Board within seven business days.

(2) The Planning Board, within 45 days of the submission date, will review the proposal that shall be based on the standards and guidelines listed below and it may request such additional information as the Board may reasonably require to assist it in reaching the application decision.

(3) On receipt of the final application material, including all additional information required by the Planning Board, the Enforcement Official shall submit the final plans to the Planning Board within seven days for final review and decision within 45 days of receipt of the complete application. The Planning Board shall not be required to hold a public hearing prior to rendering a decision, but the Planning Board may, in its discretion, hold a public hearing on an application if the Board determines it to be in the public interest. If a public hearing is held, the Planning Board shall render its decision within 45 days of the close of the public hearing.

[Amended 12-13-2005 by L.L. No. 5-2005]

(4) To the contrary notwithstanding, the Planning Board shall not make a final decision on any application for a special permit until a determination on the environmental significance of its action has been made pursuant to 6 NYCRR Part 617 (SEQR).

(5) It is the specific intent of the Board of Trustees of the Village of Hamilton that the application procedures set forth in this subsection shall supersede any contrary provisions regarding the approval of special use permits that may be provided in § 7-725-b of the Village Law of the State of New York, specifically with regard to the requirement of a pre-application submission, the lack of a public hearing requirement and the time periods within which the Planning Board is required to render a determination.

[Added 12-13-2005 by L.L. No. 5-2005]

#### C. Referrals.

(1) Whenever any special permit would affect real property in an area as described in §§ 239-l and 239-m of the General Municipal Law, said special permit shall be referred to the Madison County planning agency, which agency shall report its recommendations to the Village Planning Board. Failure of the County planning agency to report within 30 days may be construed to be approval.

(2) The concurring vote of a majority plus one of the Village Planning Board shall be necessary to override county planning agency recommendations of approval with modifications or disapproval.

(3) Within 30 days after final action by the Village Planning Board on the recommendations, modifications, or disapproval of a referred matter, the Board shall file a report of the final action with the county planning agency.

#### D. General standards. The standards listed below apply to all special permit applications, whether or not others are included for specific situations.

(1) The location, size and character of the use will be in harmony with the character of the neighborhood and will not be detrimental to the orderly development of the district in which it is situated and adjacent districts.

(2) The proper use and value of nearby land and buildings will not be impaired by:

(a) The location, size, height and nature of buildings, walls, fences and signs; the location, size and nature of parking areas; or the location, intensity and nature of artificial lighting, and

(b) There may be no storage of loose soil, mulch, or aromatic materials within 50 feet of a residential district.

(3) The use will not be objectionable to nearby properties because of loitering, noise, fumes, vibrations, or lighting.

(4) The location, size, site layout and relationships to existing or future streets will be such that vehicular traffic and the assembly of persons will not be hazardous or conflict with the appropriate traffic for the neighborhood.

(5) The nature and extent of landscaping will be appropriate to the use and to the neighborhood.

(6) The conditions and guidelines for specific uses and buildings as listed below shall apply.

(7) For any special permit use that requires site plan review, Planning Board approval of a site shall be obtained in accordance with applicable provisions of § **174-53** of this chapter.

E. Specific standards for certain uses. In addition to the general standards for a special permit, as set forth in § **174-82D**, above, the specific requirements for certain land use activities, as set forth in this § **174-82E**, shall be complied with, except that such requirements may be modified or waived by the Planning Board for due cause, as noted in the records of the application.

(1) Multiunit dwelling supporting both family and non-family residents in MC, ME, MP, and BN;

(a) Planning Board approval of a site plan, in accordance with the provisions of § 174-53, shall be obtained.

(b) In a MC, ME, BN Districts, a residential use shall not be located on the ground floor of any building.

(c) The maximum densities of multi-unit dwellings are specified in Appendix I Schedule B.

(d) Secondary structures in the MC, ME, MP and BN may not be used for residential purposes.

(e) Screening of trash and of parking from all neighboring residential uses is required as per 174-46, 174. 47.

(f) Parking is calculated as a composite of all uses within the structure and property.

1. In the ME, MP and BN parking must be on premises.

2. All parking lots contiguous with a residential use in an R District must be screened as per 174-47.

(2) Reserved.

(3) Existing boardinghouse in all Districts; new boardinghouses in MC, ME, MP, U2 Districts. (All provisions of this Subsection **E(3)** shall be applicable to group residences as they were defined prior to January 1, 2012, and to all

special permits and licenses for the operation of group residences issued prior to January 1, 2012.)

[Amended 2-14-2012 by L.L. No. 1-2012]

(a) Due regard shall be given to the safety hazards associated with boardinghouses, their potentially unstable conditions and exploitative character and their possible blighting effect on the surrounding neighborhood.

(b) Compliance with all applicable codes and regulations, including the New York State Multiple Residence Law, shall be required for special permit consideration.

(c) All boardinghouses in all districts shall be licensed annually. Licenses shall be issued for the period from August 1 to July 31, or portion thereof if the application is submitted after July 1. Upon timely application (see below), each license shall be issued and/or renewed, as applicable, upon a finding of full and proper compliance with each of the following:

1. All state, county and local laws, ordinances and regulations pertaining to the property.
2. For all existing boarding houses in the R, MP, and U2 districts, parking requirements specified in Article X apply.
3. For all new boarding houses in the ME, MP, U2 and BN districts, parking requirements as specified in Article X apply.
4. All conditions previously imposed by the Planning Board as part of issuance of the special permit.
5. Proper maintenance and operation of the property in keeping with the character of the neighborhood and in a healthy, safe and sanitary condition. Evidence of improper maintenance and operation may include exposed garbage or litter on the premises; failure to maintain the grounds in a neat and orderly fashion; and parking by tenants on or about premises in undesignated parking areas. Evidence of improper operation may also include the occurrence of incidents or events that constitute violations of the Village Code and/or the New York State Penal Law upon the premises. The occurrence of three or more arrests or issuances of appearance tickets, citations or violation notices for charges of violation of any provision of the Village Code or of Articles 220, 221 or 240 of the New York State Penal Law upon the premises shall be prima facie evidence of improper operation, and shall constitute grounds for denial of the license application or license renewal, as applicable.
6. All applicable standards set forth in this chapter, including **§ 174-82D.**

(d) A special permit for a boardinghouse may be revoked by the Planning Board upon noncompliance with any of the above criteria if such noncompliance is not corrected after notice to the property

owner and after a hearing in accordance with the following procedure:

1. The property owner shall be provided with a notice of hearing setting forth at least a date, time and location that the owner can be heard by the Planning Board with respect to the noncompliance. Such hearing date shall be no less than 10 days after mailing.
2. After the hearing, the Planning Board may determine whether or not the noncompliance or circumstances giving rise to the noncompliance have been corrected. If not, the Planning Board may revoke the special permit.

(e) The property owner may reapply for a special permit for a boardinghouse upon establishing compliance with the above criteria.

(f) All new and existing boardinghouses shall be required to obtain a license annually. Licenses issued for boardinghouses shall be valid for one year, from August 1 to July 31. A complete application for renewal shall be submitted to the Enforcement Officer by May 1 of the expiring year. The applicant shall schedule with the Enforcement Officer the necessary inspection of the residence so that the inspection shall occur no later than July 15 preceding expiration. Upon such timely application and inspection, the Enforcement Officer will renew the license upon a finding of full and proper compliance with all applicable standards.

(g) If the operation of the boardinghouse is not in compliance with the conditions or this section, or any other applicable standards, or there are other indications of improper operation as set forth in Subsection **E(3)(c)[3]** above, and/or complaints from neighbors or the Police Department, the Planning Board shall review the special permit for that location. The Planning Board at that time may impose additional conditions upon the special permit or may schedule a public meeting to revoke the special permit.

(h) The Enforcement Officer is authorized to issue an appearance ticket upon discovery of occupancy of any boardinghouse, without a valid special permit or license pursuant to § **174-76**. There shall be a late fee, as specified by the Village Board, for renewal applications submitted after May 1 and or for scheduling of inspections after July 15.

(4) All group residences shall be subject to, and be in conformance with, the following supplemental regulations:

(a) No exterior alterations shall be made to any existing dwelling to be used as a Group Residence other than those mandated by any other codes or regulations to assure safety and sanitation. All alterations of the premises, e.g., driveways, parking areas, landscaping, shall be compatible with the neighborhood and appropriately screened from adjoining properties as determined by the Planning Board.

(b) All new construction as part of a group residence shall be compatible with the scale, character and architectural design of existing neighborhood dwellings and shall comply with all regulations applicable to the district, as determined by the Planning Board in its consideration of the special permit application.

(c) The number of residents in a group residence shall be consistent with the number of bedrooms and other living accommodations available in the structure. There shall be a minimum of 70 square feet of bedroom area with code-compliant emergency escape and rescue openings for each resident.

(d) If the group residence will include parking areas for more than three vehicles, such parking areas shall be screened from adjoining properties by a fence or vegetative screen not less than five feet in height, as approved by the Planning Board.

(e) All exterior site lighting associated with a group residence shall be designed and installed in such manner as to avoid any light spillover at the property line between the group residence and adjoining properties. All exterior lighting fixtures shall include glare-reduction devices and must include designation of the fixtures as International Dark-Sky Association (IDA) approved and as Illumination Engineering Society of North America (IESNA) "full cutoff" fixtures.

(f) All buildings and premises used as group residences shall conform to the bulk zoning regulations set forth in Appendix A-**Schedule II<sup>2</sup>** as the same may apply to single-family dwellings for the zoning district in which the group residence is located.

(5) Supplemental Apartment

(a) A supplemental apartment has a maximum of 550 sq. feet.

(b) A supplemental apartment is permitted only on properties of more than 12,500 sq. ft., primarily devoted to occupancy as single family dwellings. Within a multi-unit dwelling no individual unit may be considered a supplemental apartment.

(c) Onsite Parking must be provided for all supplemental apartments.

(6) Conversion of an existing structure in the R district to a maximum of three family dwelling units.

(a) Supplemental apartments are not permitted within properties committed to two-family and three family residential use.

(b) On site parking is required for all residential and home occupational uses.

(c) Use of secondary structures for home occupational or residential purposes is not permitted within properties devoted to two-family and multi-family residential use.

(7) Nursing Home, Nursery school, child day-care center, and adult day-care center

- (a) In all districts must be developed and operated under the applicable regulations of the State of New York.
  - (b) In MG district, nursery school and day care center must be operated by a resident operator or as an ancillary use to another institution.
  - (c) New day-care centers may be operated in the Family Residential District only as a home occupation. Such a home-occupational day care center may not exceed 8 participants at any one time.
- (8) Banqueting Facility, Outdoor
- (a) Outdoor banqueting facilities are prohibited except in the BN.
  - (b) Outdoor banquets are subject to amplified sound permits and the sound ordinance.
- (9) Outdoor swimming pool in residential, mixed-use, and business districts.
- (a) A private pool shall be located on the same lot as the principal building, shall be only in the side or rear yard and shall be not less than 10 feet from the side or rear lot line.
  - (b) Design, construction, fencing, maintenance and operation shall conform to the latest edition of the National Swimming Pool Institute Standards and all other applicable codes and regulations.
  - (c) Outdoor swimming pools shall be screened by plantings or fencing from adjacent residential areas as appropriate to the particular conditions and as approved by the Planning Board.
  - (d) A public swimming pool must be located within a public park and requires a special permit.
- (10) Parking Lots.  
A lot dedicated primarily to the parking of vehicles must be illuminated and screened as per Article X of this chapter.
- (11) Hotel, Inn in MC District.  
[Amended 4-13-2010 by L.L. No. 1-2010; 7-6-2010 by L.L. No. 2-2010]
- (a) Garbage disposal facilities shall be adequate, sanitary, and screened.
  - (b) Off-street parking shall be provided as determined by the Planning Board, using the provisions of §§ **174-60** and **174-62** as desirable standards. Screening shall be in accordance with **§174-47**.
- (12) Drive-in service in ME and BN Districts.
- (a) Speaker boards and speakers shall be not closer than 200 feet in any direction to a building used as a residence in an R district.
  - (b) Location shall be no closer than 200 feet to any church, or school measured along the street line from the nearest boundary line of the

drive-in service premises to the nearest boundary line of the church, school or playground.

(c) In the ME district, outside speakers may not be used to play amplified sound except as activated by customer.

1. In the MP district, outside speaker and video only may be used to only for required communication between the vehicle customer and employee of the enterprise.

(d) With drive-in food service, there must be enough room at the soundboard for three stacked vehicles that do not block the parking in the lot or block entrance and egress from the lot.

(e) Outside speakers and outside soundboards must be screened to discourage sound spillage beyond the limits of the property.

(13) Marquees/Canopy in MC, ME, MG, MP, BN and BA District.

(a) Marquees and canopies shall be permitted only where appropriate to the building use, such as theater, hotel or service station.

(b) Height and size shall be suitable to the use and location, as determined by the Planning Board.

(14) Reserved

(15) Gasoline station with or without convenience store/fast-food facility; autowash.

(a) Gasoline Station with or without store, convenience store or fast-food facility.

1. Off-street parking shall be limited to employee and customer cars required for the retail, convenience/fast-food uses. There may be no storage of cars or servicing of cars, beyond the pumping of fuel and the supply of air for tires, in the parking area. Such parking may not be used for the sale of new or used cars.

2. To prevent vehicles waiting in the public street, two stacking spaces per fuel pump bay shall be provided on the lot within the sidewalk line.

3. No music may be played in outside speakers in any gasoline/fuel station in the MP district.

(b) Auto Wash

1. To prevent vehicles waiting in the public street, at least three stacking spaces per auto wash bay shall be provided on the lot within the sidewalk line.

2. Washwater discharge shall not pollute any stream nor create a hazard because of surface drainage and shall conform to the Sewer Use Ordinance and other applicable laws, codes and regulations.

3. Autowash is not considered an ancillary use to a gasoline/fuel station.

(16) Residential and Home Occupational Uses of Accessory Structures in R, MG and MP districts may be permitted subject to special permit.

(a) Temporary or transient to permanent occupancy of an accessory building is permitted only on property primarily dedicated to supporting a single family residential unit.

(b) Temporary, or transient or permanent year-round occupancy is permitted in only one accessory structure within any property.

1. A dwelling unit in an accessory building may not have more than one bedroom..

2. No accessory building may be wholly dedicated to residential use, permanent, temporary or transient.

3. One off-street parking space must be provided for use of an accessory building for temporary or permanent occupancy of a non-family member.

4. Rented use of a supplemental apartment in an accessory structure for temporary or ongoing occupancy is permitted only if no more than one room/suite in the primary structure is committed to a roomer or for home occupational use as a bed and breakfast.

5. If occupied on the temporary or ongoing basis by someone other than the family occupying the principal structure, such a supplemental apartment must have at least 1 parking space accessible to the street.

6. When an accessory structure is used for a supplemental apartment, the entrance to the supplemental apartment may not be directed toward the rear lot line or the closest side lot line.

(b) Home Occupational use of an accessory structure may be permitted by special permit upon site plan and special permit review:

1. Where the primary use of the lot is as a single family residential unit.

2. Where at least one resident of the property is employed in the home occupation to which the secondary structure is dedicated.

3. Where the occupation is not disruptive to neighbors by virtue of sound, or fumes, or deliveries

4. Where the display or sale of stock and trade is not a primary purpose of the business or occupation.

5. Where no more than two non-resident employees are active at any one time.

6. Where no materials or equipment associated with the home occupation are stored outside any structure.

7. Where only one accessory structure per property is committed to home occupation use.

8. Where parking is provided as per 174.62 A
9. Where no accessory structure on the premise is rented for temporary or ongoing residential use.
10. Where the home occupational use of the accessory building is not that of a bed and breakfast.

(17) Home Occupational operation of rooming house or bed and breakfast. In the R, MG, MP, and U2 districts, a total of up to two rooms/suites in the principal structure of a one-family dwelling may be rented to a roomer or operated by the resident operator as a bed and breakfast.

(a) Such use shall be considered a home occupation and be subject to 174.83.F.

(b) If a supplemental apartment is operated in the principal or accessory building, only a single room/suite may be rented to a roomer or operated by the resident operator as a home occupational bed and breakfast.

(18) Operator Occupied Bed and Breakfast in the MC, ME, MG, MP, and U2 districts.

(a) Existing operator-occupied bed and breakfasts in the R district may continue to operate within the parameters of these regulations.

(b) 1.25 on-site parking spaces per guest room/suite plus two for the operation of the bed and breakfast. Parking must be screened from neighboring residential properties.

(c) Trash must be picked up in a manner characteristic of the district.

(d) Secondary structures may be used for a single guest suite with no more than one bedroom.

(e) On-site residential space for the operator must be included.

(f) The maximum number of guest rooms/suites is five.

(g) The Bed and Breakfast must be operator occupied on an ongoing basis.

(19) Reserved

(20) Performing Arts Center; Private or Public Museum

A. The use of rear yards for ancillary dining, banqueting, or reception space is prohibited in MG district.

(21) Public Playground

A. A public playground must be located within a public park and requires a special permit.

## **§ 174-83. Special Conditions.**

Any land use or activity listed in Appendix A, **Schedule I**,<sup>[1]</sup> as having special conditions applied thereto (SC) shall not be considered a permitted use or activity, and no permit shall be issued, until the Enforcement Official has determined that applicable conditions, as set forth in this section, have been met.

Where special conditions (SC) apply and special permit (SP) is required, the special conditions must be integrated into the special permit.

A. Residential use of the ground floor.

(1) In the MC and ME Districts, a residential use may not be located on the ground floor of any building.

(2) In the BN district, occupancy of the ground floor is permitted only in existing one family dwellings and motels.

B. Any land use activity listed in Appendix A, **Schedule I**,<sup>[2]</sup> as requiring site plan review (RR) must comply with the provisions of § **174-53** of this chapter.

[2] Editor's Note: Appendix A, **Schedule I**, is included at the end of this chapter.

C. Mobile Home and Mobile Home Park.

(1) Dwelling, mobile home in R Districts. Mobile home dwellings are permitted only if such dwelling is located in a mobile home park.

(2) Mobile home park permitted only when and where a Planned District has been established in accordance with applicable provisions of Article **VII** of this chapter.

(3) No mobile home park have a density of less than 5,000 sq ft. per unit.

D. University Campus.

(1) New construction and modification to the University campus facilities in the U1 district and within 300 feet of Broad St., East Kendrick Avenue, Hamilton Street, Payne Street, or College Street west of Broad Street, requires site plan review.

a) Renovations that do not involve permanent or temporary modifications in building footprints or modification of vehicular and/or pedestrian circulation or modifications in exterior lighting and/or sound systems are exempt from this condition.

b) Where the new construction or modification is within 300 feet of an R district, the site plan review will be incorporated in the Special Permit process.

(2) New construction and modification to the University campus in the U2 and/or U3 districts requires site plan review.

a) Renovations that do not involve permanent or temporary modifications in building footprints or modification of vehicular and/or pedestrian circulation or modifications in exterior lighting and/or sound systems are exempt from this condition.

b) Where the new construction or modification is within 300 feet of an R district, the site plan review will be incorporated in the Special Permit process.

(3) In any U district all land use activities shall require special permit when such land use activities are located within 300 feet of the R district.

(4) The University campus is defined as properties owned and operated by Colgate University within the U1, U2, and U3 districts.

E. University-related off-campus activities in the MC, ME, MG, MP, U2, and BN districts.

(1) Administrative, commercial and business activities undertaken by Colgate University are permitted to the extent that the same activities are permitted for non-University agents. Such uses are subject to any and all special permit, special condition, and site plan requirements as non-University agents would be subject to.

a. Administrative activities focusing on student activities, academics, pedagogy, and residential life are not permitted outside of the University districts.

(2) New Academic, Performance, Research, and Athletic uses associated with the University are not permitted outside the University districts.

(3) New Residence Halls, Fraternities, Sororities, or related student social activities are not permitted outside the University districts.

(4) The campus is defined as properties owned by Colgate University within the U1, U2, and U3 districts.

F. Home occupational use of the primary or principal structure in the R, MC, ME, MG, MP and U2 districts.

(1) The following home occupations are permitted in the principal building where not more than two nonresidents are at work on site at any one time:

(a) Personal services conducted by resident occupants in which the sale of stock in trade is a minor element of the personal service.

(b) Administrative office conducted by resident occupants.

(c) Professional office where such office is part of the residence of the professional.

(d) In the R, MG and U2 districts, deliveries supporting a home occupation should be from the street.

(e) In the R, MG, MP, and U2 districts trash pickup should be by the standard manner of other residents and properties in the district

(f) Home occupational use of the principal structure involving roomers or a bed and breakfast within a single family dwelling requires a special permit. See 174 - 82. D (17).

G. Ancillary uses for University and Hospital activities in the U1, U2, U3, and BH districts.

(1) Uses ancillary to the educational mission of Colgate University are permitted in the U1, U2 and U3 districts as subject to 174-83.D.

(2) Uses ancillary to the mission of Community Memorial Hospital are considered part of the overall operation of the Hospital within the BH district.

(3) The operation of a restaurant/clubhouse and a pro-shop are commercial uses considered ancillary to the operation of the Seven Oaks Golf Course as an educational facility.

H. Residence Hall, Dormitory and Fraternity/Sorority

(1) Residence Halls must be sanctioned by Colgate University and be subject to administrative coordination with the University.

- a. Dormitories are permitted in the U1 and U2 Districts
- b. New Dormitories, any part of which are within 300 feet of Broad St., Kendrick Ave, Hamilton St. or College Street west of Broad Street are subject to special permit review.

(2) Fraternity or Sorority Houses must be sanctioned by Colgate University and be subject to administrative coordination with the University..

- a. New Fraternity or Sorority Houses must be within the U1 or U2 Districts.
- b. New Fraternity or Sorority Houses in the U1 or U2 districts, any part of which are within 300 feet of Broad St., Kendrick Ave, Hamilton St. or College Street west of Broad Street are subject to special permit review. Such special permits will not normally be subject to annual review.

(3) Any existing Fraternity or Sorority in the R district must be owned by, sanctioned by, and administratively coordinated with Colgate University.

- a. Annual review of the operation and special permit of any fraternity or sorority in the R district may be undertaken by the Planning Board.

I. Satellite dish and communications tower.

(1) Must conform to regulations found in the Communication tower ordinance (find the ordinance number).

J. Alternative domestic energy supply installation in all districts. Permitted when:

- (1) No solar energy device that is attached to a dwelling or other structure is located in any front yard area.
- (2) Landscaping is planted around any ground-mounted solar device to partially screen it from public view.
- (3) The alternative supply does not involve a wind-driven device.

K. Placement of earth, stone, rubble and similar fill in all districts must comply with Chapter **63**.

L. Sexually oriented business in the BN District. Permitted when:

- (1) No closer than 500 feet to a residence, restaurant, school, church or synagogue, cemetery, park or playground located either within or outside Village boundaries.
- (2) No closer than 500 feet to another sexually oriented business.
- (3) No alcoholic beverages are sold on the premises.
- (4) Merchandise and services are not visible from the exterior of the premises.

(5) Signs shall not be lighted and shall not exceed four square feet in area and shall otherwise comply with Chapter **133** of the Village Code.

M. Aviation-related activities in the BA District .

Permitted when the activity is demonstrably supportive of, and ancillary to, the operation of the Hamilton Municipal **Airport**. Such uses may include residences and offices associated with executive hangars as well as separate businesses supportive of aviation services.

[Added 3-8-2005 by L.L. No. 3-2005]

N. Public Park

(1) A public park shall only be established by the Village Board of Trustees.

O. Parking lots, on-site parking; supplemental parking

(1) All parking areas associated with commercial uses, institutional uses, or home occupations must be screened according to 174-47 & 174-48.

(2) No required on-site parking or on-site supplemental parking may include stacked parking spaces.

(3) On-street parking spaces may not be designated as loading areas or bus parking spaces except by resolution of the Village Board.

(4) Supplemental parking space are excluded from accessibility minimums set in Article X.

P. The rental of a residence or parts of a residence for transient residential use for up to 15 days per calendar year is permitted. Rental of such a residence or part thereof for transient residential use for more than 15 days per calendar is considered a commercial use and is not permitted as part of this special condition.

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## **ARTICLE XIV, Board of Appeals**

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### **§ 174-84. Membership.**

A Board of Appeals is hereby established, which shall consist of five members. The terms of office of the members of the Board of Appeals and the manner of their appointment shall be in accordance with the provisions of the Village Law.

### **§ 174-85. Jurisdiction.**

The Board of Appeals shall have the power and duties prescribed by statute and by this article.

### **§ 174-86. Definitions.**

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

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

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

### **§ 174-87. Appointment of members.**

- A. Each Village Board of Trustees which adopts a local law and any amendments thereto pursuant to the powers granted by this article shall create a Board of Appeals consisting of three or five members as shall be determined by such local law. The Mayor shall appoint the Board of Appeals and the Chairperson thereof, subject to the approval of the Village Board of Trustees. In the absence of a chairperson the Board of Appeals may designate a member to serve as acting Chairperson. The Village Board of Trustees may provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the Village Board of Trustees for such purpose. In making such appointment, the Village Board of Trustees may require Board of Appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members.
- B. Village Board of Trustees ineligible. No person who is a member of the Village Board of Trustees shall be eligible for membership on such Board of Appeals.
- C. Terms of members first appointed. In the creation of a new Board of Appeals, or

the reestablishment of terms of an existing Board, the appointment of members to the Board shall be of terms so fixed that one member's term shall expire at the end of the Village official year in which such members were initially appointed. The remaining members' terms shall be so fixed that one member's term shall expire at the end of each official year thereafter. At the expiration of each original member's appointment, the replacement member shall be appointed by the Village Board of Trustees for a term which shall be equal in years to the number of members of the Board.

- D. Terms of members now in office. Members now holding office for terms which do not expire at the end of a year shall, upon the expiration of their term, hold office until the end of the year, and their successors shall then be appointed for terms which shall be equal in years to the number of members of the Board.
- E. Increasing membership. Any Village Board of Trustees may, by local law, increase a three-member Board of Appeals to five members. Additional members shall be first appointed for single terms as provided by resolution in order that the terms of members shall expire in each of five successive years and their successors shall thereafter be appointed for full terms of five years. No such additional member shall take part in the consideration of any matter for which an application was on file with the Board of Appeals at the time of his or her appointment.
- F. Decreasing membership. A Village Board of Trustees which has increased the number of members of the Board of Appeals to five may, by local law, decrease the number of members of the Board of Appeals to three, to take effect upon the next two expirations of terms.
- G. Vacancy in office. If a vacancy shall occur otherwise than by expiration of term, the Mayor shall appoint the new member for the unexpired term.
- H. Removal of members. The Mayor shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for noncompliance with minimum requirements relating to meeting attendance and training as established by the Village Board of Trustees by local law.
- I. Chairperson duties. All meetings of the Board of Appeals shall be held at the call of the Chairperson and at such other times as such Board may determine. Such Chairperson or, in his or her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

### **§ 174-88. Board of Appeals procedure.**

- A. Meetings, minutes, records. Meetings of such Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. Such Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
- B. Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals

shall be filed in the office of the Village Administrator within five business days and shall be a public record.

- C. Hearing appeals. The jurisdiction of the Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of this chapter. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Village. In accordance with General Municipal Law § 239-m, the concurring vote of a majority plus one of the Board of Appeals shall be necessary to override the County planning agency recommendation of disapproval or modification.
- D. Time of appeal. Such appeal shall be taken within 60 days after the filing in the Village Administrator's office of any order, requirement, decision, interpretation or determination of the administrative official charged with the enforcement of this chapter by filing with such administrative official and with the Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. All appeals shall be made in writing on forms provided by the Board. The administrative official from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- E. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of this chapter, from whom the appeal is taken, certifies to the Board of Appeals, after the notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.
- F. Hearing on appeal. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the Village at least five days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the Board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.
- G. Time of decision. The Board of Appeals shall decide upon the appeal within 62 days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
- H. Filing of decision and notice. The decision of the Board of Appeals on the appeal

shall be filed in the office of the Village Administrator within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

- I. Notice to Park Commission or planning agency. At least five days before such hearing, the Board of Appeals shall mail notices thereof to the parties, to the regional State Park Commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal and to the county, metropolitan or regional planning agency as required by § 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of the matter under consideration, as defined in Subdivision one of § 239-m of the General Municipal Law. Within 30 days after final action by the Board of Appeals on the recommendations, modifications, or disapproval of a referred matter, the Board shall file a report of the final action with the county planning agency.
- J. Compliance with State Environmental Quality Review Act. The Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article VIII of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617, of the New York Codes, Rules and Regulations.
- K. Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reheard may be made by any member of that Board. A unanimous vote of all members of the board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

### **§ 174-89. Permitted action by Board of Appeals.**

- A. Orders, requirements, decisions, interpretations, determinations. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such chapter and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.
- B. Use variances.
  - (1) The Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of such chapter, shall have the power to grant use variances, as defined herein.
  - (2) No such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions

have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  - (b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
  - (c) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - (d) The alleged hardship has not been self-created.
- (3) The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

C. Area variances.

- (1) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such chapter, to grant area variances as defined herein.
- (2) In making its determination, the Zoning 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 by such grant. In making such determination the Board shall also consider whether:
  - (a) An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  - (b) The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - (c) The requested area variance is substantial;
  - (d) The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - (e) The alleged difficulty was self-created; which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- (3) The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time reserve and protect the character of the neighborhood and the health, safety and welfare of the community.

D. Imposition of conditions. The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning local law, and shall be imposed for the purpose of

minimizing any adverse impact such variance may have on the neighborhood or community.

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## **ARTICLE XV, Amendments and Modifications**

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### **§ 174-90. Changes.**

For the purpose of establishing and maintaining sound development, this chapter may be amended to correct a manifest error or to provide for regulations more appropriate to an area because of changed or changing circumstances.

### **§ 174-91. Referrals.**

- A. All proposed amendments originating by petition, or by motion of the Village Board of Trustees, may be referred to the Planning Board for recommendations.
- B. Whenever any amendment would change the district classification of or a regulation applying to real property in an area as described in §§ 239-l and 239-m of the General Municipal Law, said amendment shall be referred to the Madison County planning agency, which agency shall report its recommendations to the Village Board of Trustees. Failure of the county planning agency to report within 30 days may be construed to be approval.
- C. The concurring vote of a majority plus one of the Village Board of Trustees shall be necessary to override county planning agency recommendations of modifications or disapproval.
- D. Within 30 days after final action by the Village Board of Trustees on the recommendations of a referred matter, the Board shall file a report of the final action with the Madison County planning agency.

### **§ 174-92. Hearings. [Amended 3-8-2005 by L.L. No. 3-2005]**

Before any amendment of these regulations or of district boundaries, there shall be a public hearing by the Village Board of Trustees upon notice as provided by law.

- A. In the case of a proposed amendment of district boundaries, not less than 15 days prior to any public hearing held by the Board of Trustees pursuant to this section, a notice of the public hearing shall be sent by regular U.S. Mail to all owners of property, as identified on the then-current assessment roll, within 500 feet of the boundary of the property proposed to be rezoned.
- B. Failure to mail such notice of public hearing to any or all such property owners in accordance with the requirements of this section, or an owner's failure to receive such notice of public hearing, shall not affect the validity of any zoning amendment adopted by the Board of Trustees.

### **§ 174-93. Adoption.**

- A. After the public hearing and referral to and report by the Planning Board, and where required the Madison County planning agency, a majority vote of the members of the Village Board of Trustees shall be required to amend this chapter, except as provided in §§ 174-91 and 174-94.
- B. Before any amendment of the regulations or district boundaries, the Village Board of Trustees shall make a determination on the environmental significance of its action in compliance with 6 NYCRR Part 617.

### **§ 174-94. Protest petitions.**

If a protest against a proposed amendment is presented to the Village Board of Trustees, duly signed and acknowledged by the owners of 20% or more of the land included in such proposed change or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by a three-fourths majority of the Village Board of Trustees.

### **§ 174-95. Modifications by Planning Board.**

In accordance with the provisions of § 7-738 of the Village Law and subject to the conditions specified therein, the Village Board of Trustees authorizes the Planning Board to modify applicable provisions of this chapter simultaneously with the approval of a subdivision plat or plan.

### **§ 174-96. Ratification of prior laws.**

The Village of Hamilton Zoning Law and Zoning Map enacted on September 8, 1981, and amended on December 30, 1983; January 13, 1984; May 6, 1985; June 13, 1989; December 12, 1989; and February 12, 1991, is hereby ratified and reaffirmed in its entirety, except to the extent amended and modified by this chapter as if originally enacted at this time.

### **§ 174-97. Summary publication.**

- A. An abstract of any enactments or amendments of this chapter shall be timely published in a newspaper of general circulation within the Village of Hamilton. Such published abstract shall state that a complete copy of each such enactment or amendment as well as a complete copy of this chapter is available for public inspection at the Village Administrator's office, Hamilton, New York.
- B. Compliance with the provisions of this section is deemed to satisfy that portion of the New York State Village Law § 7-706 requiring publication of the entire

enactment or amendment. All other requirements set forth in the New York State Village Law § 7-706 are to be adhered to.

- C. With respect to ratification of the prior Zoning Law pursuant to § 174-96 above, the abstract referred to in this section need not summarize those portions of the prior local law which are not substantially changed. Instead, as to those portions, reference need only be made to the fact that the existing law has been reenacted and ratified as a zoning law and that a copy of the local law is available at the Village Administrator's office for inspection.

### **§ 174-98. Legality.**

If any provision, sentence, clause, section or part of this chapter is for any reason found to be unconstitutional, illegal or invalid, such finding shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this chapter. It is hereby declared to be the intent of the Village of Hamilton Board of Trustees that this chapter would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part not been included herein.

### **§ 174-99. When effective.**

This chapter shall take effect immediately upon filing with the Secretary of State of the State of New York.

## Chapter 174. Zoning

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### Article XV. Amendments and Modifications

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